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OF AMERICA

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PROCEEDINGS AND DEBATES OF THE 97<sup>th</sup> CONGRESS SECOND SESSION

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# Congressional Record

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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

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# HOUSE OF REPRESENTATIVES—Wednesday, December 15, 1982

Hammerschmidt

Hall, Sam

Hamilton

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Protect, O God, all people from the assaults of poverty, injustice and fear. We recognize that the promises of a full life are not realized by all and that too often individuals fall short of their expectations and hopes. Inspire in us and all people the vision of a world where righteousness and mercy are the standards of our common life and peace is our focus and goal. Amen.

# THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. SMITH of Oregon. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SMITH of Oregon. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 270, nays 57, answered "present" 3, not voting 103, as follows:

# [Roll No. 453]

# YEAS-270

Badham Akaka Albosta Barnard Andrews Bedell Annunzio Benedict Archer Bennett Ashbrook Aspin Bethune Biaggi Bingham Boland Boner Bowen Brinkley Brodhead

Broomfield Brown (CA) Brown (OH) Broyhill Burton, Phillip Byron Campbell Carman Carney Chappell Chappie Cheney Coleman Collins (IL) Collins (TX) Conable Conte Corcoran Courter Coyne, James Coyne, William D'Amours Daniel R. W. Daschle de la Garza Derrick Dicks Dingell Dorgan Dornan Dougherty Downey Duncan Dwyer Eckart Edwards (CA) English Erlenborn Evans (IN) Fenwick Fiedler Findley Fish Flippo Florio

Foglietta

Fowler

Frank

Frenzel

Gonzalez

Gradison

Gray

Green

Gregg

Guarini

Gunderson

Hall (IN)

Fuqua

Hance Hartnett Hatcher Hefner Hightower Hillis Holland Horton Howard Hoyer Hubbard Huckaby Hughes Hunter Hutto Jeffords Jeffries Jenkins Jones (OK) Jones (TN) Kastenmeier Kazen Kennelly Kildee Kindness LaFalce Lagomarsino Lantos Leath Leland Lent Levitas Livingston Long (LA) Lott Lowery (CA) Lujan Luken Lundine Lungren Marriott Martin (IL) Martin (NY) Matsui Mavroules McCollum McCurdy McDade McDonald McEwen McHugh Mica. Michel Mineta Mitchell (NY) Moakley Molinari Montgomery Moore Moorhead

Obey Panetta Pashayan Patterson Paul Pepper Perkins Petri Peyser Pickle Porter Quillen Rangel Ratchford Regula Rhodes Rinaldo Ritter Roberts (KS) Robinson Rodino Roe Rostenkowski Roth Roukema Roybal Rudd Russo Sawyer Scheuer Schneider Seiberling Shannon Shaw Shelby Shumway Siljander Simon Skelton Smith (IA) Smith (NE) Smith (NJ) Solarz Spence Stangeland Stokes Stratton Studds Stump Swift

Taylor Thomas Traxler Trible Udall Volkmer Wampler Atkinson Bailey (MO) Bouquard Brown (CO) Butler Clinger Coats Coughlin Craig Crane, Daniel Crane, Philip Dannemeyer Daub Derwinski Dickinson Dreier Edwards (OK) McClory Addabbo Alexander Anthony Applegate Bafalis Bailey (PA) Beard Beilenson Blanchard Bolling Bonior Bonker Breaux

Ertel

Evans (DE)

Evans (GA)

Tauke Tauzin

White Whitehurst Whitley Whitten Williams (OH) Winn NAYS-57 Evans (IA) Fields Geidenson Goodling Gramm Hansen (ID) Hansen (UT) Harkin Hawkins Hendon Hopkins Jacobs Latta LeBoutillier Lewis Loeffler Lowry (WA) Marlenee Ottinger Fascell Ford (MI) Ford (TN)

Washington Watkins

Weber (OH)

Wyden Wylie Yatron Young (FL) Young (MO) Zablocki McGrath Miller (OH) Nelligan Patman Roemer Rogers Sabo Schroeder Sensenbrenner Smith (AL) Smith (OR)

Solomon

Walker

Weber (MN)

Young (AK)

Whittaker

Wolpe

Wortley

Wright

# ANSWERED "PRESENT"-3

# St Germain

NOT VOTING-McCloskey McKinney Mikulski Forsythe Miller (CA) Minish Fountain Mitchell (MD) Garcia Murphy Gaydos Gephardt O'Brien Gibbons Pritchard Pursell Rahall Ginn Goldwater Railsback Grisham Roberts (SD) Burgener Burton, John Hagedorn Hall (OH) Rose Rosenthal Heckler Rousselot Chisholm Santini Clausen Heftel Clay Coelho Hertel Hollenbeck Savage Schulze Crockett Holt Ireland Smith (PA) Davis Deckard Dellums Johnston Jones (NC) Stark Donnelly Kramer Vento Waxman Dymally Lehman Weiss Williams (MT) Dyson Edwards (AL) Long (MD) Madigan Wilson Marks Emery Wirth Yates Martin (NC)

Martinez Mattox

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Zeferetti

# □ 1015

Mr. DANIEL B. CRANE changed his vote from "yea" to "nay."

So the Journal was approved. The result of the vote was announced as above recorded.

# MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other pur-

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4481. An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes; and

H.R. 7356. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4481) entitled "An act to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. Thurmond, Mr. Specter, Mr. Mathias, Mr. East, Mr. Biden, Mr. KENNEDY, and Mr. HEFLIN to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 7356) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McClure, Mr. Stevens, Mr. Laxalt, Mr. Garn, Mr. Schmitt, Mr. Cochran, Mr. Andrews, Mr. Rudman, Mr. Hat-FIELD, Mr. ROBERT C. BYRD, Mr. JOHN-STON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. BUMP-ERS, and Mr. PROXMIRE to be the conferees on the part of the Senate.

APPOINTMENT OF CONFEREES ON H.R. 7356, DEPARTMENT OF THE INTERIOR AND RELATED APPROPRIATIONS. AGENCIES

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7356) making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1983, and for other pur-

poses with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania? The Chair hears none. and appoints the following conferees: DICKS. Messrs. YATES, MURTHA, WHITTEN, AUCOIN. RATCHFORD. LOEFFLER, and McDade. REGULA. CONTE

# ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 5, rule I, the Chair will now put the question on each motion on which further proceedings were postponed on Tuesday, December 14, in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 7340, by the yeas and nays; and S. 1965, by the yeas and nays.

The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

# OREGON WILDERNESS ACT OF 1982

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 7340, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING) that the House suspend the rules and pass the bill, H.R. 7340, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were-yeas 247, nays 141, not voting 45, as follows:

# [Roll No. 454]

# YEAS-247

Addabbo Brodhead Akaka Brooks Brown (CA) Albosta Alexander Burgener Burton, Phillip Anderson Andrews Byron Annunzio Chappell Clay Coelho Applegate Aspin Atkinson Collins (IL) AuCoin Bailey (PA) Conable Conte Conyers Barnes Coughlin Courter Coyne, William D'Amours Bennett Biaggi Daschle Bingham de la Garza Dellums Derrick Boner Dicks Bonior Dingell Dixon Donnelly Bonker Bouquard Downey

Dymally Early Eckart Edgar Edwards (CA) Emery English Erdahl Evans (IN) Fenwick Ferraro Fledler Findley Fish Fithian Flippo Florio Foglietta Foley Ford (TN) Forsythe Fowler Frank Frost

**Fugua** 

Gaydos Gejdenson Gibbons Ginn Glickman Gonzalez Gradison Green Hall (IN) Hall (OH) Hall, Sam Hamilton Hance Hawkins Hefner Heftel Hightower Hillis Holland Howard Hoyer Hubbard Hughes Hutto Jacobs Jeffords Jenkins Jones (NC) Jones (OK) Jones (TN) Kastenmeier Kazen Kennelly Kildee Kogovsek Lantos Leach Leath Leland Levitas Long (LA) Long (MD) Lowry (WA) Luken Lundine Markey Martinez Matsui

Archer

Ashbrook

Bailey (MO)

Broomfield

Brown (CO)

Brown (OH)

Badham

Benedict

Bereuter

Broyhill

Campbell

Carman

Carney

Chappie

Cheney

Clausen

Clinger

Coleman

Corcoran

Collins (TX)

Coyne, James

Crane, Daniel Crane, Philip

Daniel Dan

Daniel, R. W.

Dannemeyer

Derwinski

Dickinson

Dougherty

Dornan

Dowdy

Coats

Craig

Daub

Davis

Butler

Bliley

Bafalis

Mattox Mavroules Mazzoli McCloskey McCurdy McDade McEwen McHugh McKinney Miller (CA) Miller (OH) Mineta Minish Mitchell (MD) Mitchell (NY) Moakley Moffett Mollohan Morrison Mott1 Murphy Murtha Natcher Nelson Nichols O'Brien Oakar Oberstan Ottinger Panetta Patman Patterson Pepper Perkins Petri Peyser Pickle Price Pritchard Pursell Rahall Rangel Ratchford Regula Reuss Rinaldo Ritter Rodino Roe

Rostenkowski Roukema Roybal Russo Sabo Sawyer Scheuer Schneider Schroeder Schumer Seiberling Sensenbrenner Shamansky Shannon Sharp Simon Skelton Smith (IA) Smith (NJ) Snowe Solarz St Germain Stanton Stenholm Stokes Stratton Studds Swift Synar Tauke Tauzin Traxler Udall Vento Volkmer Walgren Washington Watkins Waxman Weaver White Whitley Whitten Williams (MT) Wolpe Wright Wyden Yatron Young (FL) Young (MO) Zablocki

# NAYS-141

Dreier Duncan Dunn Edwards (AL) Edwards (OK) Emerson Erlenborn Fields Fountain Frenzel Gingrich Goodling Gramm Gregg Grisham Gunderson Hall, Ralph Hammerschmidt Montgomery Hansen (ID) Hansen (UT) Hartnett Hatcher Hendon Hiler Hopkins Horton Hunter Hyde Jeffries Johnston Kemp Kindness Kramer

Lagomarsino

LeBoutillier

Latta

Livingston Loeffler Lott Lowery (CA) Lujan Lungren Marlenee Marriott Martin (IL) Martin (NC) Martin (NY) McClory McCollum McDonald McGrath Michel Molinari Moore Moorhead Myers Napier Nelligan Oxley Parris Pashayan Paul Quillen Rhodes Roberts (KS) Roberts (SD) Robinson Rogers Roth Rousselot Rudd Shaw Shelby

Rodino

Roe Loemer

Rostenkowski

Rose

Roth

Roukema

Roybal

Sawyer Scheuer

Schneider

Schroeder

Seiberling

Shamansky

Shannon

Sharp

Simon

Skelton

Smith (IA)

Smith (NJ)

Solarz St Germain

Stanton

Stokes Studds

Swift

Synar

Traxler

Vander Jagt

Udall

Vento

Volkmer

Walgren

Watkins

Waxman

Weaver

Weiss

White

Wolpe

Wright

Wyden

Wylie Yatron

Young (FL)

Kindness

Young (MO)

Whitley

Whitten

Washington

Weber (MN)

Williams (MT)

Stenholm

Sensenbrenner

Schumer

Russo

Sabo

Shumway
Siljander
Skeen
Smith (NE)
Smith (OR)
Snyder
Solomon
Spence
Stangeland

Staton Taylor Thomas Trible Vander Jagt Walker Wampler Weber (MN) Weber (OH) Whitehurst Whittaker Williams (OH) Winn Wolf Wortley

Flippo

Foglietta

Foley Ford (TN)

Fowler

Frank

Frost

Fuqua

Garcia

Gaydos

Geidenson

Gephardt

Glickman

Gibbons

Gilman

Ginn

Wylie Young (AK)

# NOT VOTING-

Anthony Mikulski Fascell Beard Neal Beilenson Ford (MI) Rallshack Rosenthal Bethune Gephardt Blanchard Goldwater Santini Bolling Hagedorn Savage Burton, John Hertel Schulze Shuster Chisholm Hollenbeck Smith (AL) Crockett Holt Huckaby Deckard DeNardis Smith (PA) Ireland Dyson Lee Lehman Wilson Evans (DE) Madigan Yates Evans (GA)

# □ 1030

Mr. DOWDY and Mr. RALPH M. HALL changed their votes from "yea" to "nay."

Mr. McEWEN and Mr. ATKINSON changed their votes from "nay" "yea.

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

# PADDY CREEK WILDERNESS **ACT OF 1981**

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1965.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBER-LING) that the House suspend the rules and pass the Senate bill, S. 1965, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 143, not voting 40, as follows:

# YEAS-250

Addabbo Bonker Akaka Bouquard Albosta Bowen Alexander Breaux Anderson Brinkley Andrews Brodhead Annunzio Brooks Brown (CA) Applegate Burton, Phillip AuCoin Chappell Bafalis Bailey (PA) Clinger Barnard Coelho Barnes Coleman Collins (IL) Bedell Bennett Conable Bereuter Conte Bevill Convers Coughlin Courter Coyne, William Bingham Boggs D'Amours Daschle Boland Bolling de la Garza Boner Dellums Bonior

[Roll No. 455] Derrick Dicks Dingell Dixon Dorgan Dowdy Downey Duncan Dwyer Dymally Dyson Early Eckart Edgar Edwards (CA) Emery English Ertel Evans (GA) Evans (IA) Evans (IN) Fazio Fenwick Ferraro Fithian

Gonzalez Goodling Gore Gradison Gray Green Guarini Hall (IN) Hall (OH) Hall, Sam Hamilton Harkin Hawkins Heckler Hefner Heftel Hertel Hightower Hillis Holland Howard Hoyer Huckaby Hughes Hutto Jeffords Jenkins Jones (NC) Jones (OK) Jones (TN) Kastenmeier Kazen Kemp Kennelly Kildee Kogovsek Archer Ashbrook Atkinson Badham Bailey (MO) Benedict Bliley Broomfield Brown (CO) Brown (OH) Broyhill Burgener Butler Byron Campbell Carman Carney Chappie

Clausen

Collins (TX)

Coyne, James

Crane, Daniel Crane, Philip

Daniel, Dan Daniel, R. W.

Dannemeyer

Derwinski

Corcoran

Craig

Daub

Davis

Leach Leath Leland Levitas Long (LA) Long (MD) Lowry (WA) Lundine Markey Martin (IL) Martinez Matsui Mattox Mavroules Mazzoli McCurdy McHugh Mica Miller (CA) Miller (OH) Mineta Minish Mitchell (MD) Mitchell (NY) Moakley Moffett Mollohan Montgomery Mott1 Murphy Murtha Natcher Nelson Nowak Oakar Oberstar Obey Ottinger Panetta Patman Patterson Pease Pepper Perkins Petri Peyser Pickle Porter Price Pritchard Rahall Ratchford

# **NAYS-143**

Regula

Rinaldo

Reuss

Donnelly Dornan Dougherty Dreier Dunn Edwards (AL) Edwards (OK) Emerson Erdahl Erlenborn Fiedler Fields Findley Fish Forsythe Frenzel Gingrich Gramm Grisham Gunderson Hall, Ralph Hammerschmidt Hansen (ID) Hansen (UT) Hartnett Hendon Hiler Hopkins Horton Hunter Hyde Jacobs Jeffries

Johnston

Kramer LaFalce Lagomarsino Latta LeBoutillier Lewis Livingston Loeffler Lott Lowery (CA) Luian Lungren Marlenee Marriott Martin (NC) McClory McCloskey McCollum McDade McDonald McGrath McKinney Michel Molinari Moorhead Morrison Myers Napier Nelligan Nichols O'Brien Oxley

Parris Shumway Pashayan Paul Siljander Skeen Quillen Smith (AL) Rhodes Smith (NE) Ritter Smith (OR) Roberts (KS) Snowe Snyder Roberts (SD) Robinson Solomon Rogers Spence Rousselot Stangeland Rudd Shaw Stratton Shelby Stump Anthony Beard Beilenson Bethune Blanchard Ireland Burton, John Chisholm

Crockett

Deckard

DeNardis

Fary.

Fascell

Evans (DE)

Ford (MI)

Taylor Thomas Trible Walker Wampler Weber (OH) Whitehurst Whittaker Williams (OH) Wolf Wortley Young (AK) 40

#### NOT VOTING-

Goldwater Rosenthal Hagedorn Santini Hollenbeck Savage Schulze Shuster Smith (PA) Lehman Stark Lent Tauke Madigan Wilson Wirth Mikulski Yates Neal Zeferetti Pursell Railsback

# □ 1045

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was nounced as above recorded.

#### MOVE TO EXPEDITE DECON-OF TROL NATURAL GAS ALARMING

(Mr. SKELTON asked and was given permission to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, this morning's Kansas City Times has an article that states that the Energy Secretary supports speedup of gas decontrol. In this article we also find that President Reagan recently affirmed a campaign pledge to accelerate the decontol of gas prices.

We all know what this means for the senior citizens and those people on fixed income in our country should this come to pass. Gas prices would go through the ceiling.

Mr. Speaker, there is legislation that I have introduced along with the gentleman from Kansas (Mr. GLICKMAN) and others, that would address this.

I would also point out that the fact there are those who say that since automobile gasoline has been decontrolled the price has gone down, in that case the American citizen has conserved. You cannot conserve when it gets cold. You have to turn the fur-

I think this is something we should view with alarm, Mr. Speaker.

# SPACE CAUCUS

(Mr. AKAKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. AKAKA. Mr. Speaker, as the 97th Congress draws to a close, I want to take this opportunity to remind my colleagues, in case anyone has forgotten, just how important I think our Nation's space program really is. History has shown that an investment in space has been one of the best investments that we have made in our country's future. We have gained national prestige from our leading role in man's effort to explore the cosmos. When Apollo landed on July 20, 1969, on the surface of the Moon, we were the envy of every nation of the world. The world respected and admired our achievement.

Furthermore, our space program and the technology we have developed for our space program have driven our technology base during the last 2 dec-

ades. During the 97th Congress, many of our colleagues have recognized the vital importance of our space program. It was in the 97th Congress that the Congressional Space Caucus was born. Starting with a small band of stouthearted supporters, the Space Caucus now boasts a membership of 71 Members of the House. Since January of this year, our membership has more than doubled. I am confident that it will continue to grow during the course of the 98th Congress. To all those who are members of the Congressional Space Caucus, I offer you my heartfelt congratulations. You have taken a leading role in shaping the future of our Nation's space effort.

For those of you who have not yet joined, let me encourage you to do so. There is an added benefit to joining the Congressional Space Caucus-to date, membership is free, for there are no dues. I encourage all of my colleagues to take advantage of this opportunity.

I am inserting the names of the members of the Congressional Space Caucus in the RECORD at this point:

# MEMBERS OF THE CONGRESSIONAL SPACE CAUCUS

Daniel K. Akaka (Cochairman), Bill Alexander, Don Bailey, Tom Bevill, George Don Clausen, Thomas Coleman, Brown, Silvio Conte, Jim Coyne, Baltasar Corrada, Dan Daniel, Ed Derwinski, Norman Dicks, Charles Dougherty, David Dreier, Mervyn Dymally, Don Edwards, David Emery.

Cooper Evans, Vic Fazio, Jack Fields, Ronnie Flippo, Tom Foley, Don Fuqua, Newt Gingrich (Cochairman), Wayne Grisham, George Hansen, Charles Hatcher, Cecil Heftel, Harold Hollenbeck, Steny Hoyer, Jerry Huckaby, Duncan Hunter, Jim

Jeffries, Dale Kildee, Ken Kramer. Tom Lantos, Bob Livingston, Bill Lowery, Mike Lowry, Manuel Lujan, Raymond McGrath, Robert Matsui, Nick Mavroules, Dan Mica, Norman Mineta, Joe Moakley, Steve Neal, Bill Nelson, Clarence D. Long, Mary Rose Oakar, George O'Brien, Mike Oxley, Bob Livingston.

Leon Panetta, Robert Roe, Harold Rogers, John Rousselot, Edward Roybal, Eldon Rudd, Jim Scheuer, Norman Shumway, Joe Skeen, Fofo Sunia, Mo Udall, Doug Walgren, Bob Walker, Wes Watkins, Bill Whitehurst, Tim Wirth, Robert A. Young, C. W. Bill Young.

# VOTE EXPLANATION

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, it is frustrating and embarrassing, working and voting yesterday in opposition to a pay raise for Members of Congress, that press accounts spread throughout the Commonwealth of Kentucky today that "U.S. Representative Carroll Hubbard voted in favor of the Fazio amendment to increase congressional salaries by \$9.137.50."

Indeed, it is especially frustrating because I realize the majority of my constituents in western Kentucky have complained loudly that Congress should not be entitled to a 27-percent pay increase or, in fact, any salary increase. This is certainly not the time to vote pay raises for ourselves when so many people are unemployed or unable to pay their bills. I have consistently advised my constituents that I would oppose efforts to raise congressional pay as their Representative in Congress.

The amendment offered yesterday by Representative Vic Fazio is now described by the media as a vote for a 15-

percent pay increase.

I voted yes on the Fazio amendment to oppose the House Administration Committee's unwise and unbelievable recommendation for a 27-percent pay raise for Members of Congress. A 'yes" vote on Fazio was the best as step No. 1 toward killing the congressional pay raise. The amendment offered by Mr. Fazio permitted a situation where Members could vote themselves an increase in salary by voting either "yes" or "no" on the amendment. A "yes" vote meant a 15-percent increase where a "no" vote meant a 27percent increase. While I oppose this way of handling the issue, I voted for a reduced level of increase.

It is unfortunate that how Members of Congress voted on the critical Traxler amendment-to kill the Fazio amendment and reimpose the current pay cap-has been almost totally ignored by the press. Indeed, my "yes" vote for Traxler should be a strong message for my constitutents that I am opposed to increases in congres-

sional salaries.

Another strong indication of my opposition to pay raises is my "no" vote yesterday against the final passage of the continuing appropriations for fiscal year 1983.

# AUTHORIZATION AND APPROPRIATION

(Mr. NICHOLS asked and was given permission to address the House for 1

minute and to revise and extend his remarks)

Mr. NICHOLS. Mr. Speaker, along with many other Members of this House, I am deeply concerned about the manner in which we do things-by that I mean the congressional process. That is the reason I raised a point of order last week on a matter in the Defense appropriations bill.

There is yet another problem with the process that was not adequately addressed during consideration of that same bill-the relationship of authori-

zation to appropriations.

At present, for defense programs the House authorizes and appropriates by legislation only large dollar amounts. The legislation does not address specific programs—except in certain cases. The detail by program is contained in the committee reports and has been regarded as binding on the Department of Defense. Unfortunately, the authorization and appropriations committees on occasion provide contradictory instructions for some programs in the reports. We have tried to work out these differences in the past, and we tried again last week but were unable to do so "given the press of business." Both sides worked in good faith and have tried sincerely to minimize the problem.

Unfortunately, the effect of these differences is to leave the final decision to the Department of Defense. The current situation is not good for

the congressional process.

Because no other alternative seems feasible, I wish to state publicly my intention to work next year for a defense authorization bill that will, on a line item basis, provide specific authority for defense programs erase any doubts as to how the money authorized and appropriated to the Department of Defense can be used.

# AUTHORIZATION AND APPROPRIATION

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON, Mr. Speaker, in the legislative system in the Congress, both the Authorization and the Appropriation Committees have important roles to play. The House rules carefully prescribe the rolls for each.

On occasion though, the actions of one tend to overlap the other. I want to say that in the defense area, the Armed Services Committee and the Appropriations Committee have tried very sincerely to minimize this overlap, and I personally appreciate the efforts of those on the Committee on Appropriations.

On too many occasions, however, the actions in the appropriations process in the other body do not evidence the

same regard. When the result is that the appropriations legislation and its accompanying report provide guidance to the Department of Defense that is different than the guidance provided during the authorization process—not just in terms of less money for a specific program, but actually a different direction for the program to take—the effect is for the department to be caught in the middle. More importantly, this anomaly often allows the Department to go its own way on issues on which the Congress has a strong interest.

Efforts have been made to solve this problem on an informal basis, but serious problems remain, particularly in the approach taken in the other body.

I believe the need for resolution of this problem outweighs any disadvantage that may result from a line item authorization. I will be prepared, therefore, to consider next year a defense authorization bill that will leave less room for confusion as to how the Congress wants defense resources spent—as well as to how funds cannot be spent—if the conference report on the 1983 Defense appropriations bill does not conform with authorization legislation.

# HOUSE WASTING TIME WHEN IT COULD PASS REGULATORY REFORM

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, on many occasions this House takes wise and noble actions and on other occasions the actions of this House are less than wise and not necessarily noble.

Today we are about to do some of the latter. Part of the program for today is a resumption of consideration of the so-called domestic content bill which, according to a press report today, has been identified by the Speaker as legislation which will not even pass the Congress this year.

Yet in the closing days of this session we are going to spend time on a bill that will not pass Congress while at the same time there is legislation which is not being considered that could pass in a very short period of time, legislation that has widespread bipartisan support. I refer to the regulatory reform legislation which has already passed the other body by a vote of 94 to nothing.

Notwithstanding certain specific commitments and understandings and promises, that bill is still bottled up in the Rules Committee of this House. It is a perversion of the priorities of the time and business of this House and the Members, not to consider important legislation that can pass through this House and the other body, be enacted and into law while at the same

time wasting time on legislation which has already been publicly identified by the Speaker as never ever having a chance of passing. That does a disservice to the dignity of this House. No wonder the American people sometimes shake their heads in disbelief at our antics.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I am happy to yield. Mr. WALKER. I thank the gentle-

How many times have we received assurances on this floor in the course of the last year that regulatory reform is going to be taken up? I think it is at least a dozen.

Would the gentleman agree?

Mr. LEVITAS. I have lost count. It has been more than a dozen times.

It just seems to me it is unfortunate that this House is being deprived of the opportunity to work its will with the overwhelming bipartisan support that it has. In light of the fact that the other body has already passed this legislation, we could dispose of this and pass it within a couple of hours while, instead, we are going to be wasting time on legislation which the Speaker has already said will never be passed by Congress.

# □ 1100

# THERE IS AN IMMEDIATE NEED FOR ARTICLE II BANKRUPTCY COURT LEGISLATION

(Mr. BUTLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUTLER. Mr. Speaker, we are now 9 days away from December 24, which the world will celebrate as Christmas Eve but which a few of us may look back upon in future years as the last day for some time that the bankruptcy court system functioned efficiently. This is the day the Supreme Court's stay of its order in Northern Pipeline Construction Co. against Marathan Pipe Line Co. will expire. No one expects a further extension, as is clear from a letter from the Attorney General to the Speaker of the House, which was placed in the Recorn yesterday.

RECORD yesterday.
It is true that the Judicial Conference has prepared a model rule for adoption by the Federal district courts if Congress fails to act. But let us not delude ourselves into thinking that anyone knowledgeable in the bankruptcy area thinks that this model rule would actually work. The Department of Justice, for one, considers it unworkable, and so testified before Senator Dole's Courts Subcommittee on November 10. And the National Bankruptcy Conference has stated that in its view the proposed rule is invalid, or of such dubious validity that the additional litigation it

will provoke will bring about the same chaos it is supposed to avoid, and that in any event it is wholly unworkable.

It is now up to the House to bite the bullet and act now to place the bankruptcy court system on a firm constitutional basis, either by enacting the Bankruptcy Court Act already reported from the Judiciary Committee, H.R. 6978, or by adopting the slightly different approach embodied in title II, subtitle A, of my Omnibus Bankruptcy and Court Improvement Act (H.R. 7349).

As the Attorney General suggested in his letter:

There is a dimension to the urgency for congressional passage that is not present with regard to any other bill currently pending in this session. That dimension is the recognition and respect that we, as representatives of the legislative and executive branches, owe to the judicial branch. For this reason it is imperative that remedial legislation reconstituting the bankruptcy court system on a sound constitutional basis be enacted before the end of the current legislative session.

Mr. Speaker, to do less than this would be to abdicate our responsibility to the American people.

# A TURNABOUT BY OPPONENTS OF OUR LAND-BASED DETER-RENT

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, the temporary setback for the MX missile revealed an interesting turn about in the thinking of the critics of U.S. defense initiatives.

For some 20 years, until recently, we have heard from those who have so vigorously rejected the notion that the Soviets would attempt to use offense weapons capable of surpassing our once-advanced Minuteman. It was said during the 1960's and 1970's by these critics we need not modernize our own forces, since the Soviets lacked both the will and ability to topple our supposedly invincible, strategic forces.

Well, times have changed, with a massive buildup by the Soviets rendering our Minuteman, and other U.S. systems, vulnerable in any strategic context, with the critics' new understanding of the motivations and technical abilities of the Soviets, a new doctrine has emerged.

We were told that we should reject a superior, land-based deterrent, the MX missile, because no matter how we deploy it it will never work. But even if the MX does work, so say these critics, it would be a destabilizing weapon because the Soviets would sure enough build an even better missile; so, we are told, there is no use even trying.

about-something I urge my colleagues to keep in perspective.

# AMERICA'S TUNA INDUSTRY

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, today many American industries find themselves at a crossroads. The recession has taken a steep toll that leaves some industries hanging on by a slender thread.

One such business is America's tuna industry. Plagued by seizures by foreign governments, depleted fisheries' stocks, and a down market, our fishermen are presently struggling to survive. My own district of San Diego has recently experienced a plant closure that eliminated about 1,000 jobs.

Soon we will be faced with dealing with the Caribbean Basin Initiative designed to improve the trade status of our neighbors to the South. Unless there is an opportunity for amendment, the act which is aimed at economic recovery for the Caribbean Basin could well mean the economic devastation of America's tuna industry

I hope, Mr. Speaker, that this body will allow and accept amendments to the Caribbean Basin Economic Recovery Act that will allow us to pass a bill while allowing the American tuna industry to survive.

# IMMIGRATION REFORM AND CONTROL ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to address the House simply to bring to the House's attention that we are on the verge of an historic moment in the history of this House. Tomorrow debate will begin on the Immigration Reform and Control Act of 1982, a bill which for the first time in 30 years would reform in a correct, humane, and sensitive way the immigration laws of this Nation. The act would have an effect upon every American citizen in every district which we would represent.

There has been some discussion, Mr. Speaker, that because of the lateness of the hour in this lameduck session, we would not have time to complete our work, in the careful way that the House operates, and still go to conference and return a conference report. I would like to note this and underline it to the House that the Senate has passed a bill very much like the bill which is pending before this body. I have every confidence that, working with the junior Senator from Wyo-

This is a rather astonishing turn- ming, the House and Senate conferees could produce a good bill and return the good bill to this House for ratifica-

> I urge the Members of the House to attend the debate and to be involved in the debate as we begin the immigration reform bill on tomorrow.

# IMMIGRATION REFORM ACT

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I would like to reiterate what the immediately preceding speaker said. We have an opportunity to do something about an issue that is very much in the forefront of the minds of many of our constituents; that is, the question of immigration policy. For 30 years we have failed to act in a substantial and comprehensive way. The problem is that the national interest truly requires that we do something. Unfortunately, very special interests would be well served if we did nothing. This I think is a test of this Congress, whether in the waning days the special interests will win out, or whether we will address something that needs to be addressed in the name of the national interest.

We have an administration, the first one in about 30 years, that has bitten the bullet and attempted to try to do something about our immigration problems. This bill has passed the Senate. All it needs is for us to take some time to work out the problems here on the floor of the House so that we can have a conference and send it to the President for his signature. It is my fear that if we do not do this in the waning days of this Congress, we will not do it in the Congress that is coming up because the new Congress will be in a Presidential election cycle. Truly our country would not be well served by our avoidance of our duty on this important issue.

# AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGEN-CIES APPROPRIATION, 1983

Mr. WHITTEN. Mr. Speaker, I call up the conference report on the bill (H.R. 7072) making appropriations for the agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The Clerk read the title of the bill. The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the conference report is considered as having

been read.

(For conference report and statement, see proceedings of the House of December 10, 1982.)

The SPEAKER pro tempore. The entleman from Mississippi (Mr. gentleman from Mississippi

WHITTEN) will be recognized for 30 minutes, and the gentlewoman from Nebraska (Mrs. Smith) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker and my colleagues, we come today to what is certainly the most basic bill that we deal with. The ability of this country to produce food and fiber has been the foundation of our great success and our high standard of living. As I have said many times:

It takes so few of us to provide food, clothing, and shelter for the rest of us, that it enables the rest of us, to provide the thousand and one things that allow for our high standard of living.

Not only is agriculture basic in that way, but also it is our biggest dollar earner in world trade. It is the biggest advantage that we have over Russia, for they can in no way compete with us in the production of food. Unfortunately, we are failing to use that advantage. Instead of using this advantage, we hold our farm commodities off world markets, store them instead of making these "surplus to domestic need," commodities available to the needy people of the world.

We must sell. To sell we must offer at competitive prices. This would not be dumping-for our support price is to offset high American costs. Other countries do the same thing through taxes-but they do sell in world markets what they have and do not need. Thus we hold an umbrella over the world price; our competitors sell, 7/e hold.

We set up the Commodity Credit Corporation to sell competitively. Unfortunately, for several years we have not used this \$25 billion Corporation for that purpose. We must return to

# WE MUST SELL AT COMPETITIVE PRICES

In the mid-1950's, when Ezra Taft Benson was Secretary of Agriculture, large inventories of commodities were accumulated by the Commodity Credit Corporation similar to what is happening today. Outside influences on the White House and State Department kept the Corporation from using its authorities to sell at competitive prices in world trade.

At that time, under an erroneous decision, a policy was set up of making the American support price substantially the offering price in world markets. As a result, we were put in the position of being a residual supplier, a holder of inventory for the whole world.

At that time, an inventory of over \$8 billion was built up of wheat, corn, dairy products, cotton, and tobacco. The news media was full of stories about how it was costing \$700,000 a day in storage costs, with no mention that we had this inventory because we would not sell.

This huge inventory hung like the sword of Damocles over the American farmer. It was used by the Eisenhower administration to cut support prices and institute acreage controls.

In 1955, by Secretary Benson's own figures, 55,000 farm families were put off farms in the South solely because of the acreage reduction that year.

All of the history of this period was reprinted in part 2 of our committee's hearings for 1980. Because of demand for the volume we will reprint it this vear.

#### PAYMENT-IN-KIND

You have been reading recently about the proposed payment-in-kind program. Well, I think our agriculture today is in such bad shape that those engaged in agriculture are glad to have any help that will increase their collateral so that they can borrow money with which to farm is this coming year. So the payment-in-kind is welcomed by many because it does give them an increse in collateral in order to remain in agriculture. But may I say to you that the minute you pay in kind, sooner or later there will be a year when farmers will not have to farm, and then all of agriculture will go broke.

This payment-in-kind reduces all the gross spending that would normally go on in the farm community-chemicals, equipment-everything seed. farm connected with agriculture. If this reduction is kept over a period of years we will feel the effects, and we will all

be in worse shape.

Now, you say: Why is that true? COMMODITY CREDIT CORPORATION

Years ago-and I find that so many of my colleagues do not recall this and have not read about it-the Congress, realizing that industry and labor were getting a bigger and bigger share of the consumer dollar, established the Commodity Credit Corporation. CCC is the biggest revolving fund that I know of in history. It was set up for the purpose of supporting farm prices, and to buy and sell commodities.

CCC was originally incorporated under the laws of Delaware and is now a wholly owned Government corporation. CCC operates as a fully funded revolving fund of \$25 billion with authority to support prices, to buy commodities, and to sell competitively in world trade. The proceeds are re-turned to the fund for further use. CCC is the only organization of our Government that has the authority under its charter to buy and sell, the same way as our competitors.

To hold U.S. commodities off world markets is to hold an umbrella over world prices at the expense of U.S. farmers. Our customers can then take delivery from our competitors at just

under our price.

SELLING IN WORLD MARKETS

For agricultural commodities, the world price is the only real price. The rest of the world sells to their domestic market at the world price, but then taxes their people. We, however, choose not to add a user's tax to food, but rather maintain a cheap food policy for our domestic market, and make up the difference between domestic price and world price by direct payments in order to keep our farmers in business. This policy results in Government-owned inventories at artificially inflated prices.

Yet, when we try to sell in world trade at competitive prices—the rest of the world calls it dumping. By doing so, they try to conceal their own do-

mestic policies.

As a result, we do not sell our commodities, we store them. By storing our commodities and offering only at an artificial inflated price, we hold our umbrella over the world price and let the rest of the world make the sales.

Refusing to sell surplus products and then making the farmer pay the cost of that policy is unacceptable. These products are surplus to domestic needs—they are not surplus to world needs. It is unconscionable to refuse to sell food when millions of people throughout the world go to bed hungry every night, and then make the farmer bear the cost of that policy. Not only is this policy unconscionable, it also will not work. The history of our efforts at production controls clearly demonstrates that such controls are not a satisfactory substitute for competitive abroad.

CCC'S AUTHORITY TO SELL COMPETITIVELY

The Commodity Credit Corporation Charter Act provides unlimited authority to sell competitively in world markets. Like most exporting nations of the world, we should sell what we produce and do not need for what it will bring in the world markets. Past experience has shown that, when buyers have the opportunity to support world prices by their bids, marthroughout the world strengthened and commodities flow freely through the normal channels of trade. Loss of markets to our competitors has proved the dangers of an artificial price umbrella over world markets fixed by a governmental policy.

Mr. Speaker, I would point out that it is the obligation of the officers of any corporation to protect the assets of their corporation. So it is with the officers of the Commodity Credit Corporation. Failure to sell is a failure to protect the assets of the Corporation. The present directors and officers of the Corporation, including the General Sales Manager, are all employees of the Department of Agriculture and are also subject to policies from outside the Department which, at times, clearly are not in the interests of U.S.

agricultural producers. If, by being Federal employees, they are unable to operate freely in carrying out their duties, then they should step aside and allow their positions to be filled by non-Federal employees, who have had experience in world trade and who can and will properly discharge their responsibilities as officers or directors of the Corporation. This change would give the Corporation the independence of action that Congress intended and would free the Corporation from restrictive sales policies.

WE MUST REGAIN OUR WORLD MARKETS

So I say, as we come here now, if we are going to restore health to the farm commodity area and to the farmers, we again are going to have to move back competitively in world markets as everybody else does. And I hope the press will learn that we support the price for the domestic market, in order to reflect the cost, but when we compete in world markets at world prices, we are not dumping anything. And yet the press always claims that that is true.

Let me again point out what we face. FACTS WE MUST FACE UP TO

American farmers are more than \$200 billion in debt.

Interest rates range from 15 to 20 percent on outstanding loans.

The number of those engaged in agriculture is less than 4 percent, freeing the other 96 percent to do other things, including processing of agricultural commodities.

Agriculture, as an industry, is bigger than the auto, steel, and housing industries combined. Agriculture is the biggest industry and employer in our country, and the farmer is in the worst trouble since the Great Depression.

In the last 2 years, farm costs have gone up 22 percent, while prices are down. The farmer has faced embargoes and threats of embargo. The result of embargoes is to merely turn the markets over to our foreign competitors.

We have refused to sell when we are dependent on exporting the production from 2 out of every 5 acres.

In a hungry world, this country should not hold back on food for people, while sending them guns and weapons of war, which the people do not want but their leaders do—as status symbols. Our records show we have sold or provided such weapons of war to 78 countries—many of them tiny countries you never heard of—and we are always surprised when they use

# SUMMARY OF THE BILL

Mr. Speaker, may i say that so far as I know there is absolute agreement on this conference report by all members of the committee.

The bill before us, is \$107.8 million less than the amount appropriated for fiscal year 1982. It is \$99.7 million less

than the amended budget request submitted by the President.

We also, may I say, in this bill, restore the conservation programs to last year's level, including ACP and funds for the Soil Conservation Service.

As I have said many, many times, the one thing we have behind all our activities is a strong country and we cannot let it go down the drain. A strong economy is essential if we are going to meet our problems. Certainly our economy will be strengthened if we protect our land, our soil, and our rivers and streams.

Some of the programs we provide for might be classified as consumer programs. But they have been in this bill a long time.

We provide \$125 million for water and sewer grants, and \$375 million for loans as proposed by the House. Thirty percent of these funds will go to expanding existing systems. I think one of the great things we have done throughout history for the American people is to provide rural electricity. Then we came along with rural telephones. Now we have come along with rural water systems. It adds to the wealth of the country, to the wellbeing of those in rural areas, and it is essential to our prosperity.

We also provide full funding for the WIC feeding program, food stamps, and child nutrition. We have provided funds for the full year with the cooperation of the President in that he recently sent a budget request down to match the cost.

We directed the Department to reestablish procedures for direct distribution of commodities in cooperation with local units of Government, as proposed by the House.

Now, we have had some of these surpluses distributed, without any system at all from what I understand. Certain areas will have it where the folks just throw it around and other places badly need these commodities.

I think that in many ways the distribution of surplus commodities was one place where you tied the rural population who are in farming to a great degree with the interests of the city population.

Anyway, we have asked the Department to come up with the mechanics to do this on a proper basis and I think it is one of the finest things we have insisted on. The Senate has gone along with us.

Mr. Speaker, we bring you a good bill, and we hope that we will have the support of all the Members in its passage.

Mr. Speaker, I will provide detailed tables for the Record at this point:

# COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
TITLE I—AGRICULTURAL PROGRAMS							
PRODUCTION, PROCESSING AND MARKETING				- Car - Car - Car			
	4,999,000	5,406,000	3.884,000	3,884,000	3,884,000	-1.115.000	-1,522,000
Office of the Secretary Standard Level User Charges, USDA			56,377,000	56,377,000	56,377,000	+56,377,000	+56,377,000
Advisory Committees, USDA Departmental Administration	15,018,000	13,647,000	1,398,000 13,166,000	1,398,000 13,166,000	1,398,000 13,166,000	+1,398,000 -1,852,000	+1,398,000
Departmental Administration Office of Governmental and Public Affairs		7,288,000	6,677,000	6,677,000	6,677,000	-1,539,000	-611,000
Office of Congressional Affairs.	412,000	464,000	439,000	439,000	439,000	+27,000	-25,000
Office of the Inspector General	28,255,000	33,769,000	27,943,000	27,943,000	27,943,000	-312,000	-5,826,000
(Transfer from food stamp program)	(13,651,000)	(10,149,000)	(14,270,000)	(14,270,000)	(14,270,000)	(+619,000)	(+4,121,000)
The state of the s				113 - 3 - 113 - 113 - 113			
Total, Office of the Inspector General	(41,906,000)	(43,918,000)	(42,213,000)	(42,213,000)	(42,213,000)	(+307,000)	(-1,705,000)
Office of the General Counsel	13,263,000	13,689,000	12,386,000	12,386,000	12,386,000	-877,000	-1,303,000
(Transfer from food stamp program)	(508,000)	(508,000) 5,195,000	(628,000)	(628,000)	(628,000)	(+120,000)	(+120,000) +174,000
Federal Grain Inspection Service	5,600,000 (60,260,000)	5,195,000 (44,313,000)	5,369,000 (44,313,000)	5,369,000 (44,313,000)	5,369,000 (44,313,000)	-231,000 (-15,947,000)	+174,000
inspection and reagaing services (miniation on administrative expenses)	(00,200,000)	(44,313,000)	(44,313,000)	(44,313,000)	(44,313,000)	(-10,547,000)	
Agricultural Research Service	432,410,000	468,548,000	451,530,000	455,201,000	452,378,000	+19,968,000	-16,170,000
Special fund Buildings and facilities	2,000,000 8,596,000		2,000,000 850,000	2,000,000 2,750,000	2,000,000 1,927,000	-6,669,000	+2,000,000 +1,927,000
Buildings and facilities.  Scientific activities overseas (foreign currency program)	450,000	2 977 000	2,977,000	2,977,000	2,977,000	+2,527,000	
Cooperative State Research Service	221,216,000	2,977,000 232,103,000	230,082,000	246,953,000	2,977,000 244,966,000	+23,750,000	+12,863,000 +16,761,000
Extension Service National Agricultural Library	315,702,000	311,911,000	327,027,000	326,610,000	328,672,000	+12,970,000	+16,761,000
		9,016,000	8,849,000	8,849,000	8,849,000	+99,000	-167,000
Total, Research and Extension	989,124,000	1,024,555,000	1,023,315,000	1,045,340,000	1,041,769,000	+52,645,000	+17,214,000
Animal and Plant Health Inspection Service:		B. 1871	Marine San	and the same	-1 T 1		
Salaries and expenses	281,967,000	227,533,000	266,531,000	270,332,000	267,915,000	-14,052,000	+40,382,000
Buildings and facilities.	3,000,000	2,386,000	2,386,000	2,386,000	2,386,000	-614,000	
Total, Animal and Plant Health Inspection Service	284,967,000	229,919,000	268,917,000	272,718,000	270,301,000	-14,666,000	+40,382,000
Food Safety and Inspection Service	333,272,000	319,876,000	315,557,000	315,557,000	315,557,000	-17,715,000	4,319,000
Economic Research Service	39,360,000	40.584.000	37.251.000	38.251.000	37 751 000	-1,609,000	-2.833.000
Statistical Reporting Service	51,636,000	40,584,000 53,694,000	37,251,000 50,823,000	51,185,000	51,035,000	-601,000	-2,659,000
Agricultural Cooperative Service World Agricultural Outlook Board	4,639,000 1,491,000	3,683,000 1,535,000	3,999,000 1,353,000	5,000,000 1,453,000	51,035,000 4,639,000 1,403,000	-88,000	+956,000 -132,000
TOTAL PROTOTOR COURT COU	1,451,000	1,333,000	1,333,000	1,433,000	1,403,000	-00,000	-132,000
Agricultural Marketing Service: Marketing Services						2001 000	F 10 000
Marketing Services (Limitation on administrative expenses)	24,011,000 (23,000,000)	31,370,000	31,912,000 (30,910,000)	(30,412,000)	(30,910,000)	+7,901,000 (+7,910,000)	+542,000
Funds for strengthening markets, income, and supply (Section 32) (by transfer)	(5,860,000)	(4,729,000)	(5.670.000)	(5,670,000)	(5,670,000)	(-190,000)	(+941,000)
Transportation Office	2,400,000	2,398,000	(5,670,000) 2,356,000	2,356,000	(5,670,000) 3,356,000 1,000,000	-33,000	-31,000
Payments to States and possessions	1,000,000		1,000,000	1,000,000	1,000,000		+1,000,000
Total, Agricultural Marketing Service	27,411,000	33,768,000	35,279,000	33,779,000	35,279,000	+7,868,000	+1,511,000
Packers and Stockyards Administration	9,183,000	8,564,000	8,268,000	8,668,000	8,668,000	-515,000	+104,000
Total, Production, Processing and Marketing	1,816,846,000	1,795,636,000	1,872,401,000	1,899,590,000	1,894,041,000	+77,195,000	+98,405,000
FARM INCOME STABILIZATION	10002	100000	III TEASON	POST OF TITAL	100	and allegans	
Agricultural Stabilization and Conservation Service:							
Agricultural Stabilization and Conservation Service:  Salaries and expenses.	63,077,000	62,046,000	54,699,000	55,962,000	55,962,000	-7.115.000	-6,084,000
Salaries and expenses. (Transfer from Commodity Credit Corporation)	(314,681,000)	(314,818,000)	(314,818,000)	(314,818,000)	(314,818,000)	(+137,000) .	
Total, salaries and expenses, ASCS	(377 758 000)	(376,864,000)	(369.517.000)	(370,780,000)	(370,780,000)	(-6,978,000)	(-6,084,000)
Dairy indemnity program		(370,004,000)	7,000,000	7,000,000	7,000,000	+6,824,000	+7,000,000
Total, Agricultural Stabilization and Conservation Service		62,046,000	61,699,000	62.962.000	62,962,000	-291,000	+916,000
Ivial, Agricultural Statistication and Conservation Service	03,233,000	02,040,000	01,033,000	02,302,000	02,302,000	-291,000	+310,000

# CONGRESSIONAL RECORD—HOUSE

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
CORPORATIONS	Market Comment			A. P.			
Federal Crop Insurance Corporation: Administrative and operating expenses		293,703,000 250,000,000	262,140,000	235,200,000 150,000,000	235,200,000	+117,600,000	-58,503,00
Subscription to capital stock Federal crop insurance corporation fund.	57,456,000	173,233,000	200,000,000 143,233,000	143,233,000	150,000,000 143,233,000	-100,000,000 +85,777,000	-100,000,00 -30,000,00
Total, Federal Crop Insurance Corporation	425,056,000	716,936,000	605,373,000	528,433,000	528,433,000	+103,377,000	-188,503,000
Commodity Credit Corporation: Reimbursement for net realized losses	7,043,299,000	10,466,057,000	3,783,244,000	3,783,244,000	10,466,057,000	1 3 422 929 000	y 1821
(Direct loans) Authority to borrow	(5,000,000,000)	10,100,007,000	(500,000,000)	(500,000,000)	(500,000,000)	+3,422,828,000 (+500,000,000) (-5,000,000,000)	(+500,000,00
(Limitation on administrative expenses)	(2,200,000,000)				***************************************	(-2,200,000,000)	····
Total, Farm Income Stabilization	12,531,538,000	11,245,039,000	4,450,316,000	4,374,639,000	11,057,452,000	-1,474,086,000	-187,587,000
Total, title I, new budget (obligational) authority, Agricultural Programs		13,040,675,000	6,322,717,000	6,274,229,000	12,951,493,000	-1,396,891,000	-89,182,000
FITLE II—RURAL DEVELOPMENT PROGRAMS		Stal - 5, 17		1985-19		1901 - 190	M TOUR !
RURAL DEVELOPMENT ASSISTANCE							
Office of Rural Development Policy: Salaries and expenses 1		2,501,000	2,142,000	2,000,000	2,000,000	+2,000,000	-501,000
Farmers Home Administration:			N all		SW NO.	Water W	13.5
Rural Housing Insurance Fund: Direct loans	(24,000,000)	(24,000,000) (1,121,000,000)	(24,000,000) (3,261,000,000)	(24,000,000) (3,391,000,000)	(24,000,000)	/ /20 000 0001	/ . 0.140.000.00/
Insured loans	(3,700,600,000)	(1,121,000,000)		,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	(3,261,000,000)	(-439,600,000) (-2,000,000)	(+2,140,000,000
Rent supplement authorization	(398,000,000) 575,087,000	1,109,722,000	(73,745,000) 1,109,722,000	(173,745,000) 1,109,722,000	(123,745,000) 1,109,722,000	(-274,255,000) +534,635,000	(+123,745,000
Total, Rural Housing Insurance Fund	(4,301,687,000)	(2,254,722,000)	(4,394,722,000)	(4,524,722,000)	(4,394,722,000)	(+93,035,000)	(+2,140,000,000
Agricultural Credit Insurance Fund:	VANAL AND	1 1 1 1 1 1 1 1 1	Tester 1918		P POLICE	W-631	The state of the s
Real estate loans: Insured	(773,600,000)	(737,000,000)	(759,100,000)	(737,000,000)	(759,100,000)	(-14,500,000)	(+22,100,000
Guaranteed	(131,000,000)	(81,000,000)	(81,000,000)	(81,000,000)	(81,000,000)	(-50,000,000)	
Total, real estate loans	(904,600,000)	(818,000,000)	(840,100,000)	(818,000,000)	(840,100,000)	(-64,500,000)	(+22,100,000
Soil conservation loans	(30,000,000)		(30,000,000)	(30,000,000)	(30,000,000)		(+30,000,000
Operating loans:	(1,325,000,000)	(1,460,000,000)	(1,460,000,000)	(1,460,000,000)	(1,460,000,000)	(+135,000,000)	
Guaranteed	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)		
Total, operating loans	(1,375,000,000)	(1,510,000,000)	(1,510,000,000)	(1,510,000,000)	(1,510,000,000)	(+135,000,000)	
Emergency disaster loans  Economic Emergency loans	(1,600,000,000)	(1,540,000,000)	(1,540,000,000)	(1,540,000,000) (600,000,000)	(1,540,000,000) (600,000,000)	(-60,000,000) (+600,000,000)	(+600,000,000
Economic Emergency loans. Reimbursement for interest and other losses	464,083,000	682,074,000	682,074,000	682,074,000	682,074,000	+217,991,000	
Total, Agricultural Credit Insurance Fund	(6,653,283,000)	(6,878,074,000)	(6,952,274,000)	(7,508,074,000)	(7,552,274,000)	(+898,991,000)	(+674,200,000
Rural Development Insurance Fund: Reimbursement for losses	180,040,000	336,217,000	336,217,000	336,217,000	336,217,000	+156,177,000	
Water and sewer facility loans	(375,000,000)	(300,000,000)	(375,000,000)	(300,000,000)	(375,000,000)	+150,177,000	(+75,000,000
Guaranted Community facility loans.	(300,000,000)	(130,000,000)	(300,000,000) (130,000,000)	(350,000,000) (130,000,000)	(300,000,000) (130,000,000)		(+300,000,000
Total, Rural Development Insurance Fund	(985,040,000)					/ . 150 177 000\	/ . 275 000 000
		(766,217,000)	(1,141,217,000)	(1,116,217,000)	(1,141,217,000)	(+156,177,000)	(+375,000,000
Rural water and waste disposal grants  Very low-income housing repair grants	125,000,000 15,000,000	120,000,000 12,500,000	125,000,000 12,500,000	125,000,000 12,500,000	125,000,000 12,500,000	-2,500,000	+5,000,000
Rural housing for domestic farm labor *		12,500,000	5,000,000	10,000,000 15,000,000	12,500,000	-13,750,000 +8,550,000	-12,500,000 +12,500,000
Self-help housing land development fund: (Limitation on direct loans)						(-2,000,000)	
Rural community fire protection grants  Compensation for construction defects 3	3,250,000	2,000,000	3,250,000 2,000,000	3,250,000 2,000,000	3,250,000 2,000,000	+2,000,000	+3,250,000
Rural rental assistance payments a Salaries and expenses.	281,510,000	2,000,000 185,000,000 294,206,000	286,870,000	291,706,000	289,288,000	+7,778,000 (+2,500,000)	-185,000,000 -4,918,000
(Transfer from loan accounts)	(3,500,000)	(3,500,000)	(6,000,000)	(6,000,000)	(6,000,000)	- United States of the States	(+2,500,000
Total, Farmers Home Administration	(285,010,000)	(297,706,000)	(292,870,000)	(297,706,000)	(295,288,000)	(+10,278,000)	(-2,418,000
	1,661,670,000	2,754,219,000	2,562,633,000	2,587,469,000	2,572,551,000	+910,881,000	-181,668,000
Rural Electrification Administration: Rural electrification and telephone revolving fund:							
Direct loans: Insured loans:							
Electric Telephone	(850,000,000) (250,000,000)	(625,000,000) (75,000,000)	(850,000,000) (250,000,000)	(850,000,000) (250,000,000)	(850,000,000) (250,000,000)		{+225,000,000 +175,000,000
Total, Insured loans	(1,100,000,000)	(700,000,000)	(1,100,000,000)	(1,100,000,000)	(1,100,000,000)		(+400,000,000
Electric. Telephone	(5,000,000,000)	(3,615,000,000)	(4,600,000,000)	(4,600,000,000)	(4,600,000,000) (145,000,000)	(-400,000,000)	(+985,000,000
Total, Guaranteed loans	(145,000,000)	(145,000,000)	(145,000,000)	(145,000,000)		(_A00 000 000)	( + 985 000 000
Rural telephone bank Direct loans	(5,145,000,000) (30,000,000) (160,000,000)	(3,760,000,000)	(4,745,000,000) (30,000,000) (185,000,000)	(4,745,000,000) (30,000,000) (185,000,000)	(4,745,000,000) (30,000,000) (185,000,000)	(-400,000,000) (+25,000,000)	(+985,000,000 (+30,000,000
Rural communication development fund	30,273,000	91,000 30,340,000	91,000 28,945,000	91,000 28,945,000	91,000 28,945,000	+91,000 -1,328,000	-1,395,000
Total, rural Electrification Administration	30,273,000	30,340,000	29,036,000	29,036,000	29,036,000	-1,328,000	-1,395,000
	00/210/000	AALIATIAAA	-010001000	2010001000	- alanalana	1001/000	2,000,000

# CONGRESSIONAL RECORD—HOUSE

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New BA enacted	New BA estimates	New BA House	New BA Senate	New BA conference	Conference compared with enacted	Conference compared with estimates
CONSERVATION			ii vettoo			8	
Soil Conservation Service: Conservation operations	310,809,000	336,580,000	326,198,000	326,198,000	326,198,000	+15,389,000	-10,382,000
(By transfer) River basin surveys and investigations	(7,849,000) 15,500,000	16,743,000	16,068,000	16,068,000	16,068,000	(-7,849,000) +568,000	- 675,000
(By transfer) Watershed planning	(618,000) 8,690,000	9,152,000	8,675,000	8,675,000	8,675,000	(-618,000) -15,000	-477,000
(By transfer) Watershed and flood prevention operations	(355,000) 194,045,000	117,721,000	189,925,000	194,925,000	194,925,000	(-355,000) . +880,000	+77,204,000
Resource conservation and development Great Plains conservation program Soil and water conservation grants	26,500,000 21,500,000	10,312,000 15,308,000 10,000,000	25,744,000 21,315,000	25,744,000 21,315,000	25,744,000 21,315,000	-756,000 -185,000	+15,432,000 +6,007,000 -10,000,000
Total, Soil Conservation Service	577,044,000	515,816,000	587,925,000	592,925,000	592,925,000	+15,881,000	+77,109,000
Agricultural Stabilization and Conservation Service:	Commence	- Mariana and American	2000000000	196000000	I Burney	Marian es	0.00000000
Agricultural conservation program  Forestry incentives program*	190,000,000 12,500,000	56,000,000	190,000,000 12,500,000	190,000,000 12,500,000	190,000,000 12,500,000		+134,000,000 +12,500,000
Water bank program <sup>4</sup> Emergency conservation program <sup>4</sup>	8,800,000 8,800,000		8,800,000	8,800,000	8,800,000	-8,800,000	+ 8,800,000
Total, Agricultural Stabilization and Conservation Service	220,100,000	56,000,000	211,300,000	211,300,000	211,300,000	-8,800,000	+155,300,000
Total, Conservation	797,144,000	571,816,000	799,225,000	804,225,000	804,225,000	+7,081,000	+232,409,000
Total, title II, Rural Development Programs: New budget (obligational) authority	2,489,087,000	3,358,967,000	3,393,036,000	3,422,730,000	3,407,812,000	+918,725,000	+48,845,000
TITLE III—DOMESTIC FOOD PROGRAMS	2,403,007,000	5,050,507,000	0,000,000,000	3,422,730,000	3,407,012,000	+ 310,723,000	+ 10,010,000
Food and Nutrition Service:		000 010 000	*******	*******			
Child nutrition programs (Transfer from sec. 32)	1,082,890,000	963,310,000 (2,214,690,000)	544,105,000 (2,281,676,000)	896,324,000 (2,281,676,000)	896,324,000 (2,281,676,000)	-186,566,000 (+517,728,000)	-66,986,000 (+66,986,000
Total, Child nutrition programs®	(2,846,838,000)	(3,178,000,000	(2,825,781,000)	(3,178,000,000)	3,178,000,000	(+331,162,000)	
Special milk program Feeding program for Women, Infants and Children (WIC)	28,100,000 904,320,000	1,060,000,000	28,100,000 652,000,000	20,100,000	20,100,000 1,060,000,000	-8,000,000 +155,680,000	+20,100,000
Commodify supplemental food program (CSFP)	29,760,00	32,600,00 10,815,657,000	32,600,000 9,541,707,000	32,600,000 10,896,000,000	32,600,000 10,815,657,000	+2,840,000 -484,343,000	
Nutrition assistance for Puerto Rico		825,000,000	825,000,000	825,000,000	825,000,000	+825,000,000	
Needy family program Elderly feeding program	48,220,000 93,200,000	65,200,000 88,000,000	65,200,000 100,000,000	56,266,000 100,000,000	56,266,000 100,000,000	+8,046,000 +6,800,000	-8,934,000 +12,000,000
Total, Food donations programs		153,200,000	165,200,000	156,266,000	156,266,000	+14,846,00	+3,066,000
Food program administration	86,461,000	85,477,000	80,.146,000	82,976,000	82,146,000	-4,315,000	-3,331,000
Human Nutrition Information Service®		8,289,000	8,096,000	8,096,000	8,096,000	+8,096,000	-193,000
Total, title III, new budget (obligational) authority, Domestic Food Programs	13,572,951,000	13,943,533,000 79,207,000	11,876,954,000 70,947,000	13,977,362,000 77,961,000	13,896,189,000 74,454,000	+323,238,000	-47,344,000 -4,753,000
General Sales Manager (transfer from Commodity Credit Corporation)	(5,436,000)	(5,599,000)	(5,599,000)	(5,599,000)	(5,599,000	(+163,000)	4,700,000
Public Law 480: Title I and III—Credit sales	325,127,000	378,000,000	378,000,000	378,000,000	378,000,000	+52,873,000	
Title II—Commodities for disposition abroad *	674,873,000	650,000,000	650,000,000	650,000,000	650,000,000	-24,873,000	
Total, Public Law 480	1,000,000,000	1,028,000,000	1,028,000,000	1,028,000,000	1,028,000,000	+28,000,000	
Office of International Cooperation and Development	3,627,000	3,703,000	3,578,000	3,578,000	3,578,000	-49,000	-125,000
Total, title IV, new budget (obligational) authority, International Programs	1,071,863,000	1,110,910,000	1,102,525,000	1,109,539,000	1,106,032,000	+34,169,000	-4,878,000
TITLE V—RELATED AGENCIES	A CONTRACTOR	AND WORK			20. 6.0.9		
DEPARTMENT OF HEALTH AND HUMAN SERVICES							
Food and Drug Administration: Salaries and expenses	338,332,000	356,163,000	330,188,000	330,188,000	330,188,000	-8,144,000	-25,975,000
Standard Level User Charges			18,942,000	18,942,000	18,942,000	+18,942,000	+18,942,000
Total, Food and Drug Administration	338,332,000	356,163,000	349,130,000	349,130,000	349,130,000	+10,798,000	-7,033,000
INDEPENDENT AGENCIES	20 712 000	22 000 000	20 500 000	22 000 000	22 902 000	. 2 100 000	107 000
Commodity Futures Trading Commission	20,712,000 (16,372,000)	22,999,000 (17,954,000)	22,592,000 (17,954,000)	22,999,000 (17,954,000)	22,892,000 (17,954,000)	+2,180,000 (+1,582,000)	-107,000
Total, title V, new budget (obligational) authority, Related Agencies	359,044,000	379,162,000	371,722,000	372,129,000	372,022,000	+12,978,000	-7,140,000
RECAPITULATION	70.51591		3E 3 // 1			100	
Title I—Agricultural programs	14,348,384,000 2,439,087,000 13,572,951,000	13,040,675,000 3,358,967,000 13,943,533,000	6,322,717,000	6,274,229,000	12,951,493,000	-1,396,891,000 +918,725,000	-89,182,000 +48,845,000
Title III—Domestic food programs Title IV—International programs	13,572,951,000	13,943,533,000	6,322,717,000 3,393,036,000 11,876,954,000 1,102,525,000 371,722,000	13,977,362,000	12,951,493,000 3,407,812,000 13,896,189,000 1,106,032,000 372,022,000	+323.238.000	+48,845,000 -47,344,000 -4,878,000
Title V—Related agencies	359,044,000	1,110,910,000 379,162,000	371,722,000	6,274,229,000 3,422,730,000 13,977,362,000 1,109,539,000 372,129,000	372,022,000	+34,169,000 +12,978,000	-7,140,000
Total, new budget (obligational) authority	31,841,329,000	31,833,247,000	23,066,954,000	25,155,989,000	31,733,548,000	-107,781,000	- 99,699,000
Transfer from sec. 32 (Customs Receipts)	1,769,808,000	2,219,419,000	2,287,346,000	2,287,346,000	2,287,346,000	+517,538,000	+67,927,000
Total obligational authority	33,611,137,000	34,052,666,000	25,354,300,000	27,443,335,000	34,020,894,000	+409,757,000	-31,772,000
Memoranda:	0 222 222 222	£ 107 000 000	9 964 100 000	0.407.000.000	0.464.100.000	. 041 000 000	. 2 267 100 000
Direct and insured loan level  Guaranteed loan level	9,222,200,000 5,626,000,000	6,197,000,000 3,891,000,000	8,864,100,000 5,176,000,000	9,497,000,000 5,226,000,000 173,745,000	9,464,100,000 5,176,000,000 123,745,000	+241,900,000 -450,000,000	+3,267,100,000 +1,285,000,000
Rent supplement authorization	398,000,000 314,681,000	314,818,000	73,745,000 314,818,000	173,745,000 314,818,000	123,745,000 314,818,000	-274,255,000	+123,745,000

Previously financed under FmHA Salaries and expenses.
 House amount reflects reappropriation of \$12,500,000 from unexpended balances.
 Previously financed under the Rural Housing Insurance Fund.

1983 BUDGET AMENDMENTS.—RECEIVED SUBSEQUENT TO HOUSE AND SENATE CONSIDERATION OF H.R. 7072

Program	Amount	House docu- ment	Date		
Commodity Credit Corporation net realized	+\$6,682,813,000	97-257	Nov. 30, 1982.		
Food stamps (full year funding)	+1,273,950,000	97-262	Dec. 6, 1982.		
Child nutrition programs (full year funding).	+352,219,000	97-262	Do.		
WIC (full year funding) Commodity supplemental food program (to maintain current level).	+ 408,000,000 + 32,600,000	97-266 97-266	Dec 9, 1982. Do.		
Total	+8,749,582,000				

I have had a chance to call attention to these problems to the President and the Secretary of State. I have done it by letter and personally. But I also find that many of our colleagues need to understand that we in agriculture not only have all of these problems that are related to consumers, but we also have the job of seeing to it that we do not follow policies that take farmers out of the business of providing food for all of us.

# CONCLUSION

Mr. Speaker, I would like to note how fortunate we are in the membership of the committee. I would like to say to the House that through the years my colleagues on this committee have done a tremendous job. This year particularly, they have all made major and essential contributions to the development of this bill.

Mr. Speaker, may I say that I would particularly like to express my appreciation of the gentlewoman from Nebraska, Mrs. Virginia Smith, as the ranking minority member of the subcommittee, for her diligent and thoughtful work in developing this legislation. I would also like to add my thanks to the gentleman from Michigan (Mr. TRAXLER), our ranking majority member, the gentleman from Arkansas (Mr. ALEXANDER), the gentleman from New York (Mr. McHugh), the gentleman from Kentucky (Mr. NATCHER) who I have worked closely with for many years now, the gentleman from Texas (Mr. HIGHTOWER), the gentleman from Hawaii (Mr. Akaka), and the gentleman from Oklahoma (Mr. WATKINS). I would also like to commend our other minority members, the gentleman from Virginia (Mr. Robinson), the gentleman from Indiana (Mr. Myers), and the gentleman from California (Mr. Lewis).

Mr. Speaker, may I also say it has been a pleasure this year, not only on this bill but all bills we deal with, to work with the gentleman from Massachusetts (Mr. Conte), the ranking minority member of the full committee.

Mr. Speaker, all of these people have done a marvelous job, and we have been able to bring this bill to you because the House has confidence in them and in their efforts on this bill, which is so important to the standard of living of every American. I give my personal thanks to each and every one of them.

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to my colleague, the gentleman from Arkansas.

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Mr. ALEXANDER. I thank the gentleman for yielding.

Mr. Speaker, a number of us have expressed great concern over the inability of a large percentage of our farmers to repay the obligations that are due to the Farmers Home Administration because of the disaster year that they have had in 1982 and the preceding years. Action has been taken in this body, which is pending in the Senate, to provide for a moratorium on farm debt to permit farmers to continue farming that receive their credit from the Farmers Home Administration.

I am advised that the conference committee in effect put in the report language which reenacted the existing law and did not treat this very difficult question that we have debated here on providing a moratorium for our farmers.

Could the chairman respond to the thinking of the conference in being unwilling to treat this very difficult question.

Mr. WHITTEN. May I say that we do not have the authority to write legislation on an appropriations bill. We have used our position as best we knew how to get the Department to use their existing authority to declare a moratorium on foreclosures in proper cases, to stretch out payments in proper cases, and to work with private lenders to refinance or defer repayment where appropriate, because in foreclosure they reduce the value of farm commodities. We, of course, have no authority over private lenders. But the legislative committee would have to write what the gentleman refers to. All we can do is call on them. If we say 'you must," that is legislation. We have done everything we can.

Mr. ALEXANDER. I appreciate the gentleman's response. We are limited on appropriations bills. And the subject of farm debt moratorium is an issue that we must treat in a legislative bill which must be brought to the floor separately from an appropriations matter.

Mr. WHITTEN. This is beyond our reach in an appropriations bill. We make our intention as clear as we know how. And the Secretary already has authority he can exercise where the Farmers Home Administration is concerned.

Mr. ALEXANDER. I thank the gentleman.

Mr. WATKINS. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Oklahoma.

Mr. WATKINS. I thank the gentleman for yielding.

Mr. Speaker, I would like to commend the chairman for addressing this particular problem. I think it is appropriate and it is time that we address in a rational manner and organized manner the possibility of renewing a distribution of surplus commodities at a time when food stamps are being drastically cut back, and also at a time when we have surplus commodities—it looks like it would be a good marriage and not be doing something in a loose organization.

Mr. Speaker, through the gentleman's leadership the gentleman is looking at that and addressing that problem and I commend him.

I would like to say in this particular bill the Agriculture and Rural Development Appropriations Subcommittee that the gentleman chairs has done its best to try to address the problems of agriculture within the overall limitations that we have, especially a limitation of dollars.

Also we have begun to try to address the other facet of rural development as much as we can. Rural development goes hand in hand with agriculture.

This year the American farmers earned two-thirds of their income off the farm, only a third of it on the farm. That means they had to have a job or some additional income. So we have got to have a rural development program. And the gentleman has attempted to work on this program.

As the gentleman well knows, the late Senator from Minnesota, Hubert Humphrey, in 1972, with the Rural Development Act, many of my colleagues worked with him, passed a program, but we did not receive the funding in 1980. We had a program. We are trying to get some emphasis placed on it. And in this bill we have indicated to the Secretary that under the national rural development strategy a portion of it should go to trying to have a job creation program through technology and industrial innovation, and trying to build the necessary jobs out in rural America.

Mr. Speaker, I commend the gentleman for that, and I thank him for his leadership in that area.

Mr. WHITTEN. I appreciate the very valuable Member from Oklahoma and the contributions he has made.

Eighty-six percent of the land in the United States is classified as rural. Do my colleagues know in agriculture we have less than 4 percent of the population. But they have the biggest investment of any group in the world. They have the highest risks. If we keep their production bottled up in the United States at a time when the world is begging for it, not only is it a shortsighted foreign policy but it will lead to disaster for those engaged in agriculture.

There are few rural people. But may I say that they are the key part to our economy and overall well-being.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support for the conference report on H.R. 7072, making appropriations for agriculture, rural development, and related agencies for 1983 and yield myself such time as I may consume.

Our chairman, Mr. Whitten, and all the members of the committee in both Houses have worked long and hard to bring you an agriculture appropriations bill that is under the budget and before you in time to avoid funding our critical agriculture, rural development, and domestic feeding programs through another stopgap continuing resolution.

Let me say to the Members that I have talked personally with Office of Management and Budget Director, Dave Stockman, and he assures me that our bill is within the budget and that he will not be recommending a veto as he was with earlier versions of the measure.

The original House-passed version did not contain full funding for food stamps, child nutrition, or WIC. Legislation proposed, along with the original administration budget request, was not passed—so consequently funding needs were higher than originally estimated. The House committee has now received formal budget amendments from the administration which will allow for full year funding of these feeding programs.

Also, the House and Senate bill contained a mandatory \$500 million direct export credit program to help get rid of our market depressing grain supplies. This funding provided through the Commodity Credit Corporation revolving fund has been made discretionary with report language instructing the Department of Agriculture to use the earmarked money for expansion of the successful "blended credit" program.

USDA has obligated \$440 million in a combination of direct and guaranteed credits for Morocco, Eygpt, Yugoslavia, the Philippines, Pakistan, Brazil, and Portugal. These credit offers, if fully utilized, will result in additional export of 2.075 million metric tons of wheat, 350,000 metric tons of corn, 1.85 million metric tons of soybean products, and 43,000 bales of cotton. The committee expects the USDA to expand this effort.

Mr. Speaker, I want to remind the Members that this bill, with the new budget amendments submitted by the President, is below last year's appropriations by \$107 million and below the President's request by \$99 million.

American agriculture is facing its fourth straight year of depressed income—according to experts speaking at the USDA's annual Outlook Conference. We need the critical funding contained in this bill for agricultural price supports, export promotion, research and extension, conservation, farm lending, and a host of other activities so important to this Nation's largest and most important industry.

Since the Depression there has not been a time when a strong agriculture appropriations bill is needed more. Agriculture is experiencing its third straight year of falling income. The USDA recently announced their estimate of 1982 agricultural income at \$19 billion, down from \$19.6 in 1981 and \$24.4 in 1980.

The cost price squeeze continues with prices paid by farmers increasing 9 percent while their incomes have fallen 5 percent in the past 2 years.

Farm indebtedness is 12 times higher than farm income—the highest ratio ever.

On top of poor commodity prices borrowing power is being eroded by decreased land values for the first time in 30 years. As of June 1, 33.9 percent of the loans by Farmers Home Administration were delinquent.

I will not go on, but I could. What is most important for me to get across is that the agricultural industry must recover if we are to ever expect recovery in the rest of the economy.

Being larger than the auto, steel, and housing industry combined, and with more workers than any other industry, agriculture has a very large impact on the general economy.

A recent study completed by Chase Econometrics shows that full recovery cannot be achieved without recovery in the agricultural sector. The study shows that depressed farm prices are causing a national loss of \$2.2 billion in gross national product, \$4 billion in disposable personal income, and \$2.8 in net farm exports.

Contrary to other industries agriculture is not undercapitalized or suffering from a decline in productivity, rather it is a victim of its own success. Our food production capacity is the envy of the world. It provides the basis for American consumers to spend less of their disposable income on food than any other group of people in the world. However, when our production is greater than demand and surpluses pile up, it means bad times on the farm and ranch.

One note about our overproduction and that is to say that supply is only large relative to demand. Anyone who is knowledgeable about our international market will agree that this industry's marketing base has been ruined by embargo after embargo and the food weapon has been used at considerable detriment to our demand side of the marketing equation.

The small amount of funds provided in this bill for agricultural programs are needed to help repair the market damage and protect our most important natural resource—that being the food producing capacity of American agriculture.

The committee provides \$1,023 billion for agriculture research and extension activities. This is \$34 million more than last year and demonstrates our commitment to maintaining the critical scientific work that has been probably the most important factor in expanding our production and efficiency. Science must now play a leading role in finding new uses for our products, pioneering less expensive methods of production, developing systems that do a better job of preserving our soil and water resources, and delivering that knowhow to the producers through our Cooperative Research

For protection of plants and animals from pests and disease the committee has provided \$288 million—down slightly from last year—but at adequate levels to continue the battle against disease and pests

The committee has decided to restore funding for such control programs as golden nematode, grasshopper, gyspy moth, imported fire ant, witchweed and several other important programs that have proven effective over the years.

Rural development through the activities of the Farmers Home Administration is funded at levels that will allow the Department to maintain or in some cases increase its participation levels. We have provided the request for higher FmHA operating loan levels in order to see that producers have more adequate access to last resort lending during these hard times.

The Rural Electrification Administration is continued at virtually the same levels as last year. REA has provided a critical link in facilitating the modern and efficient agriculture we see today. It has also improved the living standard of our rural population. If it were not for past rural electrification programs our rural people would not enjoy the convienences of modern day living.

In an effort to halt our very serious land and water erosion problem your committee has restored, as we are forced to every year, the funds for conservation and forestery efforts. Almost every major publication in this country has run stories on our critical erosion situation. Our intensive farm-

ing practices and push for volume to make up for low prices has aggravated the loss of our farmland.

Producers can not bear the expensive erosion control measures by themselves. It is to society's benefit that everyone join in the effort to preserve our natural resource base. As my chairman has said so many times—all real wealth is linked to the soil and if we destroy that resource we are destroying our foundation.

As I mentioned earlier the food and nutrition programs that provide the needed assistance for low-income American's are also funded in this bill. The committee has only provided full funding of the food stamp, child nutrition, and women, infants, and children programs.

H.R. 7072 also funds the international agricultural programs. The Foreign Agriculture Service will be receiving \$7.5 million more in 1983 than in 1982. The primary function of this organization is to help American agriculture in maintaining and expanding foreign markets for agricultural products, so vital to the economic well being of the Nation.

I and the entire committee remain very concerned about our lack of an effective way to combat the loss of our overseas markets. Other exporting countries are using every means available to export their surplus, eating away at our markets, and eroding the earning potential of our own producers.

One of the reasons our producers were able to take advantage of increased demand for grain during the 1970's was the fact that we had been operating a strong Public Law 430 concessional sales and food donation program. In addition, USDA operated a very successful direct loan program for financing export sales. These programs were used for market development and gave us the leading edge that allowed the United States to capture most of the world grain and vegetable oil market.

The committee believes that now is the time to revive export credit activities. Our carryover supplies of wheat, feed grain, soybeans, and dairy products has reached unmanageable levels. We can no longer sit back and hope that the export situation will change or that some disaster will increase demand for our products.

The export credit program funded out of CCC existing authority at \$500 million will help get rid of our products by offering terms and conditions more favorable than commercial lenders. If used in conjunction with funds provided in the budget reconciliation measure this program could be very effective in raising commodity prices by reducing inventory and could also reduce Government price-support assistance.

I urge a "yes" vote on H.R. 7072 and ask unanimous consent to revise and extend my remarks.

Mr. JEFFORDS. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I thank the gentlewoman for yielding.

First I just have a question which I would like to inquire of the chairman.

In looking through the conferees' report, I have been unable to find specific reference to the wool research program. It is my understanding from discussions with staff that there is money available in there as there was in the House bill or similar thereto.

I wonder if the chairman would be able to answer that question for me.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Mississippi.

Mr. WHITTEN. We have met that problem. I think it will be satisfactory to the gentleman.

Mr. JEFFORDS. I thank the gentle-

man for his comment.

I would also raise another question which I am not fully prepared at this time to discuss but will be looking into when we get into the areas of disagreement. That is with respect to the limited resource loans, or the ability of people with limited resources to take part in the FmHA programs.

It is my understanding, although I am checking it out, that the word "shall" applies to insuring that 20 percent of these loans are available for people in limited resource programs. It is my understanding that the conference report changes the word "shall" to "may" and realizing there is some concern and confusion as to what the status of the FmHA programs are right now, since the Senate has not acted on the House bill, I wonder if the chairman has any information with respect to that?

Mr. WHITTEN. The Senate included a number of legislative provisions of which the gentleman discusses one. A direction of "not less than shall" in the bill would be legislation. The Senate had it in that way, so it was legislation. We resisted all the legislation they had, included, which is what we should do

we should do.

The word "may" is not legislation. But there is no question but what the Senate knows how we feel, and we feel that the word "may" would take care of it. At any rate we could not agree to the Senate amendment.

Mr. JEFFORDS. I understand. It seems to me this is a confusing situation with the expiration of the existing FmHA law—but the existing law is "shall." It seems that the legislative change is in reality being made, not unmade. I just raise that question. I do not have the answer to it. But I would hope, and I am sure the chair-

man recognizes, if that discretion is not exercised it will probably mean there will be no new young farmers coming in except those who have rather wealthy resources. And I would hope that the committee, along with our committee, would excerise oversight to insure that we do not preclude even though we have some difficult situations now as far as surpluses of young farmers being able to get into business.

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Mr. WHITTEN. Over the years, on occasion, we have included legislation by request here in the House, never asking for a rule to waive points of order where one objection could knock it out. Our rules do prohibit us from legislating on an appropriations bill, and where the Senate had added legislation we tried not to bring it back.

I trust they will use the word "may" as though it means "shall" because we made it quite clear we expect this.

Mrs. SMITH of Nebraska. I thank the chairman.

Might I add that in my home State of Nebraska FmHA used the full 20 percent, but in some other States there were not enough applicants who qualified, so it was not possible to use the full 20 percent allotment.

Mr. MYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Indiana (Mr. Myers).

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding me this time.

I rise in strong support of this conference report. The appropriation bill for agriculture is very, very important to rural America and even for our country; but really, I believe the most important part of this conference report is in the report language itself. The gentlewoman from Nebraska mentioned this. The chairman has mentioned it.

On pages 13 and 14 where we address the surplus problem that we have in rural American farms today with agricultural products, particularly grain, and also dairy products, we not only encourage, but we strongly tell the Department of Agriculture to dispose of these surpluses through world markets. We have not done this in the past. We have been able to move along and say we will go ahead and build up these big surpluses, store them as we did with dairy surpluses in the country, we still have a large surplus and we are giving it away. We are suggesting here that we dispose of our surpluses in world markets. I think this report language itself is a most important part, possibly the most important part of this conference report. I am sure we are going to hear more about that.

The department is going to be watched very closely, not only by this committee, but the Congress, to make sure that we start working very, very diligently to start disposing of our surpluses.

I am proud that our chairman and our ranking member worked very hard in that direction to make sure that we do dispose of those surpluses—good job.

Mrs. SMITH of Nebraska. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. TRAXLER).

Mr. TRAXLER. Mr. Speaker, I thank the distinguished chairman for yielding this time.

I wish to commend the chairman and the distinguished gentlewoman from Nebraska, the ranking minority member, for bringing to us an excellent conference report. This is the bill which will fund American agriculture in all its forms. I think the committee and its leadership has done an outstanding job.

Mr. Speaker, I rise in complete and enthusiastic support of the conference report on H.R. 7072, the agricultural appropriations bill for fiscal 1983. I want to commend our chairman, Mr. Whitten, for once again doing all in his power to maintain the House position on as many programs as possible in conference, while having an unswerving respect for not exceeding any budgetary limitations.

Mr. Speaker, in these times of reducing the size of the Federal deficit, agriculture is providing its share. This bill is nearly \$108 million below the bill for fiscal 1982, despite the fact that there are increasing needs for many of USDA's programs, be they farm credit programs or feeding programs. We are nearly \$100 million below the President's amended budget request as well.

I want to take a few minutes to address some of the highlights of this bill. There are some very key projects funded with this bill, and I believe that it is important that all of our colleagues understand what is in this bill.

Title I provides funding for the agricultural programs operated by USDA. One of the very key programs included in this portion of the report is agricultural research. If we are to maintain low food prices for consumers and low costs for farmers so that they have an opportunity to maintain a reasonable standard of living, such research is crucial for the future of these two interests.

We maintain directions for using funds for soybean genetic varietal research in this report. The House report on the 1983 bill provided such direction, and since the Senate did not disagree with us on this point, there was no need for the conferees to make

any additional statements of direction to the Agricultural Research Service. I am sure we will be discussing the progress on this work at our fiscal 1984 hearings.

For the Cooperative Research Service, we restore a number of special grant projects that are crucial to Michigan. Included in this list are \$34,000 for dairy photoperiod research, and \$99,000 for bean flour research. The Senate had already accepted \$97,000 for the Saginaw Valley Bean and Beet Farm, and \$96,000 for blueberry shoestring virus research work, so that it was not necessary for these items to be addressed in conference.

We provide \$17 million for the competitive grants program, and while this is the accepted compromise, I maintain my concerns about the necessity of such a competitive process as opposed to a more traditional contract grant award. USDA has yet to convince me of the value of this method of operation. I do not at all doubt the quality of the research, but if we are to be forced to reduce spending for many programs, then I want to be certain that the programs we do fund operate as efficiently as possible.

We restored a number of programs for the Extension Service, including the farm safety program, the urban gardening program, and \$2 million in new funds for the promising renewable resources program. The Extension Service does an admirable job of helping farmers understand the new developments that can help them improve their methods of farming. The agency has shown that it is worthy of our support, and for this reason will continue to have it.

In the Animal and Plant Health Inspection Service, we have provided a little more than \$84.2 million for the brucellosis eradication program, including such sums as may be required for whole herd depopulation. We have this disease under control, and it is only through continued vigilance that we will keep it that way. The administration's proposals to reduce the program were ill-advised, and were rejected on that basis. I am pleased that we were able to provide nearly a \$7 million increase over the House figure, because this program is important and deserves the funding.

For the Statistical Reporting Service, we also maintain the \$25,000 for statistical reporting work on dry bean acreage in Michigan. The project should be completed during fiscal 1983.

We provide an increase over the House figure for the Agricultural Cooperative Service, recognizing that it is essential that cooperatives obtain more assistance in export marketing efforts. Cooperatives have helped farmers tremendously, and we must continue to support them if we are to support agriculture.

Under the Commodity Credit Corporation, the state of managers advises the Secretary to not charge the 50 cents per hundredweight fee on milk until such time as he regularly offers dairy products for sale in the world market at competitive prices. I regret that we were not successful in placing this language in the bill, but our resolve is just as strong: We want these products sold so as to not be a drag on the U.S. market and a source of constant harassment of dairy farmers who are simply trying to maintain a standard of living.

The committee provided admirable support for programs offered by the Farmers Home Administration under title II of the bill. Farmers need credit to continue operations, and rural areas often do not have banking institutions which will make loans in the absence of FmHA guarantees. For this reason, we continue to support FmHA programs, recognizing that our budgetary situation does not allow us to provide as much support as we might like.

Title III is the title of controversy. In this section of the bill we provide funding for all of USDA's feeding programs. It is essential that everyone of our colleagues understand how strongly our chairman held out in order to get the President to request proper levels of funding for the feeding programs. The Senate appeared to be \$2 billion over the House bill, and it was only after the President submitted the requests demanded by Mr. WHITTEN that we agreed to the higher figures.

No one should misunderstand our intentions. Our subcommittee is committed to adequate funding for all feeding programs. But when the budget plays games with how much money is needed, we must stand firm and force the administration to be honest about how much money is needed.

Child nutrition programs are provided with adequate support to continue at essential levels. We rejected the ill-fated block grant proposal several months ago when it was proposed because it is beyond the scope of the appropriations committee to act on such matters, and I am sure it will be rejected again next year.

The real potential center of controversy on this bill will be found with the language contained in the statement of managers regarding the women, infant and children's feeding program. Let us not lose sight of the fact that the real issue with this program that should have your interest is the level of funding. We have provided \$1.06 billion, so that we can have this program fully funded for the year. But attention is being drawn to this report language nonetheless.

This is one of the most misunderstood sections of our action. We are not suggesting that we are going to force children to eat food that is harmful to them as some have suggested. All we are doing is saying that any changes in the food package not yet implemented-and this includes regulations which were issued in November of 1980, have been delayed several times, and are still not yet required and will not be until the end of this month-meet a scientific standard. We want the decisions on the WIC food package to be based on comprehensive scientific evidence, not the whims of some who have a particular disagreement with a certain food item.

WIC was created by Congress in 1972 under the direction of the late Senator Hubert Humphrey to prevent iron deficiency anemia, a problem of particular significance for low-income women and children because of their need for iron at this time of physical

development.

Since that time, WIC has been praised as the most successful program in improving the nutritional status of the eligible population. All of this has happened without any limits on sugar in breakfast cereals, and it is these limits that now have us concerned.

USDA wants to force a 6-gram limit on sugar. There is substantial doubt of the sufficiency of the scientific evidence that was the basis of this change. The materials provided with the regulations in November 1980 did not indicate that the decision to limit sucrose was being made by scientific experts. Rather, it simply said that sugar needed to be limited even though there has been no scientific

As recently as 2 weeks ago, the Food and Drug Administration reaffirmed the generally regarded as safe (GRAS) status of sugar, saying that at present consumption levels that there is no danger to health, barring those situations where people have particular sensitivities such as diabetes.

USDA wants to ban cereals. What are those cereals? Raisin Bran, Buck wheat and Instant Cream of Wheat in three flavors: apples and cinnamon, bananas and spice, and maple and brown sugar. None of these cereals are the type of foods that some people believe are generally of questionable value. Kelloggs has no intention of putting Fruit Loops on the program, and no one should act as if they do.

The point is a simple one: We want the food package standards based on science. If the science is there to keep a particular food out, then it should be kept out. If the science is not there, then we should not force the value judgments of some upon poor people who cannot react.

We want to maintain the nutritional quality of the WIC food package, and we believe the only way to do this is to take the selection process to a level of scientific adequacy. Responsible scientists do not believe that it is possible to impose a limit on a single constituent of a food in order to improve or enhance a total diet, and we believe this fact should be a critical factor in deciding what to do about the food

Our statement also addresses a very critical problem with administrative funding for the commodity supplemental feeding program. The local operators have lost administrative support on a per participant basis because of the fact that USDA has changed its method of procuring food since the last time the authorizing committee had an opportunity to review the matter. For this reason, our report directs the Department to supplement the administrative grant with funds from section 32 and CCC in order to more adequately provide for the full administrative cost of the program. We also direct the Department to reassess the method of giving administrative funds so that it reflects the food package and not merely the number of people. Not all programs provide the full food package, and should not, therefore, receive full administrative support. The current method of providing administrative funds does not consider this factor. We will be paying close attention to further developments on this issue.

Under the general provisions portion of the bill, the conferees rejected changes in the dairy standards of identity because the matter is beyond the jurisdiction of the appropriations committee. However, our report does recognize the fact that the proposal deserves further attention, and we urge the appropriate legislative committees to take action as soon as possible on the proposal.

Mr. Speaker, this report provides funds for many essential programs. It deserves the support of all of our colleagues.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. Rou-KEMA).

Mrs. ROUKEMA. Mr. Speaker, I have some questions of clarification for either the chairman or the gentleman from Michigan concerning the conference report with regard to the WIC program, under general provisions, title VI.

I have carefully read the languageprompted and motivated to read this language carefully-because of recent newspaper accounts which have indicated that rules and regulations have been changed or legislation has been modified regarding the WIC program to the effect that now, if we understand the newspaper accounts, for the first time sugar-coated cereals will be an approved food for WIC standards.

The language here, however, somewhat ambiguous and I would like clarification. The report states that standards for the composition of the food package should be made on "comprehensive scientific evidence necessitating the consideration of a food item as a whole and not eliminating any food item based on a single component thereof.'

Well, now, it seems to me that is irrelevant language. Could the gentleman explain whether that is permissive with regard to sugar-coated cereals and, if so, who makes the judgment and how is the scientific determination made?

Mr. TRAXLER. Mr. Speaker, if the gentlewoman will yield, I assume the distinguished gentlewoman is a friend of the WIC program and wants to see it continued.

Mrs. ROUKEMA. Yes.

Mr. TRAXLER. I am pleased to welcome the gentlewoman to the committee's viewpoint.

The subcommittee, as I am sure the gentlewoman from Nebraska (Mrs. SMITH) will tell us, as well as our distinguished chairman, Mr. WHITTEN, has been a zealous guardian of this program and its funding. The record clearly indicates this.

Happily, the world of reality and the methods and the decisions of the Congress are far more rational than are oftentimes reported in the press. You know, on a quiet day, reporters oftentimes do not have very much to do and in order to have a story, some of them become imaginative. If the gentlewoman has read some of the press reports on the pay raise votes yesterday, I am sure she was quite surprised to note the wire service's interpretation of those votes.

What we are really talking about here is reality and not the press, so let us talk about what the facts are. The fact is that sugar cereals have always been eligible for inclusion in the WIC program. The way in which a particular food item gets in the WIC program is that the manufacturer makes a request of the U.S. Department of Agriculture for its inclusion. The U.S. Department of Agriculture notes that and requests public comments on such an item being included in the WIC program. This has not changed in the report language.

What we are asking the Department to do-and the Department does not have to include the item; it makes its own determination-but what we are saying is that for future inclusions, please do it, first, on the basis of scientific evidence, and second, on the basis of the total ingredients of the item.

I cannot understand how anyone could object to that kind of a standard being established. Heretofore we have not had any guidelines for the WIC program. What we are saying is please do this on the basis of some objective criteria and not necessarily politics or whims.

Mrs. ROUKEMA. Mr. Speaker, I thank the gentleman. That is a helpful clarification.

The SPEAKER pro tempore. The time of the gentlewoman from New Jersey has expired.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 1 additional minute to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Speaker, I

thank the gentlewoman.

I would like to note, I would hope that the RECORD would show that it is the intention of the committee that this be done on scientific evidence and that when the Department of Agriculture does make its determination, there is full consideration of medical evidence, as well as dental testimony by the dental societies and nutritionists as to the efficacy of the foods included.

Mr. TRAXLER. I think the gentlewoman is totally correct. Scientific evidence, and certainly if that is scientific evidence, then it ought to be considered, and that is the purpose of the language and none other.

I deeply regret the misunderstandings that were created as a result of some newspaper articles which were highly imaginative.

Mrs. ROUKEMA. Well, I think this

colloquy should be helpful.

Mr. TRAXLER. I hope so, too, and I thank the gentlewoman for her support of the WIC program.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, I wonder if I might ask a question of

the distinguished chairman.

The bill went out of the House at about \$23 billion, went out of the Senate at about \$25 billion, and came back in the conference report at nearly \$32 billion, which is nearly \$9 billion over the House total and \$61/2 billion over the Senate total.

As I computed when it left the House, the bill was one-half of a billion dollars over our budget in both outlays and BA; so it must be something like \$9 billion over now.

I wonder if the distinguished chair-

man could explain those discrepancies and how the gentleman could bring back a conference report that is so far over both the House and the Senate versions.

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, the conferees acted on the revised requests submit-

ted by the President.

In the WIC program, the original request had enough money for about half a year, so we appropriated what money was requested by the President.

Subsequent to House action, but prior to the conclusion of the conference, the President sent Congress a request for the full year.

In addition to that, the subsequent request by the President on the Commodity Credit Corporation was for an additional \$6.7 billion. The Commodity Credit Corporation, as the gentleman knows, does so many things in the way of supporting prices and other things that their capital was impaired and the President's recommendation was an urgent request for an additional \$6.7 billion for the Commodity Credit Corporation. These funds are to carry out the obligations of the Government and of the Commodity Credit Corporation. All of these increases were backed up by urgent requests from the President of the United States. They are urgent and necessary right now; so we agreed. I called attention to it in my remarks earlier, that the conference agreement does include these official requests by the President and they are emergency in nature, as the committee determined.

Mr. FRENZEL, Mr. Speaker, I thank the gentleman.

The committee did, however, exceed the scope of the conference committee by a considerable number of dollars; is that correct?

Mr. WHITTEN. Well, personally, I say that outlays are controlled by the executive branch, as the gentleman knows. This additional \$6.7 billion for CCC is budget authority, not outlays. The Commodity Credit Corporation restorations are not listed as outlays, and because the corporation had its capital impairment restored does not necessarily mean that they will spend

I repeat again what we all know. Money appropriated does not come out of the Treasury until it is spent. In this case, the President said additional funding was needed. We provided it and I think it does not violate any of the overall ceilings imposed in the substitute budget resolution which may I tell the gentleman was unrealistic in many ways because it left out \$5 bil-

lion needed by the CCC.
The SPEAKER. The time of the gentleman from Minnesota (Mr. FRENzel) has expired.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 1 additional minute to

the gentleman from Minnesota. Mr. FRENZEL. Mr. Speaker, I thank the gentlewoman for yielding.

May I ask one final question. In the opinion of the distinguished chairman. is there some likelihood that supplementals will be required for any of the

items in this appropriation?

Mr. WHITTEN. May I say that I work up here and others work downtown. There are certain obligations that are fixed by law. So far as I know, this will meet the need. So far as the President's estimate is concerned, this will meet the need. But nobody can tell when things like the flood in Arkansas will occur, which has a disastrous effect on agriculture, there is no way to foretell. But when those things do come up, they will have the serious attention of this committee.

We are very proud of our record of holding down expenditures. As the gentleman knows, not all our problems come from the Appropriations Committee. We have been below the administration's appropriations requests in 37 out of 39 years. It is backdoor spending that creates our overall budget problems as well as entitlements, which of course come from the legislative committees.

Mr. FRENZEL. Mr. Speaker, I thank the distinguished chairman.

Mr. Speaker, the chairman of the Appropriations Committee has told us that this bill is approved by the administration, is within the budget, and will require no supplementals.

I agree that commodity programs have escalated beyond our expectations and must be funded. But they, and other features of this bill, are monstrously over our budget.

The same is true of the WIC and food stamp programs. They are way over budget, too. As best I can compute, this bill is more than \$9 billion over our budget resolution.

Our commodity programs account for about \$6 billion of this total and WIC and food stamps make up most of the rest. Because our laws say so, we must pay those bills, but I object to describing this conference report as under the budget.

Although our chairman says differently, most observers believe that a supplemental appropriation will be needed to fund extra food stamp costs. I do not like planned supplementals. We ought to know the truth now.

I voted against this bill when it passed the House because it was over the budget. I do not object to paying due bills. I do object to overspending in discretionary accounts. This bill overspends in discretionary items and I feel compelled to vote against it.

We went to a lot of trouble to pass a budget. The American people ought to be able to rely on it. It is all right to breach the budget if surpluses and recessions force costs up. But it is not all right to bust the budget on discretionary spending.

Mrs. SMITH of Nebraska. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Mr. Speaker, I would like to ask the chairman or one of the committee members from Mississippi or Michigan a question. On page 45 of the Senate committee report we have an Office of Transportation. I notice they have been reduced, but now they are starting what they call a user charge, SLUC, standard level user charges.

My farmers in my district are having problems in warehousing and transportation. I was under the impression that this office was to be of service to rural communities, producers and farmers in general within the communities to service in a technical and research sense to help them out in transporting their products to and from given areas by rail or ship and so forth.

Now I see they have a user fee principle. Does the farmer or producer have to comply with this new procedure or could the gentleman explain this to the members?

Mr. WHITTEN. Mr. Speaker, if the gentleman will yield, we have had a terrific problem through the years because the General Services Administration serves as landlord for other Government agencies. I do not know when the law was passed or who caused it, but the General Services Administration just tells Federal agencies what the rent will be on the facilities that they occupy, and the agencies simply have to pay it. Treasury just withholds it before it comes to them.

We thought that was unfair because any vacant space GSA has, they just assign it to somebody and take the money from the agency without recompense.

In this bill, we set up a separate line item on these rental payments to GSA, and we put a limit on how much they can pay. Unless we do this, GSA can just tell the agency what they have to pay for office space and automatically take the funds. We have taken control of it so that we can watch it and see that they do not overbill agencies.

Mr. PURSELL. Well, Mr. Speaker, I just want to make sure that this does not preclude the opportunity to the farmer or rural community, such as in my area of Hillsdale or Jackson, Mich., and Lenawee County to utilize this service without having to pay some kind of user fee. It is not connected with getting service from this Office of Transportation. Is that clear in the gentleman's mind?

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Mr. WHITTEN. We have had to reinstate the transportation item from time to time, and I agree with the gentleman there. But this is not intended to restrict the Office of Transportation at all; it is supposed to save some money that GSA might have taken.

Mr. PURSELL. I thank the gentleman.

Mrs. SMITH of Nebraska. Mr. Speaker, I have no further requests for time, but I have been asked to engage the chairman in a brief colloquy.

We have language in the conference report pertaining to brucellosis indemnity payments. If the committee does not object to the proposed changes as submitted by USDA during the regular hearings, will the Department be allowed to proceed?

I yield to the gentleman from Missis-

sippi for a response.

Mr. WHITTEN. Mr. Speaker, may I respond to my colleague, a very valuable member of the committee and the ranking member of the Agriculture Subcommittee. Let me review the brucellosis program a little bit. The Department set out to abolish the program. We have tried to see that that is not done so we would not lose all the progress that we have made in recent years.

The Department's proposal was to fix a flat rate of indemnity for cattle without regard to whether they were very valuable breed cattle or just run of the mill cattle.

We felt as the gentlewoman would know, that we should at least have a hearing on their proposal and see what they had in mind. We just said, "Keep the status quo until we have a hearing and see what you mean to do and then we will consider what advice we might give you."

That might not be controlling, but they usually cooperate with us.

Mrs. SMITH of Nebraska. I thank the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Dan-NEMEYER).

# PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, before I consume that 1 minute, may I have a parliamentary inquiry?

The SPEAKER pro tempore. The parliamentary inquiry would be made as part of your 1 minute. All time is controlled.

Mr. DANNEMEYER. Then this is my request in the nature of a parliamentary inquiry.

If the funding level of this conference report is \$31.7 billion-plus, and the budget resolution passed by the House earlier this year listed as a maximum amount for this area of spending something a little below \$23 billion, my parliamentary inquiry is: If we have passed the budget resolution providing a level of spending for this category or function of the Federal budget, how do we have the ability now to consider a conference report that proposes to spend an amount substantially in excess of that figure? Where do we get that right?

Mr. WHITTEN. Mr. Speaker, will

the gentleman yield to me?

The SPEAKER pro tempore (Mr. Pease). No point of order was made against the conference report when it was brought up. If one had been raised, the Chair would have ruled at that time. A timely point of order was not made and, therefore, there is no ruling.

Mr. DANNEMEYER. Does the Speaker mean that if a Member had raised this in the way of a point of order when it was first brought up—

The SPEAKER pro tempore. If there had been a point of order raised on a timely basis, the Chair would have ruled on the point of order.

Mr. DANNEMEYER. Ruled which way?

The SPEAKER pro tempore. The Chair cannot engage in speculation.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield to me?

The SPEAKER pro tempore. The time of the gentleman from California (Mr. Dannemeyer) has expired.

Mr. WHITTEN. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, we have many people who insist that this budget ceiling is imposed on each department agency, and program. That is not true. The Appropriations Committee has an allocation to the overall spending of some \$487 billion. It is silly to believe the Budget Committee can control each department and agency through a target resolution they adopted in June without the benefit of hearings.

But the overall ceiling, we are well within it for the appropriations under our committee's overall 302 allocations. We do reserve in the committee the right to suballocate it as we see fit, and we did suballocate it.

When the President sent down the requests for the additional money, that was still within the overall ceiling. But the ceiling is on the Committee as a Whole and not department by department. So we had enough latitude to include these requests by the President. It may be over for the original allocation to this department, but we did not know that the President was going to request this.

But we are still within and under the ceiling imposed overall.

Mr. DANNEMEYER. Mr. Speaker, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from California.

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, is the gentleman from Mississippi suggesting that additional money was requested by the President?

Mr. WHITTEN. Yes; and I said so earlier.

Mr. DANNEMEYER. If the chairman would yield further, that is an interesting statement because what can the President spend except that we appropriate?

Mr. WHITTEN. We believe in helping the President when we can. After all, the President made three separate requests, adding some \$8.7 billion to his own budget. If any of my colleagues cares to read the President's budget amendments, they can be found in House Documents 97-257, 97-262, and 97-266.

The SPEAKER pro tempore. The time of the gentleman from Mississippi (Mr. Whitten) has expired.

2 minutes to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report on the Agriculture appropriations bill for fiscal year 1983, and I urge my colleagues to support it. The conference report provides funds for a number of vital programs that sustain agriculture, conservation, rural development, research, nutrition, and many other important activities. This conference report represents a reasonable balance between consumer and producer needs, and the funds will help maintain the economic well-being of our rural areas. Although it was difficult to provide equitable and adequate support for all of these functions, I am pleased that we were able to do so within the 302 allocations.

I am also pleased that the conference has provided funding for the food stamp, child nutrition, and WIC programs on a full-year basis. However, I should note that the food stamp appropriation of \$10.8 billion, which is what the administration officially requested last week, will almost certainly be insufficient and a supplemental appropriation will be required.

This summer, after passage of the Reconciliation Act, USDA informed the appropriations committees that it estimated a need of \$10.9 billion for the food stamp program in fiscal year 1983. This was based on official OMB economic assumptions that unemployment for the fiscal year would average 8.7 percent. Since last summer—when the USDA prepared this estimate-unemployment has skyrocketed to 10.8 percent. In the last 3 months alone, food stamp participation has risen by 1 million persons in response to this rise in unemployment. It now seems clear that the \$10.9 billion estimate was too low.

Last week, the administration submitted an official budget estimate for \$10.8 billion—\$100 million lower than before, despite the increase in unemployment. The administration's justification for this new estimate was that \$10.8 billion is the CBO estimate.

Unfortunately, this seems to be another instance of less-than-honest budgeting by OMB. It is true that CBO did estimate food stamp needs at \$10.8 billion—but that was last summer, before the recent steep increases in unemployment. The CBO estimate was based on a projection that unemployemt would average 9.0 percent in fiscal year 1983, with unemployment reaching a peak of 9.5 percent in the first fiscal quarter and declining thereafter; 2 months of the first fiscal quarter have now passedand unemployment is far above 9.5 percent. For unemployment to average 9.5 percent for the quarter, it would

Mr. WHITTEN. Mr. Speaker, I yield have to drop to 7.3 percent in December.

CBO analysts have indicated that because of the high levels of unemployment, the \$10.8 billion estimate is no longer correct. When CBO issues its next set of budget estimates, the food stamp estimate will be in the \$11 to \$12 billion range. It is unfortunate that the administration chose to use an outdated estimate.

To avoid this type of situation in the future, the committee report to this appropriations bill requires that upon enactment, the Secretary must submit an estimate of the funds needed to fully the food stamp program in fiscal year 1983, together with a detailed description of the economic assumptions on which the estimate is based. In addition, the Secretary must report immediately to the Congress upon determining at any time that the estimate must be revised because of changes in economic or other conditions. The Appropriations Committee takes this directive-which appears in the committee report—quite seriously. As a member of the committee, I expect the Department to provide us with a revision of the \$10.8 billion estimate promptly.

In addition, the Department may not take any action to reduce benefits on the grounds that the \$10.8 billion estimate is too low. Congress has appropriated \$10.8 billion at this time because the administration submitted an official document stating that his was the full amount needed. The statement of managers indicates that the Appropriations Committees intend to provide additional funds for the food stamp program upon being notified that supplemental funds are needed to avoid benefit reductions. In past years, Congress has always provided needed supplemental funding for this program, and will certainly do so again. Any action by the administration to reduce benefits, rather than to allow the Congress ample time to provide supplemental funding, would be contrary to the intent of this act.

The \$10.8 billion should be sufficient to carry the program through August, so the Congress will be able to provide the needed amount of supplemental funding in the supplemental appropriations legislation next year.

WIC

For the WIC program, the conference report provides \$1.060 billion, the same level that was contained in the continuing resolution enacted at the beginning of October. The Department is required to make the \$1.060 billion, plus any carryover funds from fiscal year 1982, available to States in a timely manner so that these funds may be fully utilized in fiscal year 1983 to serve the maximum number of participants. The Department has provided \$265 million—one-quarter of the \$1.060 billion—for the first quarter of

the fiscal year. We expect the Department to issue additional \$265 million allocations promptly at the beginning of each of the three remaining quarters of the fiscal year, as well as to make allocations of carryover funds promptly as those funds become available. Finally, we expect the Department to conduct reallocations of fiscal year 1983 funds during fiscal year 1983 to the degree necessary to assure that available funds are used during fiscal year 1983 to the maximum extent fea-

I am pleased that in the advisory language in the statement of managers regarding the WIC food package, the conferees have urged that the nutritional integrity of the WIC food package be maintained.

Once again, Mr. Speaker, I urge my colleagues to support this conference report and these programs which are so important to our urban and rural communities.

Mr. WHITTEN. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. Akaka), a member of the committee.

Mr. AKAKA. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report, and I ask unanimous consent to revise and extend my remarks

Mr. Speaker, I want to thank Chairman Jamie Whitten for all his hard work on behalf of the American farmer. No one is better aware of the pressing needs of America's farmers than the gentleman from Mississippi nor has anyone in this House done more to help the ailing farms in our Nation than the chairman of our subcommittee. This bill is evidence of his concern and attention to the problems of agriculture.

This is a good bill, and deserves every Member's support. The funds in the Agriculture appropriations bill operate programs essential to our Nation's farmers and consumers. Without the programs contained in this bill, the current farm crisis will be far, far worse.

At a time when 12 million Americans are jobless, I am happy to see that the administration has agreed to support funding for vital domestic programs at a level sufficient for the full fiscal year. The nutrition programs in this bill are designed to assure a balanced and adequate diet for the elderly, for those on low incomes and for children who are considered to be a nutritional risk. These are the most vulnerable people in our society. Without the funding this bill contains, they will only be more susceptible to disease and illness.

The bill also provides essential levels of funding to combat the infestation and disease caused by insects and other pests. These pests destroy our farmer's crops and sicken and kill his animals at an alarming rate.

I am also happy to have the committee's support for funding of the Agricultural Cooperative Service in fiscal year 1983. For the most part, the amounts provided will continue programs of the Agricultural Cooperative Service at the previous year's level. To deny farmers and farmer cooperatives research, technical assistance and cooperative education, at a time when farm income is at its lowest point since the Great Depression, would only cause further unnecessary hardship for our farmers. The Department of Agriculture has testified that requests for technical assistance from the Agriculture Cooperative Service doubled between fiscal year 1980 and fiscal year 1981. This bill provides the assistance to meet this need.

Mr. Speaker, as a Member of the Agriculture Appropriations Subcommittee, and as a conferee on this bill, I am surprised at the response that has been generated by the conference agreement on the Senate amendment No. 69. In response to concerns raised by the Senate, the conferees included language in the statement of the managers to the effect that decisions regarding the composition of the WIC food package should be made on comprehensive scientific evidence. This would prevent the USDA from eliminating any food item based on a single component of that food.

Mr. Speaker, the conferees have expressed strong support for the WIC program. What has come to our attention is the attempt of the Food and Nutrition Service to limit foods in the WIC food package based upon a component of that food, when the best available scientific evidence indicates that the components they are attempting to eliminate from the package are safe for human consumption. The food components that the Food and Nutrition Service have targeted are chocolate for flavoring milk and sucrose and other sugars in breakfast cereals. This is being attempted despite the fact that sucrose and other sugars have been recognized as foods safe for human consumption for many years. Only last week the Food and Drug Administration reaffirmed the GRAS (generally recognized as safe) status of sucrose and other sugars.

One of the most successful of USDA's food distribution programs has been the supplemental feeding program for women, infants, and children introduced and adopted through the efforts of Hubert Humphrey in 1972. At that time, studies showed that numerous women, pregnant women and small children suffered from anemia because the needs of their bodies for iron were particularly great at that stage of their lives and growth. In the ensuing years, WIC has been successful in providing iron in their diets through the distribution of vouchers for the purchase of iron fortified breakfast cereals.

Some months ago, USDA came out with a regulation which has not been finalized, that would eliminate some of the cereals which had been available under WIC by limiting the per serving content of sucrose and other sugars.

In view of this and the knowledge possessed by the appropriate congressional committees and our conferees, we are not aware of any scientifically valid reasons for the Department's action. With FDA's action, it is difficult to believe that any such reason could be found. But even if USDA has some rationale, we would like them to consider the other characteristics of the WIC foods, particularly the cereals, which are critical to continued successes for the WIC program.

Given the solid improvements in the diets and health of the WIC participants and the lack of an adequate scientific basis for their action in limiting a food component that the FDA has recently reaffirmed as GRAS, we are advising the Department to require a specific scientific rationale for all changes in the food packages.

In closing, let me again urge my colleagues to lend their full support to this conference report. America's agri-

culture deserves no less.

Mr. MILLER of California. Mr. Speaker, it is the end of the Congress, so enter the special interest lobbyists who care more about selling their product than about the health and growth of America's mothers and infants.

WIC is a health and nutrition program for low-income pregnant women, infants, and children who have been medically certified to be at nutritional risk. The March of Dimes documented that those risks include birth defects, deafness, blindness, mental retardation and in to many cases, death. But the WIC program has been proven to cut infant mortality for its participants by one-third, and to reduce the incidence of low birth weight, the eighth leading cause of death in the United States.

Not only have we repeated evidence of the success of this program for its participants, but studies by the Harvard School of Public Health show that each \$1 spent on the prenatal component of WIC results in \$3 in short-term hospitalization costs. This 3:1 benefit ratio does not even take into account the long-term savings in reduced social services, health care, special education, and future dependency on disability payments.

Now, disregarding these successes, and seeing only a vehicle for their own product, special interest lobbyists are seeking to sue the WIC program to merchandise highly sugared cereals and chocolate milk. These special interest lobbyists offered no evidence

that their products would be beneficial to the high-risk mothers and infants who are the carefully selected target group for this program. Nor did these special interest lobbyists provide us information about the increased cost of the WIC food package as a result of including their high-sugar products. As the cost of the WIC food package increases, the numbers of women and children who can be served is reduced.

Today, we will be asked to approve the 1983 Agriculture appropriations conference report. Any interpretation that would indicate that the Department of Agriculture has to change regulations governing the WIC food package on the basis of the advisory language included in the statement of managers is inconsistent with the statutory requirement of the Child Nutrition Act as amended in 1978. This law requires the Secretary of Agriculture to set "appropriate levels" for sugar, fat and salt content of foods included in the WIC prescription food package.

The advisory language in the statement of managers is attempting to turn one of the Federal Government's most effective programs, the supple-mental feeding program for women, infants, and children (WIC) into a marketing device for special interest.

If USDA misconstrues this advisory language, this city will have a lot of happy, well-heeled lobbyists, but this will surely have country fewer healthy, well-fed mothers and infants. We cannot let special interests undermine the integrity of a successful program for vulnerable citizens.

• Mr. DASCHLE. Mr. Speaker, I would like to focus my remarks regarding the conference report on H.R. 7072, the Agriculture appropriations for fiscal year 1983 on two items-the limited resource loan program and FmHA deferral policy.

This is the first time that the limited resource loan program has been specifically mentioned in an appropriations bill. In the past this program, which is an earmark of funds within the FmHA operating and ownership loan programs for low income, limited resource family farmers, has been authorized in the FmHA loan reauthorization legislation.

This year the House passed an FmHA loan reauthorization bill (H.R. 5831) which contained a 25-percent earmark of FmHA operating and ownership loan money for the limited resource loan program. The Senate Agriculture Committee, in its reauthorization bill, set aside 15 percent of operating and ownership money for this same program.

However, the FmHA reauthorization bill has not, and appears it will not, get to the Senate floor this session of Congress. Because of that, and because of the clear sentiment in both Houses in support of the limited resource loan program, an amendment was attached to the fiscal year 1983 Agriculture appropriations bill on the Senate floor—the amendment earmarked 20 percent of the operating and ownership loan money for low income, limited resource farmers. The purpose of the amendment was to insure, in the temporary absence of an authorization, that the administration continue to operate this program.

Senate report language on the Agriculture appropriations bill reads:

The Committee remains concerned about the continued difficulty young persons are experiencing in getting started in farming. The Committee notes that current authority provides that not less than 20 percent of the funds provided for farm real estate and ownership loans shall be used for limited resource borrowers. This authority should not be interpreted as a cap but as a minimum level for limited resource loans. FmHA should place increased emphasis on assist ing new entrants to farming. To that end, Committee will expect FmHA to fully utilize the limited resource loan program to assist young persons getting started in farming. The Committee will expect to be kept informed on actions taken to comply with this directive. The Committee has added language which will continue the authority for limited resource loans in fiscal year 1983. . . . . As in the case of real estate loans, the Committee will expect FmHA to fully utilize the limited resource loan program to assist young persons getting started in farming.

The language in the conference report before us today, however, makes the use of the 20 percent of funds in the FmHA real estate and operating programs for low-income, limited resource farmers discretionary. The reason for this is that the conferees felt that an earmark of funds for this program would constitute authorizing language in an appropriations bill-while I understand and appreciate this jurisdictional problem, I hope that the administration will, in a recognition of congressional intent, continue the limited resource loan program. I am confident, furthermore, that early in the 98th Congress we will pass FmHA loan program reauthorization legislation which will contain a specific earmark of funds for this program.

On the matter of FmHA deferral policy, the conferees adopted language which refers to the current law regarding the Secretary's deferral authority, and goes on to say, "The conferees will expect the Secretary to make maximum use of his dicretion under all authorities available to him to avoid loan collection actions that would force out of business these family farmers." The Senate adopted language in the Agriculture appropriations bill which was identical to language in a bill introduced by myself and Congressman Dorgan. Our bill subsequently passed the House as part of H.R. 5831. While I welcome the language in this conference report urging the Secretary to more fully utilize his deferral authority, I intend to work next session to get signed into law the language contained in H.R. 5831—language which says that under certain conditions family size farmers are entitled to deferrals. The language says that furthermore, FmHA must notify borrowers of the existence of deferrals and other servicing remedies and of the limited resource loan program.

It is evident that FmHA does not, as a matter of course, inform loan applicants and borrowers of the existence of these programs. Farmers must know what their options are under the law and regulations, and must be able to make application for those options.

I am disappointed that the Senate leadership did not see fit to bring the FmHA reauthorization bill to the Senate floor this year, as that would have been a more appropriate vehicle to deal with the issue of deferrals and other credit issues.

I hope that in the next session of Congress we will pass and have signed into law a reauthorization bill which can more clearly deal with farm problems.

• Mr. BEDELL. Mr. Speaker, I rise in support of the conference report to accompany H.R. 7072, the Agriculture appropriations bill for fiscal year 1983. However, I wish to express my strong concern about the level of funding provided in the bill for the Agricultural Cooperative Service (ACS).

I believe that it is important that Members understand how the House and Senate arrived at the figure provided in the bill for ACS. I think that this explanation will make clear just how difficult it is to reduce the size of an entrenched Federal bureaucracy which is closely entwined with the in-

terest groups which it serves.

As many Members know, I have a practice of dropping in on Federal agencies without warning to find out how our bureauracy operates and how Federal tax dollars are spent. Usually on these visits I roam the halls of a department or agency and enter various offices at random. I ask the Government personnel in those offices what their jobs are, how they occupy their time, and so on.

Late in 1981 I paid just such a visit to USDA's Agricultural Cooperative Service. Over the course of about 1 week, I spent a total of nearly 2½ days questioning ACS officials about the role of their agency, its activities, its funding level, the utilization of its staff and other resources, and so on.

I came away from my personal review of this agency with the firm belief that this unit was overfunded and overstaffed.

The Agricultural Cooperative Service has served a very useful role in helping to organize new farmer cooperatives and providing assistance to young, struggling cooperatives. And I

have no doubt that its services will continue to be needed in helping new co-ops to get on their feet in the future.

However, I do not believe that the services of ACS will be needed at the same level that they have in the past. Farmers across the United States generally are served by strong cooperatives that provide essential assistance in marketing producers' crops and supplying them with needed inputs for their farming operations. In addition, organizations such as the Farm Credit System's Banks for Cooperatives and the National Council of Farmer Cooperatives have developed to where they can provide important technical, financial, and marketing assistance to the cooperatives, as well as serve important advocacy roles for the co-ops in Washington and elsewhere.

Consequently, after my in-depth investigation of the activities of ACS, I was pleased to note that the administration had proposed in its 1983 budget recommendation to the Congress that funding for the agency be reduced by about 25 percent from \$4.64 million in fiscal year 1982 to \$3.68 million in the current fiscal year. I made known my support for this reduction and proceeded to secure its adoption by this body.

However, I had scarcely completed my inspection of the ACS operation before lobbyists for those groups served by ACS began their phone calls and personal visits to my office in an attempt to head off my pursuit of this budget cut. All these lobbyists were well aware of my just completed tour of ACS and my interviews with agency officials. After making my case for the budget cuts to these interests served by ACS, few were in a position to disagree with my contention that indeed the agency could readily absorb a reduction in staff and resources.

I also made my case in a letter to the members of the Appropriations Subcommittee on Agriculture, Rural Development, and related agencies, and I am pleased to say that the subcommittee agreed to reduce funding for ACS by more than \$600,000 to just \$3,999,000. This reduced funding level was also adopted by the full Appropriations Committee and the House.

The Senate, on the other hand, approved \$5 million in funding for ACS in fiscal year 1983. And in conference, the conferees roughly split the difference in the House and Senate figures so that the final amount provided was \$4.63 million—exactly the same amount as ASC received last year.

So much for cutting Federal spending and reducing the size of the bureaucracy.

As I said at the outset, I believe this incident serves as a telling example of the difficulty we as policymakers face when we attempt to cut the budget.

There was not much money involved in this particular case—only thousands of dollars in a \$23 billion bill. But we face almost certain budget deficits of \$200 billion annually for the next few years, and our total annual Federal budget is well over \$700 billion. I hope that this one small example provides an indication, and a warning, of the difficulty we encounter as we take on a well entrenched bureaucracy with active and influential friends in the lobbying organizations which it serves, as we attempt to cut the budget.

I realize that for many Members I have only pointed out what is painfully obvious: Special interests with close ties to the bureaucracy tend to perpetuate the present level of Federal spending for their own cause, despite the nearly universal recognition that we need to cut the budget. But I simply offer this case as another example of the built-in momentum for Government spending, and urge continued diligence in our efforts to reverse this course and get a handle on

these record deficits.

Mr. WEISS. Mr. Speaker, I would like to commend the gentleman from Mississippi and his colleagues on the subcommittee for agreeing to appropriate full funding for the special supplemental food program for women, infants and children in the fiscal year 1983 agricultural appropriations bill. Certainly the program's track record demonstrates that WIC deserves no less

The WIC program supplements the diets of 2.2 million low-income pregnant and nursing women, infants, and children who are medically certified to be at nutritional risk. The program successfully integrates the distribution of supplemental foods with the provision of health care and nutrition education for program participants. Study after study, by USDA, Centers for Disease Control, universities, and publichealth departments, has found that WIC decreases infant mortality rates, the incidence of low-birth-weight babies, and the incidence of anemia. As a further testament to the programs effectveness, a Harvard study found that for every WIC dollar spent, up to \$3 is saved in hospitalization costs for low-birth-weight babies.

A major reason for WIC's success has been its adherence to nutritional standards and quality. The Education and Labor Committee, on which I serve. affirmed these standards by specifying in the 1978 WIC reauthorization that the food package contain supplemental foods that provide nutrients found to be lacking in the diets of the WIC participants. In addition, Public Law 95-627 clearly requires the Secretary "to assure that the fat, sugar, and salt content of the prescribed foods is appropriate.

In accordance with the statute and under the guidance of experts in the medical, dental, and nutrition communities, USDA has issued regulations which limit the amount of added sugar permitted in the WIC food package. This regulation, scheduled to be implemented at the end of this year, fulfills the mandate and intent of the WIC statute and contributes to the nutritional health of those who are served by the program.

I am concerned that the language in the appropriation bill's statement of managers conflicts with the prescriptions for the food package in the WIC statute. It appears to allow the inclusion of foods in the WIC package that contain inappropriately high levels of sugar, such as sugared cereals. Although the language in the statement of managers is only advisory, it may confuse what should be a clear directive to the administrators of the program.

For many years, the Congress has consistently stood behind the integrity of the WIC program. We cannot and should not tolerate a retreat from this commitment.

Mrs. SMITH of Nebraska. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WHITTEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered. The SPEAKER pro tempore The question is on the conference report.

The question was taken; and the Speaker pro tempore. announced that the ayes appeared to have it.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were-yeas 324, nays 73, not voting 36, as follows:

# [Roll No. 456]

# YEAS-324

Addabbo Bonior Coelho Akaka Bonker Coleman Albosta Bouquard Collins (IL) Alexander Bowen Conte Conyers Andrews Breaux Annunzio Brinkley Corcoran Brodhead Coughlin Applegate Courter Coyne, William Brooks Broomfield AuCoin Bafalis Brown (CA) Brown (OH) Crockett Bailey (PA) D'Amours Daniel, Dan Burgener Burton, Phillip Barnes Daniel, R. W. Bedell Byron Beilenson Campbell Daschle Carney Chappell Daub Bereuter Bevill Davis de la Garza Biaggi Chappie Deckard Dellums Bliley Chisholm Clausen Boggs Clay DeNardis

Huckaby Dicks Hutto Dingell Hyde Dixon Jeffords Donnelly Jenkins Jones (NC) Jones (TN) Dougherty Dowdy Downey Kastenmeier Duncan Kazen Dunn Kennelly Kildee Dwyer Dymally Kindnes Dyson Kogovsek Early Eckart Kramer LaFalce Lantos Edgar Edwards (AL) Latta Edwards (CA) Edwards (OK) Leach Leath Leland Emery Lent Levitas Erdahl Lewis Loeffler Ertel Long (LA) Evans (DE) Long (MD) Evans (GA) Lott Lowery (CA) Lowry (WA) Lujan Evans (IN) Fary Luken Fenwick Lundine Ferraro Fiedler Madigan Markey Findley Marlenee Martin (IL) Fish Fithian Martin (NY) Flippo Martinez **Foglietta** Mattox Mavroules Ford (TN) Mazzoli McClory Forsythe McCurdy McDade Fountain Fowler Frost McHugh McKinney Fugua Mica Michel Garcia Gaydos Gejdenson Mikulski Gephardt Miller (CA) Mineta Mitchell (NY) Gibbons Gilman Glickman Moffett Gonzalez Molinari Goodling Montgomery Gore Moore Gray Morrison Murphy Green Guarini Murtha Gunderson Myers Napier Natcher Hall (IN) Hall (OH) Hall, Ralph Hall, Sam Nelligan Hamilton Hammerschmidt Nichols Hance Hansen (ID) O'Brien Hartnett Oberstar Oxley Panetta Hawkins Heckler Hefner Parris Pashayan Heftel Hendon Patman Patterson Hertel

NAYS-73

Bennett Brown (CO) Broyhill Carman Cheney Bailey (MO) Clinger Collins (TX)

Pepper

Perkins

Peyser

Pickle

Porter

Hightower

Hollenbeck

Hopkins

Howard

Anderson

Ashbrook

Atkinson

Badham

Benedict

Archer

Hoyer

Hillis

30927 Pritchard Pursell Quillen Rahall Range Ratchford Regula Rinaldo Roberts (KS) Robinson Rodino Roe Rogers Rose Rostenkowski Rovbal Santini Sawyer Scheuer Schneider Schumer Seiberling Shamansky Shannon Sharp Shelby Siliander Simon Skeen Skelton Smith (IA) Smith (NE) Smith (NJ) Smith (PA) Snowe Snyder Solarz Solomon Spence St Germain Stangeland Stanton Staton Stenholm Stokes Stratton Studds Swift Synar Tauzin Taylor Thomas Traxler Trible Vander Jagt Vento Volkmer Walgren Wampler Washington Watkins Waxman Weber (OH) White Whitehurst Whitley Whittaker Whitten Williams (OH) Wilson Winn Wirth Wolf Wolpe

Conable Coyne, James Crane, Daniel Crane, Philip Dannemeyer Dorgan

Wright Wyden

Wylie

Yatron

Zablocki

Young (AK)

Young (MO)

Dreier Kemp Roemer Lagomarsino LeBoutillier Roth Frank Roukema Livingston Frenzel Gingrich Lungren Russo Gradison Martin (NC) Schroeder Gramm McCollum Sensenbrenner McDonald Gregg Grisham McEwen McGrath Shumway Hansen (UT) Smith (AL) Hiler Miller (OH) Smith (OR) Horton Minish Stump Hughes Moorhead Walker Mottl Weaver Hunter Wortley Jacobs Ottinger Jeffries Young (FL) Paul Johnston Petri Jones (OK) Ritter

# NOT VOTING-36

Anthony Hagedorn Rhodes Beard Bethune Roberts (SD) Holland Rosenthal Holt Bingham Ireland Rousselot Blanchard Savage Bolling Lehman Schulze Burton, John Marks Shuster Butler Marriott Derrick McCloskey Tauke Mitchell (MD) Udall Ford (MI) Mollohan Yates Goldwater

# □ 1200

Mr. ATKINSON changed his vote from "yea" to "nay."

Mr. DECKARD changed his vote from "present" to "yea." Mr. MILLER of California changed his vote from "nay" to "yea."

So the conference report was agreed to

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# PERSONAL EXPLANATION

Mr. MARRIOTT. Mr. Speaker, I rise for an item of personal explanation. Earlier today, I had a commitment to meet with the Secretary of Energy, Mr. Don Hodel, to discuss the implementation of the recently released EPA regulations governing the cleanup and long-term control of uranium ore tailings. This meeting prevented me from being present on the floor of the House during the vote on the conference report to the Agriculture appropriations bill for fiscal year 1983. With the Chair's permission, I would like the record to state that had been present for the vote on the conference report for H.R. 7072, the Agriculture appropriations bill for fiscal year 1983, I would have voted "aye."

# □ 1215

# AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 14: Page 11, line 18, strike out "\$321,506,000" and insert '\$321,439,000".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of

the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "\$323,221,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 19: Page 17, line 15, after "basis" insert ": Provided further, That not less than \$66,000 of the funds contained in this appropriation shall be available for preparing and disseminating forecasts of farm sector receipts, production expenses, and net income indicators for crop year 1983 on a quarterly basis commencing prior to December 31, 1982".

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 34: Page 27, line 22, after "\$1,109,722,000" insert ", and for , and for an additional amount as authorized by section 521(c) of the Act as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended".

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 37: Page 28, line 10, after "disasters" insert ": Provided, That not less than 20 per centum of the farm ownership loans nor less than 20 per centum of the operating loans insured, or made to be sold and insured, under this provision shall be for low-income limited resource borrowers; economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978. \$600,000,000".

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following: ": Provided, That 20 per centum of the farm ownership loans and 20 per centum of the operating loans insured, or made to be sold and insured, under this provision may be for low-income limited resource borrowers; guaranteed economic emergency loans under the Emergency Agri-cultural Credit Adjustment Act of 1978, \$600,000,000".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 32, line 5, after "principal" insert ": Provided further, That as a condition of approval of insured electric loans during fiscal year 1983, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15,

### MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 55: Page 43, line 3, after "allocated" insert ": Provided further, That if the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be \$50,000".

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 56: Page 43, line 3, after "allocated" insert ": Provided further, That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service in-stitutions within 60 days following the claiming month shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within 90 days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary".

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 60: Page 43, line 25, after "\$32,600,000" insert ": Provided, That funds provided herein shall remain available until September 30, 1984".

MOTION OFFERED BY MR. WHITTEN Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 60 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 67: Page 52, line 17, after "Facilities;" insert "Agricultural Research Service, Buildings and Facilities;".

MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 67 and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the last amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 70: Page 57, after line 2, insert:

#### AGRICULTURAL COMMODITY PRODUCTION ON HIGHLY ERODIBLE LAND

Sec. 626. (a) For purposes of this section-(1) the term "agricultural commodity" means an agricultural commodity normally produced by annual tilling of the soil, in-

cluding one-trip planters; and
(2) the term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the Land Capability Classification System of the Soil Conservation Service as in effect on the date of enactment of this Act.

(b) Except as provided in subsection (c) and notwithstanding any other provision of law, no funds appropriated under this Act may be expended to provide to a person who produces an agricultural commodity on

highly erodible land-

(1) any type of price support assistance on such commodity made available under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), or any

(2) a loan for the construction or purchase of a facility for the storage of such commodity made under section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714b(h)):

(3) crop insurance for such commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(4) a disaster payment for such commodity made under the Agricultural Act of 1949

(7 U.S.C. 1421 et seq.); or (5) a loan made, insured, or guaranteed under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or any other provision of law administered by the Farmers Home Administration, if the Secre tary of Agriculture determines that such loan will be used for a purpose which will contribute to excessive erosion of highly erodible land.

(c) Subsection (b) shall not apply to-

(1) any land which was cultivated by a person to produce any of the 1977 through 1982 crops of agricultural commodities;

(2) any agricultural commodity planted by person before the date of enactment of

(3) any agricultural commodity planted by person during a crop year beginning before such date:

(4) any loan described in subsection (b) made before such date; or

(5) any agricultural commodity produced using a conservation system which has been approved by a soil conservation district.

# MOTION OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WHITTEN moves that the House recede from its disagreement to the amendment of the Senate numbered 70 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 625. Notwithstanding any other provision of this Act, appropriations under this Act to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, are \$10,466,057,000, and, as authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not more than \$500,000,000 in fiscal year 1983.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

# GENERAL LEAVE

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and that I be permitted to include tables, charts, and other extraneous material on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

# FEDERAL RULES OF CIVIL PRO-CEDURE AMENDMENTS ACT OF

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 7154) to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill. The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. McCLORY. Mr. Speaker, reserving the right to object, and I shall not object, I make this reservation in order that the gentleman from California (Mr. EDWARDS) may explain what he and I are doing here today.

Mr. EDWARDS of California. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Speaker, in July Mr. McCLory and I brought before the House a bill to delay the effective date of proposed changes in rule 4 of the Federal Rules of Civil Procedure, dealing with service of process. The Congress enacted that legislation and delayed the effective date so that we could cure certain problems in the proposed amendments to rule 4.

Since that time, Mr. McClory and I introduced a bill, H.R. 7154, that cures those problems. It was drafted in consultation with representatives of the Department of Justice, the Judicial Conference of the United States, and others.

The Department of Justice and the Judicial Conference have endorsed the bill and have urged its prompt enactment. Indeed, the Department of Justice has indicated that the changes occasioned by the bill will facilitate its collection of debts owed to the Government.

I have a letter from the Office of Legislative Affairs of the Department of Justice supporting the bill that I will submit for the RECORD. Also, I am submitting for the RECORD a sectionby-section analysis of the bill.

H.R. 7154 makes much needed changes in rule 4 of the Federal Kules of Civil Procedure and is supported by all interested parties. I urge my colleagues to support it.

U.S. DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AFFAIRS Washington, D.C., December 10, 1982. Hon. Peter W. Rodino, Jr., Chairman, Committee on the Judiciary,

House of Representatives, Washington,

DEAR MR. CHAIRMAN: This is to proffer the views of the Department of Justice on H.R. 7154, the proposed Federal Rules of Civil Procedure Amendments Act of 1982. While the agenda is extremely tight and we appreciate that fact, we do reiterate that this Department strongly endorses the enactment of H.R. 7154. We would greatly appreciate your watching for any possible way to enact this legislation expeditiously.

H.R. 7154 would amend Rule 4 of the Federal Rules of Civil Procedure to relieve effectively the United States Marshals Service of the duty of routinely serving summonses and complaints for private parties in civil actions and would thus achieve a goal this Department has long sought. Experience has shown that the Marshals Service's increasing workload and limited budget require such major relief from the burdens imposed by its role as process-server in all civil actions.

The bill would also amend Rule 4 to permit certain classes of defendants to be served by first class mail with a notice and acknowledgment of receipt form enclosed. We have previously expressed a preference for the service-by-mail provisions of the pro-posed amendments to Rule 4 which the Supreme Court transmitted to Congress on April 28, 1982.

The amendments proposed by the Supreme Court would permit service by registered or certified mail, return receipt requested. We had regarded the Supreme Court proposal as the more efficient because it would not require an affirmative act of signing and mailing on the part of a defendant. Moreover, the Supreme Court proposal would permit the entry of a default judgment if the record contained a returned receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant and subsequent service and notice by first class mail. However, critics of that system of mail service have argued that certified mail is not an effective method of providing actual notice to defendants of claims against them because signatures may be illegible or may not match the name of the defendant, or because it may be difficult to determine whether mail has been "unclaimed" or "refused," the latter providing the sole basis for a default judgment.

As you know, in light of these criticisms the Congress enacted Public Law 97-227 (H.R. 6663) postponing the effective date of the proposed amendments to Rule 4 until October 1, 1983, so as to facilitate further review of the problem. This Department opposed the delay in the effective date, primarily because the Supreme Court's proposed amendments also contained urgently needed provisions designed to relieve the United States Marshals of the burden of serving summonses and complaints in private civil actions. In our view, these necessary relief provisions are readily separable from the issues of service by certified mail and the propriety of default judgment after service by certified mail which the Congress felt warranted additional review.

During the floor consideration of H.R. 6863 Congressman Edwards and other proponents of the delayed effective date pledged to expedite the review of the proposed amendments to Rule 4, given the need to provide prompt relief for the Marshals Service in the service of process area. In this spirit Judiciary Committee staff consulted with representatives of this Department, the Judicial Conference, and others who had voiced concern about the proposed amendments.

H.R. 7154 is the product of those consultations and accommodated the concerns of the Department in a very workable and acceptable manner.

Accordingly, we are satisfied that the provisions of H.R. 7154 merit the support of all three branches of the Federal Government and everyone else who has a stake in the fair and efficient service of process in civil actions. We urge prompt consideration of H.R. 7154 by the Committee,

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely.

ROBERT A. McConnell,
Assistant Attorney General.

H.R. 7154—Federal Rules of Civil PROCEDURE AMENDMENTS ACT OF 1982 BACKGROUND

The Federal Rules of Civil Procedure set forth the procedures to be followed in civil actions and proceedings in United States district courts. These rules are usually amended by a process established by 28 U.S.C. 2072, often referred to as the "Rules Enabling Act". The Rules Enabling Act provides that the Supreme Court can propose new rules of "practice and procedure" and amendments to existing rules by transmitting them to Congress after the start of a regular session but not later than May 1. The rules and amendments so proposed take effect 90 days after transmittal unless legislation to the contrary is enacted.

lation to the contrary is enacted.¹
On April 28, 1982, the Supreme Court transmitted to Congress several proposed amendments to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure (which govern criminal cases and proceedings in Federal courts), and the Rules and Forms Governing Proceedings in the United States District Courts under sections 2254 and 2255 of Title 28, United States Code (which govern habeas corpus proceedings). These admendments were to have taken effect on August 1, 1982.

The amendments to Rule 4 of the Federal Rules of Civil Procedure were intended primarily to relieve United States marshals of the burden of serving summonses and complaints in private civil actions. Appendix II, at 7 (Report of the Committee on Rules of Practice and Procedure), 16 (Advisory Committee Note). The Committee received numerous complaints that the changes not only failed to achieve that goal, but that in the process the changes saddled litigators with flawed mail service, deprived litigants of the use of effective local procedures for service, and created a time limit for service replete with ambiguitles that could only be resolved by costly litigation. See House Report No. 97-662, at 2-4 (1982).

In order to consider these criticisms, Congress enacted Public Law 97-227, postponing the effective date of the proposed amend-

¹The drafting of the rules and amendments is actually done by a committee of the Judicial Conference of the United States. In the case of the Federal Rules of Civil Procedure, the initial draft is prepared by the Advisory Committee on Civil Rules. The Advisory Committee's draft is then reviewed by the Committee on Rules of Practice and Procedure, which must give its approval to the draft. Any draft approved by that committee is forwarded to the Judicial Conference. If the Judicial Conference approves the draft, it forwards the draft to the Supreme Court. The Judicial Conference's role in the rule-making process is defined by 28 U.S.C. 331.

preme Court. The Judicial Conference's role in the rule-making process is defined by 28 U.S.C. 331.

For background information about how the Judicial Conference committees operate, see Wright, "Procedural Reform: Its Limitation and Its Future," 1 Ga. L. Rev. 563, 565-66 (1967) (civil rules); statement of United States District Judge Roszel C. Thomsen, Hearings on Proposed Amendments to the Federal Rules of Criminal Procedure Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 93d Cong., 2d Sess. at 25 (1974) (criminal rules); statement of United States Circuit Judge J. Edward Lumbard, id. at 203 (criminal rules); J. Weinstein, Reform of Federal Court Rulemaking Procedure (1977); Weinstein, "Reform of Federal Rulemaking Procedures," 76 Colum. L. Rev., 905 (1976).

ments to Rule 4 until October 1, 1983.<sup>2</sup> Accordingly, in order to help shape the policy behind, and the form of, the proposed amendments, Congress must enact legislation before October 1, 1983.<sup>3</sup>

With that deadline and purpose in mind, consultations were held with representatives of the Judicial Conference, the Department of Justice, and others who had voiced concern about the proposed amendments. H.R. 7154 is the product of those consultations. The bill seeks to effectuate the policy of relieving the Marshals Service of the duty of routinely serving summonses and complaints. It provides a system found to be effective in California, and finally, it makes appropriate stylistic, grammatical, and other changes in Rule 4.

# NEED FOR THE LEGISLATION

#### 1. Current Rule 4

Rule 4 of the Federal Rules of Civil Procedure relates to the issuance and service of process. Subsection (c) authorizes service of process by personnel of the Marshals Service, by a person specially appointed by the Court, or "by a person authorized to serve process in an action brought in the courts of general jurisdiction of the state in which the district court is held or in which service is made." Subsection (d) describes how a summons and complaint must be served and designates those persons who must be served in cases involving specified categories of defendants. Mail service is not directly authorized. Subsection (d)(7), however, authorizes service under the law of the state in which the district court sits upon defendants described in subsections (d)(1) (certain individuals) and (d)(3) (organizations). Thus, if state law authorizes service by mail of a summons and complaint upon an individual or organization described in subsections (d) (1) or (3), then subsection (d)(7) authorizes service by mail for United States district courts in that state.4

# 2. Reducing the role of marshals

The Supreme Court's proposed modifications of Rule 4 were designed to alleviate the burden on the Marshals Service of serving summonses and complaints in private civil actions. Appendix II (Report of the Committee on Rules of Practice and Procedure) (Advisory Committee Note). While the Committee received no complaints about the goal of reducing the role of the Marshals Service, the Court's proposals simply failed to achieve that goal. See House Report No. 97-662, at 2-3 (1982).

The Court's proposed Rule 4(c)(2)(B) required the Marshals Service to serve summonses and complaints "pursuant to any statutory provision expressly providing for service by a United States Marshal or his

¹ In addition to amending Rule 4, we have previously recommended: (a) amendments to 28 U.S.C. § 569(b) redefining the Marshals traditional role by eliminating the statutory requirement that they serve subpoenas, as well as summonses and complaints, and; (b) amendments to 28 U.S.C. § 1921 changing the manner and level in which marshal fees are charged for serving private civil process. These legislative changes are embodied in Section 10 of S. 2567 and the Department's proposed fiscal year 1983 Appropriations Authorization bill. If, in the Committee's judgment, efforts to incorporate these suggested amendments in H.R. 7154 would in any way impede consideration of the bill during the few remaining legislative days in the 97th Congress, we would urge that they be separately considered early in the 98th Congress.

<sup>&</sup>lt;sup>2</sup> All of the other amendments, including all of the proposed amendments to the Federal Rules of Criminal Procedure and the Rules and Forms Governing Proceedings in the United States District Courts under sections 2254 and 2255 of Title 28, United States Code, took effect on August 1, 1982, as scheduled.

<sup>&</sup>lt;sup>3</sup>The President has urged Congress to act promptly. See President's Statement on Signing H.R. 6663 into Law, 18 Weekly Comp. of Pres. Doc. 982 (August 2, 1982).

<sup>4</sup> Where service of a summons is to be made upon a party who is neither an inhabitant of, nor found within, the state where the district court sits, subsection (e) authorizes service under a state statute or rule of court that provides for service upon such a party. This would authorize mail service if the state statute or rule of court provided for service by mail.

deputy." 5 Cne such statutory provision is 28 U.S.C. 56 (b), which compels marshals to "execute all lawful writs, process and orders issued under authority of the United States, including those of the courts . . .. (emphasis added). Thus, any party could have invoked 28 U.S.C. 569(b) to utilize a marshal for service of a summons and complaint, thereby thwarting the intent of the new subsection to limit the use of marshals. The Justice Department acknowledges that the proposed subsection did not accomplish its objectives.6

Had 28 U.S.C. 569(b) been inconsistent with proposed Rule 4(c)(2)(B), the latter would have nullified the former under 28 U.S.C. 2072, which provides that "All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect." Since proposed Rule Since proposed 4(c)(2)(B) specifically referred to statutes such as 28 U.S.C. 569(b), however, the new subsection did not conflict with 28 U.S.C. 569(b) and did not, therefore, supersede it.

H.R. 7154 cures this problem and achieves the desired reduction in the role of the Marshals Service by authorizing marshals to serve summonses and complaints "on behalf of the United States". By so doing, H.R. 7154 eliminates the loophole in the Court's proposed language and still provides for service by marshals on behalf of the Gov-

# 3. Mail service

The Supreme Court's proposed subsection (d) (7) and (8) authorized, as an alternative to personal service, mail service of summonses and complaints on individuals and organizations described in subsection (d) (1) and (3), but only through registered or certified mail, restricted delivery. Critics of that system of mail service argued that registered and certified mail were not necessarily effective methods of providing actual notice to defendants of claims against them. This was so, they argued, because signatures may be illegible or may not match the name of the defendant, or because it may be difficult to determine whether mail has been "un-claimed" or "refused", the latter apparently providing the sole basis for a default judgment.8

5 The Court's proposal authorized service by the Marshals Service in other situations. This authority, however, was not seen as thwarting the underlying policy of limiting the use of marshals. See Appendix II, (Advisory Committee Note).

<sup>6</sup> Appendix I (letter of Assistant Attorney General Robert A. McConnell).

<sup>7</sup>The provisions of H.R. 7154 conflict with 28 U.S.C. 569(b) because the latter is a broader command to marshals to serve all federal court process. As a later statutory enactment, however, H.R. 7154 supersedes 28 U.S.C. 569(b), thereby achieving the goal of reducing the role of marshals.

\* Proposed Rule 4(d)(8) provided that "Service . . . shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defend-ant or a returned envelope showing refusal of the process by the defendant." This provision reflects a desire to preclude default judgments on unclaimed mail. See Appendix II (Report of the Committee on Rules of Practice and Procedure).

The interpretation of Rule 4(d)(8) to require a re-fusal of delivery in order to have a basis for a de-fault judgment, while undoubtedly the interpreta-tion intended and the interpretation that reaches the fairest result, may not be the only possible in-terpretation. Since a default judgment can be en-tered for defendant's failure to respond to the complaint once defendant has been served and the time to answer the complaint has run, it can be argued that a default judgment can be obtained where the mail was unclaimed because proposed subsection (j), which authorized dismissal of a complaint not H.R. 7154 provides for a system of service by mail similar to the system now used in California. See Cal. Civ. Pro. § 415.30 (West 1973). Service would be by ordinary mail with a notice and acknowledgment of receipt form enclosed. If the defendant re-turns the acknowledgment form to the sender within 20 days of mailing, the sender files the return and service is complete. If the acknowledgment is not returned within 20 days of mailing, then service must be effected through some other means provided for in the Rules.

This system of mail service avoids the notice problems created by the registered and certified mail procedures proposed by the Supreme Court. If the proper person receives the notice and returns the acknowledgment, service is complete. If the proper person does not receive the mailed form, or the proper person receives the notice but fails to return the acknowledgment form, another method of service authorized by law is required. In either instance, however, the defendant will receive actual notice of the claim. In order to encourage defendants to return the acknowledgment form, the court can order a defendant who does not return it to pay the costs of service unless the defendant can show good cause for the failure to return it.

# 4. The local option

The Court's proposed amendments to Rule 4 deleted the provision in current subsection (d)(7) that authorizes service of a summons and complaint upon individuals and organizations "in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state." The Committee received a variety of complaints about the deletion of this provision. Those in favor of preserving the local option saw no reason to forego systems of service that had been successful in achieving effective notice.9

H.R. 7154 carries forward the policy of the current rule and permits a party to serve a summons and complaint upon individuals and organizations described in Rule 4(d) (1) and (3) in accordance with the law of the state in which the district court sits. Thus, the bill authorizes four methods of serving a summons and complaint on such defendants: (1) service by a nonparty adult (Rule 4(c)(2)(A)); (2) service by personnel of the Marshals Service, if the party qualifies, such as because the party is proceeding in forma pauperis (Rule 4(c)(2)(B)); (3) service in any manner authorized by the law of the state in which the district court is held (Rule 4(c)(2)(C)(i)); or (4) service by regular mail with a notice and acknowledgment of receipt form enclosed (Rule 4(c)(2)(C)(ii)).10

# 5. Time limits

Rule 4 does not currently provide a time limit within which service must be completed. Primarily because United States mar-

served within 120 days, provided that mail service would be deemed made "on the date on which the process was accepted, refused, or returned as unclaimed" (emphasis added).

shals currently effect service of process, no time restriction has been deemed necessary. Appendix II (Advisory Committee Note). Along with the proposed changes to subdivisions (c) and (d) to reduce the role of the Marshals Service, however, came new subdivision (j), requiring that service of a summons and complaint be made within 120 days of the filing of the complaint. If service were not accomplished within that time. proposed subdivision (j) required that the action "be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative". Service by mail was deemed made for purposes of subdivision (j) 'as of the date on which the process was accepted, refused, or returned as un-claimed".11

H.R. 7154 adopts a policy of limiting the time to effect service. It provides that if a summons and complaint have not been served within 120 days of the filing of the complaint and the plaintiff fails to show good cause" for not completing service within that time, then the court must dismiss the action as to the unserved defend-ant. H.R. 7154 ensures that a plaintiff will be notified of an attempt to dismiss the action. If dismissal for failure to serve is raised by the court upon its own motion, the legislation requires that the court provide notice to the plaintiff. If dismissal is sought by someone else, Rule 5(a) of the Federal Rules of Civil Procedure requires that the motion be served upon the plaintiff.

Like proposed subsection (j), H.R. 7154 provides that a dismissal for failure to serve within 120 days shall be "without prejudice". Proposed subsection (j) was criticized by some for ambiguity because, it was argued, neither the text of subsection (j) nor the Advisory Committee Note indicated whether a dismissal without prejudice would toll a statute of limitation. See House Report 97-662, at 3-4 (1982). The problem would arise when a plaintiff files the complaint within the applicable statute of limitation period but does not effect service within 120 days. If the statute of limitation period expires during that period, and if the plaintiff's action is dismissed "without prejudice", can the plaintiff refile the complaint and maintain the action? The answer depends upon how the statute of limitation is tolled.12

<sup>11</sup>While return of the letter as unclaimed was deemed service for the purpose of determining whether the plaintiff's action could be dismissed, return of the letter as unclaimed was not service for the purpose of entry of a default judgment against the defendant. See note 8 supra.

12 The law governing the tolling of a statute of limitation depends upon the type of civil action involved. In a dversity action, state law governs tolling. Walker v. Armco Steel Corp., 446 U.S. 740: (1980). In Walker, plaintiff had filed his compiaint and thereby commenced the action under Rule 3 of the Federal Rules of Civil Procedure within the statutory period. He did not, however, serve the summons and complaint until after the statutory period had run. The Court held that state law (which required both filing and service within the statutory period) governed, barring plaintiff's

In the federal question action, the courts of appeals have generally held that Rule 3 governs, so that the filing of the complaint tolls a st that the filing of the complaint tolls a statute of limitation. United States v. Wahl, 583 F. 2d 285 (6th Cir. 1978); Windbrooke Dev. Co. v. Environmental Enterprises Inc. of Fla., 524 F. 2d 461 (5th Cir. 1975); Metropolitan Paving Co. v. International Union of Operating Engineers, 439 F.2d 300 (10th Cir. 1971); Moore Co. v. Sid Richardson Carbon & Gasoline Co., 347 F.2d 921 (8th Cir.), cert. denied, 383 U.S. 925, reh. denied, 384 U.S. 914 (1965); Hoffman v. Halden, 268 F.2d 280 (9th Cir. 1959). The

Proponents of the California system of mail service, in particular, saw no reason to supplant California's proven method of mail service with a certified mail service that they believed likely to result in default judgments without actual notice to defendants. See House Report No. 97-662, at 3

<sup>10</sup> The parties may, of course, stipulate to service, as is frequently done now.

If the law provides that the statute of limitation is tolled by filing and service of the complaint, then a dismissal under H.R. 7154 for failure to serve within the 120 days would, by the terms of the law controlling the tolling, bar the plaintiff from later maintaining the cause of action.13 If the law provides that the statute of limitation is tolled by filing alone, then the status of the plaintiff's cause of action turns upon the plaintiff's diligence. If the plaintiff has not been diligent, the court will dismiss the complaint for failure to serve within 120 days, and the plaintiff will be barred from later maintaining the cause of action because the statute of limitation has run. A dismissal without prejudice does not confer upon the plaintiff any rights that the plaintiff does not otherwise possess and leaves a plaintiff whose action has been dismissed in the same position as if the action had never been filed. If, on the other hand, the plaintiff has made reasonable efforts to effect service, then the plaintiff can move under Rule 6(b) to enlarge the time within which to serve or can oppose dismissal for failure to serve. A court would undoubtedly permit such a plaintiff additional time within which to effect service. Thus, a diligent plaintiff can preserve the cause of action. This result is consistent with the policy behind the time limit for service and with statutes of limitation, both of which are designed to encourage prompt movement of civil actions in the federal courts.

# 6. Conforming and clarifying subsections (d)(4) and (5)

Current subsections (d)(4) and (5) prescribe which persons must be served in cases where an action is brought against the United States or an officer or agency of the United States. Under subsection (d)(4), where the United States is the named defendant, service must be made as follows: (1) personal service upon the United States attorney, an assistant United States attorney, or a designated clerical employee of the United States attorney in the district in which the action is brought; (2) registered or certified mail service to the Attorney General of the United States in Washington, D.C.; and (3) registered or certified mail service to the appropriate officer or agency if the action attacks an order of that officer or agency but does not name the officer or agency as a defendant. Under subsection (d)(5), where an officer or agency of the United States is named as a defendant, service must be made as in subsection (d)(4), except that personal service upon the officer or agency involved is required.

The time limit for effecting service in H.R. 7154 would present significant difficulty to a plaintiff who has to arrange for personal service upon an officer or agency that may be thousands of miles away. There is little reason to require different types of service when the officer or agency is named as a party, and H.R. 7154 therefore conforms the manner of service under subsection (d)(5) to the manner of service under subsection (d)(4).

continued validity of this line of cases, however, must be questioned in light of the Walker case, even though the Court in that case expressly reserved judgment about federal question actions, see Walker v. Armco Steel Corp., 446 U.S. 741, 751 n.ll (1980).

# SECTION-BY-SECTION ANALYSIS SECTION 1

Section 1 provides that the short title of the bill is the "Federal Rules of Civil Procedure Amendments Act of 1982".

#### SECTION 2

Section 2 of the bill consists of 7 numbered paragraphs, each amending a different part of Rule 4 of the Federal Rules of Civil Procedure.

Paragraph (1) deletes the requirement in present Rule 4(a) that a summons be delivered for service to the marshal or other person authorized to serve it. As amended by the legislation, Rule 4(a) provides that the summons be delivered to "the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and complaint". This change effectuates the policy proposed by the Supreme Court. See Appendix II (Advisory Committee Note).

Paragraph (2) amends current Rule 4(c). which deals with the service of process. New Rule 4(c)(1) requires that all process, other than a subpoena or a summons and complaint, be served by the Marshals Service or by a person specially appointed for that purpose. Thus, the Marshals Service or persons specially appointed will continue to serve all process other than subpoenas and summonses and complaints, a policy identical to that proposed by the Supreme Court. See Appendix II (Report of the Judicial Conference Committee on Rules of Practice and Procedure). The service of subpoenas is governed by Rule 45,14 and the service of summonses and complaints is governed by new Rule 4(c)(2).

New Rule 4(c)(2)(A) sets forth the general rule that summonses and complaints shall be served by someone who is at least 18 years old and not a party to the action or proceeding. This is consistent with the Court's proposal. Appendix II (Advisory Committee Note). Subparagraphs (B) and (C) of new Rule 4(c)(2) set forth exceptions to this general rule.

Subparagraph (B) sets forth 3 exceptions to the general rule. First, subparagraph (B)(i) requires the Marshals Service (or someone specially appointed by the court) serve a summons and complaint on behalf of a party proceeding in forma pauperis or a seaman authorized to proceed under 28 U.S.C. 1916. This is identical to the Supreme Court's proposal. See Appendix II (text of proposed rule) (Advisory Committee Note). Second, subparagraph (B)(ii) requires the Marshals Service (or someone specially appointed by the court) to serve a summons and complaint on behalf of the United States or an officer or agency thereof. This achieves the desired reduction in the role of marshals, yet maintains the appropriate use of marshals to serve on behalf of the Government. Third, subparagraph B(iii) requires the Marshals Service (or someone specially appointed by the court) to serve a summons and complaint when the court orders such person to do so in order properly to effect service in that particular action. 15 This, except for nonsubstantive

<sup>14</sup> Rule 45(c) provides that "A subpoena may be served by the marshal, by his deputy, or by any other person who is not a party and is not less than 18 years of age."

changes in phrasing, is identical to the Supreme Court's proposal. See Appendix II (text of proposed rule) (Advisory Committee Note).

Subparagraph (C) of new Rule 4(c)(2) provides 2 exceptions to the general rule of service by a nonparty adult. These exceptions apply only when the summons and complaint is to be served upon persons described in Rule 4(d)(1) (certain individuals) or Rule 4(d)(3) (organizations). First, subparagraph (C)(i) permits service of a summons and complaint in a manner authorized by the law of the state in which the court sits. This restates the option to follow local law currently found in Rule 4(d)(7) and would authorize service by mail if the state law so allowed. The method of mail service in that instance would, of course, be the method permitted by state law.

Second, subparagraph (C)(ii) permits service of a summons and complaint by regular mail. The sender must send to the defendant, by first-class mail, postage prepaid, a copy of the summons and complaint, together with 2 copies of a notice and acknowledgment of receipt of summons and complaint form and a postage prepaid return envelope addressed to the sender. If a copy of the notice and acknowledgment form is not received by the sender within 20 days after the date of mailing, then service must be made under Rule 4(c)(2)(A) or (B) (i.e., by a nonparty adult or, if the person qualifies,17 by personnel of the Marshals Service or a person specially appointed by the court) in the manner prescribed by Rule 4(d)(1) or (3) (i.e., personal or substituted service).

New Rule 4(c)(2)(D) permits a court to penalize a person who avoids service by mail. It authorizes the court to order a person who does not return the notice and acknowledgment form within 20 days after mailing to pay the costs of service, unless that person can show good cause for failing to return the form. The purpose of this provision is to encourage the prompt return of the form so that the action can move forward without unnecessary delay. Fairness requires that a person who causes another additional and unnecessary expense in ef-

sons attempting to serve process. Federal judges undoubtedly will consider the risk of harm to private persons who would be making personal service when deciding whether to order the Marshals Service to make service under Rule 4(c)(2)(B)(iii).

16 The methods of service authorized by Rule 4(c)(2)(C) may be invoked by any person seeking to effect service. Thus, a nonparty adult who receives the summons and complaint for service under Rule 4(c)(1) may serve them personally or by mail in the manner authorized by Rule 4(c)(2)(C)(ii). Similarly, the Marshals Service may utilize the mail service authorized by Rule 4(c)(2)(C)(ii) when serving a summons and complaint under Rule 4(c)(2)(B)(i)(ii). When serving a summons and complaint under Rule 4(c)(2)(B)(iii), however, the Marshals Service must serve in the manner set forth in the court's order. If no particular manner of service is specified, then the Marshals Service may utilize Rule 4(c)(2)(C)(ii). It would not seem to be appropriate, however, for the Marshals Service to utilize Rule 4(c)(2)(C)(ii) in a situation where a previous attempt to serve by mail failed. Thus, it would not seem to be appropriate for the Marshals Service to attempt service by regular mail when serving a summons and complaint on behalf of a plaintiff ho is proceeding in forma pauperis if that plain tiff previously attempted unsuccessfully to serve the defendant by mail.

17 To obtain service by personnel of the Marshals Service or someone specially appointed by the court, a plaintiff who has unsuccessfully attempted mail service under Rule 4(c)(2)(C)(ii) must meet the conditions of Rule 4(c)(2)(B)—for example, the plaintiff must be proceeding in forma pauperis.

<sup>13</sup> The same result obtains even if service occurs within the 120 day period, if the service occurs after the statute of limitation has run.

<sup>18</sup> years of age."

18 Some litigators have voiced concern that there may be situations in which personal service by someone other than a member of the Marshals Service may present a risk of injury to the person attempting to make the service. For example, a hostile defendant may have a history of injuring per-

fecting service ought to reimburse the party who was forced to bear the additional expense.

Subparagraph (E) of Rule 4(c)(2) requires that the notice and acknowledgment form described in new Rule 4(c)(2)(C)(ii) be executed under oath or affirmation. This provision tracks the language of 28 U.S.C. 1746, which permits the use of unsworn declarations under penalty of perjury whenever an oath or affirmation is required. Statements made under penalty of perjury are subject to 18 U.S.C. 1621(2), which provides felony penalties for someone who "willfully subscribes as true any material matter which he does not believe to be true". The requirement that the form be executed under oath or affirmation is intended to encourage truthful submissions to the court, as the information contained in the form is important to the parties.18

New Rule 4(c)(3) authorizes the court freely to make special appointments to serve summonses and complaints under Rule 4(c)(2)(B) and all other process under Rule 4(c)(1). This carries forward the policy

of present Rule 4(c).

Paragraph (3) of section 2 of the bill makes a non-substantive change in the caption of Rule 4(d) in ordr to reflect more accurately the provisions of Rule 4(d). Paragraph (3) also deletes a provision on service of a summons and complaint pursuant to state law. This provision is redundant in view of new Rule 4(c)(2)(C)(i).

Paragraph (4) of section 2 of the bill conforms Rule 4(d)(5) to present Rule 4(d)(4). Rule 4(d)(5) is amended to provide that service upon a named defendant agency or officer of the United States shall be made by "sending" a copy of the summons and complaint "by registered or certified mail" to the defendant. Rule 4(d)(5) currently provides for service by "delivering" the copies to the defendant, but 28 U.S.C. 1391(e) authorizes delivery upon a defendant agency or officer outside of the district in which the action is brought by means of certified mail. Hence, the change is not a marked departure from current practice.

Paragraph (5) of section 2 of the bill amends the caption of Rule 4(e) in order to describe subdivision (e) more accurately.

Paragraph (6) of section 2 of the bill amends Rule 4(g), which deals with return of service. Present Rule 4(g) is not changed except to provide that, if service is made pursuant to the new system of mail service (Rule 4(c)(2)(C)(ii)), the plaintiff or the plaintiff's attorney must file with the court the signed acknowledgment form returned by the person served.

Paragraph (7) of section 2 of the bill adds new subsection (j) to provide a time limitation for the service of a summons and complaint. New Rule 4(j) retains the Supreme Court's requirement that a summons and complaint be served within 120 days of the filing of the complaint. See Appendix II (Advisory Committee Note). The plaintiff must be notified of an effort or intention to dismiss the action. This notification is mandated by subsection (i) if the dismissal is being raised on the court's own initiative and will be provided pursuant to Rule 5 (which requires service of motions upon the adverse party) if the dismissal is sought by someone else.20 The plaintiff may move under Rule 6(b) to enlarge the time period. See Appendix II, at Id. (Advisory Committee Note). If service is not made within the time period or enlarged time period, however, and if the plaintiff fails to show "good cause" for not completing service, then the court must dismiss the action as to the unserved defendant. The dismissal is "without prejudice". The term "without prejudice' means that the dismissal does not constitute an adjudication of the merits of the complaint. A dismissal "without prejudice" leaves a plaintiff whose action has been dismissed in the position in which that person would have been if the action had never been filed.

### SECTION 3

Section 3 of the bill amends the Appendix of Forms at the end of the Federal Rules of Civil Procedure by adding a new Form 18-A, "Notice and Acknowledgment for Service by Mail". This new form is required by new Rule 4(c)(2)(C)(ii), which requires that the notice and acknowledgment form used with service by regular mail conform substantially to Form 18-A

Form 18-A as set forth in section 3 of the bill is modeled upon a form used in California.21 It contains 2 parts. The first part is a notice to the person being served that tells that person that the enclosed summons and complaint is being served pursuant to Rule 4(c)(2)(C)(ii); advises that person to sign and date the acknowledgment form and indicate the authority to receive service if the person served is not the party to the action (e.g., the person served is an officer of the organization being served); and warns that failure to return the form to the sender within 20 days may result in the court ordering the party being served to pay the expenses involved in effecting service. The notice also warns that if the complaint is not responded to within 20 days, a default judgment can be entered against the party being served. The notice is dated under penalty of perjury by the plaintiff or the plaintiff's attorney.

The second part of the form contains the acknowledgment of receipt of the summons and complaint. The person served must declare on this part of the form, under penalty of perjury, the date and place of service and the person's authority to receive service.

# SECTION 4

Section 4 of the bill provides that the changes in Rule 4 made by H.R. 7154 will take effect 45 days after enactment, thereby giving the bench and bar, es well as other interested persons and organizations (such as the Marshals Service), an opportunity to prepare to implement the changes made by the legislation. The delayed effective date means that service of process issued before

the effective date will be made in accordance with current Rule 4. Accordingly, all process in the hands of the Marshals Service prior to the effective date will be served by the Marshals Service under the present

#### SECTION 5

Section 5 of the bill provides that the amendments to Rule 4 proposed by the Supreme Court (whose effective date was postponed by Public Law 97-227) shall not take effect. This is necessary because under Public Law 97-227 the proposed amendments will take effect on October 1, 1983.

### APPENDIX I

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., July 19, 1982.
Hon. Peter W. Rodino, Jr.,

Chairman, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has been brought to our attention that a pending bill, H.R. 6663, would delay the effective date of recent amendments to Rule 4 of the Federal Rules of Civil Procedure from August 1, 1982 to October 1, 1983. For the reasons set forth below, we strongly oppose any extension of the effective date of amended Rule 4.

The primary purpose of the recent amendments to Rule 4 was to eliminate the use of the United States Marshals Service to serve process for private parties in civil actions. At least in part, a major impetus for the amendments was the Department of Justice itself, which had found that the Marshals Service's increasing workload and limited budget required major relief from the burdens imposed by its role as process-server in all civil actions. Accordingly, the Department requested, and the Judicial Conference and Supreme Court approved, amendments to Rule 4 which would alleviate the problems of the Marshals Service.

We believe that no useful purpose would be served by delaying the effective date of amended Rule 4. The Marshals Service and the Department's litigating units have made the necessary arrangements to implement the amended Rule. Moreover, the fourteenmonth delay sought by H.R. 6663 would greatly postpone much-needed relief for the Marshals Service. Accordingly, we believe that amended Rule 4 should be allowed to take effect on August 1, as planned.

In his statement accompanying the introduction of H.R. 6663, Representative Edwards raised the question whether amended Rule 4 could possibly take effect without a corresponding change in 28 U.S.C. § 569(b).

Pursuant to 28 U.S.C. 2072, the Supreme Court has the power to prescribe by general rules "the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts. \* \* \* Such rules shall not abridge, enlarge or modify any substantial right \* \* \*. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect \* \* \* " Prescribing the manner in which a defendant is to be notified that a suit has been instituted against him relates to the "practice and procedure of the district courts." Hanna v. Plumer, 380 U.S. 460, 464 (1964). Thus, it is clear that insofar as Rule 4, as amended, may conflict with 28 U.S.C. 569(b), Rule 4 applies and that this was the result intended by Congress in enacting 28 U.S.C. 2072.

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endant in the complaint filed with the court) or,
in multi-party actions, another party to the action.
Of the endant failure to effect service is due to that person's evasion of service, a court should not dismiss because
the plaintiff has "good cause" for not completing

<sup>21</sup> See Cal. Civ. Pro. § 415.30 (West 1973).

<sup>&</sup>lt;sup>18</sup> For example, the sender must state the date of mailing on the form. If the form is not returned to the sender within 20 days of that date, then the plaintiff must serve the defendant in another manner and the defendant may be liable for the costs of such service. Thus, a defendant would suffer the consequences of a misstatement about the date of mailing.
<sup>19</sup> The 120 day period begins to run upon the

<sup>&</sup>lt;sup>18</sup> The 120 day period begins to run upon the filing of each complaint. Thus, where a defendant files a cross-claim against the plaintiff, the 120 day period begins to run upon the filing of the crosscomplaint, not upon the filing of the plaintiff's complaint initiating the action.

While a statutory change is not a necessary predicate to amending Rule 4, this Department reiterates its position that amending Rule 4 may not be enough to achieve the desired objective of reducing the role of the U.S. Marshals in serving private process. Rather than only amending Rule 4, we recommend: (a) amendments to 28 U.S.C. § 569(b) redefining the Marshals traditional role by eliminating the statutory requirement that they serve all civil process and; (b) amendments to 28 U.S.C. § 1921 changing the manner and level in which marshal fees are charged for serving private civil process. These legislative changes are embodied in Section 10 of S. 2567 and the Department's proposed Fiscal Year 1983 Appropriations Authorization bill. Thus, the proposed amendments to Rule 4 and 28 U.S.C. §§ 569(b) and 1921 can be seen as integral parts of a comprehensive solution to the problems associated with service of private process by the U.S. Marshals Service.

I trust our comments will be useful to the Committee in its consideration of H.R. 6663. Please do not hesitate to contact me with any questions or concerns you might have concerning the bill or the Department of Justice's comments on it.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program. Sincerely,

ROBERT A. McCONNELL, Assistant Attorney General.

# APPENDIX II

97th Congress, 2d Session-House Document No. 97-173

EXCERPTS OF AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Communication from the Chief Justice of the United States transmitting amendments to the Federal Rules of Civil Procedure. pursuant to 28 U.S.C. 2072, together with an excerpt from the reports of the Judicial Conference of the United States containing the Advisory Committee notes.

April 29, 1982.-Referred to the Committee on the Judiciary and ordered to be printed.

SUPREME COURT OF THE UNITED STATES Washington, D.C., April 28, 1982. Hon. THOMAS P. O'NEILL,

Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: By direction of the Supreme Court of the United States, I have the honor to submit to the Congress amendments to the Federal Rules of Civil Procedure prescribed pursuant to Section 2072 of Title 28, United States Code;

Amendments to the Federal Rules of Criminal Procedure prescribed pursuant to Section 3771 and 3772 of Title 18, United States Code; and

Amendments to the Rules and Forms Governing Proceedings in the United States District Courts under Section 2254 and 2255 of Title 28, United States Code.

Accompanying these rules are excerpts from the Reports of the Judicial Conference of the United States containing the Advisory Committee notes which were submitted to the Court for its consideration pursuant to Section 331 of Title 28, United States

Respectfully, WARREN E. BURGER, Chief Justice. AMENDMENTS TO THE FEDERAL RULES OF CIVIL PROCEDURE

Ordered:

1. That the Federal Rules of Civil Procedure be, and they hereby are, amended by including therein amendments to Rule 4 as hereinafter set forth:

Rule 4. Process

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to the plaintiff or his attorney. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

(c) By Whom Served:

(1) Service of a summons and complaint shall be made by any person who is not a party and is not less than 18 years of age except as provided in subdivision (c)(2) of

(2) At the request of a party, service of a summons and complaint shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose

(A) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915 or of a seaman authorized to proceed under Title 28, U.S.C. § 1916,

(B) pursuant to any statutory provision expressly providing for service by a United

States marshal or his deputy, and
(C) pursuant to any order issued by the court stating that service in that particular action is required to be made by a United States marshal, deputy, or special appointee in order to guarantee that service is properly effected.

(3) Service of all other process shall be made by a United States marshal, by his deputy, or by some person specially appoint-

ed by the court for that purpose.

(4) The plaintiff or his attorney shall be responsible for making arrangements for prompt service. Special appointments to serve process shall be made freely.

Summons and Complaint: Personal Service and Service by Mail. The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(7) For service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if the summons and complaint are served in the manner prescribed by any statute of the United States or in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state; except that a summons and complaint served by mail may be served only as authorized by and pursuant to the procedures set forth in paragraph (8) of this subdivision of this rule.

(8) Service of a summons and complaint upon a defendant of any class referred to in aragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pursuant to Rule 4(c), including a United States marshal or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. If delivery of the process is refused, the person serving the process, promptly upon the receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside pursuant to Rule 5(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person.

(e) Same: Service Upon Party Not Inhabitant of or Found Within State. Whenever a statute of the United States or an order of court thereunder provides for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state in which the dis-trict court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, a notice, or an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to him to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of his property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule; except that service by mail must be made pursuant to the procedures set forth in paragraph (8) of subdivision (d) of this rule.

(g) Return. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or his deputy, he shall make affidavit thereof. If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope if and when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service mailed to the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become part of the record. Failure to make proof of service does not affect the validity of the service.

(j) Summons: Time Limit for Service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the court's own initiative. If service is made by mail pursuant to Rule 4(d)(8), service shall be deemed to have been made for the purposes of this provision as of the date on which the process was accepted, refused, or returned as unclaimed. This subdivision shall not apply to service in a foreign coun-

try pursuant to Rule 4(i).

2. That the foregoing a 2. That the foregoing amendments to the Federal Rules of Civil Procedure shall take effect on August 1, 1982, and shall govern all civil proceedings thereafter commenced and, insofar as just and reasonable, all pro-

ceedings then pending.

3. That the Chief Justice be, and he hereby is, authorized to transmit to the Congress the foregoing amendments to the Federal Rules of Civil Procedure in accordance with the provisions of Section 2072 of Title 28, United States Code.

EXCERPT FROM THE REPORT OF THE JUDICIAL CONFERENCE COMMITTEE ON RULES OF PRAC-TICE AND PROCEDURE

To the Chief Justice of the United States, Chairman, and Members of the Judicial Conference of the United States:

#### FEDERAL RULES OF CIVIL PROCEDURE

A. The Advisory Committee on the Federal Rules of Civil Procedure has submitted to your Committee proposed amendments to Rule 4 of the Federal Rules of Civil Procedure pertaining to the service of process in a civil action. The proposed amendments to the rule are set out in Appendix A and are accompanied by an advisory committee note

explaining their purpose and intent.

The proposed amendments are designed to relieve the United States marshals of the duty of serving summonses and complaints in most civil actions in which the government is not a party. Any person who is not a party to the litigation and is not less than 18 years of age would be permitted to serve the summons and complaint. In addition, the amendments would permit service of summonses and complaints by registered or certified mail, return receipt requested and delivery restricted to the addressee. A default or default judgment could not be entered unless it appears of record that the defendant accepted or refused to accept service by mail.

At the request of a party, the United States marshals would continue to serve the summons and complaint: (1) on behalf of a party authorized to proceed in forma pau-peris 28 U.S.C. § 1915, or of a seaman authorized to proceed without the prepayment of costs, 28 U.S.C. § 1916; (2) when required by Federal statute; and (3) pursuant to a court order when necessary to guarantee effective service in a particular action. The marshals would continue to serve forms of process which require an enforcement presence, such as temporary restraining orders, injunctions, attachments, arrests and orders relating to judicial sales.

The proposed amendments to Rule 4 are occasioned by the reduction in appropriations available to the Marshal's Service and pending legislation to relieve marshals of the duty to serve the summons and com-plaint in private civil litigation. Appropriations have already been reduced and it appears that the proposed legislation will soon be enacted into law. For these reasons it is important that Rule 4 be amended prompt-

ly.
Your Committee recommends that the proposed amendments to Rule 4 be approved by the Conference and transmitted immediately to the Supreme Court for its consideration with the recommendation that the amendments be approved and transmitted to the Congress pursuant to

B. The Advisory Committee has conducted public hearings on the proposed amend-ments to the civil rules distributed to the bench and bar last June. The Committee has reviewed all comments received and will be submitting its proposals in final form at the June meeting of the Standing Commit-

MARCH 1982.

#### APPENDIX A

To the Committee on Rules of Practice and

I have the honor of submitting herewith our Committee's final draft of proposed amendments to Rule 4 of the Federal Rules of Civil Procedure and its Advisory Note, which recommend changes designed to relieve United States marshals of the duty of serving summonses and complaints in most federal civil litigation in which the government is not a party. Under the amendments the marshals would be obligated to serve such process only to the extent required by federal statute, court order, or where an enforcement presence is advisable, e.g., service of restraining orders, attachments, arrests and notices of judicial sales.

The draft amendments authorize service of a summons or complaint to be made by any non-party over 18 years of age, a procedure that has worked satisfactorily in a substantial number of other jurisdictions. Service must be made within 120 days after the filing of the complaint unless an enlargement of time is obtained by order of the court pursuant to Rule 6(b). Under the amendments special provisions authorizing service by certain facilities, such as sheriffs, state court officers or private process servers, would no longer be required, as long as the person making service is a non-party and over 18 years of age. A uniform and exclusive method of serving a summons and complaint by registered mail is also authorized by subdivision (d)(8).

A preliminary draft sent out by our Committee to the public in September 1981 provided that service of a summons and complaint, except where required to be made by a marshal or special appointee, must be made by a private process server registered with the clerk of the district court. The proposal met substantial opposition and was found inadvisable for the reason that, although it might assist in reducing some risks of fraud or inefficiency, the courts' assumption of responsibilities hitherto borne by the marshals' service posed numerous difficult administrative problems, including investigation into the qualifications and integrity of those seeking to act as professional process servers, regulation of their fees, and burdensome maintenance of records, which federal courts should not be required to assume. Accordingly our Committee recommends the simple procedure of authorizing service by any non-party adult.

We believe that the amended rule, if adopted, will relieve the marshals of a very large share of service duties which they are finding it difficult if not impossible to perform within present statutory budget and fee restrictions and that it is consistent with legislation on the subject now pending before the Congress.

Respectfully submitted.

WALTER R. MANSFIELD, Chairman, Advisory Committee on Federal Civil Rules.

JANUARY 15, 1982.

PROPOSED AMENDMENTS TO RULE 4 OF THE FEDERAL RULES OF CIVIL PROCEDURE® RULE 4. PROCESS

(a) Summons: Issuance. Upon the filing of the complaint the clerk shall forthwith issue a summons and deliver it for service to [the marshal or to any other person authorized by Rule 4(c) to serve it 1 the plaintiff or his attorney. Upon request of the plaintiff separate or additional summons shall issue against any defendants.

(c) By whom served.

(1) Service of [process] a summons and complaint shall be made by any person who is not a party and is not less than 18 years of age except as provided in subdivision (c)(2) of this rule.

(2) At the request of a party, service of a summons and complaint shall be made by a United States marshal, by his deputy, or by some person specially appointed by the court for that purpose-

(A) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915 or of a seamen authorized to proceed under Title 28, U.S.C. § 1916,

(B) pursuant to any statutory provision expressly providing for service by a United States marshal or his deputy, and

(C) pursuant to any order issued by the court stating that service in that particular action is required to be made by a United States marshal, deputy, or special appointee in order to guarantee that service is properly effected. [, except that a subpoena may be served as provided in Rule 45. Special appointment to serve process shall be made

(3) Service of all other process may [also] shall be made by a [person authorized to serve process in an action brought in the courts of general jurisdiction of the state in which the district court is held or in which service is made United States marshal, by his deputy, or by some person specially appointed by the court for that purpose.

(4) The plaintiff or his attorney shall be responsible for making arrangements for prompt service. Special appointments to serve process shall be made freely.

(d) Summons and complaint: Personal service and service by mail. The summons and complaint shall be served together. The plaintiff shall furnish the person making service with such copies as are necessary. Service shall be made as follows:

(7) For service upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule, it is also sufficient if the summons and complaint are served in the manner prescribed by any statute of the United States or in the manner prescribed by the law of the state in which the district court is held for the service of summons or other like process upon any such defendant in an action brought in the courts of general jurisdiction of that state; except that a summons and complaint served by mail may be served only as authorized by and pursuant to the procedures set forth in paragraph (8) of this subdivision of this rule.

(8) Service of a summons and complaint upon a defendant of any class referred to in paragraph (1) or (3) of this subdivision of this rule may be made by the plaintiff or by any person authorized to serve process pur-

<sup>\*</sup>New matter is in italic; matter to be omitted is in black brackets.

suant to Rule 4(c), including a United States marshal or his deputy, by registered or certified mail, return receipt requested and delivery restricted to the addressee. Service pursuant to this paragraph shall not be the basis for the entry of a default or a judgment by default unless the record contains a return receipt showing acceptance by the defendant or a returned envelope showing refusal of the process by the defendant. If delivery of the process is refused, the person serving the process, promptly upon the receipt of notice of such refusal, shall mail to the defendant by first class mail a copy of the summons and complaint and a notice that despite such refusal the case will proceed and that judgment by default will be rendered against him unless he appears to defend the suit. Any such default or judgment by default shall be set aside pursuant to Rule 55(c) or Rule 60(b) if the defendant demonstrates to the court that the return receipt was signed or delivery was refused by an unauthorized person.

(e) Same: Service upon party not inhabit-ant of or found within State. Whenever a statute of the United States or an order of court thereunder provides for service of a summons, [or of] a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state in which the district court is held, service may be made under the circumstances and in the manner prescribed by the statute or order, or, if there is no provision therein prescribing the manner of service, in a manner stated in this rule. Whenever a statute or rule of court of the state in which the district court is held provides (1) for service of a summons, [or of] a notice, or of an order in lieu of summons upon a party not an inhabitant of or found within the state, or (2) for service upon or notice to him to appear and respond or defend in an action by reason of the attachment or garnishment or similar seizure of his property located within the state, service may in either case be made under the circumstances and in the manner prescribed in the statute or rule; except that service by mail must be made pursuant to the procedures set forth in paragraph (8) of subdivision (d) of this rule.

(g) Return. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or his deputy, he shall make affidavit thereof. If service was by mail, the person serving process shall show in his proof of service the date and place of mailing, and attach a copy of the return receipt or returned envelope if and when received by him showing whether the mailing was accepted, refused, or otherwise returned. If the mailing was refused, the return shall also make proof of any further service mailed to the defendant pursuant to paragraph (8) of subdivision (d) of this rule. The return along with the receipt or envelope and any other proof shall be promptly filed by the clerk with the pleadings and become part of the record. Failure to make proof of service does not affect the validity of the service.

(j) Summons: Time limit for service. If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the action shall be dismissed as to that defendant without prejudice upon motion or upon the

court's own initiative. If service is made by mail pursuant to Rule 4(d)(8), service shall be deemed to have been made for the purposes of this provision as of the date on which the process was accepted, refused, or returned as unclaimed. This subdivision shall not apply to service in a foreign country pursuant to Rule 4(t).

# ADVISORY COMMITTEE NOTE

Subdivision (a). This amendment conforms this subdivision to the amendment to subdivision (c), and emphasizes the Committee's intent that methods of service other than by United States marshals should be

utilized whenever appropriate.

Subdivision (c). The purpose of this amendment is to reduce the burden on the United States Marshal Service of serving civil process in private litigation, without endangering the effective and efficient service of civil process. Service of summonses and complaints, which now comprise the bulk of service by a marshal, rarely require the presence of any enforcement officer. However, the alternative of restricting such service to a narrow group, such as registered professional process servers, would impose excessive administrative burdens on the court. The amendment therefore permits service to be made by any non-party adult, a procedure that has functioned successfully in a number of jurisdictions where it is presently authorized. See, e.g., Cal. Civ. Code § 414.10 (West); D.C.C.E. Superior Ct. § 414.10 (West); D.C.C.E. Superior Ct. Rules—Civil 4(c)(2); N.M. Stat. Ann. § 21-1-1 (Rule 4(e)(1)); N.Y. Civ. Prac. Law § 2103(a); N.D.R. Civ. P. 4(d)(1); Va. Code § 8.01-293(2); Wisc. R. Civ. P. 801.10(1); Wisc. Stat. Ann. § 801.10(1) (West). To the extent that other facilities for personal service of process (as distinguished from service by mail, see subdivision (d)(8) of this Rule, infra), such as sheriffs, court officers, or professional process servers, remain available, the amendment would not preclude their being used, provided the person making service is a non-party over 18 years of age.

In keeping with the policy of relieving marshals to the maximum extent possible of the duty of serving summonses and complaints, subdivision (c)(2) limits the cases in which marshals may be required to make such service to three categories: (1) in forma pauperis and seamen's suits, (2) cases in which service by a marshal is specifically mandated or authorized by statute, including service on behalf of the United States pursuant to Title 28, U.S.C. § 569(b), and (3) those limited number of instances in which the court, having been satisfied that service by a marshal or special appointee is necessary to assure that service will be effected, issues an order accordingly. Even in these three categories the plaintiff is expected first to seek service by private means when-ever feasible rather than impose the burden on the Marshals Service. Similarly, court orders directing service by marshal should not be issued unless they really are necessary. In short, the aim is to encourage use of methods that do not involve marshals.

Under paragraph (c)(3), forms of process which require an enforcement presence, such as temporary restraining orders, injunctions, attachments, arrets, and orders relating to judicial sales, shall be served by marshals, their deputies, and persons specially appointed by the court. This language continues the current practice of district courts and encourages the use of special appointees when an enforcement presence is not necessary or a marshal is not available.

Paragraph (c)(4) places responsibility on the plaintiff for arranging service by private process server, special appointee, or marshal. It also provides for courts to make special appointments under paragraphs (c)(2) and (3) freely.

Subdivision (d)(7). The amendment makes subdivision (d)(8) the exclusive procedure in federal courts for serving summonses and complaints by mail. This provision, however, deals only with the procedure for use of the mails for service and does not otherwise affect federal or state statutory authorizations for service of process.

Subdivision (d)(8). The proposed amendment authorizes the service of summonses and complaints by registered or certified mail upon individual defendants other than infants and incompetent persons and upon defendants that are business entities. Service upon defendants described in paragraphs (2), (4), (5) and (6) of this subdivision is not affected. Service that could be made pursuant to paragraph (c)(1) may be mailed by the plaintiff, his attorney, or any person over 18 years of age. When the marshal, his deputy, or a special appointee is called upon to make service upon an individual or business entity pursuant to one of the subparagraphs of paragraph (c)(2) including routine in forma pauperis and seamen's cases, such person may serve by mail except when personnal service is required by statute.

The proposed amendment is designed to permit mail service to be the basis for the entry of defaults and default judgments when actual notice reasonably can be expected to have occurred. Thus, if the defendant or a person authorized to accept process for him either has signed the return receipt or has refused to accept the process, a default could be entered. In the case of a refusal, additional notice must be sent to the defendant. It is important to note that because paragraph (d)(8) restricts delivery to the addressee, only the defendant or persons expressly authorized to accept for the defendant-for example, by letter-could sign the return receipt.

Subdivision (e). The added sentence simply makes clear that when service under this subdivision is made by mail, it shall be in the manner prescribed by subdivision (d)(8).

Subdivision (g). The proposed amendment specifies additional procedures for making proof of service of process, which are necessitated by the proposed amendment to subdivision (d)(8).

Subdivision (j). Rule 4, as it presently is drafted, provides no time limit for the service of summonses and complaints. As long as service was performed by marshals such a restriction was not necessary. However, the proposed gradual elimination of marshal service raises new concerns about timeliness. Thus, the proposed amendment requires service of process to be made within 120 days after filing the complaint. Unless the time is enlarged by the court pursuant to Rule 6(b), failure to meet this deadline will result in dismissal of the action without prejudice. This subdivision does not apply to attempted service in a foreign country pursuant to Rule 4(1).

Mr. McCLORY. Mr. Speaker, I thank the gentleman from California (Mr. Edwards), and I commend the gentleman on having worked out this compromise. I think it is a very reasonable compromise.

Mr. Speaker, I rise in support of the legislation being proposed by my good friend and colleague from California (Mr. EDWARDS). There is no opposition to H.R. 7154 from our side of the aisle. In addition, the bill has the support of the U.S. Judicial Conference, the Department of Justice, and the U.S. Marshals Service. I am not aware of any opposition to this legislation.

The bill, of which I am a cosponsor, amends the rules of civil procedure to provide that U.S. marshals will not ordinarily serve summonses and complaints in private civil suits. This bill presents a compromise between the Department of Justice and the Judicial Conference, and I urge my col-

leagues to support it.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

# H.R. 7154

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Rules of Civil Procedure Amendments Act of 1982".

SEC. 2. The Federal Rules of Civil Proce-

dure are amended as follows:

(1) Rule 4(a) of such Rules is amended by striking out "it for service to the marshal or to any other person authorized by Rule 4(c) to serve it" and inserting in lieu thereof 'the summons to the plaintiff or the plaintiff's attorney, who shall be responsible for prompt service of the summons and a copy of the complaint".

(2) Subsection (c) of Rule 4 of such Rules

is amended to read as follows:

(c) SERVICE.

"(1) Process, other than a subpoena or a summons and complaint, shall be served by a United States marshal or deputy United States marshal, or by a person specially appointed for that purpose.

"(2)(A) A summons and complaint shall, except as provided in subparagraphs (B) and (C) of this paragraph, be served by any person who is not a party and is not less

than 18 years of age.

"(B) A summons and complaint shall, at the request of the party seeking service or such party's attorney, be served by a United States marshal or deputy United States marshal, or by a person specially appointed by the court for that purpose, only-

'(i) on behalf of a party authorized to proceed in forma pauperis pursuant to Title 28, U.S.C. § 1915, or of a seaman authorized to proceed under Title 28, U.S.C. § 1916, "(ii) on behalf of the United States or an

officer or agency of the United States, or "(iii) pursuant to an order issued by the court stating that a United States marshal or deputy United States marshal, or a person specially appointed for that purpose, is required to serve the summons and complaint in order that service be properly effected in that particular action.

"(C) A summons and complaint may be served upon a defendant of any class referred to in paragraph (1) or (3) of subdivi-

sion (d) of this rule

"(i) pursuant to the law of the State in which the district court is held for the service of summons or other like process upon such defendant in an action brought in the courts of general jurisdiction of that State,

"(ii) by mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served, together with two copies of a notice and acknowledgment conforming substantially to form 18-A and a return envelope, postage prepaid, addressed to the sender. If no ac knowledgment of service under this subdivision of this rule is received by the sender within 20 days after the date of mailing, service of such summons and complaint shall be made under subparagraph (A) or (B) of this paragraph in the manner prescribed by subdivision (d)(1) or (d)(3).

"(D) Unless good cause is shown for not doing so the court shall order the payment of the costs of personal service by the person served if such person does not com-plete and return within 20 days after mailing, the notice and acknowledgment of re-

ceipt of summons.

"(E) The notice and acknowledgment of receipt of summons and complaint shall be executed under oath or affirmation.

"(3) The court shall freely make special appointments to serve summonses and complaints under paragraph (2)(B) of this sub-division of this rule and all other process under paragraph (1) of this subdivision of this rule.".

(3) Rule 4(d) of such Rules is amended-

(A) by striking out "Summons: Personal Service" and inserting "Summons and Com-PLAINT: PERSON TO BE SERVED" in lieu thereof: and

(B) by striking out paragraph 7.

(4) Rule 4(d)(5) of such Rules is amend-

(A) by striking out "delivering" and inserting "sending" in lieu thereof, and

(B) by inserting "by registered or certified

mail" after "complaint' (5) Rule 4(e) of such Rules is amended by striking out "SAME" and inserting "SUM-MONS" in lieu thereof.

(6) Subdivision (g) of Rule 4 of such Rules

is amended to read as follows:

"(g) RETURN. The person serving the process shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to the process. If service is made by a person other than a United States marshal or deputy United States marshal, such person shall make affidavit thereof. If service is made under subdivision (c)(2)(C)(ii) of this rule, return shall be made by the sender's filing with the court the acknowledgment received pursuant to such subdivision. Failure to make proof of service does not affect the validity of the

(7) Rule 4 of such Rules is amended by

adding at the end the following:

"(j) SUMMONS: TIME LIMIT FOR SERVICE. If a service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint and the party on whose behalf such service was re-quired cannot show good cause why such service was not made within that period, the action shall be dismissed as to that defendant without prejudice upon the court's own initiative with notice to such party or upon motion. This subdivision shall not apply to service in a foreign country pursuant to subdivision (i) of this rule."

SEC. 3. The Appendix of Forms at the end of the Federal Rules of Civil Procedure is amended by inserting after Form 18 the fol"FORM 18-A.—NOTICE AND ACKNOWLEDGMENT FOR SERVICE BY MAIL

"United States District Court for the Southern District of New York

"Civil Action, File Number

"A. B., Plaintiff v. "C. D., Defendant/ Notice and Acknowledgment of Receipt of Summons and Complaint

#### NOTICE

"To: (insert the name and address of the person to be served.)

"The enclosed summons and complaint re served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

"You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of a corpo ration, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

"If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted

"If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint

"I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint was mailed on (insert date).

# Signature

# **Date of Signature**

# "ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

"I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned manner at (insert address).

"Signature "Relationship Entity/Authority to Receive Service of Process

# Date of Signature".

SEC. 4. The amendments made by this Act shall take effect 45 days after the enactment of this Act.

SEC. 5. The amendments to the Federal Rules of Civil Procedure, the effective date of which was delayed by the Act entitled "An Act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure", approved August 2, 1982 (96 Stat. 246), shall not take effect.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motio to reconsider was laid on the table.

# GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. there objection to the request of the gentleman from California?

There was no objection.

# FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr.

FLORIO).

The motion was agreed to.

# IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5133, with Mr. PANETTA in the chair.

The Clerk read the title of the bill. The CHAIRMAN. When the Committee of the Whole rose on Friday, December 10, 1982, the bill was considered as having been read and open to amendment at any point.

Are there any further amendments

to the bill?

AMENDMENT OFFERED BY MR. BROWN OF OHIO

Mr. BROWN of Ohio, Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from New York (Mr. OTTINGER) reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. Brown of Ohio: Page 8, line 3, strike out "For" and insert in lieu thereof "Except as provided to subsection (b)".

Page 8, insert after the table before line

11, the following:

"(b) SPECIAL RULE.—(1) For each model year beginning after January 1, 1983, the minimum domestic content ratio for a vehicle manufacturer that began automobile production or assembly in the United States between January 1, 1980, and December 31, 1982, shall not be less than the applicable minimum content ratio specified in the following table:

# Model year 1984

Number of motor vehi-Minimum cles produced by the domestic manufacturer and sold content in the United States during such year: Not over 100,000 ...... 0 percent.

Model year 1984-Continued

Over 100,000 but not over The number. 900,000.

expressed as a percentage, determined by dividing the number of vehicles sold by 90,000.

Over 900,000 ...... 30 percent.

# Model year 1985

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:

Not over 100,000 .... Over 100,000 but not over 900,000.

Minimum domestic content ratio: 0 percent.

The number expressed as a percentage. determined by dividing the number of vehicles sold by 45,000.

Minimum

domestic

content

ratio:

Over 900,000 .....

60 percent.

# Model year 1986

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:

Not over 100,000 ..... Over 100,000 but not over 900,000.

0 percent. The number, expressed as a percentage, determined by dividing the number of vehicles sold by 30,000.

Over 900,000 ...... 90 percent.

# Model year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year:

Not over 100,000 ..... Over 100,000 but not over 900,000.

Minimum domestic content ratio:

0 percent.

The number, expressed as a percentage, determined by dividing the number of vehicles sold by 15,000.

Over 900,000 ...... 90 percent.

Each model year after model year 1987

Number of motor vehicles produced by the manufacturer and sold in the United States during such year: Not over 100,000 .....

Over 100,000 but not over 900,000.

domestic content ratio: ..... 0 percent.

Minimum

The ratio determined by the Secretary under Over 900,000 ...... 90 percent.

(2) The Secretary shall establish the minimum domestic content ratio for each model year after model year 1987 for vehicle man-ufacturers selling over 100,000 but not over 900,000 motor vehicles in the United States during such year. In establishing each such ratio, the Secretary shall take into account the extent to which changes in the technological and economic factors applicable to the production of motor vehicles in the United States have affected the carrying out of the purposes of this Act, but a ratio established under this paragraph for any model year may not be greater than 50 percent, nor less than the percentage achieved in model year 1987.

(3) If during any model year the level of the automobile production or assembly in the United States of a vehicle manufacturer falls below the production or assembly level of such manufacturer in the United States during the model year beginning after December 31, 1981, then subsection (a) shall

apply to such manufacturer.

Page 8, line 11, strike out "(b)" and insert "(c)".

Mr. BROWN of Ohio (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN, Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The gentleman from Ohio (Mr. Brown) will be recognized for 5 minutes in support of his amendment.

The Chair will inquire, does the gentleman from New York (Mr. OTTINGER) continue to reserve his point of order on the amendment?

Mr. OTTINGER. No. Mr. Chairman, I will drop my reservation of a point of order.

Mr. O'NEILL. Mr. Chairman, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the distinguished Speaker.

Mr. O'NEILL. Mr. Chairman, I thank the gentleman for yielding, and I would just like to make the following statement:

I appreciate the fact that there are a good number of amendments remain-ing on this bill. There is no further business when we get through with this bill, so whether it is 6, 8, 10, or 12 o'clock, it is the intent of the Chair to complete this piece of legislation. So it behooves the Members to think about that, and it is up to them to expedite the business of the day as they see fit. This will be the final piece of legislation for today.

Mr. BROWN of Ohio. Mr. Chairman, I thank the distinguished Speak-

Mr. DINGELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Chair understands that the gentleman from Michigan (Mr. DINGELL) reserves a point of order?

Mr. DINGELL. Yes, Mr. Chairman.

Mr. BROWN of Ohio. Mr. Chairman, I think the point of order is too late, is it not?

The CHAIRMAN. It is a reservation

of a point of order.

Mr. BROWN of Ohio. Mr. Chairman, may I ask, can a reservation of a point of order come at any time? I had yielded to the Speaker, and the debate had begun on the amendment.

The CHAIRMAN. The gentleman is correct. A point of order was reserved and then withdrawn, and the gentleman from Ohio (Mr. Brown) was recognized for 5 minutes on his amendment and had yielded. The point of order cannot be reserved at this time.

The gentleman from Ohio (Mr. Brown) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Chairman, among those who have introduced this bill and favor it, there are many aspirations for its accomplishment. Some of those include the idea that it will create jobs in this country.

Now, I am not in my amendment talking about jobs that we hope will materialize if this bill is passed. What I am talking about is not wishes but jobs that already exist, jobs that we stand to lose if this bill is not modified. That is why I am offering this amendment to lower the requirements for Honda of America and let it know that we not only appreciate the jobs that it provides here by building some of its automobiles in the United States but that we are not going to impede those efforts with guessing games over content requirements, and that we want to encourage it to increase its production in this country.

My amendment would modify the

ratios to provide ample room for unforeseen changes in the business environment and provide our foreign friends with room to grow and flourish with their production in this country.

Specifically, my amendment would provide that foreign investors who began production in the United States between January 1, 1980, and December 31, 1982, would have 2 additional years to meet the domestic content requirements of the Ottinger substitute.

During the first model years, 1984, 1985, and 1986, manufacturers would be required to meet one-third of the Ottinger domestic content requirement. In 1987, Honda would have to meet the second year requirements of the Ottinger bill. In the following year and every year thereafter, the requirements would be set by the Secretary of Transportation between 33 and 50 percent. Fifty percent is the last year requirement of the Ottinger bill.

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The Secretary of Transportation would make a determination whether it is more appropriate to have it be 33 or 50 percent because of the peculiar nature of the situation.

If we want to protect jobs for American autoworkers-and I believe every Member of this House wants to-telling Honda to pack it bags and build its cars elsewhere because it cannot meet the requirements put in the bill as it is now written is not the way to do that. I think we must address this problem.

Let us look at what this legislation is designed to do. It refers to the entire production and sales in this country of an automobile manufacturer. Honda is making at Marysville, Ohio, its Accord model, one of several models that are sold in this country.

If all of your models are made in this country, then obviously the legislation is applicable. But when only one model is made here that model must be mixed in with those models which come from elsewhere, and that means that Honda cannot meet the standards that are set even though their investment in Ohio for all production is \$250 million-more than they have invested in 20 years aggregate anyplace else outside of Japan.

It seems to me that that investment and the suppliers that have moved in to make things in the United States that go into that Accord automobile indicate a clear decision on the part of the most independent of the Japanese automobile manufacturers to build in America, to build part of their model line here and hopefully in the future years other parts of their model line.

But the Accord is the highest priced automobile in their line. If you will, it is comparable to the Cadillac or the Imperial in the Chrysler line, or the Continental in the Ford line.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. Brown) has expired.

(By unanimous consent Mr. Brown of Ohio was allowed to proceed for 3 additional minutes.)

Mr. BROWN of Ohio. The result is that when you make that model here and then also mix with the other cars that come in that are lowerpriced cars from abroad, you cannot meet the requirement.

The Honda Accord, at the beginning of its production, will be about 50 percent American domestic content. It hopes to go to 65 percent within the next few years but it took them almost 3 years to acquire the land and build the plant they are now in. So the requirement for expansion to make other models here could not be met if the language of the present legislation is left as it is.

In essence, this legislation has the same effect as import quotas because it raises prices of both domestic and imported cars. In fact, since the voluntary restrictions began, the price of foreign cars has jumped \$1,900.

But this bill would have the added effect that it will put American autoworkers, as I said, out of their jobs, and those who are working directly for supplying the companies that came here to produce in the United States.

What we call for in this bill is that the first model year, 1984, the quota under the legislation would be 15.7 to 20 percent depending on the number of cars produced, and my legislation would provide for the domestic content to be 5.2 percent to 6.7 percent based on the sale of 470,000 to 600,000

In the next model year of 1985 it would be 33.3 percent to 40 percent under the present legislation.

I lower it to 11.1 percent to 13.3 percent for Honda on the basis of selling 500,000 to 600,000.

In the third model year of 1986, it would be 50 to 60 percent under the Ottinger amendment. I call for 16.6 percent to 20 percent under a scenario of 500,000 to 600,000 sales.

In the final year, model year 1987, it would be 50 percent under the lan-guage of the bill. We call for 33 percent under 500,000 cars sold by Honda and in the final year we call for 50 percent, as they do, except that we allow the possibility that the Secretary of Transportation might set a quota somewhere between 33 and 50 percent.

I do not think that is unreasonable. because what it does is focus Honda on the responsibility to meet the require-

ments in 5 years.

I cannot tell you what the impact on domestic manufacturers can be in this legislation because they did not testify very vigorously on the legislation. Most of them seemed to think that it was a poor idea.

As you know, some of their automobiles are manufactured in part abroad and brought back into this country for sale. Some of them are manufactured almost entirely abroad.

The people that will benefit under this legislation, however, are the small sales cars, the Subarus, those that do not sell much in the United States and therefore would fall outside of the purview of this legislation altogether and which are almost totally produced abroad.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment.

I reluctantly oppose this amendment first because I love and admire the gentleman from Ohio who has served with great distinction on our committee and in this body. We will miss him greatly in the next Congress.

Second, because I recognize that Honda has established itself in the United States and recognized its responsibility to the U.S. economy and workers. That is something that I think we ought to encourage.

Indeed, this legislation is designed to encourage Honda and other foreign manufacturers to establish facilities 1 1 the United States and put American workers back to work.

The reason I have to oppose this legislation, however, is that it is special interest legislation that would just affect one motor company, the Honda Motor Co., and the legislation would have the effect of discriminating in favor of Honda against other foreign manufacturers like VW that established manufacturing in the United States earlier than Honda did, and against U.S. manufacturers who are under stringent restrictions with respect to the outsourcing of their manufacturers.

I will illustrate in a moment the degree to which that could take place.
Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gen-

tleman from Ohio.

Mr. BROWN of Ohio. I have full confidence in the gentleman's clear statement of what he intends as one of the objectives of this legislation, and that is to encourage foreign manufacturers to locate their plants in this country.

I have to say, however, that if the legislation does not accomplish that purpose, an amendment designed to accomplish that purpose can hardly be characterized fairly as special interest

legislation.

The amendment that I have proposed is designed specifically to try to accomplish the purpose the gentleman says is his purpose in the general legislation.

All I am trying to do is correct the fact that the gentleman's formula does not meet the objective and, in fact, will cause the closing of a plant now employing 2,000 of my constituents and the constituents of other Members from Ohio.

Therefore, I think it is the responsibility of both of us to try to accomplish the purification of the legisla-

tion.

Mr. OTTINGER. I appreciate the gentleman's good intent. I have no question that he intends as he ex-

presses.

But the effect of this legislation is to give the Honda Co., an advantage which other foreign manufacturers and all U.S. manufacturers would not enjoy. It does more than give Honda credit for having made an investment in Ohio in advance of the consideration of this legislation. What it does is to give the Honda Motor Co., a free ride in terms of domestic content requirement while all other companies,

comply with the provisions of the bill.

This competitive edge will take place over the next 3 to 5 years when the auto business will be most competitive as all companies will try to recover

both foreign and domestic, must

from the current auto recession.

Then, at the end of the 5-year period, the amendment would give Honda a permanent break as compared to other manufacturers, a permanent break of up to almost 40 percent in local content, equivalent to thousands of jobs for U.S. workers.

I suppose that concerns me as much as anything.

In our discussions with the gentleman from Ohio we said if we do anything to recognize Honda's commitment we ought to at least assure Honda meets the same standards as other automobile manufacturers at the end of the period that is being addressed.

While that has been done to some extent, giving the Secretary discretion to negotiate with Honda, there is a limitation on there of 50 percent whereas, for instance, VW will have to meet a standard of 70 percent.

Mr. BROWN of Ohio. Would the gentleman yield again? If the gentleman would like to amend this to include VW we would be delighted. VW is not located in my district. It is located in the district of the gentleman from Pennsylvania (Mr. Murtha), as I understand it.

We discussed the matter with his staff and they said they did not wish to participate in this amendment. So the amendment was drawn to address the problem created by Honda.

The gentleman from New York or the other gentleman from Pennsylvania or any other gentleman or gentlewoman on the floor is certainly free to amend the timeframe to include other manufacturers.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

Mr. BROWN of Ohio. Mr. Chairman, I ask unanimous consent that the gentleman have 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, the distinguished gentleman from New York (Mr. Ottinger) has indicated that he wants to move this along. I am in no hurry as long as we discuss this thing. But I simply want to remind the gentleman of his challenge.

There may be other additional requests for time and I think both sides ought to have equal opportunity to discuss the issues.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio that the gentleman from New York (Mr. OTTINGER) have 2 additional minutes?

There was no objection.

The CHAIRMAN. The gentleman from New York Mr. (OTTINGER) is recognized for 2 additional minutes.

Mr. OTTINGER. There is just one other thing that I want to address and that is the gentleman said that Honda will pick up and leave a whole bunch of unemployed people in his district should this legislation pass.

I would like to say in my assessment of that is that it is a threat to try and defeat the legislation, which I can understand, but I think it is a totally idle threat.

The U.S. automobile market is by far the largest in the world. Honda and other foreign manufacturers now have huge investments in distribution and other facilities in the United States. They are not going to pick up and leave. I do not think the gentleman's fears are well founded though I understand his position.

If I were representing his district I would battle as hard to make sure that there was no risk involved as, in fact, he is doing.

If you look at some of the material Honda has prepared to show why it believes it cannot meet the requirements in the bill, it becomes clear exactly why this special waiver amendment should not be granted. In 1986, Honda plans to sell 600,000 cars in the United States. To be sure, 150,000 would be produced in Ohio with domestic content of 50 to 60 percent. But what about the other 450,000? This amendment would allow Honda to sell 450,000 vehicles in the United States with only a 3- to 5-percent domestic content. That will have a vast adverse impact on U.S. jobs.

In fact, under the terms of this amendment, Honda could sell up to 899,999 cars in the United States in model year 1986 with little more investment than Volkswagen has already made.

And how about the other companies that would have to meet the requirements in the bill and not have a special provision?

Chrysler, which in 1981 sold about 870,000 vehicles, would under the provisions of the bill have an 87-percent content ratio. If Honda sold that many cars, its requirement would be only 29 percent.

Volkswagen, which invested in the United States before Honda did, and in fact will produce 50,000 more cars than Honda at 70-percent domestic content—Honda will be only 50 to 60 percent—must meet a 35-percent content requirement. If Honda sells as many cars as VW in 1986, its requirement is only 13 percent.

And how about AMC/Renault? Even with the massive investment made by Renault in the United States—saving, in effect, AMC and thousands of U.S. jobs—they will be forced to meet a content ratio 50 percentage points higher than Honda would under this amendment.

This amendment would do more than give Honda Motor Co., credit for having invested in the United States. It would give away the store.

I urge yo to vote to defeat this amendment.

Mr. BROWN of Ohio. I would say to the gentleman that there are other foreign manufacturers who are at various stages of commitment in putting in factories in the United States. Without this kind of attention to the problem confronting Honda I am confident that they will not pursue that kind of investment and I am confident that the Honda operation at Marysville cannot be sustained with the kind of restrictions that are in the legislation now.

The problem is that the market issue here is what the legislation the gentleman has fathered focuses on, and that is all of the sales of the company. The production is for one of the cars in that line in this country, the Accord, and that is going to be up to 60- to 65-percent domestic made.

But when you bring in or average in the other sales in the line then you cannot meet that 50-percent requirement. You can continue to sell the Accord, of course, but you will be prohibited from selling the other automo-

My guess is that will not sustain a market for that manufacturer or any other manufacturer that wants to come in in the future.

Mr. OTTINGER. All they have to do to solve that problem is to start manufacturing in this country.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendment.

Mr. Chairman, I think we should strike a medal to the distinguished gentleman from Ohio (Mr. Brown) because he has by this amendment again identified exactly what is wrong with this bill.

He has not identified all of the things that are wrong with this bill but he has correctly identified one big one. The bill will prevent American jobs from being created and it may cause the loss of American jobs that are currently held.

The gentleman's amendment is very parochial. It takes care of one foreign automobile company operating in one State.

What about the companies that want to build, or who are building, in Tennessee, or who are considering building everywhere? Those people ought to have the same kind of protection. What they should have from us is a guarantee of their ability to make cars in a free and unrestrained economy in which they can compete with other makers.

#### □ 1245

The other statement the gentleman from Ohio made was that he did not know what the effect was on the domestic manufacturers. I suspect that most people on the Energy and Commerce Committee do not know either. The committee did not ask the domes-

tic manufacturers to come in and testi-

On the Ways and Means Committee we had hours of testimony from every domestic manufacturer save Chrysler, which had other problems at the moment. All of the manufacturers in this country, every one of them, said that this bill would have a deleterious effect on American jobs and would make their job selling domestically and internationally more difficult.

So, if you adopt the amendment offered by the gentleman from Ohio, you will simply save one little segment of our economy in our society. But, at the same time, you will condemn other American workers, especially those engaged in export-related jobs, to the possible loss of jobs.

Mr. Chairman, the bill is a wretched one. We have said that right along. This amendment proves it. Nothing proves it more clearly or more strongly than the amendment of the gentleman from Ohio. He has shown us exactly how many jobs will be lost in the city of Marysville, Ohio. Marysville, Ohio, is only one place in the country where they make cars. We will lose jobs everywhere.

I urge the defeat of the Brown amendment so that the bill will be left in its original pristine state. It's ugly intent will be better observed without amendments.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished sponsor of the amendment.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman's flattery, or so I took it, at the wisdom of the amendment.

Now I would appreciate the gentleman's support, because it seems to me that this bill, passed without the precedent of this amendment in it, makes very bad legislative history for future consideration by this Congress or the next.

Now, I think both the gentleman from Minnesota and I know—or at least I think I know; I am not sure what he knows—that this bill is very unlikely to become law in this Congress. But it may not be unlikely for serious consideration in the next. And I would hope that when people go back and look at it that we do not have a precedent of people at least on this side of the aisle voting against an amendment like this which clearly does try to address a problem in the basic legislation.

Mr. FRENZEL. I thank the gentleman for clarifying.

I would further say that when a leaky innertube has serveral hundred leaks and many cuts and slashes, you cannot improve it by putting a tiny patch on one of the holes in that innertube. This is a leaky vessel which should be allowed to sink to the bottom of the pond.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as one of the original cosponors of this legislation, I find the position of my colleague, the gentle-man from New York (Mr. OTTINGER) who also opposed very vigorously a broader amendment along the same line as the amendment of the gentleman from Ohio (Mr. Brown) that I offered last week when we were discussing this legislation, very hard to understand. He seems to be opposing the basic thrust of this legislation, as I understand it, in fact that thrust was one of the reasons why I became a cosponsor, this basic purpose was illustrated in the paper this morning, a big full page ad, I think it was in the Washington Post. It had a big Datsun with a sign on it "made in the U.S.A." And the thrust of that full page ad, put in by the United Automobile Workers, was that this bill we were going to be deliberating today was going to create jobs for American automobile workers by helping to produce cars of Japanese design and other foreign design.

Yet the gentleman from New York (Mr. OTTINGER) is opposing, in opposing the amendment of the gentleman from Ohio, the very thing that the UAW says this legislation was designed to do. The gentleman from New York and the gentleman from New Jersey (Mr. Florio) were very bitterly opposed to the amendment that I offered which would have provided some flexibility so that this legislation would not prevent foreign companies from either moving in or, even worse, as the gentleman from Ohio has indicated, encouraging those that are already providing jobs for American workers to move back to Japan.

Somebody ought to get straight on this thing. Are we supporting the legislation that the automobile workers have recommended, or are we supporting the legislation of the gentleman from New York (Mr. Ottinger) who apparently is not interested in whether American workers go to work building foreign cars, or continue working, whether it is Hondas, Volkswagens, Toyotas, or Datsun trucks down in Tennessee.

It seems to me that we ought to get this matter cleared up. Because if every attempt to try to protect workers who are either presently employed by foreign automobile companies or are likely to be employed by foreign automobile companies, then this legislation is extremely misleading in comparison to the intent of the newspaper ad in the Washington Post.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. STRATTTON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I think we ought to look at the precedent of what this country did several years ago, before there was U.S. automobile manufacturing in other places in the world. Then we put Ford production in Britain and the European market, which helped strengthen the American manufacture and benefit the American consumer because it helped strengthen the company that made the cars and reduce the cost of products distributed in this country and helped lower the prices to consumers.

Now, in effect, if we are going to say to a foreign manufacture that you cannot even produce the cars in this country that you may wish to sell here, then we really are drawing that protectionist line very tightly around

this country.

I am confident that you will not see any foreign manufacturer try to put a plant in this country if this bill becomes law as is. What they will do, instead, is reduce the number of automobiles they are selling in the United States by some very tricky methodsestablishment of separate companies, for example-to keep under that 100,000-car limit so that they can sell those cars without restriction as to the content they have. This legislation, as drawn, has no limitation on content of cars that sell under 100,000 in the U.S. market.

Now, I have to say that I cannot tell you whether Volkswagen is going to be adversely affected by this bill or not. I cannot even tell you whether General Motors is going to be adversely affected by the legislation as it is drawn. What I am trying to do in my amendment is to accomplish what the gentleman from New York (Mr. OTTINGER) and the other makers of the bill say they want, and that is: If you are going to sell in the United States,

make in the United States.

Why we cannot have an amendment to try to accomplish that purpose is beyond me. I understand why the gentleman from Minnesota does not want it. He does not want anything in the way of improvement in this legislation because he opposes the bill under any circumstance. But the legislation is designed to send a message to foreign manufacturers who have invaded our market without being willing to manufacture their products in our market or let us sell in theirs. That message, without this amendment to allow manufacturing in the United States is going to be a very bad message, in my opinion.

Mr. STRATTON. I think the gentleman is making a very good comment. I cannot understand why the UAW would spend thousands of dollars for a full-page ad unless they really want jobs in foreign auto plants of companies who were either located here in the United States now or were likely to move in later on, such as Toyota.

Mr. BROYHILL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I want to remind Members again, as we attempted to do last week, that this amendment does not make a bad bill any better. We would remind the Members of the tremendous workload that is going to be required in carrying out the mandates under this act, and that is of verifying the domestic content. That particular task is going to be burdensome, it is going to be most intrusive, and it is going to give enormous powers to the Government, to the Department of Transportation, to rummage through the books and records of not just the automobile manufacturers but the tens of thousands of suppliers to that industry. It is going to require the tracing of the sources of all materials, all component parts that go into an automobile.

Again, to repeat: This bill is not dealing with just the dozen or so automobile manufacturers, but the tens of thousands of firms, both large and small, that supply parts to the auto-

mobile industry.

These investigators would have to go in and take a look at production records, the purchasing records, the sales records. And we are talking about every one of the manufacturers and

suppliers to this industry.

The DOT, in short, would be empowered here to pry into these records. It is a program that would give enormous power to the Federal Government at a time when we have been trying our best to deregulate. The gentleman's amendment does nothing to cure that

Mr. Chairman, I would urge defeat

of this amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it greatly pains me to oppose this amendment, as it always pains me to oppose amendments offered by my old friend from Ohio. And before I begin my remarks-I will not yield to the gentleman at this time, because I want to say something nice about him and I do not want to be interrupted-I want to say that I served for a long time with the gentleman from Ohio. Our dads served together in this body. He is very dear to me and served as senior ranking minority member on the old Subcommittee on Energy and Power when I had the honor of being chairman of that subcommittee. I find him to be a man of rare ability, a wonderful friend, an absolutely savage opponent, and a thoroughly honorable and distinguished Member of this body. I am proud of our friendship, and for that reason I am all the more distressed that I must oppose this amendment.

The gentleman from Ohio puts forward an amendment which sounds rather good. I think the first question is: What does the amendment really

First of all, it confers, after model year 1987, by its clear language, discretion on the Secretary of Transportation to fix figures for content of Honda-manufactured automobiles between 40 percent and 50 percent, but not less than the levels achieved in model year 1987. That gives broad discretion which can have consequences that no one in this Chamber at this time can predict.

Now, why does Honda want this amendment?

First of all, it is a special rule for Honda, and I cannot blame Honda for being desirous of achieving that particular goal. Certainly were I to serve a district where Honda were established. I think I probably would be doing something very similar to that which the gentleman from Ohio is doing. But I would observe that any Member who represents a district where automobiles are manufactured by any other company must with great vigor oppose this proposal.

Now, let us look at what Honda would get under this particular proposal. Honda essentially gets a free ride in terms of domestic content requirement, while all other companies, both foreign and domestic, must comply with the provisions of the bill. This would give Honda a competitive edge over the next 3 to 5 years when the auto industry is going to be extremely competitive and when the industry and the country will be trying to recover from the current recession which most vigorously strikes at the auto industry. At the end of the 5 years. Honda would get a permanent break, as opposed to other manufacturers of up to 40 percent.

Now, this occurs by reason of some interesting circumstances. Honda proposes in 1986 to sell 600,000 cars in the United States, according to the figures that my good friend from Ohio has submitted to the Rules Committee and has made available to the House.

Now, admittedly 150,000 would be produced in Ohio, with a domestic content of 50 percent to 60 percent. That would be good. But the amendment would also allow Honda to sell another 450,000 vehicles in the United States, with only a 3 percent to 5 percent domestic content. This would clearly have an adverse effect upon U.S. jobs.

Now, to see the practical consequences of this amendment, let us address what would really happen. Honda could sell up to 899,000 cars in the United States in model year 1986 with little more investment than Volkswagen has already made in this country, and Volkswagen would be tied to a much higher domestic content standard than would Honda.

Let us look a little further and see what other companies would find themselves faced with under the amendment offered by my dear friend from Ohio.

Chrysler, what in 1981 sold 870,000 vehicles, under the provisions of this bill would have to have an 87-percent content ratio. If Honda sold that many cars—and it could sell that many cars and more—its requirement would be only 29 percent.

#### □ 1300

AMC Renault, after a massive investment made in this country saving in effect AMC and thousands of U.S. jobs, will be forced to meet a content ratio 50 percentage points higher than Honda would under the terms of this amendment.

Volkswagen, which invested in the United States before Honda, and, in fact, will produce 50,000 more cars in the United States than Honda at a 70-percent content level, must meet a 35-percent content requirement if it sells 350,000 cars. Honda will only have a 50- to 60-percent content level in the cars it produces.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(At the request of Mr. Brown of Ohio and by unanimous consent, Mr. DINGELL was allowed to proceed for 2 additional minutes.)

Mr. DINGELL. However, if Honda sells as many cars as Volkswagen in 1986 its requirement will only be 13 percent. I think this is a well-meaning amendment, but regrettably it is an unfair amendment and confers an unfair advantage on Honda.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I am delighted to yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

Mr. Chairman, the fact of the matter is that Honda now sells 350,000 of its cars, not its Accords, not the cars made in this country, 350,000 of all of its Hondas, down from 370,000, and its ambition is to go to 500,000 by 1988. That is not I think an excessive increase. Nor is it going to be possible for them to meet the requirements without getting to that amount of sales in this country.

Volkswagen now is under the margin as I understand it of the legislation as it is drawn. They would not qualify. And if the deutsche mark goes down, they will also not be able to meet the requirements of the legislation as drawn. That is not my problem. That is somebody else's problem.

Mr. DINGELL. I will observe Volkswagen does meet the requirements of the legislation, not only currently but according to the projections as I understand them.

Mr. BROWN of Ohio. The testimony by Volkswagen I think would not bear that out.

Mr. DINGELL. We have checked this out with care and that is our appreciation of the matter. I would also observe one thing. I think Honda is on the road toward becoming a good citizen. I think they can do so either under the bill as drawn or under the amendment. But I see no reason why the amendment should be drawn so as to confer the kind of advantage on Honda over struggling domestic producers, and which would have the unfair consequences to which I have alluded.

I do not believe that if this amendment is rejected that Honda will refuse to go forward because of the size and the desirability of the American automobile market.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I would just like to inquire of the minority—we have a lot of amendments to consider. I want to make sure they all get fair consideration.

Would the minority at this point consider a limitation on this amendment?

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Florida.

Mr. GIBBONS. I have not had a chance to even tell the Members about the Volkswagen testimony. I have it right here in the record.

Mr. OTTINGER. Mr. Chairman, could we get agreement to limit time on this amendment and all amendments thereto to 1:20 p.m.?

Mr. BROWN of Ohio. Mr. Chairman, is that a unanimous-consent request?

Mr. OTTINGER. Yes.

Mr. BROWN of Ohio. I object, Mr. Chairman.

Mr. GORE. Mr. Chairman, I would yield for the unanimous-consent request.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto end at 1:30.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. BROWN of Ohio. Mr. Chairman, reserving the right to object, I wonder if there are any Members in this Chamber at this point who contemplate offering an amendment to the amendment I have offered.

Mr. CHAIRMAN. The Chair has no knowledge.

Mr. OTTINGER. I have no knowledge of any.

Mr. BROWN of Ohio. The remaining 25 minutes would be on this amendment, correct?

The CHAIRMAN. Or any amendments thereto.

Mr. BROWN of Ohio. On this amendment?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Tennessee (Mr. Gore).

Mr. GORE. Mr. Chairman, I rise in strong opposition to this amendment. I represent the district in Tennessee where the Nissan truck facility is being constructed and I fail to see why we should adopt an amendment to exempt Honda from the provisions of this bill and leave all of the other foreign manufacturers covered.

Now, if this is good legislation and the quotas that it mandates are reasonable and attainable, then we do not need this amendment to exempt the Honda plant in Marysville, Ohio, and we would not need an amendment to exempt the Nissan plant in Tennessee.

On the other hand, it seems to me this amendment makes clear that there exist very real problems with the legislation as a whole. I understand the motivations for the legislation, just as I understand the motivations for the amendment. But it is not a solution to the imbalance of the trade with Japan. Nor is it a solution to the basic problems facing the U.S. automobile industry.

So I would urge my colleagues to oppose this amendment and to oppose the bill.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to explain to the gentleman as I tried to explain to the gentleman from Minnesota, my friend (Mr. Frenzel) who does not want this bill under any circumstances and therefore does not want it improved, that the passage of this bill into law is not going to occur in this session because the Senate will not address it and the President will not sign it. That is what I understand to be the case.

I think everybody within the sound of my voice understands that. But it is a very bad precedent for your friends as Nissan who are building the plant in the gentleman's area to see the House consider a bill that does not consider their circumstances, because I can tell the gentleman from Tennessee that they will not proceed with the construction of that plant if there is

no consideration for the prospect of being able to develop the market. The car made here, if it is of 100-percent domestic content, will not meet the content requirements of this legislation.

Mr. GORE. Reclaiming my time, because it is limited, I am uncomfortable proceeding on the assumption that what we do here has no meaning and will not reach any conclusive result. I believe we must always legislate as if we are passing a proposed law to be sent to the President.

I understand what the gentleman is saying, but I think that the gentleman's amendment just highlights the inequities that would result if it was adopted and if the bill was adopted.

Mr. BROWN of Ohio. And the amendment was proposed because I want to see this bill improved so that it is not a bad precedent for the future.

Mr. GORE. I would urge a "no" vote on the amendment.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 40 seconds each.

(By unanimous consent, Mr. WALKER yielded his time to Mr. Brown of Ohio.)

Mr. BROWN of Ohio. Mr. Chairman, to be taken now or later?

The CHAIRMAN. The gentleman has the right to speak at the end.

Mr. BROWN of Ohio. I prefer to aggregate.

(By unanimous consent, Messrs. Convers, Ottinger, and Dingell yielded their time to Ms. Mikulski.)

The CHAIRMAN. The Chair recognizes the gentlewoman from Maryland (Ms. Mikulski).

Ms. MIKULSKI. Mr. Chairman, I rise in opposition to this amendment because it defeats the very purpose of this bill. No. 1, it discourages foreign manufacturers from locating in the United States and penalizes those who already have located in the United States by this sweetheart deal for Honda.

The gentleman from Michigan (Mr. DINGELL) has already very clearly outlined the statistics that show how Renault would be penalized, how Volkswagen would be penalized, and how domestic manufacturers would be penalized.

As I indicate, it would penalize those other foreign manufacturers who have located in the United States. Penalty that shows that this is a particular bill designed to help Honda is an amendment which includes a waiver that would go into effect in 1988 which would grant the Secretary of Transportation a waiver ability to exempt only Honda from the domestic content bill. And then they would, if they sold 899,000 cars, only have to have a 50-percent domestic content when all American manufacturers would have

to have an 89-percent content and all foreign relocatees would have 89 percent.

Now, if that is not a special interest amendment, I do not know what is.

We want to thank Honda for building here in the United States. We want to thank Volkswagen for coming to Pennsylvania. I hope that there is a Datsun that comes to my community called Dundalk. We would like to have that. If the gentleman wants to provide incentives for foreign manufacturers to locate here, then he should design legislation to do so.

This amendment would destroy the intent of the bill, would harm American manfacturers, and at the same time penalize those good-guy foreign manufacturers who have already relocated here.

For that reason, the amendment should be defeated and we should find other alternatives to encourage that type of investment here.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Stratton).

Mr. STRATTON. Mr. Chairman, I referred earlier in my remarks to an ad that appeared in the Washington Post this morning, "Made in the U.S.A., Datsun." And here is what it says:

Building cars in America means jobs. Content is not protectionism in disguise, it is jobs legislation. It would keep jobs here with U.S. automakers and it would create new jobs by encouraging foreign based firms to produce here. A content law would simply require some of those cars to be made here with American parts which would put thousands of Americans to work. We estimate a content law would save or create more than a million jobs by the time it is fully phased in

If the House, managers of this bill are not going to allow a company that is just beginning to build foreign cars in the United States and to employ some of these 1 million workers, how is this bill going to create all these jobs?

I think the attitude of the House managers of the bill is contrary to this particular advertisement expressing the view of the UAW.

#### □ 1315

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. I thank the chair-

Mr. Chairman, I am not sure if this issue is following me or I am following it. I was in the State legislature in Columbus, Ohlo, when Honda was talking about opening a plant in our State. They had their hand out then and they have got it out again today with this amendment. They asked us to pass special tax breaks for them, tax breaks to deal with their inventories, to deal with the method and manner in which their property was going to

be valued for tax purposes. They saked for special appropriations and other considerations to facilitate their move. The Ohio taxpayers have already supported Honda's activities but now they are back again for more.

Today we find them again with their hand out with a sweetheart amendment that is only designed to further displace the competitive advantage that they may find themselves in dealing with other American auto companies which my colleague from Michigan (Mr. DINGELL) so eloquently stated.

This is truly a sweetheart amendment. I think it will place other American auto companies in a disadvantageous position.

Let us have all companies that deal in the automotive arena in this country play by the same rules, rules adopted by the American League, I might add, so that each of us who play on that baseball field know exactly what the rules are, and not, as this amendment envisions encouraging other companies to have an unfair competitive advantage and certainly not to have the same people back at the public through with their hands out once again.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania (Mr. Bailey).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I rise in strong opposition to the amendment.

I think, Mr. Chairman, it is important to make note that the issue concerning Volkswagen and its requirements under this legislation are that it is very well covered. It comes within 15 percent of the minimum requirements.

I would invite Members to read the committee testimony before the Committee on Ways and Means, pages 345 and 346 respectively. Volkswagen is really addressing a potential product mix issue there. They have a Sterling Heights plant in Michigan that will turn out power trains hopefully providing parts which would bring them well within future compliance requirements. Thus this legislation would only encourage an investment in America kind of approach. Volkswagen is covered and in fact would be ecouraged by this bill to open that plant and to sell a product mix in this country that would include more American manufactured automobiles.

For that reason, I very strongly oppose the amendment and ask that all Members do likewise.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Chairman, trying to patch up this bill is like trying to put a band-aid on a rattle-snake. There is not much way you can improve a rattlesnake and there is no way you can improve this bill.

It could stand one good amendment and that is to strike out the enacting clause, but I am not going to do that. I do not want to take up the time of the House.

If you will read the Volkswagen testimony on page 344, you will notice that the head of Volkswagen U.S.A. said, in effect, that he would not have come to this country if he had known this bill was pending. Then he went on to say:

For example, if the Deutsche mark were to strengthen against the dollar as it has in the past, we could very easily be out of compliance.

In other words, he would have to go out of business.

Then he goes on to say:

Suppose we sought to increase the demand for a particular model to a degree that would justify U.S. production. This would be done through imports until the volume reached the level where economies of scale would justify production—

And I must say in the United States. Yet, the bill would hold us to our current level of imports, thereby restricting our long-range goal of expanding U.S. production capacity.

The president of Volkswagen U.S.A. just says:

You know, we wouldn't have come had this turkey been hanging around, this rattlesnake been hanging around.

The same thing for Honda and the same thing for Datsun and the same thing for everybody else that knows what they are doing.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Gibbons) has expired

(By unanimous consent, Mr. Broy-HILL yielded his time to Mr. Gibbons.)

The CHAIRMAN. The gentleman from Florida (Mr. Gibbons) is recognized for 1 additional minute.

Mr. GIBBONS. I have a detailed answer for the ad that the gentleman from New York (Mr. Stratton) and the gentleman from Michigan just read. It is preposterous. I am sorry they put Doug Fraser's name on it because it really slanders a very fine gentleman.

Every piece of that ad is fallacious. I have detailed annotations that I will put into the RECORD later if I ever get any time and go through it point by point on every point that is made on that ad and refute it.

The argument is specious and it does not deserve a fine label on it like Doug Fraser's name at the bottom. I do not know whether it was signed there or printed there, but it tends to rely upon that gentleman's great credibility, as I say, the smartest man in American autos.

It is a fallacious ad and a fallacious argument. If we can just get over this limitation of time on debate syndrome that seems to have taken over here and then have all the Members jump up at one time and take up the time, I will put it in the RECORD.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I was reading from the same testimony and noted that the Volkswagen representative indicated that a currency fluctuation only half as large as that which has occurred in the last 2 years would knock them out of compliance. They are marginally in compliance now. So much the help we are giving Volkswagen. They do not want it and neither should you.

Volkswagen says that under this law it would not build new plants and will not be in a hurry to reemploy workers who are laid off now. That is about as damning an indictment of this bill as you can get from any individual company.

This amendment proves that this bill costs American jobs. Worse, it proves that the sponsors are some kind of cannibals because they are willing to knock out jobs in their own union, the United Autoworkers.

It is the most clear example that has been presented to this House yet of how this bill is going to hurt America.

I urge that the amendment be defeated and that the bill be defeated also.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. Brown) for 2 minutes.

Mr. BROWN of Ohio. I thank the

Mr. Chairman, I would like to quote also from the testimony of the hearings before the Subcommittee on Trade of the Committee on Ways and Means were in response to the question of the gentleman from Pennsylvania (Mr. Balley), Mr. Hutchinson had this to say:

It would have a very favorable impact were the plant to be opened. Unfortunately, we are in the position now that our plant in Pennsylvania is running at only between 40

and 60 percent of capacity.

Our management has in effect put the Sterling Heights facility in mothballs, because obviously if we cannot run one plant at capacity, we certainly cannot look to another. We do not see the demand for our product in the next year or so such that would justify pressing on with the Sterling Heights facility.

Now, that is the problem that we have. In spite of the legislation that is proposed here, the very companies that would like to locate in this country for their production are not very optimistic if this legislation is passed without some modification.

Nissan has made a similar investment to that of Honda in their light truck factory in Tennessee; but in their testimony Nissan seriously doubted whether it would have made the investment if local content laws has been on the books. That would have meant a loss or will mean a loss of 2,600 jobs in Tennessee.

Now, that is the reason we ought to at least make an effort to amend this

bill. It may become law, but probably will not become law in this session: but this will be a precedent certainly for what we will do in the future if this issue is addressed in the next Congress. We certainly ought to try to address the problem that the content requirements now in the bill present to somebody who is already here; namely Honda.

Now, the ad that was quoted by the gentleman from New York says:

We are already building VW's in Pennsylvania and Renaults in Wisconsin. And American workers soon will be building Hondas in Ohio and Nissans in Nashville.

They will never be building those Datsuns in Detroit or Dundee, or wherever that is, Barbara, if this legislation does not recognize that there is going to have to be some adjustment for companies that first build a plant for one car, and one model, rather than a plant for their full model line. They build a plant for one model and if they cannot make that go, they will never build that second plant for the other model lines, and that is what we are trying to address in this amendment.

I urge my colleagues, not simply because they are opposed to the whole piece of legislation or not simply because they do not see the merit for their own operation, not to vote against this amendment for that purpose.

Let us at least try to correct the legislation and then to vote as you will on the legislation.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) to conclude debate.

Mr. OTTINGER. Mr. Chairman, I yield to the gentleman from Pennsylvania (Mr. Bailey).

Mr. BAILEY of Pennsylvania. Mr. Chairman, I thank the gentleman from New York.

I think it is very important that the Members not be confused, that the record on Volkswagen be explained completely.

The statement that was made before the Committee on Ways and Means by Mr. Hutchinson of Volkswagen of America was, of course, under instructions given him by the management of the company in Germany.

On page 345 of the testimony, we developed a colloquy after his statement, and I think it is very important for me to read a quotation to the committee. This is my question to Phil Hutchinson:

In short, what it means is that you are under, significantly under, about 15 percent when you look at the percentage relationship between 34 and 40 under the minimum requirement in the bill today. You don't dispute those figures, do you?

Mr. HUTCHIMSON. No. sir. The way that we figure our content, we have to average the content that we have in our U.S.-produced Rabbits that are built in your district. We

have about between 70 and 75 percent content in those vehicles, and we average that content with the cars that we import.

To go on to page 346 in the testimony, and I raised questions concerning that Sterling Heights, Mich., plant. The gentleman from Ohio (Mr. Pease) had joined in. I said, asking questions about the Sterling Heights plant, in response to Phil Hutchinson, I said:

You won't have to, if the gentleman will let me finish. I would be very happy to com-

plete it for you.

On that plant you and I had some private meetings when we discussed, if you remember, some of the issues surrounding the location of the plant.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that the gentleman may have 1 additional minute.

The CHAIRMAN. The unanimous consent request was to 1:30 and there

are 2 minutes remaining.

Mr. BROWN of Ohio. Mr. Chairman, the 2 minutes are not spoken for. is that correct?

The CHAIRMAN. That is correct. Mr. BROWN of Ohio. Then, Mr.

Chairman, it seems to me appropriate for the Chair to split the 2 minutes between the proponents and the opponents.

The CHAIRMAN. The time will be divided between the gentleman from Ohio and the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I yield the remaining time I have to the gentleman from Pennsylvania (Mr. BAILEY).

Mr. BAILEY of Pennsylvania. I went on to say:

Would you add to your response concerning that plant and when it comes into operation, any figures that you might have or any work that you might have on the domestic content impact that it would have on your fleet average?

Mr. Hutchinson. It would have a very favorable impact were the plant to be opened.

I will go back to the testimony offered by the gentleman from Florida. It is proof positive. This legislation would encourage Volkswagen to open that Sterling Heights plant, increasing the employment of U.S. workers. It would be very positive in that regard and I think it stands as excellent testimony to the need for this bill and the reason to defeat this amendment.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman from Pennsylvania.

I would say that the amendment, while well intentioned, would give a special advantage to the Honda Co. It would be discriminatory against U.S. companies and other companies, including foreign companies, that have already invested here.

I urge defeat of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Well, Mr. Chairman, I hate to take the time to read again what I read before, but I want to keep the gentleman from Pennsylvania (Mr. BAILEY) at least on the record correctly.

The line that followed what he just said was that, "Our management has in effect put the Sterling Heights fa-

cility in mothballs."

Now, that is the point of the whole issue, I think, whether or not we are going to have a piece of legislation that has unrealistic quotas set or whether or not we are going to try to address a problem that needs to be addressed.

It seems to me that there ought to be some message sent to some of our foreign competitors that they ought to compete fairly with us in this country and allow us to compete fairly with them abroad.

I frankly think that it might benefit Mr. Brock in some of his trade negotiations to see this Congress look seriously at domestic content legislation.

On the other hand, I subscribe along with that sentiment to Mr. Fraser's suggestion before the Joint Economic Committee that we ought to encourage foreign manufacturers to put their plants in this country to provide jobs.

What we have in this bill will absolutely discourage existing jobs in this

country.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. Brown).

The amendment was rejected.

### □ 1330

AMENDMENT OFFERED BY MR. DANNEMEYER Mr. DANNEMEYER. Mr. Chairman, offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 3, strike out lines 3 through 8 and insert in lieu thereof the following: SECTION 1. SHORT TITLE

This Act may be cited as the "Smoot-Hawley Trade Barriers Act of 1982." SEC. 2. PURPOSE

The purpose of this Act is to reduce competition in the automobile industry, protect jobs in one industry to the detriment of jobs in other industries, and to increase the price of automobiles to consumers.

Mr. DANNEMEYER. Mr. Chairman, philosophers of all stripes throughout the history of our civilization have argued the question: What is the basic nature of man? Is it good or is it evil?

We are not here to argue that very profound question; but we are here today to argue the question of whether or not protectionism is good for a nation and the industries of this Nation, and is protectionism good for the commerce of the world?

This question also confounded one of the great English philosophers,

John Stuart Mill, who at one time in his life vacillated on the answer to this very profound question because in 1866 he indicated a modest amount of support for the concept of protectionism for the industries of a particular country. But then he changed his mind, and some 5 years later came out with this very profound statement:

I hold every form of what is called protection to be an employment of the powers of government to tax the many in the intention of promoting the pecuniary gains of a

I think his latter position was the correct one.

This question also has plagued people in positions of leadership in this country.

Back in 1930, the President of the United States, a man named Herbert Hoover, was asked by a Congress to sign a bill that has become infamous in American history called the Smoot-Hawley Tariff Act. Congress passed that bill in 1930 in order to give life to the desire of American agriculture to be protected from imports of foreign agricultural products.

President Hoover, in his wisdom, decided to sign this bill, and this is what he said in 1930:

There are certain industries which cannot now successfully compete with foreign products because of lower foreign wages and a lower cost of living abroad, and we pledge the next Republican Congress to an examination and, where necessary, a revision of these schedules to the end that the American labor in these industries may again command the home market, maintain its standard of living and may count upon steady employment in its accustomed field.

Well, what do you know? After the act was adopted in 1930, this is what happened to international trade in the world: Under the impact of higher tariffs and growing nontariff restrictions, world trade declined precipitously. Between 1929 and 1939, the value of world trade dropped from \$66.6 billion to \$26.3 billion, while total U.S. trade plunged from \$9.5 billion to only \$2.9 billion.

After the Smoot-Hawley Tariff Act was adopted in 1930, there was an outburst of tariff activity in other countries in the way of reprisal; extensive increases in duties were made almost immediately by Canada, Cuba, Mexico, France, Italy, and Spain.

During 1930, general tariff increases were announced by India, Peru, Argentina, Brazil, China, and Lithuania.

If we in this House want to assure that there will be a downturn in international trade in this world, we can adopt this legislation, and if that is our purpose and intent, then I think this amendment that has been offered by the gentleman from California is most apt because in 1982 we will have adopted a modern-era Smoot-Hawley Tariff Act, 52 years after the original. Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman

for yielding.

Mr. Chairman, I would like the gentleman to engage in a little more discussion with me about the implications raised by his aptly renaming this bill the Smoot-Hawley Tariff Act of 1982, so I would hope that we could get a little bit more time. I do not want to trespass on the desire of both sides of the aisle to move expeditiously, but I have been waiting a long time to get a chance, and I know the gentleman from California has.

The CHAIRMAN. The time of the gentleman from California (Mr. Dan-

NEMEYER) has expired.

(On request of Mr. Kemp and by unanimous consent, Mr. Dannemeyer was allowed to proceed for 4 additional minutes.)

Mr. KEMP. Mr. Chairman, will the gentleman yield further to me?

Mr. DANNEMEYER. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman

for yielding further to me.

Mr. Chairman, there is no little irony in the fact that it was the Republican Party in 1928, led by its candidate Herbert Hoover, who built into its platform what became the Smoot-Hawley Tariff Act of 1930, which was a one-third, as I understand it, increase in tariffs, as the gentleman pointed out.

Interestingly, in that Congress after Hoover's election, and it was a Republican Congress, the debate over Smoot-Hawley was not unlike the debate over what we are going through today: There were amendments all over the lot; and the Smoot-Hawley bill was not going anywhere until the Northeastern Members of the Congress joined in and decided to do for the Northeastern manufacturing what the Republican Midwestern Members were trying

to do for agriculture.

If you go back and look at the stock market crash of 1929, there is an inextricable link, I believe, between the debate on the amendments as they came to the floor and were passed in 1929 and 1930, and the crash of the stock and equity values, forecasting the drop in world trade and the contraction of the economy, which followed. My friend, the gentleman from California, is doing the House a great service, indeed he is doing the people of the country a great service, by bringing this to their attention. I want to remind my colleague that the bill was signed in 1930 but its most important provisions were passed in October of 1929. Indeed, they passed at the very same time that the market crashed.

There are people, and I am one of them, who believe that the drop in equity value preceding the drop in trade was a response to the tremendous increase in tariffs not only on agriculture, but on manufacturing. Is it any coincidence that the stock market has dropped 30 points only yesterday and today?

I would say parenthetically that when the Congress passed the Smoot-Hawley Tariff Act, almost every reputable economist, every finance minister in the world, begged President Hoover not to sign the bill, and when he said he might not sign it, the stock market recovered about 80 percent of its value from October of 1929 and that crash, on into June of 1930, and then Hoover signed it and the stock market crash of June 1930 was almost as great as the stock market crash of 1929.

Within weeks, I would say to my friend, the gentleman from California, every single nation in Europe raised its tariffs to match the tariffs of the United States, and the world contraction resulted. We went into a terrible deficit, taxes were raised by President Hoover and the Congress, monetary policy tightened in response to the money panic, and we went into the terrible depression.

Why do I bring it up? To demonstrate by history that this is not a jobs bill; this is going to destroy jobs.

It is not easy for me to speak on this issue. But I think it is important that we establish some legislative history here because it is going to come back in the next Congress.

I represent an auto town, a steel town, Buffalo, N.Y. We have high unemployment. My heart goes out to the people who have had their lives and their families and their economic fortunes dislocated by the terrible economic consequences of high interest rates, high unemployment, and an economic downturn.

There is a depression in autos, as there is in steel and housing. But what caused it? Not international trade.

The CHAIRMAN. The time of the gentleman from California (Mr. Dannemeyer) has again expired.

(On request of Mr. Kemp and by unanimous consent, Mr. Dannemeyer was allowed to proceed for 2 additional minutes.)

Mr. KEMP. There is an absolute depression in those industries. But for this very reason, the answer is not to get into a zero sum war in trade against our partners which would spread the depression. I say "partners" advisedly, because some of them are not partners. We want fair trade, to be sure, and we should be working to that end. But the only cure for the auto industry and the steel industry and agriculture and small business is to increase the demand for autos, steel, grain, with expansion.

But by passing this bill, by not learning the lessons of history, by not lis-

tening to the gentleman from California, we put the country, the world, in grave danger. In the Republican Party, though some of its members are going to vote for this bill, most of us, I think, are wisely opposed to it because we learned our lessons from 1930. It is now many of the liberal Members of the Congress, and I do not say that pejoratively, but it is the liberal Members of the Congress who are in danger of abandoning their heritage and becoming protectionists.

If John F. Kennedy were here today, he would be opposed to the bill. It was Hoover who was in favor of it. The first and greatest round of tariff reductions came in the Kennedy administration. Kennedy created GATT, and we owe him our thanks. Trade expanded, we had foreign money at stable exchange rates, and that did more for automobiles, that did more for housing, and that did more for basic industry in the country than all of the

quick fixes in the world.

I think it would be a terrible mistake if the Congress took this action. I say it reluctantly because I know and I identify with all the people who are suffering, but I say it firmly, because we must reduce pain, not increase it. I just want to compliment the gentleman from California and compliment the gentleman from Florida who has, I think, given us a lesson by bringing up Smoot-Hawley, about what happens to the world when you start to wage the commerical equivalent of war. It's always the innocent who get hurt. It leads to the loss of jobs; it does not lead to the protection of jobs.

I compliment the gentleman from California for having the courage of his convictions.

The CHAIRMAN. The time of the gentleman from California (Mr. Dannemeyer) has again expired.

(On request of Mr. Gibbons and by uanimous consent, Mr. Dannemeyer was allowed to proceed for 2 additional minutes.)

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York and the gentleman from California have pointed out very graphically what happened to this country the last time we made this serious mistake.

I would like to add a sequel to it because I was fortunate enough to live during that time.

Not only did our economy collapse, not only did all the countries around the world retaliate against us and their economies collapsed, all world trade collapsed. It was down to about one-tenth of what it had been within 2 years. Attempts to revive it failed be-

cause of economic nationalism in all of our countries.

We tried to get together shortly after that in the economic conference. That failed because we were all looking at our problems and not realizing that our problems were worldwide and not just limited to that.

At the same time, Germany collapsed economically; Japan went through a terrible time economically. Those countries turned very radical. They started practicing radical nationalism. We all know what happened from that; The rise of the Fascists in Europe and the rise of militarists in Japan.

Twenty million Russians died as a result of that. I cannot tell you how many Americans died as a result of it. In my college class, the decimation was about 30 percent dead, all as a result of a well-intended act that threw this country into a tailspin and threw the world into a tailspin. This is the same kind of thing.

I do not want to cut off debate, because I do not think there is a more important piece of legislation that this Congress has considered that affects our economy and affects world peace more than this particular piece of legislation.

This is a terrible indictment of the American system. It is aggression against the American consumer by us unilaterally telling them for a nonharmful product that he cannot spend his money on it. Never have we ever done that to Americans before. At least the Smoot-Hawley just put up economic barriers that you could jump over, you could get the price right; but this is a "You cannot have it, you stupid American taxpayers who earn less money than Members of Congress and have already paid your taxes, you cannot spend your money the way you want to.

#### □ 1345

How tyrannical can we be and how great are the consequences of this?

The CHAIRMAN. Does the gentleman from New York persist in his point of order?

Mr. OTTINGER. Mr. Chairman, I withdraw my point of order.
The CHAIRMAN. The Chair recog-

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Ottinger) for 5 minutes.

Mr. OTTINGER. Mr. Chairman, I rise in opposition to the amendment. I do not think this is a serious amendment. I understand it is a symbolic amendment, but the symbolism is wrong and it would be very detrimental to this body.

It is wrong because there is no tariff in this act. We do not prevent foreign manufacturers from selling here. All we do is say, "If you sell here, you have got to make a certain amount of the manufactures and parts here."

Second, it is unfortunate because if they were adopted, then the act would be interpreted as being a protectionist piece of legislation, which it is not.

The third point I would make is that war has already been declared, and indeed is being waged against the United States by Japan and European countries not only in automobiles, but in many other products. I do not know how we are going to roll that back, really going to get to the free trade which the opponents desire, unless it is made clear that Congress is going to stand up against the kind of barriers that have been placed against U.S. products. This is a step in the right direction, and I think will help us alleviate barriers to world trade rather than increase them.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I think my good friend, my colleague from California, offers an amendment, and I am sure he seeks to make a point, but it is very plain to me that the gentleman from California not only offers the amendment for a symbolic purpose, but that he in fact does not want the amendment to pass.

Now, why? First of all, he defines this as a Smoot-Hawley Barriers Act of 1982. Second, he sets forth a statement of purpose. Those two devices in the bill, if the amendment offered by the gentleman from California is adopted-and I am sure he offers it in the best good faith-will be used in interpreting how this bill will be administered by the agencies downtown. If the gentleman really wants to impose trade barriers and to have this interpreted as a bill which is going to cause a decline in trade, a decline in jobs, a decline in international business activity, adoption of this amendment is a splendid way to do it.

I listened also to some comments made about the number of countries that had immediately imposed barriers on U.S. trade when we passed Smoot-Hawley, and if you will read that same list, you will find that each and every one of those nations has preferential legislation with respect to automobile imports. We are worried about a trade war? We have a trade war. The trade war is waged against America, against American exports, against American goods, industry, and jobs inside our own boundaries.

Do not kid yourselves that this is going to hurt our trade. Believe that the legislation now before us will give our people an opportunity to negotiate away from these outrageous trade barriers, and do not, for the love of God, vote for some kind of amendment like this which is mischievous in purpose and whose consequences in terms of the administration of the legislation are incalculable.

I urge that this amendment be defeated.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr OTTINGER. I yield to the gentleman from Missouri.

Mr. SKELTON. I would like to say a word, Mr. Chairman, as a member of the Small Business Committee.

Mr. Chairman, we have heard today of the disastrous effect of foreign competition and, in some cases, unfair trade practices on our domestic automobile markets. It has been pointed out that these activities undermine some of our largest industries, such as the auto industry, the steel industry, and the glass industry, causing unemployment and causing damage to our economy and balance of trade.

What is mentioned less often, Mr. Chairman, is the impact that the destruction of our markets is having on small businesses. Over 10,000 small business contractors depend directly on the auto industry and related industries for their livelihood. Thousands more small businesses suffer because they are located in areas where the auto industry is a primary employer. These businesses, such as mom and pop grocerys, restaurants, clothing shops, are the first to feel the squeeze when unemployment increases in their area. The tragedy is that our small businesses close their doors faster than large businesses do as a result of these attacks. They do not have the credit resources and the financial depth to recover from even a short period of economic distress. The fallout from the invasion of our auto markets has contributed to the record number of small business bankruptcies that are occurring in the United States—the highest since the Great Depression. Unemployment is therefore increased; less cars and other consumer goods are purchased and the economic spiral gets worse and worse.

Mr. Chairman, I would not have come to the well today if I thought the downturn was the result of our inability to compete. I am still convinced that in fair and open trade, the United States auto industry or any other industry can hold their own in world competition. In this case, however, I think that ample evidence has been produced to show that our foreign competitors are jealously protecting their own markets while launching an all-out attack on ours. In the Small Business Committee, we have seen that they have even carried the fight to aftermarkets where foreign manufacturers bring pressure to bear on U.S. dealers to use foreign manufactured spare parts over those produced by small American manufacturers.

I must therefore, support H.R. 5133 as the best method available to protect our businesses, especially our small businesses from extinction. If fair trade with our trading partners has been made impossible as a result of

their actions and their decisions, then the only alternative left for us is to defend ourselves by these extraordinary means.

Mr. SCHUMER. Mr. Chairman, will

the gentleman yield?

Mr. OTTINGER. I yield to the gen-

tleman from New York.

Mr. SCHUMER. Mr. Chairman, I would like to ask the gentleman from New York and the gentleman from Michigan a question that has plagued me about this bill all along. Both the gentleman from New York and the gentleman from Michigan, both friends of mine who are much more knowledgeable about these things than I am, say that other countries have trade barriers, whether they be import restrictions or domestic content legislation.

I ask the gentlemen, if this legislation were to become law and those other countries were to drop all their trade barriers, would this legislation then be canceled? My point is that this legislation, as somebody has mentioned, fires a shot across the bow of Japan or any other country. What we need, therefore, is some kind of lever or some kind of criteria to say that if the Japanese reduce their trade barriers, we will reduce ours, or we will not impose the penalties outlined in this bill.

The CHAIRMAN. The time of the gentleman from New York has ex-

(At the request of Mr. SCHUMER and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. My father used to have a saying to that kind of question. If my aunt wore pants, she would be my uncle. The answer is, yes, of course, if all the countries in the world dropped all their barriers against our products, we would not need this legislation. But, that is not the direction in which things are going. In point of fact, additional barriers are being placed by Europe, and we stand there, my good friend from Florida and the other opponents of this bill, and say that we should do nothing, we should just continue to espouse in the world body that we should have free trade. I think we will not get free trade that way. We will get increased discrimination, discrimination against the United **States** 

Mr. SCHUMER. If I might just respond to the gentleman from New York, I think there is a middle ground. There is a ground that can make this legislation do what so many people are intending it to do, and that is require other countries, particularly Japan, to reduce their trade barriers. As this bill stands now, it does not encourage free trade. It simply says that we must have domestic content even if other countries eliminate their trade barriers.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield.

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman for yielding. I thought the gentleman from Michigan made a very interesting point in indicating that this in many ways was a response to trade barriers that already exist. Let me ask the gentleman from New York, does this bill involve an exemption for countries that do not impose these kinds of barriers on our products?

Mr. OTTINGER. Well, it only applies to automobile companies in interstate commerce that sell more than 100,000 automobiles in the United States, and do not have the required domestic content.

Mr. BROWN of Colorado. Would not the gentleman agree that it is fair to say that this bill is not designed to respond to barriers in other countries, because all it does is, it applies to the products of other countries whether they have that kind of barriers or not? Is that a fair summary of the bill?

Mr. OTTINGER. What we are doing is saying that we are going to protect our markets in the same manner that every other country protects its markets.

Mr. FRENZEL Mr. Chairman, I move to strike the requisite number of words, and I want to speak in favor of the amendment.

Mr. Chairman, we have had some interesting debate on this particular amendment. I think this amendment, like its predecessors, has shed some more light on this particular bill.

I would comment first of all on the suggestion of the gentleman from Michigan that the gentleman from California really does not want his amendment to pass. I have discussed it with the gentleman from California, and I am going to do everything I can to see that we all have a chance to express ourselves, and I will wager that the gentleman from California will vote for his own amendment.

Someone also said that there was a foreign prejudice against U.S. car exports, but this bill does not deal with that at all. That point was made very ably by the gentleman from New York (Mr. SCHUMER) and the gentleman from Colorado (Mr. BROWN).

The fact is, this bill is not aimed at trying to get barriers abroad reduced. That is not the purpose of the bill. The whole background against which we are debating this bill, is that other countries are unfair. But this debate has shown there is nothing in this bill to cause anybody to reduce any barriers.

The purpose of this bill is to confine this country's market to itself; to make sure that no foreign parts can go into American cars. That will create our own export prejudice. That is,

American cars will be so high priced that they cannot sell abroad.

Had the Members been in our committee and listened to the testimony, they would have heard what the domestic producers told us. They would be knocked out of the world car market. That is exactly what Secretary Baldrige told us. Auto companies would not be able to compete.

Those barriers abroad are going to be self-erected by this bill. At the same time, the bill is going to cause the yen to go down. That will make it more difficult for American products to sell abroad.

We are shooting ourselves in both feet, and in other places, in this bill, and the trouble is, the people who are sponsoring this bill are doing it knowingly

Finally, I want to repond to one other statement made by the previous speaker. He said that he was for this bill in the name of small business. I would like to advise him that the largest small business organization in the United States, which many of us accept as a spokesman for small business, is very strongly against the bill.

I think what the Dannemeyer amendment does is point out, just like the three amendments that preceded it have done, what is wrong with this bill. It shows how it does not get at the problem, how it costs extra jobs, and raises prices on the American people unnecessarily.

In this case, the amendment does not change the bill at all. It simply describes it in honest, straightforward terms. So, if you believe in truth in advertising, if you do not believe in misleading and deceptive terms, I think you will want to vote for the amendment of the gentleman from California

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Florida (Mr. Gibbons).

Mr. GIBBONS. Mr. Chairman, I thank the gentleman for yielding.

You know, I have heard this argument so many times about the 31 countries that have local content restrictions against automobiles, and the source of that is a Ways and Means Committee staff study in 1980. I have it right here in my hand if anybody wants to examine it. They never quote the whole study, so let me read the names of these illustrious countries, great countries that have these automobile restrictions. They are all listed here. Members may be surprised when they read them.

Argentina; how many of you have ever driven an Argentine car? Australia; Australia has domestic content, and it has a mess for an automobile industry, very high prices, and even the Australians will not buy their own cars. Bolivia; ever driven a Bolivian car? Or a Chilean car, a Columbian car, a Greek car, an Indonesian car, a Malaysian car, a Moroccan car, a Nigerian car, or a Pakistani car, a Peruvian car, a Philippine car, or a Portuguese car? Have you ever seen any of them on any market, anywhere? Have you ever driven a Thai, a Turkish, Uruguayan, Venezuelan, Yugoslav car? I have read, and this list contains a list of all of the countries, yes or no, about their restrictions.

The CHAIRMAN. The time of the gentleman from Minnesota has ex-

(By unanimous consent, Mr. Frenzel was allowed to proceed for 1 additional minute)

Mr. GIBBONS. There is one thing it does not include. The United States has the highest truck tariff in the world. The United States has a quantitative restraint, which the Japanese agreed to, on cars coming into this country. You know, the only country this staff study shows that does not have any restraints—can you guess what it is? Can you guess what it is? Japan. You never heard of that in the UAW ad. You never heard the gentleman from Michigan, who quotes this as his source material, say that.

I am not here to defend Japan. This study is wrong. Japan does have restrictions against American cars, but the real problem is, no American manufacturer wants to really sell a car in Japan. Our cars even have the steering wheel on the wrong side. No Japanese is going to have to struggle across the seat to throw a yen in the toll box. That is the problem. You go and talk to these manufacturers.

#### □ 1400

The CHAIRMAN. The time of the gentleman from Florida (Mr. Gibbons) has expired.

(On request of Mr. Frenzel, and by unanimous consent, Mr. Gibbons was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. Mr. Chairman, I am going to leave the room as soon as I say this, but it is because I am going to have to go someplace else, but I will be right back.

Mr. FRENZEL. The gentleman can testify on CBI.

Mr. GIBBONS. Mr. Chairman, I did not put up with just the prefunctory lobbyists who come in and want to testify on these bills; I asked the automobile manufacturers to send in their chief executive officers. Ford sent theirs in under protest, and General Motors sent theirs in under protest. The gentleman from Chrysler said, "I have got so many problems with the UAW I can't go anywhere."

I did not insist that he come in. But all the other chairmen of the U.S. manufacturers came in, including the U.S. subsidiaries of the foreign manufacturers, every one of them. They said, "We've got a real problem in the automobile business."

But this thing does not solve any problems; this just creates more problems for us. All of them are going to become more inefficient, and eventually this will drag the industry down. That is what this bill does.

If my good friends on the Commerce Committee had conducted full hearings—and they are capable of having full hearings—and had anything but a couple of witnesses there, they would have learned all of this.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have just heard a vital portion of this debate. The Members of this House know why Japan does not today place restrictions, at least overt restrictions on automobile imports. This bill is little more than an honest, typically American way of responding to unfair treatment. We know why Japan does not have open import limitations now.

As the chairman of the subcommittee, knows, because we had extensive testimony on it before the Trade Subcommittee, the Japanese for years in an outright way absolutely restricted the sale of any foreign automobiles in their country. You could not sell a foreign automobile in Japan, and you could not sell that automobile until their industry had completely dominated their domestic market. You simply could not bring a car into that country and sell it.

Do the Members want to know when that restriction came off? That restriction came off when very, very careful regulations were put in place, regulations concerning everything from investments to loans. You could not get any kind of equity in Japan to build a factory there to sell cars.

Do the Members want to know the most widely sold foreign automobile in Japan? It is a Volkswagen. They sell about 40,000 units. They have got to go through high water and floods—I would not say bribery and pressure or harassment or anything like that—in order to meet the requirements that Japan places upon them.

It is absurd and misleading to talk about that great Japanese automobile industry as if its history of restrictions against foreign manufacturers and importers did not exist. That is just not fair. In everything from steel products to cars, you did not have the ability in the past to go into that country and sell.

What the gentleman from New York and the gentleman from Michigan said is correct. This bill is nothing more than a political culmination long, long in the formation, in response to a long, long string of abuses. It is a bill that we should pass and do the Japanese

leaders a favor so that they can go to their constituents and say, "we have got to respond to our responsibilities as a modern trading nation and open markets and open our capital markets. We have got to go out there in our foreign markets and not use the government to finance exports," which is what they do, particularly long-term capital intensive projects. They have to make these changes so that there is some kind of investor confidence somewhere else in the world in capital goods, as opposed to having to face the requirements imposed upon world markets by Japan, Incorporated.

Mr. Chairman, the gentleman from New York is 100 percent correct, and I want to associate myself with his earlier remarks.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's yielding.

Let me observe that I do not think the floor of the House is an appropriate place to rewrite history, and even George Orwell in his most imaginative effort could not bring himself in any novel to say that the rise of nazism in World War II was caused by an act of Congress in the 1920's. I would hope that none of the Members would fall into such a trap as to believe that. It does great disservice to history.

Let me say to my good friends on the conservative side that I suspected they were probably about 12 to 15 years behind, but I did not know that they were in the 1920's. The economic circumstances that confront the United States and modern industrial nations of this world in the 1980's are substantially different from those in the 1920's and the 1930's. I would hope we could agree on that point.

Let me also say that our major Asiatic trading partner—and indeed we are partners, and we are friends; let me underline that—is Japan, but we must remember also that the standards by which we are judging them are based upon our own norms. They have different norms and economic models. Their economy, their philosophy, and their ethics are totally different from ours. They are totally different. If we measure a response to what they are doing on the basis of what we are doing, we are not looking at the real world; it is apples and oranges we are comparing. Not apples and apples.

They act in concert with a united effort in which their Government, their industries, their banks, and their labor unions make collective decisions based upon long and careful negotiations and conversations had around the tea table. They have a concensus economy popularly called Japan, Incorporated.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BAILEY) has expired.

(On request of Mr. TRAXLER, and by unanimous consent, Mr. Bailey of Pennsylvania was allowed to proceed for 2 additional minutes.)

Mr. TRAXLER. Mr. Chairman, will the gentleman yield further?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Chairman, I appreciate the gentleman's yielding further.

Mr. Chairman, it is critical that we appreciate the fact that what we are talking about here is not some American companies competing with some other companies in another country. That is absurd. Anybody who believes that is an Alice in Wonderland.

In 1976 a decision was arrived at in Japan, this country that is our good friend, in which the Government, unions, banks, and all the auto companies agreed to expand their automobile production by 55 percent, with the consent of the banks and the authority of the Government, certain agreements having been reached that nobody would suffer economically as a result of that.

And the marketplace for that 100 percent increase in production, where was it going to be? In Japan? Of course not. In Europe? Of course not. It was going to be in the United States.

There is no way we are going to have some kind of fair trade among automotive products between the United States and Japan. They will not permit it, anymore than they will permit American beef to be sold in any quantity in Japan or tobacco to be sold, or our fruit or vegetables.

Did the Members read yesterday's article in the Wall Street Journal concerning the interview with the Prime Minister of Japan? It was incredible. We are going to talk to them from now to doomsday, and do we know what we are going to get? A lot of tea.

These are national decisions. The Japanese have to import raw materials and export a finished product to survive and to live. I understand that, and I think what we need is some fair trade understandings between us and our friends, not the system that currently exists and that suggests that we are dealing on the basis of equals with equal kinds of competing economic systems. I think that is the most naive concept that any Member of this Congress could make.

Mr. Chairman, I extend my deep appreciation to the gentleman from Pennsylvania (Mr. BAILEY) for yielding to me. I urge a yes vote on the bill.

Mr. STANTON of Ohio. Mr. Chairman, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Ohio.

Mr. STANTON of Ohio. Mr. Chairman, I appreciate the gentleman's yielding, and I was so interested that I almost forgot what I was going to ask

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. BAILEY) has expired.

Mr. STANTON of Ohio. Mr. Chairman, I will take my own time.

The CHAIRMAN. The gentleman will be recognized.

Mr. STANTON of Ohio. Mr. Chairman, I move to strike the necessary number of words.

Mr. OTTINGER. Mr. Chairman, will

the gentleman yield?

Mr. STANTON of Ohio. Mr. Chairman, I know that the gentleman is going to ask for limited debate, and I am not going to allow that, so I hope that he does not ask me to yield right now for a couple of minutes.

Mr. OTTINGER. Mr. Chairman, the gentleman will get his 5 minutes.

Mr. STANTON of Ohio. I know, but I want more than that. I will ask the gentleman to just sit down for a few minutes and relax.

Mr. Chairman, I will tell the gentleman why I am going to do that, because I was not here at the start of this debate. But the gentleman from Florida (Mr. GIBBONS) explained this, as he often has the opportunity to do. and when he was joined by the gentleman from Minnesota (Mr. FRENZEL), they started to make an argument and a point, and I think it behooves all of us, even if we disagree with them, to listen to their arguments because I think the two of them have put together a case against this bill that I believe one has to consider.

It is very hard for a Member like me, coming from northeastern Ohio, in the heart of the United Auto Workers area, to see their point of view politically, but I have always been consistent and have always felt that protectionist legislation of the type we are dealing with today is totally against the best interests of the citizens of the United States.

Several questions have not been asked. First, I listened to the gentleman explain why it was hard to sell American automobiles in Japan, and I basically think he is probably about three-quarters right. The problem we are addressing today is this: And I have not heard that addressed, why are Americans buying Japanese cars?

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. STANTON of Ohio. I will yield in a minute.

Mr. BAILEY of Pennsylvania. I would be happy to tell the gentleman. Mr. STANTON of Ohio. I happen to think it is because they think it is a better product. What does the gentle-

man think? What is his answer? Mr. BAILEY of Pennsylvania. I think if we sat down and compared

products, we would recognize that for number of years, particularly through model changes and response to OPEC impacts on buyer preference, with the fit and finish on Japanese automobiles, in conjunction with a very devalued yen, it made that a good consumer buy, and I think the gentleman makes an excellent point.

Mr. STANTON of Ohio. Mr. Chairman, I will not yield any further.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I wish the gentleman would be fair and let me complete my answer to his question.

The CHAIRMAN. The gentleman from Ohio (Mr. STANTON) retains his time.

Mr. STANTON of Ohio. Mr. Chairman, I thank the gentleman for his answer. I was also listening to him over there before, and I know the subcommittee chairman is anxious to move this bill along.

The answer is that either pricewise or for other reasons, they buy it because they think it is a better buy. There is nothing in the world that I particularly dislike more than a foreign-made automobile. My family for 77 years has been connected with the automobile business. My father quit high school to go to work for Henry Ford. He thought that next to the Pope, Henry Ford was the best man the world ever knew, and I think for some reasons, because he gave jobs to Americans, that he was right.

In the area where I live in this city, in the alcove where I live, there are 10 houses and there are 14 automobiles there in our little alcove in Georgetown. Twelve of the fourteen are foreign-made automobiles; the two that are not foreign made are mine.

I have taken the time to go around to these people and ask them, and they say, "if I could get an American car like this," and so forth. But I do not find this back in Ohio. We very rarely see a foreign-made car there. Maybe for the elite or something, it is there.

But the answer, wherever we are, is the same, that they think it is a better made car. Second, to my point, the answer really and truly to the gentleman from Michigan, who said we were naive to think that history had something to do with the problems we face today, I happen to be very naive, because the gentleman from Florida was absolutely correct.

It was correct not only in World War II, after the buildup since the Depression days of the 1930's but a great case can be made in World War I, where this general subject of protectionism has eroded and grown by leaps and bounds, and the next thing we know, we are selling less trade abroad.

We will see that this is a very, very important problem that we are addressing, and for that reason we should listen very carefully to the arguments that were so well put by the gentleman from Florida (Mr. Gibbons) and the gentleman from Minnesota (Mr. Frenzel).

Let me just allude to one final point, if I may. That is this: That as we address this system and as we look to the future, let us look more constructively and positively to the questions involved. Let us see if, as a country or a government, there is something we can do to help the auto industry or help the basic steel industry in creating the best products that we can build and give them the free opportunity to make products that the American people want to buy. I think that is the answer.

I think we would be constructive in looking toward that particular goal. I think that there is something we can do and a goal we can reach if we constructively look at this problem. But once we head down the protectionist route, I am very sorry to say that I do not think it is a correct answer.

Mr. Chairman, I appreciate the courtesy of the chairman of the subcommittee and thank him for this extra time. I also compliment him for bringing to our attention this all-important subject and giving us a chance to equally debate this subject, because there are obviously strong views on both sides.

#### □ 1415

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I am happy to yield. Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all time on this amendment and all amendments thereto end in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. GRAMM. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SOLARZ. Mr. Chairman, during the debate on this bill last week and today a number of rather critical and, indeed, even one-sided comments have been made by Japan. So it seemed to me that, given the overriding importance of the relationship between the United States and Japan, not only for our two countries but for the peace and prosperity of the entire world, it might perhaps be beneficial to put this relationship in its proper perspective.

There can be little doubt that, in spite of the fact that the Japanese are increasing their defense spending at a faster rate than their domestic spending, in spite of the fact that they have the eighth largest army in the world, in spite of the fact that they are con-

tributing \$1 billion to the upkeep of American forces in Japan, in spite of the fact that they provide us with bases that are critically important in terms of our ability to protect our interests in the Western Pacific, that Japan can and should be spending substantially more on its own defense.

It is equally true that the Japanese market is far more restricted toward American exports to Japan than the American market is with respect to Japanese exports to the United States. And the American people clearly believe that fair trade is a condition for free trade.

I share the view of those who believe that Japan can and should be doing much more to open up its markets to the United States, not only because it is in our interests but also because it is in their interests as well.

At the same time, however, I think it is also important for us to recognize that over the course of the last several years the Japanese have been making progress toward the elimination of many of their trade barriers.

They have, for example, tariffs which are on the average as low as the tariffs in the United States and in the European Economic Community.

Between 1960 and 1980 they reduced the total number of their trade quotas from over 400 to just 27 today, 22 of which are agricultural.

In the course of the last year they have adopted a number of other trade reforms. Over 70 of them involve changes in product testing and custom procedures designed to reduce the nontariff barriers to trade that have occasioned so much criticism in the United States and abroad.

Perhaps most importantly, former Prime Minister Suzuki a few months ago pledged to use the influence of his office to encourage Japanese firms to buy foreign products. Potentially over time this may be the single most significant trade reform to which the Japanese have committed themselves.

Japanese have committed themselves.
Furthermore, I think it is important for us to recognize, amidst the orgy of criticism which we have directed against Japan for its restrictions against trade, that our hands are not exactly clean either.

The fact of the matter is we have prohibitions against the sale of Alaskan oil. We have a variety of Buy American acts in Federal and State legislation. We have, in effect, imposed restraints on Japan with respect to the export of Japanese automobiles.

We have quotas on textiles manufactured in Japan and elsewhere. There are restrictions on the export of color television sets to the United States.

Our trigger price mechanism with respect to steel was clearly also a violation of free trade principals.

I mention this litany of American violations of the principal of free trade simply to make the point that in the course of the criticisms we direct against Japan, and I share many of those concerns and I have expressed many of those criticisms myself, we ought not to be too self-righteous because we are guilty also of violating fundamental free and fair trade principals.

I have just written an article which appears in this month's issue of Foreign Policy magazine which goes into some detail about the kind of trade restrictions they have in Japan. We conducted hearings before my subcommittee on Asian and Pacific affairs on trade and defense problems in the United States-Japanese relationship.

We made it absolutely clear that on balance Japan does have greater restrictions against American exports than we have against Japanese exports and they ought to open up their markets more.

The CHAIRMAN. The time of the gentleman from New York (Mr. Solarz) has again expired.

(By unanimous consent Mr. Solarz was allowed to proceed for 1 additional minute.)

Mr. SOLARZ. But I want to make in conclusion one point to my colleagues who are on the floor at this moment. That is that there are a lot of very knowledgeable people who have studied the trade problems in the United States-Japanese relationship who have come to the conclusion that if the Japanese eliminated all of their nontariff barriers to trade and we eliminated all of our nontariff barriers to trade that the trade deficit, rather than diminishing, would actually increase.

I do not know whether that would happen. I would be prepared to take my chances. I think we ought to be moving in the direction of freer and fairer trade.

This legislation may be necessary as a temporary measure to protect a vitally important American industry. It clearly does violate principals of free trade but, hopefully, if it is adopted it will encourage the Japanese to recognize that they have to make greater progress in reducing their barriers to trade.

But let us understand that, as Mike Mansfield, our Ambassador to Japan, who is probably the most able American Ambassador anywhere in the world today, has said, this is our single most important bilateral relationship. If this bill is going to be adopted let it be adopted in a way which does not harm or impair our ability to preserve this critically important relationship with a country which has in fact cooperated with us in a number of very important areas.

The CHAIRMAN. The time of the gentleman from New York (Mr. Solarz) has again expired.

(By unanimous consent Mr. Solarz was allowed to proceed for 1 additional

minute.)

Mr. SOLARZ. Following the Soviet invasion of Afghanistan they boycotted the Moscow Olympics and adopted sanctions against the Soviet Union.

Following the Vietnamese invasion of Cambodia, Japan ceased providing aid to Hanoi.

During the hostage crisis in Iran they adopted sanctions against Iran even though many of the European countries did not.

Following the establishment of martial law in Poland they adopted sanctions against that country as well.

Between 1980 and 1984 they plan to double the level of their foreign aid

and at our request they are providing substantial amounts of foreign aid to Turkey, to Egypt and to Pakistan and other strategically important coun-

has to make more progress on defense and trade. But it is fundamentally a country which is friendly to the United States and upon whose friendship we depend not only for our own peace and prosperity but for the peace and prosperity but for the whole world, and I think we ought to keep this in mind as we consider this legis-Japan is a nation which does not do everything we want it to do and which

Mr. KEMP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to compliment my friend from New York, Mr. Sozanz, for his very throughtful and quite courageous statement. He has reminded us, Mr. Chairman, that Japan is not an enemy of the United States. There are problems with Japan is not an enemy of the United States are those impediments—theirs or ours—that stand in the way of peace and friendship and trade and prosperity, not only of this country but, indeed, of the rest of the world.

The gentleman from California has done a service by bringing to the attention of the House, as has the gentleman from New York, what happended and what happens in the world when policy changes are made that cause economic contraction. So I thank the gentleman from New York. He also reminded us of another very important truth, which is that we do not live in a closed economy. We live in a global economy. Our jobs and our standard of living are not independent. I know this is shocking to some of my colleagues but we are interdependent. I know this is microscopic but think of a bottle of Coca-Cola sold in New Delhi, India. Part of that bottle of Coca-Cola soles to the shopkeeper.

regar plantation. Part of that price might go to New York, where the glass it is made. Part of that price might go to New York, where the glass it is made. Part of that price might go to the Atlanta, Ga., where the company is it is managed or to some other place. The microscopic impact is minuscule but magnified by millions and millions of times, the economic impact on our nives. Cutting out any single step in threatens the whole income.

In There is only one closed economy threatens the whole income.

There is only one closed economy and it is a global economy. It is desparately important that we think of the consequences of our actions.

Imagine the United States of America for just a moment as 50 States and imagine that in every State has its own currency, freely floating against the treet of the reset of the

We would be told to buy New or buy Ohio.

I want to say parenthetically that I buy American. I drive an American car. My wife drives an American car. My son's first car was a Jeep.

But for the sake of the American economy and American jobs I do not think we ought to legislate buy American. Because the less we trade with the rest of the world, the fewer goods and the fewer jobs we can afford. It is in the interest of the people I represent and of this country, of their industry and their work, that we must avoid tragic mistakes.

But I want to go back to my analogy

I Imagine the American economy, cut up into 50 States, each competing against the rest, everybody with their own currency, everybody changing the tagainst the rest, everybody changing the gazer his neighbor by changing to beggar his neighbor by changing the currency value and the tariff almost daily. Compare that with our unified American economy with a single currency, and you get some idea of what has happened to the efficiency of the world economy in the past 15 years, since the progressive deterioration of our monetary and trading systems. That is why the whole world is in a depressed condition today.

We are dealing for the first time in tour adult history with a world that is broken up into nation-states trying to beggar their neighbors by changing their tariff pollicles and their trade policles and their exchange rates and doing nothing other than competing in a zero sum, a negative sum, contest in which everybody gets hurt.

Think back to the time in which we had a world in which there was a single, honest and sound and stable currency for the world, the gold dollar, and stable exchange rates of trade and engage in commerce across of trade and engage in commerce across of the which protected everybody's right to trade and engage in commerce across of the protected everybody's right to trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across of the protected everybody's right to the trade and engage in commerce across the protected everybody's right to the trade and engage in commerce across the protected everybody's right to the protected everybody's right to the p

uncertainties and inefficiencies

e dealing with countries that were using their trade and their exchange rates to gain a temporary trade advantage. Yet, instead of talking about how we can put such a stable and prosperous system back together, we are debating of whether to destroy the stability and prosperity that remains.

I thought it was interesting that Douglas Frazer, the very respected leader of the United Auto Workers, in testimony on page 157, gives as much weight to monetary policy as he does to this bill. I think that is interesting.

I do not know if he would think about monetary policy the same way I would. But I think he has put his finger on another key problem—domestic monetary policy. There are three issues facing this Congress: jobs, jobs, and jobs. If we want to create the policy, more and tax policy.

In 1978, my friends, automobile sales in the Illited States of America were

In 1978, my friends, automobile sales in the United States of America were at 13 million plus. By 1979 they dropped by 38 percent. Today they are at an extremely depressed level.

What happened in 1979? We changed our monetary policy. Interest rates doubled.

The CHAIRMAN. The time of the gentleman from New York (Mr. Kenr)

has expired.

(By unanimous consent Mr. Krau was allowed to proceed for 2 additional

minutes.)

Mr. KEMP. Interest rates went into the stratosphere, the prime rate, consumer rates, mortgage rates. The depression in autos began with the stratospheric climb to the double digit interest rate problem that I think was precipitated by some of the monetary policies of 1978-79.

Housing went down the chutes in 1979. Housing starts were 2.2 million in 1978. They went eventually as low

Agriculture, steel, all of the key industries of this country declined. I am not trying to point the whole finger at just monetary policy—but I think Douglas Frazer has something when he says that monetary policy is a prescription for getting automobiles back on their feet.

If interest rates came down to single digit levels we would be selling automobiles again. Interest rates have come down since July and already housing is up 30 percent.

# □ 1430

Reforming monetary policy would do more for the automobile workers and the steel workers than all of these zero-some legislative initiatives that are being made here today.

In my heart I respect the gentleman from New York. I respect all of the proponents of the bill. We agree on the crying need to create jobs, to help

Americans who are struggling to keep their heads above water. I think we are making a mistake, though, if we think that this is not going to bring about retaliation. The gentleman says there is already retaliation. I agree. But tearing down somebody else's home is not going to help build the home that we all live in, the United States of America.

The last point is simply this: The great growth of trade in the 1960's, the great growth in trade since 1945, has been the result of our country working, as the gentleman from New York pointed out, with other nations to bring about an environment in which we can have trade and commerce and fair as well as free trade. I know it is not completely fair. We should work to make it fair. But we are not going to make if fair if we start dropping the equivalent of low-yield nuclear bombs on our trade partners. That would be a job-destroying mis-take. And I ask the House to turn down this legislation and support the amendment offered by the gentleman from California.

The CHAIRMAN. The time of the gentleman from New York (Mr. KEMP) has expired.

(On request of Mr. PRITCHARD and by unanimous consent, Mr. KEMP was allowed to proceed for 1 additional minute.)

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. KEMP. I yield to the gentleman from Washington.

Mr. PRITCHARD. Mr. Chariman, I just want to commend this gentleman from New York and say that I am in agreement with what he stated. I would also like to commend my chairman of the Foreign Relations Subcommittee in whose hearings I participated.

What the gentleman said is correct. I think also the House ought to realize that this bill affects more than just Japan. All of the discussion hinges on Japan. And yet this bill is going to have an effect on countries all around the world. There is a problem. But this legislation is not the way to solve it.

I hope that this House will turn it down.

Mr. KEMP. I thank the gentleman for his comments.

Mr. Chairman, we should be working to break down those barriers, stabilizing exchange rates, creating an international environment for trade, reforming domestic policy to spur expansion, and I think all of us would do more for our auto and steel-workers that way than by passing this legislation.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak on behalf of the amendment. Mr. Chairman, in committee and here on the floor today we have heard a lot of good arguments about a problem that exists between the United States and its trading partners.

The problem is one that exists because we have tried to promote free trade in general, though our colleague from New York has pointed out that our rhetoric is better than our performance, and some of our trading partners have clung to advantages that we gave them in the postwar era, creating clear disadvantages in many areas to expand trade of American goods abroad. This is especially true in the area of agriculture. And while I am totally in agreement that this problem exists-and the problem has been alluded to over and over-this bill in no way addresses that problem. In fact, this bill will compound that problem because this bill simply says "do not open up your markets to U.S. products," as we have heard over and over and over today. There is no vehicle in this bill to promote the openmarket objective. This bill says we are going to force you to produce a substantial amount of a significant product-automobiles, motor vehiclesthat are sold on the American market in the United States.

It seems to me, Mr. Chairman, that there are several points missed, and I would like to try to go through them very rapidly and make the points as clear as I can.

No. 1, this bill will not create a single job, even if no nation in the world reciprocates. If no nation in the world raises its trade barriers in response there will still be no net job impact.

Now, why do I say that? I say that because we are operating under flexible exchange rates. The values of the dollar on the world market relative to other currencies is set by supply and demand. So if we come in with a domestic content bill and we reduce the import of Japanese automobiles and we have them built here to the extent that they are produced, then there will be a strengthening of the value of the dollar because we are buying less abroad. But as the value of the dollar goes up, the competitiveness of American goods-one out of every 6 American jobs is in exports—will decline. So that for every United Auto Worker job that we save, even if no other nation initiates a trade war responding to our first salvo, there will be an American job in another industry that will be destroyed.

So this is not a job-creation bill. This is a job-transfer bill. And the problem is: Who are we taking jobs away from? We are taking jobs away from industries that are growing and that are competitive and that represent the future of our Nation in the 1980's and the 1990's, and we are giving jobs and protecting jobs in an industry which has not stayed competitive. And I am

not going to say the whole fault is with management or the whole fault is with the United Auto Workers. But the plain truth is that the American people have not been forced to buy these Japanese automobiles. They bought them because they were good automobiles and because they have competed and because they were given value at a given price.

But in transerring jobs we still do not preserve the jobs that we save by taking other American jobs away.

What has happened to the nations that have followed this route? What has happened in Britain with protectionism? What has happened in Britain is that as they have subsidized, as they have protected their heavy industry, the very problems that made them noncompetitive, to begin with, have not been solved. In fact, the problems have gotten more difficult.

Our trade problems in automobiles represent a means to a solution, not the problem in and of itself. It forces the unions, it forces management and it forces Government to change the rules of the game to make us competitive. If we take away the pressure to make difficult decisions, difficult decisions for presidents of labor unions, difficult decisions for the president of General Motors and difficult decisions for Members of Congress, I submit that those decisions will never be made; and we will be back here in 2 or 3 years with the same problems, without the jobs being protected in the automobile industry, but with the jobs having been destroyed in other industries.

We here today are speaking not just about any other nation. We are talking about the policy of the world's greatest economic power. What we do is going to affect the decisions of others. We cannot be the world leader and try to protect our industry from legitimate, or, in some cases, even illegitimate, competition. What we need if this problem persists is a reciprocal trade bill that says to our trading partners, "If you are going to discriminate against our products, then we will in turn discriminate against yours."

The CHAIRMAN. The time of the gentleman from Texas (Mr. Gramm) has expired.

(By unanimous consent, Mr. Gramm was allowed to proceed for 2 additional minutes.)

Mr. GRAMM. But this type legislation magnifies the problems we have. It transfers jobs from those industries that have been competitive, that have been responsible, to those that are not. And in the long run, it is self-defeating. I think it is imperative that we make it clear that this bill does not represent the policy of the Congress or the policy of the United States.

One final point. I am deeply concerned that a lot of people are voting

or are supporting this bill because they think it is sending a signal. Maybe a signal needs to be sent. But I am concerned that, when the bill comes back in the next session, people who are on record are going to have a hard time getting back across the river. And I wonder when Smoot-Hawley—since we are talking about that subject today, thanks to our colleague, the gentleman from California-was introduced, how many Members were simply trying to send a signal? How many Members thought the bill would never get out of committee, as was the case in the Commerce Committee? How many Members thought that they were simply pleasing some special interest back home and, in the process, they really contributed to the decline in world trade, the decline in prosperity, the decline in opportunity and freedom? I hope that is not the case here.

Mr. LENT. Mr. Chairman, will the

gentleman yield?

Mr. GRAMM. I yield to the gentle-

man from New York.

Mr. LENT. I thank my colleague for yielding, and I want to commend and congratulate the gentleman from Texas (Mr. GRAMM) on his statement, in which I heartily concur.

The gentleman made some excellent points about the loss of jobs that will result from the passage of this bill. I think the Congressional Budget Office fixed the number at something more than 104,000 American jobs which will

be lost. I wanted to point out to my colleagues that the American Association of Port Authorities is very much on record and has adopted a resolution opposing this bill. More than 98 percent of all of our international trade passes through our Nation's seaports, and our port industry, directly and indirectly, employs 1 million persons and generates some \$66 billion in dollar income.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GRAMM)

has again expired.

(On request of Mr. LENT and by unanimous consent, Mr. Gramm was allowed to proceed for 1 additional

minute.)

Mr. LENT. If the gentleman will yield further, the trade repercussions of this bill will have a substantial impact on our ports. According to the American Association of Port Authorities-and I am going to put their resolution in the RECORD—this bill will jeopardize the more than 1 million port-related jobs, the more than \$30 billion contribution of U.S. ports to the GNP, and the investment made to port facilities, which is valued in excess of \$50 billion.

The Department of Transportation estimates that 7,600 to 11,600 direct jobs would be lost as a result of this bill, and somewhere between 53,000

and 81,000 indirect jobs would be put in jeopardy in 14 ports as a result of enactment of this bill.

In my home State of New York, a total ranging between 7700 and 11,700 jobs would be lost.

These would be jobs of longshoremen, truckers, railroad employees, distributors, barge crews ship suppliers, tugboat operators, custom brokers, nd others which would be hurt by this

Resolution of AAPA follows:

#### THE AMERICAN ASSOCIATION OF PORT AUTHORITIES

(A resolution opposing the enactment of H.R. 5133 and S. 2300, bills to impose domestic content requirements on auto importers and to restrict auto imports)

Whereas, the American Association of Port Authorities, founded in 1912, represents the public port authorities of the

bill.

United States; and
Whereas, these public port authorities
have provided the initiative in developing a superior port system for the United States, the shoreside cargo handling facilities and infrastructure of which is valued in excess of \$50 billion; and

Whereas, the Association recognizes that the United States is vitally dependent on the flow of international trade, both imports and exports, and that 98 percent of the volume of such trade moves via water carriage and is thus dependent on the port system: and

Whereas, the Association has, for many years, maintained a position supporting open international trade policies and continues to hold that barrier-free trade serves the best economic and national defense in-

terests of the United States; and

Whereas, the Association's U.S. Legislative Policy Council has carefully considered H.R. 5133 and S. 2300, proposed legislation which would impose domestic content requirements on importers of automobiles, and further, would serve to restrict the imports of automobiles, the Association now concludes:

- (1) Open trade policies have made a significant contribution to the prosperity of the United States and the nations of the world: and
- (2) Artificial barriers of commerce between nations impede national growth by reducing the challenge of competition which spurs productivity and innovation;
- (3) Domestic content requirements restrict the free flow of commerce, violate international trade agreements and tend to increase costs to consumers; and
- (4) The "Fair Practices in Automotive Products Act" (H.R. 5133 and S. 2300) introduced in the Congress would impose domestic content requirements on auto manufacturers which sell more than 100,000 vehicles in the United States; and
  (5) Such legislation would have the same

effect as mandated quotas, severely restrict-ing the number of auto imports into the

United States; and

(6) Independent studies have shown that one direct port job and seven indirect jobs in the port region are related to every 234 autos that cross U.S. docks, and that auto imports contribute hundreds of millions of dollars to the economy of the U.S. ports and

surrounding regions; and
(7) Pending domestic content legislation could invite retaliation against U.S. exports

and could engender adverse impacts upon U.S. ports; and

(8) The effect of this proposed legislation-and the trade war it could provokecould seriously jeopardize the more than 1 million port-related jobs in the United States, the more than \$30 billion contribution of U.S. ports to the GNP (1977 figure) and a significant portion of U.S. port facility investments made by the public port authorities.

Now, therefore, be it Resolved, That the American Association of Port Authorities opposes pending automobile domestic content legislation and will work for its defeat.

Ms. FERRARO. Mr. Chairman, I move to strike the requisite number of words.

Mr. OTTINGER. Mr. Chairman, will the gentlewoman yield,

Ms. FERRARO. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, we have been an hour and a half or better on an amendment which just changes the title. There are about 35 additional amendments. So I ask unanimous consent that debate on this amendment and all amendments thereto conclude at 2:50 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentlewoman from New York (Ms. FERRARO) may continue with her 5 minutes, and then the Chair will recognize those Members who were standing at the time the unanimous-consent request was

Ms. FERRARO. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I support H.R. 5133, the Fair Practices Automotive Products Act of 1982.

Simply stated, what this bill is about is helping the U.S. auto industry. For the past 4 years, the industry has been sinking deeper and deeper into depression. Total sales are less than half their 1978 level and almost 1 million workers have lost their jobs, including 280,000 auto workers and another 670,000 workers in auto supply indus-

At the same time, sales of imported cars have been rising. Imports from Japan have increased by over 37 percent, and more than 1 of every 5 cars sold in the United States is Japanese built. Overall, imports make up 27 percent of the U.S. car market.

We can't continue to allow imports to take a larger share of our market, with the result of lost American jobs and an ever-worsening balance of trade deficit. Without strong, prompt measures to revive the domestic auto industry, overall economic recovery will remain beyond our reach. Traditionally we have always relied on a few basic industries, including autos and housing, to lead the economy to recovThe importance of the auto industry is easily demonstrated. Even in 1981, after 3 years of declining sales and layoffs, there were still amost 2.5 million people employed directly or indirectly in the industry. The additional economic activity generated by a healthy auto industry is just what is needed to pull the country out of this recession.

The bill before us will help create and maintain jobs in the auto industry. It will stop the exporting of jobs to Japan and will reduce outsourcing by domestic auto companies that transfers jobs from U.S. workers to low-wage Third World countries.

The bill takes a simple and direct approach. It simply requires that auto companies with more than 100,000 sales annually here build a certain percentage of those cars and trucks here. It doesn't establish quotas, or increase tariffs. It doesn't say, as other countries have said, "you can't sell here."

tries have said, "you can't sell here."

All it says is, if you're going to sell here, you have to build here. It says if an auto company is going to control a sizable share of the U.S. car market, that company will be required to locate production facilities here, and hire workers here, and buy auto parts here. It's a fair proposal, and the effect will be to create or preserve 1 million jobs that would otherwise be lost.

The United States has always led the world as a proponent of free trade. In an ideal world, free and open trade between all countries would be the rule.

But we do not live in an ideal world. As we have learned, you can't have free trade without fair trade. For years, we have refused, in the interests of promoting free trade, to erect protections for U.S. workers. Now we know we can't afford to be so idealistic. Other auto-producing nations, notably Japan and our major allies in Europe, have trade barriers on automobile imports which are much more stiff than those contained in this bill. We need to pass this bill to provide our own workers with some basic degree of job security. I strongly urge my colleagues, on behalf of the future of the American auto industry, to join me in supporting this bill.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentlewoman yield?

Ms. FERRARO. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. I thank the gentlewoman for yielding.

Mr. Chairman, there was a question asked earlier here concerning the reasons for this legislation. There is no desire to strike back at Japan. Many of the comments that were made in the well by the gentleman from New York concerning Japan are correct. The difficulty with their military defense, is a lack of apparent reslove as a result of the Second World War incidentally,

they have their northern islands, occupied by the Soviet Union, and will not resist there. But I must say that the Japanese effort, particularly in Southeast Asia, foreign policywise, is laudable and in fact I think they are doing some things that I wish that we would do.

We are talking about the reason for this bill and the reason is simply a matter of systems in conflict. You have an American system which has taught and preached and encouraged open, fair, and free trade. The gentleman from Texas was 100 percent correct. Many of the postwar policies of Japan were the result of our making. But the time has come for them to mature and respond. And, quite frankly, the reason why they are not is because they do not have an equal protection of the law clause and they do not have a one-man one-vote rule. Japanese leaders themselves will tell you that one of the greatest difficulties they have with their policy is a malapportioned legislative body that does not take into account some of the realities of modern life. So be it.

The question becomes whether or not this bill will have the effect of this really, does Japan or the world a favor. And I happen to believe that it does. If you sat down and looked at the reasons why our automobile industry, along with other capital-intensive industries are in trouble, conservatives in particular are met with a quandry. Some sort of a coherent, hopefully not even verging on the edge of planning, national industrial policy that will enable this Nation to compete should be examined. Right now the tax environment that a capital-intensive industry like automobiles has to contend with in this country places them at a great disadvantage when compared with the Japanese. The point is, though, that the Japanese have not done as much as they can do-and we had a discussion on this with USTR representatives just a few days ago-to help with these imbalances.

If there is going to be a world free trade model, the United States of America is going to have to assert her industrial, her economic, and political might. The truth in fact is that we are allowing ourselves to be used, and it is not serving our Nation well.

#### □ 1445

The gentleman from Texas I think presented some very balanced arguments. His conclusion was this bill does not achieve the desired results. I would say to him that if we could, when we wrote ERTA, sat down and responded to the needs of our utilities, to the needs of our basic industries; if we could now sit down and address in our Tax Code the kind of plant and equipment needs we have in basic industries the way they can in Canada or Japan, then we could look at a

world steel market and if our companies could not compete then we could not complain. Nontrade barriers are at the root of much of the current friction. This bill in conjunction with industrial policies that we either lack or other nations have, have led to a great deal of frustration. And I would say that this domestic content law is simply a political reaction on the part of American consumers and politicians and political actors and interest groups to abuse and assault from abroad. If free enterprise is to mean anything-the rule of the game must be equal or reasonably equal for all participants. Today they are not. We are being used in bad faith. We have a responsibility to respond.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for approximately 30 seconds each.

The Chair recognizes the gentleman from California (Mr. Pashayan).

(By unanimous consent, Mr. Frenzel, yielded his time to Mr. Pashayan.)

Mr. PASHAYAN. Mr. Chairman, I had a few more minutes of information to say here. But I will not consume more than the one minute. I appreciate the gentleman yielding his time.

Very briefly, Mr. Chairman, this bill is strictly a barrier bill. It vests no power to negotiate in the executive branch. My district has a lot of farmers who grow oranges who would love dearly to export more oranges to Japan. I am aware most keenly of the problems with that country with respect to our exportation.

What our response should be is a bill that gives the executive branch broad negotiating authority, perhaps to impose certain kinds of restrictions and barriers. But this bill does not do that. This bill simply by force of law requires that these barriers be imposed and vests no power to negotiate in our executive branch. It is too inflexible.

We should reject this bill by aiming the rifle, but not firing it.

(By unanimous consent, Mr. Coats yielded his time to Mr. Dannemeyer).

(By unanimous consent, Ms. Fer-RARO yielded her time to Mr. Seiber-LING).

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, what is at stake here is the amendment offered by the gentleman from California which would set out a statement of policy which would cause the legislation, if this amendment is adopted, to be interpreted in a fashion directly opposite what the gentleman or anybody else in the body wants.

The debate has been going on about how our trade policies have been working. This is not a trade bill. It is a jobs bill. It is before us because our trade policy has not worked and because the committees and the administration charged with giving us a trade policy have not acted properly.

(By unanimous consent, Mr. OTTIN-

GER yielded his time to Mr. DINGELL). Mr. DINGELL. And because neither the Congress nor the administration has done the things that are necessary to get us a trade policy.

Now, this country has now seen its basic industries so desperately eroded that there is depression in every industrial area. This is not a begger-thy neighbor proposal, and it will not involve or invite any kind of retaliation or retribution. That has long since been done to us.

Look at the restrictive trade practices of the Japanese and every other country in the world, and then understand why you have to do something to protect American jobs.

The CHAIRMAN. The Chair recognizes the gentleman from California

(Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Chairman, I think the editorial of yesterday in the New York Times and its headline aptly describes the bill as a job killer bill. I am quite serious about the amendment that I have offered, because I think it places in perspective what this legislation will do to the economy of this country and the economy of the world.

It has been said that if goods do not cross international boundaries, armies will. I think we should very soberly reflect on that assessment of history and learn from it. I ask the adoption of the

amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DANNE-

The question was taken, and on a division (demanded by Mr. DANNEMEYER)

there were-ayes 11, noes 18.

Mr. DANNEMEYER. Mr. Chairman, demand a recorded vote, and pending that, I make the point of order that a quorum is not present. The CHAIRMAN.

Evidently

quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

#### □ 1500

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its busi-

ness.

#### RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DANNEMEYER) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 92, noes 301, answered "present" 3, not voting 37, as follows:

## [Roll No. 457]

#### AYES-92

Gradison Moorhead Archer Ashbrook Gramm Morrison Myers Pashayan Green Atkinson Badham Gregg Paul Hammerschmidt Bafalis Bailey (MO) Hansen (ID) Petri Hendon Pritchard Bereuter Bethune Hiler Quillen Roberts (KS) Hunter Bliley Hyde Jeffries Roberts (SD) Channie Johnston Rousselot Rudd Clausen Kemp Sensenbrenner Lagomarsino LeBoutillier Shumway Collins (TX) Smith (NE) Conable Lent Smith (OR) Corcoran Lewis Livingston Stangeland Craig Stanton Crane, Daniel Loeffler Lowery (CA) Crane, Philip Stump Daniel, R. W Luian Thomas Vander Jagt Lungren Dannemeyer Marlenee Walker Martin (NC) Weber (MN) Dornan McClory Weber (OH) Whittaker McCollum Erlenborn McDonald Winn McGrath Wolf Fiedler Young (AK) Frenzel Gibbons Molinari Young (FL) Moore

#### NOES-301

Conte Foley Addabbo Ford (MI) Conyer Ford (TN) Albosta Coughlin Fountain Alexander Courter Coyne, James Coyne, William Anderson Fowler Andrews Annunzio Crockett Frost D'Amours Fuqua Garcia Applegate Daniel, Dan Daschle Gaydos Gejdenson AuCoin Bailey (PA) Davis de la Garza Gephardt Barnard Dellums Gilman Gingrich Bedell Derrick Derwinski Dickinson Glickman Gonzalez Benedict. Goodling Bennett Bevill Biaggi Dingell Gore Dixon Donnelly Dorgan Boggs Boland Guarini Hall (IN) Dowdy Bonior Downey Hall, Ralph Hall, Sam Bonker Duncan Dunn Bowen Hamilton Dwye Dymally Hance Brinkley Hansen (UT) Dyson Early Brodhead Harkin Brooks Broomfield Eckart Hartnett Edgar Brown (CA) Edwards (AL) Edwards (CA) Edwards (OK) Hawkins Heckler Brown (CO) Brown (OH) Broyhill Hefner Burgener Burton, Phillip Heftel English Hertel Hightower Byron Evans (IN) Campbell Hillis Hollenbeck Carman Fazio Fenwick Hopkins Chappell Chisholm Ferraro Horton Findley Clay Hoyer Hubbard Clinger Fithian Coelho Flippo Coleman Huckaby Foglietta Collins (IL)

Napier Jeffords Neal Jenkins Jones (NC) Nelson Nichols Jones (OK) Nowak O'Brien Jones (TN) Kastenmeler Kazen Oakar Kennelly Oberstar Kildee Obey Ottinger Kindne Oxley Panetta Parris Patman LaFalce Lantos Latta Patterson Leach Leath Pepper Perkins Leland Levitas Peyser Pickle Long (LA) Long (MD) Porter Lott Price Rahall Lowry (WA) Luken Rangel Ratchford Markey Regula Marriott Rhodes Martin (IL) Martinez Ritter Matsui Rodino Mattox Roe Roemer Mavroules Mazzoli McCurdy Rogers McDade Roth McEwen McHugh Roukema Mica Mikulski Roybal Russo Miller (CA) Miller (OH) Sabo Santini Savage Sawyer Mineta Minish Mitchell (MD) Schener Mitchell (NY) Schneider Moakley Moffett Schroeder Schumer Seiberling Mollohan Montgomery Shamansky Shannon Murphy Sharp Murtha

Siljander Skeen Skelton Smith (AL) Smith (IA) Smith (NJ) Smith (PA) Snowe Snyder Solarz Spence Stark Stenholm Stratton Studds Swift Synar Tauzin Taylor Traxler Trible Udall Vento Volkmer Walgren Washington Waxman Weaver Weiss Rose Rostenkowski White Whitehurst Whitley Whitten Williams (MT) Williams (OH) Wilson Wirth Wolpe Wright Wyden Wylie Yatron Young (MO) Zablocki Zeferetti

Lundine

Yates

#### ANSWERED "PRESENT"-3

Carney

Bingham

Emerson

Erdahl

Evans (DE)

NOT VOTING-37 Evans (GA) Martin (NY) Anthony McCloskey Fascell Fish Beard Blanchard McKinney Forsythe Ginn Pursell Bolling Railsback Bouquard Goldwater Burton, John Rosenthal Schulze Deckard Grisham DeNardis Shelby Holland Dougherty Shuster Tauke

Ireland

Lehman

#### □ 1520

Mr. PARRIS changed his vote from "aye" to "no."

Mr. LUNDINE and Mr. CARNEY changed their votes from "no"

So the amendment was rejected. The result of the vote

nounced as above recorded.

AMENDMENT OFFERED BY MR. SCHUMER

Mr. SCHUMER. Mr. Chairman, I offer an amendment.

Mr. FLORIO. Mr. Chairman, I reserve a point of order.

Mr. FRENZEL. Mr. Chairman, I reserve a point of order.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. Schumer: Page 11, line 5, strike out "It" and insert in lieu thereof: "Except as provided in praragrapn (5), it".

Page 13, between lines 2 and 3, insert the

following:

(5) Paragraph (1) shall not apply with respect to any vehicle manufacturer of Japan with respect to any model year if the United States deficit in the balance of trade in automotive products with Japan for the four calendar quarters most closely corresponding to model year 1982 is not greater as a percentage of the deficit in goods and services with Japan (as calculated on the basis of the Balance of Goods and Services published by the Department of Commerce) for the four calendar quarters most closely corresponding to such model year than the percentage specified in the following table:

Automotive deficit as a percentage of goods and services deficit (percent)

Model year:	111111111
1984	74
1985	86
1986	104
1987 and each model year thereaf-	
	120

Mr. BROYHILL. Mr. Chairman, I

reserve a point of order.

The CHAIRMAN. The gentleman from New York (Mr. Schumer) is recognized for 5 minutes.

Mr. SCHUMER. Mr. Chairman, this amendment, which is entitled, "The Build It or Buy It Here Amendment," is an improvement of H.R. 5133.

I, like many Members in this House, are faced with a real dilemma on this bill. That dilemma is this: On the one hand, all of us see thousands and tens of thousands of autoworkers out of work. They are out of work for a variety of reasons, many having to do with the economy and general world trade situations, but certainly some have to do with the imports market. On the other hand, like many Members of this body, I am extremely reluctant to build walls, particularly when they are walls that will not present any real alternative to our trading partners because, as the debate on this bill has shown, when walls are built on one side, inevitably they are built on the other side, and the entire world suf-

The thrust of the debate, my friend from New York, my friend from Michigan, distinguished Members of this body and the gentleman from Pennsylvania, have explicitly said less than a half hour ago that the purpose of the bill is to send a lesson to the Japanese, to tell the Japanese and others that they must open up their markets. I think that the main flaw in this bill is that it does nothing to force the Japanese to reduce their trade barriers. This bill would apply equally to the Japanese or any other country whether or not they act to reduce or even eliminate completely their trade barriers.

Were the Japanese to admit our products into their country as freely as we admit theirs into ours, this bill would still be in effect as our distinguished majority leader said, it sends a shot across the bow, a warning. The problem is that the bill contains no real warning. My amendment, very simply, says this: It says that this bill will take effect unless the balance of trade deficit with Japan shrinks, and shrinks markedly—by 50 percent—over the next 4 years.

Those Members who are from agricultural areas, those who are from areas where there is strong timber, telecommunications, computer, and electronics industries that are now stifled because the Japanese market is closed to them, those Members who are from ports or places where international transportation and trade are important, should be supporting this amendment because this amendment, not the bill as it stands, says to the Japanese, "Open up your trade barriers or this bill takes effect."

The bill as written does not. I am a cosponsor of this bill, but feel that the amendment I am offering makes it better. It makes the bill better for those of us who are cosponsors and better for those who oppose it.

It changes the bill from the one which barriers provide no incentive for the reciprocal reduction of trade into a bill that is truly a lever for free trade.

Many Members have said to me on the floor that this bill will not get beyond the House, so they can vote for it even if they do not think it's a good idea. Everyone who has spoken has stated that the main value of the bill is its message. If we want that message to be clear, if we want that message to really say, "Open up, let us really have free trade," then this amendment should be adopted as part of H.R. 5133.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I want to commend the gentleman from New York. I think he has an excellent amendment here, because what this amendment does is, it puts an incentive there for the United States and Japan to enter into more meaningful negotiations, not only on autos, but for beef and a lot of other things that have an impact on many of us who are concerned about agricultural exports also. So, I am going to support the gentleman. I think it is an excellent amendment.

Mr. SCHUMER. I thank the gentleman from Illinois.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from Iowa. □ 1530

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I just want to join with my colleague, the gentleman from Illinois, in complimenting the gentleman from New York (Mr. Schumer) for offering this amendment. This really is the essence of what we are all about. This is what we want to do. We do not want to build walls and barriers.

The CHAIRMAN. The time of the gentleman from New York (Mr. Schumer) has expired.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. SCHUMER) be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. BROYHILL. Mr. Chairman, reserving the right to object, I am going to insist on my point of order.

The CHAIRMAN. Does the gentleman object to additional time for the gentleman to complete his statement on the amendment?

Mr. BROYHILL. I do not object to that, Mr. Chairman.

The CHAIRMAN. The Chair will protect the gentleman's reservation on his point of order.

Mr. BROYHILL. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HARKIN. Mr. Chairman, will the gentleman yield further?

Mr. SCHUMER. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, to continue, what the gentleman from New York is saying is, look, it is not so much that we want to build these walls. We would be happy if the Japanese would simply reduce the surpluses a little bit.

If they would just reduce their surpluses, it would mean that we could export a little bit more to them and put more of our people to work.

As the gentleman knows, I represent an agricultural area. They have erected barriers to certain agricultural products that we produce. If they would buy more, let me point out what our farmers would do. They would buy more tractors and more pickups made by those very same auto workers who are out of work today.

Mr. Chairman, I think the gentleman is proceeding with exactly the right method, and I think this is a great amendment.

Mr. SCHUMER. Mr. Chairman, I would just add a point before yielding to the gentleman from Pennsylvania, and that is that this bill requires very substantial reductions in Japan's trade barriers and an increase in imports by

Japan. This is not minor. The amendment would require that the balance of goods and services deficit with Japan be reduced.

Mr. FOGLIETTA. Mr. Chairman,

will the gentleman yield?

Mr. SCHUMER. I yield to the gen-

tleman from Pennsylvania.

Mr. FOGLIETTA. Mr. Chairman, I rise to commend the gentleman from New York (Mr. Schumer) for offering his amendment, and I rise in support of the amendment.

Mr. DICKS. Mr. Chairman, will the

gentleman yield?

Mr. SCHUMER. I yield to the gen-

tleman from Washington.

Mr. DICKS. Mr. Chairman, I want to compliment the gentleman from New York (Mr. Schumer).

I have the same reservations that he has expressed about this legislation, coming from an area that has a port. I think the more we can do to make this truly a bill that sends the Japanese a message that we want fairness in our trade relationships, the more supportive this legislation becomes, because all of us are aware that this bill is not going to be signed into law, but its value is in sending a constructive message. I think the gentleman has made a very important contribution.

Mr. SCHUMER. Mr. Chairman, I thank the gentleman from Washing-

ton (Mr. Dicks).

Mr. OTTINGER. Mr. Chairman, will

the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

As I understand it, the gentleman had two amendments?

Mr. SCHUMER. The gentleman is correct.

The CHAIRMAN. The time of the gentleman from New York (Mr. Schu-

MER) has expired. (On request of Mr. OTTINGER, and by unanimous consent, Mr. Schumer was

allowed to proceed for 1 additional minute.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. SCHUMER. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, the gentleman's description on the floor would describe the amendment that I understand he did not offer, the one which has to do with the general balance of trade with Japan. The amendment that he did offer, as I understand it-and I would like to know if this is correct—only has to do with the balance of trade in automobiles.

Is this amendment restricted only to balance of trade in automobiles?

Mr. SCHUMER. Mr. Chairman, in answer to the gentleman, I had two amendments at the desk. The amendment that I have offered relates the trade deficit in automotive products to the overall deficit in goods and services, and would state that unless the overall deficit declines by 50 percent over 4 years, the penalties specified in the bill will take effect. Because the relationship between these two numbers is expressed as a percentage, the formula is keyed to the automobile balance of trade.

Mr. OTTINGER. Does it have an effect on overall trade?

Mr. SCHUMER. Well, anything does. H.R. 5133, without my amendment, has an effect on overall trade.

Mr. OTTINGER. No; I want to know if the formula the gentleman has advanced is tied solely to the automobile balance of trade or whether it is tied to the overall balance of trade?

Mr. SCHUMER. The formula I have adopted relates the automobile balance of trade in 1982 to the overall balance of trade in goods and services, and requires that the percentage obtained by dividing the former by the latter must increase. By fixing the numerator at the deficit in automobile trade in 1982, the bill thus requires that the balance-of-trade deficit in overall goods and services must decrease.

#### POINT OF ORDER

Mr. BROYHILL. Mr. Chairman, may I state my point of order?

The CHAIRMAN. The gentleman will state it.

Mr. BROYHILL. Mr. Chairman, make a point of order against the amendment offered by the gentleman from New York (Mr. SCHUMER) on the ground that it goes beyond the purposes of H.R. 5133 and is thus not germane.

The gentleman's amendment attempts to address trade matters that are not addressed by the bill before us. The bill that is before us seeks to address domestic car content require-

Specifically, Mr. Chairman, the gentleman's amendment would make the enforcement provisions of the bill contingent upon a determination of the balance of trade in automotive products versus the relative balance of payments of other goods and services, and when we bring in the other goods and services, I maintain that that goes far beyond the scope of the legislation.

It also places additional responsibilities on the Secretary of Transportation on trade issues which are not

within his authority.

In previous rulings, the Chairman of the Committee of the Whole House on the State of the Union has previously ruled that an amendment changing the statement of policy contained in a bill is not in order if its effect is to fundamentally change the purpose of the bill. That is found in Deschler's Precedents, chapter 28, section 4.16.

So, Mr. Chairman, I insist upon my point of order that the amendment goes beyond the purposes of H.R. 5133, that it is not germane and, therefore, is out of order.

Mr. FRENZEL. Mr. Chairman, may be heard on the point of order?

The CHAIRMAN. Does the gentleman from New York (Mr. SCHUMER) wish to respond to the point of order?

Mr. SCHUMER. Yes, Mr. Chairman, wish to respond, but I would first defer to the gentleman from North Carolina.

The CHAIRMAN. The gentleman from Minnesota (Mr. FRENZEL), then, is recognized pursuant to the point of order.

Mr. FRENZEL. Mr. Chairman, I support the point of order that has been claimed by the gentleman from North Carolina (Mr. Broyhill).

It is quite clear that the amendment has been redrawn in an attempt to fit our rule XVI, clause 7. That is the rule of germaneness. It is also quite clear, as demonstrated by the gentleman from North Carolina, that it does not succeed.

The bill that is before us, H.R. 5133, is a bill that refers only to domestic manufacture within the United States. The amendment offered by the gentleman from New York (Mr. SCHUMER) seeks to impose a regimen against exports based on a measure of automotive imports which is beyond all normal competence of the Secretary of Commerce, who is the only individual noted in H.R. 5133.

In addition, there would have to be a determination of the total scope of our balance of trade with the country of Japan. The denominator of the gentleman's faction is the total balance of trade between our country and Japan, and it goes far beyond the intent of the original bill, which deals with domestic manufacture, and gets into the whole field of trade, which is beyond the jurisdiction of the committee that is bringing us this bill.

Mr. Chairman, the point of order should be sustained. The amendment is clearly beyond the scope of the bill.

Mr. BAILEY of Pennsylvania. Mr. Chairman, may I be heard?

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. BAILEY) wish to be heard on the point of order?

Mr. BAILEY of Pennsylvania. Yes; very briefly, on the point of order, Mr. Chairman.

I think that the point made by the gentleman from Minnesota (Mr. Fren-ZEL) is correct. The jurisdiction in this bill lies in the Committee on Interstate and Foreign Commerce. We have talked about this bill in the context of trade because it has that effect.

The gentleman's amendment is a trade issue amendment, the jurisdiction of which would clearly lie in the Committee on Ways and Means, and the points raised by the two previous gentlemen are correct. Jurisdiction does not lie, and the point of order should lie.

#### □ 1540

The CHAIRMAN. Does the gentleman from New York wish to be heard

on the point of order?

Mr. SCHUMER. If I might respond to the point of order, Mr. Chairman, the amendment was drawn to relate to the narrow area of automobiles and automobile content as well as automobile trade. The bill before us deals with automobile trade.

Just to look at one point, page 4 deals with vehicles manufactured by a vehicle manufacturer in the United States and exported from the United

States. That is clause 1.

Clause 2 also deals with vehicles manufactured in the United States and exported from the United States.

Furthermore, what we were told in terms of germaneness was that what we had to deal with was automobiles and the fraction that we used deals with automobiles making it clearly germane.

The gentleman from North Carolithe gentleman from Minnesota, and the gentleman from Pennsylvania might have an argument if, this bill dealt with or this amendment specifically related to general trade. But it does not. It relates to automobile trade.

Furthermore, I might say the gentleman in objection to this have said this amendment has an effect on trade. So

does the bill. What is the debate we have been listening to for the last 2 hours? Authority for the issue of germaneness is not the effect that the amendment would have but specifically are the words of

the amendment germane to the bill. The bill deals with automobiles and automobile manufacturing. amendment deals with automobiles and automobile manufacturing, but here in this country and for export and, therefore, I would argue that the amendment is indeed germane.

The CHAIRMAN. Is there any further discussion on the point of order? Does the gentleman from Michigan

(Mr. DINGELL) wish to speak on the point of order?

Mr. DINGELL. Mr. Chairman, the germaneness rule is the purpose and the basis of the point of order.

First of all, the amendment must be germane to the bill. I would observe that there are a number of tests.

The first which has been referred to is the question of committee jurisdiction. Here we have an amendment which relates to trade, balance of trade, figures relative to trade, and a question relative to suspension of imports.

Clearly that kind of an amendment would have compelled this legislation to have been referred to the Commit-

tee on Ways and Means.

The bill was referred to the Committee on Energy and Commerce because it deals with Interstate Commerce.

The amendment must also be germane to the committee substitute. It fails again on the basis of this test.

The question then is: Does the amendment meet any of the other tests and I submit to the Chair that it does not.

The amendment does not relate as required under section 3 of title XXVIII of Deschler's, does not relate to the subject under consideration.

The subject under consideration relates to interstate commerce.

The amendment relates to international commerce. Clearly the subject matter is different and the amendment again fails.

There is yet another test and that is the fundamental purpose of the amendment test under section 5. Obviously again the fundamental purpose of the amendment must relate to the fundamental purpose of the proposi-

tion to which it is offered. The fundamental purpose of the committee substitute is to establish standards for the trade in interstate commerce of automobiles and automobile parts. Here it is clear that the amendment again relates to international trade and it requires a series of findings which are nowhere found wherein a series of calculations dependent on international trade and deficits, none of which are mentioned anywhere in the legislation.

Last of all, the amendment fails the requirements of section 6 of Deschler's wherein the test is does it accomplish the result of the basic legislation by the same or similar means. Here it is very clear that under the bill the evil to be dealt with is the difficulty with regard to jobs and it is dealt with through the interstate commerce powers of the Constitution and of the Congress.

The amendment would deal with the problem of international trade by relating automobile sales to international trade deficits of the United States, two very distinct and different matters.

For that reason, Mr. Chairman, I submit that the amendment is not germane to the bill and fails on grounds of germaneness.

Mr. SCHUMER. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. Does the gentleman wish to respond?

Mr. SCHUMER. If I might respond to my distinguished, erudite colleague from Michigan, to say that the bill does not deal at all with, in the terms and the wording of the bill, and as I understand it, my brief years here have led me to understand that it is the words of the bill, not its effect or anything else that relates to germaneness

Let me keep reading words of the bill to show that the bill deals not just

with interstate commerce but with international commerce. Let me read page 4 where a vehicle is defined as manufactured by the vehicle manufacturer in the United States and exported from the United States by, or on behalf of, such manufacturer during that model year."

Page 4, line 6, " \* \* manufactured in the United States by any other person and purchased by the vehicle manufacturer and exported from the United States by, or on behalf of, such manufacturer during that model year, but only to the extent that the export value of such automotive products is not included in automotive products to which clause (i) applies."

Someone, by the way, must estimate the value of those products as well, as well as estimating value in my amendment.

Throughout the bill, those are just two clauses, but throughout the bill are arguments, words, discussions that relate not just to automobiles domestically within the United States but automobiles exported.

Furthermore, the bill is explicit. It sets different classifications for automobile parts that are manufactured within the United States as opposed to automobile parts that are manufactured outside of the United States.

To say that the bill only deals with what happens within the United States is incorrect. The bill deals with what happens within and without. Albeit related to automobiles, the amendment deals with what happens within and without but related to autos as well.

Therefore, I would ask the Chair for a ruling that this amendment is indeed germane. To say that it is not germane might really fly in the face of the entire debate we have been having for the last 21/2 hours and of last Friday.

The CHAIRMAN. Is there any further discussion on the point of order? Does the gentleman from Florida (Mr. Gibbons) wish to be heard on the point of order?

Mr. GIBBONS. Mr. Chairman, the Ways and Means Committee does not want any of this discussion to overcloud the fact that this bill affects revenue, that this bill is enforced through the tariff laws of the United States.

The Ways and Means Committee recognizes this bill for what it is. We should have had original jurisdiction of the bill. It should not have been only sequentially referred to us but for an accident of historic proportion.

I wanted the record to accurately reflect that because I do not want anybody to think that this bill was properly referred in the beginning.

Mr. DINGELL. Could we have regular order, with all respect to my friend? We are not talking about historical accidents.

The CHAIRMAN. The Chair is having regular order and the gentleman from Florida was speaking on the point of order.

Had the gentleman from Florida completed his statement?

Mr. GIBBONS. I am all through, Mr. Chairman.

Mr. OTTINGER. Mr. Chairman, may I speak on the point of order?

The CHAIRMAN. The gentleman from New York.

Mr. OTTINGER. The gentleman should not be allowed to do by indirection what he could not do directly. The denominator that is specified in this bill depends on the general trade percentage of deficit in goods and services with Japan generally. It has nothing to do with automobiles. That is clearly not only beyond the jurisidiction of this committee but also outside of the scope of the bill and, therefore, the point of order should be sustained.

#### □ 1550

Mr. FRENZEL. Mr. Chairman, may

The CHAIRMAN. (Mr. PANETTA). The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, in "Jefferson's Manual and Rules of the House," by William Holmes Brown, it states, under rule XVI, that the fundamental purpose of an amendment must be germane to the fundamental purpose of the bill.

The fundamental purpose of the bill is described in the first page of the bill. And it says that the purpose is to encourage the production of automotive products in the United States.

The fundamental purpose of the Schumer amendment is quite different. Its fundamental purpose is to encourage behavior of exporters in another country.

The fundamental purpose of the bill and of the amendment of the gentleman have no relationship whatsoever.

The point of order should be sustained.

Mr. SCHUMER. Mr. Chairman, simply to respond, the fundamental purpose of my amendment is for me and for others to interpret. The fundamental purpose of this bill some might say is different. We all know that the ruling of germaneness relates to the wording of the bill and what the bill exactly relates to, what is germane and what is not germane.

I submit that this amendment is every bit as germane to this bill as so many rulings of germaneness throughout the House. Whether the sponsors of the bill—I must be doing something right, given that the sponsors and the opponents both want it ruled out of order and seem to be opposed to the legislation—agree with what would happen as a result of this bill is not an issue of

germaneness. What it is, is what the bill deals with and what the amendment deals with. I submit they deal with the same thing.

with the same thing.

The CHAIRMAN. (Mr. PANETTA).

The Chair is prepared to rule.

Under the general rule of germaneness, the test of an amendment is whether there is a relationship to the subject matter of the bill.

This bill requires a certain percentage of domestic content in the automobiles that are sold in this country.

The amendment provides that that requirement is not applicable during periods when the balance of trade in automotive products bears a certain relationship to overall trade; therefore, the amendment is confined to the subject of trade in automotive products and is not an unrelated contingency involving the overall balance of trade.

In Canon (VIII, 3029) an amendment delaying operation of a proposed enactment pending an ascertainment of a fact is germane when that fact to be ascertained relates solely to the subject matter of the bill.

In the opinion of the Chair, the amendment conditions the implementation of the domestic content requirement upon a certain test, a certain factual situation.

It relates to the general subject matter of the bill, imposes a germane condition, and, therefore, the point of order is overruled.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am sure the gentleman from New York offers the amendment in the best of good will and in an honest attempt to perfect the bill. Regrettably, there appear to be some drafting problems with the amendment offered by the gentleman from New York.

The bill attempts to deal with the subject of sales of automobiles in interstate commerce. The amendment would set up a formula upon whose action the provisions of the bill would be suspended. The amendment creates a ratio which attempts to see if there is an improvement in the balance of trade.

Now, the consequences of the ratio are very interesting. First of all, the numerator is equivalent to the deficit in United States-Japan automobile trade in production year 1982. The denominator is the deficit in goods and services in the year in question. Today the ratio would read like this: \$13 billion, which is the auto deficit in 1982 with Japan, over \$20 billion, the deficit in goods and services with Japan, which is the denominator.

Today this ratio is 65 percent.

Let us look now to the ratio in the future and see how it works. The numerator is always the 1982 auto deficit. So it is always \$13 billion. Now,

that means if the deficit of the United States with the Japanese shrinks, then the denominator shrinks and we wind up with a rather unique set of circumstances. By reason of the way that the amendment is drafted, it means that on the shrinking of deficit, it becomes likely that the import of Japanese autos and goods would be shut off.

Now, let us look and see what happens if the trade deficit in goods and services with Japan improves. Let us take the figure of a \$5 billion deficit with the Japanese in goods and services. The ratio then would be \$13 billion of \$5 billion. That is then 260 percent, which is greater than that specified in the table for any year.

As I read the amendment, it provides that a percentage exceeding that in the table means that the requirements of the bill do thus apply.

Therefore, it follows, from a reading of the amendment as drawn by my good friend, and the gentleman from New York, that the smaller the deficit in goods with the Japanese, the more likely we are to have the provisions of the legislation with regard to domestic content apply.

Therefore, this encourages the Japanese to increase their balance of trade in favor of the Japanese, which is precisely the opposite of the result that the gentleman from New York would have us believe is the purpose of the amendment.

So if you favor encouraging the Japanese to make every effort to increase their balance of trade in favor of themselves and to practice exclusionary tactics and dumping of goods in this country, then you should, at all costs, support the amendment. If you oppose that kind of direction, then, by all means, oppose the amendment.

I am sure the gentleman offered this in very good faith, and I am certain that he fully intends the consequences of the amendment. But I certainly cannot support it.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New York.

Mr. SCHUMER. The gentleman brings out a good point. And as somebody who is not inimical to his purposes, overall purposes in 5133, I accept the point as well taken. In fact, the gentleman from New York, speaking of himself, in his effort to make sure the amendment was germane, inserted a word that ought not to be inserted. The word is on line 5, "not."

I would ask unanimous consent— Mr. DINGELL. I thank the gentleman. I simply cannot yield further.

Without all respect, the time is mine, and I would advise the gentleman that I cannot yield any further.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. Dingell) has expired.

(On request of Mr. Frenzel and by unanimous consent, Mr. Dingell was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman from Michigan yield?

Mr. DINGELL. I yield briefly to the gentleman to gainsay anything that I have said. Is my interpretation of the gentleman's amendment correct?

Mr. SCHUMER. I would say that I would ask unanimous consent right now to strike the word "not" from line 5, because the numerator and denominator is indeed in reverse, as the gentleman from New York has pointed out. I would ask unanimous consent—

Mr. DINGELL. With all respect to the gentleman, I object. And the reason I do so is that I would like to see the amendment so that we may then analyze it and know exactly what it is that the gentleman intends.

The CHAIRMAN pro tempore. Objection is heard.

Mr. SCHUMER. If the gentleman will yield—

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DINGELL. Mr. Chairman, I yield back the balance of my time.

Mr. SCHUMER. Then I move an

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. Balley).

#### □ 1600

Mr. BAILEY of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will not take all my time because I know the gentleman from Arkansas has been waiting patiently.

I would hope that we do not support this amendment. I really do not think if the gentleman is successful in somehow modifying it, and with great deference to the intelligence and insight of the gentleman from Michigan, I applaud him on his catching this error—if the gentleman from New York does succeed in modifying the amendments, and I would encourage the opinion of the gentleman from Minnesota (Mr. Frenzel.)—if the gentleman from Minnesota (Mr. Frenzel.) would perhaps take the mike, I would be very grateful.

Mr. FRENZEL. I would be delighted.
Mr. BAILEY of Pennsylvania. The
gentleman in his analysis of this
amendment as I read it, if one looks at
the formula for the numerator and
the formula for the denominator in
light of projects on relative currency
values between the United States and
Japan, although I very much oppose
this amendment, given this formula
and looking at the gentleman's model

year computation, 1984, the automotive deficit, percentage of goods and services deficit, the relationship to the overall trade deficit, employs a figure of 74 percent, can the gentleman imagine the overall trade balance moving down—I am just curious—within the next 2 or 3 years?

Mr. FRENZEL. If the gentleman will yield, it is quite obvious that the gentleman from New York has a typo in his formula, and therefore it is a formula where the Japanese have an incentive to develop a greater surplus

and to give us a greater deficit.

But I would say further that the gentleman illustrates one of the problems with a table like this, because currency fluctuations could change the best intentioned table and knock it out of the box in a couple of days.

So if he is allowed to perfect his amendment, we will still not know what the amendment means because of currency fluctuations. The gentleman has made an excellent point.

Mr. BAILEY of Pennsylvania. I

thank the gentleman.

I hope that the Members of the House will recognize that the intentions of the amendment, the intentions of the gentleman are laudable, but as a practical matter I would hope we would understand the implications of the amendment, its weaknesses, and even should the gentleman succeed in having it changed, that we not support it

Mr. ALEXANDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would advise the Chairman when the committee goes back into the full House that I will ask unanimous consent to include extraneous matter at this point in the Record.

Mr. Chairman, I rise in support of the domestic content bill which would impose trade restrictions on import of Japanese automobiles. This legislation has been called protectionist over and over and over again. And I shall point out that I am not a protectionist by nature. But let me be quite frank.

In endorsing this bill I am not voting for protection. I am voting for retaliation.

I do not want to mince words.

In 1980 the Japanese pursued an undeclared war on the American rice farmer, and they should be reminded of the laws of nature, that for every action there is an equal and opposite reaction.

To put that in plain English to our trading partners: If the Japanese or anyone else should strike at us, and at the economic welfare of our citizens, then we shall strike back.

Now, I regret that we have reached such a crisis point, but reach it, indeed, we have.

I would remind the Members of Congress specifically of the hostile action taken by Japan recently against the American farmer.

In 1980 the Japanese chose to dump about a million metric tons of rice on the open market, selling it to selected customers like Korea and Indonesia at prices far below the prevailing world market price.

Although this action was acquiesced in by the Carter administration, Japan thereby violated the solemn treaties that had been entered into between our Nation and theirs, including the MTN, GATT, and the subsidies code of the FAO.

An immediate and lasting consequence was a severe financial loss and a continuing hardship to the American rice farmer

The administration has confirmed to me that the deficiency payments paid by the American taxpayers as a result of this action exceed \$600 million, and the profits lost to the rice industry another \$600 million. Over a billion dollars the Japanese cost the American people because of their undeclared war on the American rice farmer.

And the disaster which afflicted farm prices as a result of this Japanese action was compounded later by another trade partner, Korea, when it agreed to purchase American rice by way of mitigation in order to offset some of this loss. But as of this date, Korea has yet to fulfill its solemn commitments to bring some measure of justice to these problems.

So it is not the Japanese alone that I seek to serve notice to tonight. It is all of our trading partners who should put us at a disadvantage—we should put them on notice, too, that we shall retailate.

Mr. Chairman, I would remind the Members of this body once again that I am a free trader by history and by instinct. I helped organize the Export Task Force, and for 4 years I have served as a member of the President's Export Council. But there comes a time when our own preferences and personal philosophies become secondary to our national interest, and to the interest of our constituents whom we serve. And I believe that the time is long overdue when Congress must say: Enough is enough. And we have the opportunity in this bill.

We should make it known that Congress, speaking for the American people, has a clear determination and a firm resolve to pursue not only the principles of free trade, but the reality of fair trade.

Mr. Speaker, I include the following documents which pertain to the lengthy negotiations we have conducted with the Japanese concerning our rice exports:

REPORT ON MEETING WITH PRIME MINISTER OHIRA.

Mr. ALEXANDER. Mr. Speaker, I had the pleasure this morning of having breakfast with and conferring with the Japanese Prime Minister Ohira. On this occasion I advised the Prime Minister that jobs in rice-

producing States, like Arkansas, are threatened by the Japanese policy of dumping rice onto the international market. I also advised the Prime Minister that representa-tives of the U.S. Government and Japanese Government have tentatively entered into an agreement which would compromise the principles of the General agreement on Tariffs and Trade, the multilateral trade negotiations and the FAO. I asked Prime Minister Ohira if he supported the principles that are enumerated in those three international agreements on free trade. I have asked for permission from the Japanese Embassy to include his remarks in the RECORD. Meanwhile I would advise my colleagues that if representatives from our Government and the Japanese Government can compromise international treaties on rice, they can also compromise those principles for steel, automobiles, electronics or any of the products that are produced in the numerous congressional district that are represented in this body.

The actions taken by the administration compromise the international trade principles presents an ominous sign for those of us who support international trade. The implications of compromising the international trade principles for one product such as rice could affect all industry that manufactures products for international trade.

During the 12 years I have served in Congress I have supported the policy of my Government to favor free trade and to oppose Government interventions that may distort the free world market. Most Americans have judged that protectionism usually rewards inefficiency at a high cost to taxpayers.

Despite the desire for free trade, representatives of the executive branches of the Governments of the United States and Japan have tentatively agreed to sanction the Japanese subsidized rice export policy. The Japanese rice policy provides a domes tic export subsidy to rice farmers of about \$1,000 per metric ton. The agreement sanctions that policy and calls for Japan to limit its exports of subsidized rice to an average of 400,000 metric tons per year over the period of 1980-83. It sets maximum annual exports to South Korea, Indonesia, and other countries.

The tentative agreement between the United States and Japan to sanction the Japanese rice-dumping policy may crack the foundation of international trade as enumerated by the GATT, MTN, and the FAO.

The Japanese rice export subsidy policy is

unfair for the following reasons:

First. Article XVI (3) of the General Agreement on Tariffs and Trade (GATT) prohibits subsidies resulting in a contracting party having "more than an equitable share of world export trade;"

Second. The United National Food and Agriculture Organization (FAO) principles for disposal of agricultural surpluses pro-vide that surpluses should be moved into consumption without harmful interference with the normal patterns of production and

international trade; and

Third. Section 301 of our Trade Act of 1974 proscribes the granting of subsidies on exports "to other foreign markets which have the effect of substantially reducing sales of other competitive U.S. products

\* \* \* in foreign markets."

In the Tokyo round of the multilateral trade negotiations, the United States and Japan—and a host of other countries—agreed to a Subsidies Code. This Code obligates its signatories to avoid export subsi-

dies on primary products that give them more than an equitable share of the world export trade in those products. Export subsidies on other items are banned altogether.

I do not believe there is much room for doubt that the Japanese rice subsidies violate the Subsidies Code. And yet our Government-in its first test of the codefailed to insist upon its legal rights. We allowed Japan to continue to dump rice into the world market, displacing our own sales and lowering our own export prices. We did not ask that the illegal subsidy program be abandoned.

Mr. Speaker, if we are willing to tolerate a subsidy on Japanese rice, I wonder what will be next. No doubt there are many agricultural commodities that our trading partners hold in surplus and which could be sold for export at cutrate price. It now seems not to be counter to the trade policies of this administration to allow other nations to dispose of surpluses in such a way.

The immediate problem is more likely to occur in the industrial sector. Our actionor our inaction-concerning subsidies on Japanese rice is a clear message to producers of steel. That message is that so long as export subsidies are large and audacious enough, U.S. efforts will be aimed at their containment, not their elimination.

Foreign steel manufacturers have been the targets of antidumping and countervailing duty petitions. They have been placed under the control of the trigger price mechanism. It has been the consistent and official policy of our Government that steel prices should reflect the legitimate cost of production with a reasonable allowance for profit. Foreign producers should not enjoy price advantages that stem not from their efficiency, but from the wealth and generosity of their Government.

Mr. Speaker, Japan has an enormous overcapacity for steel production. What would we do if the Japanese Government were to begin the massive resale of surplus steel production at a small fraction of first cost? And what would we do if export terms were better than any available commercially?

If the rice agreement is a precedent, we would treat Japan as if subsidies were a normal and proper technique in international trade. We would not flinch as American industry suffered from lowered U.S. prices and from displaced U.S. sales.

The argument is often made that export subsidies merely transfer economic hardships from the subsidizing state to the injured state. This is absolutely correct, and describes the effect of what the Japanese are doing. It is all the more reason why we must stand fast in our traditional free trade policies.

The United States cannot afford to stand idly by as we are pushed into the role of residual supplier of one commodity after another. American farmers, workers, and businesses largely supported the Codes emerging from the multilateral trade negotiations because of their conviction that a firm and fair set of rules helps all the players.

Mr. Speaker, there is no doubt in my mind that the U.S. rice industry has already been seriously injured by largescale dumping of Japanese rice. The addition to world supply has lowered prices and displaced U.S. sales. It will inevitably bring about a decline in U.S. production, with losses of revenue not only to farmers but to millers, transporters, and exporters.

Japan's own domestic policies are the cause of these injuries. It is said that Japan will hold rice stocks reaching over 7 million

metric tons later this year. By way of contrast, the entire world export trade in rice is only 11 million metric tons annually. Evidently the threat of illegal acts on a truly enormous scale has persuaded American negotiators that we must tolerate a little ille-

If this is the position of the U.S. Government, then our credibility next time a foreign surplus interferes with our trade will be low. The potential consequences of allowing the dumping of steel into third country markets-in terms of unemployment, our balance of payments, and our domestic economic health in general-require us now to avoid creating such a precedent.

Mr. Speaker, rice is grown in six States. It is among this country's most important agricultural exports. If our Government does not insist that international obligations be observed with respect to such a major com-modity, we will begin our descent leading to the total abandonment of all firm principles of international trade.

This is a matter that should be of concern to all Americans. It is not too late to reverse our course. The agreement of April 12, 1980, between the United States and Japan must be overhauled and must be made consistent with our traditional international commit-

Thank you. (C. R. Vol. 126, May 1, 1980).

Mr. Chairman, at the invitation of the former U.S. Trade Representative, Ambassador Reubin Askew, I accompanied our negotiators to Tokyo in April 1980 to discuss the problem of subsidized rice exports from Japan. Our delegation was led by the Under Secretary of Agriculture, Dale Hathaway, and included Tom Hughes and other personnel from the U.S. Department of Agriculture as well as the American Embassy in Tokyo. I take this opportunity to report to my colleagues on what happened at the rice meetings in Tokyo, and what it might portend for U.S. trade policy and the future of the United States-Japanese trading relationship.

The purpose of the meetings in Tokyo was to discuss the Japanese rice export problem-not to conclude an agreement that seriously undermines the competitive potential of the U.S. rice industry and weakens the fabric of the accords that were recently concluded in the Multilateral Trade Negotiations (MTN). Yet that is precisely what happened. The agreement concerning Japanese export subsidies concluded on April 12, 1980, while it does contain some useful aspects, ignores our vital interests and our established export trade policy and I will oppose its implementation administratively and in litigation which will be forth-

The U.S. rice industry filed a complaint against Japan's rice export subsidy policy on April 4, 1980, under section 301, of the Trade Act of 1974. In my opinion, this complaint was supported by the weight of available evidence and should have been vigorously pursued and resolved affirmatively in favor of the U.S. rice industry.

However, the matter was resolved by negotiation and settled among the parties when the Republic of Korea agreed to mitigate the damages to the American rice farmer as follows, to

THE KOREAN COMMITMENT TO PURCHASE U.S.

In April, 1980, the Rice Millers' Association (RMA) petitioned, under Section 301 of the Trade Act of 1974 as amended, for steps to be taken to halt the dumping of heavily subsidized rice by Japan to the Republic of Korea, a traditional cash market for U.S. rice. RMA contended that such sales were in violation of the Subsidies Code negotiated during the Tokyo Round of Multilateral Trade Negotiations, and that their results would be the displacement of sales of unsubsidized rice by the United States to Korea, along with a general lowering of world market prices.

As a result of RMA's submissions, the United States and Japan agreed that dumping of subsidized Japanese rice would be sharply limited, and in particular to Korea. The agreement allowed for these limits to be waived by the United States in the event

of a genuine food emergency.

In December of 1980, without clearly determining the existence of an actual food emergency or ascertaining whether United States rice was available for shipment to Korea, the previous U.S. Administration extended an exception to the U.S./Japan agreement, allowing Korea to purchase up to one million metric tons of subsidized Japanese rice. This request was acted upon in the face of a record 1980 U.S. rice crop. RMA protested vociferously, arguing that U.S. rice farmers would respond to the large Korean demand by planting an even bigger rice crop in the spring of 1981, to be marketed during the period August 1981-July 1982. RMA strongly contended that United States rice would be supplanted by Japanese rice at great cost to the U.S. rice farmer, and ultimately, to the U.S. Government. These protests went unheeded; 750,000 metric tons of subsidized rice were sold by Japan to Korea, to be shipped by August 31, 1981. The Japanese rice was not only heavily subsidized but was sold on concessional loan terms with only 2-3 percent interest rates.

Congressional expressions of concern led to February 26, 1981 hearings before the Cotton, Rice and Sugar Subcommittee of the House Committee on Agriculture. During those hearings, Administration witnesses from the Departments of State, Agriculture and the U.S. Trade Representative's Office indicated that the Government of Korea had committed itself in writing to mitigation of at least some of the injury caused to the United States by the emergency exception to import Japanese rice. The purpose of this commitment was to protect the opportunity of the United States to market its 1981 crop during the August 1981-July 1982 marketing year. The com-mitment was a pledge by the Government of Korea to buy 500,000 metric tons of Califor-

nia rice from the 1981 crop.

On January 22, 1982, the Republic of Korea issued a tender for 370,000 of those 500,000 metric tons. The tender called for bids to be taken on February 12, 1982. It provided for shipment between July and No-vember, 1982. It was therefore outside the terms of the commitment given by the Korean government, and cited as binding upon them by Administration officials during testimony at the February 26, 1981

congressional committee hearings. It has at all times been understood by the industry that shipment of this rice had to be accomplished by July 1982. In a February 2, 1981 meeting between high-level State Depart-ment officials and the Deputy Prime Minister of Korea, the terminal shipping date mentioned by the State Department was August 1982. It appears that the August 1982 date has now become the U.S. government position on when the commitment should be purchased and shipped. This is a significant concession on the part of the U.S. government.

In the wake of U.S. rice industry protests that the July-November 1982 shipment date was outside the terms of the commitment, the Korean government withdrew its tender, proposing to buy the 370,000 MT prior to August 1982 if it were permitted to store the purchased rice in California for eventual shipment to Korea as late as early 1983. This proposal too is unacceptable because it does not fulfill Korea's commitment and because of the unavailability of storage space in California. If shipment were delayed beyond August 1982 and large quantities of 1981 crop rice choke up available storage space, then California rice harvested during September/October 1982 would be displaced. If this occurs, USDA estimates that the cost to the U.S. Treasury for 1983 deficiency payments, loan forfeitures, and storage would range \$85-150 million. In addition, farmers' 1982/83 income would be adversely affected.

Already, the emergency exception granted to Korea has been a disaster for the industry and for the taxpayer. RMA estimates that, absent the exception, Korea would have purchased one million metric tons of American rice in 1981/82. These lost sales caused the market price to fall up to \$2 per hundredweight lower than it would otherwise have been, for a loss of \$370 million. Adding carrying charges, storage costs, and interest, it can be estimated that the los

the industry has already been \$400 million. And that is not all. Thirteen million hundredweights of 1981/82 California rice have been placed in the U.S. Government loan program, representing a potential net outlay of \$104 million, plus costs of carrying and storage. Deficiency payments for the 1981 crop would not have been necessary had the Korean exception not been granted. In addition, our farmers would not have been urged by USDA to reduce 1982 rice acreage by 15 percent, threatening a shortage of rice during the next years in the event of genuine food emergencies.

The Korean exception has already been a

catastrophe for the U.S. rice industry and for the U.S. Government. It is crucial that, in order to avoid even further injury, the U.S. Government now firmly insist that Korea adhere to the terms of its January, 1981 commitment: that is, to buy and ship 500,000 MT of 1981 California rice no later than August 31, 1982. In order for this to be accomplished the government of Korea must issue a tender and purchase the commitment within the next few weeks. Actual shipments must begin no later than April 1982.—The Rice Millers' Association.

The CHAIRMAN. The time of the gentleman from Arkansas (Mr. ALEX-ANDER) has expired.

(By unanimous consent, Mr. ALEXAN-DER was allowed to proceed for 2 additional minutes.)

Mr. ALEXANDER. Mr. Chairman, Japan and such other nations as offered against fair trade must understand that our patience as Americans is limited, and that, while we have a tradition for fair play, we expect our trading partners to play fair as well.

Now, there has been a lot of talk around here and across this Nation for several years. It is now time to put our votes together with our rhetoric and to say to the Japanese and to other trading partners that there is no doubt where this Congress stands.

Mr. COATS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Indiana.

Mr. COATS. I thank the gentleman for yielding.

I wonder if the gentleman could clarify something for me. I received in my office a letter urging my opposition to this bill, and it was signed by the Rice Millers Association. How does that relate to what the gentleman was saying in terms of the Japanese stealing our rice markets?

Mr. ALEXANDER. The rice Millers are not rice farmers. I speak tonight for the rice farmers, the farmers who have paid the price for this undeclared war that has been imposed upon them by Japan.

Mr. FAZIO. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from California.

Mr. FAZIO. I thank the gentleman

for yielding.

Mr. Chairman, I would simply like to associate myself with the gentleman's remarks. We are from different parts of the country but we both share a concern for the future of the American rice industry and today that industry is in depression. It is in depression because of the dumping the Japanese Government engaged in several years ago. It has caused a glut in the world rice market that stretches out before us as far as we can see.

That glut is the result of subsidies gained by Japanese agricultural interests ever since World War II. We are used to thinking in terms of the Japanese industry as modern and productive, and yet in agriculture it is just the opposite.

American interests, particularly those on the west coast, those that deal in the Pacific basin, have been vastly limited by this protectionism of

the Japanese.

The CHAIRMAN pro tempore. (Mr. BARNARD). The time of the gentleman from Arkansas has again expired.

(At the request of Mr. Fazio and by unanimous consent, Mr. ALEXANDER was allowed to proceed for one additional minute.)

Mr. FAZIO. Mr. Chairman, if the gentleman will yield further, American interests have been vastly limited by the protectionism that the Japanese agricultural interests engage in with political Japanese life in the Diet.

We have seen a malapportioned Japanese legislative body continually protecting the interests of small farmers who vote in the interests of the majority government. As a result of that, a tremendous subsidy exists for overproduction in a number of crops; rice being one of the prime examples, but American farmers, citrus farmers and cattlemen look for new markets, look for opportunities. We have not had those opportunities.

The gentleman's point is well taken. If we are going to find the kind of free flow of trade that American agriculture needs, we are going to need more strength on behalf of American interests expressed through the State Department, our trade negotiator, and more understanding on the part of the Japanese that we have a real concern

in this country.

I appreciate the gentleman's remarks.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding.

I think the gentleman made a very strong statement here, but I think it is one that had to be made.

I think we have to look at the facts, not only the rhetoric, as the gentleman has so well pointed out.

Twenty percent of all automobiles in this country come from Japan.

Ten to fifteen percent of all the steel in this country comes from Japan.

Twenty to thirty percent of all the TV sets come from Japan.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas

has again expired.

(At the request of Mr. ROTH, and by unanimous consent, Mr. ALEXANDER was allowed to proceed for 3 additional minutes.)

Mr. ROTH. Mr. Chairman, will the gentleman yield further?

Mr. ALEXANDER. I yield to the gentleman from Wisconsin.

Mr. ROTH. Ninety percent of all the motorcycles sold in this country come from Japan.

Fifty to sixty percent of all the radios come from Japan.

Over 30 percent of all the cameras come from Japan.

Over 50 percent of all the recording equipment comes from Japan.

Over 50 percent of all watches come from Japan.

Twenty percent of all the machine tools sold in this country come from Japan.

Now, we could go on and on with this litany; but I want to point out that nothing that is sold in Japanthat we sell in Japan—we cannot cap-ture their market, not 10 percent, no. Do you know what the highest is? It is 4½ percent in pharmaceutical products; yet Japan raised such a hue and cry when we got the 41/2 percent that we have never heard anything like it before.

Now, when Japan wanted to get into the money market here in this country, into banking, what did they do? They bought the First Bank of California. Automatically that gave them 100 branches. No American bank could do that.

When they wanted to get into high technology, Fujitsu bought Ampal and immediately they were into American technology. No American company

could do that in Japan.

When Japan wanted to get into American blood plasma, what did Green Cross do? They bought Alpha, the second largest blood collector in the United States. Now, no American company could do that in Japan.

I think it is about time that we not live in illusion and shimra, but live in the real world and see that these are

some of the facts.

Now, when I was at the North Atlantic Assembly the only thing I heard the Europeans say at the EEC was, "If we have high interest rates, it is you Americans who are at fault. If we have high unemployment, it is you Americans who are at fault."

When Mr. Block was at GATT, he told the French Minister, "You have got to do something because the American Congress will not stand for

this inequity."

Do you know what he told Mr. Block? He said, "The American Congress is not the center of the Uni-

Well, I think it is about time that we stand up and do something. We cannot keep going in the direction that we are today. We cannot keep being pushed around. That is why something like this is necessary.

I am not saying this is a good bill. I know it is not a good bill; but we have got to do something. We cannot just sit on our back haunches and take everything that is thrown at us.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas

has again expired.

(At the request of Mr. ROBERTS of Kansas, Mr. ALEXANDER was allowed to proceed for 2 additional minutes.)

Mr. ROBERTS of Kansas. Chairman, will the gentleman yield?
Mr. ALEXANDER. I yield to the

gentleman from Kansas.
Mr. ROBERTS of Kansas. Mr. Chairman, I appreciate the gentleman yielding and goodness knows I do not want to stand in the way of this rice wedding between the rice producers and the autoworkers; but I would point out that who takes the downside risk? I know the rice producer is having a very tough time, but who takes the downside risk if we send this message? Who is in the trenches?

I would point out that there are \$6.6 billion worth of exports last year to Japan and that is a stated fact. Among that, we have corngrowers who benefit from \$1.8 billion in exports.

We have soybean producers who benefit from \$1.1 billion in exports.

We have wheat producers, yes, wheat producers in my district, who share the concern of the gentleman's rice producers in his district. That is \$612 million.

If you plant this flag and send them a message in behalf of the United Auto Workers and in behalf of the rice producers, remember that you are planting a flag in the back of my producers as well. I do not think that is

I thank the gentleman for yielding. Mr. SCHUMER. Mr. Chairman, will the gentleman from Arkansas yield?

Mr. ALEXANDER. I yield to the

gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I just ask for 1 minute simply to say that the gentleman from Wisconsin. the gentleman from Arkansas, and the gentleman from Kansas have all made eloquent arguments in favor of this amendment. If we want to increase our rice exports, if we want to help get our export industries back on the road, we should support this amend-ment. It will do no harm and it will a lots of good.

I appreciate their comments.

Mr. BAILEY of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. Mr. Chairman, I just want to comment to the gentleman from Wisconsin that if the Japanese prohibitions against \$19 a pound American beef alone were listed, that your grain sales would significantly and could significantly increase because the Japanese people want that protein. It takes a lot more grain to put that pound on the beef than it does to feed stomachs directly.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman.

Mr. ROTH. Mr. Chairman, I would be happy to respond to the gentleman.

No stockman in Dodge City, Kans., is not aware of the fact that it is \$19 a pound for beef or the fact that beef costs, what, five or six times what it does in this country. But how do you go about this to answer the problem. I will speak to that later. I just do not think this is the way.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(By unanimous consent, Mr. ALEXAN-DER was allowed to proceed for 2 additional minutes.)

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I think the real point that the gentleman from Arkansas is making is that this particular bill is not a bill to deal strictly with problems of the automobile workers. It is to deal with problems of all Americans, the farmer, the automobile worker, all other workers.

The question that we have before us is whether or not we are going to have free trade. Free trade is the issue. If other countries refuse to agree to a free trade policy, it is a question of what we are going to do about it.

I hope that the Japanese Government, the European governments, will get the message that free trade is the policy of the United States. We extend that policy and hope that all other countries will join with us; but if they refuse, the Government and the people of the United States refuse to be patsies. We are not going to take it any longer. We cannot afford it.

The question then is what steps the United States will take to retaliate.

I thank the gentleman.

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman.

I support the amendment and I support the bill.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. ALEXANDER. I yield to the

gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, first of all, I would like to commend the gentleman in the well for his leader-

gentleman in the well for his leadership in the trade area and exports. He has done an excellent job.

I would hope, though, that the debate we have heard here on this subject would carry over to other things we do here in the Congress. I am not talking about any point that the gentleman in the well made.

We are faced with a mountain of butter, milk, and cheese, that we either have got to dump it in the ocean or sell it to the Russians. There is nothing else to do with it; so we are probably going to dump it on the world market and when we do, people in legislatures all around the world are going to be jumping up and down saying, "The Americans have destroyed the butter and cheese and milk market."

We are going to have done the same thing that the gentleman in the well complains about here. His point is well taken. We must watch this.

taken. We must watch this.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas has again expired.

(By unanimous consent, Mr. Alexanper was allowed to proceed for an additional 30 seconds.)

Mr. ALEXANDER. Mr. Chairman, I would conclude by responding to the remarks of the gentleman from Florida by saying that, of course we cannot dump our products on the world

market in violation of the solemn treaties we have enacted with our trading partners. The Japanese have violated those treaties, however, and they have violated those treaties by taking the hide out of the American rice farmer. I represent that rice farmer and I have had enough from the Japanese and I say: Retaliate.

#### □ 1620

AMENDMENT OFFERED BY MR. FOGLIETTA TO THE AMENDMENT OFFERED BY MR. SCHUMER

Mr. FOGLIETTA. Mr. Chairman, I offer an amendment to the amendment.

Mr. DINGELL. Mr. Chairman, I reserve a point of order.

The Clerk read as follows:

Amendment offered by Mr. FOGLIETTA to the amendment offered by Mr. SCHUMER: On line 5, strike out "not".

The CHAIRMAN pro tempore. Does the gentleman insist on his point of order?

Mr. DINGELL. No, I do not, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Pennsylvania (Mr. Foglietta) is recognized for 5 minutes in support of his amendment.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentle-

man for yielding.

Mr. Chairman, as was stated by the gentleman from Minnesota, this amendment simply corrects a typo in the amendment. The word "not" was incorrectly inserted and the ratio would have changed around. This amendment to my amendment gets at its intention and in the interest of saving time, I know that the gentleman from Michigan and the gentleman from Minnesota are far better at the parliamentary procedures than am I, but quite simply, I will just reintroduce the amendment again without the word "not" if this amendment is voted down and we will save plenty of time by simply letting the amendment, as intended, be debated.

I have very formidable opponents. I think they can debate the issue well on the merits.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman should be allowed to perfect his amendment.

I must say the gentleman is doing very well. Although he says he is being outmaneuvered from a parliamentary standpoint, I notice he has won each skirmish so far, and congratulate him for his skillful work.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further to

me, I thank the gentleman from Minnesota. His is a compliment I respect.

Mr. ALBOSTA. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, I have gone over this amendment quite closely and I am quite familiar with the Japanese procedure of importing products from the United States or any other country.

Their procedure is that they have a domestic price set on the product there. For instance, a bushel of wheat that is bought here in the United States for \$5.50 delivered over to Japan would sell for \$9.40 roughly.

So we have not gained anything. The Japanese are buying wheat in this country below the cost of production to the American farmer. The American farmer is actually subsidizing the Japanese Government simply through the kinds of policies that domestic imports must go through in Japan.

Now, if that is the case, and it is, at \$5.50 to \$9.40, that whole spread is going into the general fund of the Japanese Government. The reason that we would have problems with this amendment is simply that when, and I hope pretty soon, the cost of wheat gets to a level where at least the American farmers break even, that we have taken care of that increase in goods and services to meet the qualifications of the gentleman's particular amendment.

So I do not see that this amendment is going to accomplish the type of goal that the gentleman thinks it will.

Soybeans is another product. I do not know exactly what the Japanese have, I would have to get those figures, but it is much, much higher. It is a set figure for Japanese soybeans grown in that country by Japanese farmers and all soybeans imported in there are going to have to be sold for processing at that particular time.

Mr. FOGLIETTA. I yield to the gentleman from New York (Mr. SCHU-MER).

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Michigan, as well as some of the other gentlemen who are opposing this amendment, is exactly making my point.

My point is that if we want to use this bill as a lever to open up Japanese markets to our wheat and our soybeans and our rice and our computers and our airplanes and our electronics and our telecommunications products and our services, then the only thing to do is support this amendment and then perfect H.R. 5133.

What this amendment does is make the bill say what many of the sponsors say the bill is saying. Mr. ALBOSTA. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from Michigan.

Mr. ALBOSTA. I thank the gentleman for yielding.

Mr. Chairman, the main problem is that the Japanese have had this system in effect for a long time. They have never taken into consideration changing that. They want a strong agriculture in their country. I do not blame them for that. I do not think because they have a strong agricultural lobby that they are going to change their position.

So what is going to happen is that we are going to sit here for another period of time. The price of wheat has got to go up. The price of soybeans in this country has to go up. It is going to make up for that difference here.

Nothing, absolutely nothing, is going to change. The Japanese will have outsmarted us again.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentle-

man for yielding.

Mr. Chairman, let me make a point that I left out in my opening remarks, and I wish the gentleman from Michigan who had made this point would pay attention.

I agree with the gentleman. Not U.S. diplomats, not U.S. policy, not GATT, not anything else we have tried has been able or has forced the Japanese to open up their markets to us the way we have opened our markets to them.

Do you know what this amendment does? Guess who it makes the lobbyists in Japan to open up the Japanese markets?

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. Foglietta) has expired.

(On the request of Mr. Schumer and by unanimous consent, Mr. Foglietta was allowed to proceed for 2 additional minutes.)

Mr. SCHUMER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. SCHUMER. I thank the gentleman for yielding.

Mr. Chairman, not Mr. Brock, not Mr. Schultz; do you know who it makes the lobbyists to open up our market to the goods you want to see sold to Japan? Datsun, Toyota, Honda, Subaru, and all the Japanese auto companies, because this bill says to them:

If you do not get your own Japanese markets opened up to American products, then American markets are closed to you.

It is this amendment that will finally open up Japan's markets to us; not H.R. 5133 alone.

Mr. NEAL. Mr. Chairman, will the gentleman yield to me?

Mr. FOGLIETTA. I yield to the gentleman from North Carolina.

Mr. NEAL. I thank the gentleman for yielding.

Mr. Chairman, as I listened to this debate, it seems to me the argument of those in favor of the bill has been over and over again that they want the Japanese markets open. It seems to me the gentleman has provided an amendment that would provide a potential for a lever that would do just that, and I would like to hear, if I could, from one of the proponents of the bill why they could possibly oppose this amendment, as amended?

Why would this not accomplish the goal? It does not necessarily accomplish the goal of requiring that automobiles be manufactured here, but I have not understood that to be the primary purpose of the bill anyway. The primary purpose of the bill is to open Japanese markets, if I am cor-

rect.
Mr. OTTINGER. Mr. Chairman, will

the gentleman yield to me?
Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

Mr. Chairman, the reason we oppose it, and I will elaborate on this more, is: First, it does nothing for auto workers or automobiles; 90 percent of the deficit in trade between the United States

and Japan is in automobiles.

Second, this makes it a Japan-only bill. There are many other manufacturers that will be discriminated against from other countries if Japan were let out from under this domestic content requirement. Japan would be let out and the provisions would still apply to all other countries.

The third thing is that it does nothing at all to restrain U.S. companies. It alleviates, if you can understand it, the entire restraint on the U.S. industry which increasingly has been building parts all over the world, not just in Japan.

I would like to say I agree with my colleague, the gentleman from New York, Mr. Solarz, that this bill is not a vendetta against Japan.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania (Mr. FOGLIETTA) has again expired.

(On request of Mr. OTTINGER and by unanimous consent, Mr. Foglietta was allowed to proceed for 2 additional minutes)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further to me?

Mr. FOGLIETTA. I yield further to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

This is not a vendetta against Japan. It is saying to all the countries in the world that have discriminated against us with respect to automobiles that they are going to have to start to give some fairness.

The last thing that bothers me about this is that Japan would have to do nothing if the economics of the world trade simply change and the U.S. dollar drops because our interest rate drops substantially relative to what happens in Japan. Without Japan doing a bloody thing, Japan would be excused from this bill.

It seems to me that is wrong. That is why I oppose the amendment.

Mr. NEAL. If the gentleman will yield further, I do not think that you would find a fluctuation in currency such that Japan would benefit in that fashion from a change in our currency.

#### □ 1630

What this amendment would do, if I understand it correctly, is it would help open Japanese markets to our products, which is what I have heard everyone that has argued in favor of this bill say they wanted to accomplish. Is that correct? Where am I wrong? Where am I hearing this wrong?

Mr. OTTINGER. The gentleman is right. That is one of our objectives, but one of our objectives is to put some 360,000 auto workers and those in related industries back to work.

Mr. NEAL. If those markets are open and we can sell those automobiles there, if we could sell the agricultural products, why could we not put some of those people to work manufacturing tractors and other devices in demand in world trade?

Mr. OTTINGER. It would have some effect. It has the concomitant effect, which I think is very damaging, of discriminating against other countries and discriminating against U.S. manufacturers in favor of Japan if, in fact, Japan qualifies under the amendment. Therefore, I think it is defective.

Mr. SCHUMER. Mr. Chairman, if the gentleman will yield further, the gentleman from New York's point is another argument in favor of this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that the gentleman be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. FRENZEL. Mr. Chairman, reserving the right to object, we have got pending an amendment to which I think there is no objection. I wonder if we could dispose of that. It would be nice to get that over with, then we can discuss the amendment.

Mr. Chairman, I withdraw my reservation of objection.

there objection to the request of the gentleman from New York?

Mr. DINGELL. Mr. Chairman, I would like to be recognized on the

The CHAIRMAN pro tempore. On the perfecting amendment?

Mr. DINGELL. Yes, Mr. Chairman. The CHAIRMAN pro tempore. The gentleman from Pennsylvania is recognized for an additional 2 minutes.

Mr. DINGELL. Mr. Chairman, I want to be recognized on my own time. Mr. FOGLIETTA. Mr. Chairman, I ask unanimous consent to proceed for

an additional 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. OTTINGER. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. DINGELL, Mr. Chairman, I ask to be recognized in opposition to the amendment.

Mr. Chairman, I do not want my comments to be taken as being in any way hostile to the distinguished gentleman from Pennsylvania, who is a very valuable and able Member, or the gentleman from New York, who has my greatest respect, but we are now placed in the rather awkward position of seeking to perfect an amendment which has some problems. I have taken the time to try and analyze the amendment as it first was offered, and second as it is amended by the amendment offered by the gentleman from Pennsylvania.

First, let us take the amendment as it is amended by the amendment offered by the gentleman from Pennsylvania. The bill applies to autos which would be imported from every country in the world. The amendment, as amended by the gentleman from Pennsylvania, would apply only to Japan in terms of affording an escape clause. In other words, the Japanese could get out from under the requirements of the bill by meeting the test of the amendment, but that cannot happen with regard to the Germans, the British, the Italians, the French, or any of the other major auto-producing nations of the world. This would almost certainly trigger an attack on this country for violation of GATT and could very possibly trigger a broad wave of trade sanctions legitimately imposed on automobiles, agricultural products, and everything else exported by the United States, because we would then be discriminating against every other country in the world, for which they would legitimately and properly complain.

Now, with regard to the structure of the amendment, the bill applies only to each manufacturer, on a manufac-turer-by-manufacturer basis, and the manufacturer must act during the

The CHAIRMAN pro tempore. Is model year to assure that he meets a prescribed content level. The enforcement takes place, however, after the year is over. The penalty is a reduction of sales in interstate commerce under the formula which is prescribed in the

> The amendment gives, or seeks to give, some kind of a defense or a change in the enforcement requirements with regard to the contents permitted. It allows the domestic content requirement to, perhaps, be suspended. This, however, would not be determined until the model year is over, and once a somewhat lengthy period of proceedings has occurred. It is, therefore, impossible for the Japanese manufacturers to ascertain during the year that they are trying to meet a particular level of content. What the level of content is that they must comply with.

> That imposes appalling and impossible burdens on the Japanese and other auto manufacturers, including the automobile manufacturers from any country but Japan which cannot escape from the requirements of the

legislation.

There are further questions with regard to the amendment which have to be addressed at this time; that is, it is unclear who makes the decision or who determines whether, when or how the exemption which purports to be granted in the amendment is made available to the Japanese. This will surround the enforcement of the legislation with, I think, massive and remunerative litigation for the legal profession. One can be assured that it will afford great doubt as to the automobile manufacturers who will be affected, and very little assurance of protection to the automobile manufacturers of any country, or indeed to the automobile workers of this Nation.

Now, I believe that the gentleman from New York and the gentleman from Pennsylvania seek in extraordinary good faith to offer a good amendment, and it may very well be that they should be afforded permission to withdraw the amendment. I think that we find ourselves in the awkward position of being compelled piecemeal and hurly-burly to perfect an amendment which has a number of defects which come to light on the most casual inspection, and I believe that the amendment should therefore be rejected.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the gentleman's amendment.

Mr. Chairman, I do not want to use up unnecessary time. The gentleman from New York (Mr. SCHUMER) is simply seeking to perfect an amendment on which he made a typographical error.

It seems to me that it is wholly consistent with the traditions of this House and common courtesy that we

adopt the gentleman's amendment, and then discuss the effect of the amendment as perfected.

I yield back the balance of my time. Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Pennsylvania, obviously, if he seeks to have me yield to him.

Mr. FOGLIETTA. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I ask unanimous consent that my amendment to the amendment be agreed to.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LEVITAS. Mr. Chairman, re-serving the right to object, this is a parliamentary inquiry.

The CHAIRMAN pro tempore. The

gentleman will state it.

Mr. LEVITAS. Will the adoption of the gentleman's amendment by unanimous consent preclude my being recognized to speak in favor of his amendment?

The CHAIRMAN pro tempore. No, the gentleman does have his time.

Mr. LEVITAS. Mr. Chairman, withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendment to the amendment was agreed to.

#### □ 1640

#### PARLIAMENTARY INQUIRY

Mr. DINGELL. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DINGELL. Mr. Chairman, this refers to the amendment which was offered by the gentleman from Pennsylvania (Mr. Foglietta); we are not adopting by unanimous consent the main amendment, are we?

The CHAIRMAN. The gentleman is correct. The amendment offered by the gentleman from Pennsylvania (Mr. FOGLIETTA) was to the amendment offered by the gentleman from New York (Mr. SCHUMER). Only amendment has been agreed to.

The Chair recognizes the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I think the purpose for which I sought recognition is even more amply illustrated by the events that have just occurred.

First of all, I rise in support of the amendment offered by the gentleman from Pennsylvania (Mr. Foglietta) and the amendment offered by the gentleman from New York (Mr. Schu-MER). I intend to vote in favor of the bill that is pending if we ever get around to voting for it, for the purpose of sending this well-known signal to not only our Japanese trading partners but to other trading partners around the world and Europe and elsewhere who believe in free trade but not fair trade, and for the purpose of letting it be known that the people of America and the U.S. Congress will not be played for fools forever and at the proper time we will take that action when necessary, if it becomes necessary, to insist on reciprocity, which is not a bad word, but is a good word.

But, Mr. Chairman, I would like to talk about something broader in this context. If what we are about this afternoon is to send that signal, why do we not just get on with it? What is this exercise we are engaged in in perfecting a bill that the Speaker of the House said is not going to be passed by the Congress?

The Speaker was quoted in the press today as saying that Congress will adjourn without passing domestic content legislation aimed at limiting auto imports. If we are not going to pass the bill but are just sending a signal, why do we not just dispense with all this activity? It has as much relevance to what Congress is doing as a high school debating society. We are kidding ourselves, we are wasting time and the taxpayers' money, and we are neglecting the things we ought to be doing.

Let us send a signal. I am ready to vote on the bill. But we are not serious in thinking we are perfecting a piece of legislation this afternoon. We are making a charade out of the legislative process.

Let us be serious about it. If what we want to do is send a signal, let us vote on the bill, send a signal, and let us do that by an overwhelming majority. We can let the people in France and Germany and Japan know that we are not going to take it next year and we are not going to stand for it.

Mr. HERTEL. Mr. Chairman, will

the gentleman yield?
Mr. LEVITAS. I yield to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I agree with the gentleman. Let us not lose the importance of these amendments. I would like to vote on the bill up or down right now without all of these amendments, for many of the reasons the gentleman stated.

We are trying to send a message, and many of the speakers have said that. But as to this particular amendment, we have seen a fatal flaw in it in the first instance, and since then we have heard the sponsors' questions and arguments against the amendment. The chairman of the Committee on Energy and Commerce has raised questions and arguments against the amendment, and yet we are going in the op-

posite direction all the sponsors, over 200 cosponsors, have been seeking.

Mr. Chairman, I would wonder, because of what the gentleman said before yielding to me, whether we might withdraw this amendment after this time in this session and proceed with the bill and move as quickly as we can.

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

I want to put the question very seriously to the gentleman from New York or the gentleman from Michigan or any other Member who supports this bill and, I assume, will vote for it. And I intend to vote for it for the reasons I have stated.

Do the gentlemen really believe this bill is going to pass both Houses of Congress and be signed into law? And if they do not believe that, why do we not get on with the vote on final passage and send the message in overwhelming numbers to our trading partners?

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. OTTINGER Mr. Chairman, I would be delighted to vote out this bill now by an overwhelming majority. I think the bill has a chance of passage because of the Senate rules, but I think if only the House passes it, it will have a significant effect.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. Levitas) has expired.

Mr. LEVITAS. Mr. Chairman, I ask unanimous consent that I may be permitted to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia.

Mr. OTTINGER. Mr. Chairman, reserving the right to object, I will not object, but I would just like to take this time to advise the gentleman that we have spent almost 2 hours on this amendment. There are other amendments Members wish to offer, and therefore, at the conclusion of the gentleman's time, I will see if we can get unanimous consent on this amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN. The gentleman from Georgia (Mr. Levitas) is recognized for 2 additional minutes.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I say that if all that happens, if this House passes this bill

and does so by a substantial majority, I think it will have a real effect on Japan.

When Canada just recently took very tough actions with respect to Japanese imports of automobiles into its country, Japan, which refused to sign an agreement, suddenly signed an agreement, and I think this is the kind of action that we could expect.

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

Mr. Chairman, I agree with the gentleman, and that is the reason and indeed the only reason I intend to vote for this bill, and I think a significant majority of this House is going to do the same thing for the same purpose, and it will send that message. Then I think we will either see response by our trading partners or the next Congress is going to deal much more comprehensively with the question.

But I say, let us not make a charade out of the business of this House.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield on that point?

Mr. LEVITAS. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, the gentleman may think it is a charade, but I guarantee that every lobbyist for Datsun, for Honda, and Toyota is watching every word that we say and reading every item of this bill to insure that what we are saying is in fact a piece of foreign policy or whatever

Mr. LEVITAS. Mr. Chairman, let me reclaim my time.

I do not disagree with what the gentleman says, but the one thing that is going to be read, and most clearly, is the vote on final passage, and this rhetoric and these debating society tactics are not accomplishing anything. We are not perfecting a piece of legislation that is going to be enacted into law.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield once more?

Mr. LEVITAS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I am just going to say that the amendment offered by the gentleman from New York (Mr. Schumer) does change this bill from a trade protectionist bill in some respects to a leverage in reciprocity bill, and there is a purpose in doing that.

Mr. LEVITAS. Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from New York (Mr. Schumer), and then let us get on to the passage of the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 5 o'clock.

to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 45 seconds each.

The Chair recognizes the gentleman

from Indiana (Mr. Coats).

Mr. COATS. Mr. Chairman, the gentleman from New York (Mr. SCHUMER) has offered an intriguing amendment because what it says is that if we are truly interested in sending a message to Japan, then let us amend this bill so that a true message is sent. It causes those proponents of the bill to have to take a stand as to whether or not they are truly interested in having Japan reduce and remove it's trade barriers or whether they are merely interested in raising trade barriers to protect our domestic automobile industry, a situation that most agree ultimately will cost us jobs, even in the auto industry.

So I think each Member, before deciding whether or not to vote for this amendment, should ask himself or herself, what is it that we are trying to do today? Are we truly trying to send a signal? Are we truly trying to get Japan to lower its trade barriers, or are we simply trying to raise protectionist barriers that will harm our

entire economy?

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin

(Mr. ASPIN).

Mr. ASPIN. Mr. Chairman, I think the problem with the amendment offered by the gentleman from New York (Mr. Schumer) is essentially that he is trying to make it into a reciprocity bill when the purpose of the legislation in my mind was not essentially to be a reciprocity bill.

The problem is that it does not deal with the major problem in American manufacturing of automobiles and that is that American manufacturers foreign-sourcing, engines being made in Mexico, parts being made in Brazil.

The problem with the whole industry is that what we need is an industrial policy in this country and an industrial policy needs a trade policy as a very, very important component.

This amendment would make this bill into a reciprocity bill and that is not what we should be dealing with here.

The CHAIRMAN. The Chair recognizes the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Chairman, I think what we have done is finally gotten the issue of outsourcing on the table. As far as the United Auto Workers are concerned I think that is important. I think that is why this amendment ought to be considered, to probably the great consternation of the original

The CHAIRMAN. Is there objection sponsors of the bill. But I think it is important we focus on this.

> I yield the balance of my time to my friend from Minnesota (Mr. FRENZEL).

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

(Mr. GLICKMAN asked and was given permission to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Chairman, I beg to disagree with my colleague from Wisconsin (Mr. ASPIN). I have been lobbied on this bill by many people on the basis that it is a reciprocity bill. That is, if we in fact pass this bill it will encourage other nations throughout the world to engage in much better trade relationships with

This is a trade bill and while I am not sure how I am going to vote on final passage this amendment makes it clear that we are expecting Japan to improve their trade balance to the United States or else they will not be met by the negative aspects of this

Thus I would urge an affirmative vote on the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Colorado (Mr. Brown).

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the amendment. It seems to me it provides an opportunity to encourage the proper kind of fair trade behavior on the part of the Japanese that can benefit both nations, not only in the sphere of trade but with regard to the rest of their relations.

I yield the balance of my time to the gentleman from Minnesota (Mr. Fren-

(By unanimous consent, Mr. Wolfe yielded his time to Mr. DINGELL.)

(By unanimous consent, Ms. Fer-RARO yielded her time to the gentleman from Michigan, Mr. Ford.)

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I rise in support of this amendment. I think as the gentleman from Kansas said a while ago that what we are trying to do is to promote reciprocity.

We also have to keep in mind that when we are talking about jobs, those of who do not have a direct interest in the automobile industry do have people in our districts whose jobs depend upon these imports, and most of those dealers are dealers of American automobiles. When you take imports away from those dealerships people are going to lose their jobs and this is the one thing we do not want to happen.

If we really want reciprocity, if we really want Japan to toe the line, this amendment is the way to go.

The CHAIRMAN. The Chair recognizes the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the Chairman and rise in support of the amendment by my good friend from New York.

As has been pointed out, this is an imperfect amendment but to an imperfect bill. It does not put clothes on the naked. It does not feed the hungry. But it takes this bill and makes it a reciprocity bill and sends a clear message, one that is worth sending.

In all of the haste of the debate we have forgotten to thank-and I would like to correct the omission—the integrity and the hard work of our colleague from New York for taking an imperfect bill and expanding its benefits from the benefit of a few to the collective benefit of us all. I thank the gentleman.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, it is instructive to me that none of the supporters of the amendment offered by the gentleman from New York (Mr. SCHUMER) have answered the criticism of the gentleman from Michigan, the distinguished chairman of the Energy and Commerce Committee, Mr. DIN-GELL, when he pointed out that manufacturers would be totally unable to plan from one moment to the next as to what that Japanese manufacturer, for example, was going to be confronted with in regard to standards, rules, American law as it applies to establishing a plant and content in automobiles in this country.

You cannot plan under the Schumer amendment. It is totally impossible and that is just one of the reasons why we should oppose the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. The really sad part about this is that the gentleman from New York offers it in good faith. Frankly, I am no more sure that it will not, because I am unable to understand his explanation either on the floor or indirectly of how it will work, unless you can visualize a trade window that opens one year, closes the next, opens the next year and closes the next.

With an industry like the automobile industry, if you know even the most rudimentary things about its economics, this is insane.

The second thing it does that really has everybody focusing on the hole instead of the donut is that it singles out Japan and it applies only to trade with Japan.

That is not the problem in my Congressional district.

The problem in my congressional district is jobs that used to be in that district with General Motors, Ford, and Chrysler that are now in Mexico and Brazil and similar countries chasing cheap labor. Those jobs are what we would like to bring home.

So you create the mistaken impression that we in Michigan are out to ruin the Japanese at all costs. What we are interested in is jobs in the United States.

This is the most discriminatory approach we have seen. If we had in the original legislation proposed to aim this at Japan you would have heard the tremors throughout this country.

The amendment is dangerous and mischievous and must be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the amendment. If we want to send a message to the Japanese I have suggested earlier we ought to use Western Union.

The trouble with this amendment is that it is highly discriminatory and applies to only one country. The French, for example, have very high export subsidies on many agricultural products and we are, of course, in competition with them, too.

Many other countries have closed markets, but this amendment ignores them. It takes us into a targeted reciprocity against a single country which cannot be justified in any way.

Unfortunately the amendment would require a \$4 billion decrease in the deficit of trade between the United States and Japan by 1984 and \$10 billion by 1987. That in unachievable.

If all Japanese markets were to be opened tomorrow there is no way that we could reduce the balance of trade deficit with Japan in that time. In the meantime you are going to force down the yen because of this redirection and you are never going to get any advantage. There will be no threat, no persuasion to Japan because Japan cannot make the achievement that you have asked them to make to be relieved of their duties.

The amendment should be defeated. The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. Dingell).

Mr. DINGELL. Mr. Chairman, I am sure that the offerers of the amendment as amended offer it in the best of good faith. They are good men and I respect them.

But if you want to send a message to Japan and the rest of the world you are going to send the wrong message. First of all, the only country that can get out from under the domestic content bill is the Japanese under this amendment. That is an enormously discriminatory proposal and would evoke immediate responses against the United States under GATT by every single one of our trading partners.

Second of all, it is unfair to our domestic producers because it says that regardless of our trade deficit they are still tied to this particular high United States content requirement while the Japanese can go back to low Japanese content and can thus achieve further advantages.

The next thing is it discriminates against our other trading partners, the British, the French, the Germans, the Dutch, the Italians, and all of the others who send us automobiles and automotive products because it affords them no relief whatsoever.

It is an extremely well meant but poorly thought out amendment, unworkable and dangerous, that will hurt American industry and outrage our trading partners.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Schumer).

#### □ 1700

Mr. SCHUMER. Mr. Chairman, again, I respect my colleagues on the other side, and I also have a great deal of sympathy and heartfelt grief for the tens of thousands of auto workers who are out of work. Unfortunately, the domestic content bill will not put them back to work. What will put them back to work is a reciprocity measure. The bill will be perfected if this amendment passes. It creates reciprocity. Every one of you from districts dependent on exports needs this amendment. The country as a whole needs this amendment. It does not discriminate. It is not unworkable. It is keyed to the structure of the bill. It is a good amendment. It will send the message to Japan that we want sent.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. OTTINGER) to conclude debate.

Mr. OTTINGER. Mr. Chairman, this amendment not only changes the character of the bill, it will do nothing for the 300,000 auto workers out of work or the 600,000 people in related industries who are out of work.

In response to what the gentleman from Texas (Mr. Kazen) said, those people's unemployment affects every area of our country and they are the leaders of the tremendous depression we have been having.

The purpose of this legislation is to see that we get some equity back and are able to rehire some of those autoworkers, put some of the rubberworkers, the glassworkers, the textileworkers back to work.

The amendment is discriminatory against Japan. It would work great mischief. It does nothing with respect to the U.S. automobile companies, and I urge its defeat.

• Mr. HARKIN. Mr. Chairman, I rise in support of the Schumer amendment. I feel that the amendment offered by the gentleman from New York, Mr. Schumer, is very logical.

Japan has been following a one-way street philosophy. They want our markets to be open but they erect artificial barriers to protect their markets from our products.

In agriculture especially, Japan has long maintained very stringent regulations which effectively block American farm products from being sold in Japan. Let us just take one agricultural product: beef exports. Quite frankly, Japan regulates beef imports through a quota system designed to protect their domestic producers. Moreover, the Japanese have developed a preference for grain-fed beef which is the key to expanding this market. For example, Japan's per capita beef consumption has risen steadily from 8 pounds in 1975 to 11 pounds in 1980.

There has ben one interesting development in this area which indicates the Japanese desire for this grain-fed beef, and that is the carry-on beef packs. These are purchased by Japanese business travelers and tourists in duty-free stores outside of mainland Japan. These carry-on packs cost the Japanese traveler about \$4 to \$5 per pound of beef, while retail beef prices in Japan have reached \$15 to \$20. The U.S. Meat Export Federation estimates that some 189 metric tons of U.S. beefsteak entered Japan in carry-on packs during 1980.

In addition to their restrictions on beef, the Japanese are also restricting the import of American pork and pork products. Japan controls the import of pork through a stablization price program. Furthermore, because of the Japanese concern for protecting its own domestic pork industry, it is not legal to promote U.S. pork in Japan. In other words, the U.S. Meat Export Federation Office in Tokyo cannot promote the consumption of U.S. pork but must promote the consumption of all pork.

Now think about this, what if we had regulations like that governing our imports. Toyota could not advertise Toyota cars; Datsun could not advertise their Datsun cars. They would simply have to advertise that cars are good—that you should buy a car. Perhaps they could say you should buy a small car or a car that gets so many miles to a gallon. But if we had that kind of a law in the United States that is the only way Toyota or Datsun could advertise.

To sum up my statement just in this regard, I would say that we have to take some actions in this country to assure that U.S. export products, such as beef and pork exported to Japan, will be given the same free-market treatment that their products receive here in the United States.

I believe the Schumer amendment would have that effect. Under the Schumer amendment, we are saying that if Japan reduces its barriers to our producers, thus reducing our trade in balance, then this domestic content bill would not apply. In this way, the Schumer amendment really promotes reciprocity.

Some have said the Schumer amendment is not perfect. Perhaps this is so, but I do not think the entire bill is perfect. What we are trying to do is to send a message to Japan. I believe the message ought to be one of reciprocity. The message ought to be one of saying to the Japanese that they must take down some of their trade barriers.

I believe that is the best way to go. I will state, however, that even if the Schumer amendment does not pass. I do intend to vote for the bill because I believe a message must be sent. I believe in free trade as much as anyone on the floor, but one cannot keep preaching free trade and let other countries take advantage of us. Again, that is why I believe the Schumer amendment is the best way to proceed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHUMER), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

#### RECORDED VOTE

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote taken by electronic device, and there were-ayes 88, noes 310, not voting 35, as follows:

#### [Roll No. 458]

## AYES-88

Alexander	Ginn	Mottl
Atkinson	Glickman	Neal
Bedell	Gramm	Nelson
Benedict	Green	O'Brien
Bereuter	Hall, Sam	Obey
Bethune	Hammerschmidt	Panetta
Biaggi	Harkin	Patman
Bingham	Hartnett	Rhodes
Bliley	Heckler	Ritter
Boggs	Hightower	Roberts (SD
Bouquard	Hubbard	Roemer
Breaux	Ireland	Rose
Brown (CO)	Jenkins	Roth
Brown (OH)	Kazen	Sabo
Coats	Kindness	Sawyer
Collins (TX)	Eramer	Schumer
Coyne, James	Leach	Simon
Daschle	Lent	Smith (AL)
Daub	Levitas	Smith (IA)
le la Garza	Livingston	Smith (NE)
Deckard	Loeffler	Smith (OR)
Dicks	Lowery (CA)	Stenholm
Donnelly	Lundine	Tauzin
Dorgan	Martin (IL)	Taylor
Emerson	McCurdy	Walker
English	McDonald	Watkins
Evans (IA)	McGrath	Weber (OH)
azio	McKinney	Winn
Poglietta	Miller (OH)	
owler	Morrison	

#### NOES\_310

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ddabbo	Anthony	Badham
kaka	Applegate	Bafalis
lbosta	Archer	Bailey (MO)
nderson	Ashbrook	Bailey (PA)
ndrews	Aspin	Barnard
nnungio	AuCoin	Barnes

F

Beilenson Gray Bennett Bevill Boland Boner Bonior Bonker Bowen Brinkley Brodhead Hance Brooks Broomfield Brown (CA) Hatcher Broyhill Hawkins Burgener Butler Hefner Byron Hendon Campbell Hertel Carman Hiler Carney Hillis Chappell Holland Holt Chappie Cheney Hopkins Horton Clausen Clay Howard Clinger Hoyer Coelho Huckaby Coleman Hughes Collins (IL) Hutto Conable Hyde Jacobs Convers Jeffries Corcoran Coughlin Courter Coyne, William Craig Crane, Daniel Crane, Philip Kildee Crockett D'Amours LaFalce Daniel, Dan Daniel, R. W. Lantos Dannemeyer Davis Leath Dellums Lee DeNardis Leland Derrick Lewis Derwinski Dickinson Dingell Lott Dixon Dornan Dougherty Luken Lungren Dowdy Downey Madigan Dreier Markey Duncan Marks Dunn Marriott Dwyer Dymally Dyson Early Matsui Eckart Mattox Edgar Edwards (AL) Edwards (CA) Edwards (OK) Erdahl Erlenborn McDade Fary Fenwick McEwen McHugh Mica Mikulski Fiedler Fields Mineta Fish Fithian Minish Flippo Florio Moakley Foley Ford (MI) Moffett Ford (TN) Fountain Molinari Frank Frenzel Moore Frost Fugua Murphy Murtha Gaydos Myers Gejdenson Napier Natcher Gephardt Gibbons Nelligan Gilman Nichols Gingrich Nowak Gonzalez Oakar Goodling Oberstar Ottinger Gore

Gradison

Gregg Grisham Guarini Gunderson Hall (IN) Hall (OH) Hall, Ralph Hamilton Hansen (ID) Hansen (UT) Johnston Jones (NC) Jones (OK) Jones (TN) Kastenmeier Kennelly Kogovsek Lagomarsino Long (LA) Long (MD) Lowry (WA) Marlenee Martin (NY) Mavroules Mazzoli McClory McCloskey McCollum Miller (CA) Mitchell (MD) Mitchell (NY) Mollohan Montgomery Moorhead

Parris Pashayan Patterson Paul Pease Pepper Perkins Petri Peyser Pickle Porter

Price Pritchard Quillen Rahall Rangel Ratchford Regula Reuss Rinaldo Roberts (KS) Robinson Rodino Roe Rogers Rosenthal

Rostenkowski Roukema Rousselot Roybal Russo Santini Savage Scheuer Schneider Schroeder Seiberling Sensenbrenner Shamansky Shannon

Sharp Shaw Shelby Shumway Siljander Skeen Skelton Smith (NJ) Snowe Snyder Solarz Solomon Spence St Germain Stangeland

Stanton Stark Staton Stratton Studds Stump Swift Synar Thomas Trible Hebit Vander Jagt Vento Volkmer

Washington Weaver Weber (MN) White Whitehurst Whitley Whittaker Whitten Williams (MT) Williams (OH) Wilson Wirth

Wolf Wolpe Wortley Wright Wyden Wylie Yatron Young (AK) Young (FL) Young (MO) Zablocki Zeferetti

NOT VOTING-35

Findley Beard Pursell Forsythe Goldwater Blanchard Railsback Bolling Schulze Burton, John Hagedorn Shuste Smith (PA) Burton, Phillip Hollenbeck Chisholm Hunter Emery **Jeffords** Tauke Ertel Kemp LeBoutillier Traxler Evans (DE) Wampler Evans (GA) Lehman Waxman Martin (NC) Evans (IN) Vates

#### □ 1720

Messrs. PHILIP M. CRANE, WAL-GREN, LELAND, and FIELDS changed their votes from "aye" to "no."

Mr. BEDELL and Mrs. SMITH of Nebraska changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. OTTINGER. Mr. Chairman, I move to strike the last word.

I take this time to advise the Members what our intent is. The minority and ourselves have an agreement. There are two amendments from the minority. We are going to seek to limit time on those two amendments, after which we will seek to terminate the bill at a reasonable hour. We hope we can terminate all business on the bill before 7 o'clock.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, we have two amendments on this side, one from the gentleman from Indiana (Mr. COATS) and one from the gentlewoman from New Jersey (Mrs. Fen-WICK). I have one or two which I think can be dispatched rather quickly.

We on this side will agree to a limitation of time on those amendments only and the managers of the bill have graciously decided not to call for an overall limitation of time.

Now, there will be other volunteers who will have amendments. We will try to take them as quickly as possible, but we will appreciate the cooperation of each of the Members in letting some of these amendments get adequate debate without filibuster.

I think we should be able to finish by 7:30 perhaps, if we do not have an extraordinary number of orators.

I thank the gentleman for yielding. Mr. BROYHILL. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. I am glad to yield to my friend, the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, there are a number of amendments, of course, that have been printed in the RECORD to be offered by a number of Members. I have no intention of offering any amendments at this time, but I would hope that the gentleman from Indiana would be permitted to offer

his amendment. He has been waiting all day. The gentlelady from New Jersey also has an amendment she wishes to offer.

There are other amendments, but perhaps the other amendments may

not even be offered.

Mr. OTTINGER. It is my understanding that our arrangement is that we are not going to seek to cut anybody off, but we are going to try to limit debate on individual amendments.

Mr. BROYHILL. That is fine with

me.

Mr. OTTINGER. We will, hopefully, have restraint on the part of all our colleagues with respect to speaking on these amendments so that we can conclude the debate as early as possible.
Mr. ROUSSELOT. Mr. Chairman,

will the gentleman yield?

Mr. OTTINGER. I am glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding.

My understanding is that there are roughly 30 amendments at the desk. Is it the gentleman's intention at some point soon to try to bring to a conclusion all debate on all these amendments at one time?

Mr. BROYHILL. Mr. Chairman, would the gentleman yield for me to

answer that?

Mr. OTTINGER. I am glad to yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Chairman, if I can respond to the gentleman from California, it is our understanding that the vast majority of those amend-ments may not be offered. They may be at the desk, but they may not be offered. There are only two or three

amendments that may be offered.

Mr. ROUSSELOT. Well, I appreciate my colleague's enlightened state-

I was still trying to get a statement from the managers of this operation.

Does the gentleman intend to limit debate at 7 o'clock regardless, is that

the intention?

Mr. OTTINGER. We do not intend to do so and the minority has indicated that if we do not do that, then they have only two or three amendments left to offer. We can limit time on those amendments and they will not offer the amendments that are printed in the RECORD, so we will not have to stay up all night.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman for his wonder-

ful position.

AMENDMENT OFFERED BY MR. COATS

Mr. COATS. Mr. Chairman, I offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amend-

The Clerk read as follows:

Amendment offered by Mr. Coars: Page 15, after line 2, insert the following new section:

SEC. 8. SECRETARY OF AGRICULTURE REPORTS.

Within one year after the date of enactment of this Act, the Secretary of Agriculture shall undertake an investigation, and submit to Congress a written report regarding the impacts of this Act upon the exportations of agricultural commodities from the United States.

Renumber the succeeding sections accord-

Mr. COATS. Mr. Chairman, this amendment would require the Secretary of Agriculture within 1 year of the date of enactment of this act to undertake an investigation of its impact upon the exportation of farm commodities in the United States. We have heard a great deal of discussion today about the impact that this bill would have on agriculture and our agricultural exports.

In his letter to Congress dated December 8, 1982, Secretary Block warned that passage of this bill may have severe consequences for American agriculture. Secretary Block pointed out that 2 of every 5 acres of crops grown and nearly one-fourth of all farm cash receipts are from export sales. He also warned that retaliation could be expected, particularly from the European Community and Japan, which together bought \$18 billion of U.S. agricultural exports in 1981, over 42 percent of our total farm exports in that year.

Let me repeat that figure, \$18 billion of U.S. farm sales in 1981 were to Japan and the European Community.

Japan alone imported \$6.6 billion worth of U.S. agricultural exports.

The U.S. exports nearly two-thirds of its production of wheat to Japan and Japan is the largest wheat export market after the U.S.S.R. and China.

#### □ 1730

One-half of the production of soybeans and soybean products in this country goes to Japan. One-half of all

soybean products.

These adverse consequences have been recognized by the U.S. farm community. I have received, as has every Member, a mailgram listing 18 national farm organizations opposed to this bill for the reasons that I have just stated. Listen to some of their conclu-

The American Soybean Association says H.R. 5133 "would do more to destroy world trade than any action since the Smoot-Hawley Act."

Mr. DINGELL. Mr. Chairman, will

the gentleman yield?

Mr. COATS. The American Farm Bureau Federation has said this bill "would invite retaliation and American agriculture would be seriously injured."

Mr. DINGELL. Mr. Chairman, will

the gentleman yield to me?

Mr. COATS. I will be happy to yield

to the gentleman in a moment.
Mr. DINGELL. Mr. Chairman, want to tell the gentleman that I find the amendment acceptable.

Mr. COATS. I would like to finish my statement, if I could, and had promised to yield to others also.

Mr. DINGELL. Mr. Chairman, if the gentleman would just yield, I would like to say to the gentleman that I would be happy to accept the amendment.

Mr. COATS. There has been some dispute on both sides as to whether it should be accepted.

Mr. Chairman, this amendment requires that the Secretary of Agriculture conduct an investigation and submit a report to Congress on the impact of H.R. 5133 on the export of agricultural commodities. This must all be done within 1 year.

I would like to accept this amendment, but I am concerned that someone might construe it to be entirely biased toward agriculture and that the Secretary is not required to insure that the investigation and report be balanced, that it will consider the purpose of the bill, that it will examine the state of trade and other barriers to U.S. exports, including those covered by this bill and agricultural exports, and that it will be prepared with public input. With that understanding, I could accept it.

Mr. DINGELL. There is no dispute on this side.

Mr. COATS. Mr. Chairman, I appreciate my chairman's cooperation.

Jack Parson, the president of the National Corn Growers Association, warned that H.R. 5133 "would simply open the door for retaliation by countries that are valuable export markets for the U.S. agricultural commodities."

Finally, Robert Hampton, speaking for the National Council of Farmers' Cooperatives, is convinced that this bill "could lead to the critical destruction of world trade and a devastating decline in our export markets, with tremendous damage to our national interests."

Mr. Chairman allow me to list for the Members, the 10 largest States exporting farm commodities in this country. California leads the nation with \$13.9 billion of exports, followed by Iowa with over \$10 billion of exports, Texas, Illinois, Minnestoa, Nebraska, Kansas, Wisconsin, Indiana, and North Carolina, with Missouri a close eleventh. Those States combined have exports approaching \$100 billion. Members representing those States should weigh the impact of this bill on the agricultural exports of those States.

Agricultural products are an important part of our world trade. It is important that we weigh the consequences of this.

Therefore, my amendment asks the Secretary of Agriculture to report within 1 year the impact of this on export market.

gentleman yield to me?

Mr. COATS. I yield to the gentleman from Nebraska.

Mr. DAUB. I thank the gentleman for yielding.

Mr. Chairman, I want to rise in support of the gentleman's amendment. The assessment of the impact of this kind of legislation, should it pass, for agriculture is extremely important.

I commend the gentleman on his effort. His crafting of the language is

perfect. I would support it.

I rise in opposition to this well-intentioned but badly flawed proposal to address the unemployment situation in our Nation's automobile industry. Unemployment is our Nation's No. 1 problem and this Congress should devote itself to finding ways to reduce it. The way to reduce unemployment in the automobile industry as well as others is to bring down interest rates. If interest rates were lowered, Americans would have more money to buy autos and other goods and manufacturers would have more money to invest in new plants.

Unfortunately, for Congress to reduce unemployment by bringing down interest rates requires that it take a fine scalpel to Federal spending and reduce those areas where the benefit acquired is less important than the disadvantage created by the deficit spending required to finance it. This would mean that Congress would have to acknowledge to the American people that much of what it did for them was not in their long-term inter-

Instead of facing these hard truths. this Congress is spending its final days debating a proposal that is little more than a sleight of hand attempt to divert attention from the real problems facing this country by legislating false cures to the Nations's economic ailments.

For the first time I can recall I find myself rising to embrace the editorial posture of the Washington Post which has taken a very levelheaded attitude toward this legislation as have most commentators who are not seeking to

mislead a potential voter.

The Post describes this bill as "doubly bad legislation \* \* \* not only is it wrong in principle, but as a practical matter its effect will be precisely the opposite of its sponsor's intention. It will preserve fewer jobs than it de-

strovs.

The Post points out that Ambassador Brock has correctly stated that most of the new jobs that have opened up in domestic manufacturing in recent years are in the export industries. In addition to these manufacturing jobs we have a \$40 billion export market for our agricultural goods overseas that the farmers in my State depend on for markets. Were this measure to pass, we would hear a very

Mr. DAUB. Mr. Chairman, will the loud shot in a trade war that this country would certainly lose in the long run.

> We need to concentrate on our exports, not devise schemes that will result in even greater protectionism overseas than exists already. We have unfair relations with many of our trading partners and this Congress is absolutely correct in demanding that the administration argue forcefully with our partners for better treatment and should argument fail, we should consider well-reasoned efforts to deal with restrictions.

> I believe the Members would do well to heed the warning that the Reagan administration, the Washington Post, and those in between have to offer. This is a "vote for a low-growth economy. It is an attempt to shore up the less competitive industries at the expense of the most competitive. It is a vote for the kind of industrial policy that gives priority to the status quo with continuing high unemployment, inflation, and stagnant incomes.'

> I urge my colleagues to reject this measure.

> Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield to me?

> Mr. COATS. I yield to the gentlewoman from Illinois.

> Mrs. MARTIN of Illinois. I thank the gentleman for yielding.

> Mr. Chairman, certainly finding out figures I think is acceptable, and I would support that, although considering what our allies have already done to our agricultural markets, I am not sure I would agree with everything the gentleman said in terms of the domestic content bill.

> Mr. COATS. Mr. Chairman, in reply to the gentlewoman from Illinois, whom I greatly respect, this does not imply there are not situations which we need to correct.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. Coats) has expired.

(By unanimous consent, Mr. Coats was allowed to proceed for 1 additional

Mr. COATS. Mr. Chairman, I requested the additional time in order to respond to the gentlewoman from Illinois (Mrs. Martin).

I agree with her that there are situations we need to correct with some of our trading partners, but we should not ignore the fact that \$18 billion of agricultural commodities, were exported last year to the European Community and to Japan, and that Japan alone imports \$6.6 billion worth of agricultural products in the United States.

We must bear that in mind. We do have some areas we need to improve. I believe we can improve on those areas, but let us not deny these markets which we have already established.

The CHAIRMAN, Does the gentleman from New York (Mr. OTTINGER) continue to reserve his point of order?

Mr. OTTINGER. Mr. Chairman, I withdraw the reservation of the point of order and say that we will accept the amendment.

Mr. BROYHILL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would call this amendment the amendment that would call for the assessment that the damage that this bill would do to a most important segment of our economy, and that is the agricultural econo-

I happen to have several letters. Here is one letter from the president of the National Grange in which he says, and I quote:

We are increasingly concerned that growing use of trade-distorting practices such as export subsidies, the threat of major new import-restricting measures which could seriously disrupt world trade systems, H.R. 5133, the automotive content bill, repsystems. resents such a threat.

He continues with this sentence:

We urge you to take all possible steps in opposition to H.R. 5133.

The president of the National Grange, among other farm leaders, is very concerned about the impact that this bill is going to have upon the farm economy.

The gentleman from Indiana offers an amendment to instruct the Secretary of Agriculture to assess, to investigate and to submit to Congress written reports regarding those impacts and the ravages that this bill will have on the farm economy.

Mr. ROBERTS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL. I yield at this time to the gentleman from Kansas.

Mr. ROBERTS of Kansas. I thank the gentleman for yielding.

Mr. Chairman, I can assure the chairman that I do not intend to take the full time, but I think there is a possible allegory here.

One of the things that we have heard in regard to this bill is that not only are we interested in jobs but we want to send a message to Japan in regard to our farm exports. The wheat producer in France now gets \$5.20 for his product. The wheat producer in Dodge City, Kans., gets \$3.50, approximately. The French actually subsidize their wheat producers approximately \$1.90.

So to send a message to France, I think it is obvious that enough is enough; we should do like my colleague from Arkansas said, the "Retaliation Two-Step." We should send them a message. We should have a domestic content bill here saying that all wine consumed in the United States must come from a domestic producer. That makes just as much sense as this entire bill.

The real purpose of this bill is not to encourage farm exports, not to send a message to Japan, but it is to wave the United Auto Workers banner in terms of symbolism. The gentleman from

Georgia is correct.

But suppose it would pass; Who would have this downside risk? Who would pay the price? I submit to you it is the people on the receiving end of that \$6.6 billion that we had in exports to Japan just this last year. If we let this critter out of the pen, we are going to have miles of fence to put up.

The damage assessment is terribly difficult to appreciate. That is why I support the amendment offered by my colleague from Indiana and urge the

defeat of this bill.

Like the fat person said when he crawled through the barbed wire fence: "One more point and I am

through."

We heard an interview referred to by my colleague from Michigan about the Premier of Japan, Mr. Yasuhiro Nakasone, in the Wall Street Journal. I urge my colleagues to read this inter-

view in full.

What would my colleagues do if, in fact, our country were dependent for food supplies to the tune of 47 percent. Well, we are trying to work this out on a step-by-step reasonable basis. We can send them a message. First, we can be a reliable supplier and end the practice of using the farmer with embargoes. We can do it with dairy products if we want. We can do it with the new payment-in-kind program that is envisioned by the Secretary of Agriculture and apply it to export payment in kind. We can do it with expansion of blended export credit, but this is the wrong way to accomplish our goals.

I submit to my colleagues that this is a bad bill. I submit to my colleagues that the amendment offered by my colleagues, the gentleman from Indiana, is a good amendment, to a bad

bill.

Mr. BEREUTER. Mr. Chairman, I rise in support of the amendment offered by my distinguished colleague from Indiana (Mr. Coats) which would require the Secretary of Agriculture to undertake an investigation and submit a report to Congress on the impact of this act upon the exportation of agricultural commodities from the United States. It makes some improvement in an otherwise terrible bill.

The importance of our export markets to American agriculture cannot

be understated.

America began exporting agricultural products more than 350 years ago with the sale of tobacco to the English. According to statistics gathered by the U.S. Department of Agriculture's Foreign Agriculture Service, our Nation now exports more agricultural products than any other country in the world. More than 150 nations receive U.S. agricultural products. We

account for four-fifths of the sovbeans moving in world markets, two-thirds of the feed grains traded, two-fifths of the wheat and cotton and one-fifth of the tobacco and rice sold between nations. Earnings for our sales abroad of agricultural products have added more than \$10 billion to our trade surplus account each year since 1974. In contrast, our nonagricultural trade balance reversed from a \$958 million surplus in 1970 to a \$50 billion deficit just 10 years later. Over the same period, the farmers and ranchers of this Nation have performed in exemplary fashion, boosting the agricultural trade surplus from \$1.3 billion in 1970 to an amazing \$23.2 billion just 10 years later.

The importance of these foreign markets to the individual farmer—as well as to the Nation as a whole—cannot be underestimated. Presently two-fifths of our cropland produces commodities for foreign sales—or approximately 138 million acres. Moreover, one-fourth of the cash receipts earned by our farmers and ranchers comes from that vital trade. Expanded markets encourage production efficiencies which inure to the farmer's own benefit as well as to the American consumer.

It seems almost unbelievable that in the 1930's, average yearly exports were only \$765 million. That figure rose steadily to \$2.416 billion in the 1940's, \$3.603 billion in the 1950's, and \$5.735 billion in the 1960's. Average yearly sales then skyrocketed to \$18.370 billion in the decade of the 1970's.

Everyone—consumers, farmers, ranchers, workers—benefits from a healthy agricultural export program. Multiple values of the export effort

can be readily cited.

Although we exported more than \$40 billion of agricultural products during fiscal year 1980, the U.S. Department of Agriculture estimated that such trade generated twice that amount of activity in the domestic economy and accounted for roughly 1 million jobs. In 1979, almost half a million people were employed on the farm and approximately 680,000 in jobs related to the assembling, processing and distribution of agricultural products to be exported. USDA statistics for 1979 tied 60,000 food processing, 300,000 trade and transportation, 120,000 manufacturing and 50,000 other jobs in the economy to our agricultural export effort.

Given the critical contribution which exports make to the farm economy, we must not act hastily in enacting this legislation without at least minimal concern about its impact upon the agricultural sector. Passage of H.R. 5133 raises the certain prospect of retaliation by foreign countries. Thus, we should have information which allows Congress to reevalu-

ate the benefits of the domestic content requirement to the United States—benefits if any. I therefore strongly urge adoption of the Coats amendment to this bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. Coats).

The amendment was agreed to.

Mr. GRAMM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had offered an amendment in committee, a so-called reciprocity amendment, that sought to give the President selective powers to waive the provisions of this bill with regard to auto imports from countries that had undertaken a reduction of quotas, tariffs, and trade barriers. This amendment failed in committee on a vote of 20 to 21.

I had sent out, with my colleague, the gentleman from New York (Mr. Lent), a "Dear Colleague" letter asking for support on that amendment, and some interest was expressed.

I felt, Mr. Chairman, that I should rise and explain why I will not be offering that amendment here tonight. The amendment does improve the bill, in my opinion, but in all honesty, the improvement is largely cosmetic.

#### □ 1740

It does not change the basic nature of this bill, nor would the adoption of that amendment change my basic opposition to the bill. My concern, after discussing it with our colleague from Florida, our colleague from Minnesota, and our colleague from North Carolina, is that by improving the bill cosmetically, but only marginally in terms of substance, the amendment might induce some of our colleagues to vote for this bill. My concern is not that the bill will become law this year. My concern is that if we cast a vote tonight as a protest or to send a signal, if we come back next year on a real at-tempt to adopt the bill, many Members will have trouble getting back across the river. I do not want to contribute to anybody voting for what I believe is surely one of the worst bills we have considered since I have been in the Congress.

I therefore am strongly opposed to this bill, and will not undertake to improve it in any way.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to H.R. 5133. I do so with some sadness, for I know many unemployed Americans believe the bill can provide jobs. The unemployment rate will soon pass 11 percent—action is needed now. But this legislation is not a cure. I could support the bill if it would create jobs, benefit consumers, or revitalize the

economy. I am convinced it will do none of these things.

The bill's supporters point to the creation or protection of 800,000 jobs. I wish this were so. But other estimates, including a CBO study, indicate the legislation would result in a net loss of perhaps 150,000 jobs. Our economic and foreign policy cannot be created in a vacuum. For every job this bill creates in the automobile industry, at least one job will be lost in another sector.

How do consumers fare under this legislation? Will this bill result in lower prices and better quality automobiles? The answer is clearly "No." We are only considering this legislation because imports have cut into the domestic manufacturer's market. This happened not because Americans like buying "Japanese," or because domestic cars have too much pollution control equipment. It happened because the American auto industry was outmarketed and because management was too slow in responding to changes in consumer demands and needs. For too long our models emphasized big engines, when consumers wanted fuel efficiency. When consumers sought quality and impressive repair records, they found them in imports and changed their buying preferences. When the Christian Science Monitor conducted a survey on why Americans were not buying American cars, one responded summarized the prevailing feeling by saying: "The American consumer, however patriotic, wants top quality for top dollar. Currently, the trust and evidence rests with the imports."

My colleagues have spoken so eloquently about the suffering millions of unemployed Americans are feeling. I share their conviction that we need to address and end this tragedy. But we cannot erase our problems by eliminating competition. We cannot solve our economic problems through isolationism or protectionism. Our society and economy is premised and works on concepts of free trade. This system of competition has brought many benefits, and is the foundation of our economic growth. The consumer benefits when competition gives him a choice. Our society benefits because competition leads to improved efficiency and quality, as well as lower prices. Protectionism denies our American consumers the benefits that a free market competition would bring. It does a disservice to the auto industry because it signals the message that they do not need to improve their product and their efficiency. The message to our unemployed workers should not be one of fear, resignation, and a rejection of our free trade system. The message should be of hope combined with a program emphasizing our strengths—strong competition and an open market. This legislation offers a

desperate solution that in turn will be no solution but an aggravation of the economic problems our Nation faces.

AMENDMENT OFFERED BY MRS. FENWICK
Mrs. FENWICK. Mr. Chairman, I
offer an amendment.

Mr. OTTINGER. Mr. Chairman, I reserve a point of order on the amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 14, after line 11, intert the following new section:

SEC. 7. RELATION TO TREATIES, CONVENTIONS, AND AGREEMENTS.

Notwithstanding any other provision of this Act, nothing in this Act shall be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade which is in existence on the date of enactment of this Act and to which the United States is a party.

Renumber the succeeding sections accordingly.

Mrs. FENWICK. Mr. Chairman, I yield to my colleague, the gentleman from Texas (Mr. Fields).

Mr. FIELDS. Mr. Chairman, I thank the gentlewoman. I rise in strong opposition to the Fair Practices in Automotive Products Act because of the negative impact it would have on the State of Texas, the Port of Houston, and the metropolitan area of Houston.

Mr. Chairman, I have listened to this debate closely and I do sympathize with those U.S. auto workers who are currently unemployed.

While everyone in this body would like to provide gainful employment for each and every one of these workers, I believe this legislation proposes a solution which is totally unacceptable.

During the debate on this legislation, the proponents of this bill have argued that it will create jobs for their constituents. I am here to tell you that this bill will not create any jobs for my constituents but will, in fact, jeopardize continued employment for thousands of Houstonians.

The Port of Houston, which is located entirely within my district, leads our Nation in foreign imports received with automobiles ranking third in terms of financial value.

However, this figure alone does not tell us either the whole or the human side of this story. It alone does not tell us that the Port of Houston provides directly or indirectly jobs for over 160,000 Texans and that it provides over \$3 billion to our State's economy.

In fact, at a time, when general cargo is down by over 20 percent at the port, auto imports have increased by over 4 percent and with that increase new jobs have been created for additional Houstonians.

In addition, the Port of Houston has recently received the results of a study commissioned in 1981 which concludes that "auto imports have the greatest economic impact on a few ton basis of

any imported commodity into the port."

In short, auto imports, provide jobs and livelihood for thousands of Americans living in Houston who are employed in the transportation, unloading distribution, advertising, and sale of these cars.

These are Americans who pay their taxes, who work hard for a living, who believe in the free enterprise system and who now face the prospect, through no fault of their own, of having their jobs eliminated in order to create other jobs for other Americans in places like Michigan, Indiana, and Ohio.

Mr. Chairman, we must not consider this legislation with a myopic view nor should we proceed without considering the consequences of our actions. According to the Congressional Budget Office, this legislation will create 38,000 jobs in the U.S. auto industry by destroying and eliminating 104,000 jobs in other sectors of our economy. How can we justify this as a bill to put people back to work when, in fact, the net effect will be a loss of 66,000 American jobs?

The price of this legislation is simply too high. The cure is worse than the disease and I urge my colleagues in the name of fairness and equity for all Americans to reject this misguided and ill-advised bill.

Finally, Mr. Chairman, I would like to send a loud and clear message to our foreign trading partners. While I may not be able to support this bill, I believe the time has come for our products going abroad to be treated in the same manner that we afford imports entering this country. I strongly believe in reciprocal trading relationships and urge our trading partners, Japan in particular, to immediately eliminate their numerous and burdensome nontariff barriers. If not, then these nations run the risk of losing the opportunity to trade in our market.

Unless these barriers are quickly eliminated, I will, in the future, find it increasingly difficult to oppose protectionist legislation.

I believe very sincerely that it is in the best interest of every nation to follow a uniform set of trade laws. However, it is not free trade and it is not fair trade if we Americans play by the rules and our foreign competitors do not.

Thank you, Mr. Chairman.

Mrs. FENWICK. Mr. Chairman, I am not going to take 5 minutes. I think the Members all know why I am speaking.

This amendment seeks to have our Nation honor its obligations, and I do not think there is a Member of this House who does not know how important that is. We are either going to proceed in this world on the basis of dog eat dog and "save me, save me," or

we are going to try to have an orderly world of law and justice under law.

Now, let me just read to the Members very briefly what we are doing here. This is why Mike Mansfield said it is the most blatant breaking of a treaty, article 3, paragraph 5, of this agreement, which says:

No contracting party shall establish or maintain legislation \* \* \* which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from domestic sources.

It is perfectly clear. Now, I deeply sympathize with the remarks of my colleagues. They are passionately and from the heart advocating the interests of their constituents. What could be more proper? Who else is going to do it? But, what we are faced with as a body, all of us together, 435 in this House, are the national interests and our position in the world. I do not think we can tramp around declaring war, and that is what we are doing. We heard it here this afternoon, passionately declaring war. What kind of a world are we making? Are we really going to say that anytime it pinches we will not try to go to court, so to speak, but we strike out? That is not the way a great Nation behaves.

I have been very much impressed with the speeches here today; the gentleman from Florida, as always, and the gentleman we just heard, the gentleman from California—one of the best speeches this afternoon. It is a broad view, and that is what we have got to take. We are not moving in a world where we can do little things and nobody cares what we do.

We have got to take this Congress seriously. We cannot pass bills that are just the product of emotion and passion. We have got to have a sense of responsibility toward the Constitution of the United States, toward the obligations of our country.

I hope the Members will just let me say for just a moment, that my father was born in Kentucky and brought up in Minnesota, and his father was a general in the Civil War.

#### □ 1750

I can remember what his father taught him and what he taught me—a man's word should be as good as his bond. A man's word does not need a penalty clause in order to live up to it, and neither does a nation's.

When we have a system that we could somehow negotiate a range and bring it to a conclusion, a fair and just conclusion, that is what we ought to use, not war, not force, and not the power of this enormous market, because we export as well as import, and we must begin to pay attention to what we promised to do.

Mr. Chairman, I am not going to take any more of the time of this body. I did not expect to speak so long, and I thank the Members for their kindness.

The CHAIRMAN. The Chair will inquire, does the gentleman from New York (Mr. OTTINGER) insist on his point of order?

Mr. OTTINGER. No. Mr. Chairman. I withdraw my point of order.

Mr. MOFFETT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I think that the gentlewoman from New Jersey (Mrs. Fenwick), as usual, offers her amendment in good faith, and yet one of the main reasons for this bill is because many of us feel that we are being unfairly treated by other countries that are violating all sorts of treaties. Those Members who support the bill are not out there looking for treaties to violate.

I guess that part of what we are saying is best summed up by a story that somebody told me about some Japanese businessmen who came to America for the first time. They had never been here before. They were very prosperous. They got off the plane at Kennedy, and they came into New York. The cab dropped them off at Times Square. Those of us who come from the Northeast and are familar with New York City know what shopping bag ladies are, and there was a shopping bag lady huddled on a cold day before a storefront, and these fellows got out of the car. They had never seen this sight before, and they tapped this woman and they asked, "could you tell us where the Sony Building is?"

She woke up and she looked up at them and said, "the Sony Building? You guys didn't have any trouble finding Pearl Harbor. Find it yourself."

Part of what we are saying is, "find it yourselves." We have got to be a little tough here.

What the amendment offered by the gentlewoman from New Jersey does is it pierces the heart of what we are trying to do with this bill. Of course, it is imperfect. But how many of us, particularly from the Northeast, dwell on free trade? I cannot speak for Iowa, where maybe our friends are right. Maybe wheat trade is top thing on people's minds in Iowa or Nebraska, where maybe they really do believe in totally free trade and leaving the current situation the way it is.

But I can tell the Members, being from the Northeast—and I am sure it is true with the gentleman from Michigan (Mr. DINGELL) and others—that we have sat in too many coffeeshops and delicatessens across the table from auto workers who are out of work and without anything to tell them what we think should be done. I am not going to be here, and so I am not saying this for myself, but those Members of Congress, Republican and Democrat, from those kinds of dis-

tricts can no longer sit in those coffeeshops and talk to guys who have been thrown out on the street without offering some alternatives. There is just no more time for that. So this is an imperfect instrument to try to speak to their plight.

I had the manufacturer of a major component that implements automobile engines in my area-he is a conservative Republican, by the waytake me aside and whisper in my ear a few months ago, "Congressman," he said, "the major automobile manufacturers in America have thrown in the towel on American workers. General Motors is shipping the manufacture of its engines to Mexico and Brazil at record rates." If we are going to throw in the towel on American workers, let us at least admit it. Let us come into the well and let us go back home and look them in the eye and say, "we are throwing in the towel on you folks. We just don't believe you can make these things anymore."

Let us not be dishonest with these people any longer. If we do not know of anything to say to them and we really believe we are in this transition to new tech-high tech industries and other new industries and these people are going to fall by the wayside, let us be honest and tell them that. I do not believe that is true. I do not believe a majority of the Members of the House on either side of the aisle believe it is true, and therefore, we must come up with some alternatives.

So, Mr. Chairman, we have an imperfect but important alternative and approach here that I know, coming from the district I have been privileged to serve for 8 years, is welcomed by the vast majority of the people there.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to my friend, the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, I join with the gentleman from Connecticut (Mr. Moffett) in opposition to this amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

There is adequate machinery that is available. There is no guide in this amendment as to how we interpret whether there is any agreement that has been violated, but if it should be interpreted that there is a violation, there is machinery in GATT for resolving that.

And I am just wondering if Japan, with all its nontrade barriers, is going to try to assert a GATT claim against us.

France froze a share of its market at 3 percent in 1978, and last year they cut that back to 2½ percent.

The CHAIRMAN. The time of the gentleman from Connecticut (Mr. MOFFETT) has expired.

(On request of Mr. OTTINGER, and by unanimous consent, Mr. MOFFETT was allowed to proceed for 2 additional minutes.)

Mr. OTTINGER. Mr. Chairman, will the gentleman yield further?

Mr. MOFFETT. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Chairman, Italy, with car sales of 900,000, does not permit more than 2,200 autos a year from Japan. Nissan, in response, now is entering into a joint venture with Alfa Romeo to produce cars in Italy. That, it seems to me, is a much more drastic provision than what we provide.

England has limited Japanese participation in its market to 10 or 11 percent. We are the only country that does not. Really, we are "Uncle Sucker."

While I sympathize 100 percent with the gentlewoman's intent, I would like to say to her that the ideal she seeks can only be reached on a reciprocal basis. We cannot have all the other major trading companies in the world putting on these drastic measures and the United States say, "Well, we are going to be Mr. Good Guy. We will watch our entire automobile industry disappear, we will watch while our jobs disappear, and we will do nothing about it."

So, Mr. Chairman, the gentleman's point is very well taken.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OTTINGER. The gentleman from Connecticut (Mr. Moffett) has the time.

Mr. MOFFETT. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I do not like to hear about my good intent. I am talking commonsense, and the prudence and common sense of the farmers of this country back me up. I am not talking just intent, although, for heavens sake, we ought to have some intent down here.

Everything we heard this afternoon in the arguments for and against this bill, particularly for this bill, have shown the weakenesses of it. Are we going to go on and on in our national life propping up one industry after another when it does not work and putting more legislation of this kind?

It is not going to be just cars. It is not going to be just cars and steel and textiles and shoes and a hundred other things.

Mr. Chairman, we are starting down a very dangerous garden path, and we ought to do what we think is right and sensible.

Mr. MOFFETT. Mr. Chairman, if I may reclaim my time, I know the gentlewoman form New Jersey is doing what she thinks is right, and what I am saying and what many of us are saying is that the current situation is not acceptable any longer unless we

are willing to say that we are throwing in the towel on factory workers who work on automobiles and automobile components.

Mr. Chairman, I think that many of us who vote for this legislation are saying we are not willing to do that. We are not willing to throw in the towel on these workers.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know how we keep missing the target so much. We are not even talking about reality here. The gentlewoman from New Jersey (Mrs. Fenwick) has offered a good amendment.

We should not be known as "Uncle Welsher" in the world. How can we sit here and say, when we solemnly entered into international agreements, that we are unilaterally not even going back to the conference table but are unilaterally just going to disown them?

This builds no confidence in anybody. Let us now talk about the issue here. The automobile industry is in terrible transition. I feel very sorry for the Members of Congress who represent those areas and who have a lot of unemployed workers. Certainly it is difficult to look them in the face and tell them, "you know, when your industry is restructured, it is not going to be a low-skilled, labor-intensive, highly paid industry when it gets through, because if it is, nobody is going to buy your cars unless they are forced to."

And America is going to be poorer and jobs are going to be transferred to this industry, and other competitive industries in a free America are going to suffer. That is the answer.

Since 1978 domestic consumption of automobiles has dropped by 4.5 million units, and the increase in imports has been one-tenth of that. That is all that has happened in this country. We have just priced ourselves out of the market with our American cars.

#### □ 1800

They have not been good cars. They have not been properly designed by and large and they are just too expensive and Americans just are not buying them.

Now, the interest rates are too high and there are lots of other reasons, but American Consumers are just not buying them.

The consumer can still make up his mind and he can still do what he wants to. Eventually his old wreck will wear out and he will have to buy a car but he is not going to buy near as many, so the whole industry is going to go down.

One of the most telling things in the testimony we took of some 856 pages was the testimony of the dealers who sell automobiles. They deal with the

factory and they deal with the public. They testified 12,000 strong that they oppose this bill. These were dealers that sell nothing but American-made cars and they testified that when they first heard of this bill they thought it was a bonanza. Then they got to thinking about it and looking at the bill and they began to realize that all that was going to happen was that the price of American cars was just going to go up and up and up and they would lose sales.

These are good, hardheaded main street American business people, people that know how to make a buck, who have had to really hussle through thick and through thin. These are not idealist. These are not the SAM GIBBONSES and the MILICENT FENWICKS. No. These are real, practical people.

If we have to have a solution, as the gentleman from Connecticut says, let us not get a solution that hurts us.

The great weight of testimony by all of the disinterested people in this argument is that this transfers some jobs perhaps from some other segment of the American economy to the auto industry and at great cost, \$100,000 per job. You could just give four or five of them \$20,000 or \$25,000 and say "Take off and go see the world or maybe go down to Florida or someplace else" if you are going to do that. It would be cheaper and probably help everybody.

Second, we talk about retaliation in agriculture. We hear so much about that in debate here and so much of it is not germane but let me tell you we have a surplus in capital goods sales. Let us get off agriculture for a while because I think that point is conceded. Agriculture can and will get hurt by this legislation.

In capital goods sales we have a surplus of \$36.2 billion. These are manufactured goods. These are goods that are made by the UAW and the IAM and all of the other labor unions.

Our whole deficit in autos is not that much. Do not think other nations will not retaliate against us in our capital goods area. You may say, "Oh, they cannot retaliate against food because we are the only people in the world that produce soybeans." You have a lot to learn about agriculture if you think that is so.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Gibbons) has expired.

(By unanimous consent Mr. Gibbons was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. I want to talk to all of the Members here. This bill is going to be voted on soon. This bill stands a real good chance of passing and a lot of people are going to vote for it because they think it does not mean anything and it will not go anywhere in the other body.

Let me tell you: the other body is holding hearings starting tomorrow on this bill. If you know how the other body works, and I know how it works, they can mark this legislation up and it can be on the President's desk by Saturday or Sunday. That is just the way it can work.

This is not a free ride. This is not a free ride for anybody in the American economy, for the agricultural people or for those people who represent industries that produce a surplus in capital goods. These are the goods that really count. These are manufactured goods.

Of the \$36 billion a year that is a surplus, we produced \$72 billion for export. We exported \$72 billion worth of capital goods last year, so we are competitive.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Gibbons) has again expired.

(By unanimous consent Mr. Gibbons was allowed to proceed for 1 additional minute.)

Mr. GIBBONS. These are areas in which we are highly competitive. We are going to transfer jobs out of these competitive industries and put them over into a noncompetitive industry, an industry that has to be restructured. Everybody admits that.

While we are seeking a solution let us not hurt America. Let us not hurt American jobs. That is what this narrow, selfish legislation does. It hurts American jobs. It is going to take jobs away from Americans by the thousands in agriculture, in other manufacturing jobs, just because a few lobbyists came in and promised this bill was not going anywhere and this is just a little old message to the Japanese

It is far more serious than that. I would suggest we vote for the gentle-woman's amendment and we vote down this legislation.

Mr. BAILEY of Pennsylvania. Mr. Chairman, this debate should not include consistent references to the plight of our basic industries, in particular our automobile industry, as if their difficulties were self-inflicted. The industry is not at fault and is not the cause of our present plight. The industry did not cause the capital shortage from which they suffer. A poor, unrealistic, and outdated tax code here in the United States is the greatest reason for this problem. The industry did not cause the OPEC price increases that dramatically effected a change in consumer preferences. A lack of energy policy in our country has exacerbated this difficulty-not our workers or our industrial leaders. The industry and our workers are not responsible for blatantly anti-American and generally discriminatory industrial policies abroad. Our Government, which has exported capital and technology as perhaps a legitimate foreign policy pursuit in the past and now lacks the resolve to challenge some of these anti-free-enterprise practices—is responsible for the victimization of the American economy. Our companies and our workers are not. This legislation only seeks to make these unknown aspects of modern international life apparent.

Mr. WHITTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to the debate on television. I was in a meeting and could not leave. I would like to straighten out two or three things here that need it badly.

In the first place, when we sell on the world market at competitive prices it is not dumping. We have a whole lot of folks that like to think so. The international organizations like for us to hold an umbrella over what we are offering in world trade so that they can sell it right under it and deliver from somewhere else.

This is an old story. It took 3 years to break this practice during Secretary Benson's time back in 1955 and 1956.

Let me explain to you. I have met with the Chancellor of the Exchequer of England, the head of the European Common Market, and others on this matter. I am not saying that I have heard all of the arguments. I have not heard all of the debate. I just want you to realize this, that the world price is the world price.

The world is crying for food. And we sell guns to 125 countries because the leaders prefer guns and military equipment. The best way you can sell something—the only way to sell something is lay it on the counter for sale. Then the folks within a country that need it will start trying to help you get it into their country.

May I say I spent 3 years working at this. I traveled around the world meeting with agricultural attachés and we finally won out, and got the Department of Agriculture to sell competitively.

To handle this we have the Commodity Credit Corporation, which is a revolving fund. That is what it is, a \$25 billion corporation.

Your committee brought this in and we have a small revolving fund because the other had fallen into disuse to where nobody realized that is what the Commodity Credit Corporation was.

Now let me repeat again: The world price is the world price and everybody knows it is.

We handle the high cost in the United States by putting a high price here. In other countries they tax their people. So when they sell they are selling because they call that the price all of the time and they are trying to call our supported price, the world price.

Then we get competitive and they yell "dumping."

It is not dumping at all. Every county in the world sells what it has and does not need for what it will bring. You cannot sell it for more than it will bring.

As a boy I worked in a country store. One example I learned still applies to international finance. Who wants to buy from a wholesaler if you do not know whether he is going to have what you need or not? What do we gain when we grudgingly tell the Russians that we will let you have just enough for 1 year?

I am just telling you now that we are being told that by the big American corporations who are also international. The biggest advantage we have over the Russians in the world, is our ability to produce food. What does the world need? Food. We have it and what do we do? We store it? The rest of the world reads where we will not even let it go out at competitive prices.

Now as I said earlier, when we considered the agricultural appropriation bill, we are going to have to go for this "payment in kind." Why? Because the American farmer is in such straits for that capital, or any money, that he needs in order to make a crop next year. He owes \$200 billion now, most of it at 15 to 20 percent interest. His debts are such that he is going to have to have any help he can get. But if you start paying in kind and keep it up you are putting all your trade out of business—chemicals, seed, supplies, farm equipment and the people behind the farming businesses.

I want you to realize that we need again to use the Commodity Credit Corporation like it was intended. We need to offer what we have in surplus and not keep it from the rest of the world. We need to make some friends again.

#### □ 1810

Mr. OTTINGER. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto terminate at 6:15.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. WALKER. Reserving the right to object, Mr. Chairman, I was going to move to strike the last word here for a couple of minutes. It seems to me we are going to get a time limitation on that.

Mr. OTTINGER. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. OTTINGER. The gentleman may have his 5 minutes. The longer we go, somebody else gets inspired to get up. We have been on this amendment for some time now. Everybody would like to get home. I will not interfere with the gentleman's 5 minutes.

Mr. WALKER. All right.

The CHAIRMAN. Does the gentleman from New York withhold on his unanimous-consent request?

Mr. OTTINGER. No. Mr. Chairman. Mr. WALKER. Mr. Chairman, reserving the right to object—

The CHAIRMAN. Does the gentleman from New York include the 5 minutes for the gentleman from Pennsylvania?

Mr. OTTINGER. Mr. Chairman, I will include in the unanimous-consent request the gentleman from Pennsylvania (Mr. Walker).

The CHAIRMAN. The Chair understands the unanimous-consent request is that time will expire at 6:20, with 5 minutes for the gentleman from Pennsylvania, the remaining 5 minutes to be divided among those standing.

Mr. OTTINGER. Mr. Chairman, I have to add the 5 minutes, 6:20.

The CHAIRMAN. If the gentleman wishes to protect the 5 minutes, that means 6:20.

Mr. OTTINGER. All right.

Mr. WALKER. Mr. Chairman, I withdraw my reservation of objection. The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 1 minute each. The gentleman from Pennsylvania (Mr. WALKER) will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. WALKER).

Mr. Chairman, I have sat here now for a couple of days listening to the debate on this bill. I really had not intended to get into the debate. Except as I have listened it has bothered me to hear the proponents of the bill come to the well and make what I think are some very damaging statements over a period of time.

I have heard Members come here and say to their friends who are also for the bill, "We don't have to be embarrassed about voting for this bill, there is nothing embarrassing about voting for it, this is a good bill, there is no reason to be embarrassed."

I never heard that really used in terms of a bill before this.

I also have heard this bill described by its proponents as an imperfect vehicle, as all kinds of other things that say to me that they really have real questions about the content of what it is they have brought to the floor.

And then we are being asked here in the last minutes of a session to enact something which is probably a bad bill even under the best of circumstances. And now in the last few minutes we have heard it argued that the United States ought to look at even reneging on its treaty agreements in order to move forward with this legislation, because that is all that I understand the gentlewoman from New Jersey has

said in her amendment, is that we ought to live up to our treaty obligations.

It really bothers me that we would come here and we would say that with this imperfect vehicle brought to us at the last minute we are simply going to throw treaty obligations to the wind as well.

It really makes me wonder who it is that is going to vote for this bill and why they are going to vote for it.

Let me suggest a reason, a reason that I have not heard suggested up until now in this debate. Let me suggest that it is a reason that has been given to us on other bills when business related legislation has come to the floor, and that reason is pure and simple, campaign contributions, PAC contributions. Because I suggest to my colleagues that there are not going to be very many Members who vote against this bill who got big money from the UAW. And I would suggest to my colleagues an awful lot of people who are going to vote for this bill got big money from the UAW, and that the reason we are here late in the session thinking about passing this imperfect vehicle is because that big money was dumped into a campaign just a few weeks ago and that we have got ourselves one major kind of political payoff taking place on this floor.

I think that is wrong. And I think it would be particularly wrong to go ahead and adopt an amendment or not adopt an amendment that says that we ought to at least within the context of what we are doing live up to

our treaty obligations.

So I thank the gentlewoman from New Jersey for focusing some attention on a place that needed to be focussed in this bill. I hope her amendment will be adopted. I think we should think about what we are doing here, because what we are doing here looks to me to be a pretty shabby affair.

The CHAIRMAN. The Chair recognizes the gentleman from California

(Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I do not blame the UAW for coming to the floor with this bill. Their workers in this country earn, for wage and fringe benefits, about \$17.55 an hour. In Japan it is \$7.74. This comparison says the American automobile worker has priced himself out of the market. If they can get this law passed to protect their jobs, you have to take off your hat to them.

But speaking on behalf of consumers of this country, we would be making a

very big mistake.

Another feature. It takes about 111 hours in Japan to produce a subcompact car and 200 hours in this country. We have been outhustled by our competitors in this instance, and the answer is not legislation to protect this disparity in the law of this country,

but the answer is for the market forces of competition and increased investment to improve productivity so that we can show the people of this world that we are truly competitors.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan

(Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, it is pretty well settled in the law that treaties may be dealt with by the Congress. I am not aware of what this savings clause would relate to in terms of treaties. But there are many treaties this country has. I am not able to say which are involved. I am also able to say that many of them have terms which are ambiguous.

I do not believe this amendment by the gentlelady from New Jersey is needed, primarily because it is vague and ambiguous. It is, I believe, innocous. It does not, for example, change the present provisions of GATT (article XXIII) which provides an apparatus for determining whether or not conflicts exist. Those procedures are quite useful and allow the United States to make counter challenges relative to the challenging nation's barriers to U.S. exports.

Because the amendment does not change those provisions and does not provide new authority to "gut" this bill, I normally would not object to it. But I still think it is not needed and would urge that it be rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I rise

in support of the Fenwick amendment. While some participants in this debate indicated that it was a well-intended amendment and that it was simply something that we could tuttut, it is certainly not that kind of an amendment.

The Fenwick amendment is an utterly rational amendment which points out another glaring flaw in the bill before us; that is, that the bill violates treaties and agreements and resolutions and promises that this country has made all around the world.

And those who vote against the Fenwick amendment, and vote for this bill will be guilty of violating all those

solemn promises.

This amendment is serious. I am proud of the gentlewoman from New Jersey. She will be with us only a short time in the future. I think her amendment is typical of the kind of thoughtful analysis and reasoned approach that she has brought to this House. I congratulate her on making the amendment and tell her that we will miss her.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. Broyhill).

Mr. BROYHILL. Mr. Chairman, I hope that the Members are back in

their offices, wherever they may be, listening to this debate. It has not been the purpose of the opponents of this legislation to carry on endless debate, but to have adequate time to point out the defects of this bill.

This is restrictive trade legislation. It will not create jobs. It will cost jobs.

The Congressional Budget Office said this bill would reduce U.S. national income and redistribute the smaller amount of income in favor of those who benefit from this restriction. I say that is not fair. The opponents of the bill agree that it will result in retaliation, will cost jobs, and it will cost jobs in other industries where the wages are much smaller than in the auto industries.

The proponents of this bill talk about reciprocity. But there is not one provision in this bill that refers to reciprocity. It is a slam-the-door-on-imports bill. This is not the answer to a problem within our automobile industry which we all recognize to be extremely serious. We should commit ourselves here and now to the careful consideration of reasonable alternatives.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Ottinger) for 1 minute to conclude debate.

#### □ 1820

Mr. OTTINGER. Mr. Chairman, it is quite clear that the other countries of the world that are major automotive manufacturers have much more stringent restrictions than we do. There have been no GATT assertions against them.

We believe this meets the treaty obligations of the various treaties, particularly the GATT treaty. Thirty-one countries already have automobile content restrictions without any treaty violations being asserted against them.

I urge defeat of the amendment.

Mrs. FENWICK. Mr. Chairman, prompted by some statements that were made on the House floor during debate, I would like to offer clarification: The intention of my amendment is that the United States not violate our international agreements, treaties, and conventions. As I read during my statement on the House floor, it is clear that the provisions of this bill do in fact violate article III, paragraph 5 of the General Agreement on Tariffs and Trade, and it is my intention in offering this amendment, to preclude and prohibit any such violation.

None of the remarks made during debate referred to any other interpretation of my amendment and none should later be suggested. Not only does this bill violate our Friendship, Commerce, and Navigation Treaty with Japan which states in article XVI, paragraph 1:

Products of either Party shall be accorded, within the territories of the other Party,

national treatment and most favored-nation treatment in all matters affecting internal taxation, sale, dsitribution, storage and use.

It is my intention to preclude and prohibit this or any similar violation of this or any other treaty of friendship, commerce, and navigation, and any other treaty, international convention, or agreement on tariffs and trade to which the United States is a party on the date of enactment of this act.

To the extent that any section(s) of this act violate(s) any such agreement, treaty, or convention, it is rendered inoperable by my amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. Fenwick).

The question was taken; and on a division (demanded by Mr. Frenzel) there were—ayes 17, noes 10.

#### RECORDED VOTE

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 195, noes 194, not voting 44, as follows:

#### [Roll No. 459]

AYES-195 Anderson Duncan Livingston Edwards (AL) Anthony Loeffler Archer Edwards (OK) Lott Lowery (CA) Ashbrook Emerson Atkinson Lowry (WA) Badham Erlenborn Luian Lungren Bailey (MO) Evans (DE) Barnard Evans (IA) Madigan Marlenee Barnes Fenwick Bedell Fiedler Marriott Martin (NC) Benedict Fields Findley Martin (NY) Bennett Bereuter Foley Mazzoli Fountain McClory Bingham Frenzel McCollum McCurdy Bliley Bonker Gradison McDonald Gramm McGrath Bowen Breaux Green McHugh Brinkley McKinney Gregg Brown (CO) Grisham Michel Broyhill Mitchell (NY) Gunderson Hall, Sam Molinari Burgener Butler Hamilton Montgomery Campbell Hammerschmidt Carman Hance Moorhead Hansen (ID) Morrison Chappell Hansen (UT) Myers Harkin Cheney Heckler Natcher Clausen Neal Clinger Hightower Nelson Coats Hiler Nichols Obey Oxley Coleman Holt Collins (TX) Huckaby Conable Hutto Panetta Corcoran Hyde Parris Coughlin Jeffords Pashayan Courter Jeffries Patman Paul Crane, Daniel Johnston Petri Crane, Philip Jones (OK) Pickle Daniel, Dan Kastenmeier Porter Pritchard Dannemeyer Kemp Quillen Roberts (KS) de la Garza Kramer Robinson Lagomarsino Roemer Leach Leath Dickinson Roth Roukema Donnelly Lent Rudd Levitas Dornan Sawyer

Lewis

Scheuer

Schneider Sensenbrenner Shaw Shumway Siljander Simon Skeen Smith (AL) Smith (NE) Smith (NE) Solomon Spence Stanton Staton Stenholm Stump Synar Tauzin Thomas Trible Vander Jagt Walker Wampler
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Whittan
Winn
Wolf
Wyden
Wylee
Young (FL)

#### NOES-194

Geidenson Akaka Albosta Andrews Gilman Annunzio Gingrich Applegate Ginn Glickman Aspin AuCoin Gonzalez Bafalis Goodling Bailey (PA) Gore Beilenson Gray Guarini Hall (IN) Bevill Biaggi Boland Hall (OH) Hall, Ralph Boner Hatcher Bonior Bouquard Hawkins Brooks Heftel Broomfield Brown (CA) Hillis Burton, Phillip Hopkins Byron Horton Clay Howard Hoyer Hubbard Coelho Collins (IL) Conte Hughes Conyers Hunter Coyne, William Jacobs Jones (NC) Crockett Dellums Kennelly Derrick Kildee Kogovsek LaFalce Dingell Dixon Dorgan Lantos Dougherty Latta Dowdy Leland Downey Long (LA) Long (MD) Dwyer Luken Dymally Lundine Dyson Markey Early Martin (IL) Eckart Martinez Edgar Edwards (CA) Mattox Mavroules English McCloskey Ertel McDade Evans (IN) McEwen Mica Fazio Ferraro Mikulski Fish Miller (CA) Fithian Miller (OH) Flippo Florio Mineta Minish Mitchell (MD) **Foglietta** Ford (MI) Ford (TN) Moffett Mollohan Fowler Frank Mott: Murphy Frost Murtha Garcia Nelligan Gaydos

O'Brien Oakar Oberstar Ottinger Patterson Pease Pepper Perkins Peyser Price Rahall Rangel Ratchford Regula Rinaldo Rodino Roe Rogers Rose Rosenthal Rostenkowski Roybal Russo Sabo Santini Schroeder Schumer Shamansky Shannon Sharp Skelton Smith (NJ) Snyder Solarz St Germain Stark Stratton Studds Swift Taylor Traxler Vento Volkmer Walgren Washington Watkins Waxman Weaver Weiss Whitley Williams (MT) Williams (OH) Wilson Wirth Wolpe Wortley Wright

#### NOT VOTING-4

Railsback

Addabbo
Alexander
Beard
Blanchard
Boggs
Bolling
Brown (OH)
Burton, John
Chisholm
Coyne, James
D'Amours
Daschle
Deckard
Derwinski
Emery

Evans (GA) Rho
Fascell Rob
Forsythe Rob
Goldwater Sch
Hagedorn Seit
Hartnett Shu
Holland Smi
Hollenbeck Sta
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Zeferetti

Yatron

Zablocki

Young (AK)

□ 1830

Mrs. KENNELLY and Mrs. BOUQUARD changed their votes from "aye" to "no."

Mr. EMERSON and Mr. PICKLE changed their votes from "no" to

"aye."

So the amendment was agreed to.
The result of the vote was announced as above recorded.

#### □ 1840

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to the gentle-

man from Texas (Mr. Frost).

Mr. FROST. Mr. Chairman, I am a strong supporter of this legislation but have waited until now to speak on behalf of it. I have listened as attentively as possible to the debate and I will have to say that I am disappointed to hear the bill's opponents so freely invoke free trade arguments against it.

Mr. Chairman, if there is anything we have learned here today it is that free trade does not now govern the commercial relations between nations. To the extent that free trade influences those relations, it certainly does not extend to the Japan-to-America automobile trade.

Our domestic automobile market is being saturated with cars built in Japan and subsidized by the Japanese Government. This is not free trade and the bill should not stand or fall on the basis of a concept that no longer exists in the international economy.

What this bill does represent is reciprocity, and I submit that on that basis, it asks no more of Japan than Japan and our European allies now ask of U.S. manufacturers seeking to penetrate their markets.

Those of my colleagues with defense contractors in their districts should be aware of the domestic content clauses that are built into the contracts between our NATO partners and U.S. contractors. For example, the F-16 is built by General Dynamics in Fort Worth, Tex. It is sold to the Netherlands, Denmark, Norway, and Belgium under a coproduction arrangement. These countries will not buy the F-16 unless some of its components are produced domestically and the plane is assembled domestically.

And since this discussion centers around our relations with Japan, my colleagues should be aware of a 1980 contract between McDonnell Douglas and Japan for over 120 F-15's. Approximately 55 percent of the component manufacturing is done by Mitsubishi in Japan and all final assembly will be done in Japan.

Mr. Chairman, I predict that any American company that tries to compete for the next-generation plane sale to Japan will have to offer a local production arrangement or it will not gain entry into Japan's market.

The reason why Japan insists on these clauses as the price for doing business is very simple and should be familiar to everyone following this debate. Japan wants to protect its job market. Japan wants to develop a domestic aerospace industry and it does not want another nation saturating its market with foreign products.

Mr. Chairman, Japan is demanding nothing more than any self-respecting industrial power would demand to protect its manufacturing base. The only difference is that Japan is not the target of a predatory trading policy by one of its partners. The United States is such a target, and we must not shrink from taking the steps needed to restore our trade balance.

I strongly urge my colleagues to vote in favor of this very important piece of

legislation.
Mr. SEIBERLING, Mr. Chairman.

will the gentleman yield?
Mr. GLICKMAN. I yield to the gen-

tleman from Ohio.

#### PERSONAL EXPLANATION

Mr. SEIBERLING. Mr. Chairman, I wish to have the Record show that while I got here too late to vote, had I voted on the amendment just agreed to, I would have voted "no."

Mr. GLICKMAN. Mr. Chairman, this is a very difficult proposition for a lot of us, realizing that our districts are dependent upon exports, and at the same time realizing the enormous level of unemployment not only in the auto industry, but in so many different industries. I have gone from pro to con, and I think maybe I will vote for it because it will send a signal.

I was listening on the floor, and I heard the words of our chief deputy whip, Mr. Alexander, and he used the word "retaliation." That really hit me. I decided that if in fact this bill is retalitation, it is tantamount to nothing more than the start of the largest trade war we have ever faced in America. While we are being victimized by inconsistent policies with respect to the Japanese and the European Economic Community, in my judgment over the long term this bill will hurt America, not help it.

My district is the largest producer of airplanes in the United States. I come from the State of Kansas, which is the largest wheat producer in the United States. My district lives on exports. We survive on exports, and we will die as a result of a lack of exports. I cannot help but feel that this bill is nothing more than a symbol that will try to aim at retaliating against Japan or retaliating against the European Economic Community. It is going to hurt my machinists at Boeing. It is going to hurt my farmers and cost them jobs in the long term.

I think that is bad for America. We face the highest unemployment since the Depression. I feel for the auto workers. I feel for people all over

America who are unemployed, but I would argue that if we have to be protectionist, let us do so in a positive way. Let us fund the Eximbank the way the Europeans do it, and provide affirmative assistance to our industries. But, let us not put up trade barriers couched in an indirect bill that came out of the Commerce Committee that is really nothing more than a major trade bill aimed at retaliation, knocking the heck out of the Japanese and the West Germans and everybody else.

Everybody acknowledges that this bill is not a very good bill. I keep hearing the word "symbolism" and "retaliation." I think to myself, I have got to look at each one of these bills as if they are going to pass. This bill could pass. It could go to the Senate in this time of high unemployment, and it could go to the President. Who knows what the President might do?

I would just say one thing: This world is very close to a worldwide depression in terms of the international banking community, in terms of all the Third World nations in the world. in terms of the solvency of the United States of America itself. If we start a major war, albeit for good reasons, to put our auto workers back to work. I am telling the Members that we will all live to regret it; the workers in Wichita, the workers in Detroit, the workers throughout America. So, I would urge the Members to think about this: No matter what kind of a signal it sends, over the long term it has got to be a very bad signal for America.

I urge defeat of the bill.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from North Carolina and myself have about 36 unrequited amendments at the desk. We have determined that we believe the House would like to come to a vote on this matter, and it is our intention not to offer those amendments.

I yield to the distinguished gentleman from North Carolina (Mr. Broy-HILL).

Mr. BROYHILL. Mr. Chairman, I thank the gentleman for yielding. I do hope that the Members have been listening to this debate. It is not our purpose as opponents of this bill to carry on endless debate. All we wanted to do was to have some time to point out the defects of this bill; its unworkability, and its unfairness.

We are urging the Members to vote no on this bill and not to set these precedents that are contained therein.

Mr. FRENZEL. Mr. Chairman, we have tried to show through this debate that this bill will cause a loss of jobs, a 150,000 net loss, according to CBO; that we will lose exports, that we will lose world competitiveness,

that this bill will cause an extended recession; that it will penalize U.S. manufacturing jobs; that it will penalize high tech growth industries and jobs; that it will penalize stevedoring jobs; that it will penalize agricultural producers; that it will penalize consumers by driving up the cost of cars from \$330 to \$1,500, depending on whose analysis one likes.

We have tried to show that it violates treaties and pledges and resolutions. We have tried to indicate to the Members that it is a mean-spirited protectionist bill when what is really needed is some sort of reciprocity power in the hands of the executive to negotiate for all of us.

Mr. Chairman, we do not want to prolong this debate unnecessarily, and we hope that we are nearing a final decision.

Of all the amendments I have placed in the RECORD, two should have been offered except for the shortage of time.

The first is the Michel amendment, placed in the Record by the distingished minority leader from Illinois. It would give the Secretary authority to waive the act if the act would impede achievement of the purposes of the Humphrey-Hawkins Act. Obviously this bill would impede the achievement of both the chief purposes of Humphrey-Hawkins, employment and inflation. The CBO says it will cause a net loss of jobs and a huge increase in the price of cars.

The only people who would vote against this Michel amendment would be those who do not believe in Humphrey-Hawkins objectives or who believe every economic analysis we have received is wrong. It is another amendment which shows the terrible flaws in H.R. 5133.

My own reciprocity bill, H.R. 6773, also points out the fact that H.R. 5133 is purely protectionist. Under our rules, I could not offer it as a substitute. However, it is an honest attempt to provide the Executive with tools so we can negotiate more effectively for reasonable market access abroad.

It stands in stark contrast to the mean-spirited protectionist domestic content content bill. Should domestic content ever come before this body again, which now appears likely, I will find a way to offer all my amendments and to secure record notes on items. But, for now, my Christmas present to my colleagues will be an early adjourment tonight.

#### □ 1850

Mr. GIBBONS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief.
The House has recently adopted the
Fenwick amendment. The Members
who argue against the Fenwick
amendment say that we are not violating any agreement or any treaty.

We are probably going to have a separate vote on this amendment, and a lot of arms are going to be twisted trying to get Members to change their position. I think it is important to concentrate on the Fenwick amendment right now.

One of the responsibilities of being American is that we have got to lead. We cannot lead unless we are willing to set an example for decency and honesty. If we make an agreement, we ought to keep it or we ought to go back to the bargaining table and say that we would like to abrogate it. But certainly in this Congress on a piece of legislation that is all fouled up, we should not willy-nilly act in this way.

I really do not know offhand of any damage that the Fenwick amendment does to this bill, but certainly we should not mark ourselves as people who do not keep a bargain that we fairly entered into. I do not know that we would be violating anything with the Fenwick amendment, but just to turn down the Fenwick amendment once it had been adopted, I think, would put a stigma not only on this legislation but on this Congress and certainly on our country.

So, Mr. Chairman, I ask the Members, please, to stick with the Fenwick amendment.

Mr. HERTEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the 3½-year crisis in the U.S. auto industry has taken an awesome toll. Unless we adopt a policy that deals with realities of auto trade and investment, the deterioration of the auto industry, which impacts so heavily on allied industries, will continue at an intolerable rate—even if U.S. auto sales revive.

The United States can no longer afford to have a passive trade and industrial policy toward the industry when all other major auto-producing nations are promoting their industries, pushing their exports, and preventing increases in imports. The Fair Practices in Automotive Products Act, H.R. 5133 is designed to defend our industry in light of the practices prevailing around the world.

This bill provides a more than adequate phase-in period for foreign companies to make the necessary investments here to maintain their market shares. As a result, U.S. consumers would continue to have the range of product offerings they desire. And, because U.S. companies would continue to face stiff competition, there should be little increase in U.S. car prices.

Because of the urgency of the situation and the limited time in the Legislative Calendar, action on H.R. 5133 becomes more vital to an improved economic climate sustained by increased employment in the auto and related industries.

There are numerous myths which surround the causes for the deteriorat-

ing state of the auto industry in this country. There has been much criticism of the American labor force in this debate; accusations of high costs and low productivity. I think that it is vitally important that this body listen to some figures from the 1982 Japan and international comparison study by the Keizai Koho Center, at the Japan Institute for Social and Economic Affairs.

The annual earning and tax benefit position of a typical worker in a major company, calculated according to the average annual exchange rate of the International Monetary Fund, shows the gross annual earnings of a typical worker in the United States to be \$14,949. The typical Japanese worker's annual gross earnings are \$16,960. Of the 11 major United States trading partners, the typical American worker ranks eighth.

Furthermore, in comparative levels of labor productivity, the typical American worker outproduces every other worker in major countries.

I think we do our workers a grave disservice by underestimating the skills and ability of our people.

Our auto policy is out of step with the rest of the world. Other major auto-producing nations are actively promoting exports, preventing increases in imports, and financially assisting their home-based producers. To continue our passive trade and industrial nonpolicy in such a hostile global environment means that, even when auto sales recover, U.S. production will fall behind the pace.

H.R. 5133 would prevent further catastrophic erosion of auto production and employment in the world's largest auto market. It would curb the alarming rise in foreign sourcing by U.S. companies while inducing foreign-based companies to invest here. Because of the magnitude of the industry and the ripple effect on suppliers, the bill would create or preserve over a million additional jobs in the U.S. economy by 1990.

Those who oppose the domestic content bill raise red flags of possible trade wars. I must respectfully disagree with these Members of Congress because there we are already in a trade war and our Nation has suffered more serious losses than any sneak attack in any conventional war. It is burying our heads in the sand to believe that worldwide economic upturn will improve the economic conditions in the auto industry. To do nothing about the tragic condition of one of our fundamental industries, is to raise a white flag of surrender. We soon will be economically conquered and our people will be paying their tax dollars in tribute for the defense of foreign markets which are now exploiting them.

Mr. SEIBERLING. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am one of the cosponsors of this bill, but some of the things that have been said during this debate have troubled me a great deal.

I do not want to see retaliation against the Japanese. I think most of us have great respect and admiration for the Japanese. They are one of our most important allies. They are people who have risen from the ashes of war through their own talents and hard work. We need to learn some things from the Japanese.

That is not really the issue here. The issue here is whether the American people and the Congress are going to take the steps necessary to see that we survive as a major industrial power. It is inconceivable to me that we can be a major industrial or military power if we allow our automobile industry to go down the drain.

What are we going to do in the event of a war? Have our tanks made in Japan and bring them across the ocean? Have our steel made in Brazil?

Those are some very basic questions which this Government and this Congress are not answering. There are some other basic questions.

Do we want to become a colonialized nation exporting agricultural products and raw materials and timber, or do we intend to remain in the forefront of the industrial world, including hightechnology industry?

There are some very serious issues here. I detect on both sides of this debate by our colleagues some genuine concerns that we all share, and I think the argument is mainly over means rather than ends.

However, I am sorry to say that an administration that does not want the Government to have any role at all and wants the marketplace to do everything cannot possibly confront this problem, in competition with a country like Japan, where the government and industry work closely together in an effort to see that their nation meets its economic targets and priorities. We do not have any comparable mechanism for developing national economic targets, and, of course, no targets either.

Mr. TRAXLER. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I am happy to yield to the gentleman from Michigan.

Mr. TRAXLER. On that point, Mr. Chairman, let me say that currently in Japan the issue of automobiles is behind them. They know that Korea and Taiwan and other South Asian countries can outproduce them at cheaper costs then they can. They are now in the process of the next wave, and let me say to my good friend, the gentleman from California, that that is computers and robotics. Their government is spending a billion dollars in research to develop the computers and

robotics that will beat ours because of the combined efforts of their government, their industry, their banks, and their unions.

Mr. Chairman, if we do not know that, then we deserve what is going to happen to us.

Mr. SEIBERLING. Mr. Chairman, I will reclaim my time.

Let me say some constructive things here, because there have been some destructive things put out on the floor and I hope we do not end on that note.

A country which has as its means of fighting inflation only the elevation of interest rates to astronomical levels cannot effectively compete with a country whose interest rates are maintained at half our level, so that industry can borrow whatever capital it needs at a competitive price.

A country which does not provide workers with job security and a share of the profits, so that they have an incentive to help their employers become more productive, cannot compete effectively with a country that provides its workers with those kinds of incentives.

I could go on and on. There are bills in this Congress to encourage such worker incentives, to encourage worker retraining, et cetera. These are all things that the Japanese are doing and we are not doing. I mention these merely to illustrate that there are long-range problems which we are not addressing because we do not have a comprehensive industrial strategy.

I would also note that a nation that, year after year, pours \$200 billion and more into military spending—as both the United States and the Soviet Union are doing—cannot compete effectively with another great industrial power, Japan, that devotes virturally all of its capital and human resources to modernizing its plants, training its workers, and developing products that have economic value in the consumer markets of the world.

#### □ 1900

Somebody said to me the other day, "Is this bill not just a Band-Aid?" I said, "Yes, it is a Band-Aid, and, in the long run unless we have a competitive auto industry or any other industry, it is not going to survive. But when you are bleeding you had better have a Band-Aid because if you bleed to death you are not going to live to the long run. Our first aim must be to survive in the short run."

While this is not a perfect bill and we all know it is not going to become law in this year, I think, it serves a tremendous purpose if it forces every one of us, including the administration and the American people, to start thinking about this problem of whether we intend to survive as an industrial power, which industries are essential, and how to keep them alive and well.

• Mr. MURTHA. Mr. Chairman, I want to point out some facts which indicate the stakes involved in H.R. 5133.

U.S. jobs: Approximately 2.4 million jobs in this country are related to auto production directly or indirectly. The industry provides critical support for other key industries, particularly in steel, rubber, glass, aluminum and even high-technology areas of robotics, computer-aided design and computer-controlled equipment. Without Government action, however, U.S. auto-related employment is projected to fall to half that required to supply the domestic auto market by 1990. Enactment of H.R. 5133 would create or preserve more than 600,000 jobs by 1986 and more than 1.3 million by 1990.

Transfer payments and taxes: The potential loss of more than 1.3 million jobs would cost the Federal Treasury an estimated \$25 billion annually in increased transfer payments and in lost tax revenues.

Balance of trade: The United States-Japan trade deficit in automobiles has grown to \$47 billion over the last 5 years—\$13 billion last year alone thus putting an intolerable strain on the dollar. The Japanese, meanwhile, have kept the yen undervalued by at least 25 percent, bolstering burgeoning exports.

Preserving our internal markets: No advanced nation willingly surrenders crucial internal markets to imported goods. Yet absent enactment of content legislation, imports will account for 40 percent of the U.S. market in cars and light trucks by 1990, according to Merrill Lynch Economics.

Because of the high proportions of minorities employed by the auto industry, they have a particularly important stake in this bill. Of the 270,000 workers now laid off from the Big Three, AMC, and VW, at least 100,000 are minorities and women. As a result, implementation of affirmative action hiring and training programs have stalled pending the recall of those laid off.

#### IMPLEMENTATION OF H.R. 5133

A sliding scale would determine the ratio of domestic content required. A company with annual vehicle sales exceeding 900,000 units would be required to achieve a domestic content ratio of 90 percent; a company with sales of 200,000 would need only 20 percent domestic content, and so forth.

The rules can be met: GM, Ford, Chrysler, VW and AMC-Renault currently have sufficient domestic production and supplies to exceed their content ratios for model 1986 and beyond. Honda can meet its ratio utilizing its new U.S. car assembly plant and boosting its purchases of domestic parts as VW has done. Toyota, Nissan,

Toyo Kogyo, and Mitsubishi, would need—finally—to implement plans for production and purchase of parts here. Other companies with sales below 100,000 will not be affected.

#### IMPACT ON COMPETITION AND PRICE

Competition would be fairer under domestic content legislation as foreign and U.S. manufacturers vied to give U.S. buyers the best in technology, service, quality, and price under the same rules.

Prices would be relatively unaffected by content legislation contrary to what some critics have claimed.

#### THE PRINCIPLE BEHIND H.R. 5133

The United States is alone among major industrial nations in permitting its domestic markets to be overrun by imports in key sectors. No fewer than 31 countries now enforce some kind of content legislation; others use quotas, tariffs, and so forth. The content principle is based on elementary fairness: sell as much as you want here, but let some of the people who buy it build it as well.

#### HOW H.R. 5133 WOULD WORK

The rules of H.R. 5133 are designed to assure a healthy and competitive domestic auto industry. The bill takes into account the fact that a few giant vehicle manufacturers decide where production takes place to supply the U.S. market. Their strategic decisions determine the livelihood of hundreds of thousands of American workers.

The bill imposes obligations only on companies with sales exceeding 100,000. Ten auto companies have that many sales in the United States today: GM, Ford, Chrysler, Nissan, Toyota, Honda, VW, Toyo Kogyo, AMC, and Mitsubishi. The bill provides for a 1-year grace period, after which the requirements are to be phased in by thirds in each of the next 3 years.

A company's local content requirement depends on the level of its sales. A company's content requirement is based on a smooth scale that starts at 100,001, then rises until 900,000, where it levels off. From model year 1986 onward, the content percentage, up to a maximum of 90 percent, is derived by dividing sales by 10,000. Thus, sales of 355,000 entail a 35.5-percent requirement; sales of 500,000 entail 50 percent.

The content ratio of a company is based on its sales, exports, and imports of original equipment automotive parts and vehicles. Its imports less its exports equal its net imports. The local content percentage is derived by taking 100 percent and then subtracting a company's net imports as a percentage of its sales. For example, a company would have 90-percent local content if its net imports represent 10 percent of its U.S. sales. It has 40-percent local content when net imports are 60 percent of sales.

GATT, RETALIATION, AND U.S. EXPORTS

Some critics of H.R. 5133 argue that retaliation against U.S. exports would nullify the gains to the auto industry. The assumption that massive retaliation from Japan is likely cannot be supported by a careful analysis of auto policies around the world, the political context of the GATT, and Japan's trade patterns.

Japan has never brought a GATT complaint, much less retaliated, against the dozens of countries which restrict Japanese auto exports much more stringently than H.R. 5133. Indeed, to achieve or maintain their market presence, Japanese auto companies have invested in many of those countries.

The GATT procedures require that Japan first meet with the United States to try to iron out difficulties before a formal complaint is filed. If Japan were to file a formal complaint, the United States could file countercharges against the auto policies of Japan and many other GATT members in Europe, Australia, Latin America, and Indonesia.

An analogous situation occurred after the United States enacted Domestic International Sales Corporation (DSC) legislation giving special tax breaks to exporters in 1971. At that time, several European countries lodged complaints with the GATT. The United States countercharged against policies of those countries and argued that, if the DISC did violate the GATT, those countries were also violating the GATT with comparable measures. In effect, the United States defended the DISC as necessary for U.S. exporters to compete fairly on the world market because other countries were subsidizing their exports. Several years later, a GATT panel ruled that both the DISC and the foreign rules did violate the GATT. Since that time, the other countries have not changed their practices, nor has the United States modified the DISC to conform to the GATT.

Likewise, the Fair Practices in Automotive Products Act is a modest defensive measure; the quotas, content rules, and export requirements of other countries are generally far more severe than this legislation.

As a practical matter, Japan has a very limited capacity to take action against the United States even if it were to go to the GATT and prevail. If Japan could win a GATT ruling against U.S. auto content legislation, the United States could win rulings against the auto policies of most other auto-producing countries. Even if that point should be reached, it would not be in Japan's interest to take action against U.S. exports.

Japan buys from the United States only what it cannot make for itself: raw materials and products using technology it does not yet have. For many

of these products, the United States is Japan's predominant supplier; and for those imports for which Japan does have alternative sources, those source countries have auto policies far more restrictive to Japanese auto imports than the proposed U.S. legislation: Australia, Argentina, Brazil, Indonesia for foodstuffs and raw materials; European countries for manufactured goods. Japan could retaliate against modest U.S. auto content legislation only by buying less from us and more from countries with auto policies which limit their exports even more severely than would H.R. 5133.

### EFFECT OF DOMESTIC CONTENT LAW ON AUTO PRICES

The domestic content law would have a very limited effect on prices of U.S. cars because it does not reduce competition in the U.S. market.

Based on extreme assumptions, the CBO predicted that the original H.R. 5133 would boost car prices 6 percent. They assumed that H.R. 5133 would function as a quota bill, reducing competition by shutting imports out. Instead, H.R. 5133 is an investment bill, which will cause foreign car companies to put plants here in order to maintain access to the U.S. market. Therefore, competition in the United States will be stiffer, and the increase in car prices far less than CBO concludes.

A widely publicized study by Harbridge House has predicted very large price increases. That study, financed by the import dealers' association, combines a distortion of the experience of the last year with unfounded projections about the future. Since restraints on Japanese car exports to the United States began in early 1981, lists prices of U.S. cars have risen at a 5- to 6-percent rate—less than the Nation's inflation average. Moreover large and expanded rebate programs have meant effective price increases of even less. Price increases for this fall's models show continued moderation.

The public incorrectly perceives that car prices have been rising rapidly because of sticker shock. People go several years between buying a car and are surprised at the increase in prices since their last purchase. In fact, auto prices have been rising at a lower rate than overall inflation for several years. Prices for new cars have been less than the overall price index for the last 4½ years. Contrary to the critics of the Japanese export restraint, new car prices have continued lower than average inflation since they took effect in April 1981.

#### PRICE INCREASES—CPI

	New cars	All
Mar. 1978 to Mar. 1979	7.6 8.0 4.2	10.3 14.6 10.5

PRICE INCREASES-CPI-Continued

(3) (5) (8) (1) (1) (1)	New cars	All
Mar. 1981 to Mar. 1982	6.3	6.8

Anual rate

Source: Bureau of Labor Statistics.

U.S. PRODUCTION OF NEW CARS THREATENED BY DISTORTED EXCHANGE RATES AND BORDER TAXES

The United States will lose at least 700,000 auto-related jobs-particularly in production of smaller cars-if the U.S. Government does not require local production by all major auto companies selling in this market. Because the auto industry has long lead times, the companies must often decide where to source parts or vehicles 2 or 3 years before production and shipments begin. Thus, today's decisions to obtain new parts or vehicles abroad may not show up as imports and lost U.S. jobs until 1984 or later.

A number of factors subject to Government policy are now swaying auto companies-both foreign and domestic-against U.S. automotive production. Among the key factors have been skewed exchange rates particularly of the dollar and yen, the border tax adjustment rules, and activist auto policies among foreign governments.

Distorted exchange rates, particularly the undervaluation of the ven relative to the dollar, represent a substantial barrier to companies deciding whether to invest in the United States. The ven now stands at over 250 to the dollar but many experts believe that, for trade purposes, it should not exceed 200. With the dollar's yen value now 25 percent above its proper value, when a company now compares production costs between the two countries, it finds U.S. production costing 25 percent more than it should relative to Japanese production.

Extremely tight U.S. monetary policy accounts in major part for the overvalued dollar. Record high real interest rates here have raised demand for dollars to invest here. In addition, by slowing growth here and abroad. our tight monetary policy has shaken world confidence and created new demand for the dollar as a "safe

haven" investment.

In addition, the Japanese Government has been derelict in not taking the necessary measures to shore up the value of the yen. While they may not be intervening in exchange markets to bid down the yen's value, that is not satisfactory. Japan should be convincingly intervening in the exchange markets to bid up the yen. In addition, the Japanese Government should raise the yen's value by encouraging greater investment in Japan and putting stiffer restrictions on capital outflows from Japan. Unfortunately, they are reluctant to take such measures because most of their growth in

output over the last 2 years has come from expanding their net exports.

The international rules for border tax adjustment are also biased against U.S. production. Those rules allow indirect taxes-on which Japan and European countries tend to rely-to be rebated on exports and charged on imports. The United States relies more on direct taxes which are neither rebated for our exports nor charged on competing imports. This means that auto imports from Japan bear few taxes in either Japan or the United States, but U.S. exports to Japan face substantial taxes in both places. The theoretical economic argument that this distortion will be offset by a lower U.S. exchange rate is clearly nonsensical today.

With its passive policy toward the auto industry, the United States inevitably has growing net imports. All other major auto-producing centers-Japan, Europe, and Brazil-have adopted a combination of policies that assure net auto exports. These other countries have vigorously promoted their local production and exports by subsidies, favorable credit terms, stiff import restrictions, and export requirements.

U.S. production of new cars and trucks, including their parts, now represents only three quarters of the value of automotive sales in our market. We now have net imports equivalent to a quarter of our new vehicle sales. If the U.S. Government fails to take action, that ratio can be expected to fall to one-half by 1990 or sooner.

#### JOBS IMPACT OF CONTENT

If the domestic auto content bill is enacted during the 1983 model year, by 1986 the United States stands to gain 637,000 jobs. Of these, 150,000 would be in the auto industry itselfmainly at new Toyota and Nissan plants and retained "Big Three" plants—and 487,000 in other industries. By 1990, the law would create or preserve 1,386,000 jobs that would otherwise be lost. Of those, the auto companies would provide 213,000 more jobs, suppliers to the auto companies would have 503,000 more jobs, and the ripple effect throughout the rest of the economy would create an additional 670,000 jobs.

	1986	1990
Core auto jobs Directly auto related jobs Other spinoff U.S. jobs	150,000 354,000 133,000	213,000 503,000 670,000
Total	637,000	1,386,000

Basis for figures: Without content requirements, the import share of the U.S. car and light truck market will rise from 28 percent in 1982 to 35 percent in 1986 and 40 percent in 1990; with content, it would stay at 28 percent. Without content, the U.S. content of domestic-based companies' vehicles will fall from 95 percent today to 85 percent in 1986 and 80 percent in 1990; with content, it would only be able to fall to 90 percent. Without local content requirements, vehicles sold here by foreign-based producers will average less than 20 percent U.S. content; with content, they will average 51 percent.1 Each auto job supports 2.36 direct auto related jobs.2 Each auto job is associated with 3.25 other U.S. jobs in 1986 and 5.5 other jobs in 1990.3

AUTO CONTENT AND EQUAL OPPORTUNITY

The auto crisis, the effects of which will recede only if significant direct foreign automotive investment is required by law, has been particularly disastrous for women and minority workers.

Many of the plant closings have occurred in areas with heavy concentrations of blacks and Hispanics. Women too have been hard hit. Of the 30 largest auto plant shutdowns since 1980, all but a handful have occurred either in frostbelt cities or on the two coasts. Confidential company data, much of it compiled for EEOC requirements, show that women, blacks, and Hispanics have paid heavily.

Auto has always employed a high relative proportion of minority workers and women. While minorities constituted about 11.2 percent of U.S. workers, they held about 22.4 percent of U.S. auto jobs in 1978-79. Blacks alone were 9.3 percent of the U.S. work force, but 19.2 percent in auto. The decline in auto employment from 1978 to 1982 has cut minorities' share of auto employment to about 20 percent and blacks' share to under 18 percent.

Since minorities have held about twice the share of auto jobs as their share of all U.S. jobs, the auto slump has hit them twice as hard.

In 1978-79, women held 15.8 percent of U.S. auto jobs; today, with layoffs outpacing affirmative action, the figure is 15.5 percent. In blue-collar auto jobs, women's share has fallen from 14 percent in 1978-79 to 13.5 percent in 1982.

The auto industry, whose contracts with the UAW insure equal pay for equal work and which provide decent incomes to all auto workers, has been a large source of minority income in

<sup>1 (</sup>a) Without law: Renault/AMC at 70 percent U.S. content, VW at 40 percent, Honda at 31 per-cent, Nissan/Fuji at 13 percent, and all other im-ports at 6 percent, based on 1981 sales level; (b) with law: Nissan/Fuji at 74 percent U.S. content, Toyota at 71 percent, Renault/AMC at 70 percent, VW at 40 percent, Honda at 37 percent, Toyo Kogyo at 25 percent, Mitsubishi at 15 percent, and all other imports at 6 percent, based on 1981 sales

Source: "BLS 1979 Employment Requirements

<sup>\*</sup>Source: "BIS 1919 Employment Requirements Table," Oct. 23, 1981. \*Source: U.S. Congressional Budget Office, "The Fair Practices in Automotive Product Act: An Economic Assessment," August 1982.

the United States Auto jobs are good jobs; we are proud of that. They allow autoworkers to enjoy a decent, reasonable standard of living. Nearly all auto workers-be they white men or Hispanic women-earn between \$9 and \$13 an hour. There are very few jobs in the U.S. economy in which minority and female workers earn as much, even though something like half of white males earn as much or more.

Not only does contraction in auto cost women and minorities a disproportionate share of jobs, therefore, but also of income. Each time a woman loses an auto job, female national income falls by as much as if more than three women in average occupations became unemployed. For male minority workers, auto job loss is more than twice as costly as average

minority unemployment.

In its analysis of the potential impact of a Chrysler bankruptcy, DOT estimated that the loss of income by just the 38,000 minority workers employed by Chrysler in 1979 would have reduced national black income a full 1 percent.

#### U.S. AUTO INDUSTRY SHOWS HIGH PRODUCTIVITY GROWTH

Productivity growth in the auto industry has proceeded at a healthy 3.2 percent clip since the late 1950's, substantially higher than the 2.7-percent rate attained by the entire manufacturing sector. This is in spite of the all too frequently cyclical downturns suffered by auto.

Even as the current slump deepened, the motor vehicle and parts industry was able to show a 4.7-percent increase in productivity from 1980 to 1981. That remarkable performance attests to the competence of the work force as well as to the robust spending in capital equipment by the domestic auto companies.

#### CAPITAL SPENDING IN AUTO, TRUCK, AND PARTS MANUFACTURING

	1978	1979	1980	1981
Amount (in billions)	\$4.65	\$5.36	\$9.06	\$10.08
	14.5	15.3	69.0	11.2

Source: McGraw-Hill Economics Department.

CLAIMS THAT U.S. AUTO INDUSTRY PRODUCTIVI-TY LAGS WOEFULLY BEHIND JAPAN'S ARE GREATLY EXAGGERATED

The Japanese Productivity Center 4 has recently issued a study on comparative labor productivity between the United States and Japan. The study estimates that Japan's auto industry has finally pulled ahead of the United States holding a slight-1 percentlead in productivity in 1980. In 1979. the United States was ahead of Japan by 11 percent.

These figures seriously call into question some U.S. studies which show Japan holding a tremendous productivity edge vis-a-vis the United States. productivity Moreover, changes depend strongly on utilization of capacity. The Japanese gains from 1979 to 1980 must therefore be put in the proper perspective: First, extremely favorable conditions in Japan, where there was a 15-percent increase in production, coupled with, second, the massive auto crisis in the United States where unit output plunged 30 percent.

#### QUALITY, SAFETY, AND INSURANCE COSTS: MYTHS AND REALITIES

Quality: Everyone talks about fit and finish, where the Japanese excel. But there is more to quality than that. In fact, both VW and Honda have attested to better quality at their U.S. operations than for identical products built in Europe or Japan. Jim McLernon, former head of Volkswagen of America, says that VW's built in Pennsylvania are superior to the ones built in Germany. Honda officials say that 90 percent of their Japanese motorcycle output could go to the dealer directly from the production line; the corresponding portion of their Belgian output was 85 percent and for the U.S. output it was 95 percent.

Honda has begun to assemble Accords in Ohio, and they are not worried about whether Americans can do the job right. The following remarks were made by Hideo Sigiura, executive vice president of Honda, at the Automotive News World Congress in De-

troit on August 25, 1982:

Our motorcycle plant started operation in September 1979. It is not just an assembly facility, as it is equipped with facilities for component production, welding, painting, and plastic injection. It also has welding robots. The quality of the U.S.-made motorcycles is reputed to be equal to, or better than, the quality of those manufactured in Japan, to the complete satisfaction of our dealers and customers. Through this experience, we are convinced that the automobiles which we are about to start manufacturing in the United States will fully achieve satis factory quality standards. The workforce at the plant has proven itself to be as diligent and as hard-working as one could expect anywhere in the world, and I, as a member of Honda's management, am totally satisfied with them.

Safety: According to both NHTSA crash data and Insurance Institute statistics on injury and collision claims, U.S.-made cars by and large are far safer than imports, especially than Japanese-made subcompacts.

NHTSA's crash tests of 1981 models found that, among small cars, the imports were on average far more dangerous in terms of predicted head and chest injuries than domestics.

The Insurance Institute for Highway Safety found that all 19 of the models with the best 1978-80 injury claim experience were domestics, while 14 of the 17 models with the worst injury claim record were imports, 13 of them Japanese.

Insurance costs: As a result, insurance premiums are beginning to reflect American cars' higher safety and lower cost of repair following accidents. State Farm has cut rates on 23 larger, domestic cars and levied surcharges against drivers of 23 small, mainly imported cars, including all Japanese subcompacts plus Audi and BMW.

#### INTERNATIONAL AUTO EARNINGS COMPARISONS: MYTHS AND REALITIES

U.S. auto workers-when they are working-earn a good living; we make no apology for that. But a lot of what we hear about them making \$20 an hour or about how the auto crisis would end if autoworkers were paid at Japanese-level wages is nonsense.

First of all, hourly labor costs, expressed in dollars, depend on exchange rates. So even though U.S. autoworkers' real incomes fell in 1981 and Japanese incomes rose, the gap between them widened because each yen bought fewer dollars.

Second, U.S. autoworkers do not earn \$20 an hour. Hourly pay before taxes averages about \$12 at Ford and GM, and about \$9.50 at Chrysler. The rest is the cost of benefits. Most of that comes in two areas which in Japan and most other advanced industrial countries are largely paid for by Government: Health insurance and pensions. Moreover, hourly U.S. costs for these are inflated by the auto slump: Benefits of active, laid off, and retired workers are borne by fewer active workers at the job fewer hours a year.

If the United States had a national health insurance program and a West German-style public pension program, U.S. auto hourly labor costs would fall by as much as \$5. If laid-off workers were recalled and all worked full time, they would fall nearly \$2 an hour.

In addition, reported Japanese auto labor costs of about \$12 an hour—\$9 in wages and \$3 in benefits—understate the reality, due to how certain company-subsidized benefits; for example, housing, recreational facilities, transportation, are valued.

As a country, Japan is less productive than the United States. People in virtually all walks of life have lower pay in Japan than their counterparts in the United States. Yet, some have argued that, because their products compete with Japanese, American autoworkers should accept Japaneselevel wages. Where does that logic With the recent devaluation, some Mexican autoworkers receive little more than one-tenth of American auto workers. With modern telecommunications, engineers in Pakistan are designing U.S. bridges. Should American bridge engineers get paid at the Pakistani pay scale?

<sup>\*</sup>The JPC is an independent Tokyo-based think-tank with researchers representing labor, business, and academia

COSTS OF A FREE TRADE POLICY IN AUTO

U.S. auto communities now have depression-level rates of unemployment. High unemployment will continue, even if sales recover. The companies will be raising productivity to compete. Cars will continue to get smaller to satisfy demands for fuel efficiency. With these inexorable pressures reducing employment, the Nation must carefully weigh the costs of unbridled auto imports.

Every time an additional imported car, truck, engine, or transmission displaces U.S. production, there are costs as well as potential benefits to society. The benefits—price and engineering competition, and consumer choice—are generally recognized. The costs more often remain hidden, never linked explicitly to particular policies. But these costs are huge, and we believe they overwhelm the benefits of unrestricted access to the world's largest auto market.

Since 1978, fully 1 million U.S. workers have lost their jobs due to the auto crisis, over 300,000 in the auto companies alone. Meanwhile, the Japanese share of the market has doubled. If nothing is done, half the jobs involved in making the cars and trucks sold here will be lost to the United States—one-quarter already have been.

The Congressional Budget Office estimates that each percentage point of unemployment costs the Federal Treasury \$25 billion. Since the million jobs lost to the auto crisis raise the overall unemployment rate by about 1 full point, CBO's figure is a fair measure of the annual Federal revenue cost of the auto slump. Since the content law saves 1 million-plus jobs by 1990, it should be fattening the Treasury by a like amount at that time.

But the Federal budgetary impact is just the start. One must also consider State and local government losses, the loss of dignity and self-esteem of workers unable to find employment, the cost of unused skills, increased crime, alcoholism, illness, family breakup, and premature death.

• Mr. RATCHFORD. Mr. Chairman, I rise today in support of H.R. 5133, the Fair Practices in Automotive Products Act. This bill is an investment bill-an investment in jobs-an investment in the future vitality of our domestic automobile industry and in the economic future of our Nation. At a time when more than 12 million Americans are without jobs and U.S. auto production is the lowest in 24 years, this bill will go a long way in putting America back to work as well as help utilize a portion of the Nation's idle industrial capacity. Approximately 2.4 million jobs in this country are directly dependent on the auto industry including some 13,000 in my district. The continued survival of jobs in other key industries such as steel, rubber, glass, metal fasteners, aluminum, and robotics, depend heavily on the health and well-being of the domestic auto industry. These primary and secondary auto suppliers account for some \$30.2 million worth of business each year in my district supplying Chrysler alone.

This bill is an investment incentive act, which would require that cars sold in the United States contain a gradually increasing percentage of Americanmade parts depending on the number of cars sold here. This bill is not designed to bar competition from the foreign automakers, rather, it is designed to encourage these firms to build plants where their markets are. Since 1978, the market share of autos sold by the Japanese manufacturers increased from 12.1 percent to some 27 percent. This increase in market share has been a major factor in the layoff of 270,000 workers, some 34 percent of all those employed in the auto industry, in the last 5 years.

Many of my colleagues in this House oppose this bill on the grounds of "free trade." I think this issue at hand it not "free trade" but "fair trade." Some 31 nations have local content requirements. The Japanese maintain onerous tariffs on U.S. goods exported to Japan. These tariffs make U.S. goods overly expensive and restrict the market for U.S. imports in many areas including agriculture, refined copper, airline operations, insurance and financial services, and computer software. We simply cannot allow this deplorable series of unfair trade restrictions to continue at the expense of the American economy and the American worker. This bill will send a necessary message to our trading partners, especially the Japanese, that America de-

mands fair and reciprocal trade.

In closing, I believe that this bill creates an opportunity for manufacturers of all nations to sell and produce cars here in the United States and thereby employing U.S. labor and providing a multiplier effect on production and jobs in services in our economy. This bill precedes from notions of fundamental fairness, conformity with norms of international law, and with much-needed preservation of employment for American workers. I urge its

Mr. ERLENBORN. Mr. Chairman, the autombile industry is in trouble, and hundreds of thousands of autowokers are idle. I submit, however, that the domestic content bill (H.R. 5133) is not a solution; it will not create jobs or breathe new life in our domestic auto industry. Instead, it will mean higher costs to consumers, add a notch or two to inflation, increase unemployment, and invite trade retaliation. Therefore, I urge my colleagues to vote against this legislation.

"Buy America" is a slogan with a good ring to it. We are proud of our products and they are usually the best available. For 101 reasons, however,

they are sometimes also costlier than those made in other countries. Studies show that domestic content legislation will push up the price of a new car by at least \$527 and perhaps as much as \$3,000.

Other studies show that every \$20,000-a-year autoworker who might be reemployed will cost consumers between \$60,000 and \$100,000; some estimates claim the cost would be even higher. If consumers are willing to pay the price and not hold onto their cars, as they have been doing, perhaps 38,000 jobs will open up in the auto industry with enactment of H.R. 5133. That's what the Congressional Budget Office says.

CBO also says this job gain in the auto industry will be offset by the elimination of some 104,000 jobs in other industries. That translates into a net loss of 66,000 jobs. The American International Automobile Dealers Association predicts H.R. 5133 would close a minimum of 2,000 import dealerships, resulting in unemployment for 80,000 workers.

The League of Women Voters describes this bill as inflationary, restrictive trade legislation that would invite retaliatory trade measures on the part of countries that export to the United States. If that happens, and I am convinced it would, the Department of Commerce states the likely results would be the loss of 25,000 jobs for every \$1 billion we lose in exports.

In sum, consumers, workers in the auto industry, and workers in other industries would pay a stiff price for enactment of this legislation to benefit a comparatively small segment of the auto industry. H.R. 5133 should be voted down.

 Mr. DERWINSKI. I intend to vote against passage of H.R. 5133 because of the serious adverse impact it would have on our international trade.

Enactment of this legislation would be a violation of our obligations under the General Agreement on Tariffs and Trade. During the recent GATT ministerial meeting in Geneva, the member nations, including the United States, agreed to try and eliminate future trade restrictions. Furthermore, nations which would be affected by the domestic content bill specifically protested it.

Therefore, if we pass this measure, we can expect retaliation, the impact of which would certainly exceed any potential benefits to our domestic automobile industry.

The voluntary export restraints being observed by the Japanese Government are effectively working, in my judgment, and it would be a mistake to damage this arrangement by passing H.R. 5133.

Free trade is beneficial to American jobs and to the American consumer. Trade restrictions such as the domes-

tic content bill are clearly detrimental to American jobs and American con-

• Mr. ROSTENKOWSKI. Mr. Chairman, I will vote "no" on H.R. 5133, the so-called domestic content bill. There are several reasons for my decision for this vote. First and foremost, H.R. 5133 is deeply flawed legislation. It will not—repeat, will not—put American auto workers back to work. Frankly, there is cause for serious concern that the bill will cost jobs by accelerating foreign trade barriers against U.S.

On the other hand, I am very concerned by the past and more recent actions of our so-called trading partners. Many of my colleagues look at H.R. 5133, which will not be taken up in the Senate, as a message to the Japanese and the European Community. Well, to me "sending a message" means that the message is clear and will be delivered. H.R. 5133 is a garbled message that will not be delivered.

My vote does not limit my flexibility on the trade issue. While I am inclined to favor free and fair trade, I do not see this view shared by many of our trading partners. As a result, I see increasing signs of protectionist sentiment in the House and Senate.

My vote is a strong indication of the high priority that the trade issue will have in the 98th Congress. I hope that more constructive action by our trading partners to open up their markets and increase manufacture of their products in the United States will lessen the protectionist sentiment in the Congress. If not, trade legislation next year will not have the same fate as H.R. 5133.

• Mr. HEFTEL. Mr. Chairman, this Nation is currently confronted with a frighteningly deep recession which is being exacerbated by our unfavorable trade balance. The failure of the Reagan administration to address this situation has resulted in the emergence of bills, such as the local content bill before us today, calling on us to take some form of action to get America back on track.

Thus, we must now cast a difficult vote on this matter of great significance: the domestic content bill. Let me say from the outset that although I have some reservations and concerns regarding this bill, I will support it as I feel it sends a message to our trading partners, particularly Japan, that efforts must be made to moderate the distinct trade imbalances that exist between our nations.

Most of us would agree that this bill is far from perfect. It would decidedly alter U.S. trade policy, raising the specter of protectionism against open international trade. At the same time, it is not certain that the number of American jobs created by the bill would exceed the number of jobs that would be lost in export-related indus-

tries as a result of foreign retaliation. Thus the domestic content bill leaves many questions unanswered.

In light of this, we must not view this bill as a panacea. The deep-rooted problems of our ailing automobile industry and indeed of our entire economy will not be solved by merely insulating ourselves from foreign compettion. We must seek long-term answers to the problems of lagging productivity and quality control that plague our industries if we are to produce American cars that will be competitive in the international marketplace.

As imperfect as this bill is, however, it is time that something be done to alleviate the burden that subsidized foreign imports have placed on our economy. We must send a clear message to our trading partners, and especially to Japan, of our intent. They must be told that the United States will not stand by and watch its automobile industry be weakened by subsidized imports while our products are unable to penetrate foreign trade barriers.

The inability of the Reagan administration to negotiate substantial trade concessions with Japan and its unwillingness to address the problems that current trade practices have created for our domestic economy have left the responsibility for action on the shoulders of Congress. We have heard more than enough talk on this issue. It is time now for substantive action. This bill must be our way of telling Japan unequivocally that either they act now to moderate the trade imbalances between us or we will have to take action which they will find much less desirable.

• Mr. STARK. Mr. Chairman, I am a cosponsor of H.R. 5133.

Japan has required U.S. firms to invest in Japan as a condition for doing business in that country. They have required that patents be turned over to them as a condition of operating in that lucrative market. It is time that some of their abuses of the past be redressed—and that is what this bill does. It requires them to place job-creating parts orders or assembly plants in the United States—just as they have done to countless U.S. firms.

But, Mr. Chairman, I support the amendment by the gentleman from Ohio (Mr. Brown) on behalf of the Honda Motor Co. As the reports of the United States-Japan Task Force of the Ways and Means Committee have repeatedly made clear, the trade crisis with Japan has been largely an auto trade crisis, and it could have been avoided if Japan had seen the wisdom of placing auto investments in this country. The reports of the task force-named for our colleague from Oklahoma, Mr. Jones-have heen warning Japan since 1978 that it must do more to place investment here.

This bill finally puts some teeth into those warnings. But Honda responded to the warnings. They started a motorcycle plant in Ohio, and it was clear from the beginning that that plant would become an auto-producing plant as well.

This bill is a giant stick to force jobproducing investment. But it should also be a carrot to reward those who responded early and creatively.

This bill may not be approved by Congress. If it passes the Congress, it may or may not be signed by the President. Thus it is important that we give a signal to the Japanese that we not only expect jcb-creating investment in this country, but that we will reward those who have shown the courage and wisdom to already make investments. To adopt this amendment will provide a carrot that may prove as helpful as the stick contained in the rest of the bill. It will also set an example for other Japanese industries who should be investing here.

• Mr. WIRTH. Mr. Chairman, in a world economy that is coming to depend increasingly on international trade, I remain committed to the ideal of free and open global markets. Free trade is without a doubt the best policy, and I have opposed past attempts to erect trade barriers around the United States.

Today, however we are faced with behavior by our trading partners that in no way represents free trade. The governments of Western Europe and Japan have placed severe restrictions on imports. Trade agreements reached through years of negotiation are being violated. The structure of free trade around the world is being threatened by a rising tide of protectionism.

For example, most auto-producing nations other than the United States have established trade restrictions which limit auto imports to a very small share of their domestic auto markets, using both tariff and nontariff barriers. The United States, reflecting its free trade principles, has placed virtually no restriction on foreign car manufacturers' access to the U.S. market. As a result, imported car sales, which represented 15.3 percent of total U.S. car sales in 1970, accounted for 27.3 percent of all cars sold in the United States in 1981. This import share is projected to rise to between 35 and 40 percent by 1990.

Until the early 1970's, Japan imposed a high auto import tariff which facilitated the development of a strong domestic auto industry. While it currently has no auto import tariff, Japan uses a variety of nontariff restrictions to keep its auto market closed to imports. After all required payments for processing, licensing, approval and transportation, a U.S. car that sells for \$6,500 here would cost \$13,000 in Japan.

With 1 out of 6 jobs in the U.S. economy reliant on international trade, the

protectionist policies of our trading partners would be harmful in the best of times. But with our Nation in the grip of the worst economic slump since the Great Depression, our deteriorating trade position is clearly unacceptable, and requires a response.

Our trade negotiators have not pursued, nor has the administration proposed the necessary reforms to address this problem. The United States can and should be doing more to reduce barriers to U.S. exports, and actively enforce the rights of U.S. firms according to internationally agreed-upon procedures after exhausting all other avenues to remove discrimination. In addition, the United States must aggressively negotiate to achieve an agreement to drastically reduce the export subsidy programs of other countries.

As a result of our inattention to trade reforms, the sectors of our economy most sensitive to trade, like the automobile industry, are on the brink of collapse. Employment in the U.S. auto industry has dropped nearly 28 percent since 1978, for a total loss of nearly 1 million jobs. The United States has a \$16 billion trade deficit with Japan—\$13 billion of which is attributable to imports of Japanese cars.

H.R. 5133, which would require that automobiles sold in the United States contain a certain percentage of domestic parts and labor, is an important signal to our trade negotiators and the administration. It is a signal that the Congress demands that our trading partners adhere to the spirit as well as the letter of our trade agreements, because we will not allow industries to suffer further from foreign protectionism masquerading as free trade.

The recently concluded General Agreement on Tariffs and Trade (GATT) ministerial conference in Geneva came to no resolution of the problems that threaten our international economy. The passage of this bill at this time is a message that we must recognize the seriousness of these problems, and the disastrous effect they are having on American industries and workers.

• Mr. FORD of Michigan. Mr. Chairman, I rise in strong support of H.R. 5133, the Fair Practices in Automotive Products Act, also known as the local content bill. H.R. 5133 is the most important piece of economic legislation this Congress has considered or will consider. Without passage of this bill, there will be no help for America's greatest industry and the millions of men and women who work in it, because no one in our Government has offered a constructive alternative.

Why should we pass this legislation? There are many reasons:

First, the U.S. auto industry is plunged in a depression that has already lasted 4 years, cost 1 million jobs, destroyed the economy of scores

of communities and cost the U.S. Government hundreds of billions of dollars. Sales are at their lowest levels since 1961.

Second, at the same time U.S. sales and production have dropped, Japanese imports have skyrocketed. Between 1978 and 1981, Japanese car imports rose 37 percent. Japan's share of our auto market is now 23 percent, and total imports are over 30 percent.

Third, economists predict that the import share will climb as high as 35.8 percent to 65 percent of the U.S. market by 1990. (Chase Econometrics predicts 35.8 percent, Merrill Lynch predicts 40 percent, the National Academy of Engineering says 65 percent is possible.)

Fourth, even U.S. companies are beginning to import vehicles and parts. Without H.R. 5133, the imported content of domestically produced cars could be 30 percent by 1985 and 39 percent by 1990. GM has built 10 plants in Mexico on the U.S. border since 1979. AMC, Ford, and Chrysler all operate cheap labor border factories in Mexico.

Fifth, auto imports cost U.S. taxpayers billions of dollars. The combination of lost taxes—which would otherwise be paid by U.S. manufacturers and workers—and the various costs of unemployment insurance, welfare and food stamps for unemployed U.S. workers add up to \$2,500 for each import, \$6 billion a year.

Sixth, the content bill would create or preserve more than 700,000 jobs in the auto and related industries. The total, economywide impact would be more than 1 million jobs.

Many people, including the editorial writers for the major papers in my part of Michigan, are worried that H.R. 5133 will set off a trade war and cost Americans more jobs than it creates. The Japanese have not threatened retaliation; this worry has been given validity by the Reagan administration, which opposes local content laws without offering any alternative. In addition, the Congressional Budget Office has predicted massive retaliation against U.S. exports by Europe and Japan, even though no European auto manufacturer will be adversely affected by the content requirements in H.R. 5133.

What is the truth? For the following reasons, I believe the notion of Japanese retaliation is a red herring:

First, Japan has never filed a complaint under the General Agreement on Tariffs and Trade, even though every other nation severely restricts Japanese auto imports.

France has frozen Japan's share of its market at 2½ percent. (Japan's share of the U.S. market is 23 percent.)

Germany has frozen Japan's share of its market at 10 percent.

Italy permits only 2,200 Japanese imports a year.

Britain banned Japanese auto imports for 5 months and forced Honda to assemble cars in Britain.

Second. Japan buys from the United States only what it cannot produce itself. To retaliate, Japan must turn elsewhere for the lumber, minerals, grain and other agricultural products they import from us. But where would they turn?

Alternative grain and mineral exporters—Australia, Argentina, Brazil, and Indonesia—all have content laws.

Alternative manufacturers of computers and high-tech goods—France, Britain and other Western European countries—all have tough import restrictions.

Third. The Japanese do not have clean hands. Japan requires local production of aircraft it buys from Lockheed and McDonnell Douglas and is forcing Boeing to source production of its 767 in Japan.

Fourth. Rather than retaliate, Japan will respond. Two Japanese auto companies (Nissan and Honda) have already built manufacturing plants in the United States. When the United Kingdom banned auto imports from Japan, Honda responded by locating its assembly operation in England. Japan will not give up the biggest, most lucrative auto market in the world.

H.R. 5133 will lead to productive investment in the United States. Construction workers, transportation workers, the steel, glass, rubber, textile, basic metals, and electrical industries-all will benefit from this legislation when the Japanese auto companies shift their capital investment to the United States. The positive jobs impact of this legislation will be enormous. If even half as many jobs are created by H.R. 5133 as the UAW predicts, it would be the greatest economic achievement of the Federal Government in the last 5 years.

It is true that the Congressional Budget Office disputes the UAW's estimates. But examine the flaws in CBO's analysis. CBO's conclusions are based on five totally unrealistic assumptions.

First. The import share of the market will fall from where it stands today even if the bill is not passed.

CBO based its projections on a comparison of the U.S. economy in 1990 with a content law and without. CBO assumed that without a content law, the import share of our market would be 25 percent, a figure lower than their current share. By contrast, Merrill Lynch Economics predicts a 40-percent import share in 1990 without a content law.

This assumption falsely cuts the bill's job saving potential in half.

Second. U.S. companies' foreign sourcing would not be affected by H.R. 5133.

CBO ignores all jobs saved by preventing U.S. producers from outsourcing parts production and from importing Japanese vehicles in joint ventures. Each of the Big Three currently has plans which would bring their content below 90 percent by 1990, at the cost of thousands of U.S. jobs.

Third. Japanese companies will not increase their investment in the United States.

CBO assumes that Toyota and Datsun would give up their current market share—576,491 and 464,805 units, respectively—and fall below the 100,000 unit threshold.

This does not square with the experience of other foreign manufacturers—Honda, VW, and Renault—who have made substantial investments in U.S. facilities.

The Japanese companies have dealer networks, huge marketing investments, and years of experience in the United States. They will not walk away from the world's largest, most profitable auto market.

Jobs will be created in construction, manufacturing, assembly, in the parts and supplier industries, in transportation, and so forth. These will more than make up for jobs lost by importers and dockworkers.

Fourth. The United States will suffer massive, worldwide retaliation.

CBO assumes that European contries and Japan will refuse our agricultural and industrial exports, at the cost of 104,000 jobs. As I explained earlier, this is nothing but raw, unsupportable speculation. When CBO alternately assumed no retaliation, it concluded that the effects of the bill would be positive.

Fifth. CBO predicts H.R. 5133 would

raise car prices by 6 percent.

Because they predict the Japanese will abandon the United States, reducing competition and removing one-half million cars from the market, CBO believes prices would be inflated artifically.

In fact, there will be plenty of competition, and prices will not rise artificially. Recent experience is instructive. Since Japanese imports were capped "voluntarily" early in 1981, prices have increased at a rate less than one-half the inflation rate: 3 versus 6 percent.

Mr. Chairman, I believe that CBO's analysis of this legislation rivals their bright predictions of the success of Mr. Reagan's so-called economic recovery program early last year as the worst job of economic forecasting ever performed by a Federal agency. If CBO had been right, we would not need legislation like H.R. 5133 today.

In closing, I would like to remind my colleagues that, although H.R. 5133 will affect the major Japanese auto

companies most directly, its restrictions apply equally to the major U.S. auto producers. H.R. 5133 is not a bill to protect badly managed multinational corporations. It is a bill to protect American workers at a time of depression-level unemployment, to protect communities all around the country from disastrous plant closings, and to protect a dangerously shrinking American industrial base. As the attached story from the New York Times vividly industrial base. As the attached story from the New York Times vividly demonstrates, the threat to American jobs does not come solely from Japan. It comes from multinational investment decisions which ignore human and social costs in search of cheap wages. H.R. 5133 will put this Congress on record, clearly and forcefully, as putting people first.

I urge you to support H.R. 5133.

The story follows:

(From the New York Times, July 25, 1982)
U.S. Auto Makers Using More Mexico
Plants

#### (By Iver Peterson)

Nogales, Mexico, July 18.—Detroit's automobile companies, like other American manufacturers, are setting up an increasing number of plants in border towns like this one where American-made materials are assembled into finished products by inexpensive Mexican labor.

The goods assembled in these plants, which the Mexicans call maquilas, are then brought back to the United States under special low tariff rates.

As the United States recession has deepened and some 10 million Americans, including a quarter million auto workers, have lost their jobs, the number of employees in the maquilas grew to 128,000 by June 1981 from 91,000 in 1979, a 40 percent increase. The number of plants, meanwhile, grew from 459 to 604, according to the Commerce Department's latest figures.

Calculators, clothing, suitcases, sunglasses and a host of other items requiring hand assembly flow from the plants back into the United States, with automotive components and subassemblies a growing part of the total.

General Motors opened its first border plant in Cludad Juárez in 1979, and began hiring for its 10th one, there and elsewhere, a few weeks ago. It now employs about 5,300 Mexican workers. They assemble wiring harnesses, motor magnets, turn signal stalks and numerous other auto components.

Ford, making interior trim, employs 180 at its plant in Cludad Juárez. Chrysler, assembling wire harnesses, also has an 800-employee operation there.

And American Motors, through its subsidiary, Coleman Products Inc., joined Caterpillar Tractor, Samsonite luggage and Foster Grant sunglasses, among others, here in Nogales last March when it hired its first crew of young Mexican workers to cut and wrap wiring harnesses.

American labor unions have attacked these operations as "runaway plants" that are no less exporters of United States jobs than the foreign imports that American corporations have appealed to Washington to curtail

"There was no great need for them to cut the corner on the dollar as long as times were good," said Rex Hardesty, the AFL-CIO's Washington spokesman. "But they make a grab for the coolle wages as soon as things get tight and it becomes cost-effective for them to do so."

But the corporations contributing to the boom in maquilas, an untranslatable term whose root is Spanish for "machine," argue that American labor costs are out of line with world competition, that many Americans will not perform the tedious, unskilled handwork to which the maquilas are limited by law, and that the Mexican plants provide an outlet for American materials while aiding Mexico's economy.

"We have observed over the past five years that the cost of our products were becoming less competitive in the world market," said James Tolley, a spokesman for American Motors, expressing a view similar to that of other auto makers. "We therefore established a strategy to continue to operate U.S. plants, but to expand in Mexico to average our cost downward."

#### REPUSAL TO DISCLOSE WAGES

American Motors refused to disclose the wage rates at its plant here, terming the information a "proprietary" secret. But employees of Coleman Products de Mexico, interviewed on their lunch break at the Parque Industrial a few miles south of here, said they received 2,400 Mexican pesos, about \$50, for a 48-hour week, which works out to slightly more than \$1.04 an hour.

American Motors also refused to disclose pay levels at its two Coleman Products plants in the United States, in Coleman, Wis., and Iron River, Mich. Both plants, in small, rural towns, have twice rejected affiliation the United Automobile Workers, whose members in manufacturing jobs earn upward of \$12 an hour and whose benefits push the total hourly labor to add another \$8 an hour to that.

Company officials insisted that the Mexican plant did not take United States jobs because its two plants there were operating at capacity.

The maquilas operate under strict regulations on both sides of the border. The Mexican Government allows the United States company to import, tax-free, the machinery and raw material needed to perform the work provided that the finished product and everything else, including the machinery and even packing crates, is eventually reexported to the United States.

United States tariff regulations, meanwhile, exempt these imported products from all duties except for the value of the Mexican labor added to it. In 1978, the last year for which the Commerce Department has assembled the figures, this amounted to \$12.7 billion.

Mexico is the main location for such operations by United States companies, but the system also operates extensively elsewhere, including the Caribbean, where Americanwoven and cut fabrics are sewn into clothes.

The legislative principles behind the duty exemptions for all but the value of labor added outside the country date from the 18th century in United States tariff law. They hold that materials whose production has already been taxed at its origins in the United States should not be subject to new levies upon being brought back after assembly or finishing abroad.

Mexico encourages the plants because they reduce this country's enormous pool of surplus labor at minimal but decent wages by local standards.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule. the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5133) to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes, pursuant to House Resolution 622, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

#### MOTION TO RECOMMIT OFFERED BY MR. BROYHILL

Mr. BROYHILL. Mr. Speaker. I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BROYHILL, I am, Mr. Speaker. The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BROYHILL moves to recommit the bill, H.R. 5133, to the Committee on Energy and Commerce and the Committee on Ways and

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit. The motion to recommit was reject-

The SPEAKER pro tempore. The question is on the passage of the bill. The question was taken; and the Speaker pro tempore announced that

the ayes appeared to have it. Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were-yeas 215, nays 188, not voting 30, as follows:

#### [Roll No. 460] YEAS-215

Oberstar

Ottinger

Patterson

Obey

Pease

Pepper

Perkins

Price

Roe

Roth

Sabo

Sharp

Shelby

Simon

Skelton

Snyder

Solomon

Stratton

Studds

Tauzin

Traxler

Swift

Udall

Vento

Volkmer

Walgren

Watkins

Weaver

Whitten

Wilson

Wolpe Wortley

Wright Wylie

Yatron

Zablocki

Young (MO)

Wirth

Weiss

Washington

Williams (MT)

Williams (OH)

St Germain

Solarz

Stark

Smith (AL)

Smith (NJ)

Smith (PA)

Siljander

Guarini

Hall (IN)

Hall (OH)

Hall, Sam

Hamilton

Harkin

Hatcher

Hawkins

Hollenbeck

Hopkins

Hoyer Hubbard

Hughes

Hunter

Jenkins

Jones (NC)

Jones (TN)

Kennelly

Kindness

Kogovsek

LaFalce

Lantos

Latta

Leach

Lee Leland

Levitas

Luken

Lundine

Madigan

Martin (IL)

Markey

Martinez

Matsui

Mattox

Maggali

McDade

McEwen

Mikulski

Mineta

Minish

Moakley

Moffett

Murphy

Mottl

Mollohan

Miller (CA)

Miller (OH)

Mitchell (MD)

Mica

McKinney

McCurdy

Mavroules

Marks

Long (LA)

Long (MD)

Kildee

Kastenmeier

Jacobs

Horton

Heftel

Hertel

Hillis

Hall, Ralph

Addabbo Akaka Albosta Annunzio Applegate Asnin Bailey (PA) Rarne

Bevill Biaggi Boggs Roland Boner Bonior Brodhead Brooks Broomfield Burton, Phillip Chisholm

Coelho Coleman Collins (IL) Conte Convers Coughlin Coyne, William Crockett Davis Dellums

Dicks Dingell Dixon Dorgan Dougherty Dowdy Downey Dunn

Dwyer Dymally Dyson Early Eckart Edgar Edwards (CA)

Ertel Evans (IN) Fary Fascell Fazio Ferraro Fish Fithian Flippo Florio

Ford (MI) Ford (TN) Fowler Frank Frost Garcia Gaydos Geidenson Gephardt Gilman Gingrich Ginn

AuCoin

Bafalis

Bedell

Bliley

Murtha Natcher Nelligan Nichols Nowak Goodling O'Brien Gray Oakar

#### **NAYS-188**

Anderson Bonker Andrews Bouquard Anthony Bowen Breaux Brinkley Brown (CO) Ashbrook Atkinson Broyhill Burgener Butler Bailey (MO) Barnard Byron Campbell Beilenson Carman Benedict Carney Bennett Chappell Chappie Bethune Cheney Clinger

Coats

Collins (TX) Conable Corcoran Courter Craig Crane, Daniel Daniel, Dan Daniel, R. W. Dannemeyer Daub de la Garza Deckard DeNardis Derrick Derwinski Dickinson Donnelly

Dornan Dreier Duncan Edwards (AL) Edwards (OK) Emerson Erdahl Erlenborn Evans (DE) Evans (GA) Evans (IA) Fenwick Fiedler Fields Foley Fountain

Kemn

Lent

Lewis

Lott

Luian

Lungren

Marlenee

Livingston

Loeffler

Kramer

Peyser Rahall Railsback Rangel Ratchford Frenzel Regula Rinaldo Fugua Gibbons Ritter Glickman Rodino Gore Gradison Roemer Gramm Rogers Rose Rosenthal Green Gregg Grisham Gunderson Roybal Hance Savage Hansen (ID) Hansen (UT) Scheuer Hartnett Schneider Schumer Hefner Hendon Seiberling Shamansky Hightower Shannon

Marriott Martin (NC) Martin (NY) McClory McCloskey McCollum McDonald McGrath McHugh Michel Mitchell (NY) Molinari Hammerschmidt Montgomery Moore Moorhead Morrison Myers Napier Neal Hiler Holland Nelson Oxley Holt Panetta Huckaby Parris Pashavan Hyde Patman Ireland Paul Jeffords Petri Jeffries Pickle Johnston Porter D'Amours

Jones (OK) Pritchard Quillen Pener Roberts (KS) Lagomarsino Roberts (SD) Robinson Rostenkowski Roukema Rudd Santini Lowery (CA) Sawyer Sensenbrenner Lowry (WA) Shaw Shumway Skeen Smith (IA) Smith (NE) Smith (OR) Snowe Spence Stangeland Stanton Staton Stenholm Stump Synar Taylor Thomas Trible Vander Jagt Walker Wampler Waxman Weber (MN) Weber (OH) White Whitehurst Whitley Whittaker Wolf Wyden Young (FL)

#### NOT VOTING--30

Alexander Badham Beard Blanchard Bolling Brown (CA) Brown (OH) Burton, John Clausen Coyne, James

Pursell Daschle Rhodes Emery Schroeder Findley Schulze Forsythe Shuster Goldwater Stokes Hagedorn Tauke Yates LeBoutillier Voung (AK) Zeferett

The Clerk announced the following pairs:

On this vote:

Mr. Blanchard for, with Mr. Tauke against

Mr. Alexander for, with Mr. Badham against.

Mr. Stokes for, with Mr. Clausen against. Mr. John L. Burton for, with Mr. Beard

Mr. SCHEUER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill just passed.

The SPEAKER pro tempore. (Mr. BREAUX). Is there objection to the request of the gentleman from New REPORT ON RESOLUTION PRO-YORK? VIDING FOR CONSIDERATION

There was no objection.

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that all Members may revise and extend their remarks and include extraneous materials at the point where their remarks appear in the debate.

The SPEAKER pro tempore. there objection to the request of the gentleman from New York?

There was no objection.

# REPORT ON REPORT OF COM-MITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. Howard, from the Committee on Public Works and Transportation, submitted a privileged report (Rept. No. 97-968) on the Report of the Committee on Public Works and Transportation, together with additional views, minority views, and additional minority views, on the congressional proceedings against Anne M. Gorsuch, Administrator, U.S. Environmental Protection Agency, for withholding subpenaed documents relating to theComprehensive Environmental Response. Compensation, and Liability Act of 1980, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PRO-VIDING FOR CONSIDERATION H.R. 7397, CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-969) on the resolution (H. Res. 629) providing for the consideration of the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region, which was referred to the House Calendar and ordered to be reprinted.

REPORT ON RESOLUTION PROVIDING FOR THE CONSIDER-AT!ON OF H.R. 3191, MODIFICA-TION OF NORTH AMERICAN CONVENTION TAXES AND TAX RULES

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-970) on the resolution (H. Res. 630) providing for the consideration of the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions which was referred to the House Calendar and ordered to be printed.

OF S. 1965, DESIGNATING CER-TAIN AREAS IN MISSOURI AS COMPONENTS OF NATIONAL PRESERVATION WILDERNESS SYSTEM

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 97-971) on the resolution (H. Res. 631) providing for the consideration of the Senate bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System, which was referred to the House Calendar and ordered to be printed.

#### LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I ask for this 1 minute for the purpose of receiving the legislative schedule for tomorrow and hopefully as much of the balance of the week as possible.

Mr. WRIGHT. Mr. Speaker, will the gentleman from Mississippi (Mr. LOTT), the acting minority leader, yield?

Mr. LOTT. I yield to the gentleman

from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

We plan to come in at 10 o'clock tomorrow, our legislative business for

today having been finished.

We have four conference committee reports. The District of Columbia Appropriations; the Transportation Appropriations, the Futures Trading Act of 1982; and the Maritime Authorizations.

In addition to that, there is a modified 1 hour rule on the Mark Twain National Forest in Missouri, otherwise known as the Irish Wilderness bill.

A modified rule 1 hour of debate on Paddy Creek Wilderness in Missouri.

And a modified rule with 1 hour of debate on Modifications of North American Convention Tax Rules.

Then we hope to take up the Immigration Reform Act, H.R. 7357. As the gentleman knows, that is a modified rule allowing 5 hours of general debate. We would expect to do the rule and general debate only tomorrow. Members need to be aware that the EPA Contempt of Congress question can be considered at any time. That is a highly privileged matter. I am informed that the gentleman from New Jersey, the chairman of the Public Works Committee, may expect to seek recognition for the purposes of bringing that up early tomorrow. So that is at the discretion of the gentleman from New Jersey, the chairman of the Committee on Public Works and Transportation, and the chair who would recognize him for that priviledged motion

Conference reports of course may be brought up at any time. While we do not have any reason to expect the conference report necessarily tomorrow on the continuing appropriation, hope springs eternal, and we may continue to hope if it does not come tomorrow, then perhaps the following day, and if not then perhaps the following day. But eventually we will get to that.

Mr. LOTT. If I could get clarification. Did I understand the distinguished majority leader properly when he said we would have the rule and debate and votes on the Paddy Creek, the Irish Wilderness, and the Love

Mr. WRIGHT. I think the answer to the gentleman's question is yes, though I am looking for the Love Boat

Mr. LOTT. That was No. 7. That is the tax deduction feature.

Mr. WRIGHT. I am sorry, I cannot find it. If the gentleman desires to refer to one of these bills by that terminology, I shall not quarrel with him.

Mr. LOTT But the gentleman does expect to take up those three to completion, one way or the other.

Mr. WRIGHT. Yes; we hope to do that.

We do not expect to complete the Immigration tomorrow.

Mr. LOTT. Just the rule and general debate.

Mr. WRIGHT. That is correct. Any further program to be announced later. The Caribbean Basin Initiative bill has been granted a rule by the Rules Committee, and that will come to us probably on Friday, but we will have to see.

Mr. LOTT. I thank the gentleman.

#### □ 1930

#### FORTY YEARS AGAINST THE TIDE

(Mr. DAUB asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAUB. Mr. Speaker, on the evening of November 17, 1982, the Honorable Carl T. Curtis received the 20th Annual Distinguished Nebraskan Award bestowed by the Nebraska Society of Washington, D.C. To most Ne-braskans, Senator Curtis' award was long overdue.

Carl T. Curtis served in the Congress from January 3, 1939, to January 3, 1979, which is longer than any other Nebraskan has ever served in the Congress or in any statewide elected office.

Over a period of 30 years, Senator Curtis introduced an amendment to the Constitution to compel a balanced Federal budget and provide a pay-asyou-go basis.

In 1956, the Senator brought about the appointment of a commission on industrial uses of agricultural surpluses. This gave the first important emphasis to gasohol. He authored the law which exempts motor fuel containing 10 percent or more of alcohol from the Federal gasoline tax.

Senator Curtis introduced the resolution for a survey of the Missouri River. This led to the authorization of the Army Engineers-Bureau of Reclamation plan of 1944 for the Missouri River and its tributaries—also known as the Pick-Sloan Plan. Under this plan 20 dams and 8 irrigation districts have been built in Nebraska, plus bank improvements and local protective works for which Senator Curtis was the chief sponsor or a cosponsor. This development has added greatly to Nebraska's recreation and fishing opportunities.

The Senator is the author of the Individual Retirement Act. In 1974 Congress passed and President Richard M. Nixon signed the act which contained the Curtis Individual Retirement Act, which has become known as IRA.

The investigation and the report of the Curtis Subcommittee on Social Security in 1953 and 1954 was the first alert of the impending financial problems of the system. He became a leading authority on social security. His was a battle to make social security financially sound and responsible.

Numerous provisions of our tax law bear his imprint, such as making soil conservation expenses tax deductible, capital gains treatment for livestock, benefits for education and charity, the meat import law, industrial development bonds, gasohol, IRA, and the 1976 Federal estate tax reduction—the first in four decades.

A researcher of the Curtis files estimated that this office handled more than 17,000 individual cases for Nebraskans who had problems in Washington.

Senator Curtis is the author of "To Remind," a daily devotional book currently being published. He is now writing a book entitled, "40 Years Against the Tide," which is the history of the development of the welfare state from the viewpoint of one who opposed it.

As a Member of Congress from the State of Nebraska, I am proud to know Senator Curtis as both a mentor and a friend. His distinguished service to Nebraska and to America has been an inspiration to all of us who aspire to elected political office.

Today, I want to pay tribute to Senator Curtis and to his lovely wife, Mildred, as they plan to return to their native State for retirement.

### FORTY YEARS AGAINST THE TIDE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I wish to associate myself with the remarks of the gentleman from Nebraska on the Honorable Carl T. Curtis.

#### GORSUCH CONTEMPT CITATION

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, on Friday, December 10, 1982, the Committee on Public Works and Transportation approved a resolution recommending that the Administrator of the Environmental Protection Agency be found in contempt of Congress for failure to produce documents subpenaed on November 22, 1982, by the committee's Subcommittee on Investigations and Oversight. The November 22 subpena was issued in connection with the subcommittee's investigation into the contamination of the Nation's water resources by hazardous chemical wastes.

A number of members of the committee, including myself, were not able to support the committee's recommendation because it was not the product of careful, independent congressional deliberation.

It is my understanding that the committee will file its report today and that this matter could come up on the House floor shortly. Therefore, in order that Members be as informed as possible under the circumstances, I am inserting in the Record a copy of the minority views which accompanied the committee report, as well as a copy of attachment A, Legal Opinion of the Attorney General; and attachment B, DOJ Memorandum Responding to the Legal Memorandum of the General Counsel of the Clerk of the House.

MINORITY VIEWS OF REPRESENTATIVES CLAUSEN, SNYDER, HAMMERSCHMIDT, GOLDWATER, HAGEDORN, STANGELAND, CLINGER, GINGRICH, SOLOMON, HOLLENBECK, DECKARD, GRISHAM, JEFFRIES, FIELDS, SHAW, MCEWEN, WOLF AND ATKINSON

The undersigned Members of the Committee on Public Works and Transportation are unable to support the recommendation contained in the foregoing Report that the Administrator of the Environmental Protection Agency, Anne M. Gorsuch, be cited for contempt of Congress for failure to produce documents subpoenaed on November 22, 1982, by the Committee's Subcommittee on Investigations and Oversight in connection with its investigation into the contamination of the Nation's water resources by hazardous chemical wastes.

At the outset, we want to emphasize our strong support for the Subcommittee's efforts to review and study the effectiveness of the Superfund law and the manner in which it is being implemented by the Environmental Protection Agency. The Subcommental Protection Agency.

mittee's inquiry, in our view, is extremely important and most appropriate to assure that the Superfund law is working and being administered to the fullest intent of the Congress.

We also support, as a general matter, the efforts of the Subcommittee to gain access to EPA's enforcement related files. Congress cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change. For this reason, Congress has the power to compel the production of information needed for the efficient exercise of the legislative function.

While we support the concept of requiring EPA to produce documents necessary for the Subcommittee's investigation, we cannot support the Committee's hasty and ill-conceived action in recommending that Administrator Gorsuch be found in contempt of Congress for falling to produce all of the documents subpoenaed by the Subcommittee on November 22, 1982.

Our principal reason for not supporting the Committee's recommendation is that it is not the product of careful, independent Congressional deliberation. Instead, the resolution was called up with only two days notice to the Full Committee. This procedure did not give Members a chance to adequately study the issues or to fully explore options for resolving the dispute.

We believe that this unfortunate confrontation was unnecessary and could have been avoided. We had presumed all along that the Committee was interested in obtaining the documents in question, rather than to find Administrator Gorsuch in contempt of Congress.

In determining the wisdom and propriety of citing the EPA Administrator for contempt, we believe that a number of factors should be considered.

1. The power of Congress to find someone in contempt is an extraordinary power, and should not be used without clear reason to do so.

It is important to understand the full effect of citing the EPA Administrator for contempt. If the House cites Ms. Gorsuch for contempt, the appropriate U.S. attorney is required by statute (2 U.S.C. 194) to bring the matter before the grand jury for its action. Ultimately, Ms. Gorsuch could be subject to a criminal fine of not less than \$100 nor more than \$1000 and imprisonment for not less than one month nor more than 12 months.

This is an extremely serious matter, and one which should have received careful consideration. Yet the Full Committee was given only two days notice of the meeting. This simply was not sufficient time for the Members of the Full Committee who are not on the Investigations and Oversight Subcommittee to review the facts of this case, or to research the extremely complex issues and precedents involved.

Furthermore, the Full Committee meeting itself was brief, and efforts to offer alternatives or to discuss the implications of the proposed actions were given short shrift. In fact, the Ranking Minority Member of the Committee was not even allowed to finish his opening statement. In addition, a motion to postpone the final vote until Wednesday, December 15th, so that members could have time to study the issues, was rejected solely along party lines.

2. The Committee's action fails to recognize that EPA has agreed to turn over to the Subcommittee a substantial amount of information. Administrator Gorsuch agreed to

provide approximately three-quarters of a million pages of enforcement file documents for the Investigations and Oversight Subcommittee, relative to 160 hazardous waste sites, including all technical and factual data and much confidential material. Neither she nor any other official of the Administration has contested the Subcommittee's authority to request and receive information relative to its oversight and investigatory tasks.

3. The Committee's action fails to recognize that the President directed Ms. Gorsuch to withhold the documents. With respect to the documents at issue, the Administrator been specifically directed, by order of the President of the United States, dated November 30, 1982, that "sensitive documents found in open law enforcement files should not be made available to Congress" on the grounds that "dissemination of such documents outside the Executive Branch would impair . . . [the President's] solemn responsibility to enforce the law."

The President's decision and order to the Administrator of the Environmental Protection Agency was based upon the legal opinion of the highest ranking legal officer of the United States Government, an opinion and order which the Administrator has no

standing to reject.

4. The Committee did not exhaust all means of resolving the dispute before resorting to the contempt citation. We are convinced that this dispute could have been avoided if the Committee had not rushed into the contempt proceeding but instead had taken the time to consider all alternative ways to resolve the problem. This can be best illustrated by a few examples.

First, prior to the Full Committee meeting, White House officials asked to meet the Full Committee Chairman and Ranking Minority Member. The meeting

was not held.

Second, White House officials offered to show the Chairman and Ranking Minority Member a sampling of the withheld documents so that they could better understand the Administration's position matter. This overture was rejected. on

Third, a compromise proposal was offered which would have given the U.S. District court in the District of Columbia the jurisdiction to determine the validity of the Subcommittee's subpoena. White House offi-cials indicated that the Administration would not only support this legislation but would work in the House and Senate to enact it during the lame duck session. This proposal was rejected.

And fourth, the Administration, in responding to a compromise proposal made by the Subcommittee Chairman, offered a counter proposal in a leter dated December 9, 1982. No formal response was made to the Administration's proposal prior to the Full Committee meeting to cite Ms. Gorsuch for

contempt.

5. The legal issues involved in this matter are extremely complex and should have been analyzed more carefully. Members of the Committee did not have sufficient time, in our view, to review the competing arguments and to form an independent judgment on the merits of the issue.

Stated simply, the Subcommittee Chairman seems to be of the view that the Subcommittee has a right to all of EPA's records and that staff should be given complete access to EPA's files, including the right to copy any documents it wants. It is alleged that the Legal Memorandum dated December 8, 1982 from the General Counsel to the Clerk supports this position. A copy of this memorandum is included in the Majority Report.

The Administration, on the other hand, disputes that Congress has an automatic right to each and every document in EPA's files. The Attorney General of the United States has taken the position that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees except in extraodinary circumstances.

(A copy of the Attorney General's opinion is attached (Attachment A). Also attached is a copy of a DOJ legal memorandum responding to the Legal Memorandum of the General Counsel to the Clerk of the House (Attachment B) and a DOJ memorandum outlining the history of Presidential invocations of executive privilege vis-a-vis Congress (Attachment C)).

The cases construing executive privilege are very limited and no controlling judicial precedent exists governing attempts by a committee of Congress to obtain materials from the Executive Branch. That is, the Supreme Court has yet to be called upon to resolve the question of the respective rights of the Executive and Legislative Branches in regard to a claim of privilege as a defense to compulsory legislative process for documents residing within the Executive

In our view, these conflicting legal opinions should have been more carefully analyzed before the Committee proceeded to cite an executive Branch official for con-

6. The Committee's action fails to adequately consider EPA's contention that ongoing enforcement cases might be jeopardized. While we are in agreement that the Congress has a legitimate right to information which it needs to carry out its oversight and investigative responsibilities, we are concerned over EPA's allegation that disclosure of certain files might jeopardize ongoing enforcement actions. The issue is certain documents in open law enforcement files. They are at the stage where EPA and or the Justice Department are developing cases for prosecution, or are actually in the enforcement process by U.S. attorneys. What the Committee is saying-by going forward with the contempt resolution-is that these documents, despite their sensitive nature and despite the fact that criminal prosecutions could be jeopardized, must be made available to the staff of this Committee, the Members of this Committee and—by the Rules of the House—to all House Members. We are not sure that we are prepared to go this far at this time. The issue is far more complex than it seems on the surface, and we have not had sufficient time nor information to form a judgment. We do believe that the Committee should have availed itself of the Administration's offer to look at some of the documents so that we could better evaluate EPA's claim with respect to these documents.

7. The Committee's action fails to recognize certain potential problems with respect to enforcement of the subpoena issued on November 22, 1982. If the House cites Ms. Gorsuch for contempt, the matter will be turned over to the U.S. attorney for criminal prosecution. It is, therefore, relevant to consider potential problems that might come up with respect to the subpoena.

First, the subpoena is extremely broad, and this could become an important factor in a criminal prosecution for failure to comply. The subpoena requests that virtually all documents created since December 11. 1980, petaining to 160 hazardous waste sites be turned over to the Subcommittee. EPA has estimated that would require the location, segregation, duplication and shipping of more than 787,000 pages of documents.

Second, EPA has stated that the subpoena is technically defective. Since the Agency has so far only issued an interim priority list, not Under Section 105(8) (B), the subpoena does not apply to any documents in the possession or custody of EPA. No sites have been listed under section 105(8) (B).

Third, we are concerned the Committee has not yet reviewed the material which Ms. Gorsuch was prepared to turn over to the Subcommittee. According to EPA, she withheld only a small fraction of the total documents demanded by the Subcommittee; moreover, no factual or technicial materials are being withheld from Congress-only enforcement strategy such as analyses of strengths and weaknesses of the Govern-ment's case. It seems to us that the Committee's case would be much stronger if we reviewed the materials which EPA did provide us before we conclude that there is a compelling need for us to have access to the remaining documents.

In conclusion, we have serious reservations about the wisdom and propriety of the Committee's recommendation to cite the Administrator of the Environmental Protection Agency, Anne M. Gorsuch, for con-tempt of Congress. We are, therefore, unable to support the Committee's recom-mendation at this time.

Our principal reason for not supporting the contempt citation is that we feel that this matter was rushed through the Committee without adequate time to study the complex legal and factual issues involved. Stated simply, a number of us feel that we do not have sufficient information to make a reasoned decision.

We also believe that this confrontation was unnecessary and could have been avoided had more time been taken at the Full Committee to evaluate various alternatives and options.

And finally, we note that this approach, that is, bringing criminal charges against Ms. Gorsuch, will not necessarily result in the documents being made available to the Committee. We believe that the Commit-tee's focus should have been to obtain the documents in question, rather than concentrating on citing Administrator Gorsuch in contempt of Congress.

#### [Attachment A]

OFFICE OF THE ATTORNEY GENERAL Washington, D.C., November 30, 1982. Hon. ELLIOTT H. LEVITAS,

Chairman, Subcommittee on Investigations and Oversight, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have had occasion to reiterate, in the attached letter to Chairman Dingell of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, the historic position of the Executive Branch that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees except in extraordinary circumstances. I am aware that your Subcommittee has issued to Administrator Gorsuch of the Environmental Protection Agency ("EPA") a subpoena apparently seeking copies of some 787,000 documents found in open law enforcement files related to approximately 160 hazardous waste sites located throughout the United States. At least 23 and probably more documents covered in your Subcommittee's subpoena are of that class covered by my letter to Chairman Dingell, since they reflect prosecutorial strategy and other internal deliberations regarding prosecution of the particular cases involved.

Because the principles articulated in the attached letter to Chairman Dingell are fully applicable to some of the documents arguably within the scope of your Subcommittee's subpoena, I believe it appropriate to provide you with a copy of that letter at this time. Because neither I nor my staff have previously communicated directly with you on this particular matter, I would also like to express my hope that, after you have had the benefit of my views on this issue, set in their historical perspective, you will no longer seek to compel production of this class of documents from the Administrator. Should you wish to discuss this matter further prior to the Subcommittee's scheduled December 2 hearing, I would ask that you contact Assistant Attorney General McConnell of my Office of Legislative Affairs at your convenience.

I would also add that I am confident that the legislative needs of your Subcommittee can be met without the production by the Administrator of sensitive documents in open law enforcement files. That is certainly the lesson that history teaches, and I be-lieve you will agree that it is incumbent on both of our Branches to avoid constitutional confrontations so long as the needs and prerogatives of each Branch can be harmo-

Sincerely, WILLIAM FRENCH SMITH, Attorney General.

OFFICE OF THE ATTORNEY GENERAL Washington, D.C. November 30, 1982. Hon. JOHN D. DINGELL,

Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter responds to your letter to me of November 8, 1982, in which you, on behalf of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce of the House of Representatives, continue to seek to compel the production to your Subcommittee of copies of sensitive open law enforcement investigative files (referred to herein for convenience simply as "law enforcement files") of the Environmental Protection Agency ("EPA"). Demands for other EPA files, including similar law enforcement files, have also been made by the Subcommittee on Investigations and Oversight of the Public Works and Transportation Committee of the House of Representatives.

Since the issues raised by these demands and others like them are important ones to two separate and independent Branches of our Nation's Government, I shall reiterate at some length in this letter the longstanding position of the Executive Branch with respect to such matters. I do so with the knowledge and concurrence of the Presi-

As the President announced in a memorandum to the Heads of all Executive Departments and Agencies on November 4, 1982, "[t]he policy of this Administration is to comply with Congressional requests for information to the fullest extent consistent with the constitutional and statutory obliga-

of the Executive Branch. [E]xecutive privilege will be asserted only in the most compelling circumstances, only after careful review demonstrates that assertion of the privilege is necessary." Nevertheless, it has been the policy of the Executive Branch throughout this Nation's history generally to decline to provide committees of Congress with access to or copies of law enforcement files except in the most extraordinary circumstances. Attorney General Robert Jackson, subsequently a Justice of the Supreme Court, restated this position to Congress over forty years ago:

"It is the position of [the] Department [of Justicel, restated now with the approval of and at the direction of the President, that all investigative reports are confidential documents of the executive department of the Government, to aid in the duty laid upon the President by the Constitution to 'take care that the laws be faithfully executed, and that congressional or public access to them would not be in the public interest.

"Disclosure of the reports could not do otherwise than seriously prejudice law en-forcement. Counsel for a defendant or prospective defendant, could have no greater help than to know how much or how little information the Government has, and what witnesses or sources of information it can rely upon. This is exactly what these reports are intended to contain.

This policy does not extend to all material contained in investigative files. Depending upon the nature of the specific files and the type of investigation involved, much of the information contained in such files may and is routinely shared with Congress in response to a proper request. Indeed, in response to your Subcommittee's request considerable quantities of documents and factual data have been provided to you. The EPA estimates that approximately 40,000 documents have been made available for your Subcommittee and its staff to examine relative to the three hazardous waste sites in which you have expressed an interest. The only documents which have been withheld are those which are sensitive memoranda or notes by EPA attorneys and investigators reflecting enforcement strategy, legal analysis, lists of potential witnesses, settlement considerations and similar materials the disclosure of which might adversely affect a pending enforcement action, overall enforcement policy, or the rights of individuals.

I continue to believe, as have my predecessors, that unrestricted dissemination of law enforcement files would prejudice the cause of effective law enforcement and, because the reasons for the policy of confidentiality are as sound and fundamental to the administration of justice today as they were forty years ago, I see no reason to depart from the consistent position of previous presidents and attorneys general. As articulated by former Deputy Assistant Attorney General Thomas E. Kauper over a decade ago:

"The Executive cannot effectively investigate if Congress is, in a sense, a partner in the investigation. If a congressional committee is fully apprised of all details of an investigation as the investigation proceeds, there is a substantial danger that congressional pressures will influence the course of the investigation."

Other objections to the disclosure of law enforcement files include the potential damage to proper law enforcement which would be caused by the revelation of sensitive techniques, methods or strategy, con-cern over the safety of confidential informants and the chilling effect on sources of information if the contents of files are widely disseminated, sensitivity to the rights of innocent individuals who may be identified in law enforcement files but who may not be guilty of any violation of law, and well-founded fears that the perception of the integrity, impartiality and fairness of the law enforcement process as a whole will be damaged if sensitive material is distributed beyond those persons necessarily involved in the investigation and prosecution process. Our policy is premised in part on the fact that the Constitution vests in the President and his subordinates the responsibility to "take care that the Laws be faithfully executed". The courts have repeatedly held that "the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case . . . ." Un States v. Nixon, 418 U.S. 683, 693 (1974).

The policy which I reiterate here was first expressed by President Washington and has been reaffirmed by or on behalf of most of our Presidents, including Presidents Jefferson, Jackson, Lincoln, Theodore Roosevelt, Franklin Roosevelt, and Eisenhower, I am aware of no President who has departed from this policy regarding the general confidentiality of law enforcement files.

I also agree with Attorney General Jackson's view that promises of confidentiality by a congressional committee or subcommittee do not remove the basis for the policy of nondisclosure of law enforcement files. As Attorney General Jackson observed in writing to Congressman Carl Vinso, then Chairman of the House Committee on Naval Affairs, in 1941:

"I am not unmindful of your conditional suggestion that your counsel will keep this information 'inviolate until such time as the committee determines its disposition.' have no doubt that this pledge would be kept and that you would weigh every consideration before making any matter public. Unfortunately, however a policy cannot be made anew because of personal confidence of the Attorney General in the integrity and good faith of a particular committee chairman. We cannot be put in the position of discriminating between committees or of attempting to judge between them, and their individual members, each of whom has access to information once placed in the hands of the committee.

Attorney Deputy Assistant Attorney General Kauper articulated additional considerations in explaining why congressional assurances of confidentiality could not overcome concern over the integrity enforcement files:

"[S]uch assurances have not led to a relaxation of the general principle that open investigative files will not be supplied to Congress, for several reasons. First, to the extent the principle rests on the prevention of direct congressional influence upon investigations in progress, dissemination to the Congress, not by it, is the critical factor. Second, there is the always present concern, often factually justified, with 'leaks.' Third, members of Congress may comment or publicly draw conclusions from such documents, without in fact disclosing their contents.

It has never been the position of the Executive Branch that providing copies of law enforcement files to congressional commit-tees necessarily will result in the docu-ments' being made public. We are confident that your Subcommittee and other congressional committees would guard such docu-ments carefully. Nor do I mean to imply that any particular committee would neces-

sarily "leak" documents improperly although, as you know, that phenomenon has occasionally occurred. Concern over potential public distribution of the documents is only a part of the basis for the Executive's position. At bottom, the President has a responsibility vested in him by the Constitution to protect the confidentiality of certain documents which he cannot delegate to the

Legislative Branch.
With regard to the assurance of confidential treatment contained in your November 8, 1982 letter, I am sensitive to Rule XI, cl. 2, § 706c of the Rules of the House of Representatives, which provides that "[a]ll committee hearings, records, data, charts, and files . . . shall be the property of the House and all Members of the House shall have access thereto. . . "In order to avoid the requirements of this rule regarding access to documents by all Members of the House, your November 8 letter offers to receive these documents in "executive session" pursuant to Rule XI, cl. 2, § 712. It is apparently on the basis of § 712 that your November 8 letter states that providing these materials to your Subcommittee is not equivalent to making the documents "public." But, as is evident from your accurate rendition of § 712, the only protection given such materials by that section and your understanding of it is that they shall not be made public, in your own words, "without the consent of the Subcommittee."

Notwithstanding the sincerity of your view that § 712 provides adequate protection to the Executive Branch, I am unable to accept and therefore must reject the concept that an assurance that documents would not be made public "without the consent of the Subcommittee" is sufficient to provide the Executive the protection to which he is constitutionally entitled. While congressional committee may disagree with the President's judgment as regards the need to protect the confidentiality of any particular documents, neither a con-gressional committee nor the House (or Senate, as the case may be) has the right under the Constitution to receive such disputed documents from the Executive and sit in final judgment as to whether it is in the public interest for such documents to be made public.1 To the extent that a congressional committee believes that a presidential determination not to disseminate documents may be improper, the House of Congress involved or some appropriate unit thereof may seek judicial review (see Senate Select Committee v. Nixon, 498 F.2d 725

1 Your November 8 letter points out that in my opinion of October 13, 1981 to the President, a pas-sage from the Court's opinion in *United States* v. Nixon, 418 U.S. 683 (1974), was quoted in which the word "public" as it appears in the Court's opinion was inadvertently omitted. That is correct, but the was indicted by on the significance you have attributed to it is not. The omission of the word "public" was a technical error made in the transcription of the final typewritten version of the opinion. This error will be corrected by inclusion of the word "public" in the official printed version of that opinion. However, the omission of that word was not material to the funda-mental points contained in the opinion. The reasoning contained therein remains the same. As the discussion in the text of this letter makes clear, I am unable to accept your argument that the provi-sion of documents to Congress is not, for purposes of the President's Executive Privilege, functionally and legally equivalent to making the documents public, because the power to make the documents public shifts from the Executive to a unit of Congress. Thus, for these purposes the result under United States v. Nixon would be identical even if the Court had itself not used the word "public" in the relevant passage.

(D.C. Cir. 1974)), but it is not entitled to be put in a position unilaterally to make such a determination. The President's privilege is effectively and legally rendered a nullity once the decision as to whether "public" release would be in the public interest passes from his hands to a subcommittee of Congress. It is not up to a congressional subcommittee but to the courts ultimately "'to say what the law is' with respect to the claim of ge presented in [any particular] United States v. Nixon, 418 U.S. at privilege 705, quoting Marbury v. Madison, 1 Cranch 137, 177 (1803).

I am unaware of a single judicial authority establishing the proposition which you have expounded that the power properly lies only with Congress to determine whether law enforcement files might be distributed publicly, and I am compelled to reject it categorically. The crucial point is not that your Subcommittee, or any other subcommittee, might wisely decide not to make public sensitive information contained in law enforcement files. Rather, it is that the President has the constitutional responsibility to take care that the laws are faithfully executed; if the President believes that certain types of information in law enforcement files are sufficiently sensitive that they should be kept confidential, it is the President's constitutionally required obliga-

tion to make that determination.2

These principles will not be employed to shield documents which contain evidence of criminal or unethical conduct by agency officials from proper review. However, no claims have been advanced that this is the case with the files at issue here. As you know, your staff has examined many of the documents which lie at the heart of this dispute to confirm that they have been properly characterized. These arrangements were made in the hope that that process would aid in resolving this dispute. Furthermore, I understand that you have not accepted Assistant Attorney General McConnell's offer to have the documents at issue made available to the Members of your Subcommittee at the offices of your Subcommittee for an inspection under conditions which would not have required the production of copies and which, in this one instance, would not have irreparably injured our concerns over the integrity of the law enforcement process. Your apparent rejection of that offer would appear to leave no room for further compromise of our differences on this matter

In closing, I emphasize that we have carefully reexamined the consistent position of the Executive Branch on this subject and we must reaffirm our commitment to it. We believe that this policy is necessary to the President's responsible fulfillment of his constitutional obligations and is not in any way an intrusion on the constitutional duties of Congress. I hope you will appreciate the historical perspective from which these views are now communicated to you and that this assertion of a fundamental right by the Executive will not, as it should not, impair the ongoing and constructive relationship that our two respective Branches must enjoy in order for each of us to fulfill

our different but equally important responsibilities under our Constitution.

Sincerely,

WILLIAM FRENCH SMITH, Attorney General.

[Attachment B]

U.S. DEPARTMENT OF JUSTICE. OFFICE OF LEGAL COUNSEL, Re Response to Legal Memorandum of the

General Counsel to the Clerk of the House of Representatives Regarding Executive Privilege.

MEMORANDUM FOR THE ATTORNEY GENERAL

On December 8, 1982, the General Counsel to the Clerk of the House of Representatives transmitted to Chairman Levitas of the Subcommittee on Investigation and Oversight of the House Committee on Public Works and Transportation a memo-randum (attached) (hereafter "General randum (attached) (hereafter Counsel Memorandum") responding to your November 30, 1982 letter to Chairman Dingell of the Subcommittee on Oversight and Investigation of the House Committee on Energy and Commerce dealing with the assertion of Executive Privilege over documents found in open law enforcement files. This memorandum will discuss the more substantial inaccuracies and mischar-acterizations in the General Counsel Memorandum. We will not in this memorandum attempt to restate or reconsider the analysis in your November 30 letter to Chairman Dingell, because the General Counsel Memorandum does not suggest the need to

Before responding to the specific points raised by the General Counsel Memorandum, certain general observations are in order. First, although the General Counsel Memorandum relies on or cites to 13 separate court decisions in support of the various propositions asserted, not a single one of those authorities deals with an assertion of Executive Privilege by the President in response to a subpoena issued by a congressional committee or even a claim of Executive Privilege against a Judicial Branch Subpoena. For some reason not disclosed in the General Counsel Memorandum, it does not even mention the major judicial authorities which do treat the subject of Executive Privilege. Thus, as is often our experience in these situations, the legal argument put forward by a congressional entity to counter the Executive's legal position on this issue fails to grapple with the extant judicial authority that is either directly in point, e.g., Senate Select Committee on Presidential Campaign Activities v. Nixon, 498 F.2d 725 (1974), or is highly relevant to the issues at hand, e.g., United States v. Nixon, 418 U.S. 683 (1974). Although such cases are relatively few in our jurisprudence, any responsible attempt to address the profoundly impor-tant issues presented by a confrontation such as the present one between the two coequal Branches must confront and attempt to apply available precedent.

Second, the main thrust of the General Counsel Memorandum consists of an explanation and defense of the constitutional basis for Congress' power to investigate generally and to investigate the Executive Branch specifically. Neither your letter of November 30, 1982 to Chairman Dingell, your opinion to the President of October 13, 1981 on the subject of Executive Privilege, nor any of the authorities authored in the Executive Branch upon which those documents rely have questioned in any way that Congress may appropriately empower its

It was these principles that were embodied in Assistant Attorney General McConnell's letters of October 18 and 25, 1982 to you. Under these princi-ples, your criticism of Mr. McConnell's statements made in those letters must be rejected. Mr. McCon-nell's statements represent an institutional viewpoint that does not, and cannot, depend upon the personalities involved. I regret that you chose to take his observations personally.

committees to investigate the Executive Branch's conduct of its duties and responsibilities. The challenge and responsibility in situations involving competing interests and obligations of the two coequal Branches is to attempt, to the extent possible, to balance the competing interests of the two Branches. The General Counsel Memorandum neither recognizes the Executive's constitutional prerogative nor attempts to balance the competing interests. Hence, because the General Counsel Memorandum essentially asserts the existence of general congressional powers which the Executive has not disputed, ignores the relevant legal authorities in favor of decisions largely irrelevant to the present dispute, and does not seriously address the need of the two Branches to accommodate the interests of the other, there is very little in the General Counsel Memorandum to which a response can be made.

Third, the General Counsel Memorandum contains no discussions of, and reflects no appreciation for, the principle of separation of powers which is fundamental to our Constitution and, of course, to the most basic understanding of the concept of Executive Privilege.1 The General Counsel Memorandum proceeds from the unstated premise that congressional power to investigate and to demand and receive documents in the possession of the Executive Branch is unlimited,2 irrespective of claims by the Executive that release of certain information by the Executive Branch to the Legislative Branch would impair the President's constitutional obligation to "take care that the Laws be faithfully executed." Art. II, Section 3. The Framers of our Constitution regarded the combination of the powers of government as "the very definition of tyranny." The Federalist, No. 47 (Madison). They were particularly concerned about the threat of combining the power to legislate and the power to execute the law. They agreed with Montesque that "there can be no liberty" "when the legislative and executive powers are united in the same person or

Furthermore, because the legislative power was so great, "where the legislative power is exercised by an assembly, which is inspired by a supposed influence over the people, with an intrepid confidence in its own strength; which is sufficiently numerous to feel all the passions which actuate a multitude, yet not so numerous as to be incapable of pursuing the objects of its passions, by means which reasons prescribe; it is against the enterprising ambition of this department that the people ought to indulge all their jealousy and exhaust all their precautions."—The Federalist, No. 48 (Madison).

Without some recognition of these principles, including the concept that there are limits on the power of the Legislative Branch and that there are functions which were deliberately vested in the Executive Branch and placed beyond the reach of the Legislative Branch, it is not possible to present an objective analysis of Executive

Privilege or its application to particular circumstances.3

These deficiencies in the General Counsel Memorandum can, we believe, be easily traced to the historical attitude of congressional counsel in these clashes between the two political Branches over access to documents. For example, counsel for the Senate Select Committee on Presidential Campaign Activities (the "Watergate" Committee) argued to the Court of Appeals in Senate Select Committee on Presidential Campaign Activities v. Nixon, supra, that the district court below had no authority to balance the competing interests of the Executive and Congress once that court had rejected the Executive's claim of an absolute privilege. But, as the Court of Appeals pointed out in its opinion, a prior decision of that same court, Nixon v. Sirica, 487 F.2d 700 (D.C. Cir. 1973), had already squarely rejected the proposition that either the Executive or Legislative Branches has any absolute rights in this area or that either could sit in final judgment of the rights implicated in any particular disputes. 498 F.2d at 729. Our point here is simple but important: because the General Counsel Memorandum makes no serious attempt to weigh the competing interests of the two Branches in the context of the present facts and circumstances, it is largely beside the point. What follows are specific rejoinders to points made in the General Counsel Memorandum which we believe to warrant comment.

#### 1. Characterization of the Executive's position

The General Counsel Memorandum mischaracterizes your position on two important points and proceeds, using the rhetorical "straw man" device, to refute positions which you have not asserted.

The General Counsel Memorandum states that your position is "that the information is beyond the reach of congressional subpoena power because it is 'sensitive' material in 'law enforcement files . . . ,'" (p. 1) and that your premise is that "Congress cannot subpoena material in law enforcement files." (p. 2) However, your position is much more limited—that the information at issue here is of a peculiar and special nature such that its disclosure would impair the President's ability to enforce the law and that such information need not be disclosed by the Executive absent extraordinary circumstances.

The only interest which has been asserted by the Legislature in seeing the material in such sensitive segments of files is identified in the General Counsel Memorandum as a 'right to see how the laws it passes are being administered and enforced, and whether those charged with responsibility [for enforcement] are adequately and properly performing their responsibility." (p. 3) The authority relied upon by the General Counsel Memorandum on this McGrain v. Daugherty, 273 U.S. 135 (1926), involved a subpoena issued to the brother of a former Attorney General. Nowhere in that case did the Supreme Court suggest that the subpoena power exercised in that by a congressional committee could have been used to obtain production of documents in open law enforcement files. Furthermore, the Court was careful to point out that the congressional investigation then underway for which the subpoena had been issued was based upon highly specific alleged acts of criminal misconduct and malfeasance in office by the former Attorney General. Id. at 150-52. Thus, not only did McGrain not involve a subpoena directed to the Executive, a characteristic, as noted above, common to all the judicial authority relied upon by the General Counsel Memorandum, but it involved a factual situation which arguably could constitute the kind of extraordinary circumstance contemplated by your opinion to the President of October 13, 1981 and your letter to Chairman Din-

gell of November 30, 1982.4 Next, the General Counsel Memorandum mischaracterizes and then rejects your position that the Committee's offer to receive the information in "executive session" does not eliminate the Executive Branch's constitutional concerns and that release under such circumstances effectively destroys the President's privilege. The General Counsel Memorandum states that your view of 'executive session proceedings . . . is nevertheless disturbing because it is based on a complete misunderstanding of the constitu-

tional basis for Congress' authority to re-ceive 'secret' information." (p. 1). Three responses to this segment of the General Counsel Memorandum come to mind. First, nowhere does the Memorandum challenge your position that once the documents are provided to a Committee, the President in fact and in law loses control to the extent that the Committee has, from that time forward, the unilateral right to make any use of the documents it sees fit to make. Instead, the Memorandum seems to view the issue as whether the power of the Committee to receive documents in executive session provides a "legal basis for pro-viding that information." The question is not, of course, whether there is or is not a legal basis for the President's deciding to provide this type of information to Congress certain circumstances. It is, rather, whether there is any legal entitlement in a Committee to receive such information if the President decides that it would be inconsistent with his constitutional responsibilities to furnish it in the specific circumstances surrounding a particular Committee request or subpoena. The General Counsel Memorandum seems to proceed from the proposition that, because Congress is constitutionally permitted to keep a secret, three separate but related non sequiturs follow:
(a) Congress and its staff will keep secret that which it is entitled to keep secret;5 (b)

<sup>&</sup>lt;sup>5</sup>The General Counsel Memorandum discusses the enumerated power of the Legislative Branch under the Constitution to maintain necessary secrecy. The Memorandum simply ignores that "the protection of the confidentiality of Presidential communications has similar constitutional underpin-United States v. Nixon, supra, 418 U.S. at

<sup>&#</sup>x27;The General Counsel Memorandum at 3 observes that your letter to Chairman Dingell of November 30, 1982 "does not discuss the congressional reach of investigatory power established by McGrain, and he does not distinguish it from the situation here." As indicated above, the legal point decided by McGrain-the enforceability of a congressional subpoena against a private person in the context of an investigation of alleged corruption in the Department of Justice-does not address the additional issues presented by a congressional suboena for documents in the Executive Branch. In addition, the facts in McGrain supporting the investigation are so obviously different from those present in the instant case that there is little need to draw a comparison. The Legislative Branch understandably and continuously quotes from McGrain because that decision expansively de-scribes Congress's investigative powers. However, the case is not otherwise germane to the present dispute.

During the December 2, 1982 hearing by the Investigations and Oversight Subcommittee of the

<sup>1 &</sup>quot;The privilege is fundamental to the operation of Government and inextricably rooted in the seps ration of powers under the Constitution. States v. Nixon, supra, 418 U.S. at 708.

<sup>2</sup> On December 3, 1982 the Chairman of the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce stated that Members of Congress "have the power under the law to receive each and every item of information in the hands of the government. . . ." marks by Chairman Dingell, Transcript, p. 162.

Congress is constitutionally entitled to all information in the possession of the Executive because it has the power to keep the information secret; and (c) the President has not lost control of the information because Congress has the power to keep it secret. None of these conclusions follow from the premise—a premise which you have never disputed in the first place.

Second, the General Counsel Memorandum suggests that the ability of Congress to keep documents received in executive session "secret" and the courts' recognition of that ability in the context of information sought from private parties somehow is relevant to the instant dispute. All that can be said from this suggestion is that it is consistent with the overall thrust of the General Counsel Memorandum, which is that the President is to be treated for these purposes not as the head of a coequal Branch but,

rather, as a private person.6

Third, the General Counsel Memorandum appears to suggest that the fact that material over which the President could assert privilege is often turned over to Congress establishes an unrestricted right in Congress to receive all information in the possession of the Executive Branch over the objection of the President. The argument is nothing less that an assertion that the customary at titude of the Executive Branch in attempting to accommodate requests for information by Congress and to avoid needless friction between the two Branches has effectively destroyed Executive Privilege itself. The proposition is, of course, absurd and its assertion as a serious proposition is particularly frivolous in light of the history of refusal by the Executive to furnish documents in open law enforcement files.

#### 2. The scope of Attorney General Jackson's 1941 letter to Chairman Vinson

At several points, the General Counsel Memorandum, (see pp. 3 and 10), suggests that your reliance on Attorney General Jackson's letter to Chairman Vinson, 40 Op. A.G. 45 (1941), is misplaced because, according to the General Counsel Memorandum, that opinion was limited to "nondisclosure of the FBI's criminal investigative files." Thus, the Memorandum states that application of the 1941 letter to the present situation represents "an enormous extension of secrecy." (p. 3) The General Counsel's reading of that 1941 letter is patently erroneous.

ing of that 1941 letter is patently erroneous. The word "criminal" does not appear a single time in the 1941 letter. The specific request for information to which Attorney General Jackson responded covered investigations of both "alleged violations of law" and investigations to gather "intelligence" information, the latter decidedly non-criminal and the former not qualified by the word criminal and not necessarily confined to criminal matters. 41 Op. A.G. at 50. Furthermore, Attorney General Jackson's letter was in response not only to Chairman Vinson's letter but to two other letters raising a very general and pervasive problem. Finally, and of particular significance given the tortured reading of Attorney General Jackson's letter by the General Counsel Memorandum, every example of prior Presidential refusals to provide documents in investigative files to Congress relied upon by Attorney General Jackson involved cases implicating the federal antitrust laws under which, historically, civil rather than criminal prosecution would have been the usual course of action.

It does not seem conceivable or credible to assert any doubt regarding the breadth of Attorney General Jackson's statement regarding the historic position of the Executive on this matter. Examples abound. Attorney General Jackson did not attempt to cite every instance. Nor did your letter of November 30, 1982 to Congressman Dingell. Another example which neither you nor Attorney General Jackson mentioned, and which is overlooked by the General Counsel Memorandum in an effort arbitrarily to narrow the scope of Attorney General Jackson's opinion, is President Truman's letter to Congressman Frank L. Chelf in March of 1952. Congressman Chelf, as Chairman of a Special Subcommittee of the Judiciary, had demanded a wide range of documents from various Executive Branch Departments including, among others, a list of all cases re-ferred to the Department of Justice or the U.S. Attorneys for either criminal or civil action . . . within the last six years . (emphasis added), in which action had been declined, the case had been returned or where the case had been pending in the Department for more than one year. President Truman rejected the request, declaring, inter alia, that while the investigative functions of Congress were important, the Constitution vested the executive power in the President and imposed on him the duty to see that the laws were faithfully executed and that "Congressional power should be exerted only in a fashion that is consistent with the proper discharge of the Constitutional responsibilities of the Executive Branch."

Another example is Attorney General Brownell's Order No. 116-56 issued on May 15, 1956. In that order, which specifically addressed requests for documents by congressional committees and which specifically covered both civil and criminal cases, the Attorney General distinguished only between open and closed cases. The order applied to all cases over which the Department of Justice had enforcement responsibility and, with regard to open cases, the policy was quite simple: "If the request Iof a congressional committeel concerns an open case, i.e., one which litigation or administrative action is pending or contemplated, the file may not be made available. . . ."

Finally, we would observe that the limitation placed on access by Congress to document in open investigative files by Attorneys General Jackson and Brownell, by President Truman, and by the other Presidents and Attorney Generals which were mentioned in Attorney General Jackson's opinion are, if anything, far greater than the policy adopted by President Reagan in his November 30, 1982 Memorandum to Administrator Gorsuch. Under both the Jackson and Brownell views, for example, congressional committees were to receive no documents found in open investigative files in criminal or civil actions; under current policy much effort will be expended by Executive personnel to segregate out from these files only sensitive, deliberative documents that meet the criteria set out in your November 30, 1982 letter to Chairman Din-Thus, it is plain that the assertion of the General Counsel Memorandum that the current policy is an "enormous extension of secrecy" is not only unsupported by any references in that Memorandum to authorities or specific historic facts, it is flatly contrary to the facts. The policy of this Administration is *less* restrictive than its predecessors.

### 3. The rights of potential targets of investigations

The General Counsel Memorandum strives at great length to establish the proposition that the constitutional rights of potential targets of enforcement actions will not be endangered unacceptably by the documents being made available to congressional committees. It is, of course, not surprising that the courts have been generally reluctant to reverse the convictions of criminal defendants because of pre-trial publicity generated by congressional inquiry into specific cases. That reluctance, however, in no way establishes the proposition implicit in the General Counsel Memorandum that a Nation constitutionally committed to fair and impartial administration of criminal and civil justice would or should tolerate trial by congressional committee. While this basic protection to innocent persons was not stressed as a major rationale for your November 30, 1982 position, it was articulated as one of the factors and was predicated not just on constitutional considerations, but on basic notions of fairness and decency. The General Counsel Memorandum seems to suggest that if a subsequent conviction would not be overturned on constitutional grounds, these considerations somehow vanish. That clearly does not seem to be the case, and most importantly, the argument seems to ignore completely the rights of innocent persons against whom no charges are ever brought.

#### 4. The committee's purpose

The General Counsel Memorandum states that the Subcommittee, in subpoenating the documents, "seeks not to influence individual enforcement decisions, but rather to review the integrity and effectiveness of EPA's enforcement program and to evaluate the adequacy of existing law." (p. 6) We assume that the General Counsel Memorandum would necessarily have to assume such good faith on the part of the Subcommittee. Your articulation of the basis for the invocation of executive privilege similarly assumes such good faith not only by this Subcommittee, but by any congressional committee seeking Executive Branch documents. However, any policy in this area must assume, as Attorney General Jackson's 1941 Opinion did assume, the possibility of misuse along with proper use of sensitive information and, if the information is very important to a pending or developing case, it should not be disseminated beyond those directly involved in the enforcement process. It is theoretically possible that parties seeking access to documents or parties who might obtain access to documents sought by others might have relationships with potential defendants (in this case, generators of the chemicals in the hazardous waste sites). In such a situation, faith in the integrity of the process might subsequently turn out to have been misplaced and the damage would not be limited to a particular enforcement action, but to the integrity of law enforcement as a whole. Hence, if the tactical materials will not make a critical contribution to the legislative process and are primarily useful to law enforcement officials (and the potential defendant), proper attention to the faithful execution of the law requires that the circle of access to the open law en-

House Public Works and Transportation Committee, Congressman Roemer, addressing the Subcommittee's staff, declared: "I will tell you as one member of this Subcommittee, we ought to do and encourage you to do everything possible not just to amass the information, but to turn it over to the public. . . ." p. 38.

public. ... "p. 38.

Or, perhaps, as put by Congressman Roe at the December 2 hearing "there obviously is a breach between ourselves, the governing body of the Nation, and the Executive Branch." p. 90.

forcement file be kept as narrow as possible. The General Counsel Memorandum misses this and the following two additional crucial

First, the Legislative Branch was not empowered by the Constitution to participate directly and intimately in the enforcement of the law. Cf. Buckley v. Valeo, 424 U.S. 1, 138-43 (1976).

Second, and related to the first point, nowhere in the General Counsel Memorandum is there any explanation as to why access to open law enforcement files is necessary in order for the committee to perform its legitimate legislative duties. It is true that because of the relatively recent enactment of CERCLA, there are probably only a small number of closed cases the files of which could probably be made available to the committee as a way of the commit-tee's studying the manner in which CERCLA is being implemented by the Executive. But until the committee can establish that its access to the files in closed cases coupled with the many other means by which it may inquire into this issue, including the testimony of high EPA officials regarding overall EPA strategy, methods and objectives, then there is no reason, as a matter of policy, let alone law, why the committee should have sensitive material turned over to it. As the Court of Appeals for the District of Columbia summarized the test, a test which the Subcommittee has simply not attempted to meet: "The sufficiency of the Committee's showing must depend solely on whether the subpoenaed evidence is demonstrably critical to the responsible fulfillment of the Committee's functions." Senate Select Committee v. Nixon, supra, 498 F.2d at 731 (emphasis added).

#### Conclusion

Because your prior analyses of this subject have fully recognized the legitimate in-terests of the Legislative Branch to investigate and oversee the execution of the law by the Executive Branch, the almost total focus on the rights of Congress in this matter by the General Counsel Memorandum adds virtually nothing to the present debate. Because the documents in issue which would be turned over to the Subcommittee become totally subject to the control of the Subcommittee, the Memorandum's discussion of the Subcommittee's power to maintain their confidentiality is beside the point. The underlying premise of the argument is that Congress has the unilateral power to determine whether the release of Executive Branch documents is, or is not, in the public interest. That theory is nothing more than an abnegation of the doctrine of Executive Privilege. The President cannot retain a privilege while turning over to Congress the decision whether it should be exercised. Finally, the attempt of the General Counsel Memorandum to portray your position, and that of the President, as an "ex-tension of secrecy" is not only contrary to demonstrated historical fact but fails to recognize that the current policy is far more accommodating of the interests of Congress than has been past Executive policy as illustrated by the positions of Attorneys General Jackson and Brownell.

THEODORE B. OLSON,
Assistant Attorney General,
Office of Legal Counsel.

#### CONSERVATIVE OR LIBERAL

The SPEAKER pro tempore. Under a previous order of the House, the gen-

tleman from Texas (Mr. Collins) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, as I finish my eight terms of service in Congress, I look back upon the way I have been described as a conservative Member. Many people use the broad terms "conservative" or "liberal," to define a Congressman's position as he votes his record in Washington. A conservative is one who votes for a balanced budget, less Government spending, fewer Government regulations, a larger national defense, equality for all with less regulations, and complete freedom in religion. A conservative believes Congress should meet 4 months out of the year and go home to work and hear constituents for 8 months. A conservative basically wants to have a representative Federal Government with decentralized powers to the States and local governments.

A liberal is one who believes in providing more revenue for welfare needs, less defense spending, expanding Government service through deficit financing, broader human resources and welfare programs, more detailed regulations for industry, and definitive religious limits. A liberal believes Congress should be in continual session for 12 months, and basically wants to have a very strong, powerful centralized government.

The press views liberals in these terms. The press says liberals are modern and up to date, pragmatic, compassionate, warmhearted, alert, understanding, intelligent, creative, innovative, and progressive with new legislation.

A conservative, as the press describes them, live in the Neanderthal age, dinosaur brain, narrowminded, square, bigoted, nut, selfish, predictable, cold, lacks vision, old fashioned, idealistic, moralistic, thinskinned, loudmouthed, reactionary, and abrasive with no heart for the common man.

I have served for 8 terms in Congress, during this 13-term stretch the liberal Democrats have controlled and dominated our House. One must realize the press is not as objective as they sometimes see themselves.

We realize that the press likes to see innovative and creative legislation because it gives them more stories about which to write. The press wants to see Congress in continual session because they are limited on news stories when we are home. New ideas to provide Government benefits, so people get something free, is what sells newspapers.

As a conservative, I hope that Congress realizes the financial pressure that deficit budgets place on our country causing inflation and higher interest rates. America need conservatives to follow the spirit of George Washington, Abraham Lincoln, and Ronald Reagan.

I remember when I was young, a liberal was someone who was generous in giving away his own money. But today a liberal is one who is generous in spending the Government's money.

My dad was a paradox. In politics he was opposed to Government deficit spending, so folks called him conservative. But he gave away everything he had, so universities and hospitals called him liberal.

Why was my dad against deficit finances? You see, he grew up in poverty. Now he never considered it poverty, because I asked him one time about poverty as a boy, and he got red in the face. He was furious. He told me he never lived in poverty.

When my grandmother died, grand-dad could not take care of his two boys so he put the two of them, ages 7 and 9, out to live with their uncle. The kinsfolks welcomed them and shared everything. Dad slept on a pallet on the floor. He worked everyday on the farm as soon as he got home from school. But they had love in the family, and he grew up with pride and self respect. My dad was poor but honest, and he knew how to work hard. So he voted conservative and in the church house he was known as a liberal.

I have been in continual hearings where liberal members are objecting to phone rates going up. Liberals object to electricity rates going up. Liberals object to natural gas going up. Ask yourself, why do we have a higher cost of living? This year, 1982, the Federal Government will borrow \$210 billion beyond its income. The liberals voted this big Government spending. Now the poor of America have to pay the price of not having a balanced budget in Congress.

I came here to Congress eight terms ago as a conservative. I leave more firmly dedicated to being a conservative. America has more Government than we need, America has more regulations than the people want, and America has more taxes than the people can afford to pay. Down in Texas we still firmly believe in God and family and country.

#### □ 1940

Mr. BETHUNE. Mr. Speaker, will the gentleman yield to me?

Mr. COLLINS of Texas. I will be glad to yield to my friend, the gentleman from Arkansas.

Mr. EETHUNE. I thank the gentleman for yielding.

Mr. Speaker, I just want to say this may be the last occasion that I would have to say to the gentleman that I have listened carefully to the remarks that he has made over the 4 years that I have been here. He certainly is one of the most dynamic speakers in the House, in my view.

Some may not agree with that statement because the gentleman does not gesticulate or speak as loudly as others, but I think the thing that impresses me is the sincerity with which the gentleman has always spoken in the well of the House.

I have never been surprised by what he has said because he has a set of fundamental principles that guide him and I always know just exactly where he is going to wind up on a particular issue.

This House is going to miss the gentleman from Texas and I hope that we will see a lot of him in the next few years because, Jim, you are a tonic for all of us, because you are so plain-spoken and the things that you say ring true and I know that the people out there who listen to this on television, to these House proceedings, can relate to what you say because you say it in a way that they would say it in the coffee shops, nothing fancy, just plain, but I think you are right.

We are going to miss the gentleman

Mr. COLLINS of Texas. Mr. Speaker, I want to thank the distinguished gentleman from Arkansas, for whom I have the most respect and who has such a great, tremendous future here in the House.

I want to tell the gentleman that his folks up in Arkansas, I know them, they may not be the richest folks; as they say, they are poor but honest, but they are the salt of the Earth and believe in that fundamental that makes America great: Those of us who believe in God, family, and country. The gentleman represents them the very best.

Mr. Speaker, I appreciate everything the gentleman said.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) entitled "An act to extend the Commodity Exchange Act, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) entitled "An act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 14, 37, and 70 to the above-entitled

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3103. An act to amend section 1304(e) of title 5, United States Code.

### TRIBUTE TO MRS. HARRY S. TRUMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri (Mr. Skelton) is recognized for 60 minutes.

Mr. SKELTON. Mr. Speaker, all Americans were saddened on October 18, 1982, to learn of the death of one of our Nation's most beloved citizens, former First Lady Bess Truman. I have asked that the House of Representatives pause in it deliberations and set aside this time so that all Members may have the opportunity, on behalf of themselves and their constituents, to pay tribute to Mrs. Truman.

Mrs. Truman was born Elizabeth Virginia Wallace on February 13, 1885, in Independence, Mo. As a child and young woman, she excelled in sports and in school. At age 6, she met a classmate, Harry S. Truman, and she was the only girl he ever courted. They were married in a simple ceremony in the Trinity Episcopal Church in Independence on June 28, 1919, following President Truman's return from Army service in World War I. They made their home in Mrs. Truman's family home in Independence. This familiar white, Victorian house remained the Truman home throughout their years in Washington, and following President Truman's retirement from public office. It is this house that Mrs. Truman, in a gesture typical of her, generously bequeathed to the American people.

There can be no question that the Truman marriage was a true partnership. In his years in public office, President Truman faced many chaldifficult decisions. and Though the final word was always his, President Truman routinely consulted the woman he affectionately referred to as "the Boss" on these matters. He respected her keen mind, her good judgment, and her practical commonsense. Indeed, when President Truman was a Member of the Senate, Mrs. Truman served for a time as a member of the staff of his Senate Special Committee To Investigate the Defense Program. Regarding her contribution. President Truman said:

I never make a speech without going over it with her, and I never make any decision unless she is in on it . . . not one of these reports has been issued without going through her hands.

Though her contributions to President Truman's public service were real and substantial, it was her personal

qualities that made Bess Truman as popular a First Lady as we have ever had. The flood of eulogies from the media and from friends that followed her death attest to the affection and respect which the American people held for Mrs. Truman. She was variously, and correctly, described as warm, modest, friendly, homeloving, thoughtful, and generous. She was lauded for her wonderful sense of humor, her integrity, her graciousness, and for her sense of duty, dignity, and quiet pride.

Mrs Truman had all of these qualities in abundance. I had the privilege to know her personally, and to represent her in Congress for the past 6 years. I can honestly say that she was one of the most remarkable women I have ever met. But, as I joined the others at her funeral services in Independence, I had cause to reflect on one aspect of Mrs. Truman's personality which I believe helps explain why Americans find so much reassurance and inspiration in the down-to-earth virtues which she personified.

Mr. Speaker, Bess Truman knew who she was and she never forgot where she came from. Her values were those of small town middle America, and they remained constant despite her 17 years in Washington as the wife of a U.S. Senator, Vice President, and President.

Though pressured by many to do so, Mrs. Truman refused to emulate her predecessor as First Lady, the renowned and controversial Eleanor Roosevelt. Confident of her own values and lifestyle, she had little inclination to change, even though her husband had been elevated to the highest office in the land. She preferred to be removed from the spotlight, and she relished the simple, private life in Independence with her family and her life-long friends.

Mr. Speaker, Bess Truman's long, full life of 97 years should be a model for us all. Even in the glare of publicity that surrounds the Presidency, she remained modest and unaffected, and she kept her priorities in order—her family came first. She was a great lady, and she will be missed. I know all Members of the House will want to join me in extending their deepest sympathy to Mrs. Truman's daughter, Margaret, her son-in-law, and her four grandchildren.

#### □ 1950

• Mr. WRIGHT. It is a privilege to join with my friend from Missouri (Mr. Skelton) to express a thought or two in tribute to the memory of Bess Truman, a woman of character, determination, and fortitude.

She came as a young matron to Washington with her husband Harry when he was first elected to the Senate in 1934. She was a wife, a help-

meet, and a mother in the truest sense of those words. No one who ever knew her failed to be impressed with her ability to meet with quiet dignity and unpretentious self-assurance the tests that life brings to each of us.

At a time when world leadership was being thrust upon America, some of the most difficult decisions in the history of the world were placed at the desk of President Truman. He did not flinch from these decisions, no matter

how awesome nor tortuous.

But Harry Truman, hero that he was, was, after all, a human being. Like all the rest of us, he needed the measure of confidence and companionship that only a devoted wife can bring. It is noteworthy, now 40 years later, to realize that precious little of Bess Truman's life ever wound up in the pages of the newspapers.

The unstinting and loyal support that she gave our President was never flaunted nor paraded about nor bandied through magazine articles nor the type of shallow "dear wifey" articles used by other political wives in other

times.

It is obvious from a history of those times that Bess Truman was, above all, a quiet, dedicated helpmate, whose heart and soul were selflessly devoted to the man she loved-a man who happened to be, at that most crucial moment in history, the President of the United States.

Mr. YOUNG of Missouri. Mr. Speaker, it is my pleasure to be able to join with the distinguished gentleman from Missouri, Congressman Skelton, who represents Independence, Mo., today in honoring and paying tribute to a woman who disliked tributes. In fact, she disliked public attention of

any kind.

Yet, for a number of years, she was in the limelight of national attention. To her husband, she was "the boss" and "my chief adviser." To the rest of the world in the late 1940's and early 1950's, she was the First Lady, Elizabeth Virginia Wallace Truman. That was her full name. But she simply pre-

ferred to be called Bess.

Bess Truman was a very private erson. But Bess found herself trapped in a public fishbowl known as the White House. Harry Truman was elevated to the Presidency suddenly upon the death of Franklin D. Roosevelt. This cast Bess in the role of First Lady following in the footsteps of the very public Eleanor Roosevelt. But Bess very wisely decided not to take on a role in which she would be completeuncomfortable. Instead she remained a private person, but one who was very much a part of the Harry Truman Presidency. She was warm and gracious in hosting official White House functions. But when she was not directly called upon, Bess preferred to stay where she felt most comfortable-and that was in her husband's shadow. That was her place-as a supporter and personal adviser to her husband, the President.

I was a young man serving my country in World War II in Germany when Harry Truman became President. As a native Missourian, I had great admiration for both Harry and Bess Truman. I felt the greatest respect for this man from Independence, Mo., who had risen to the Nation's highest office with the help of his wife at his side.

I think both Harry and Bess were lucky to have occupied the White House at the time that they did. They were there long before today's era of prying minicams and instant access news. That afforded the Trumans the opportunity to maintain some of their privacy. It also afforded Bess Truman the chance to do her Christmas shopping in Washington's department stores just 8 months after becoming First Lady and still not be recognized.

Bess Truman was a very shy and gracious lady. She served her country well as a First Lady to admire and respect. She maintained her own special degree of dignity, pride, and down-toearth values. She was never really touched by the fever of importance that seems to run so rampant in Washington. For when Harry's term as President was over, she was quite content to return to her family home in Independence and go back to being just a private citizen.

Bess Truman was a model of basic, middle-American virtues that remained simple and untainted by the rough and tumble of Washington politics. I admire Bess Truman. I admire her for what she stood for, for what she believed in and for how she conducted herself as a public personality living a private life. She gave the world a model of dignity and grace, a model that will remain somehow forever empty because of her passing.

Mr. SKELTON. Mr. Speaker, thank the gentleman from Missouri for joining me in this tribute.

Mr. Speaker, I yield to the gentleman from Kansas (Mr. WINN).

Mr. WINN. I feel honored to participate in this Special Order for former First Lady Bess Truman-a woman who showed us all the meaning of humility and dignity. Bess Truman did not seek the spotlight, nor the headlines. She did believe in her husband and family and always put their needs and wants above the demands of a Washington social life.

Bess Truman is mentioned prominently in Ken Hechler's new book entitled "Working With Truman: A Personal Memory of the President." My colleagues will remember Ken by his service in the House of Representatives from West Virginia from 1955 to 1977. I was privileged to serve with him as a member of the Committee on Science and Technology.

In his book, Ken tells a great deal of the human side of Mrs. Truman, her advice to the President behind the scenes, the fact that very few Presidential speeches were delivered without reading them and making suggestions the night before. Mrs. Truman was a great crowd pleaser on the many whistlestop trips which the President took. Even though she declined to make speeches she made it known that the Trumans were a very close-knit family.

Another aspect of Ken's book which interested me tells how both Mrs. Truman and Margaret could not wait to get out of Washington and back to their family home at 219 Delaware, in Independence. When Mrs. Truman and Margaret left Washington, President Truman became very lonely, spending hours on the telephone longdistance until either he could break away to go home to Independence, or persuade Mrs. Truman and Margaret to return to Washington.

Perhaps the biggest influence Mrs. Truman exerted was convincing President Truman not to run again in 1952. Here is how Ken Hechler describes the situation in his book:

One afternoon at Key West, I had a long conversation with Mrs. Truman in the sit-ting room of the little White House. Mrs. Truman loves biographies and she paused in her reading of the autobiography of James A. Farley, Franklin Roosevelt's national political chairman to discuss Farley's adamant opposition to a third term for Roosevelt in 1940. She voiced her strong support for Farley's view as matter of sound national policy in a Republic and went on to describe her conviction that far too many people in public life refuse to admit when it is time to quit. Mrs. Truman commented with some feeling on the selfish "hangers-on" who are constantly importuning public officials to stay in office one more term so that these self-seekers can continue to bask in the glories of the boss. I came away from that conversation with the feeling that Mrs. Truman was a major force in convincing the President to stick to his decision to retire in 1952.

Harry Truman first met Bess Wallace when he was 6 years old and they were attending the same Sunday school class. He always referred to her as "my school girl sweetheart," adding that. "I have never had another, and will never have another." As First Lady, she declined to hold news conferences despite the pressures of reporters accustomed to Eleanor Roosevelt who frequently took stances on public issues. The Nation will long remember the quiet dignity with which she performed the duties of First Lady. She carried them out faithfully.

Mr. WINN. Mr. Speaker, I thank the gentleman I appreciate the gentleman asking for this special order honoring Bess Truman.

Mr. SKELTON. Mr. Speaker, I appreciate the words of the gentleman from Kansas (Mr. WINN) so much.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?
Mr. SKELTON. I yield to the gentle-

woman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding, and I do thank the gentleman from Missouri (Mr. Skelton) for the opportunity of saying a few words about the highly literate, lively, and lovely Bess Truman, who had such a delicious sense of humor and who was also a

model for all political wives.

Mrs. Truman believed so strongly in her duties as a political wife that she would encourage all others to be able to extend themselves into the life of Washington and into the lives of their husbands' districts. She set an example by attending not only all of the functions in which the Washington wives were in charge but taking her precious time as First Lady to go at least 30 to 45 minutes ahead of schedule so she could thank the various chairmen, comment on the decorations, and tell them all once again what good work they were doing not only for the city and for the country but for her husband.

She was a perfect political wife. All of us at that time had two homes that we had to take care of, and we were always going back and forth and trying so diligently to make an attractive place in which to live and in which to have our husbands and con-

stituents entertained.

When Mrs. Truman went to the White House, she not only had to take over the White House but discovered soon after she was there that the White House was tumbling down around them, so she had to live through one of those dreadful wifely chores of having her entire home done over while she was the First Lady. She moved with grace and charm into Blair-Lee House and kept up the tradition of entertaining that this country is very famous for.

In every aspect of her life as a political wife, Bess Truman was a real star. I think that the best thing that she did for all of the political wives was to give us a sense that you could become such a strong and good family within your own home that your husband could go forth and withstand any kind of pressure, and that the country would be well served because of it.

The happiness and the joie de vivre that the Trumans had among the three of them, the President, Mrs. Truman, and Margaret, was something that all the world admired, and it was a source of inspiration and great fun to all the other congressional wives.

So, Mr. Speaker, I am very pleased to give her a tribute as a perfect congressional and Presidential wife and to the rest of us.

I thank the gentleman from Missouri (Mr. Skelton) for this opportunity to say these words.

Mr. SKELTON, Mr. Speaker, I think the gentlewoman from Louisiana (Mrs. Boggs) for her very gracious words concerning Mrs. Truman, she having filled that role so ably in years past, as I know so well. Those who read the RECORD in future years we make this evening will find that your words have added meaning, and I do appreciate what you said about the former First Lady, Mrs. Truman.

Mr. Speaker, we have heard a number of Members of this body join me in paying tribute to Bess Truman. She was a lovely lady, she was a remarkable person. I am pleased to say that she was my constituent for

almost 6 years.

There was a time when I personally appreciated her words of encouragement. She was always there and she was an inspiration not only to me but to all those who met her and to so many who did not but who knew what

a grand person she was.

We will miss her. We will miss her presence. We express our sincere sympathy to her very lovely daughter, Margaret Truman Daniel. I know that she goes with the memory that her mother fulfilled the highest calling of any lady in our land. She was a wonderful wife, a loving helpmate, and an inspirational wife of an outstanding leader.

. Mr. BAILEY of Missouri. Mr. Speaker, this Nation is greater because Bess Wallace Truman lived. We are poorer that she no longer lives among us.

We Missourians are particularly proud that she was the product of our soil, the product of our world, the product of that which is best about America.

Born in Independence, February 13, 1885, she gave Missouri and America almost a century of unswerving support of those qualities we deem best in America.

Married June 28, 1919, to Harry S Truman, she was not only one of our Nation's greatest First Ladies but also the mother of another great citizen, her daughter, Mary Margaret, now Mrs. E. Clifton Daniel, Jr.

Whatever she believed in, she supported with all her heart, with all her energies, with all her faith. Through a lifetime, no one ever questioned her loyalty and love of country and state, her support for her husband, her love for her daughter and grandchildren.

Proud, too, she was of being a Democrat and an Episcopalian. Proudest most, I think, that she was a Missouri-

Hence, it is with unusual pride and great affection that I today join my colleagues in commemorating the life and memorializing the death of a

thank her for everything she did for great woman, Bess Wallace Truman, wife of our late President Harry S. Truman.

• Mr. BOLAND, Mr. Speaker, I want to thank the gentleman from Missouri (Mr. Skelton) for reserving this time to allow us to pay tribute to former First Lady Bess Truman. Hers was a life worthy of admiration and respect, and I believe that her husband would have very much appreciated the House of Representatives pausing in its business to acknowledge the contributions she made to our country.

President Truman used to say that Mrs. Truman was his "full partner." He relied on the strength of her character and he valued her advice and her opinions. She discharged the considerable duties of First Lady with grace and dignity and I believe that the American people loved her because she exemplified the values with which they most closely identified. She was very much her own person and had a very strong sense of who she was. Devoted to her husband and her daughter, she never lost sight of the importance of her family and never allowed the demands of office to interfere with her responsibilities to them. The sense of stability which she exuded was needed and welcome in the years immediately following World War II.

Mrs. Truman wanted nothing more than to return with her husband to Independence after their term in the White House was over. She was content in the knowledge that they had done the very best they could for the country that had placed its trust in them. I believe that that is a judgment in which history will concur.

Mr. MAZZOLI. Mr. Speaker, I, too, would like to pay tribute to one of our country's First Ladies whose death has been a loss to us all.

Bess Truman was loved and respected by the American people as the devoted wife and companion of the President. She was a strong independent woman whose warmth and charm graced the Truman administration.

Mrs. Truman lived a long and full life, and I honor this great woman for her service to the American people.

Mr. ANDERSON. Mr. Speaker, although her death saddens us all, Bess Truman lived a rich and fascinating life. At one time, Mrs. Truman played a very important role in our Government, and with her death there passed away a great era in American history. I had the privilege of meeting her and her husband, the late President Truman, both of whom I personally admired. All who knew her can say that Mrs. Truman was a great woman and a great First Lady.

Bess Truman stood quietly but strongly behind her husband, President Harry S. Truman, during his historic years in the White House. Upon the death of President Franklin D.

Roosevelt in 1945, Bess Truman suddenly found herself having to assume a far more public role than she was used to. Although First Lady Bess Truman's reserved manner and style were quite a change from the superactive Eleanor Roosevelt, she contributed her own unique presence to American society.

Mrs. Truman was thoughtful and generous, never happy unless doing something for others, such as visiting veterans and patients from Walter Reed Hospital and the Bethesda Naval Medical Center. She was constantly on the go, dropping in at several luncheons and receptions in a day while managing her White House domain. Although reserved, and shy in large public gatherings, Bess Truman was good-natured and had a very warm and winning manner and a sharp, dry sense of humor. Mrs. Truman's great love for baseball was famous, and she attended the games of the Washington Senators whenever she could.

Bess Truman's complementary nature was a great asset to her busband, who frequently included her in the closed-door sessions of advisory groups, particularly during campaigns. President Truman said that he discussed every decision with his wife and referred to her as "a full partner in all my transactions-politically and other-Mrs. Truman's traditional American virtues were a source of strength to both the President and the Nation. Even if she was never completely able to curb his language, her deeply rooted sense of what was fitting and proper influenced her husband. No matter what she was doing, Bess Truman was always a lady. Her spirit made the White House great. and made her a great woman.

My wife, Lee, and I would like to take this time to offer our deepest condolences to her daughter Margaret and her family. We are grateful for the many years that Bess Truman had with us, and for her special contribution to our lives.

• Mr. CLAY. Mr. Speaker, I am honored to pay tribute today to Elizabeth Wallace Truman, a person of much affection and respect for those with a memory of postwar America. In the years following the turbulence of the Depression and World War II, Americans found reassurance and inspiration in the virtues Mrs. Truman personified. She was a warm, modest, friendly, and home-loving woman.

Her family always came first. She described the role of First Lady as requiring that a wife "sit beside her husband, be silent and be sure her hat is on straight." Actually Mrs. Truman took a keen interest in her husband's daily problems and he respected her judgment. He referred to her as his chief adviser and a full partner in all his transactions.

Mrs. Truman had a sense of duty, dignity, and quiet pride. She was always correct and gracious about everything she did in the White House. She remarked that the qualities most necessary for the wife of a President were "good health and a strong sense of humor." Mrs. Truman possessed these qualities and she served the country and her husband well.

In each of our families there is a woman who resembles Bess Truman and who embodies these same downto-earth virtues. She reminds us of someone we love. We mourn her death not so much for her public life, but for what we knew of her role as a wife, a mother, and the model for so many women of her generation. Bess Truman was a great American woman and she will be missed greatly.

 Mr. BINGHAM. Mr. Speaker, I appreciate the opportunity of saying a few words about a great American.

During the years of Harry Truman's Presidency, I was often impressed with the qualities of the lady he called "boss," his wife Bess. She had a quiet dignity and a kind of no-nonsense serenity that was apparent to all. It was clear that the President relied heavily on her judgment and her sense of perspective.

I had the pleasure and privilege of meeting Mrs. Truman on several occasions. On one of these she was a dais guest at a large luncheon at the Shoreham Hotel which I had been asked to address. She had to leave before my speech, which of course I quite understood. That very afternoon Mrs. Truman sent me a handwritten note explaining why she had had to go, expressing her regret not to have heard my talk, and apologizing for the apparent discourtesy. I never got over the fact that she took the time and trouble to do this.

Bess Truman was truly one of the most gracious ladies of the 20th centu-

My wife and I join in extending to the members of her family our deep sympathy on their loss, a loss which we all share.

• Mr. ZABLOCKI. Mr. Speaker, it is indeed a rare privilege to join my colleagues in honoring the memory of a truly great first lady of this land, the late Bess Truman. To those like myself, who served in this body during the Truman administration, Mrs. Truman will always be remembered with particular warmth, affection, and high esteem.

It is no secret that Mrs. Truman did not seek or relish living at 1600 Pennsylvania Avenue, but characteristically, she did what she perceived to be her duty as First Lady with graciousness and a high sense of personal dedication. Her first loyalty was clearly to her husband, and she provided great comfort and moral support to the President of the United States during

a very critical and challenging period in our Nation's history.

Perhaps her most striking quality was the utter lack of pretension which characterized all of her official actions and personal relationships. She did not attempt to emulate anyone but herself, and the image she projected to the world at large was one of quiet dignity and practical good sense. To paraphrase the words of Kipling, she could "walk with kings—nor lose the common touch"—and in the process, she managed to represent the finest attributes of the American people.

Mrs. Truman had a long, rich, active, and satisfying life, and she was supported to the end by the unwavering affection she received from her family, her friends, and her many admirers. As one of the latter, I am pleased to have this opportunity to pay tribute to this great lady and join in the national mourning which inevitably accompanies her loss.

#### GENERAL LEAVE

Mr. SKELTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. Breaux). Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Speaker, I yield to my colleague from Missouri (Mr. Young).

### REEXAMINATION OF ROMANIA'S MFN STATUS IS CALLED FOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland (Mrs. Holt) is recognized for 60 minutes.

• Mrs. HOLT. Mr. Speaker, between November 5 and 7, 17 Hungarian intellectuals in Transylvania, the Hungarian-inhabited province of Romania, were arrested. The major "defendants," nationally famous poet Geza Szoecs, philosopher A. Ara Kovacs and Prof. (Mrs.) Karoly Toth were subjected to violence. Szoecs is still incommunicado, either in a secret police jail or in hiding; the other three were warned not to leave town as they will be charged with treason. We have no reliable information about the fate of the other 13 intellectuals.

Today I rise to condemn the charges against these leaders of the freedom-loving Hungarian intellectuals in Romania who want to retain their Hungarian cultural traditions and the freedom to express themselves without governmental censorship. Their "crime" was to publish a lithographed monthly called Ellenpontok (Counterpoints) since November 1981, a literary and philosophical monthly that had little to do with day-to-day politics.

However, I believe that in addition, the Romanian authorities suspected them to be the signers of a recent memorandum on the complaints of the Hungarian minority in Romania which was smuggled out to Vienna in November and presented to Chancellor Bruno Kreisky on November 29, 1982 for transmittal to the Madrid Conference on Security and Coopera-

tion in Europe. Their demands are modest indeed and would have no problem even with the Constitution of the Socialist Republic of Romania. They only want the opening of Hungarian language kindergartens and special education classes, equal use of the Hungarian language in public and before the authorities where the Hungarians form a significant minority or the majority of the population, and equal access to professional positions. They are also calling for self-administration of the Hungarian-majority regions in Transylvania and condemn the existing practice of forcibly settling Romanians into the purely Hungarian villages, towns and cities of Transylvania. Most devastatingly, they add that the Romanian authorities should not regard the Hungarian intellectuals with suspicion just because they are Hungarian. Mr. Speaker, today I am joining with these brave people striking a blow for freedom and cultural rights of their ethnic groups at grave personal jeopardy to themselves. I also appeal to my colleagues to support Representative RITTER's letter President Reagan calling for protests and for a reexamination of Romania's most favored nation status next year if these persecutions, arbitrary arrests and conscious discrimination against the 2.5 million Hungarians of Transylvania do not cease or abate.

I congratulate the American-Hungarian Federation, its president, the Right Reverend Tibor Domotor; its executive committee chairman, Mr. Imre Beke, and its secretary of international relation, Dr. Z. Michael Szaz, for their strong and persistent efforts to help their brethren in Communist Romania. They have written to President Reagan and to Ambassador Max Kampelmann, the chairman of the U.S. delegation to the Madrid Conference on the Lesinki Accords, to protest the Romanian treatment of its Hungarian minority.

At this point, Mr. Speaker, I would submit for the RECORD the following article from the Vienna Arbeiter-Zeitung:

[Vienna Arbeiter-Zeitung in German Nov. 26, 1982]

ROMANIZATION OF HUNGARIANS IN TRANSYLVANIA SEEN

(Article by G.H.O.: "A Wave of Arrests Within the Hungarian Minority")

Vienna (AZ).—At the beginning of November the Romanian authorities detained several Hungarian intellectuals in Transylva-

nia. Among them was the well-known poet Geza Szocs. This was reported by Hungarian democratic opposition circles in Budapest. For over 2 weeks the fate of Szocs has been unknown. Several detailed people were allegedly maltreated.

This is the latest chapter so far in a conflict of nationalities that has been smoldering for a long time. A mionority of 2 million people lives in Romania, a minority which is increasingly defending itself against the stepped-up Romanization policy of the Ceausescu regime. The present wave of detentions is aimed at those Hungarian intellectuals who are charged with being connected with the underground paper Ellenpontok (Counterpoint) which has been published in Hungarian since the beginning of the year in Klausenburg. Its aim is to defend the minority rights of Hungarians in Romania.

In the last issue—the eight published so far—Ellenpontok published a memorandum to the Helsinki follow-up meeting in Madrid: "The Romanization of Transylvania and suppression of our culture is being pursued as never before. Romanians are being settled in primarily or exclusively Hungarian areas. The Hungarian schools are systematically reduced, the publication of our books and journals is curbed more and more. Our language is excluded from public life."

The subject of the suppression of the Hungarian minority in Romania is the top subject in Hungary today, not in the Government in Budapest or in the official media, which traditionally act carefully, but

in opoposition circles.

In an article which has now come to the West and which is directed above all to European social democracy, the Hungarian philosopher Gaspar Miklos Tamas (34), who comes from Transylvania, warns against a general underestimation of the national contradictions in Eastern Europe. The philosopher, who calls himself a liberal socialist, thinks that the national disputes in Eastern Europe "are not a bit less violent than those of their predecessors in the 1920's-for the present they are only covered and unofficial." Tamas sees these national contradictions as a threat for peace in Europe. He demands that: both the Hungar-Government and Western Europe should pay more attention to the problem of the Hungarian minority in Romania. In the article Tamas refers to a historical parallel: The nationalist Princip did not kill Archduke Franz Ferdinand with the most modern Krupp Cannon, but with a shabby gun. In the unfriendly and silent concrete high-rises of the East European settlements many such Princips are waiting . . . "..

• Mr. DWYER. Mr. Speaker, recent events in Romania have caused justified alarm among the Hungarian minority there as they remain steadfast in their efforts to assert their fundamental rights but face relentless, unjust persecution as a result.

The recent arrest of several Hungarian intellectuals by the Romanian Government symbolizes the gravity of the situation, as Romanian authorities continue to deprive them of their human and self-determination rights.

The 1947 Peace Treaty compelled Romania to guarantee the human rights of the citizens of northern Transylvania, but that promise has been repeatedly broken.

For more than two decades, Romanian pressures against the Hungarians of Transylvania have been unrelenting, including the complete suppression of Hungarian social, youth, and educational activities, destruction of the Hungarian language schools and suppression of the internal independence of Hungarian churches.

The Hungarians in Romania, quite rightly, have requested by memorandum, that the cultural autonomy promised them by law be granted to them.

The fate of these brave compatriots, their ethnic survival, and their civil and human rights must be of deepest concern. The U.S. Government should support a policy aimed at stopping this "Romanization" which threatens the existence of 2 million Hungarians. To do so would be in harmony with our own ideals of liberty, self-determination, and human rights.

A TRIBUTE TO HON. JIM JEF-FRIES ON HIS DEPARTURE FROM THE HOUSE OF REPRE-SENTATIVES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. Winn) is recognized for 60 minutes.

Mr. WINN. Mr. Speaker, when Jim Jeffries retires from the House of Representatives, we will be losing one of the most principled and dedicated Members of Congress. Jim is one of those rare persons who says what he means and means what he says and I have always admired him for that. His commitment to sound conservative values and policies is very difficult to match on Capitol Hill.

JIM always stood firm to popular political pressure and voted the way his conscience and constituency in Kansas dictated. Special interests are not big on JIM's list of priorities but the "little man" in the Second District of Kansas is. He was constantly fighting for the people's best interests both on the floor of the House and in committee where he served with distinction.

JIM's work on the Public Works and Transportation and the Veterans' Affairs Committees is well regarded. I know he had a special interest in the well-being of our country's war veterans and his service on the committee is an example of JIM JEFFRIES putting words into action. Generally speaking, JIM takes a fierce pride in the United States of America and does not believe in being embarrassed to praise this great country of ours or the men and women who fought for it.

When President Reagan was elected in 1980, Jim was like many of the rest of us who believed this country needed a change in direction. Jim's voting record is very indicative of his loyal support of the President—even when

it was not popular to vote with Mr. Reagan. JIM JEFFRIES has gone the extra mile many times for the President and even voted against the President when he believed, as I did, the President was abandoning a fundamental piece of his philosophy in the \$98.6 billion tax hike passed earlier this year.

I think one word strongly represents Jim Jeffries' tenure in Congress. That word is "integrity"—something all too often missing from all aspects of society. Jim believes in it and he acts it. He believes integrity is an element of a Congressman's personality that his constituents will always respect despite any issue disagreements. Jim's integrity always reaffirmed my faith in the institution of Congress and this country as a whole and I believe his strong character positively affected me as well as many other of our colleagues in the House.

I hope JIM remains active in the political process. He is a strong asset to it.

I would like to conclude my remarks about my Kansas colleague by pointing out what a strong family man Jim is. He and his lovely wife Barbara are a fine example to our younger generation of a sound and loving marriage. I know Jim has always believed he would not be where he is today without the support and advice of Barbara and their three children. Jim believes families are important and I hope he is able to spend more time with his family now that he is away from public life.

JIM JEFFRIES has enriched all of our lives here in the House and I wish him nothing but the best in the future.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. WINN. I am pleased to yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Speaker, I would like to commend the gentleman (Mr. Winn) for saying these words about our colleague, the gentleman from Kansas (Mr. Jeffries), who is retiring.

I have had occasion to know him and to be his friend. I have had occasions to have the opportunity to share his warmth and his friendship, and I also know of that sense of duty and that sense of patriotism to which the gentleman referred so ably.

I well recall the deep interest the gentleman from Kansas (Mr. Jeffres) took in the military affairs of our country. On one occasion we were on an aircraft carrier together, and he had an opportunity to see firsthand how the young men of our country serve and defend this land.

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The deep interest and affection which he showed those young men for their sense of duty and encourage-

ment that he brought to them at that time is something we will remember.

I again compliment the gentleman from Kansas for saying these fine words about a fine American.

Mr. WINN. I thank the gentleman from Missouri for those fine words.

Just a few minutes ago before I took the well the gentleman from Kansas' Second District said he had had the privilege and pleasure of touring several of the naval bases with the gentleman from Missouri.

. Mr. ROBERTS of Kansas, Mr. Speaker we have long recognized and honored many types of courage: physical courage under fire, the moral courage of a dilemma, and political courage in an age of expediency. Today, we pay tribute to a retiring colleague whose career in this Congress also is marked with courage. JIM JEFFRIES of Kansas has maintained the courage of his convictions in representing the people of the Second District. In seeking the office 4 years ago, Mr. JEFFRIES clearly outlined to folks in the Second District his beliefs and his philosophy and promised to stick by his ideals on their behalf. He carried out that promise, often under duress and sometimes in spite of the popular media's perception of what his constituents "really wanted." Because he had given his word, he was little swayed either by media criticism or by partisan debate.

As we all know, Mr. Speaker, maintaining such a clear course is often difficult and lonely in an age of instant analysis and sharply shifting moods of public opinion that is sparked by such analysis.

It has been a privilege for me to serve in this Congress with my colleague from Kansas. His voting record clearly reflects a determination to stand solidly on his convictions, which were arrived at honestly and in the spirit of serving his district. In doing so, he accomplished a great deal for his district and set the stage for further accomplishments in the longer term.

From time to time we all need to be reminded that our Founding Fathers envisioned a Congress composed of Representatives responsive to the people and with the courage to honestly and steadfastly serve them. JIM JEFFRIES has done that job well. I join in wishing him well and saying that his presence will be missed as one of our colleagues here in Congress.

• Mr. WHITTAKER. Mr. Speaker, I

 Mr. WHITTAKER. Mr. Speaker, I thank my distinguished colleague and fellow Representative from Kansas, Mr. Winn, for reserving this time to honor our colleague and friend—Jim JEFFRIES.

JIM and I came to Congress together in 1978. JIM was the new Representative from the Second District of Kansas and I was the new Representative from the Fifth District. At that

time, I must admit that I had only met and visited with Jim on a few occasions—but over the last 4 years, I have come to know Jim very well and am honored to call him my friend.

During his time in Congress, JIM has kept faith with his principles. Never did he waiver from his principles, or take the easy road out by dodging an issue.

JIM also provided and established an outstanding record of service to his constituents. I am not aware of any request too great, or any too small, where JIM would not personally intervene to help resolve the problem for the folks back home.

I know that not only I, but the people of Kansas and the Nation, will miss JIM JEFFRIES' honesty, fairness, and energetic work in the future. I know all join in wishing JIM and his wife, Barb, the very best in the future.

• Mr. ROE. Mr. Speaker, I take great pleasure today in rising to join my colleagues in a well-deserved salute to my good friend JIM JEFFRIES, the highly able Representative of the Second Congressional District of Kansas.

JIM has served the people of his district, the State of Kansas, and the Nation with distinction and dedication. The name JIM JEFFRIES has become synonymous with honesty and great integrity.

I have had the pleasure of serving with Jim on the Public Works Committee. As a member of the Water Resources Subcommittee which I chair, Jim has shown himself to be totally dedicated to the Nation's water development needs.

We will certainly miss his expertise and guidance as we tackle the Nation's water resource problems in the years ahead.

• Mr. YATRON. Mr. Speaker, I would like to take this opportunity to honor a good friend and outstanding colleague. JIM JEFFRIES.

Since he came to the House in the 96th Congress, JIM JEFFRIES has been one of the most hard-working, diligent, and capable Members of this body. His reputation for looking out for the interests of the taxpayer and for actively working to reduce the waste, fraud, abuse, and mismanagement in our Government is widely known and admired by his colleagues. The taxpayers of this country will be losing a tremendous spokesman in JIM JEFFRIES when he leaves the House at the end of this session.

Mr. JEFFRIES has also distinguished himself as an active and effective legislator during his 4 years of service. His work on the Veterans' Affairs Committee and the Public Works and Transportation Committee is highly respected by those who serve with him on these committees. His concern for the military strength of our Nation is evi-

denced by his activity on the House Task Force on Defense. He has also been outspoken on the benefits to our country, in terms of jobs and technological advancement, of a sound space program. As a member of the Congressional Space Caucus, he has worked for the development of a policy to keep America first in space.

JIM JEFFRIES will be truly missed by those of us who know him and have served with him in the House. His excellent service to his constituents, and his total dedication to the welfare of our country will long be remembered. I want to wish my good colleague the very best in all his future endeavors. Mr. MONTGOMERY. Mr. Speaker, it is with mixed en.otions that I join this special order on the gentleman from Kansas, JIM JEFFRIES. After serving two terms in this Chamber, he had decided to return to his home State. I am happy to join in this tribute, but the fact that he is leaving the House of Representatives is a sad one.

I have come to know Jim through our service on the Veterans' Affairs Committee. He has been a most valuable member of the Education, Training, and Employment Subcommittee, as well as the Oversight and Investigations Committee. JIM was always well informed on committee matters and he has been a true friend of this Nation's veterans. I know he also has served very diligently on the Public Works and Transportation Committee.

After serving his country as a command gunner in World War II in the Army Air Corps, Jim returned to Kansas, where he gained experience in a wide range of enterprises, including grain and livestock farming, market research, and as an investment counselor. It was this dedication to business that promoted Jim to run for Congress to try and help reduce the tax and paperwork burden placed on small businesses across this Nation.

Throughout his two terms, Jim has been a great friend of small business and it is evidenced by the honors he has received. He has won the Guardian of Small Business Award from NFIB as well as the Watchdog of the Treasury Award from NAB.

Jim has served his Kansas constituents and the people of this country with distinction in this Chamber. He can be proud of his accomplishments here and I can say that we will, indeed, miss a man of his high integri-

ty and experience when the 98th Con-

gress convenes in January.

Mr. SAM B. HALL, JR. Mr. Speaker, after a very short time here in the House our good friend and colleague, JIM JEFFRIES, decided to retire. I wish that he would have made a decision to stay longer, because he had made a significant and lasting contribution to the work of the Congress.

JIM JEFFRIES originally ran for the House on a campaign pledge to fight excessive, unnecessary Government spending, and he remained true to that commitment. He has a reputation for consistency and integrity and is known for sticking to his guns. The people of his native State of Kansas have a reputation for independent thinking, and JIM JEFFRIES fits this coveted role.

It has certainly been an honor for me to be with Jim on the Veterans' Affairs Committee. He is a veteran and he understands the needs of our veterans. We have had mutual service on the Oversight and Investigations Subcommittee, and there is no question that JIM JEFFRIES fights for a better system of delivering essential services to the veteran population by the Veterans' Administration.

As a member of the Government Operations Committee, JIM has battled for regulatory reform and reducing the size of Government. He has been in the forefront of the struggle to maintain local control over education. and his very persuasive arguments against creation of the U.S. Department of Education were among the best I heard during consideration of legislation establishing the agency.

JIM JEFFRIES is an able, effective, and well-liked Member of this body. I have thoroughly enjoyed our all-toobrief period together, and I know that the future will continue to find him involved in the process of helping people. I wish him continued success. Mr. CARMAN. Mr. Speaker, I rise today upon the occasion of the retirment of JIM JEFFRIES from Congress. JIM has worked hard for the people of Kansas and the Nation. He understands especially well the problems of farmers, and he has been a strong voice for those who are responsible for feeding all of us. I have enjoyed working with JIM and seeing his devotion to his constituents. I wish him all the best in his future endeavors.

Mr. McDONALD. Mr. Speaker, the House of Representatives is saying "goodbye" to many fine men this month, but among the finest men I know and one of those I will miss the most is JIM JEFFRIES of Kansas. He has been more than just a colleague who shares my philosophy of government. He has been a real friend on whom I could count. Several times, he has very selflessly come to my aid, and I appreciate it more than words can express. He and I have worked on so many projects together that I will possibly list his name automatically as a cosponsor or cosigner next year until I stop to think that he has gone.

He will be sorely missed by those of us who feel a strict interpretation of the Constitution should be our guide. He will be even more sorely missed as we continue to try and rebuild our Nation's defenses in the face of the enormous Soviet buildup. So, Jim, all I can say is please reconsider and run again for Congress. I would like to have you back, but all my best in anything you undertake.

• Mr. SHUMWAY. Mr. Speaker, I would like to express my appreciation to LARRY WINN, PAT ROBERTS, and BOB WHITTAKER for requesting this special order to enable us to pay tribute to our friend and colleague, JIM JEFFRIES, as he prepares to return to private life.

JIM and I entered our congressional service together, and thus I will always have special memories of him. Being fellow freshmen, we learned the ground rules together, and that experience inevitably results in a unique friendship. Additionally, I have been privileged to know Jim through service on the Republican Study Committee and to admire his contributions as a member of the panel's executive committee

He has always performed in an exemplary manner on behalf of the people of his district and the Nation, whether in committee or on the floor of the House. His background provides him with a sound understanding of business and free enterprise, and his actions in this House have reflected his dedication to free-enterprise principles. For that, I admire and respect him greatly.

JIM will certainly be missed by all of us who have been privileged to know and work with him. I know that he will continue to apply his abilities and concerns in the private sector, and I am confident that his career will be marked by achievement wherever he

To Jim and to his family, I extend every best wish for a happy and prosperous future.

Mr. CAMPBELL. Mr. Speaker, I am honored today to take part in this special order for my friend and colleague, JIM JEFFRIES.

Since JIM JEFFRIES' election to the House in 1978, he has been an outspoken and stalwart member of the conservative movement in this body. He has been honored for his dedication to fiscally responsible ideals by being named the National Association of Businessmen's "Watchdog of the Treasury" and given the Distinguished Service Award by the Americans for Constitutional Action.

His appointment to the Reagan congressional advisory committees was further evidence of his ability to work hard for those concerned with the conservative movement. Furthermore, JIM JEFFRIES' dedication to a strong national defense has been exemplary.

The business community is losing a fearless defender with JIM JEFFRIES' retirement, and the Second District of Kansas is losing a capable and hardworking Representative. As his colleagues, we will miss him, and I wish JIM JEFFRIES and his family the best in their future endeavors.

#### GENERAL LEAVE

Mr. WINN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

#### PLOT TO SHIFT FORGERY LOSSES TO CONSUMERS RE-VEALED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is

recognized for 5 minutes.

• Mr. ANNUNZIO. Mr. Speaker, for over 200 years, it has been a rule of law that the person to whom a check is payable bears no loss if the endorsement is forged. The loss falls on the person or institution who dealt with the forger. Now, however, a committee dominated by banking lawyers is out to change this rule so that a consumer victim of check forgery would bear the first \$50 of loss from his own pocket.

Under draft No. 8 of the new uniform payments code, a consumer would be liable for the first \$50 arising from loss or theft of a check payable to him that was cashed by a forger. The new uniform payments code would hold consumers responsible if they obtain control over the check and it was subsequently lost or stolen from

the consumer.

This is a radical change from the uniform commercial code in effect in all 50 States, which holds that anyone whose check is stolen and whose endorsement is forged has no liability for the loss. Under present law, the entire loss falls upon the person or institution who cashes the check for the forger.

Under the new uniform payments code, an elderly women who is mugged after taking her social security check from her mailbox would be out the first \$50 if the thief forged her signa-

ture and cashed the check.

Many of our senior citizens can barely scrape by from month to month on their meager social security payments, yet insensitive lawyers seek to take millions from people where a couple of dollars may mean the difference between eating or going hungry.

Social security check forgery is no small matter. In 1981, the Social Security Administration referred 35,405 social security and 10,953 supplemental security income check forgery cases to the Secret Service. If each of the consumers in these 46,358 cases were held to the \$50 liability, these recipients would be out over \$2.3 million.

Social security checks are just the tip of the iceberg, however. According to Federal Bureau of Investigation estimates, about 30 million checks are forged in this country every year. An estimated loss of these forgeries to financial institutions and merchants is \$4 billion. At \$50 per check, it is possible that up to \$3.5 billion of the \$4 billion loss could be shifted to consumers

This is truly a radical proposition. Not only is it a departure from long-standing and settled principles of law, but it undercuts sound banking practices. Bankers preach "know your endorser" to their tellers. Every check issued by the United States bears a warning to the person cashing the check to "require full identification and endorsement in your presence."

Current law encourages good banking practices by placing the risk of loss on those persons in the best position to stop forgery losses. No forgery can succeed unless the forger finds someone willing to give cash or merchandise for the forgery. The financial institution or merchant stands face to face with the forger and has the power to thwart the crime by saying no. If someone gives something of value to the forger, then it is only fair that they bear the consequences of their action.

The new uniform payments code is being drafted by the 3-4-8 Committee of the Permanent Editorial Board for the Uniform Commercial Code. The board works closely with the National Conference for Commissioners on Uniform State Laws, which works to have uniform laws adopted by the States.

The board and national conference have been most successful in pressing for the adoption of the uniform commercial code. The uniform commercial code has been adopted in all 50 States and governs all aspects of commercial transactions. The new uniform payments code would replace those sections of the uniform commercial code that govern the payment and handling of checks and drafts and the allocation of loss for forgeries and unauthorized payments.

The 3-4-8 committee, named for those sections of the uniform commercial code which govern checks and negotiable instruments, is dominated by lawyers with close ties to the banking industry. Of the 11 members of the committee, 7 are members of firms who represent banks. An eighth member is employed by a chain of de-

partment stores.

The law firm of the chairman of the 3-4-8 committee is the registered lob-byist for the Consumer Bankers Association. The law firms of three of the committee members represent either Citibank or its holding company, Citicorp. One member of the committee sits as a director on the board of European-American Bank, and two of his partners are directors of the Bank of New York and Marine Midland Bank. Other banks who are clients of the committee members' firms are First

National Bank of Boston, Fidelity Bank, Philadelphia National Bank, Crocker National Bank, Manufacturers Hanover Trust Co., First National Bank of Atlanta, First National Bank of Chicago, Marine National Exchange Bank, Security Marine Bank, Capital Bank, and New England Merchants Bank.

There is no way that a committee dominated by banking lawyers can objectively rewrite our Nation's banking laws. The 3-4-8 committee simply does not adequately represent the interests of the elderly and the average citizen.

It should come as no surprise that the 3-4-8 committee discussion draft of the new uniform payments code states on its cover that "public disclosure is prohibited" and that the draft "should not be generally circulated \* \* \* or its substance disclosed." Given the proposal it contains, this desire for secrecy is as understandable as its proposal is outrageous.

It may well be that the laws governing our Nation's banking system need some refinement. In the past decade, many changes have come about. Retail charge volume on bank cards has increased over sixfold in the past 10 years. Debit cards and automated teller machines have experienced explosive growth over the past 2 years, with the number of cards increasing by over 500 percent. Networks of shared terminals permit a customer of one bank to obtain money from an automated teller machine hundreds of miles from home. Check truncation, in which checks written by a bank customer are not returned, is growing at a geometric rate. Electronic deposits and telephone transfer of funds continue

All these factors are changing the nature of our Nation's banking system. Next year, the Consumer Affairs Subcommittee will extensively study these changes. However, there is one thing that I can assure you will not happen, and that is a shifting of forgery losses onto the backs of the innocent victims of crime.

### CORPORATE POWER IN THE MARKETPLACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 10 minutes.

• Mr. REUSS. Mr. Speaker, 2 weeks ago the Hoover Institute at Stanford held a 2-day conference honoring the 50th anniversary of the publication of "The Modern Corporation and Private Property" by Adolf A. Berle, Jr., and Gardiner C. Means.

Dr. Means has been kind enough to provide me with a condensed version of the paper which he gave at that conference. It is entitled "Corporate Power in the Marketplace" and it is with a deep respect for this great figure in American economics that I commend the summary to my colleagues.

### CORPORATE POWER IN THE MARKETPLACE (By Gardiner C. Means)

(Prepared for the conference on The Modern Corporation and Private Property, Hoover Institution, Stanford, California, November 19-20, 1982, on the occasion of the 50th anniversary of the publication of Adolf A. Berle, Jr., and Gardiner C. Means's book, "The Modern Corporation and Private Property")

I have been asked to give you my present perception of the issues raised in our book on "The Modern Corporation" and, as an economist, I will focus on the second theme of this conference, the power of corporations. At the same time I will keep in mind the extent to which the separation of ownership and control increases that power. Also in speaking of corporate power in the marketplace. I want to make it clear that I am not concerned with monopoly power. Our book does not even list monopoly in the index. Rather I am concerned with the market power which arises naturally when there is active competition among a few large independent corporations and is re flected in the pricing discretion in the hands of individual competing enterprises. Also, the central aim of our book was not to give answers to the basic issues we raised but to prevent a realistic framework to replace the framework of the conventional picture of economic life so skillfully painted by Adam Smith in 1776, and which still provided the basic framework for the conventional wisdom fifty years ago.

I can summarize the paper on my present perception of our discussion of market power by first pointing out the basic change in the structure of the free market system which our book discusses. At the time we wrote, the prevailing economic wisdom centered on markets in which there were a large number of independent small competitors with no one producer having significant market power. But the gradual shift to corporate production so changed the market structure that a significant number of competitive markets represented competition among a few enterprises with individual firms having a measure of pricing discretion.

This gradual shift from market to administrative pricing had two profound effects. First, it gradually increased the productivity of both labor and capital so that the average level of living rose greatly over the years. Second, it undermined the ability of the free market system to maintain economic stability because competition among a few active competitors does not provide the

necessary price flexibility.

By the time our book was published, the conventional wisdom had registered the great increase in potential productivity due to the corporation but it still clung to the view that the free market system would operate automatically to eliminate excessive unemployment of labor and capital. Yet at that time a significant part of the country's industrial plant was idle and a quarter of its labor force was unemployed. Clearly a new framework was needed within which to work out the economic issues and policies for that day.

for that day.

As I now read what we said at that time, I continue to believe that the most important economic conclusion we reached is in the chapter on "Concentration of Economic

Power" where we said in our fifth and final conclusion on "economic power":

"Competition has changed in character and the principles applicable to present conditions are radically different from those which apply when the dominant competing units are smaller and more numerous." (p.45)

And I fully agree with our final conclusion that the Modern Corporation has wrought such a change in the free market system that:

"New concepts must be forged and a new picture of economic relationships created." (p. 351)

In our book we provided the new framework when we showed that by 1930 roughly three quarters of the business wealth of this country was held by corporations; that practically half of this corporate wealth was controlled by the two hundred largest; that a substantial part of this wealth involved a separation between ownership and control; and that the free market system had shifted from one dominated by markets in which competition was among the many to a system compounded of such markets and markets in which competition was among the few, with significant market power in the hands of management.

#### PART II

When I turn from my present perception of what we said with respect to market power and consider the new concepts which grew directly out of this new framework, I have no hesitation in saying that far and away the most important new economic concepts were the concept of an "Administered Price" and the concept of "Administrative Competition." The first can be defined as a price set for a period of time and a series of transactions. The second is what I will call the non-classical form of competition in which there are so few independent competitors that individual competitors have a significant degree of pricing discretion and price setting becomes an active function of business administration.

What makes these two new concepts which grew out of our book important is that they alone are sufficient to explain not only why, in the 1930's, the automatic corrective of Classical Competition could not work, but also pointed to an alternative mechanism which could maintain high employment in a way consistent with the free market system of that time.

This problem and a solution were clearly brought out in a 1934 paper on "Price Inflexibility and the Requirements of a Stabilizing Monetary Policy," which I gave before a joint session of the American Statistical Association and the Econometric Society. There I first publicly introduced the concept of an administered price and gave extensive statistical evidence that there were two quite different types of competitive market, one in which prices changed frequently and were highly flexible and one in which prices changed infrequently and tended to be inflexible. This can also be seen in Chart I.

[Charts not printed in RECORD.]

As I look back on this 1934 analysis, I would now modify it in only two important respects. First, I would add Keynes's deficit spending to my monetary expansion as a possible but not a necessary way for government to expand aggregate demand when there is excessive unemployment. Second, I would point out the new kind of inflation which we have been experiencing over most of the period since 1955 and say that the

1934 analysis does not cover this new phenomenon.

In my paper for this conference I elaborate on the confusion of policy and the long period for recovery but in this summary I will only say that the period was one of great confusion in economic policy and the final process of recovery shown in my Chart II tended to confirm the 1934 analysis.

When I turn to the role of Corporate Power in the Marketplace during recent years, I find that the creeping increase in the role of Administrative Competition has passed a critical point in changing the structure of the free market system and suddenly brought us a new type of inflation with prices rising sharply in recession.

The conventional wisdom holds that any sustained inflation "always and everywhere comes from too much money chasing too few goods." Yet, if this were true it would mean that simultaneous inflation and reces-

sion would be impossible.

Yet in each of the four substantial recessions in the last dozen years, prices rose substantially while demand fell substantially. Most of the inflation in these four recessions represented not "too much money chasing too few goods" but "too little money chasing goods on well stocked shelves." Obviously, in these recessions, more prices by weight, were rising than falling. I have called this new type of inflation "Administrative Inflation" because it arises from the behavior of administered prices. Chart III shows that in the administrative inflation of the 1950's prices which rose were, in the main, prices in the concentrated industries.

Once the reality of simultaneous Inflation and Recession is recognized three major questions pose themselves: What makes it possible? Why did it come suddenly? And how can it be overcome within the frame-

work of the free market system?

Here I will consider only four sources of inflation in recession. I will call them cases of "Perverse Pricing" in which a fall in demand leads a management to raise a price. They include: (1) Full-cost pricing; (2) a reduced risk of entry; (3) arbitrary wage increases; and (4) the expectation of inflation.

Full Cost Pricing takes various forms, most of which can produce Perverse Pricing. Each involves a fixed cost and a given profit target and when these have to be spread over a smaller production volume, the cost per unit goes up.

A second source of perverse pricing arises where competition is among a few and the risk of encouraging new entries to the industry is reduced by a fall in demand. The greater the idle capacity the less danger that a high profit target will attract new entrepts.

The third possible source of perverse pricing can result from the arbitrary raising of wage rates. It is well recognized that increases in real productivity justify and increase in real wage rates. But there tends to be confusion over what is a legitimate wage increase in other circumstances such as a rise in living costs. For example, in a period of recovery the reflationary increases in flexible market prices as they rise into balance with administered prices in a recovery period would be a legitimate ground for a wage increase.

The fourth source of perverse pricing is a widespread expectation of inflation. It bears little relation to the classical "flight from money". In classical markets, the double transaction of a speculator expecting infla-

tion tends to cancel out. But where a firm has pricing discretion the expectation of inflation tends to be self-fulfilling.

There may well be other sources of perverse pricing, but the above are sufficient

for present purposes.

Once one recognizes the fact that structural change has been gradually increasing the relative role of Administrative Markets, it is easy to see why the appearance of Administrative Inflation has been relatively sudden. So long as the balance between the two types of competitive market favored classical competition, it meant that, in recession, more prices would go down than would go up so that the price level as a whole would go down and the constructive program of monetary and fiscal measures already described could operate effectively. But once a critical point has been passed in this gradual structural change, the role of perverse pricing will have so greatly increased that more prices will go up than will go down in recession and we would have the new type of inflation with the level of prices rising in recession.

This critical turning point is a new conception and I will christen it the "Great Divide". It seems to have occurred without fanfare somewhere in the 1950s and it is well behind us at the present time. The passing of this Great Divide presents us with the basic problem of eliminating the new type of inflation in a way consistent with the free market system and the opti-

mum use of resources.

Once the Great Divide has been passed, we are in unknown territory which has been little explored and are faced with two major dilemmas. First the monetary and fiscal measures which can be used to control aggregate demand when the economy is on the favorable side of the Great Divide cannot control the new kind of inflation and second the expectation of inflation tends to become self-fulfilling once the economy has passed the Divide.

The failure of monetary and fiscal measures is beginning to be recognized even by laymen. For example, a tight money policy which limits demand in the hope of controlling inflation can be expected not only to increase idle machines and workers but also raise prices. And an expansion in the money stock to stimulate demand will also stimulate both inflation and the self-fulfilling ex-

pectation of inflation.

As I see it, the basic source of this double dilemma is not the perverse pricing as such but only that structural change has carried the number of prices set perversely beyond the critical point. The big problem is to bring our economy back to the favorable side of the Divide.

In theory there are various ways by which this could be done. Mathematically, if enough big companies were pulverized the amount of perverse pricing could be reduced to the necessary extent but this would mean a great decline in efficiency. If enough prices were regulated by government, perverse pricing could be limited to the necessary extent but it would reduce the efficiency of the free market system.

A third possibility is to get a sufficient number of big corporations to change their methods of pricing in a constructive fashion. I think the third of these is the most

promising to explore.

At first glance it might be thought that such a shift in the use of market power would be difficult to bring about without regulation. But there are conditions now existing which would facilitate such a shift,

once the need for the shift is recognized. These conditions are discussed in my full paper under the following heads:

1. The Relative Newness of Administrative Inflation

2. Corporate Experience with Long-Run Target Pricing

3. The Self-Interest of Big Business
4. Corporate Power and Corporate Responsibility

5. The Existence of Flexible Foreign Exchange Rates

In the presence of these favorable conditions it seems not impossible to find ways to return to the favorable side of the Great Divide.

I am encouraged to think that the necessary change in business practices could be brought about when I recall the success of the Committee for Economic Development, a group of progressive business leaders, known as the CED, in altering the outlook of business at the close of World War II.

As the War drew toward a close, there was widespread expectation of a big recession similar to that which had followed other wars. Faced with this danger, the CED set out to alter the business attitudes which pointed to a recession. To bring about such a shift, it persuaded the Department of Commerce to make estimates, industry by industry, of the real production which would result if demand were that which would give full employment. These estimates were then published as "Markets After the War" and very widely distributed. Then CED representatives visited key industrialists to persuade them to be prepared for a much larger demand than they had envisaged. Largely as a result of the shift in business attitudes which this brought about business was ready to expand its peace-time capacity when peace arrived. The nation avoided a recession.

In the present situation, the needed shift in business attitudes is more complex but could be facilitated by the preparation of current estimates of "Markets at Full Employment" and a similar drive on the part of progressive business leaders to stimulate pricing practices that will contribute to the new type of inflation.

The estimates of "Markets at Full Employment" would be stated in real terms and to be most effective would need to be supplemented by a set of price and wage Guidelines which distinguish between price and wage setting that would generate perverse pricing and that which would not.

This summarizes my present perception of the central economic problems raised in our book. I must reiterate the conclusions of our

book

"Competition has changed in character and the principles applicable to present conditions are radically different from those which apply when the dominant competing units are smaller and more numerous": and

"New concepts must be forged and a new picture of economic relationships created."

These words ring as urgently today as they did fifty years ago.

#### JAPANESE, EUROPEAN PACT EXISTS IN TRADE WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Gaydos) is recognized for 30 minutes.

Mr. GAYDOS. Mr. Speaker, tomorrow, December 16, 1982, there will be placed in the records of the United

States full documentation that there exists a pact of economic aggression against the United States by our European and Japanese trading partners and allies.

It will not be placed there by the Government of the United States, which has a duty to be alert to such things.

It will be placed there by a group of American steelmakers, who had to ferret it out themselves, whose workers are being bled to death by this pact of aggression and the continuing trade war that is behind it.

This documentation will be filed with the Special Trade Representative of the United States as part of petition for relief from Japanese steel that has been traded in violation of our existing treaties with them and in willful disregard for the General Agreement on Tariffs and Trade.

Obtained from foreign sources, this documentation is to include evidence of talks and agreements dividing up the world steel market and limiting competition.

It will include a showing of government-to-government dealings, I am told, which makes it more than companies cartelizing.

The division of the world into what is called spheres of influence—a term of geopolitics and war—was along the following lines:

First, west of the Suez Canal, the Japanese honored prices set by the Europeans and they limited exports to that area; east of Suez, the Japanese held sway, setting prices and quotas the Europeans honored.

Second, there will be an allegation of formal restraints on price and quantity in the steel trade between Europe and Japan.

Mr. Speaker, they carved up the world like a big turkey, and the choicest piece of turkey meat, although not specifically named, but the only open market in the world, absorbed their excess production—took the steel that could not be fitted into the spheres.

In short, they made the United States a free fire zone in this secretly reached trade war accord of theirs; and as far as I know never mentioned us by name.

But the market is big and it is open and our governments always have been committed to honoring GATT, which they were not.

As Gen. Douglas MacArthur said, "wars are caused by undefended wealth."

This agreement is not unlike the Tripartite Pact of 1940 that preceded our participation in World War II.

In that accord, the Japanese and the Germans and the Italians promised each to come to the aid of the other in the event of attack by—and I quote from reference works on the subject—

"of attack by a power not already engaged in war."

The United States was not named in that pact either, but we were a primary subject of the agreement.

Striking in this fashion dovetails with the emerging theories of samurai economics as well as with the ideas of a European, Von Clausewitz, on war, that are being carried over into economics these days.

With this agreement, in their regard for GATT and other treaties, they have conscripted into service another European power thinker, Von Bismarck

Of treaties, Von Bismarck said:

All treaties cease to be binding when they come into conflict with the struggle for existence.

They are struggling to keep their mills and factories running and their workers employed.

I understand that the petition will file this documentation in a manner that will keep it confidential; that is, it will be closed from public scrutiny. I am told the confidentiality is necessary to avoid disclosing the source.

That may be so.

But it is the duty of the Government of the United States under our law to determine its validity—to pursue it with vigor and with force.

We have not been forceful in trade matters thus far in our history. We have been weak. In fact, it was U.S. Government pressure that brought the negotiated settlement of the recent subsidy and dumping disputes with the Europeans before the International Trade Commission's formal ruling. This settlement allows continued access to this open market. A formal finding and the imposition of countervailing duties and tariffs probably would have shut them out altogether.

Furthermore, there is an allegation that the yen is officially manipulated to keep it undervalued as a way of promoting Japanese exports.

Despite the weakness of the yen, the House should know that the only big criminal indictments for steel dumping were returned last summer against a Japanese company. The company paid \$11 million in fines and shut off further investigation.

Nevertheless, in responding to this petition the Government of the United States must follow the advice of the European, Von Clausewitz, who said:

Do not dread confrontation so much as to avoid it when attainment of a goal requires it.

The goal, Mr. Speaker, is nothing less than the survival of the industrial base in the long run.

My brief remarks tonight have been merely to put the House on notice of what will happen. I will follow up in detail later. Meanwhile, the disclosure of this pact of economic aggression should stand as harsh notice that there is a trade war.

In my mind it is as inescapable a notice as was the December 7 attack on Pearl Habor.

It is time for the U.S. Government to face up to what Clausewitz calls the most important job of a leader—it is time to recognize what kind of war we are in; and time to be sure we are not taking it for, or wishing it to be, something it cannot be.

In short, Mr. Speaker, secret agreements and cartels and spheres of influence and dumping have nothing to do with free trade—nothing, no matter what some might wish.

But they have everything to do with trade war.

The 175,000 steelworkers who are laid off or are on short weeks will be watching.

The 12 million unemployed will be watching.

All they want is for Congress and the administration to give them a chance to fight back in the trade war—and to win it.

Now, Mr. Speaker, for the RECORD, I offer the remarks of the chairman of the American Iron and Steel Institute, Mr. David Roderick, in explaining the petition today in a press conference.

Mr. Roderick's remarks were as fol-

The American Iron and Steel Institute and eight individual steel companies will file tomorrow with the United States Trade Representative a petition asking the Government to take remedial action against an agreement between Japan and the European Coal and Steel Community which limits the exports of Japanese steel to Europe. In this petition, filed under Section 301 of the Trade Act of 1974, we assert that over the last decade the Japanese Government has entered into a series of agreements with the European Community which have imposed minimum prices or quotas or both on steel exported by Japan to the Community. The most recent of these agreements, so far as we are aware, is a minimum price and quota agreement entered into by Japan and the European Community in 1978. Pursuant to this agreement, the Japanese and European steel industries negotiated a broader market sharing scheme under which each side had its own sphere of influence. The European sphere of influence is west of Suez, and in this sphere the prices are set by the Europeans and honored by the Japanese. The Japanese also limit their exports to this region. The Japanese sphere of influence consists of the coastal markets in the Far East plus India and Pakistan. In this area, the market prices are established by the Japanese and followed by the Europeans. Also, European exports to the Japanese area are subject to quota limitations.

Although the Middle East, Eastern Europe and China are not subject to quota limitations, the Europeans and the Japanese have agreed that market prices in Eastern Europe are set by the Europeans whereas those in China are set by the Japanese. Compliance with this comprehensive market sharing scheme is monitored through an exchange of confidental price

and volume information between the Japanese and the Europeans, and any significant deviation from the agreed prices or volumes is the subject of prompt consultations. Thus, the unvarnished truth is that the quantitative and price restraints imposed on Japanese shipments to the European Community under the 1978 agreement are an intregal part of a broader market sharing scheme and a continuation of quota arrangements between the Japanese and the European Community dating back a decade.

The petition alleges that the 1978 agreement between the Japanese and the European Community is in violation of Japan's most-favored-nation obligations to the United States under the GATT Treaty and under the Japan/US Treaty of Friendship, Commerce and Navigation. It also alleges that the 1978 agreement is discriminatory under both treaties and imposes a burden on United States commerce. Finally, we allege that the dominant position of the Japanese steel industry, which was originally attained through a program of governmental subsidization and protectionism, is being artifically maintained through an undervalued Yen in violation of the GATT Treaty.

We allege that each of these actions that I have mentioned on the part of the Japanese government violates Section 301 of the Trade Act of 1974 and that as a result the United States Government should take certain steps to grant relief to the domestic steel industry. The relief asked for is fourfold: first, reduced steel shipments to the United States from Japan by way of compensation for past harm; second, a phaseout of the agreement between Japan and the European Community; third, enforcement of Japan's most-favored-nation obligation to the United States; and fourth, the imposition of an import levy on Japanese steel to reflect the current undervaluation of the Yen.

You have already been given a summary of the petition, and the full text will be available to you tomorrow, so I will not attempt to give you further details now. I only wish to give you the background for this action.

This Section 301 petition is not a spur-ofthe-moment reaction to a short-term problem with imports, nor is it a reaction to the difficult conditions in which the domestic industry finds itself during this recession. For 20 years, the American steel industry has been attempting to fight a growing volume of predatory steel imports, in violation of our trade laws.

The figures speak for themselves: In the decade of the 1950s, imports took a 2.3 percent share of the domestic market; in the 1960s, 9.3 percent; and in the 1970s, 15.3 percent. In 1981, that market penetration rose to a record high of 19.1 percent, and in the first 10 months of this year, 22.4 percent—indicating another all-time-high record for the full year 1982.

We assert now, as we have for 15 years and more, that this growth has come largely from the sale of dumped and subsidized steel in this market, and as a result of other discriminatory and predatory foreign practices. The United States has been the only major open market for steel in the world. As such, we have been targeted by every other major steel manufacturing country as the dumping-ground for surplus production, often coming from over-built and subsidized steel plants. These plants export to the U.S. market at almost any price, in order to maintain employment—at almost any cost

to their national treasuries, and with little regard for the injury caused to the Ameri-

can steel industry and its employees.

Dumping and subsidization by the EEC countries have been partially alleviated by arrangements reached earlier this year by our government. But many other countries also routinely sell subsidized and dumped steel in this market.

The arrangements reached between Japan and the EC over the past ten years are a somewhat different example of discriminatory foreign conduct, which have had the effect of protecting foreign production and employment and have victimized the American steel industry and its employees.

The cumulative effect of these unfair trading practices has been a major contribution to the unemployment among American steel workers—now approaching 50 percent—and to operation of our steel mills below 50 percent of capability for most of this year, the lowest since the Great Depression. In recent weeks the operating rate has

been down almost to 30 percent.
This new "301" petition asks that the U.S.
Government require the Japanese to reduce
their shipments to the U.S. by almost onethird over a four-year period—while at the
same time obtaining a gradual phase-out of
the discriminatory agreement between
Japan and the EC. It also asks that an
import surcharge be put on Japanese steel
imports to offset the undervaluation of the
Yen.

We will continue to watch closely the marketing practices of all supplying countries, and will take whatever actions may be required to defend ourselves against unfair trade practices.

The unprecedented number of unfair trade cases filed this year has one central theme: Free trade must be a two-way street and it must be fair, fair as specified in international agreements and fair as provided by Congress in U.S. trade laws. Thus far it has been neither free nor fair. Success in these cases would result in a substantial reduction in steel tonnage imported, would represent a modest return to equity in steel trading relationships in the American market, and would produce more job opportunities for U.S. workers.

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#### GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

### TIME OF CHANGE AT THE CO-OP BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. St Germain) is recognized for 10 minutes.

Mr. ST GERMAIN. Mr. Speaker, this week, the news media has carried some information apparently released from an examination of the National Consumer Cooperative Bank.

As long as this information is being made public, it is important that the Bank's release of data be complete enough to reflect accurately the import of such documents as the Farm Credit Administration's examination report.

The report, in my judgment, is a serious matter for the Bank and one which requires decisive, quick, remedial action. I have informed the Bank's Board of Directors that it should make immediate corrections of the deficiencies noted by the FCA. I have received assurances from the Bank that remedial steps are being considered. At this stage promises outnumber definitive actions.

The material released to the press emphasizes the estimates of the ultimate losses from bad loans—2 percent of the title I portfolio and 27 percent of the title II portfolio.

While it had not been my plan to release the FCA report, I think it now becomes important to place these numbers in the context of the overall tone of the report. If the report is to be discussed, it is significant to note that nearly 25 percent of the portfolio is identified as nonperforming at the date of the examination. The number of classified loans was unacceptably high.

It is very true that the Congress did not give the Bank an easy set of assignments, and that it must face some situations that commercial banks are able and willing to ignore. However, it would be an extremely serious mistake if this rationale was used to cover deficiencies.

#### As the FCA report states:

Although the poor quality of the Bank's loan portfolio may have resulted partly from a business and lending philosophy deliberately formed with a greater tolerance for risk than was acceptable to conventional lenders, the causes more easily discerned by the examiners were deficiencies in organization and in the capabilities and performance of credit staff.

It is also true that the Bank was born under difficult circumstances and that it was forced to expend much of its energy to fend off the absurd vendetta of the Reagan administration in 1981. None of us should underestimate the extreme pressures placed on the Bank by its political enemies.

Nonetheless, the Bank must operate in a prudent and efficient manner. Clearly, it must if it is to carry out its mission and be able to raise funds in the marketplace. It must be structured and operated so that its "outreach" capabilities are brought into play and so that full potential of consumer cooperatives is realized.

Happily, the majority of the Bank's original capital is unimpaired. It is in a position to correct its earlier mistakes, to reorganize and to retain the confidence of the broad-based coalition which made the legislative effort a success.

At the moment, the Bank's president, Carol Greenwald, is on a sabbatical and her present contract with the Bank expires on January 31. For the past several months, the Bank has issued a number of limited and ambiguous statements concerning the status and plans for the chief executive officer. I would suggest to the Bank and its Board of Directors that there be an early and definitive public statement about the future plans for the most important position at the Bank. Anything less does a disservice to the institution and the cooperatives which own and support the Bank.

One of the items on this committee's agenda for the next Congress will be a full and open hearing on the National Consumer Cooperative Bank and the various examinations and studies now being carried out by the FCA and the General Accounting Office. We will be looking for the changes and corrections that truly suggest that the Bank understands its responsibility under its charter and that it is fully responsive to its shareholders and the consumer cooperative movement. I am certain that the Bank and its Board will understand that promises will carry much less weight with the committee than actions.

EXPLANATION OF SIGNIFICANT PROVISIONS OF THE HALL-KINDNESS AMENDMENT TO H.R. 746 THE REGULATORY REFORM BILL

(Mr. SAM B. HALL, JR., asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. SAM B. HALL, JR. Mr. Speaker, the basic purposes of H.R. 746 are unchanged by any of the modifications made by these amendments. In short, the purpose of title I is to improve the planning and management of the process through which major rules; that is, regulations, are developed. The purposes of title II are to amend the current Administrative Procedure Act (APA) to improve the quality of all regulatory decisionmaking, to increase public involvement in the regulatory process, and to modify the provisions for judicial review of agency action. Therefore, except as set forth in this discussion and the section-by-section analysis that accompanies it, the report of the committee that was issued on February 25, 1982 (H. Rept. 97-435) continues to apply.

### TITLE I

#### Section 621. Definitions

Section 621 sets forth definitions for purposes of new subchapters II, III, and IV of Chapter 6 of title 5.

New section 621(a)(2) and (3) define the terms "benefit" and "cost," respectively. These terms had been used without definition in the bill as reported by the Committee

tee, and it seems useful to provide defini-

Although the definitions of "benefit" and "cost" are quite broad-encompassing any direct or indirect beneficial (in the case of 'benefit") or adverse (in the case of "cost") effect-it is not intended that agencies will have to identify all benefits and costs no matter how insignificant and attenuated they may be. The benefits and costs that are contemplated are those that are reasonably identifiable and of some significance.

term "economic cost" in section 621(a)(4) is a subset of the term "cost" defined in section 6?1(a)(3)-being limited to those costs that are "reasonably quantifiable in monetary terms." The term "economic costs" is not limited to costs that are financial in nature. It also includes health, safety, and environmental costs which are reasonably quantifiable in monetary terms. In addition, it should be emphasized that some indirect as well as direct costs may be quantifiable in monetary terms, thereby qualifying as "economic costs". For example, an indirect effect of a rule, such as a reduction in innovation or productivity or an increase in consumer prices, might be quantifiable in monetary terms with a reasonable degree of effort and accuracy. If so, such an indirect cost would be an "economic cost" within the meaning of section 621(a)(4)

Section 621(a)(5) sets forth the definition of "rule". The exemption for rules involving internal revenue laws is moved from this list of exemptions to section 621(b)(2)(A), so that such rules can be designated as major either by the agency or by the President. Also, the exemption for rules that repeal, withdraw, or otherwise modify rules promulgated before the effective date of this Act has been deleted because of the imprecision of the language of the exemption and because of a concern that any agency action qualifying as a major rule should be careful-

ly analyzed. Section 621(a)(6)(A), as redesignated, defines a "major rule" as a rule or group of closely related rules that the agency determines". . . imposes economic which are likely to result in an annual impact on the economy of \$100,000,000 or more." The economic costs to which this provision refers are the aggregate costs imposed by the rule that are reasonably quantifiable in monetary terms. A rule also may because it would have signifibe "major" cant adverse effects or cause a substantial increase in costs that are not reasonably quantifiable in monetary terms. But a classi-

fication of "major" on these latter grounds

could be made under section 621(a)(6)(B) rather than section 621(a)(6)(A).

It is important to emphasize that the reasonably quantifiable costs referred to in section 621(a)(6)(A) are to be computed on an aggregate basis, without any offsetting allowances for associated benefits of the rule. Benefits, of course, are important and must be identified and carefully analyzed in any regulatory analysis performed for a major rule. Thus, in deciding whether a rule qualifies as "major" under the \$100 million test in the first place, the focus should be solely upon the gross costs that are reasonably quantifiable in monetary terms, without netting out any resulting benefits of the rule. On the other hand, if a rule, for example, reduces existing levels of environmental protection, that reduction in environmental protection would be a cost; though it may or may not be an "economic cost", depending upon whether it is reasonably quantifiable in monetary terms.

The modification to the definition of 'major rule" deletes the separate category for rules that "will have a substantial impact on health, safety, or the environ-ment" in light of the revision, described above, of the \$100 million test. Under that test, rules which have an adverse impact on health, safety, or the environment which can be reasonably quanitfied in monetary terms and which exceed \$100 million annually are major rules. In addition, either the agency or the President may designate as "major" any rules that have a substantial impact as defined in section 621(a)(6)(B).

Section 621(b)(1) requires the President to publish in the Federal Register a rule which he/she designates to be major. This publication must be accompanied by a succinct explanation of the basis for this designation. The President should make such a designation only when clearly justified since the designation of a rule as major imposes a burden on an agency's financial and personnel resources and may diminish the ability of an agency to carry out its other responsibilities. The bill prohibits the President from delegating his authority to make such a designation.

Section 621(b)(2) exempts certain rules from being major rules under the \$100 milannual impact test of section 621(a)(6)(A). These rules are exempted because the analysis required of a major rule is inappropriate for these particular rules. Such rules could still be designated as "major" by an agency or the President under section 621(a)(6)(B).

Finally, it should be noted that the regulatory process affects a wide variety of matters. The proposed section 621(a)(6) which defines the term "major rule" is therefore of necessity framed in general terms, and its bare words could, it is recognized, be read to provide for hundreds of regulatory analyses. That is not the legislative intent. Rather. the point of section 621(a)(6) is to direct the agencies to allocate their resources to throughly analyze rules of truly major significance. The judgment expressed in section 621(a)(6) is that given the money and time that must be invested to conduct these analyses, it is only worthwhile to undertake them with regard to such rules. It should be noted also that the President is expected to use the authority stated in section 621(a)(6)(B) is a manner that does not place a disproportionate burden on any agency.

Section 622. Additional procedures for major rules

Section 622 directs agencies to complete certain procedures as part of the process of issuing major rules. While these procedures should result in information valuable to the agency in making its regulatory decisions, they do not change the substantive standards applicable to the agency's action under

any other provision of law. Sections 622(b) and (c) require an agency to issue certain material regarding each major rule. The material issued should be succinct but appropriately comprehensive to satisfy the particular requirement. However, there is no intent here to imply that the material issued under subsection (b) be as complete as that issued under subsection (c). The material issued pursuant to subsection (b) is intended to be a preliminary document, that is, a document that indicates the agency's thinking in issuing the notice of proposed rulemaking. Thus, it will probably be less conclusive and less extensive than that issued under subsection (c).

Section 622(b)(2) requires an agency to describe the reasonable alternatives to a pro-

posed rule and the main elements of the rule that may accomplish the stated rule making objectives in a manner consistent with the applicable statutes. In any case where the proposed rule does not have lower economic costs—that is, costs that are reasonably quantifiable in monetary terms-than each of the reasonable alternatives, the agency is to identify the alternative having the lowest such costs. The method that may accomplish the stated objectives of the proposed rule, in a manner consistent with the applicable statutes, at the lowest economic cost should be one of the reasonable alternatives described under section 622(b)(2), unless the proposed rule tself is the method that has the lowest economic costs.

The phrase "may accomplish" rather than "will accomplish" was used in recognition of the fact that when an agency proposes a rule, it is unlikely to know with a high degree of certainty that the proposed rule or any one of the various alternatives will accomplish the stated objectives of the rulemaking. Consequently, in identifying and describing alternatives to the proposed rule, the agency should consider those alternatives that, at least at this preliminary stage, may reasonably be anticipated to accomplish the rulemaking objectives. A more well-informed and considered judgment on this point can be made by the agency when it takes final action in the rulemaking after analyzing the proposed rule and the various alternatives in light of the comments submitted by interested persons.

Section 622(b)(4) requires an agency to issue an analysis of the benefits and costs of the proposed rule and of each of the princialternatives described in section 622(b)(2). In any case where the proposed rule does not have lower economic costs than each of the other alternatives described in section 622(b)(2), one of the principal alternatives analyzed under section 622(b)(4), must be the alternative to the proposed rule that has the lowest economic costs. Section 622(b)(4) also requires the agency to present a comparison of the cost effectiveness of the proposed rule and of each of the principal alternatives that it analyzes.

This provision is a reformulation of the comparable provision appearing in the bill reported by the Committee. The analysis of benefits and costs required by section 622(b)(4) is intended to provide the agency with information that will be of assistance in evaluating various possible approaches to achieving the rulemaking objectives. In order to maximize the usefulness of an agency's assessment of the benefits and costs of a proposed rule and the alternatives to the rule, it is desirable to quantify, as well as describe, the costs and benefits. However, there are both technical and practical limitations on this exercise in quantifi-

For one thing, it may not be technically feasible to quantify certain costs and benefits. In some cases, particular costs of benefits may not lend themselves to quantification in any appropriate unit of measurement. In other cases, it may be feasible to quantify particular costs or benefits in some unit of measurement (relating, for example, to adverse effects that are incurred or avoided), but it may not be feasible to present a reasonable or responsible quantification of such costs or benefits in monetary terms, and section 622(b)(4) does not require the agency to do so.

In some instances, quantification in monetary terms or some other appropriate unit of measurement may be technically feasible; yet, practical considerations may be such that the effort to quantify particular costs or benefits probably should not be undertaken. For example, although technically feasible, quantification of particular costs or benefits may involve such an excessive expenditure of agency time and resources that it would seriously interfere with the discharge of the agency's overall public interest responsibilities as contemplated by Congress.

In other cases, quantifying particular costs or benefits might clearly be a wasted effort even though the expenditure of agency time and resources would not be particularly great in an absolute sense. For example, particular costs and benefits may clearly be insubstantial when compared to the overall costs and benefits of the rule. Quantifying such insubstantial costs or benefits almost certainly would not provide information that would be useful in evaluating the proposed rule and the various alternatives. Therefore, the agency would not be expected to quantify such costs and benefits under section 622(b)(4), even though the expense of doing so would not be particularly high.

In short, section 622(b)(4) contemplates that agencies will attempt to quantify costs and benefits, either in dollars or in the most appropriate unit of measurement other than dollars. But it recognizes that, in some cases, quantification of particular costs or benefits would be technically infeasible, or would unduly disrupt the discharge of agency responsibilities, or would provide information that would be only marginally useful in evaluating the various possible approaches to achieving the rulemaking objectives. Section 622(b)(4) does not require an agency to quantify particular costs and benefits in such cases.

Section 622(b)(6) requires agencies to identify any scientific, economic or other technical report or study upon which it has relied substantially or expects to rely substantially in the rulemaking. With respect to any such report or study that is scientific or economic in nature, the agency also must describe how it has evaluated or intends to evaluate the quality, reliability, accuracy, and relevance of the material.

This provision and the companion provision in section 622(c)(8), which applies to the materials issued in connection with the final rule, have been included in the bill in recognition of the fact that, in many instances, informal rulemaking for major rules has increasingly come to be dominated by complex scientific, economic, and other technical issues. In order to ventilate those issues in a useful manner, agencies ought to identify the scientific, economic, or other technical reports or studies upon which substantial reliance is being placed in the rulemaking, thereby allowing interested members of the public to focus on those studies.

To further facilitate this process and to help make it more likely that complex scientific and economic reports and studies are competently analyzed and evaluated and that the conclusions drawn from such studies and reports represent a valid basis for rulemaking activity, the agency must describe how it has evaluated or intends to evaluate (through peer review or otherwise) the quality, reliability, accuracy and relevance of any such report or study. This description should encompass not only the agency's evaluation of the information con-

tained in the report or study, but also the agency's evaluation of any factual conclusions drawn from the report or study. While this subsection does not require an evaluation of such reports and studies, the judgement expressed in this section is that agency decision-making on questions involving complex scientific and economic issues ordinarily will be improved if such evaluations are made.

Section 622(c)(5) is restated to clarify its original intent: agencies are to analyze the extent to which the benefits of a rule justify its costs. If the benefits do not justify the costs, the agency is to give an explanation of why it adopted the rule. This provision does not set forth a new substantive standard under which the rule must be issued. Rather, it requires an agency to look at the relationship of the costs and the benefits of a major rule, to draw conclusions regarding that relationship, and to explain its rulemaking decision in light of those conclusions.

Section 622(c)(6) is modified in a way similar to section 621(c)(5). This section also in no way imposes a new substantive standard on agency decision-making. It simply requires an agency to explain how the rule attains its objectives, in a manner consistent with applicable statutes, with lower economic costs than the other alternatives analyzed pursuant to section 622(b)(4). If the rule does not do so, the agency is required to articulate its reason for selecting the rule rather than the lower cost alternative. Obviously, there will be many instances where the agency will choose an alternative which does not have the lowest economic costs. For example, the alternative rejected may have low economic costs (that is, costs which are reasonably quantifiable in monetary terms) but may also have very serious adverse effects which are not so quantifiable or greater benefits than the alternative that was rejected.

Section 622(c)(7), as originally contained in H.R. 746, is deleted from the bill. It required a summary of significant issues raised by the public in response to the materials issued under subsection (b) of section 622 and a summary of the agency's response to those issues. This subsection was deleted only because it was deemed unnecessary in light of section 553(c)(1) of title 5 as it is amended by this bill. That subsection requires that the statement of basis and purpose for major rules, as for all other rules, will include a response to significant issues raised in comments. To have required the agency to issue such information under subsection (c)(7) of section 622 as well would

simply have been redundant. Section 622(d), as designated in H.R. 746 as reported, has been deleted. This subsection had required any person who submitted comments on a major rule to include in those comments the information on which they were based. This requirement was adopted by the Committee so the agency and the interested public could more fully evaluate the validity of the claims and conclusions contained in comments. Removal of this section is not intended to reflect a lack of concern about the fact that some participants in rulemaking proceedings submit comments that contain no factual or other support for their conclusions. In fact, it is very important for those who submit comments to provide the information necessary for the agency and the public to evaluate the validity of those comments. However, a statutory requirement that participants do so might have created an inference that unsupported comments, such as anecdotal letters from the public regarding the physical discomfort resulting from air pollution, could not be considered by the agency. Therefore, while the provision did state the intent of the Committee that agencies carefully scrutinize the basis and conclusions of comments, the provision itself was deleted from the bill.

Section 622(d)(3) requires an agency to include in the rulemaking file required by section 553(f) (as established by this bill) a copy of the material issued pursuant to sections 622(b) and (c), and a copy of the transcript of any informal public hearing held pursuant to section 622(e). The provision also requires the agency to include in the file a copy of any scientific, economic or other technical report or study that the agency actually considered in connection with the rulemaking, if information in the report or study pertains directly to the rulemaking and was prepared by officers or employees of the agency or by a person working under contract with the agency.

It should be noted that the scientific, economic, and other technical reports or studies that are required to be placed in the rulemaking file under section 622(d)(3) are different from the scientific, economic, and other technical reports that the agency is required to identify pursuant to sections 622(b)(6) and 622(c)(8). The reports and studies that must be identified pursuant to these latter provisions are limited to those, from whatever source, on which the agency has relied or expects to rely substantially in the rulemaking. Section 622(d)(3), by contrast, requires the agency to include in the rulemaking file not only the studies on which the agency substantially relies, but also any other scientific, economic, or technical reports or studies that agency decisionmakers actually considered (even though not relied on) in the rulemaking, as long as the information in the report or study pertains directly to the rulemaking and was prepared by the agency personnel or under contract with the agency.

Section 612(e) requires an agency which proposes a major rule to provide an opportunity for oral presentation of views at informal public hearings. In those cases where the agency determines that other procedures would be inadequate for the resolution of significant issues of fact upon which the rule is based, the agency is also required to provide for cross-examination on those issues.

Section 622(e)(3) is modified to provide an explicit requirement that the agency regulate the course of the informal public hearings required by this subsection in order to ensure orderly and expeditious proceedings. As stated in the Committee report, this provision is not intended to turn informal rulemaking proceedings into formal rulemakings or adjudicatory hearings, and agencies are required to control the proceedings to avoid undue delay and dilatory tactics on the part of participants in the hearings. The amendment makes clear that where cross-examination is allowed, the agency may impose limitations on the time and scope of that cross-examination.

Section 622(e)(3)(C) provides that one of the means through which the agency may regulate the informal public hearings is through the designation of a representative to make oral presentations or engage in cross-examination on behalf of persons with a common interest in the rulemaking. It is expected that the agency will first allow persons with a common interest to select their own representatives. The agency should only make the choice where such persons cannot agree. In a case when the agency must make the choice, it should seek to select the representative who will most effectively present the concerns of the persons being represented.

Section 622(f) permits an agency to delay complying with any requirement of section 622 if the agency finds, for good cause, that complying with such requirement before making the rule effective would be impracticable, unnecessary, or contrary to the public interest, and publishes a statement of such finding, along with a succinct explanation of the reasons therefor, in the Federal Register when it publishes the rule. If the rule for which compliance has been delayed pursuant to section 622(f) will, by its terms, cease to be effective within two years after its effective date, the agency need not comply with the requirement at all. In all other cases, section 622(f) requires the agency to comply with the requirements of section 622 as soon as reasonably practicable after promulgating the rule.

The "good cause" justification for delaying compliance with the requirements of section 622 is intended to carry the same meaning as it does in the "good cause" provision set forth in section 553 of title 5. Thus, there may be instances where complying with the requirements of section 622 before making a rule effective will be "im-practicable" or "contrary to the public interest", for example, when delaying a rule might jeopardize airline safety. However, a situation may arise where an agency may be fully able to comply with the requirements of section 553 of title 5 prior to issuing the rule, but may have "good cause" for not complying with the additional requirements of section 622. It may then delay compliance only with section 622. But, as in the case of section 553(b)(2), agencies should not abuse their discretion in invoking the good cause exception under section 622(f).

Section 622(g) is a restatement of section 622(h) in the bill as reported by Committee. As with the original provision, this subsection provides that the relevant authorizing statute remains the source of agency authority for rulemaking decisions; nothing in section 622 should be construed to override or change the prescriptions of those statutes. Thus, if a statute directs an agency to establish "just and reasonable rates", section 622 does not alter that mandate. It merely requires the agency to conduct the analysis required therein prior to prescribing the rule. Similarly, any procedural standards imposed by an authorizing statute or by the provisions of the Administrative Procedure Act continue to apply

This does not mean however, that an agency's consideration of a proposed major rule will not be different after section 622 is enacted than it is at present. The basic objection of section 622 is to require agencies to subject their major rulemaking activities to a new type of analytical discipline. Section 622 imposes additional procedural requirements upon the regulatory process, with the aim of improving decision-making. It is quite possible that rules adopted after being subjected to this more rigorous analytical process may be different from rules that might have been adopted in the absence of such an analysis. But the fact that more careful analysis may result in a somewhat different rule (or even in no rule at all) does not imply that the standards applicable to the agency's action under other provisions of law have been changed.

Section 623. Judicial review

With certain exceptions set forth in sections 623 (b) and (c), section 623(a) precludes the courts from reviewing compliance or noncompliance with the requirements of subchapters II, III, or IV of chapter 6, or from compelling an agency to act under those requirements, or from holding a rule unlawful, setting it aside, or remanding it on the ground that the agency failed to comply with such requirements. In particular, this means that there will be no judicial review of whether any material issued pursuant to section 622 is sufficient to satisfy the requirements of that section. Therefore, this subsection precludes a court from considering any challenge to agency compliance with these provisions on the ground set forth in section 706(a)(2)(D), as redesignated by this bill, that is, that the agency failed to comply fully or in part with a "procedure required by law.

However, as this subsection makes clear, a court may consider material issued pursuant to section 622 in determining the validity of the rule when an action for judicial review of the rule is brought under any provision of law other than section 623. In the vast majority of cases, an action to review an agency rule is brought under chapters 83, 85, 133, 151, 157 or 158 of title 28 of the United States Code and under sections 701-706 of title 5, and/or under provisions of the enabling statute pursuant to which the agency acted. If an action for judicial review cannot be brought under those provisions or under some other applicable provision of law-for example, if the agency action at issue is committed to the agency's unreviewable discretion-section 623(a) does not authorize judicial review.

In any case where judicial review of agency is not so precluded and can appropriately be sought under other law, this provision makes clear that any material issued pursuant to section 622 may be considered by the court in determining the validity of the rule, to the extent such material is relevant. That is, the court may consider this material in the same manner that it considers other material contained in the rulemaking file. However, while this material may be considered by the court in determining the validity of the rule, the material may not be reviewed for purposes of determining whether the agency has complied with the requirements of section 622 except as provided in sections 623 (b) and (c). More importantly, any findings the agency makes pursuant to the requirements of section 622 which the agency would not have been re quired to make in the absence of section 622 are not findings "on which the agency is required to rely" for purposes of section 706(d) of title 5, and need not have substantial support in the rulemaking file unless the agency asserts that those findings are the basis of the rule.

Several exceptions to this general preclusion of judicial involvement are set forth in sections 623 (b) and (c).

Section 623(b)(1) provides that section 623(a) does not preclude judicial review of the alleged failure of an agency to allow an oral presentation or cross-examination procedure required by section 622(e). Section 623(b)(1) does not, however, affirmatively provide for judicial review of an agency's failure to follow a procedure required by section 622(e). However, if review of such a procedural shortcoming is otherwise permitted by law, section 623(b)(1) allows such review to occur. The standard to be applied by the courts in deciding whether to enter-

tain procedural challenges under this provision is identical to the one contained in section 622(f)(4) of H.R. 746 as reported by the Committee, and the explanation of its purpose and application is set forth in the Committee report (H. Rept. 97-435, 46-47).

Second, under section 623(b)(2), a court may direct an agency to issue the material required by sections 622 (b) and (c) and to comply with the oral presentation and cross-examination requirements of section 622(e) when the agency has unreasonably delayed doing so after having invoked the "good cause" provision of section 622(f). In such circumstances, the petitioner presumably would be asking the court to "compel agency action [that has been] unlawfully withheld or unreasonably delayed" within the meaning of 5 U.S.C. § 706(a)(1).

should be understood that section 623(b)(2) does not authorize a court to hold a rule unlawful, set it aside, or even suspend its effectiveness. Rather, it permits a court to direct an agency, under penalty of contempt of court, to comply with the applicable requirements of section 622. If the validity of the rule at issue has been challenged. the court could hold the case (but not the rule) in abeyance until such time as the agency has completed its compliance with such requirements, so that the rule can be reviewed on the basis of the full rulemaking record that is developed at such time. This subsection in no way authorizes a court to review the sufficiency of any compliance with these provisions. The court may only consider whether an agency has issued material and conducted informal public hearings

623(b)(3) provides that if an agency fails to issue any material whatsoever that it designates as constituting the cost-benefit and cost-effectiveness analyses and related material required for major rules by sections 622(c) (5) and (6), a court may remand the rule to the agency with in-structions to issue such material. A court may not act under this subsection, however, simply because it believes that the material the agency has designated as having been issued pursuant to sections 622(c) (5) and (6) is flawed or otherwise inadequate in some respect, nor may the court review the sufficiency of compliance with these subsections after the agency states it has issued such material pursuant to the direction of the court. Moreover, a court, acting under this provision, could not set a rule aside or prevent it from taking effect until the agency has issued what it designates as the material required by sections 622(c) (5) and (6). The court could, however, hold in abeyance any action challenging the validity of the rule until such time as the agency has issued the designated material and made it available to be considered by the court as provided in section 623(a). But, if an agency designates any material it has issued as constituting the material required to be issued by sections 622(c) (5) and (6), a court is precluded from considering whether the material so designated does, in fact, satisfy the requirements of sections 622(c) (5) and (6).

Section 623(c) provides that this section does not preclude a court from directing an agency to publish a proposed schedule for the review of rules (section 641(a)(1)), a final schedule for the review of rules (section 641(a)(4)), a notice of the review of a rule (section 641(c)), or a notice regarding whether, after review, a rule will be retained, repealed, or amended (section 641(e)). However, as with section 623(b), a review on such grounds does not allow a

court to consider the adequacy of any such schedule or notice that has been issued, or to require the revision of any such schedule, or to determine whether the agency should retain the rule or institute proceedings for its amendment or repeal. The court may only direct the agency to publish the schedule or notice and to chose between (1) initiating a rulemaking to repeal or amend the rule, or (2) issuing a notice of the retention of the rule. If the agency decides to initiate a rulemaking, the resulting rulemaking proceeding and any agency action based on that proceeding will be subject to judicial review just as they would be if the rulemaking had been instituted apart from any review under section 641.

Section 623(d) provides that the exercise of any authority granted under sections 621, 624, and 641 or the failure to exercise such authority by the President or by an officer delegated by the President to exercise such authority shall not be subject to judicial review in any manner. This means that the exercise of presidentia! authority, if within the ambit of this section, is not subject to judicial review. However, if the presidential action is beyond the ambit of authority granted by this section, then it is not insulated from judicial review. For example, if the President designated a rule of the Securities and Exchange Commission (SEC) as 'major", the designation would not be judicially reviewable. However, if the President purported to exercise authority under section 624 to force the SEC to comply with the requirements applicable to major rules or with guidelines and procedures established under section 624, this action would be the outside the ambit of the authority granted by section 624 and therefore would not be insulated from judicial review. Another example would be if the President issued a guideline under section 624 that purported to require an agency to take rulemaking action without regard to the applicable standards of the enabling statute pursuant to which the agency was acting. In such a case, section 623(d) would not preclude a judical challenge to the validity of the decision reached by the agency with respect to the rulemaking proceeding. If the person challenging the agency action asserted that it conflicted with the standards of the relevant enabling statute, the agency could not defend its action by asserting that the action was in accordance with guidelines issued by the President under section 624, even though the issuance of those guidelines by the President is insulated from review under section 623(d).

#### Section 624. Executive oversight

Section 624 sets forth certain authority and responsibilities of the President under chapter 6. In contrast to the Committee bill, amended section 624 applies to all agencies, independent as well as executive. This was done because provisions were included in the amendment to ensure that presidential actions based upon authority granted under section 624 would not (1) displace the decision-making authority agencies, or (2) prevent agencies from preceeding with and concluding their rulemakings, or (3) require agencies to modify their proposed or final rules. These safeguards will protect the independent regulatory agencies, as well as executive branch agencies, from presidential intrusion under section 624 into their policy making discretion. Consequently there is no longer any need to exempt independent regulatory agencies from coverage under section 624.

Under section 624(a) the President is required to issue guidelines and procedures for agency implementation of the requirements of this chapter. The President is directed to monitor and review agency compliance with the provisions of this chapter and shall comment upon the adequacy of such compliance. Section 624(a) does not, however, authorize the President to ensure compliance with such provisions (or implementing guidelines or procedures); nor does it carry an implication as to whether the President has any such power under current

Section 624(b) provides that such guidelines and procedures shall be adopted only after public notice and comment and that they shall be consistent with the prompt completion of rulemaking proceedings. These guidelines and procedures may provide for review and evaluation by the President of the material required by sections 622 (b) and (c), however the review may not exceed 30 days (the President may extend this period for an additional 30 days). The purpose of such review would be to provide the President with an opportunity to comment upon whether such material complied with the requirements of this chapter; however, section 624(b) does not authorize the President to ensure that the agency has in fact complied.

Section 624(c)(1) makes clear that nothing in section 624 either provides authority, or limits authority that the President may otherwise possess, to prevent an agency proceeding with a rulemaking or issuing a proposed or final rule. Nor does section 624 provide or limit any such authority that the President may otherwise possess to require an agency to modify a proposed or final rule or to comply with the guidelines or procedures established under section 624. Whatever authority the President may presently possess in this regard remains unchanged so far as Section 624 is concerned. And section 624 takes no position on the extent of the President's existing authority in these areas. It should be emphasized that the President would have no more authority to enforce compliance with his guidelines than would exist if section 624 were not enacted.

Section 624(c)(2) makes it clear that nothing in this section changes the standards applicable to agency action under any other provision of law or relieves an agency of procedural requirements imposed by any other provision of law. For example, if the guidelines purported to require an agency to disregard the standards set forth in its enabling statute, those guidelines would not have been authorized under this section, and an agency could not properly follow them; a rule adopted in compliance with such guidelines and in disregard of standards set forth in the relevant enabling statute would not be valid.

Section 624(c)(3) makes it clear that nothing in section 624 relieves an agency of its responsibilities to comply with the requirements of this chapter.

Section 624(d) allows the President to delegate the authority granted by subsection (a) of this section. Any person to whom such authority is delegated shall be subject to all the provisions of this section that apply to the exercise of that authority by the President.

#### Section 625. Review by the Comptroller General

Section 625(a) was modified to assure that the Comptroller General may review compliance by agencies with the provisions of all of chapter 6, and not just with sections 621 through 624. Under this provision, it is expected that the Comptroller General will review not only agency compliance with these provisions but also the performance of the President or his designee in carrying out sections 621, 624, and 641.

Section 625(b) was modified to make it clear that the Comptroller General is to obtain information necessary to review agency compliance in accordance with the procedures for obtaining information set forth in section 716 of title 31.

Section 626. Authority of agencies and the President

Section 626 is a new section that reformulates a provision set forth in section 624(c) as H.R. 746 was reported by the Committee.

The purpose of section 626(a), as was the purpose of the comparable provision in H.R. 746, is to make clear that agencies retain their jurisdiction, authority, and responsibility to initiate, conduct, or complete rule-making proceedings and to make it clear that chapter 6 does not shift decision-making power from the agencies to the President or his designee.

Similarly, subsection (b) of this section makes it clear that nothing in this chapter limits the exercise by the President of the authority and responsibility that he otherwise possesses under the Constitution and other laws of the United States.

#### Section 641. Review of rules

Section 641 provides for the review of all existing major rules on a ten year schedule. It also provides that all new major rules be reviewed within 10 years of their promulgation. Generally, this section is clear and does not need explanation. However, a few points should be made.

The review of a rule can be a time-consuming and burdensome task. Thus, when the President designates an existing rule as major for purposes of review, consideration should be given to the agency resources available to conduct the review and to the other ongoing responsibilities of the agency.

The review itself should be conducted in an expeditious manner. It should focus on the identifiable results of a rule (costs, benefits, compliance, etc.). Speculative analysis will be of little use in determining whether to repeal, amend, or retain a rule. Moreover, the notice of review issued by the agency should be as succinct as possible while still covering each of the points required to be considered.

#### TITLE II

This amendment makes only a few changes to the revision of section 553 of title 5 as reported by the Committee.

Section 553. Amendments to section 553 of title 5—Rulemaking

Section 553(a)(2) is modified so that the exemption for rules regarding agency organization, procedure or practice is moved to subsection (b) where it is located in current law. The effect of this change is that such rules will be exempt (as they are now) from notice and public comment only if the agency has good cause for doing so.

Section 553(a)(3) is modified to rephrase the exemption from section 553 of certain interpretative rules or general statements of policy. This change was made only to better capture the intent of the similar provision in H.R. 746 as reported by the Committee. Thus, the rationale for and applicability of this change remains the same as that set forth in the Committee report (H. Rept. 97-435. 59-62).

Section 553(b)(1) remains essentially as it was reported by the Committee. A few largely technical changes have been made. but the substance of the provision has not been affected. Thus, in its present form, section 553(b)(1) continues to require that the notice of proposed rulemaking contain more complete information than has been required in the past, so that the public will have a better understanding of the problem that the agency believes needs to be ad-dressed by the rule and how the agency believes the rule will bring about an improvement in the status quo. Such information will permit the public to submit more informed comments and to suggest more useful proposals for possible alternatives to the rule.

Section 553(b)(2) permits the agency to waive the provisions of sections 553(b) and (c) "to the extent that the agency for good cause finds that notice and public procedure with respect to the rule are impracticable, unnecessary, or contrary to the public interest . . ." This provision is modified from the one currently contained in section 553. The present standards for waiver of these provisions are in no way changed by this bill. However, the addition of the words "to the extent" means that the good cause exception to notice and comment procedures is not an "all-or-nothing" mechanism. This change contemplates that full application of the requirements of sections 553 (b) and (c) may be impracticable, unnecessary, or contrary to the public interest, but that partial application of those requirements may be possible. For example, an agency may find, for good cause, that the full 60-day public comment period required by section 553(c)(1) is unnecessary with respect to a rule which raises no issues of any particular complexity. In such cases, the agency, acting under section 553(b)(2), might provide for a more abbreviated public comment period, finding that the 60-day comment period required by section 553(c)(1) is unnecessary. An agency might also find that the public interest requires the speedy promulgation of a rule and that a 60-day public comment period would be contrary to the public interest, but that a shorter period might be possible. In such a case, the agency should provide at least the abbreviated comment period, rather than providing no pre-adoption comment period at all. In either of these cases, the agency should comply with the remaining requirements of section 553 (b) and (c) to the extent possi-

A new section 553(c)(2) is added to the This new subsection requires that, unless otherwise permitted by law, an agency may not rely substantially on any report, study, or other document containing significant factual material of central relevance to the rulemaking unless such document was placed in the rulemaking file at the time the notice of proposed rulemaking was issued or, if publicly available, identified in such notice. The phrase "unless otherwise permitted by law" not only refers to cases where a specific statute authorizes reliance, but also encompasses the doctrine of official notice and situations in which courts have permitted agencies to rely on confidential material such as that described in section 552(b) of title 5 without making it available to the public.

Section 553(c)(2) applies only to a document "containing significant factual material of central relevance to the rulemaking." By focusing on "significant factual material," it is clear that section 553(c)(2) does not

apply to material that is policy-oriented or legal in nature. Unless barred by some other requirement of law, the agency remains completely free to rely substantially on such material. The same is true of advice, recommendations, interpretations, and discussions of law. This is not to say that such policy and legally oriented material should not be placed in the rulemaking file or that some other provision of law may not require the agency to take such action as a precondition to relying substantially on the material in promulgating a rule.

Nevertheless this subsection provides that under two circumstances an agency may substantially rely on such report, study, or other document even though it was neither placed in the file at the time of the notice of proposed rulemaking nor publicly available and identified in such notice. Section 553(c)(2)(A) provides that an agency may rely on such material which was developed by or under contract with the agency if the public has had an adequate opportunity to comment on it. The section provides that twenty-one (21) days constitutes an adequate opportunity for comment.

quate opportunity for comment. Section 553(c)(2)(B) applies to any report, study, or other document containing significant factual material of central relevance to the rulemaking that was not developed by or under contract with the agency. Under section 553(c)(2)(B), an agency may rely substantially on the document, as long as it placed the document in the rulemaking file promptly after the earlier of (i) receiving or (ii) reviewing the document in the course of the rulemaking proceeding. The documents most typically covered by this subsection will be public comments submitted in the rulemaking proceeding. For the most part, such comments will be received by the agency on the last day provided for public comment. As long as the agency places the comments in the rulemaking file promptly after receiving them, it may rely substantially on any material contained in those comments without providing additional rounds of rebuttal in which members of the public can respond to each other's comments. The agency may choose to permit a rebuttal round of comment in some instances, but nothing in section 553(c)(2)(B)

requires the agency to do so. To avail itself of section 553(c)(2)B), the agency must place the report, study, or other document in the file promptly after the earlier of receiving or reviewing it. In some instances, an agency may decide to rely substantially upon a document that it received outside the course of the rulemaking proceeding or at a time when the rulemaking had not yet commenced. In such a case, the agency may never actually receive the document in the course of the rulemaking proceeding. However, it will have reviewed the document in the course of the proceeding before deciding to rely substantially on factual material contained in the document. At the time it reviews the document and makes that decision, the document must be placed in the rulemaking file in order to bring exception (B) into play.

Section 553(f) required that each agency maintain a file for each rulemaking proceeding conducted pursuant to this section. These requirements have been modified by this amendment. The purpose of these modifications is to make the requirements more precise.

Section 553(f)(1)(B) requires that the file include a copy of all written comments on the proposed rule submitted after publication of the notice of proposed rulemaking.

Such comments would include any made by the President or his designee to an agency regarding a specific rulemaking proceeding, whether or not the agency chose to follow any suggestions contained in those comments.

Section 553(f)(1)(D) requires that the file include a copy of all written material pertaining to the rule submitted by the agency to the President (or the designee of the President who has been directed to review rules for their regulatory impact). A similar requirement had originally been included in section 624. It was moved to section 553 so it would cover all rules, not just major rules. While section 553(f)(1)(D) does not require that all communications between the President and an agency relating to a rule be reduced to writing, the public character of rulemaking proceedings ordinarily will be best served when all significant communications between the President (or the designee) and an agency regarding a rule are reduced to writing and placed in the record.

Section 553(f)(1)(E) is a new provision. It requires inclusion in the rulemaking file of a written explanation by the agency of the specific reasons for any significant changes it made to the proposed or final rule in response to comments received from the President (or his designee). Again, the purpose of this provision is to preserve the public character of rulemaking under the APA. Since the authority to promulgate rules resides in the agency, it must explain the basis of any changes it makes that respond to comments from the President (or the designee).

Section 553(f)(2) is modified to make it clear that it in no way changes existing law with respect to the circumstances in which and the extent to which an agency promulgating a rule may rely on materials which are not made available to the public. Rather, this subsection merely spells out the procedure for disclosure if an agency acts in reliance on such material. This section also makes it clear that even if material described in sections 553(f)(1) (D) and (E) might normally be exempt from public disclosure, they must nevertheless be included in the file.

Section 553(f)(3) limits the extent of judicial review of an agency's failure to comply with subparagraph (D) or (E) of paragraph (1) of this section. Thus, a rule would be held unlawful or set aside due to such errors only if the violation precluded fair public consideration of a material issue of the rulemaking taken as a whole. An agency failure under subparagraphs (A), (B), and (C) would be reviewed under the present standard of review which takes account of the rule of prejudicial error.

Section 553(g), designated section 553(h) in the bill reported by the Committee, is unchanged by this amendment. However, an explanation of section 553(g)(10) is necessary because of some confusion over this provision.

Section 553(g)(10) provides that the legislative veto procedure does not apply to rules proposed or issued pursuant to a statute which expressly provides for congressional review or veto of such rules. This includes rules promulgated under statutes in which the veto provision was included as a condition of the original grant of power, as well as those rules where the veto was imposed long after the original grant, such as the veto applying to the Federal Trade Commission or to the Department of Education under section 431 of the General Education Act. Thus, if any other legislative review or

veto provision applies to a rule, the provisions of section 553(g) do not apply.

Section 203. Judicial review of rulemaking

This section of the bill amends section 706 of title 5, which sets forth the standards for judicial review of agency action.

The first sentence of the amended version of section 706(c) directs courts to exercise their independent judgment in deciding questions of law without according any presumption in favor of or against agency action. In making determinations of law on questions other than statutory jurisdiction, a court is to give the agency's interpretation "such weight as it warrants, taking into account factors such as the discretionary authority provided the agency by law."

The purpose of this change is to make clear, in the statutory language itself, that a court may, in reviewing agency interpretations of questions of law, consider an agency's interpretation and rely upon it in construing a statute to the extent that the court finds it to be persuasive. While permitting a court to consider the agency interpretation, this amendment does not permit a court to presume that the interpretation of the agency is correct simply because it is the interpretation of the agency. The interpretation of the agency should be afforded "weight" by the reviewing court only be-cause of its persuasiveness, not simply because of the source of the interpretation. (See International Brotherhood of Teamsters v. Daniel, 439 U.S. 551, 53 L.Ed. 2d. 808, 99 S. Ct. 790 (1979)).

This prohibition on presumption does not alter the substantive criteria for judicial review under section 706(a)(2). Those criteria remain unaffected; but, the agency's interpretation of a question of law may not be presumed to be correct in determining whether those criteria have been met. Thus, the sentence only precludes a court from presuming that the agency interpretation of law is correct, it does not relieve the court of the obligation of critically analyzing the

basis of that interpretation.

In the instance of so-called mixed questions of fact and law and/or policy, the prohibition against presumptions which would be applicable to agency interpretations of questions of law should not be extended to questions of fact or policy because of the 'mixture'. Rather, the court must assume its traditional responsibility to parse questions.

its traditional responsibility to parse questions of law, fact and policy; and the presumption prohibition should apply only to an agency's interpretation of questions of law. Questions of fact or policy are governed by other criteria in section 706.

This language makes clear that section 706(c) does not affect the rule that "agency expertise" may be relied upon by a reviewing court where it actually exists. Courts should continue to consider the construction or interpretation of statutes by agencies and should utilize as aids to the court's own independent statutory construction such factors and considerations as whether the interpretation is made by an agency charged with primary or central expertise under the statute; and whether the interpretation of a statutory word or phrase involves a matter that is "technical," where the expertise of the agency is specialized, well-developed or unique.

It is not intended that section 706(c) would affect the policy choice of an agency where a court finds the Congress had delegated to that agency a certain policymaking authority by giving it discretion to apply statutory terms. For example, the Federal Communications Commission has authority

to issue rules that will serve "the public convenience, interest or necessity." This also includes instances where an agency decides not to act even though a statute authorizes, but does not require, the agency to act. FCC v. WNCN Listeners Guild et. al., 450 U.S. 582 (1981); See, also Watt v. Energy Action Educational Foundation, et. al., 50 U.S.L.W. 4031 (U.S. Dec. 1, 1981). Section 706(c) also does not preclude an agency from the consideration of other policies in its administration of a statute, unless the statute itself precludes such consideration.

Section 706(c) would apply even when the agency is not a party to the judicial action or the administrative action under review (see Daniel, Supra.), in other words the same application of the presumption prohibition would occur when a statutory interpretation by an agency is relevant to action

between two other parties.

Although an agency interpretation of a statutory provision that governs procedure may not be presumed to be correct, this sentence of section 706(c) otherwise has no bearing on procedural matters and does not shift traditional burdens of going forward.

The third sentence of amended section 706(c) directs that, when a challenge to agency jurisdiction has been raised, the agency's action be shown to be within the scope of its jurisdiction on the basis of the language of the statute, or, in the event of ambiguity, other indicia of ascertainable legislative intent. The language of a statute may give rise to ambiguity because it is contradictory or inconsistent, or because of its breadth or vagueness, or because a literal interpretation would produce an anomalous result. In such cases, the court would look at indicia of ascertainable legislative intent to determine whether jurisdiction in fact exists. Under section 706(c), a court, in the event of ambiguity in the statutory language, should not uphold an extension of agency jurisdiction simply because the extension is based on a possible interpretation

of the statute which is urged by the agency. The words "determine whether" have been substituted for the words "require that" in section 706(c) to: (1) make clear that section 706(c) does not impose an obligation on the court to investigate the basis for agency jurisdiction sua sponte where agency jurisdiction has not been challenged by a party to the litigation, and (2) remove any implication that a new burden is placed on the agency to demonstrate the statutory basis for its jurisdiction. However, when a question regarding the basis for agency jurisdiction has been raised, the court should exercise its independent judgment, without presuming that the agency's interpretation of its statutory jurisdiction is correct.

Finally, a confusing reference to "agency authority" has been removed from the sentence dealing with jurisdiction. The term 'jurisdiction' is intended to refer to agency power to act with respect to particular perpower to act with respect to particular per-

sons or subject matters.

Section 706(d) is modified to clarify the purpose of this subsection and to accomplish its objectives without creating unnecessary ambiguities. This new subsection (d), like the provision it replaces, applies to all agency rulemakings other than those to which the substantial evidence test applies. Like the new subsection (c) of section 706 which instructs courts on the application of section 706(a)(2)(C), the new subsection (d) provides guidance to courts on the application of the substantive standards in section 706(a)(2)(A). The purpose of the new subsection (d) is clear: reviewing courts are in-

structed to give a "hard look" to the factual underpinnings of informal rulemakings conducted by agencies. The approach taken by Judge Leventhal in *Portland Cement Ass'n* v. *Ruckelshaus*, 486 F. 2d 375 (D.C. Cir. 1973), cert. denied, 417 U.S. 921 (1974), is the model.

New subsection (d) clearly applies the "hard look" doctrine to judicial review pursuant to section 706(a)(2)(A), not as a separate, ambiguous substantive provision. In other words, a court in reviewing an agency rulemaking not subject to sections 556 and 557 would be required to "look hard" and specifically at the "factual basis" of a rule in ascertaining whether the rule was "arbitrary, capricious, or an abuse of discretion."

### CONFERENCE REPORT ON H.R.

Mr. DIXON submitted the following conference report and statement on the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes.

#### CONFERENCE REPORT (H. REPT. No. 97-972)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 2, 9, 14, 15, 16, 20, 21, 22, 24, 25, 26, 27, 29, 30, 31, 36, 37, and 38.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 5, 8, 12, 19, 28, and 32, and agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$58,485,400; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$409,242,100; and the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$438,724,200; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert: Provided further, That total funds paid by the District of Columbia as reimbursements for operating costs of Saint Elizabeths Hospital, including any District of Columbia payments (but excluding the Federal matching share of payments) associated with title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. 1396 et seq.), shall not exceed \$24,748,700; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 4, 6, 7, 17, 23, 33, 34, 35, 39, 40, and 41.

JULIAN C. DIXON,

JULIAN C. DIXON,
WILLIAM H. NATCHER,
LOUIS STOKES,
CHARLES WILSON,
WILLIAM LEHMAN,
JAMIE L. WHITTEN,
LAWRENCE COUGHLIN,
BILL GREEN,
JOHN EDWARD PORTER,
SILVIO D. CONTE,
Managers on the Part of the House.

ALFONSE M. D'AMATO, LOWELL P. WEICKER, ARLEN SPECTER, MARK O. HATFIELD, PATRICK J. LEAHY, DALE BUMPERS, WILLIAM PROXMIRE,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE

COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

### FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Amendment No. 1: Appropriates \$361,000,000 as proposed by the Senate instead of \$336,600,000 as proposed by the House. The additional amount of \$24,400,000 above the House allowance reflects the increase in the Federal payment authorization in Public Law 97-334 which was approved October 15, 1982 subsequent to House passage of H.R. 7144 on September 30, 1982.

Amendment No. 2: Restores matter proposed by the House and stricken by the Senate stating that the Federal payment shall not be made available to the District of Columbia until the number of full-time uniformed officers is at least 3,880 using the same qualification standards as those in effect on the date of the House subcommittee's markup.

The Conferees are agreed that the total uniformed strength of the Metropolitan Police Department shall be not less than 3.880 police officers. This is somewhat of a departure from position allocations which are usually considered employment cellings rather than the minimum number of employees. This change is necessary because of language agreed to by the conferees which provides that the Federal payment is not available until the number of uniformed officers reaches 3,880. The Metropolitan Police Department cannot maintain the full

complement of police officers with an employment ceiling of 3,880. The conferees are agreed that by allowing the Department to exceed the number specified for purposes of maintaining an average strength of 3,880, the Department will meet the provisions of the amendment and maintain an average of 3,880 uniformed police officers monthly beginning on April 15, 1983.

#### SPECIAL CRIME INITIATIVE

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

#### SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, \$2,342,600: Provided, that this amount shall be available to the Metropolitan Police Department.

For the Department of Justice for use in the Superior Court Division of the U.S. Attorney's Office for the District of Columbia, eson and

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have included a total of \$3,142,600 for the Special Crime Initiative. This sum will provide for several special programs to improve the detection of crime and to provide greater public safety.

Of this amount a total of \$2,342,600 is provided for the Metropolitan Police Department for the one-time purchase of needed equipment. The Department requires 367 additional portable radios to support the increased number of police officers. Since the fiscal year 1983 budget provided for only 157 radios, the conferees have allowed \$525,000 to purchase the balance of 210 radios.

The remaining amount of \$1,817,600, will be used to purchase an automated fingerprint identification system and ancillary equipment. Currently, fingerprints obtained at the scene of a crime or from an arrested suspect must be analyzed by hand, taking several hours and, in some instances days. With this new equipment utilizing highspeed laser technology, officers will be able to perform this task and provide a positive identification within minutes. This will allow police officers to properly identify suspects who give false names, and will permit the Department to obtain warrants for arrest sooner, thus allowing less time for the criminal to flee. This time-saving device also will increase police productivity, so that offices can perform other investigative work. In addition, prosecutors will have more time to prepare their cases.

The conferees are agreed that \$800,000 is to be provided directly to the Federal Department of Justice to hire approximately 22 new Assistant U.S. Attorneys for the Superior Court branch of the District of Columbia office.

The conferees were informed that the current caseload of the 78 Assistants is about 70 to 75 per person with the optimum caseload being 40 to 50 per person. The workload problem is becoming more critical daily. Recent statistics show that there are currently 6,200 felony cases as well as 1,500 grand jury proceedings pending with the caseload increasing at the rate of 125 cases per day. These additional resources will provide for a more manageable workload in the office.

The conferees intend that future budget requests for the Department of Justice will

include funding for these positions as well as other related resources required by the District of Columbia U.S. Attorney's Office.

#### LOANS TO THE DISTRICT OF COLUMBIA FOR CAPITAL OUTLAY

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds "(Including Rescission)" to the center heading.

Amendment No. 5: Deletes language proposed by the House and stricken by the Senate concerning the availability of previous Federal loan appropriations.

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which strikes language proposed by the House placing a limitation on the amount of direct Federal loans available to the District of Columbia and inserts language rescinding \$48,832,500 in Federal loan authority.

#### GOVERNMENTAL DIRECTION AND SUPPORT

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: \$69.545.500

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Council of the District of Columbia.—The conference action provides 139 positions and \$4,914,300 as proposed by the Senate instead of 137 positions and \$4,714,300 as proposed by the House. The conferees direct that \$77,040 be transferred from the separate "personal services" appropriation to the Council to cover pay adjustment costs, notwithstanding the independent judgment of the executive branch.

Office of Personnel.—The conference action provides 361 positions and \$10,532,700 as proposed by the Senate instead of 308 positions and \$9,499,400 as proposed by the House.

Department of General Services.—The conference action provides 453 positions and \$23,353,600 as proposed by the House instead of 454 positions and \$23,645,400 as proposed by the Senate.

Office of Employee Appeals.—The conference action provides 16 positions and \$659,000 as proposed by the House instead of 18 positions and \$685,700 as proposed by the Senate.

District of Columbia Retirement Board.— The conference action provides \$425,000 from the general fund and \$1,264,000 from investment income as proposed by the House instead of \$1,689,000 from investment income as proposed by the Senate. Amendment No. 9 is related to this item.

The conferees are agreed that any shortfall in the amounts included in the District's budgets as the net-pay-as-you-go and amortization payments for the pension funds for fiscal year 1983 and future years is to be paid by the District government over a three-year period in accordance with the terms of the agreement reached by the Mayor and Retirement Board on September 29, 1982, and printed on page H-8479 of the Congressional Record of October 1, 1982.

Amendment No. 8: Deletes language concerning voter education in connection with the District of Columbia Statehood Constitutional Convention Initiative proposed by the House and stricken by the Senate. The language required the preparation and mailing, prior to the November 2, 1982 election, of objective statements both for and against the provisions of the constitution as expressed by the convention delegates. This language was included in Public Law 97-276, approved October 2, 1982 (96 Stat. 1193).

Amendment No. 9: Restores language proposed by the House and stricken by the Senate which provides \$425,000 from general fund revenues for expenses of the District of Columbia Retirement Board.

#### ECONOMIC DEVELOPMENT AND REGULATION

Amendment No. 10: Appropriates \$58,485,400 instead of \$58,263,400 as proposed by the House and \$61,122,000 as proposed by the Senate.

Department of Housing and Community Development.—The conference action provides \$20,539,100 instead of \$24,107,700 as proposed by the House and \$26,707,700 as proposed by the Senate. The decrease of \$3,568,600 reflects approval by the conferees of the transfer of the Building and Zoning Regulation Administration from the Department of Housing and Community Development to the Department of Licenses, Inspections and Investigations. This transfer was requested by the Mayor in a letter to the Committees dated November 16, 1982.

Housing Finance Agency.—The conference action provides \$2,593,200 instead of \$2,371,200 as proposed by the House and \$2,815,100 as proposed by the Senate. The increase of \$222,000 above the House allowance includes \$18,500 for personnel fringe benefits; \$193,300 for supplies, building rent and equipment, and \$10,200 for pay adjustment costs.

Department of Licenses, Inspections and Investigations.—The conference action provides \$8,202,200 instead of \$4,633,600 as proposed by the House and the Senate. The increase of \$3,568,600 above the House and Senate allowances reflects approval by the conferees of the transfer of the Building and Zoning Regulation Administration from the Department of Housing and Community Development to the Department of Licenses, Inspections and Investigations. This transfer was requested by the Mayor in a letter to the Committees dated November 16, 1982.

Commission on the Healing Arts Licensure.—The conference action provides 12 positions and \$400,000 as proposed by the House instead of 5 positions and \$214,700 as proposed by the Senate.

#### PUBLIC SAFETY AND JUSTICE

Amendment No. 11: Appropriates \$409,242,100 instead of \$410,175,078 as proposed by the Senate and \$405,111,600 as proposed by the House.

Metropolitan Police Department.—The conference action provides \$130,635,400 as proposed by the Senate instead of \$128,292,800 as proposed by the House and includes increases of (1) \$1,817,600 for an automated fingerprint identification system which uses high-speed laser technology and (2) \$525,000 to purchase 210 portable communication radios for the 3,880 uniformed officer force. The conference agreement recommends a special one-time Federal payment under amendment number 3 to finance these purchases.

Fire Department.—The conference action provides \$47,569,000 instead of \$46,369,000 as proposed by the House and \$48,769,000 as proposed by the Senate. The increase of \$1,200,000 will allow the Department to fund 93 additional positions to staff the

four heavy duty rescue units with separate crews beginning in April 1983. The conferees are agreed that the four units are to be fully staffed with separate crews by September 30, 1983.

Superior Court.—The conference action provides 916 positions and \$30,941,800 as proposed by the Senate instead of 906 positions and \$30,656,800 as proposed by the House. The increase of 10 positions and \$285,000 above the House allowance is for three hearing commissioners and support staff. The use of hearing commissioners is expected to free up at least two judges for criminal trial duties.

D.C. Court System.—The conference action provides 66 positions and \$6,368,200 as proposed by the Senate instead of 65 positions and \$6,332,300 as proposed by the House. The increase of one position and \$35,900 above the House allowance is for a CS-13 Training Officer and related benefits.

Police and Fire Retirement System.—The conference action provides \$84,967,000 instead of \$84,700,000 as proposed by both the House and the Senate. The increase of \$267,000 above the House and Senate allowances reflects the agreement dated September 29, 1982 between the Mayor and the Retirement Board concerning the shortfall in the budget estimates which resulted from incomplete and insufficient personnel records provided by District officials. This agreement is printed on page H-8479 of the October 1, 1982 CONGRESSIONAL RECORD.

Amendment No. 12: Provides \$300,000 for use by the Police Chief in the prevention and detection of crime as proposed by the Senate instead of \$230,000 as proposed by the House.

#### PUBLIC EDUCATION SYSTEM

Amendment No. 13: Appropriates \$438,724,200 instead of \$434,171,200 as proposed by the House and \$439,042,100 as proposed by the Senate.

Teachers Retirement and Annuity Fund.— The conference action provides \$55,883,000 instead of \$51,400,000 as proposed by the House and \$55,700,000 as proposed by the Senate. The increase of \$4,483,000 above the House allowance reflects the agreement reached subsequent to House action on the bill by the Mayor and the Retirement Board concerning the shortfall in the District government's contribution to the fund in fiscal year 1981.

The agreement calls for the District government to make up the total shortfall of \$14,300,000 in fiscal year 1981 in the Teachers Retirement and Annuity Fund and the Police and Fire Retirement System plus interest of \$1,400,000 by making principal payments of \$4,750,000 in three successive fiscal years, beginning in fiscal year 1983, with interest payments of \$475,000 in three successive years beginning in fiscal year 1984. The \$4,750,000 consists of the \$4,483,000 under this fund and \$267,000 under the Police and Fire Retirement System discussed earlier under the Public Safety and Justice appropriation.

Public Library.—The conference action provides \$11,246,300 as proposed by the Senate instead of \$11,176,300 as proposed by the House. The increase of \$70,000 above the House allowance will allow the Martin Luther King Library to be open on Sunday afternoons during the school year.

Commission on the Arts and Humanities.—The conference action provides seven positions and \$882,400 as proposed by the House instead of eight positions and \$1,383,400 as proposed by the Senate.

Allocation of Public Education Appropriation.—The conferees are agreed that the appropriation of \$438,724,200 under the heading "Public Education System" is to be allocated as follows:

Board of Education (Public Schools)	\$306,517,800
Teachers Retirement and	\$500,511,000
Annuity Fund	55,883,000
University of the District	22 202022
of Columbia	58,342,400
Public Library	11,246,300
Commission on the Arts	
and Humanities	882,400
Educational Institution Li-	
censure Commission	171,300
School Transit Subsidy	5,681,000

Amendment No. 14: Restores language proposed by the House and stricken by the Senate which requires that \$515,000 of the funds provided for the District of Columbia Public Schools shall be used exclusively for the operation of the driver education program.

Amendment No. 15: Restores the word "further" proposed by the House and stricken by the Senate.

Amendment No. 16: Strikes language proposed by the Senate relating to the fiscal year 1981 shortfall in the Teachers Retirement and Annuity fund since the shortfall also applies to the Police and Fire Retirement System. The conferees are agreed that of the \$55,883,000 provided under this appropriation heading for the Teachers Retirement and Annuity Fund, \$4,483,000 is to be applied against the fiscal year 1981 shortfall in this fund.

#### HUMAN SUPPORT SERVICES

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: \$466,890,500

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Office on Latino Affairs.—The conference action provides seven positions and \$290,900 as proposed by the House instead of eight positions and \$370,000 as proposed by the Senate.

Department of Employment Services.— The conference action provides \$14,094,000 for the District's four jobs programs as proposed by the Senate instead of \$13,430,000 as proposed by the House. The additional \$664,000 above the House allowance is split equally between two programs and will provide a total of \$3,337,300 for the "out-of-school jobs for youth" program and \$4,714,900 for jobs for "adults with dependents."

Department of Human Services.-The conference action provides \$334,912,200 instead of \$315,636,500 as proposed by the House and \$333,046,400 as proposed by the Senate. The conference allowance provides \$120,000 for the Special Olympic Games as proposed by the House instead of \$90,000 and report language as provided by the Senate. conference agreement also provides \$194,600 for the Office of Veterans Affairs as proposed by the House instead of \$158,000 and report language as provided by the Senate. A total of \$13,007,900 is provided for child day care services as proposed by the Senate. This allowance reflects an increase of \$1,768,000 above the fiscal year 1982 level and \$918,000 above the House allowance for fiscal year 1983. The conference agreement provides a total of \$97,518,700 for the District's Medicaid/Medical Charities program as proposed by the Senate instead of \$80,961,000 as proposed by the House. The conference action also provides \$24,748,700 for reimbursement to Saint Elizabeths Hospital instead of \$26,548,700 as proposed by the House and \$22,948,700 as proposed by the Senate.

Amendment No. 18: Restores language proposed by the House and stricken by the Senate amended to limit the amount to be paid to Saint Elizabeths Hospital from the District's local revenues to not to exceed \$24,748,700 instead of \$26,548,700 as proposed by the House and \$22,948,700 as proposed by the Senate. The conferees are agreed that the District's share of the operating costs of Saint Elizabeths Hospital must increase to a level which reflects the heavy use of these services by District residents. The conferees direct the Department of Health and Human Services and the District government to work closely in developing a fiscal year 1984 proposal which will accomplish this goal over a reasonable period of time.

Amendment No. 19: Deletes language proposed by the House and stricken by the Senate which would have required District officials to obtain Congressional approval of a plan prior to obligating any funds appropriated for the summer youth jobs program. The conferees note the significant progress made by District officials in the administration of the summer jobs program over the past few years and urge that these efforts be continued in the future.

Amendment No. 20: Appropriates \$135,712,400 as proposed by the House instead of \$136,712,400 as proposed by the Senate

#### ENVIRONMENTAL SERVICES AND SUPPLY

Amendments Nos. 21 and 22: Appropriate \$38,337,000 of which \$5,427,000 shall be transferred to the Water and Sewer Enterprise Fund as proposed by the House instead of \$50,140,500 of which \$17,230,500 shall be transferred to the Water and Sewer Enterprise Fund as proposed by the Senate.

#### PERSONAL SERVICES

Amendment No. 23: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum proposed by said amendment, insert the following: \$17,364,100

The managers on the part of the Senate will move concur in the amendment of the House to the amendment of the Senate.

provides conference action \$17,364,100 to cover the unallocated cost-ofliving pay increases for employees of the District government in fiscal year 1983. This amount which includes \$6,352,000 to cover optical and dental benefit costs for certain groups of employees is under a separate appropriation title since some of the collective bargaining agreements had not been signed at the time the District's budget was developed. While this amount is above the House and Senate allowances, it is \$6,330,700 below the amount requested and District agencies will therefore be required to absorb a larger than expected percentage of the pay adjustment costs.

Amendment No. 24: Restores language proposed by the House and stricken by the Senate which provides that \$1,100,000 of

the personal services appropriation shall be solely for the Metropolitan Police Department.

#### REPAYMENT OF GENERAL FUND DEFICIT

Amendment No. 25: Restores matter proposed by the House and stricken by the Senate which requires that funds appropriated under this heading be used to eliminate the cash portion of the \$309,000,000 general fund accumulated deficit as of September 30, 1981. The Senate proposed striking the reference to the cash portion of the deficit. Amendment No. 26: Appropriates \$20,000,000 as proposed by the House instead of \$10,000,000 as proposed by the Senate.

#### ENERGY ADJUSTMENT

Amendment No. 27: Restores matter proposed by the House and amended by the Senate authorizing the Mayor to reduce the energy budgets within one or several of the appropriation titles by \$2,078,500.

#### CAPTAL OUTLAY

Amendment No. 28: Appropriates \$83,885,600 as proposed by the Senate instead of \$83,439,500 as proposed by the House. The Senate amendment provides an increase of \$446,100 above the House allowance for the highest priority road and bridge projects in the Department of Transportation. The conferees are agreed that this increase is to be used for two projects at Fort Lincoln new town -\$552,000 for street construction of 33rd Place, N.E. from South Dakota Avenue to Fort Lincoln Drive (project No. DB-35), and \$1,500,000 for grading and paving Fort Lincoln Drive from 31st Street, N.E. to beyond 33rd Place, N.E., and design services for the extension of Barney Drive to Eastern Avenue. The conferees are further agreed that the balance required to complete these two projects should be met by reprograming funds from completed projects District-wide.

#### WATER AND SEWER ENTERPRISE FUND

Amendments Nos. 29 and 30: Appropriates \$107,195,900 of which \$16,726,500 shall be for debt service for construction loans as proposed by the House instead of \$114,479,400 of which \$24,010,000 shall be for debt service for construction loans as proposed by the Senate.

Amendment No. 31: Restores language

Amendment No. 31: Restores language proposed by the House and stricken by the Senate which provides that capital outlay projects under the Water and Sewer Enterprise Fund shall be subject to the same requirements and restrictions applicable to general fund capital improvement projects.

#### LOTTERY AND CHARITABLE GAMES ENTERPRISE

#### FUND

Amendment No. 32: Adds the words "as amended" to the authorization citation for the Lottery and Charitable Games Enterprise Fund as proposed by the Senate. Certain technical changes were included in Public Law 97-276 approved October 2, 1982 (96 Stat. 1193), to the permanent legislation enacted in Public Law 97-91 approved December 4, 1981, establishing the Lottery and Charitable Games Enterprise Fund. These technical changes were made after the House passed H.R. 7144 on September 30, 1982.

#### GENERAL PROVISIONS

Amendment No. 33: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: 33,268

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides a ceiling of 33,268 on the number of full-time, permanent employees in the District government instead of 33,109 as proposed by the House and 33,165 as proposed by the Senate. The increase is due mainly to the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 34: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: 32,211

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides a ceiling of 32,211 on the number of full-time permanent employees financed from the general fund instead of 32,052 as proposed by the House and 32,108 as proposed by the Senate. As in amendment No. 33, this increase in the position ceiling results primarily from the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 35: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the number proposed by said amendment, insert the following: 28,616

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference action provides 28,616 appropriated positions instead of 28,459 as proposed by the House and 28,515 as proposed by the Senate. As in amendments numbered 33 and 34, this increase is necessary mainly to accommodate the 93 additional positions required to restore the four heavy duty rescue squads in the Fire Department to full-service status.

Amendment No. 36: Restores matters proposed by the House and stricken by the Senate prohibiting the obligation or expenditure of funds through reprogramming unless advance approval of the reprogramming is obtained in accordance with established procedures set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980 (Public Law 96-93, approved October 30, 1979).

Amendment Nos. 37 and 38: Restore section numbers proposed by the House and changed by the Senate.

Amendment No. 39: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section numbered 125 named in said amendment, insert the following: 126

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section authorizing the Mayor to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Executive Schedule under 5 U.S.C. 5315, and provides that this salary may be payable to the City

Administrator during fiscal year 1983. The conference action also authorizes the Mayor to set the per diem rate for board members of the Redevelopment Land Agency in the manner consistent with his authority to set these rates for members of other boards and commissions of the District government. The Mayor does not have this authority at the present time.

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of section numbered 126 named in said amendment, insert the following: 127

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate amendment adds a new section which removes District employees from the pay ceiling for Federal employees. The language provides that the pay setting authority for District employees shall be the District's Merit Personnel Act rather than title 5 of the United States Code.

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate

with an amendment as follows:
In lieu of section number 127 named in said amendment, insert the following: 128
The managers on the part of the Senate will move to concur in the amendment of

the House to the amendment of the Senate.

The Senate amendment adds a new section which requires that necessary permits must be obtained from appropriate State agencies before sludge from the District's municipal waste system may be disposed of in any public or private landfills not currently used for this purpose.

#### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

#### Federal funde

reuerut junus	
New budget (obligational) authority, fiscal year 1982	\$557,170,000
Budget estimates of new (obligational) authority,	
fiscal year 1983	579,870,000
House bill, fiscal year 1983 Senate bill, fiscal year	545,470,000
1983	524,180,100
Conference agreement,	and the second sections
fiscal year 1983	524,180,100
Conference agreement compared with:	
New budget (obliga- tional) authority, fiscal	
year 1982	-32,989,900
Budget estimates of new	-02,000,000
(obligational) author-	
ity, fiscal year 1983	-55,689,900
House bill, fiscal year	
1983	-21,289,900
Senate bill, fiscal year	

1983	
District of Columbia	a funds
New budget (obligational) authority, fiscal year	Lockson District
Budget estimates of new (obligational) authority,	\$1,965,758,600
fiscal year 1983 House bill, fiscal year 1983 Senate bill, fiscal year	1,971,653,200
1983	2,007,309,900

onference	agreement,	
fiscal year	1,998,841,90	
onference	agreement	
compared	with:	
New bud	get (obliga-	
tional)	authority	

+33,083,300

-7.107.500

+27,188,700

-8.468,000

fiscal year 1982.... Budget estimates of new (obligational) authority, fiscal year 1983...... House bill, fiscal year 1983 ...

Senate bill, fiscal year 1983 .....

Includes \$24,400,000 of budget estimates not considered by the House.

> JULIAN C. DIXON, WILLIAM H. NATCHER, LOUIS STOKES, CHARLES WILSON, WILLIAM LEHMAN, JAMIE L. WHITTEN, LAWRENCE COUGHLIN, BILL GREEN, JOHN EDWARD PORTER. SILVIO D. CONTE Managers on the Part of the House.

ALFONSE M. D'AMATO, LOWELL P. WEICKER, ARLEN SPECTER, MARK O. HATFIELD, PATRICK J. LEAHY, DALE BUMPERS,

WILLIAM PROXMIRE, Managers on the Part of the Senate.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. STOKES (at the request of Mr. WRIGHT), after 3:30 p.m. today, on account of attending a funeral.

Mr. YATES (at the request of Mr. ROSTENKOWSKI), for today, on account of illness in the family.

Mr. TAUKE (at the request of Mr. Michel), for December 15 and 16, on account of a death in the family.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. Goodling, for 5 minutes, today. Mr. Nelligan, for 20 minutes, on December 17.

(The following Members (at the request of Mr. Young of Missouri) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 30 minutes, today. Mr. Annunzio, for 5 minutes, today.

Mr. Reuss, for 10 minutes, today. Mr. GAYDOS, for 30 minutes, today.

Mr. ST GERMAIN, for 10 minutes, today.

Mr. Mazzoli, for 5 minutes, today. Mr. FROST, for 60 minutes, on December 16.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HARKIN, in support of the Schumer amendment, to appear prior to vote on Schumer amendment.

Mr. BAILEY of Pennsylvania. revise and extend his remarks following the remarks of the gentleman from Florida (Mr. GIBBONS) in the Committee of the Whole today.

Mr. BEREUTER, to insert his remarks on Coats' amendment during debate on Coars' amendment.

Mr. Solomon, and to include extra-neous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$2,618.

Mr. SAM B. HALL, JR., and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$2,618.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. Collins of Texas in two instances.

Mr. TAUKE.

Mr. KEMP.

Mr. CARMAN.

Mr. DERWINSKI.

Mr. GILMAN in three instances.

Mr. FIELDS in three instances.

Mr. ATKINSON.

Mr. Dornan of California in two instances.

Mr. BEREUTER in two instances.

Mr. BROOMFIELD.

Mr. McCloskey.

Mr. COURTER.

Mr. Frenzel in five instances.

Mr. Wolf. Mr. RITTER.

Mr. NELLIGAN.

Mr. LAGOMARSINO.

(The following Members (at the request of Mr. Young of Missoui) and to include extraneous matter:)

Mr. PEPPER.

Mr. Hoyer in two instances.

Mr. MAZZOLI.

Mr. ALEXANDER in five instances.

Mr. DINGELL in four instances.

Mr. ZABLOCKI.

Mr. HUBBARD.

Mr. Simon in two instances.

Mr. HARKIN in two instances.

Mr. MOTTL.

Mr. Moffett in two instances.

Mr. McHugh in two instances.

Mr. CONYERS.

Mr. BOLAND in two instances.

Mr. Ford of Michigan in two instances.

Mr. STARK in two instances.

Mr. Solarz in two instances.

Mr. TRAXLER.

Ms. FERRARO.

Mr. Udall in two instances.

Mr. LANTOS.

Mr. Won Pat.

Mr. Frost in five instances.

Mr. GUARINI.

Mr. MONTGOMERY.

Mr. BIAGGI.

Mr. ROYBAL.

Mr. AKAKA.

#### ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 24 minutes p.m.) the House adjourned until tomorrow, Thursday, December 16, 1982, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

5299. Under clause 2 of rule XXIV, a letter from the Secretary of Energy, transmitting the ninth quarterly report on biomass energy and alcohol fuels, for the period July through September 1982, pursuant to section 218(a) of Public Law 96-294, was taken from the Speaker's table and referred, jointly, to the Committees on Agriculture, Energy and Commerce, and Science and Technology.

#### REPORTS OF COMMITTEES ON BILLS AND RESOLU-PUBLIC TIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. Report on contempt of Congress (Rept. No. 97-968). Re-

ferred to the House Calendar.
Mr. DERRICK: Committee on Rules. House Resolution 629. A resolution providing for the consideration of H.R. 7397, a bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region. (Rept. No. 97-969). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 630. A resolution providing for the consideration of H.R. 3191, a bill to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions (Rept. No. 97-

970). Referred to the House Calendar. Mr. BEILENSON: Committee on Rules. House Resolution 631. A resolution providing for the consideration of S. 1965, a bill to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System (Rept. No. 97-971). Referred to the

House Calendar.
Mr. DIXON: Committee of conference.
Conference report on H.R. 7144 (Rept. No. 97-972). Ordered to be printed.

#### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL: H.R. 7422. A bill to provide that any policy change which is adopted by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee and which will affect interest rates or the supply of money shall be subject to a congressional disapproval procedure; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SAM B. HALL, JR.:

H.R. 7423. A bill to recognize the organiza-tion known as Former Members of Con-gress; to the Committee on the Judiciary.

By Mr. HEFTEL: H.R. 7424. A bill to establish a hydrogen research and development program; to the Committee on Science and Technology.

By Mr. LOEFFLER (for himself, Mr.

COELHO, Mr. CRAIG, Mr. HIGHTOWER, Mr. MARLENEE, and Mr. SKEEN):

H.R. 7425. A bill to increase temporarily the duty on certain wool that is the product of Argentina or Uruguay; to the Committee on Ways and Means.

By Mrs. MARTIN of Illinois:

H.R. 7426. A bill to establish a program to provide funds to States for the purpose of job opportunities and business stimulation, and for other purposes; to the Committee on Education and Labor.

H.R. 7427. A bill to require the Secretary of Agriculture to establish a program to offset agricultural export subsidies imposed by foreign countries by subsidizing the exportation of agricultural commodities produced in the United States and products of such commodities; jointly, to the Committees on Agriculture and Foreign Affairs.

#### MEMORIALS

Under clause 4 of rule XXII.

519. The SPEAKER presented a memorial of the Senate the State of Illinois, relative to missing-in-action servicemen and civilians in Southeast Asia; to the Committee on Foreign Affairs.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HUBBARD introduced a bill (H.R. 7428) for the relief of Kirsten Rytgaard; which was referred to the Committee on the Judiciary.

#### ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2034: Mr. Harkin. H.R. 4086: Mr. Clinger. H.R. 6463: Mr. McEwen.

H.R. 6531: Mrs. COLLINS of Illinois and Mr. ANNUNZIO.

H.R. 6538: Mr. Morrison. H.R. 6850: Mrs. Collins of Illinois. H.R. 7108: Mr. Hansen of Idaho.

H.R. 7108: Mr. HANSEN Of Idaho.
H.R. 7275: Mr. ST GERMAIN, Mr. SABO, Ms.
FERRARO, Mr. WOLF, Mr. MURTHA, Mr.
HOWARD, Mr. SMITH Of New Jersey, Mrs.
SCHROEDER, Mr. HOYER, Mr. UDALL, Mr.
GARCIA, Mr. LELAND, Mr. CLAY, Mr. FAZIO,
Mr. WEISS, Mr. BARNES, Mr. MATSUI, Mr.
OTTINGER, Mr. DELLUMS, Mr. DE LUGO, Mr.
DASCHLE, Mr. JOHN L. BURTON, Mr. DYMTANDEROV, Mr. Mr. MYLLISKI, Mr. ALLY, Mr. FAUNTROY, Ms. MIKULSKI, Mr. WASHINGTON, and Mr. WON PAT.

H.R. 7406: Mr. ANNUNZIO, Mrs. COLLINS of Illinois, Mr. ERLENBORN, Mr. PORTER, and Mr. ROSTENKOWSKI.

H.R. 7411: Mr. WATKINS, Mr. KEMP, Mr. FISH, Mr. STOKES, AND Mr. BETHUNE.

H.J. Res. 459: Mr. McCurdy.

H.J. Res. 558: Mr. ATKINSON, Mr. GIN-GRICH, Mr. LAFALCE, Mr. MINETA, Mr. LEACH of Iowa, Mr. Conte, Mr. Kildee, Mr. Bereu-TER, Mr. MARTIN of New York, and Mr. LEATH of Texas.

H.J. Res. 591: Mr. Simon, Mr. Deckard, Mr. Neal, Mr. Sabo, Mr. Frank, Mr. Pashayan, Mr. English, Mr. Bethune, Mr. Brown of California, Mr. Fountain, Mrs. Holt, Mr. Atkinson, Mr. Yatron, and Mr.

H.J. Res. 603: Mr. SHARP and Mr. ROBERTS of South Dakota.

#### AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

#### S. 1965

By Mr. BAILEY of Missouri:

(Amendment in the nature of a substitute)

-Strike all after the enacting clause and insert the following:

That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the Naand, therefore, as a component of the Na-tional Wilderness Preservation System; cer-tain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map enti-tled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

Sec. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives, and such description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this

SEC. 5. (a) The Congress finds that-

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Missouri and of the environmental impacts associated with alternative allocaitons of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that-

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Missouri such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Missouri;

(2) with respect to the National Forest System lands in the State of Missouri which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II), except those lands remaining in further planning upon enactment of this Act, or designated as wilderness by this Act or previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewal Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Missouri reviewed in such final environmental statement and not designated as wilderness by this Act or previous Acts of Congress shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Missouri for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

HR 7397

By Mr. DE LUGO: On page 17, after line 15, insert a new sec-

tion 103(e) and change subsequent subsections enumerations accordingly:

(e)(1) For purposes of this subsection, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United States

(2) Duty-free treatment provided under this title during any calendar year after 1982 to bulk rum that is the product of a beneficiary country shall terminate for such portion of that year that remains after the quantity of such bulk rum which is entered during that year exceeds whichever of the

following quota amounts is greater:
(A)(i) for calendar year 1983, an amount, as determined by the President, equal to 150 percent of the total amount of bulk rum that was the product of that beneficiary country and was entered during either 1980

(ii) for each subsequent year after calendar year 1983 except as provided in subparagraph 3 of this subsection, an amount, as determined by the President, equal to 120 percent of the maximum amount of duty-free bulk rum allowable the preceding year; or

(B) 10,000 proof gallons.

(3) Unless the President determines, with respect to any calendar year after 1983, that the respective quantities of bulk rum which are the product of Puerto Rico and the United States Virgin Islands and are en-tered during that calendar year equalled amounts more than the greater of:

(A) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during cal-

(B) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during the immediately preceding calendar year.

then the maximum amount of duty-free bulk rum from each beneficiary country al-

lowable under clause (ii) of subparagraph (2)(A) of this subsection during the calendar year immediately following the year for which such determination was made shall be 100 percent of the maximum amount of duty free bulk rum allowable for the year for which such determination was made.

(C) The President may waive the provisions of subparagraphs 3(A) and 3(B) hereof if he determines that the reductions described therein were primarily the result of:

(i)(a) in the case of the Virgin Islands, competition from the bulk rum industry of Puerto Rico:

(i)(b) in the case of Puerto Rico, competition from the bulk rum industry of the United States Virgin Islands:

(ii) criminal acts:

(iii) concerted labor action; or

(iv) an act of God.

By Mr. HOPKINS:

-Page 11, line 21, strike out "or". Page 11, line 24, strike out the period and insert in lieu thereof "; or".

Page 11, after line 24, insert the following new paragraph:

(4) tobacco and tobacco products provided for in part 13 of schedule 1 of the TSUS.

[Omitted from the Record of December 8, 19827

H.R. 7357

By Mr. SOLOMON:

Page 80, line 15, strike out "and".

Page 80, line 19, strike out the period and insert in lieu thereof ", and".

Page 80, after line 19, insert the following: "(D) is registered under the Military Selective Service Act, if the alien is required to be so registered under that Act."

Page 82, line 24, strike out "and".

Page 83, line 4, strike out the period and

insert in lieu thereof ", and".

Page 83, after line 4, insert the following: "(iv) is registered under the Military Selective Service Act, if the alien is required to be registered under that Act.

### SENATE--Wednesday, December 15, 1982

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Gracious, Loving God, we celebrate world-wide the event that bisected history into B.C. and A.D. At the heart of that cosmic event is love-God so loved the world, that He gave His only begotten Son, that whosoever believeth in Him should not perish, but have everlasting life.-John 3: 16.

We need forgiveness, Lord, for the way we have violated that love. We have ignored it, demeaned it, diminished it, perverted it, and degraded it. We have turned love into weak sentimentality or emotionalism or sex. We have rejected it as irrelevant and im-

material.

Help us, faithful God, to understand that matchless, inexpressible love, given through a babe in a manger. Help us to comprehend that it is unconditional, unremitting, universal, inclusive, and eternal. Help us to realize that it is actually the most powerful force in history, transforming people and empires and civilizations. May we honor Thy love—receive it, submit to it, and share it. We ask this in the name of Him who was Love Incarnate. Amen.

#### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

#### SENATE SCHEDULE

Mr. STEVENS. Mr. President, we are trying to clear the payment-inkind bill, S. 3074. If it is cleared, we hope to be able to proceed with it before we get back to the surface transportation bill. When we return to the surface transportation bill the amendment of the Senator from Ohio will be pending.

We also hope that we will have the Agriculture appropriations conference report sometime today, and that Members will permit us to have had that report considered and the bill sent to

the President.

The Senate, I am sure, expects my next comment, and that is the majority leader intends that we stay in late.

We hope we will be able to complete this surface transportation bill which contains the new gas tax.

We are compelled to remind the Senate that the existing continuing resolution expires on December 17.
That Appropriations Committee will meet today to complete marking up the continuing resolution we have re-

ceived from the House.

It is the hope of the leadership that that will be completed and sent to conference so that we may submit it to the President before the deadline on the 17th. I know that is a large hope, but I call attention of the Senate to the fact that there are two cloture motions that were filed late last evening. one on the Baker substitute and the other on the basic surface transportation bill.

I personally hope we are not compelled to go to those because we will trigger two periods of postcloture procedure which will be extremely difficult to complete prior to the time we must complete the continuing resolu-

So in this period before the holidays we can do no more than plead once again for the understanding and cooperation of all Members of the Senate on a bipartisan basis to help the leadership on both sides to see to it that we may complete our business and return to our homes and families in time for Christmas.

It is my understanding that there will be a period for the transaction of routine morning business following the leader time; is that correct?

The PRESIDING OFFICER (Mr. GORTON). The Senator is correct.

Mr. STEVENS. Does the Senator seek any time? If not, I yield back the remainder of our time.

#### RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, expect to use a small amount of the minority leader's time, and I will ask to reserve the time for his later use if he desires to use it.

#### ELECTROMAGNETIC PULSE-THREAT TO ALL RETALIATORY SYSTEMS?

Mr. PROXMIRE. Mr. President, while the Senate and House have been examining the technological justifica-

tion for the Dense Pack basing mode for the MX missile, little attention has been paid to the weakest link in U.S. strategic planning-command, control, and communications.

Intensive studies of the effects of nuclear explosions in the atmosphere or beyond the atmosphere indicate that there could be widespread failures in the command and control structure. Why is this important? Because it is now possible to speculate that an initial assault against the United States could be led off by highenergy nuclear detonations high above the United States which would in effect blanket out all U.S. military and civilian power sources and communications devices.

The weakest link in any strategy always presents a tempting target. So while we are deep in the debate over the MX, it is only appropriate to consider whether or not the MX and the rest of our retaliatory forces would even operate properly in a nuclear environment.

So we are faced with a new and more fundamental technological problem that simply has to be determined before, and I repeat before, a commitment is made to Dense Pack or any other deployment depending upon its communications links. If it is true that an exoatmospheric blast can knock out power sources, cause engine failures, blind satellites, interrupt radio and other telecommunications systems, then we are spending a lot of time and money discussing deploy-ment modes of questionable utility and survivability.

Perhaps, Mr. President, we need to start with the fundamentals of nuclear warfare first, and really understand what they mean for our retaliatory systems, before we dedicate tens of billions to programs of uncertain utility. It is time for the administration and the appropriate committees of Congress to investigate and explain this phenomenon of electromagnetic pulse before we lock ourselves into deployment schemes which are fundamentally unsound.

Mr. President, I ask unanimous consent that an article in the Washington Post on this matter be printed in the

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 5, 1982] FRYING ALL OUR ELECTRONICS WITH A NUKE OVER OMAHA, ONE SOVIET WARHEAD COULD DELIVER A KNOCKOUT

(By William J. Broad)

"All of a sudden a greenish-white flash lit up all of Hawaii," recalled an eyewitness. "The sky started turning pink, then orange, then red. The heavens were filled with a ghastly light."

It happened during an atomic test in July 1962. A rocket lifted off from Johnston Atoll, 800 miles southwest of Hawaii and, 248 miles above Earth, turned into a ball of

Something so unexpected happened that two decades later military planners still ponder its dark implications for the fighting

of nuclear war.

A second or so after the flash, the Hawaiian Islands were plagued by electrical problems. In Oahu, 300 streetlights winked out, their fuses blown. Burglar alarms started ringing and power lines went dead. Honolulu headlines the next day attributed the breakdowns to a nuclear "shock wave." It was not so easily explained.

The mysterious agent was EMP, an electromagnetic pulse given life by nuclear blasts. EMP is an intense burst of energy that can travel halfway across a continent at the speed of light and still pack enough

punch to burn out electrical systems.

An EMP attack would be the ideal first step in a massive atomic assault against the United States. A single Soviet warhead detonated 250 miles or so above Nebraska would blanket the nation with EMP having peak fields on the order of 50,000 volts per meter-almost certainly strong enough to shut down all power and communications. Though the pulse would do no direct harm to humans, it would throw the United States and its armed forces into confusion.

This vision is all the more menacing, with the Pentagon foreseeing the possibility of a prolonged or "limited" nuclear war. This takes for granted exceedingly good communications throughout the military, especially between the president and his troops. But EMP renders this assumption mere wishful thinking and turns the notion of limited nu-

clear war into fantasy.
Wrestling with EMP threat is a top priority. In unveiling a \$180-billion program for rebuilding the U.S. strategic war machine, President Reagan in October 1981 said the number one job was not to deploy the MX missile or build the B1 bomber but "to strengthen and rebuild our communications and control system-a much-neglected factor in our strategic deterrent."

Reagan has earmarked \$20 billion to this end—much of it for grappling with EMP.

Besides protecting communications links around the world, the Pentagon has assigned a top secret mission to a special team in the Joint Program Office: to create an altogether new communications system which will work reliably during nuclear war.

Why has it taken so long to awaken to the threat? What do the Soviets know of EMP? Can the United States defeat the electromagnetic crippler? The answers are buried deep in the history of the nuclear arms race.

The 1962 test, a 1.4-megaton blast known as Starfish Prime, was one of the last held aboveground. A few months later President John F. Kennedy and Soviet Premier Nikita Khrushchev agreed to ban nuclear tests from the atmosphere and space, ending the possibility of observing EMP in peacetime.
Unfortunately, the U.S. military misread

the hints already at hand. Military scien-

tists knew there had been a strong electrical pulse on the Hawaiian Islands. But they felt reassured by the fact that power failures had been scattered and that most telephone systems had gone right on working

By late 1963, military physicists had come up with an explanation for the pulse. On Earth, the atmosphere quickly absorbs the gamma radiation and X-rays unleashed by a nuclear blast. In space, this high-energy radiation travels over vast distances at the speed of light. A blast 50 to 500 miles above Earth sends radiation into the upper atmosphere, knocking electrons out of air molecules. The electrons twirl around and down the lines of force of the Earth's magnetic field. The electrons act like a radio transmitter, beaming out a powerful pulse spanning the frequencies from zero to about 100 megahertz-a range that takes in everything from power-line frequencies to most AM and FM radio and many television channels. The higher the blast, the greater the area on Earth covered by EMP broadcast

EMP can be picked up by airplane hulls, radio antennas, telephone lines, car bodiesanything metal. The longer or wider the collector, the more energy is induced. A wire the length of a football field would catch enough EMP energy to power a 100-watt bulb for an instant in 1,500 homes. A transcontinental power line would pick up enough EMP to cause blinding arcs between

transmission cables.

The physicists who looked at EMP in 1963 could not foresee the host of vulnerable devices waiting to be spun off by the semiconductor revolution. Vacuum tubes, still in widespread use in 1963, have thick metal parts, separated by a near vacuum, that can handle a high-voltage surge and operate as if nothing had happened. Solid-state devices, on the other hand, are built up of successive layers of silicon thinner than a human hair. Something akin to panic came in the 1970s, when military engineers discovered that solid-state integrated circuits are a billion times likelier to be destroyed by EMP than vacuum tubes.

Physicists had faith that EMP could be tamed, especially by shielding. Key systems would be covered with a thin sheet of metal that would siphon off the high-voltage surge. A primitive version of such a shield is described in "Nuclear War Survival Skills," a handbook published four years ago by the Oak Ridge National Laboratory: "A radio may be shielded against EMP by placing it inside a metal cake box or metal storage can, or by completely surrounding it with

aluminum foil."

A cake tin might work for a radio, and finding out is not difficult. Small systems can be "hardened" and then tested by blasting them with simulated EMP. But there is no way to test the reliability of a coast-tocoast communications link short of detonating a warhead high above the atmosphere.

The implications of the shielding problem dawned on the military during the construction of the \$5.7-billion Safeguard antiballistic missile (ABM) system. Safeguard's nuclear interceptors were to confront Soviet warheads high above the atmosphere, sending EMP surges across most of North America. The military initially considered EMP a bothersome side effect. But after trying vainly to build an invulnerable transcontinental phone line between Safeguard and the president, military planners began to see EMP as potentially fatal.

The Safeguard project was started in 1969, a time when attempts to harden small

systems such as strategic U.S. missiles against EMP had begun. Safeguard's massive size required a higher level of effort. Shields of steel were wrapped around entire buildings holding radars, missiles and the computers used to guide them. Huge EMP simulators then checked for hardness. But metal objects that penetrated the shielding made complete protection extremely difficult. By 1971 the U.S. military was sinking more than \$250 million a year into EMP hardening and testing.

Devices meant to back up the shielding by discharging the EMP energy across a gap or shunting it to the ground did not work. The pulse went through a system in 10 to 20 bil-lionths of a second and did its damage

before the devices could trigger.

To those in the know, the situation was ominous. Safeguard's 100 missiles were nuclear-tipped; the president would have to approve their launch. That required telephone lines stretching 2,000 miles from Washington to the ABM fields of North Dakota. Special shielded lines were leased from the Bell System. But the vulnerability of Bell's amplifiers and switching centers had skyrocketed with the wide use of solidstate circuitry. The size of the system, moreover, meant huge amounts of EMP would be collected-and complete testing for "hardness"

ess" would be impossible. On April 1, 1975, technicians made the final adjustments on the missiles. Ten months later, Congress closed Safeguard down. "We wondered with Safeguard whether we were going to knock out our own weapon system," says Claud L. Beckham, a former Bell official who worked on the project. Today ABM designers avoid hypothesizing nuclear intercepts in space at all costs. Instead, they assign blasts to the atmosphere, where EMP effects are intense but extend only a few miles rather than Defense strategists consider

Safeguard a \$5.7 billion fiasco.

Are the Soviets so careless? Evidence came to light shortly after Safeguard's demise that the Soviets are preparing for the pulse quite seriously. In 1976 a Soviet pilot defected with his MIG-25 to Japan. CIA director George Bush exulted that it was an "intelligence bonanza." The plane, an interceptor known as a Foxbat, had been clocked at three times the speed of sound and was the Soviet warplane most feared in the West. Air Force Secretary Robert C. Seamans in 1973 called it "probably the best interceptor in production in the world today.

Peals of laughter soon rang throughout liberal circles when it turned out the fear-Foxbat relied on old-fashioned vacuum tubes. But a few Western defense experts were far from amused. One year after the Foxbat landed, the Pentagon quietly revised "The Effects of Nuclear Weapons," its EMP bible to include the warning: "It may be advisable to design equipment with vacuum tubes rather than solid-state

components.'

In any event, the Soviets clearly could developed an early appreciation of EMP. They conducted their atomic tests in space high above central Asia. It is a sparsely populated region, but unlike the watery expanses around Johnson Atoll, it has towns. So the Soviets have had more of a chance to observe how EMP is picked up by intercity power and telephone lines and the way it affects electronic apparatus. Soviet manuals and magazine articles are rife with such references to EMP as this passage: "To achieve surprise in a modern war . . . highaltitude nuclear explosions can be carried out . . . to destroy the system of control and communications and to suppress the antimissile and antiair defense radar system.

Can the United States protect itself? Vacuum tubes cannot be used in every military device that has to function during a nuclear war. Energy efficient, reliable, compact and cheap, solid-state devices are irresistible to designers.

One possible way around the conundrum would be to rely on shielding only in small systems that can be fully tested for EMP hardness. So military planners turned their

attention to airplanes.

But can airplanes be made impregnable? The president and his generals have many airborne command posts from which they might orchestrate a nuclear war. The president has four specially designed Boeing 747s. The Strategic Air Command flies a fleet of two dozen Boeing 707s for the control of Minuteman missile fields alone.

In the early 1970s, Boeing took three 747s off the production line and tried to protect and shield individual systems. Bundles of wire cabling and thousands of key electrical systems were wrapped in special metal shielding. Pulse-limiting devices were stalled in important circuits. The upshot was depressing. Tests showed that up to 11,500 essential solid-state circuits would fail if the planes were hit by EMP from a nuclear explosion half a continent away. A few years later, Boeing, with another 747. tried to make the aircraft's hull one giant shield. The plane was built from scratch so the 2,000 or so openings in the hull could be covered or shielded. It worked but cost five times more than a commercial plane-so only one airborne command post in all the U.S. military is considered reliably "hard."

Other command aircraft are slated for hardening, but whether the resulting aircraft will truly be invulnerable is doubtful because of testing inadequacies. In 1980, for instance, a \$58-million EMP simulator in Albuquerque was placed into use, allowing large planes to be completely tested for the

first time.

Known as Trestle after the railroad structure it resembles, the 12-story platform is made of Douglas fir. Metal would affect the electromagnetic pulse, so Trestle is held together with, 250,000 laminated beech bolts. Two 5-million-volt pulsers discharge a surge of electricity into wires surrounding the test stand. For a few billionths of a second the pulsers are putting out 160 billion watts of power.

Yet that huge jolt cannot mimic a peak EMP surge. The pulse of about 40,000 volts per meter that Trestle lays down at an aircraft's hull is 10,000 shy of the peak accept-

ed by most U.S. scientists.

Even 50,000 volts may be too little. The Pentagon states the power of the pulse is 50,000 volts per meter no matter how big the bomb. But some French physicists, among others, envision a pulse of about 100,000 volts per meter. If they are correct, the nominal protections the Pentagon has tried to build into communications networks, missiles, radars and radios would almost certainly be useless.

way around the difficulty is to make critical communication links transparent to EMP by transmitting messages with pulses of light along hair-thin glass fibers. Fiber optics do not pick up EMP or conduct electricity and thus will not send damaging pulses to fragile solid-state devices. The B1 and Stealth bombers will use glass fiber to make them less vulnerable to EMP. The

Bell System, whose lines carry military messages, is installing a 496-mile fiber optic line between Washington and Boston-the first of many such conduits around the country

At first glance a transcontinental web of glass fibers might seem a perfect solution. But telephone calls on fiber optic lines must repeatedly be turned back into electric signals as they pass through switching centers and amplifiers full of solid-state equipment. And shielding is difficult, since the switches, computers, and amplifiers are powered by the commercial power grid-a perfect con-

duit for EMP. Its cost would be prohibitive.

In the war against EMP, the space front looks particularly grim. Communications satellites carry more than 70 percent of all long-distance military messages. For some time, the military thought satellites would be immune to all but a nearby nuclear blast. But in the early 1970s, physicists found that radiation from a nuclear blast in space travels vast distances and knocks electrons out of a satellite's skin and innards, causing an

EMP-type surge.

The oversight had dark implications. For more than a decade, starting in the early 1960s, the Air Force kept a secret arsenal in the Pacific, armed with missiles tipped with nuclear warheads. The arsenal's sole mission was to destroy enemy satellites used for early warning, reconnaissance and communication. But their EMP also could have crippled ours, accidentally altering the outcome of a nuclear war. The system was scrapped in 1975 when Pentagon managers were finally convinced the EMP threat was

As part of President Reagan's program, the Air Force is trying to harden some satellites. Shielding does not work well; much of the radiation that causes EMP in space passes right through a thin metal covering. So engineers are designing special circuits, filtering antenna inputs and fabricating cables from aluminum and other metals with low atomic weights, since they release electrons less readily than copper. Such limited protections will work only if the satellite is far from a nuclear blast-just how far, the Pentagon will not say. A relatively small explosion of two megatons just outside the upper atmosphere at an altitude of 50 to 75 miles would damage an unprotected satellite in geosynchronous orbit 22,300 miles above Earth. And the kill range can easily be extended by increasing the size of the bomb.

The United States is frequently crisscrossed by picture-taking Cosmos satellites at a height of some 150 miles. Just one of them, carrying a few pounds of plutonium instead of a camera, could knock out key U.S. military satellites and, as radiation from the blast slammed into Earth's upper atmosphere at the speed of light, touch off

coast-to-coast pandemonium.

In a worst-case scenario, the powerful surge of EMP would trip circuit breakers throughout the power grid, silence, telephone lines, lobotomize computer memories and throw the armed forces into disarray. Backup power would kick on deep within Cheyenne Mountain in the Colorado Rockies, the nerve center of the North American Aerospace Defense Command. Yet here too chaos would rule. The super-secret satellites that warn exactly where to expect a rain of Soviet warheads would have been knocked out and the U.S. early-warning radars would have been blinded, as predicted in the Soviet manual.

On strategic bomber bases, B-52 flight crews might run for their trucks to find they would not start, their electronic ignition systems dead. The president might get to his hardened airborne command post to learn, too late, that even if his plane got off the ground, its radio range would be sharply reduced; the satellites used to relay its messages would be out of action.

Some defense strategists are more optimistic. Perhaps the president could get enough of a signal through the atomic static to launch waves of U.S. nuclear warheads in massive retaliation. It is just such uncertainty that keeps the Soviets from mustering an EMP attack, according to such defense strategists as Gerald P. Dinneen, the top communications specialist in the Pentagon during the Carter administration.

The Soviets also run the risk that launch officers of Minuteman missiles and commanders of nuclear submarines, cut off from superiors by an EMP attack, might fire missiles on their own accord, unleasing an uncontrolled nuclear spasm.

In light of these apocalyptic visions, critics of the Pentagon say that a limited nuclear war waged over days, weeks or months, as proposed by Defense Secretary Caspar W. Weinberger, is simply impossible. Weinberger's aim is to give the United States, should it be attacked, choices other than releasing the entire nuclear arsenal in all-out retaliation or letting the country be destroyed. The knowledge that the United States can exact precisely measured punishment-if the Soviets bomb three large cities, the United States will retaliate in kind-serves to check the possibility of a Soviet preemptive strike. Or so Weinberger and his aides believe.

Yet Jeremy Stone, president of the 5,000member Federation of American Scientists, says that only the raw threat of convulsive massive retaliation will discourage the Soviet Union from toying with the idea of a first strike. In an influential article in 1980, Stone raised the specter of EMP and military chaos: "We ought not kid ourselves that we are prepared to fight a protracted nuclear war when no plausible improvement in command, control and communications is likely to permit it."

Pentagon hardliners claim that eventually the armed forces can be protected against EMP and thus could wage any kind of war. They cite the increased use of fiber optics and Reagan's \$20-billion program with its impending improvements that include new technologies. The Air Force is developing an emergency communications system that uses ground wave signals at low frequencies. The Army, after many failures with shielding, has begun trying to clip EMP pulses with new, fast-acting diodes. But the diodes offer no protection against EMP picked up by the national power grid or long communications lines.

One reason EMP came into public view was that the military felt obligated to warn Congress, defense contractors and civil defense authorities of the flaws being uncovered in large communication networks. As Pentagon official John A. Northrup admitted to Congress in 1972: "In our initial studies it was hoped that we could identify that the problem would not be a continuing one. That is, that the problem would go away. I think what has happened there is the recognition that the problem appears to be a potential hazard that must be addressed, and that our initial studies were not successful in making it go away."

HISTORICAI DOCUMENTARY RE-MINDS US OF THE NEED FOR THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in January of 1945, Auschwitz-the infamous Nazi death camp-was liberated by the Red army in its push toward Berlin. Later that year, on April 12, it was America's turn to come face to face with Hitler's "final solution" as the forward units of Patton's 3d Army took possession of the Buchenwald camps. These horrific discoveries were soon followed by others like Dachau, Bergin-Belson, Majdanek, and Treb-linka which supplied the world with evidence of history's most extensive and catastrophic genocidal campaign. All of the triumphs and tragedies of the war years seemed lost in the almost daily revelations of Nazi crimes being uncovered by the invading Allied forces.

These ugly scenes became indelible and permanent fixtures in our memories and the world seemed determined to avenge the 6 million victims by not only punishing the culprits but by addressing the crime itself. It was in this atmosphere that the Genocide Convention was conceived and adopted by the United Nations. It was in this spirit that the United States, a major contributor to the writing of the convention, signed the document and moved to have the Senate advise and consent on final ratification.

While the convention's unratified status regrettably remains unaltered, much has changed in the 37 years that have passed since that time. For the children of today, the Nazi war crimes seem almost unreal and quite removed from contemporary considerations. The new generation learns of the camps but often only in the abstract; only through the faded pictures and grim accounts of a different age. There is only so much that children of this decade can extract from sensationalized films or stilted documentaries. The personal memories that we ourselves can draw upon, having lived through this period, gives us an appreciation for these events that largely escapes our children.

Recently, however, a program was aired on WNET, channel 26, that could supply the youth of today with a comprehensive understanding of what occurred during those days. The program, "The Rise and Fall of the Third Reich," is a documentary based on William L. Shirer's work which examines the growth of the Nazi movement in Germany and the atrocities carried out under its auspices. This provocative piece moves out of the usual pedestrian view of the events of this period and probes deeper into the possible motivations and objectives of the leaders in the German high command. Shirer's most excellent work is put into a form that enhances its content by making it more readily understand-

able for the general audience. The complicated mixture of Prussian militarism, German nationalism, and Aryan anti-Semitism that seemed to coalesce in Germany in the 1940's is dealt with through characters and scenes that are prototypical of the society at large. This use of a storyline based on historical documentation offers great promise as a early teaching device for viewers lacking a fundamental knowledge of the people and events of this period.

"The Rise and Fall of the Third Reich" is a perceptive and thoughtprovoking examination of a very difficult period. For those of us who personally witnessed many of these unfold, this new insight into the working of the Third Reich is an extraordinary opportunity. For those of our Nation who are too young to have lived through this period, this recreation of modern history's most tragic epoch is a mandatory education. The only crime approaching that of the Nazi genocide would be the crime of letting its tragic lesson fade and recede from our memories. As we begin a 38th year without the ratification of the Genocide Convention, we could do well to look back at the convention's genesis in the Nazi crematoriums. We succeeded in arresting only the criminals, not the crime, and consequently genocide remains a question unsolved and very much contempo-

#### ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m., with statements therein limited to 2 minutes each.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### JOHN LIGHT NAPIER

Mr. THURMOND. Mr. President, in a few short days, the 97th Congress will draw to a close, and with it, the legislative service of some well-respected men and women who have dedicated substantial portions of their time and energy to serving their country.

For the last 2 years, I have been consistently impressed with the service of a man whom I have had the pleasure of working with for some time: Congressman JOHN NAPIER of Bennetts-ville. S.C.

John has represented the citizens of the Sixth Congressional District of South Carolina with honor and distinction since his election in 1980. He is a man who has shown great vision and dedication to the principles of honesty, integrity, and hard work. He is to be particularly commended for his legislative record while serving in the Congress.

Mr. President, John Napier has always had the courage of his convictions, and the strength to stand up for those principles in which he believes. In leaving the profession of politices, at least temporarily, John Napier can be secure in the knowledge that the people of his district have benefited greatly from his service in the House of Representative. To John and his lovely wife, Pam, I wish every success as they return to South Carolina.

John's service to the people of the sixth district—a predominantly agrarian section of South Carolina—has been particularly evident in the House Agriculture Committee, where he served on subcommittees dealing with tobacco, cotton, and other crops vitally important to his constituents.

He has also been supportive of South Carolina's growing tourism industry, and has worked hard to promote the State's Grand Strand area of Myrtle Beach and surrounding coastal recreation sites as outstanding places for family vacations.

But John Napier also realized that a strong economy in the Myrtle Beach area depended on development of a year-round tourism industry, and he worked closely with local and State officials to make that goal a reality.

In addition, he has been instrumental in protecting the coastal areas of the sixth district by supporting a comprehensive beach erosion study. To attract more people to South Carolina's Grand Strand, John procured funds for a traffic study to extend Interstate Highway 95 to Myrtle Beach.

Since his election in 1980, JOHN NAPIER has helped bring more than \$150 million in Federal grants and loans to his district, and he helped the Myrtle Beach Air Force Base secure funds for a new control tower and additional aircraft parking space for our Rapid Deployment Force.

Mr. President, JOHN NAPIER'S commitment to his country, his State, and to the principles which helped make this Nation strong should serve as an example to all of us.

I am particularly proud that he began his career of public service in my office, first as a congressional intern and later as a member of my legislative staff, where he served with distinction as an assistant on the Veterans Affairs and Ethics Committees in the Senate.

He is a devoted family man, public servant, and outstanding American. In

serving his district, and indeed the whole State of South Carolina, John Napier was tireless in his pursuit of improving the economic condition of our farmers and their families.

He has been a capable and helpful friend to the people of his district and our State, Mr. President. I know that all the people of South Carolina look forward to his continued public service in the years to come.

#### S. 823, THE TRIS LEGISLATION,

Mr. THURMOND. Mr. President, I am pleased that the Senate yesterday passed S. 823, as amended by the

House of Representatives.

This legislation, known as the tris indemnification bill, has been before the Congress on a number of occasions prior to this action yesterday. As a matter of fact, the tris legislation has passed the Senate three times in this Congress, and once in the previous Congress. The House has finally acted on this meritorious legislation with certain amendments that I have no objection to and, in fact, support as good improvements to the bill.

Mr. President, as I have stated many times on the Senate floor, this legislation is not a bailout for the textile and apparel industry. It simply permits those companies affected by the Government ban on the chemical flame retardant tris to go into the Court of Claims and show the extent of their losses. Once a judgment is entered, these claimants must return to the Congress for any compensation.

This legislation has probably been put under more legislative scrutiny than any other legislation of its kind in recent years. No one is getting the wool pulled over their eyes on this bill. Numerous hearings in both the House and Senate during the past 5 years have examined every aspect of this legislation. It provides relief that is fair, equitable, and reasonable based on regulatory actions by the Federal Government.

Mr. President, I am pleased that my colleagues approved this measure without amendment so it could be sent to the President for his signature.

#### CONCERNING U.S. REPRESENTA-TIVE KEN HOLLAND

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fine man and able Congressman, Ken Holland, from my home State of South Carolina.

Ken has represented well the people of the fifth district, and they have shown their appreciation for his good work and trust by reelecting him in 1980 to a fourth term as their Representative to the U.S. Congress.

Ken has served his constituency well in tackling many issues of importance. One area where he has been particu-

larly effective is textiles. Textile plants are key employers of the people Ken represents, and he has done a good job of helping to protect the jobs of those whose livelihood depends upon the stability of our domestic textile industry. These jobs have been endangered recently with the onslaught of less expensive foreign textile imports.

In a mutual effort to help resolve this problem, Ken and I have worked closely to make our Government more responsive to the problem of foreign textile imports coming into this country from Hong Kong, Taiwan, Korea, and the People's Republic of China. These imports continue to be a major threat to Southern textile manufacturers and to all those in this country who rely on textiles for jobs and economic security.

Mr. President, Ken Holland has excelled as a Congressman in many areas and he has served our home State of South Carolina well. I wish him the best of luck in all future endeavors.

## TRIBUTE TO M. CALDWELL BUTLER

Mr. THURMOND. Mr. President, I rise today to recognize the career of Congressman M. Caldwell Butler from the Sixth District of Virginia. Calwell Butler is retiring at the end of the 97th Congress with a fine record in the U.S. House of Representatives.

After serving for 10 years in the Virginia House of Delegates, CALDWELL BUTLER was elected to the U.S. House of Representatives in 1972. He has served consecutive terms in that seat

for the past 10 years.

Caldwell Butler has earned the reputation of being a hard worker and a man who stands up for his principles. He has worked for tougher anticrime legislation and much needed reform of our immigration laws and has served his constituents well. He is respected by both sides of the aisle for his efforts as a member of the Judiciary and Government Operations Committees and by Members of both Houses of Congress. His contributions to the debate on issues in committee and on the floor will be missed.

Mr. President, I highly respect Caldwell Butler as a man of integrity and ability, and I have enjoyed working with him on issues of mutual interest. I want to publicly commend him on a job well done and to wish him and his family a wonderful future. His work during his tenure in the House will not be forgotten, and he can take with him a knowledge that he has made a valuable contribution to his fellow Americans.

#### JOHN J. RHODES

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of the

most distinguished Members of the U.S. House of Representatives, Congressman John J. Rhodes of Arizona. John Rhodes will be retiring at the end of the 97th Congress, after 30 years of service to the people of the First District of Arizona. He will be missed by his colleagues in both the House and the Senate.

A Harvard Law School graduate and a veteran of World War II, John Rhodes has represented his district in an outstanding manner since his first election in 1952. He has served his constituents well in the various roles he has assumed in the House, and they have rewarded him by reelecting him every 2 years since 1952.

John Rhodes has served in many capacities in the House as a member of the Committee on Education and Labor, Committee on Interior and Insular Affairs, Committee on Appropriations, Joint Study Committee on Budget Control and the Rules Committee. In each committee assignment, he has worked diligently to do what was best for our Nation as a whole, not just for one particular interest group. He is to be commended and admired for his ability to see the broader picture and for his willingness to work toward achieving the best for all.

In other roles, as chairman of the House Republican Policy Committee for 7 years, and then for another 7 years as minority leader, John Rhodes provided most able leadership for the Republican Members of the House.

I have nown John Rhodes for a number of years, and am proud to call him my good friend. I have enjoyed working with him through the years and look forward to continuing our friendship. We all wish John and his lovely wife Betty much happiness and success in their endeavors in the future.

#### 1982 IS BICENTENNIAL OF UNITED STATES-NETHERLANDS RELATIONS

Mr. PERCY. Mr. President, as 1982 comes to a close, it is worth noting once again that this year marks the celebration of 200 years of continuously peaceful diplomatic relations between the United States of America and its oldest partner in the world, the Kingdom of the Netherlands. For it was in 1782 that the States General accepted the credentials of our first envoy to the Netherlands, John Adams, and thereby recognized the sovereignty of this country.

The bicentennial of Netherlands-United States relations was also the occasion for the invitation to Her Majesty Queen Beatrix of the Netherlands to address a joint meeting of the U.S. Congress, as her mother and grandmother had done before.

Not too many months ago I had a visitor in my office, Jack Fieyra. He is a Netherlander who, at his own expense, had come to Washington to take part in an exchange between the Disabled American Veterans and the Netherlands Ex-Servicemen Association. Mr. Fieyra had taken an important role in organizing the visit of disabled Americans to the Netherlands this summer, Americans who had taken part in the liberation of his country. He brought with him copies of documents, a sort of dossier on the establishment of relations between the United States and the Netherlands. The dossier, which has been placed in the Foreign Relations Committee's historical files, contains the declassified secret memorandum, draft treaties, minutes of private meetings and letters of two centuries ago which led to the signing of the first Treaty of Amity and Commerce between our countries, on October 8, 1782. That treaty took 6 years to negotiate.

Without that treaty it would have been impossible for this war-torn and struggling Republic to have received the foreign aid it so desperately needed. For, less than 2 months after John Adams had obtained Dutch recognition of the United States, the first loans were placed in the Netherlands: f.5 million at a then astronomic interest rate of 5 percent. And, with the treaty, Dutch caution was pushed to the side completely: Over the next 6 years three more loans totaling f.4 million were placed in the Netherlands. Congress was then in urgent need of cash to pay the interest on previous loans, both French and Dutch, and to establish this country as credit worthy in European financial centers.

The new Constitution of 1787 put the United States on a sounder financial footing; from 1790 onward there were few difficulties in finding subscribers for loans. Amsterdam bankers arranged eight more loans after 1790 for a total of f.25 million. One hundred percent of the U.S. foreign debt was held by Dutch bankers. And the United States paid back 100 percent,

principal and interest.

But the Dutch were not done, yet. In 1804 the banking house of Hope & Co. offered a U.S. public loan of f.12 million at 6 percent in order to finance the Louisiana Purchase.

Without the faith of the Netherlands in those critical years the War of Independence might have produced continuing financial and even colonial

dependence.

People of North America and the Netherlands, of course, knew each other for centuries before official recognition in 1782. From the year 1609 when Henry Hudson sailed for the Netherlands West Indies Co., past Manhattan Island in search of the fabled Northwest Passage, Netherlanders have been coming to our land

in order to settle, to contribute, and to build a future. People such as Mr. Fieyra, who came to bear personal testimony of his high regard for this country, are the descendants of centuries of travelers, who honor us with their presence and good wishes.

As 1982 comes to a close, the people and Governments of the United States and the Netherlands look forward to a third century of warm friendship, fruitful trade, and peaceful relations.

#### THE HIGHWAY BILL-H.R. 6211

Mr. ABDNOR. Mr. President, we have before us today legislation which is of vital importance to every Member of the Senate. The costs of rehabilitating our highway system and the allocation of the tax revenues to carry out this project has been foremost in our minds during the past few days.

In the Environment and Public Works Committee, of which I am a member, we have considered the allocation formulas from which each State will receive its funds, and I believe we have handled those provisions well. Chairman Stafford did an excellent job of directing the proceedings and I also applaud all of the Senators on the committee for their patience and hard work during the markup sessions.

It would have been easy for some just to open up the titles wholesale to attempt to bring more money to their respective States, but they refrained during committee considerations and I hope that my colleagues will not bring up damaging amendments during the

full Senate consideration.

In the Senate bill, we saw fit to compromise with our urban colleagues, giving them a provision which guarantees each State a minimum return of 85 percent for every dollar contributed to the highway trust fund. Also, in our revenue title we have designated 1 cent of the 5-cent increase in the fuel tax to go to urban mass transit even though little of these funds will be returned to our States. Most of my rural colleagues find this to be satisfactory because we understand the problems that our cities have building and repairing their transportation systems.

The Senate bill basically changes one formula in a substantive manner. The interstate construction formula (3-R) in the present legislation is based on 55 percent-lane miles and 45 percent vehicle-miles. We changed that formula to 60-40 percent.

The House has changed the formula to one-third miles traveled, one-third gasoline consumed, and one-third diesel consumed. This is very damag-

ing to rural areas.

The bridge formula also has been changed by the other body to the cost of rehabilitation on a State-by-State basis. The Senate provision uses the national average cost of rehabilitation.

We find this troublesome also because it will direct a disproportionate share of the funds to the cities.

The primary system formula has been changed in the House to reflect only population; our provision reflects not only population but also land area and post road miles (mail routes). I find this to be much more representative of the primary systems needs.

The 4-R reconstruction formula also has been changed to an urban bent. The House provision will consider population while the Sente provision considers the true elements that led to the need for reconstruction. One-third gasoline and one-third diesel consumption and one-third miles traveled is the more appropriate formula.

The House has included language to mandate the participation of minority businesses in the work to be undertaken. While I support the admirable goal of promoting minority enterprise, rigid requirement may not be in the best interest of many areas of the country.

My State of South Dakota, for example, would be significantly hurt by such an action. The South Dakota Department of Transportation has pursued vigorously the services of local minority businesses in good faith and effort, but it would be impossible to award 10 percent of their contracts to South Dakota minority businesses.

The State, in effect, would be forced to rely on out-of-State firms. It seems unfortunate that qualified in-State firms who need the work would be unable to bid competitively for those projects.

Mr. President, what the House of Representatives had sent to us is a bill which totally shifts the allocations away from the rural areas of America to the urban populations. My State of South Dakota would, in effect, go from a donee State to a donor State in a matter of 2 years. I find this totally unacceptable.

The reason we have considered the Surface Transportation Act and the Highway Revenue Act is because we had intended to enlarge the program and go after the difficult task of finishing our Interstate System and to start rebuilding the largest public works project in the history of the world—not to restructure the program and send it into disarray.

During the conference committee consideration of this bill, of which I have asked to be a member, it is my hope that we can be reasonable and put the system back together with the help of the House Members.

Mr. President, if we are to undertake this ambitious highway renovation project, we must raise revenue in a manner that is fair to all taxpayers. The 5-cent increase in the fuel tax has turned out to be acceptable to almost everyone who is affected by this legislative endeavor. As a user fee, this tax

is imposed directly on those driving on the highway. However, this is only one aspect of the revenue-raising measure.

Many of the other tax provisions as approved by the House are unacceptable to me because of the hardship that may be imposed on the trucking industry. The heavy vehicle road tax would be increased eightfold under the House plan. In the short run I am convinced that a tremendous increase like that would cause a great hardship on truckers.

Taxes on the rubber used for large truck tires would almost triple while reducing the tax on smaller highway tires, inner tubes, and nonhighway tires.

Another concern of mine is the House provision to delete the excise tax on truck parts while raising the taxes on new trucks and trailers. We need to encourage capital investment, and higher taxes will create a disincentive for purchasing new truck equipment.

The preferred tax treatment of gasohol and other alcohol fuels is not preserved by the House, either. If this new fuel innovation is to survive its entrance into the marketplace, its taxexempt status should be maintained.

The Senate, on the other hand, has taken steps to lessen the severity of the tax imposition on the trucking industry. I recognize the importance of this industry to the whole Nation, especially to rural areas that are not served adequately by other modes of transportation. Many truckers are small businessmen who can be adversely affected and even forced out of business because of excessive taxation.

Highway users and legislators both realize that our highway network is in need of repair and upgrading. Thus, we are faced with the obligation of raising revenue fairly.

The Finance Committee adopted more reasonable heavy vehicle road taxes and phases them in over a time period rather than imposing them abruptly. That action alone should lessen the burden on trucking businesses. In addition, tire rubber excise taxes will be graduated so that all tires pay the same tax for the same weight, and heavier tires have a higher tax imposed.

To make up for some of the revenue loss due to the lowering of the road use tax from the House level, the tax on truck parts would be retained. To the extent the highway trust fund must remain solvent, that revenue tradeoff appears to be fair.

I am pleased by the action of both Houses in regard to the treatment of farm vehicles and equipment and trucks used less than 5,000 miles annually. The exception extended to State and local government is also worthy of promotion. These tax increases would otherwise impose tremendous hardship on owners of occasional-use vehi-

cles, and I will support all efforts to provide exemptions to them.

As a Senator from a rural State, I realize the importance of an adequate highway system. Without one, the flow of resources, goods, and services would be constricted.

Many areas of the country are not served extensively by other modes of transportation, such as water and rail. Citizens in those areas are heavily reliant on truck service will experience higher prices or reductions in service or both if the tax increases proposed by the Congress are not implemented fairly.

I look forward to working closely with my colleagues in achieving equity while making our road network stronger, more efficient and safer.

# INCREASE AUTHORIZATION LEVEL FOR THE LOW-INCOME ASSISTANCE PROGRAM

• Mr. HEINZ. Mr. President, I am indeed pleased to cosponsor amendment to increase the authorization level for the low-income energy assistance program to \$2.5 billion annually. I commend Senators Danforth and Eagleton for introducing this amendment at the present time. This increase in the authorization level would permit a 33-percent increase in funding for LIEAP. Natural gas consumers throughout the country are facing increases in gas costs of between 20 and 60 percent this winter. A 33-percent increase would maintain the current level of energy assistance in the face of sharply higher fuel prices this winter. Considering the projections for increasing heating costs—especially for natural gas, it is essential to increase this assistance.

The Special Committee on Aging, which I chair, has a long history of concern regarding the impact of rising energy costs on the budgets of older Americans. Last year, our committee held two hearings to examine, first hand, the burden of high fuel prices and the severe winter on older persons. Those hearings clearly demonstrated that many of our senior citizens are being forced to decide between heating and eating.

We know that the elderly poor must pay an average of one-third of their incomes on home fuel, and as much as half of their incomes in the Northern States like my own State of Pennsylvania. In contrast, the average American household spends less than one-tenth of its income on fuel. So millions of families headed by older persons must face the impossible decision between food and fuel. For them the fear of each month's utility bill is often greater than the fear of crime or concern for one's health.

We know that high fuel prices have been an incentive for conservation among many Americans, but for the elderly poor, cutting back on fuel consumption too often means shutting off rooms, using the oven for heat, or, when all else fails, falling victim to fatal hypothermia.

It was not supposed to be this way. When Congress grappled with the problem of energy shortages and dependence on foreign oil, and took up the issue of decontrol, we all acknowledged the overriding Federal responsibility to the elderly poor and the most vulnerable in our society, who could not pay the price for our national energy problems. We enacted the windfall profits tax and we specifically proclaimed that a substantial amount of it be used to help fund low-income energy assistance. The logic of that action was clear and—in my judg-ment—compelling. With that declaration, Congress said that the benefits of decontrol would be shared with those who suffer from decontrol.

Mr. President, we know that there is a widening gap between the resources of Federal low-income energy assistance and the size of our needy population. The cost of energy continues to rise faster than the Consumer Price Index. According to the Energy Information Administration at the Department of Energy, energy bills rose \$1.6 billion during fiscal year 1981-82 for the 16.5 million low-income households eligible for LIEAP assistance. This figure represents all but \$0.25 billion of the entire program funding level. Additionally a national community action survey found that 14 out of 25 States surveyed had to lower their benefits due to reductions in funding. In the face of another severe winter, our actions today are even more essential.

Mr. President, I strongly support the commitment we in Congress made by enacting the low-income energy assistance program. Rapidly escalating energy costs will continue to pose a grim dilemma for the elderly poor. Cases where older Americans have died rather than turn on the heat in the winter will continue to serve as a stark reminder to all of us about the necessity of such a program. I urge my colleagues to vote for this amendment.

#### **EMISSIONS TRADING**

Mr. BAKER. Mr. President, environmental issues are among the most complex and controversial that we face in this Congress. They ae often portrayed as either right or wrong, black or white. Parties on opposite sides of the issues become ploarized and debate becomes stilted, subjective and high emotional. Some even say our environmental statues are stagnating. I believe it is time for us to get back to honorable debate and constructive dialog based on the merits of

the issues. We must seek new and creative approaches t maintaining the forward mementum and enhancing the environmental progress this country has experience over the past decade.

In this context, I would like to call to the attention of my colleagues an article written by my distinguished colleague, Senator Domenici from New Mexico. The article, "Emissions Trading: The Subtle Heresy," outlines the innovative approach to controlling air pollutant emissions that we must begin in order to avoid stagnation of environmental statutes. The article is from the December issue of the Environmental Forum, a new publication which provides features and analyses among interested parties representing all sides of environmental issues. I ask unanimous consent that Senator Do-MENICI'S ARTICLE BE PRINTED IN THE RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Emissions Trading: The Subtle Heresy (By Senator Pete V. Domenici)

[Graphs that may be mentioned in text are not reproduced in the RECORD.]

Discussions of air pollution control, already arcane, have recently had a fresh dosage of new jargon injected into them.

Into the alphabet soup of SIPs, LAER, NSPS, and BACT has been added the terminology of emissions trading with its component parts of ERCs, bubbles, netting, offset, and banks. Proponents of the doctrine of emissions trading insist that it only adds flexibility to the Clean Air Act by allowing industries to meet existing regulations at less cost. This flexibility argument has a certain surface appeal. But as an active participant in the debate on amendments to the Clean Air Act, it is clear to me that emissions trading has triggered an emotional response that is usually reserved for religious heresies. To understand why some-thing which at first glance appears so inoffensive has triggered so much emotion, let's take a short digression into the history of the Clean Air Act.

The Clean Air Act Amendments of 1970 were a potent blend of environmental evanglelism and legal blitzkrieg. At the core of the 1970 Amendments was the conviction that ending the health menace posed by air pollution required such a mobilization of national will and resources that questions of cost and feasibility were irrelevant. This sentiment was summed up with stark simplicity in the 1970 Senate report: "Therefore, the Committee determined that existing sources of pollutants either should meet the standard of the law or be closed down

The legal structure of the amendments involved a combination of ambient standards set at levels to protect the public health and welfare, deadlines for achieving these standards, and civil and criminal penalties for any who faltered along the way. The sense of urgency of the authors of the 1970 amendments is reflected in the 1975 deadline for compliance by all polluters—clearly an optimistic and unrealistic time frame in hindsight.

Embedded within this structure is a theory of pollution abatement labeled by students of such things as "command-and-control." This approach involves setting uniform numercial limits on emissions from every point within a facility or an industry.

From the outset, the "command-and-control" theory has had its critics, particularly among economists. These critics point to the wide disparity in pollution control costs among sources that produce the same air pollutant.

A real-life example from St. Louis pinpoints the problem. The Government Accounting Office found it would cost \$600 a ton to control particulate matter from a particular brewery boiler in St. Louis. In contrast, it would cost a mere \$4 a ton to control particulates from a nearby paper products boiler. Under a typical commandand-control regulation, it would cost \$30,200 to reduce particulate by 100 tons in St. Louis if each source had to reduce its emissions by 50 tons (600 x 50 plus \$4 x 50).

Economists see such a result as insane since 100 tons could be controlled at the paper boiler for \$400. The \$29,800 difference between the two clean-up costs economists properly consider to be pure waste.

Given the continuing inability of command-and-control theory to address that problem, economists frequently prefer an alternative, using market incentives. They argue that private companies are basically economic creatures which respond best to the pleasure and pain of profits and losses. Rather than attempting to bludgeon them with the weaponry of the legal system, what is needed is an alternative that uses market incentives and disincentives to induce private polluters to clean up.

During the 1970s, the preferred alternative of the economists was emission fees. Fees had the theoretical advantage of solving the waste problem by insuring that the cheapest pollution control options would be adopted first.

Fees had only one problem: they had no political support. Supporters of the Clean Air Act saw them as an unworkable concoction of academia that would only derail the strict timetable for cleaning up the air. Industry, which on the pullution front is mostly staffed by engineers, found the concept equally foreign. Today, despite some successes, fee advocates are still reduced to

guerrilla warfare. The intellectual stepchild of emission fees is emissions trading. While fees were in the limelight in the early 1970s, there were ongoing discussions in remote corners of academia that air pollution was an example of market failure resulting from the absence of property rights. Thus, the appropriate solution was to vast polluters with property rights in their pollution. Those rights could then be bought and sold to the advantage of both the polluting company and the environment. In the intellectual climate of the early 1970s, the idea of the villainous private sector's being given a valuable property right that resulted from its own wrongdoing had no prospect of ever being consciously adopted. The emergence of emissions trading in the 1980s is a tribute to the pragmatic, problem-solving nature of the concept rather than to the merits of its intellectual underpinnings.

Emissions trading got its chance in 1976. EPA was confronted with the dilemma of how to allow for economic growth in areas of the country where the air violated public health standards (nonattainment areas). The law appeared to preclude new growth in nonattainment areas after the 1975 deadline. EPA's solution was to allow new

sources to build or existing sources to expand in nonattainment areas if the new facility "offset" its increases in pollution by a corresponding reduction in pollution at its own or someone else's facility. Emissions trading was born. Existing polluters now had a property right they could sell to new sources or could husband for their own use at a later time.

In 1977 Congress, recognizing the situation, and ignoring the intellectual ramifications, statutorily endorsed EPA's offset policy. The offset policy required that offsets for new growth had to provide more than a one for one ratio, thus enlisting new growth on the side of environmental cleanup. Emissions trading had managed to transform the dilemma of new growth in nonattainment areas into an additional weapon in the arsenal of environmental control.

#### COMPONENTS OF EMISSIONS TRADING

Once loose, the idea of emissions trading spread rapidly. EPA fleshed out the idea in policy statements issued in 1979 and 1982. At present, emissions trading consists of the following elements:

Emissions Reduction Credits (ERCs): These are the currency of emissions trading. They are created when a company reduces its pollution below that which is legally required. EPA policy requires that ERCs be:
(a) surplus; (b) permanent; (c) enforceable; and (d) quantifiable.

Offsets: This is the legal requirement, previously mentioned, that new sources in nonattainment areas more than offset the emissions they will add. There have been more than 1,800 offsets since 1977. Most by far have been "internal" offsets within the same plant.

Bubbles: This is EPA's policy that allows existing sources to find alternative emission reductions from other sources to meet a given legal requirement. The term "bubble arises from the figurative notion that many emission points are aggregated under one umbrella or "bubble." Bubbles may take place within a plant or between plants. An often cited example is Du Pont's Chambers Works facility in New Jersey. Du Pont faced the prospect of having to control over hundreds of vents and valves in a standard case of command-and-control overkill. Under the bubble policy, Du Pont substituted 99 percent control of seven major stacks. The "bubbling" resulted in faster compliance, 2,300 tons less pollution, \$12 million in capital savings, and \$2 million a year in savings on operation and maintenance costs. Approximately 18 bubbles have been approved and another 100 or so under study.

Netting: In nonattainment areas, a source used to be defined as either a plant or a piece of equipment within a plant ("dual" definition). EPA recently eliminated the dual definition so that the plant-wide definition of source applies in both nonattainment and prevention of significant deterioration areas. The significance of this regulatory mumbo-jumbo is that a plant in a nonattainment area may expand but avoid new source review by reducing emissions at other parts of the plant below certain threshold levels. The expansion must meet new source performance standards (NSPS) but could avoid the additional technological controls of lowest achievable emission rate (LAER) and best available control technology (BACT) that are imposed on top of NSPS as part of the new source review. The environmentalist attack on netting met with initial success when the D.C. Circuit Court of

Appeals ruled netting illegal (See The Environmental Forum, November 1982, p. 40).

Banking. Banks are where ERCs can be deposited for future use. The importance of banks in establishing an active market in emissions trading cannot be underestimated. At present, much of emissions trading is analogous to trying to obtain a \$5,000 home improvement loan by canvassing your neighborhood rather than going to local bank. Studies on the offset policy all cite the high level of frustration (transaction costs) experienced by new sources in searching for offsets. GAO in its study on emissions trading found that the absence of banks stymied potential offsets because the needs of the buyer and seller often did not match up. In one case, cited by GAO, a buyer of offsets did not need all of the offsets that the seller wanted to provide. The seller refused to go through with the deal because there was not place to bank the surplus emission reductions resulting from operation of the pollution control equipment. Instead, the seller decided to hoard its emissions for future use. This short example not only highlights the need for banks in creating an active, fluid market for ERCs, but also pinpoints how banks, by providing a depository for ERCs, can improve the environ-

So far, three formal banks are in operation—in Louisville, San Francisco, Puget Sound. Seventeen states and localities have incorporated elements of banking into their Air Act state implementation plans. Louisville's bank provides an example of the creativity possible under emissions trading but precluded under existing command-andcontrol regulations. The General Electric Company in Louisville had an old process line that was scheduled to be retired when a new process line became operational. How-ever, in the interim, G.E. faced the decision of whether to spend \$1.5 million on pollution control equipment to retrofit or shut down the old line prematurely. G.E. solved its problem by leasing credits which had been banked by International Harvester for use during this interim period. This leasing arrangement cost only \$60,000 in contrast to the \$1.5 million that retrofitting would have cost.

#### VIRTUES (PROBLEM SOLVING AND INNOVATION)

These points demonstrate the chameleonlike ability of emissions trading to insinuate itself into the fabric of the Clean Air Act without posing a direct threat, as emission fees did, to the law's prevailing commandand-control spirit. But the initial successes of emissions trading are attributable to more than just its adaptability. Its principal virtue is that it solves the waste problem by a subtle change in the traditional commandand-control regulatory process. Regulators writing rules under the command-and-control theory face an insoluble problem: Simple, broad rules ignore differences in control costs among the tens of thousands of sources regulated under the Act. More specific rules begin to collapse under an accumulation of detail that the regulators cannot assimilate.

Emissions trading solves this dilemma by transforming a regulation from a command to a proposal. Regulated industries then get to make a counter-proposal that saves them money and provides the same level of environmental cleanup.

This apparently subtle change of allowing industry to make a counterproposal has radical implications. Foremost among these is that it enlists the support of the only group

of people who know how various industrial processes operate: plant managers.

There is a myth that regulators, or even senior corporate management, can make informed assessments of industrial processes and costs. My tours of major industrial facilities have been enough to put this myth to rest. Making a major facility run is the result of a careful pyramiding of expertise. Neither the regulator nor senior corporate manager can ever hope to match the facili-ty-specific expertise of the plant manager. Command-and-control regulation, by de-manding compliance with the dictates of the omniscient regulator, has ignored this expertise. In contrast, emissions trading says to the plant manager, "If you don't like it, come up with something better.

Because substantial sums of money are at stake, there are incentives for both plant managers and senior management to respond to the challenge. Du Pont, in studying its hydrocarbon control costs, estimated that by using emissions trading, it could save 50 percent or \$80,000,000 on its projected cleanup costs. GAO cites savings of 40 percent to 90 percent. With the Nation's air pollution expenditures at \$26 billion a year in 1979, the potential for vast savings is ob-

The contribution of emissions trading in solving the waste problem has been widely heralded by its advocates. Less discussed is its constructive role in the related problem allowed for continued economic growth within the framework of the Clean Air Act. As stated earlier emissions trading had its origins in 1976 as a way for economic growth in nonattainment areas. Today, the of accommodating economic problem growth within the Act remains as acute as ever. Air as a repository for waste disposal is a fixed resource. Increased economic activiy serves only to place greater stress on this limited resource. Every industrialized society runs an ongoing risk of having to forgo either clean air or economic growth.

The response of the command-and-controllers to this dilemma has been twofold. First, they have included smaller and smaller sources in clean-up efforts. Second, they have begun squeezing already controlled sources again and again. Both of these responses, while providing some short-term gains, are fraught with long-term hazards.

Bringing more sources into the regulatory net heightens the prospects of a political Repeatedly backlash against the Act. squeezing the same sources sends marginal control costs on an upward geometric path. During the early 1970s, the issue of costs not seemed critical. However, since 1979 the American economy has been basically stagnant, and it is now necessary for us all to be concerned about the costs imposed on a clearly struggling private sector.

The conflict between growth and air quality is similar to the dilemma posed by Malthus: how to accommodate growth (industrial or population) on a fixed resource (air or food). In both cases, the answer is the same-technological innova-

Unfortunately, few laws pay more linguistic homage to technological advance while simultaneously scattering disincentives to technological progress throughout its provisions. The Clean Air Act is replete with requirements to make industry put on the best available control technology (BACT) or meet the lowest achievable emission rate (LAER). During debate in the Senate on the Clean Air Act during 1981, the BACT review was to be upgraded to employ the "best technology in the country" as an element of the review

Despite the rhetorical overlay, the National Commission on Air Quality, the Government Accounting Office, and outside commentators all agree on the Act's record with respect to innovation: poor. This discrepancy between rhetoric and reality has its origins in the disincentives to innovation inherent in command-and-control theory. The GAO report on emissions trading provides several case histories that can serve in place of an extended theoretical discussion.

When Standard Oil of Ohio, for example, was looking for offsets in Los Angeles, it offered to place innovative technology on a local power plant. The utility declined the offer because it feared EPA then would make the new technology the industry-wide standard. Another example occurred when the Watson Company in California proposed using new control technology. EPA, not wanting to run any regulatory risk, asked the firm to build a pilot project first. The company declined and cancelled the project.

From my own experience, I can add the case of Public Service Company of New Mexico. Back in the late 1970's, the company asked EPA for time to test its new Wellman-Lord scrubbers (with sulpur removal in the 90-95 percent range) on two units of its San Juan facility before being required to put the scrubbers on two other units. EPA turned down the idea on the basis that a small pilot facility in Indiana was successfully using the same process. The pilot facility subsequently had a fire while one of Public Service's boilers blew up (most likely because of the nitrogen oxides controls). The episode delivered an unambiguous message to the rest of the utility industry: innovate at your own risk.

Emissions trading eliminates some of the disincentives to innovation under present law. Companies are provided a financial incentive to do better than the law requires. Additional levels of pollution control can be turned into ERCs that then can be sold, or banked for future use. Just as with the waste problem, emissions trading provides those with the most information a chance to make money by doing a better job.

It is important to note, however, that emissions trading does not address industry fears that the law's technology provisions will transform a particular technological advance into an industry-wide standard.

### THE ELEMENTS OF HERESY

This partial incompatibility between the incentives for innovation under emissions trading and the technology requirements of the Act offers a clue as to why emissions trading is viewed askance by command-andcontrol advocates. Although emissions trading appears to only provide a cheaper way of getting the same environmental results as command-and-control theory, it's mere emergence as a regulatory option implies criticism of the trading way of doing things.

Although it will take more experience with emissions trading until the full dimensions of its unorthodoxy are apparent, the following heretical tendencies already have emerged:

Inefficiency of Command and Control: Emissions trading, by pinpointing important economies available using market incentives, serves as an indictment of the inefficiencies of present law. Where studies, such as those in Chicago and St. Louis, show that present regulatory programs are more expensive than necessary, it is difficult to be comfortable with blanket assertions that the Act is working well as it is.

Economics Does Count: The inefficiency issue naturally leads to the question of the appropriate role of economic considerations in the Clean Air Act, a source of more inflamed rhetoric than any other political issue. Rather than enter this thicket, I will make two points that I hope are reasonably obvious.

First, if we can purchase the same product for a lesser price, we should do so. This means that cost-effectiveness is a legitimate criterion for evaluating competing environmental clean-up strategies.

Second, we should treat environmental clean-up dollars as a scarce resource. The Nation will spend approximately \$500 billion over the next decade for environmental cleanup. This represents an annual growth in pollution control expenditures of 9.4 percent a year, or approximately 2½ times more than current projections of GNP growth (i.e., 3.5 percent) over the same period. The rate of growth between projected pollution control costs and the growth of the economy leads to the conclusion that the \$500 billion estimate represents the maximum the Nation will spend on environmental cleanup and, thus, must be spent wisely.

Although emissions trading has its origins in the concepts of cost-effectiveness and limited resources, command-and-control advocates are clearly uncomfortable with these economic concepts. Personally, I feel that a Clean Air Act consistent with economic rationality will be a stronger, not weaker, protector of the public health and welfare.

Consorting with the Enemy: The more moralistic strains of environmental thought have viewed the private sector as the enemy. Part of the rationale behind command-and-control theory is that the private sector needs to be told what to do—not just asked to do it.

Emissions trading breaks down these simple moral lines. The private sector becomes not only a repository of needed expertise, but a source of hope for innovative ideas to give the Clean Air Act new life. People cherish their villains more than their heroes, and this new view of the private sector is troubling to many.

vate sector is troubling to many.

Contra-Technology: The Clean Air Act has, with the passage of time, begun to rely increasingly on technological solutions. The 1977 amendments, by introducing RACT, BACT, LAER, and percentage reduction for coal-fired power plants, are an example of this reliance on technological fixes.

Emissions trading has no such bias. Instead, emissions trading adopts Gertrude Stein's view by declaring that "a pound of pollution is a pound of pollution is a pound of pollution."

The potential for heresy in this simple statement is large. A system of market incentives such as emissions trading treats pollution in a nondiscriminatory fashion. In contrast to command-and-control theory, regulatory strategies are not tailored to the age, size or type of facility. Instead, emissions trading asks only how much pollution needs to be controlled, and what is the cheapest way of controlling it.

The Ultimate Heresy—The New Source Bubble. The anti-technology implications of emissions trading jeopardizes one of the Clean Air Act's most sacred cannons: all new sources should have the most stringent technology placed on them.

Advocates of emissions trading have departed from this commandment and have proposed that new sources be allowed to "bubble" their emissions either against other new sources or existing sources. Because the issue of the legality of new source bubbles is in dispute, let me list several of the policy arguments in support of the new source bubble. The case for the "new source bubble" is built around the following considerations:

Existing sources emit the vast preponderance of pollution, more than 95 percent of the current nonattainment inventory. Using new sources as a wedge to clean up existing facilities would have the advantage of lessening the economic disincentives to new growth while offering a wedge to attack the problem of pollution from existing sources.

Existing studies show dramatic cost and environmental savings from new source bubbles. A study of power plants in Pennsylvania showed a reduction of 244,000 tons of pollution along with life-time savings of \$4.1 billion

New source bubbles involving new power plants in the West could be a way to finance pollution controls for western copper smelters whose precarious financial condition precludes their making new financial commitments. (Smelter cleanup varies from \$100-\$500 per ton of sulphur versus approximately \$1,600 per ton for new power plants.)

Against the new source bubble, commandand-control theorists have advanced two valid concerns. The first relates to the discrepancy in useful life between old and new plants. The following block diagram hopefully will help in discussing this problem.

The above diagram shows that new source bubbles have the potential for allowing for more pollution over time than would be allowed under current law. While legitimate, the concern is not insurmountable. New sources using the bubble cold either: (1) be required to obtain new offsets at the end of 10 years; or (2) failing to meet the first option, be required to retrofit to meet NSPS.

second concern voiced over new source bubbles is a technical one. A source meeting a new source emission limit of five units of pollution, for example, will in practice emit four units. This gap reflects the desire on the part of the source for some margin of safety in its operations. It reflects also the fact that the pollution control equipment actually performs better than the standard, which, after all, is an upper limit for all sources in the country. The issue posed by the new source bubble is this: What happens to the gap between the standard and actual performance? Is it a windfall for the environment, or can it be traded by the company? One answer would be to put a substantial discount on offsets obtained for new sources. Instead of allowing one for one trades, new sources would have to obtain from 25 to 50 percent more control, so that the ratio would be 1.25 to 1 or 1.5 to 1 on all trades. This approach would have the multiple benefits of solving the gap problem, providing added up-front environmental cleanup as part of the trade. and allowing the country to benefit from the enormous economic and environmental benefits of new source bubbles.

The preceding discussion on the new source bubble is representative rather than exhaustive. A host of technical issues surrounds the entire bubble concept, ranging from what baseline to use (actual or allowable emissions?) to the conflict of bubbles

with future impositions of reasonable available control technology on existing sources. None of these problems is insurmountable, but all must be carefully addressed if bubbles are to advance the cause of environmental quality and not become a regulatory loophole.

#### THE NEED FOR HERETICS

Emissions trading is not a panacea.

But the benefits of emissions trading in increasing efficiency, flexibility, and innovation in the Clean Air Act provide strong reasons for aggressively pursuing the experiment.

There is further reason that would require a separate article to fully address: the Clean Air Act is stagnating-politically, conceptually, and environmentally. The 1982 congressional deliberations on the Clean Air Act not only generated a political stalemate, but the participants, with isolated exceptions, spent most of their time refighting a law unequipped to meet the challenges of the 80's. This political and intellectual stalemate has been accompanied by a slowdown, beginning in the late 1970s, in the rate of environmental progress under the law. Today, 12 years after enactment of the Act, than 40-million Americans still e air officially designated as "unbreathe air officially designated as "un-healthy" for at least one pollutant. There has been no progress in cleaning up nitrogen oxides. Sulphur emissions are higher today than in 1960, the reported environmental dark ages. Futhermore, the regulatory linchpin of the Clean Air Act, the State Implementation Plans (SIPs), have become a curse to all involved.

The Clean Air Act desperately needs more heretics. It needs more debate and less political trench warfare. More attempts at pursuading Congress and fewer attempts at political intimidation through grass roots efforts.

Emissions trading has been the one bright idea that has emerged in the early 1980's. Its benefits for not only the Clean Air Act, but also other environmental statutes, are just being recognized. It is the duty of us heretics to insure that this idea has a chance to blossom. And like all politicians, I welcome any support I can get.

### EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the time for routine morning business be extended until 10:45 a.m. We are still trying to clear a matter to take up before we get back on the highway bill.

Mr. METZENBAUM. Mr. President, I could not hear the Senator. Would he repeat his request?

Mr. STEVENS. I asked unanimous consent that routine morning business be extended until 10:45 a.m., and stated the reason for that is that we are still trying to clear an item that may be able to be cleared for rather speedy action before we go back to the highway bill. We want 15 more minutes to try to do that.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, the Senator from New Hampshire has been anxious for some time to offer an amendment to the gasoline tax bill.

For one reason or another, as with other Senators, he has been continuously thwarted in his attempt to offer the amendment.

Mr. STEVENS. Will the Senator vield?

Mr. HUMPHREY. Of course.

Mr. STEVENS. I will say to the Senator that when we return to the highway gas tax bill, it is my understand-

Mr. CHAFEE. Mr. President, will the acting majority leader use his

microphone?

Mr. STEVENS. It is my understanding that the amendment of the Senator from Ohio is pending and it would not be possible for the Senator from New Hampshire to offer an amendment until that amendment is disposed of

Mr. HUMPHREY. My point is this: Can we have some assurance that there will not be a further delay

beyond that request?

Mr. STEVENS. I will state to the Senator that it was a request from the majority leader that if it is possible to clear this payment in kind bill, and it looks as if it still may be possible, that we try to get consent to do that, at the request of Senator Cochran and others, in order that it could be on its way to the other body.

If we could get that, that might be a request that I would have to make, to delay proceeding to the highway bill. Other than that, there would be no

other delay

Mr. HUMPHREY. I wonder if the Senator from Alaska can include in his request that upon disposition of the amendment of the Senator from Ohio, the Senator from New Hampshire will be recognized for the purpose of offering an amendment to the gas tax bill.
The PRESIDING OFFICER. The

amendment of the Senator from Ohio is a first-degree amendment and is subject to an amendment in the

second degree.

Mr. STEVENS. That is my understanding. It is also my understanding that the amendment the Senator from New Hampshire has is also a firstdegree amendment. The Senator will correct me if I am wrong.

Mr. HUMPHREY. That is correct.

Mr. STEVENS. Would the Senator permit me to request that he delay that request for unanimous consent until the managers of the highway bill arrive? I think that would be really something we should confer with them on. I would have no objection to the Senator's request that he be recognized to offer his amendment upon the disposition of the amendment of the Senator from Ohio. I think that that is a reasonable request in view of the fact that he has been waiting for recognition. But I would like to check that with the managers of the bill if he will permit me to do so.

Mr. HUMPHREY. Very well.

renew my request that the period for the transaction of routine morning business be extended until 10:45.

The PRESIDING OFFICER. there objection? Without objection, it

is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired. The Senator from Alaska is recog-

#### UNANIMOUS-CONSENT AGREEMENT-S. 3103

Mr. STEVENS. Mr. President, I send to the desk a bill and ask unanimous consent that it be given immediate consideration.

Mr. METZENBAUM. Reserving the right to object, will the acting majority leader be good enough to advise

what the bill is?

Mr. STEVENS. This bill is a bill dealing with the Office of Personnel Management in terms of the executive exchange. I believe it has been discussed with the Senator from Ohio. I understand he has one question.

It deals with a problem that has been discovered in that the funds that are donated to the Government to carry out an executive exchange program are going into the Treasury and have not been made available to carry out the purposes of the exchange.

There has been an agreement that the funds that are donated will be used for purposes of the executive exchange. This bill would authorize a deposit fund for funds contributed by the private sector for the operation of the executive exchange and would authorize the use of those funds that are donated to the Government from the fund. It does not involve Federal money. It involves the deposit of gifts into the fund and the use of those gifts for the purpose for which they were received.

Mr. METZENBAUM. Will the acting majority leader be good enough to advise, is there some impact upon the Federal Treasury by reason of the participation fees being contributed by the business sector, and, if so, does he

know the amount?

Mr. STEVENS. No. It is an amount somewhere around \$6,000 per participant, I understand. But in March of this year it was discovered that the authorizing legislation had not permitted the practice that was going on for years, and that is receiving the funds as gifts and paying them out for the use of the exchange. And so they suspended the use of the funds that had been received by the Government as gifts and requested our subcommittee to look into the matter to see if we could work out the basic authorization

Mr. STEVENS. Mr. President, I to give the Commission on Executive Exchange the right to collect these fees from participants and to go ahead with it.

> This is the only item, I might say, that was on the consent calendar that we were able to clear for today, and that is the reason I am proceeding with it now. This item was cleared for consideration on a consent basis.

> Mr. METZENBAUM. Does the unanimous-consent request of the acting majority leader include the fact that there will be no amendments to this particular measure and that it will be disposed of in a very short period of

> Mr. STEVENS. It is the request that it be considered on a consent basis and it would not be considered in any other way, with no amendment.

> I might say it does authorize later appropriations if they are made for the executive exchange to go into this fund and be used out of the funds. But there are no funds authorized in this. This is merely an authorization bill to make up for a deficiency in the original bill that created this Commission on executive exchange and, as I said, which come out of the subcommittee primarily that I chair on Governmental Affairs for the purpose of correcting this error in existing law.

Mr. METZENBAUM. I have no ob-

jection.

I yield to the minority leader.

Mr. ROBERT C. BYRD. Who has the floor?

Mr. STEVENS. I have the floor.

I yield it to my good friend, the Senator from Ohio, and he has reserved the right to object to my request that the bill be given immediate consideration on a consent basis.

Mr. ROBERT C. BYRD. Mr. President, I point out to the Senator that unless it is tied into the request that no amendments be in order amendments could be offered, even though it may have been cleared for passage by unanimous consent.

Mr. METZENBAUM. Mr. President, I ask the acting majority leader to do two matters if he may; that is, to so provide that it would not be subject to amendment and, second, that in obtaining the request that in no manner would this affect my right to the floor when we return to the consideration of the highway bill.

Mr. STEVENS. I am happy to accede to that request.

Again, I am just performing a function of the acting majority leader. It just happens to be a bill of mine that has been cleared.

I do make the request that we have unanimous consent that the bill be given consideration, that it be considered by the Senate without amendment, and that when it is disposed of the amendment of the Senator from Ohio will again be the pending business and his rights not be affected in office administration of the Commisany way by the consideration of this sion. This funding does not include unanimous-consent item.

The PRESIDING OFFICER. Is

there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, and I shall not object, I take it this is in addition to the matter relating to the Agriculture Committee and the Senator from New Hampshire wishes some idea as to when we are going to get into the gasoline tax since he came over here early in good faith and belief that he would have an opportunity to offer his amendment. By the time we get to that amendment the floor is going to be loaded with Senators seeking recognition.

Mr. STEVENS. I am aware of that. I again say to the Senator that if we had a routine call of the calendar my good friend from West Virginia, the Democratic leader, and I would have proceeded through it, but this is the only item on the calendar and there is no intent to delay. I do ask that this one item that we can dispose of be disposed and it is the intent that when that is done there is no other business. We are on the pending business subject to this unanimous-consent request. There will be no further delays.

The PRESIDING OFFICER. Without objection, it is so ordered.

## COMMISSION ON EXECUTIVE EXCHANGE FEE AUTHORIZATION

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3103) to amend section 1304(e) of Title 5, United States Code.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, pursuant to Executive Order 12136, the Office of Personnel Management (OPM) is required to provide administrative and other services to the President's Commission on Executive Exchange (PCEE). For this purpose, the OPM receives appropriated funds from Congress on behalf of the PCEE which are included in a line item entitled "Other Programs" in its "Salaries and Expenses" appropriation account. Additionally, Executive Order 12136 mandates that the PCEE "shall develop an education program which places the work experience of the Exchange Executive in the broader context of both the Federal Government and the private sector." Accordingly, the OPM accepts training fees from participating Federal agencies as reimbursement for the PCEE's education program for Federal sector executives and expends these via a revolving fund at the request of the PCEE.

At present, Congress appropriates funds for the salaries, travel, and office administration of the Commission. This funding does not include moneys for the education of private sector participants. There is doubt that appropriated funds may be properly expended for such educational activities, because although these activities serve an important public need, they have a specific and unique benefit to the Exchange Executives and their private sector sponsors.

Historically, the PCEE has relied upon other Federal agencies to accept and expend private sector education fees on its behalf. This practice has been necessary because the PCEE does not have its own authority to collect fees. Since 1975, the Department of the Treasury has received these funds and maintained them in a deposit fund to be disbursed upon appropriate authorization from the Commission. In September 1981, the PCEE adopted amendments to the charter which governs expenditures from the deposit fund maintained at the Department of the Treasury. At approximately the same time, the Executive Director of the Commission sought clarification of the Department's authority to receive gifts and/or donations other than education fees. In response to this request, the Department reexamined statutes and regulations applicable to deposit funds and determined that while it has authority to receive and deposit gifts, it lacked authority to expend these funds for earmarked purposes. The practical effect of this finding was to negate the rationale for the existing relationship between the PCEE and the Department of the Treasury.

Accordingly, the PCEE suspended use of the Treasury deposit fund on March 16 of this year. The legislation I am introducing, today, remedies the problem by specially authorizing the President's Commission on Executive Exchange to collect participation fees from private sector firms whose executives are in the exchange program, and to credit the fees collected to the Office of Personnel Management revolving fund.

The bill would also authorize expenditure of these resoures for educational programs, including honoraria, and related travel; as well as for entertainment-facilities rentals, dinners and receptions-in amounts specified in annual appropriations acts; and for promotional activities. In addition, because of its need for promotional brochures in colors and paper not available through the Government Printing Office, the bill would permit use of non-Government facilities for promotional printing. Finally, the bill's authorization terminates on December 31, 1983,

Mr. President, I ask for passage of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 3103) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, (a) That section 1304(e)(1) of title 5, United States Code is amended by inserting "(i)" after "(1)", and by adding a new paragraph as follows:

"(ii) Participation fees, which the President's Commission on Executive Exchange may impose for private sector participation in its Executive Exchange Program shall be collected and credited to the fund, and shall be available for the costs of education and related travel of exchanged executives; for printing without regard to section 501 of title 44, United States Code; and, in such amounts as may be specified in appropriations acts, for entertainment expenses."

(b) The authority granted in subsection (a) shall terminate on December 31, 1983.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, I think it would be in order to consider the request of the Senator from New Hampshire that he be given recognition after the disposal of the Metzenbaum amendment.

I do understand that the Senators from New Jersey have an amendment which will be agreed to, and they are going to ask the Senator from Ohio to set his amendment aside temporarily to take that up.

Mr. METZENBAUM. Mr. President, what is the pending order of business? Is the Senator from Ohio recognized at this point and are we on the highway bill?

#### SURFACE TRANSPORTATION ACT OF 1982

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. Under the previous order the Senator from Ohio is recognized to speak on this matter. Mr. BRADY. Mr. President, I wonder if the Senator from Ohio will yield for the purpose of offering an amendment on behalf of myself and Senator BRADLEY. It is an entirely noncontroversial amendment which we wish to send to the desk.

Mr. METZENBAUM. Mr. President, the Senator from Ohio will not yield under those circumstances. The Senator from Ohio will ask unanimous consent that I be permitted to yield for a period not in excess of 5 minutes for the offering of an amendment by the Senator from New Jersey, that the time in connection therewith be controlled by the two Senators from New Jersey, that the amendment not be subject to amendments, and that it be understood and by unanimous consent that there not be a rollcall in connection with this matter.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the Senator cannot guarantee that.

Mr. METZENBAUM. Then I with-

draw that portion of it.

That the Senator from Ohio not lose his right to the floor after the disposition of the Brady-Bradley amendment and that all other rights the Senator from Ohio has be recognized and that the two-speech rule not be affected in any manner by reason of my yielding to the two Senators from New Jersey.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. HEINZ. Mr. President, reserving

the right to object.

Mr. STAFFORD. Mr. President, reserving the right to object, and I shall not object, I wonder if the distinguished Senator from Ohio would expand his unanimous-consent request to include a couple minutes for the Senator from Vermont, who is the majority floor manager for this part of the bill?

Mr. METZENBAUM. I always enjoy hearing the Senator from Vermont. I am certainly happy to accede to that request.

Mr. STAFFORD. I thank the Senator.

Mr. HEINZ. Mr. President, reserving the right to object, and I do not intend to object, let me ask the Senator from New Jersey what the amendment is about.

Mr. BRADY. The amendment involves dedesignation of section I-95 and replacing it with the section of the New Jersey Turnpike. It does not cost the Treasury any more money and will allow our State to utilize these construction funds on desperately needed infrastructure repair and maintenance.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Without objection, it is so ordered. The Senator from New Jersey is rec-

ognized.

UP AMENDMENT NO. 1447

(Purpose: To dedesignate certain routes as Interstate Routes 95 and 695 and to designate certain highways as Interstate 95)

Mr. BRADY. Mr. President, I send an amendment to the desk on behalf of myself and Senator Bradley and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. Brady) for himself and Mr. Bradley proposes an unprinted amendment numbered 1447.

Mr. BRADY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 138. (a) Notwithstanding the first sentence of section 103(e)(4) of title 23, United States Code, the Secretary of Transportation shall approve the withdrawal from the Interstate System the route of Interstate Route 95 and Interstate Route 695 from the intersection with Interstate Route 295 in Hopewell Township, Mercer County, New Jersey, to the proposed intersection with Interstate Route 287 in Franklin Township, Somerset County, New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed, pursuant to section 103 of such title, to designate as part of the Interstate Highway System the New Jersey Turnpike from Exit 10 to the interchange with the Pennsylvania Turnpike and the Pennsylvania Turnpike from such interchange to and including the proposed interchange with Interstate Route 95 in Bucks County, Pennsylvania.

(c) The Secretary of Transportation is further authorized and directed to designate the highways described in subsection (b) as Interstate Route 95 and assure through proper sign designations the orderly connection of Interstate Route 95 pursuant to this section.

Mr. BRADY. Mr. President, the amendment I am offering today with my good friend and colleague, Senator Bradley, concerns Interstate Route 95 which runs from Maine to Florida. There is a proposed segment of this route in New Jersey that for the last 20 years has remained tied up in a legal morass with threatened lawsuits on both sides of the issue. New Jersey's position is that the New Jersey Turnpike provides the necessary link for the purposes of Interstate Route 95 and that proceeding with construction of the planned segment would be redundant.

The amendment we suggest would simultaneously designate the planned segment of Interstate Route 95/695 between Hopewell and Franklin, N.J., and designate a portion of the New Jersey Turnpike as Interstate Route 95. This action is not without prece-

dent, meets with requirements of the surface Transportation Act, and has the strong support of the Administration of Gov. Thomas Kean of New Jersey. Both of the metropolitan planning organizations having jurisdiction in these areas are in concurrence.

I would like to emphasize to my colleagues that this amendment does not alter the allocation formulas of the interstate highway program. The funds that would have been used for construction would be made available for desperately needed infrastructure maintenance and rehabilitation projects on existing roads and transportation services. Additionally, this amendment would assist in moving the interstate system nearer its goal of completion by 1986.

For over 2 years, the State has been requesting that this action be accomplished through administrative means. However, after thorough review, the Department of Transportation concluded that under existing law they had no authority to act on the State's request. It was suggested that an amendment such as the one offered by myself and Senator BRADLEY be offered to achieve our goal. The U.S. Department of Transportation is not opposed to this amendment, and I would hope that the chairman of the Environment and Public Works Committee, Senator Stafford, will see fit to accept our amendment.

Mr. BRADLEY. Mr. President, I rise in support of the pending amendment to dedesignate a segment of Interstate Routes 95 and 695 in Mercer and Somerset Counties, N.J. Under this amendment, this particular route will be withdrawn from the Interstate Highway System, a portion of the New Jersey Turnpike will be designated as part of the Interstate Highway System, and New Jersey will be able to use funds from the interstate transfer program for other transportation purposes.

I have neither supported nor opposed the completion of I-95. What has been made clear by Governor Kean and Governor Byrne before him is that I-95 will not be built. In the face of that policy, New Jersey has no choice but to recapture the funds for other important projects or to lose the money altogether.

For almost a year now the State of New Jersey has been pressing the Federal Highway Administration and the U.S. Department of Transportation to approve New Jersey's request for dedesignation. The State favors dedesignation, believing that the transportation needs of this region of the State would best be served by using Federal and State funds for other highway needs, rather than building the interstate facility. In addition, the State favored dedesignation because of the serious doubts as to whether the roadway

could ever meet existing Federal deadlines, due to the various legal obstacles.

I offer this amendment today because I believe that this legislative dedesignation procedure is necessary to assure that New Jersey will have the Federal funds from the interstate transfer program available for the many other pressing highway needs in the State. These include the dualization of Route 206 north of Princeton to the Somerville Circle, the construction of Route 92 near Princeton. repair and intersection work on Route 1, and general improvement work on Route 31, Route 129, and other projects in the region. At a time when the Federal Government is cutting back on its aid to States and cities. and, at a time when many States, including my own, are suffering from serious budgetary problems, we must do all we can to insure that the States and local governments can participate in Federal programs which provide funding for urgent local matters. I believe that dedesignation will both serve the transportation needs of the State and provide needed jobs when work proceeds with the many other highway projects now pending in the State. I thank my colleagues for considering this important amendment and hope there will be no delay in the enactment of this measure.

I simply wish to reemphasize the point that this adds no money to the bill and I make the observation that perhaps the unanimous-consent request took longer than the amendment.

Mr. STAFFORD. Mr. President, I am familiar with the amendment offered by the two Senators from New Jersey.

I do understand it will not add in any way to the cost of the pending highway portion of the so-called tax highway bill, and I am prepared to accept it for the majority, and I am advised by staff for the minority that they also are prepared to accept the amendment.

The PRESIDING OFFICER. Are there any further remarks?

Mr. BRADY. Mr. President, there are no further remarks. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1447) was agreed to.

Mr. BRADY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. Mr President, I move to lay that motion on the table. The motion to lay on the table was

agreed to.

Mr. BRADLEY. I thank the Senator from Ohio.

AMENDMENT NO. 5008 (FORMERLY UP AMENDMENT NO. 1446)

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is a very simple amendment. In that sense, it is the Buy American amendment to insure that all Federal highway and bridge repair and construction work be done with American steel and by American workers, and before I conclude my remarks, at the conclusion, I will move to modify to include cement, that it be American made as well.

I want to point out of my friends in the Senate that the House has already adopted a similar amendment.

This is a strong but necessary measure, and I am aware of the fact that there are those who consider themselves free traders, and I list myself in that category, who find this kind of an approach objectionable.

But when we are adding or attempting to add a nickel a gallon to the price of gasoline, when we are attempting to increase the cost of truckers' fees, what could be more right or more appropriate than that the jobs that will be created by reason of those additional funds will be jobs held by American workers?

Unemployment today hovers around 10.8 percent. More than 12 million workers are currently without jobs, and the domestic steel industry is in a shambles. It is operating at 33 percent capacity, with specialty steel operating at an even lower level. Over 160,000 American steelworkers are on layoff status; another 50,000 are on short work weeks. Daily these numbers continue to grow, and within the last several days, to give you some example of that, I have been getting additional calls from Youngstown that Jones and Laughlin is now talking about closing down its last operation in that community. I hope it does not because those jobs are so vital to those employees in that community and those dollars are so important to the community as a whole.

How can we possibly justify going overseas to buy steel for highways and bridges that are being paid for with an extra nickel a gallon of the American taxpayer? What logic is there in that?

It is a well-accepted fact that the highest White House sources are now saying that this jobs bill will produce 300,000 jobs and, at the same time, will cost 300,000 jobs.

What concerns the Senator from Ohio is that part of the 300,000 jobs that will be produced will not be in the United States of America, that they will be in some foreign country, but the 300,000 jobs that will be lost, you may be certain, will be in America, will be in our country.

Under the Federal highway bill approximately \$11 billion will go into

bridge and highway repairs. According to the Steelworkers Union for every \$500,000 spent on a public works project 193 tons of steel are used, and for every million tons of steel used 5,000 direct steel jobs are created.

The issue with respect to this amendment is, who is going to benefit from these jobs, who is going to get them? I know the argument: "Well, if we start to restrict foreign imports coming into this country they will be restricting foreign exports coming from our country to the other nations."

But that is not what this bill is about. This is a bill to add a nickel a gallon tax to do something about the infrastructure of our roads, highways and bridges. It is not a question of saying somebody cannot sell their products here. It is a question of, with a positive emphasis, that we will use American-made products, we will use American-made steel, and we will use American-made cement.

We can ill afford in these difficult economic times to let any of these jobs go overseas. There is no question but that imports are a major contributing factor to the catastrophic conditions that exist in the steel industry today. Our foreign trading partners have not played fair. We continue to open our ports to them and, in return, they close theirs to American goods and services.

Foreign nations restrict U.S. goods through a variety of means: Quotas, domestic taxes, superfluous and cumbersome safety and testing requirements.

This year we are running a \$30 billion trade deficit. Next year that deficit could be as high as \$70 billion. Are we here in the U.S. Senate going to sit by idly and let the American economy be destroyed, let the American steel industry go down the tube while we say we cannot abandon the heretofore supported concepts of free trade?

In basic or carbon steel, imports account for nearly 25 percent of the domestic supply; over 45 percent of the domestic steel, specialty steel, market is being displaced by foreign imports. That is outrageous.

Stanley Modic, editor of Industry Week, noted in a June 14, 1982, editorial:

America sits as the largest, most open market all but inviting other nations to flood it. The developed and undeveloped alike are building their economies and solving their unemployment at the expense of the U.S. economy. The bottom line is jobs.

This is from Mr. Modic, editor of Industry Week. He is exactly right, the bottom line is jobs.

Today hundreds of thousands of Americans stand in unemployment lines because of trade policies that are not working in the interests of the people of this country.

My amendment is limited in scope. It would only apply a "Buy American" provision for the steel and cement used to repair our bridges and highways and to construct those bridges and highways. It does not include a "Buy American" provision for the purchase of rolling stock. I must say that while I would prefer that we buy only U.S.-manufactured subway cars, I am informed that U.S. production may not be sufficient at this time to warrant the total positive emphasis on American production. But there is no question that there is plenty of domestic steel available to repair the Nation's highways and bridges and, Mr. President, we owe it to ourselves to insure that every penny collected through this new tax goes toward creating jobs for our own people.

A "Buy American" clause was included in the House version of the highway jobs bills, and I hope the Senate will do the same.

Mr. President, I send to the desk a modifying amendment on behalf of myself, Senator Rober C. Byrd, of West Virginia; Senator Riegle; Senator Huddleston; Senator Sasser; and Senator Levin.

The PRESIDING OFFICER (Mr. Durenberger). The Senator has the right to modify his amendment.

Mr. METZENBAUM. I am sorry I did not hear the Chair.

The PRESIDING OFFICER. The Senator does have the right to modify his amendment.

Mr. METZENBAUM. Mr. President, I anticipate speaking further on this subject if necessary or I will be prepared to vote whenever those who are on the opposite side of the aisle indicate their willingness to go forward.

Mr. SPECTER. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Is an amendment in the second degree appropriate at this time?

The PRESIDING OFFICER. The Senator is correct, it is appropriate.

Mr. SPECTER. Mr. President, I send to the desk an amendment in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. CHAFEE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Rhode Island will state it.

Mr. CHAFEE. We never learned what the amendment was that was being amended. What was the modification the Senator from Ohio sent to the desk?

AMENDMENT 5008, AS MODIFIED

(Purpose: To provide that only steel, cement, and other products manufactured in the United States are used in the construction of highways)

The PRESIDING OFFICER. The Senator has the right to modify his amendment and the clerk can report the amendment.

Mr. CHAFEE. Mr. President, I ask that the amendment be reported.

The PRESIDING OFFICER. The modification to the amendment will be reported.

The legislative clerk read as follows:
The Senator from Ohio (Mr. Metzenbaum), for himself, Mr. Robert C. Byrd, Mr. Riegle, Mr. Huddleston, Mr. Sasser, and Mr. Levin, proposes a modification to printed amendment numbered 5008.

In lieu of the language proposed to be inserted, insert the following:

#### BUY AMERICA

SEC. . (a) Chapter 3 of title 23, United States Code, is amended by adding after section 324 the following new section:

"§ 325. Buy America.

"Notwithstanding any other provision of this title or any other law, none of the funds authorized to be appropriated for highway and bridge construction and repair may be obligated or expended on any project in which steel or cement, manufactured outside the United States are used."

(b) The analysis of chapter 3 of such title is amended by adding at the end thereof the following:

"325. Buy America.".

#### UP AMENDMENT NO. 1448

(Purpose: To provide American industry with greater access to the courts in antidumping and countervailing duty cases)

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Pennsylvania.

The legislative clerk read as follows: The Senator from Pennsylvania (Mr. SPECTER) proposes an unprinted amendment numbered 1448.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment in the second degree be dispensed with.

Mr. CHAFEE. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue.
The legislative clerk read as follows:

In place of the language proposed to be inserted, insert the following:

SEC. (a) Section 801 of the Act of September 8, 1916 (39 Stat. 798; '5 U.S.C. 72) is amended to read as follows:

"SEC. 801. (a)(1) If—

"(A) any article manufactured or produced in a foreign country is imported or sold within the United States at a United States price which is less than the foreign market value of constructed value or such article.

"(B) such importation or sale-

"(i) causes or threatens material injury to industry or labor in the United States,

"(ii) prevents, in whole or in part, the establishment or modernization of any industry in the United States, and

"(c) any person is injured in his business or property by reason of such importation or sale, such person may bring a civil action against any manufacturer or exporter of such article or any importer of such article into the United States who is related to such manufacturer or exporter in the district court of the District of Columbia.

"(2) In any action brought under paragraph (1), upon a finding of liability on the part of the defendant, the plaintiff shall—

"(A) recover damages for the injury sustained or be granted such equitable relief as may be appropriate, and

"(B) recover the costs of the action, including reasonable attorney's fees.

"(b) The standard of proof in any action filed under subsection (e) is a preponderance of the evidence. Upon a prima facie showing of the elements set forth in subsection (a), or upon a final determination by the Department of Commerce or the International Trade Commission under section 735 of the Tariff Act of 1930 (19 U.S.C. 1673d) relating to imports of the article in question for the country in which the defendant is located, which final determination shall be considered a prima facie case for purposes of this Act, the burden of rebutting such prima facie case thus made shall be upon the defendant.

"(c) Whenever it shall appear to the district court of the District of Columbia before which any action under this section may be pending that justice requires that other parties be brought before the court, the court may cause them to be summoned, whether they reside in the district or not, and the subpenas to that end may be served and enforced in any district of the United

"(d) The acceptance by any foreign manufacurer, producer or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or

"(d) The acceptance by any foreign manufacturer, producer or exporter of any right or privilege conferred upon him to sell his products or have his products sold by another party in the United States shall be deemed equivalent to an appointment by the foreign manufacturer, producer, or exporter of the District Director of the United States Customs Service of the Department of the Treasury for the port through which the article is commonly imported to be the true and lawful agent upon whom may be served all lawful process in any action brought under this section.

"(e)(1) An action may be brought under this section only if such action is commenced within four years after the date on which the cause of action accrued.

"(2) The running of the statute of limitations provided in paragraph (1) shall be suspended while any administrative proceedings under section 731, 732, 733, 734, or 735 of the Tariff Act of 1930 (19 U.S.C. 1673-1673d) relating to the importation in question, or any appeal of a final determination in such proceeding, is pending and for one year thereafter.

"(f) If a defendant in any action brought under subsection (a) fails to comply with any discovery order or other order or decree of the court, the court may—

"(1) enjoin the further importation into, or the sale or distribution within, the United States by such defendant of articles which are the same as, or simillar to, those articles which are alleged in such action to have been sold or imported under the conditions described in subsection (a) until such

time as the defendant complies with such

order or decree, or

"(2) take any other action authorized by law or by the Federal Rules of Civil Procedure, including entering judgment for the

"(g)(1) Except as provided in paragraph (2), the confidential or privileged status accorded by law to any documents, evidence, comments, or information shall be preserved in any action under this section.

"(2) The court in any action brought

under this section may-

"(A) examine, in camera, any confidential or privileged material,

(B) accept depositions, documents, affidavits, or other evidence under seal, and

"(C) disclose such material under such terms and conditions as the court may

"(h) Any action brought under this section shall be advanced on the docket and ex-

"(1) For purposes of this secton—
"(1) The terms 'United States price', 'foreign market value', 'constructed value', 'subsidy', and 'material injury', shall have the respective meaning given such terms by title VII of the Tariff Act of 1930.

"(A) a subsidy is provided to the manufacturer, producer, or exporter of any article,

"(B) such subsidy is not included in the foreign market value or constructed value of such article (but for this paragraph).

the foreign market value of such article or the constructed value of such article shall be increased by the amount of such subsidy

(b) It is the sense of the Congress that the provisions of this section are consistent with, and in accord with, the General Agreement on Tariffs and Trade (GATT).

Mr. DANFORTH. Mr. President, a

parliamentary inquiry.
The PRESIDING OFFICER. The Senator from Missouri will state the

parliamentary inquiry.

Mr. DANFORTH. Mr. President, I would like to inquire whether this is a perfecting amendment or whether it is a substitute for the Metzenbaum amendment. Would the amendment of the Senator from Pennsylvania strike the Metzenbaum amendment or would it simply supplement it?

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania is drafted in the form of a substitute of the amendment of the

Senator from Ohio.

Mr. DANFORTH. I thank the Chair. Mr. METZENBAUM. Mr. President,

a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Ohio will state the inquiry.

Mr. METZENBAUM. Mr. President, the fact that the amendment reads, "At the appropriate place in the amendment insert the following," would the Chair be good enough to explain how he interprets that as being a substitute to the amendment?

The PRESIDING OFFICER. The Chair is informed that the form has been changed to be in the form of a substitute, and the clerk can report

the changed language.

Mr. METZENBAUM. I have it in my hand. When was it changed, and how did it become changed?

The PRESIDING OFFICER. It was sent up in the form of a substitute.

Mr. METZENBAUM. Is that the intent of the Senator from Pennsylvania to offer this as a substitute amendment to the Buy American amendment of the Senator from Ohio?

Mr. SPECTER. My intention, Mr. President, is to offer this amendment for consideration in advance of any consideration of the amendment by the Senator from Ohio. The purpose here, by way of explanation which should shed some light on the question of the Senator from Ohio, is to provide a less drastic and a more effective way to deal with the problem. When I consulted with the Parliamentarian on the subject, I was advised the appropriate procedural approach would be to offer an amendment in the second degree.

Mr. METZENBAUM. Mr. President, does the Senator from Pennsylvania understand that it is not an amendment in the second degree but it is a substitute amendment? Therefore, if his amendment were to be adopted, the underlying amendment would no longer be eligible. The way the amendment was originally sent to the desk was as an amendment to my amendment. Now I am told it is in the form of a substitute amendment. That would displace my Buy American amendment.

The Senator from Pennsylvania certainly has such rights as he cares to take, but my understanding is that he was attempting to add on something to my amendment and that he was not attempting to have his amendment substituted for mine.

I would like to ask if I am correct. Mr. SPECTER. Mr. President, a par-

liamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Is there a procedure by which my amendment can be treated as an amendment which will be voted upon ahead of the amendment of the Senator from Ohio without substituting or displacing that amendment by the Senator from Ohio?

Mr. DANFORTH. Mr. President, who has the floor?

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER addressed the Chair.

Mr. CHAFEE. Mr. President.

Mr. SPECTER. Mr. President.

Mr. CHAFEE. Mr. President. Mr. SPECTER. Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

Mr. CHAFEE, Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. SPECTER. Mr. President, is it correct that the business pending before the Senate is my amendment in the nature of a substitute to the amendment of the Senator from Ohio?

The PRESIDING OFFICER. The Senator is correct.

Mr. SPECTER. I thank the Chair.

Mr. CHAFEE. Mr. President, wonder if everybody appreciates the supreme irony that we have here, the irony of that zealous guardian against special interests, that man who, to all the world, has proclaimed that nothing is going to get by on this floor, who is not going to have the little fellow hurt. Now he comes forward with the biggest special interest program that has come before the Senate in connection with this bill. And that is saying something.

Mr. President, I do not know how many remember the story of Somerset Maugham's "Rain." Do they remember the Reverend Alfred Davidson, that high standard of rectitude who set out to save Sadie Thompson's sour? All of a sudden, what happened? The Reverend Davidson fell, He fell, subverted by all the temptations that came his way.

We have exactly the same scenario here. That pillar of rectitude, that defender of the small fellow, that person who is going to fight against that Alaskan railroad and those wicked things that are going to be done everywhere, that individual who patrols the floor ceasely. Suddenly, he has fallen, fallen to the depths, as he sweeps in with this ridiculous proposal that has no justification whatsoever.

Let us just look at it, Mr. President. Whom is he out to help? He is out to help the highest paid industrial workers in the United States. Is he out to help some little fellow? No, no, no.

Let us just look at it. UPI International, December 3, 1982: "The steel industry pegs per-hour labor costs, including wages, benefits, overtime, and the like at about \$26 an hour.'

That is not right, say the U.S. steelworkers. It is not \$26, it is closer to \$23.

Think of it. The Senator is out to protect, to cost every citizen in the United States of America more money, to cause fewer jobs, in order to protect these suffering steelworkers.

What are the steelworkers prepared to do to protect their jobs? You will notice that the U.S. steelworkers rejected for the second time this year an industry plea for contract concessions.

Are they going to do their part? Not at all. We are not going to back away from \$26 an hour. Why, we have this pillar of rectitude, who is going to help us out on the floor of the U.S. Senate. He will save our jobs. It is not enough to have a Buy American agreement that provides that substantially all steel used in U.S. highway projects financed by the U.S. Government will be U.S. steel; in other words, 51 percent. They do not want that. They want it all—they want 100 percent.

Listen to those hogs moving up to the trough—slurp, slurp, slurp. Get it

all; no compromise.

There he stands, this Senator, the distinguished junior Senator from Ohio, protecting us all against the special interests. The guardian of the little people, the little people making \$26 an hour.

This amendment would accord to the steel and the cement industries treatment that no other industry in the United States has. It would require that all, 100 percent, of the steel used in every highway or bridge construction or any repair funded in any way by the highway trust fund must

be American made.

This amendment would isolate from any form of competition the steel companies that supply the structural steel. The result of this will simply be higher project costs. Of course it will. There is no question about that. It means that every driver in the United States, every driver—must pay a nickel or more per gallon. It is regressive, this tax; there is no question about that. Why are we doing it? In order to have more bridges and more roads built.

We are not doing it to protect the economic royalists of the labor movement in America, the highest paid group anywhere. Is that right? Of course it is not right. It is wrong. It is, pure and simple, a subsidy. How often we have heard that Senator talk about denouncing subsidies and the special interests. Well, this is the granddaddy of them all. It subsidizes \$26-an-hour jobs in the steel industry by taxing every man and woman in America.

In my State of Rhode Island the average manufacturing wage is under \$7 an hour. What he is asking is that these people be taxed more, have their taxes increased, in order to protect the \$26-an-hour worker in the steel industry who is not prepared to do anything for himself; nothing. Is he prepared to go and renegotiate the contract? Noth-

ing doing. They are not going to do that. They are not going to help themselves. Come on in here to the U.S. Government and get them to help us.

Mr. President, this is serious business, because this flim-flam has passed the House and there is no recall now. We are beyond the point of return if it passes in the Senate. It is bad legislation.

I now would like to refer to what the distinguished chairman of the Foreign Trade Subcommittee in the House of Representatives, the very able Representative SAM GIBBONS, had to say:

Let me tell the members what we have done for the steel industry. And this is a steel industry initiative. We on the Demo-cratic side offered them the finest depreciation schedule imaginable but they were not sensible enough to take it. We have had in almost 20 years that I have been in the Congress a policy of trying to exclude foreign steel, and it has worked but not worked in the way one would think. We have had the Wilbur Mills proposals which informally kept steel out of our country. We had the trigger price mechanism which was another price-fixing mechanism to keep steel out. And what has been the result? While the price of everything in America has doubled. the price of steel has tripled. Steel wages starting after World War II began to escalate faster than all American industrial wages and now steel wages are 70 percent higher than all industrial wages in the country. In fact, steel wages are the highest wages in the country. In fact, steel wages are the highest wages in the world. And yet it takes about twice as many hours of labor to produce a ton of steel in the United States as it does in Japan. It is not that the Japanese work is that great but the Japanese management got off its rear ends and ran the business and got productivity up. So we have had a protective steel market, and all we have gotten is very inefficient steel production and very high prices and we have priced our steel out of the world market. In fact, we have priced it out of the American market.

Representative GIBBONS makes some excellent points. Centrally, he points out the fact that our Government has favored our steel industry for many years in a number of ways, mainly by arrangements negotiated with the major steel-supplying countries that have limited their access to this market. He refers to the so-called "trigger price mechanism" which in essence was a Government-fixed price below which foreign suppliers could not sell without being slapped with a dumping suit. And he points to the plain fact that this is an industry where very high wages have prevailed in the face of weak productivity, declining market share, and dreadfully low capacity.

As I mentioned previously, Mr. President, this is serious business. This is not just a frivolous little amendment that can be dropped in conference. And there will be wise heads prevailing in conference, I am sure. But the House bill contains a provision that will require all steel, cement, and other manufactured products bought

with trust fund moneys to be American made.

If we adopt this amendment today, Mr. President, there is no doubt that the bill will contain a 100-percent Buy American provision. There is no way out of it, both Houses having adopted it.

What is wrong with that? Here it is, all wrapped up in the American flag—Buy American. Who can beat that?

The problem with it, Mr. President, is that it taxes American drivers in order to subsidize, as I say, a small, elite, very highly paid, relatively unproductive steel worker. It would be the most dramatic and far-reaching Buy American provision that has been enacted into law. It occurs at one of the most sensitive, delicate moments in our recent economic history, only 3 weeks after the GATT ministerial conference in Geneva where our trade negotiator, a former Senator, our collegue, now ambassador, Bill Brock, labored to prevent the world trading system from collapsing by extracting an agreement from our trading partners that no one of us would take further action to impose new barriers on

Well, that apparently does not mean anything to the sponsors of this legislation. It is a far-reaching, draconian measure. It requires massive amounts of taxes on the public. It requires that the money be spent only for our products. It prevents competition whatsoever.

Mr. President, I should now like to read from testimony to the Finance Committee by the distinguished Special Trade Representative Mr. Brock.

Mr. HEINZ. Will the Senator yield for questions?

Mr. CHAFEE. Questions or ques-

Mr. HEINZ. Well, probably three questions.

Mr. CHAFEE. I will yield for a question which should not be in triple form, without losing my right to the floor, of course. But before we do that, before we hear the question, I just would like to—

Mr. HEINZ. The Senator is looking up the answer before I ask it?

Mr. CHAFEE. I would like now to read from testimony that Ambassador Brock gave in the Finance Committee. He did not appear there in connection with this measure. There have never been any Finance Committee hearings on this measure of the junior Senator from Ohio. We had no hearings on this Buy American provision. Ambassador Brock was there on another matter. At the conclusion of his testimony on the other matter, I asked him—this is from the record:

Mr. Ambassador, we are now involved in the roads and the tax program. In the House it is my understanding that they put on this bill a so-called Buy American provision in which all steel and all cement must be purchased in America. Could you give us your thoughts on that?

Ambassador Brock. I am very much opposed to that. It does not—

Senator Charge. Could you speak up a

little?

Mr. Brock. I am very much opposed to that. It really is difficult for us to go to the international conference as we did 2 weeks ago in Geneva and try, as the United States did, to keep the world trading system from collapsing into an insanity of protectionism that is being practiced on the part of other countries, to go to this conference and to exercise some pretty tough leadership to insist that political commitments he made not to take new protectionist actions and in fact to begin to roll back those that are presently in effect and to come home and within 2 weeks have the Congress suggest that we should start putting Buy American language on all these bills. It makes it very difficult for us to maintain a credible leadership position in the world that will stop other countries from doing damage to this. I would very much hope that the Senate would not follow that course and would in fact insist that the amendment be deleted. It will raise the price of the program. It will reduce competition. It will mean less jobs for construction workers. And that is one of the main purposes of the bill. I do not see how we can gain in that process, and I would respectfully hope that the Senate might find in its wisdom the way to oppose that particular amendment.

Mr. President, as I said before, the Finance Committee, which has jurisdiction of these matters, has never had any hearings on this. We have not heard what the effect would be on other trade in America.

It is very, very clear, and every Member of this Senate knows it, particularly those in the Finance Committee, that we have been trying to break into Government purchases in other countries. The prime case is the telecommunications system in Japan. Progress has been made.

We feel we should have access to that market for out high tech industries. That is right. We are going to

prevail.

But how can we ever prevail if we take steps of the kind proposed by the Senator from Ohio? How can the Japanese say, "That is fair, you should have an opportunity in this market," if we turn around and say 100 percent, not 51 percent, 100 percent they want, buy American steel, buy American concrete, buy all other American products used in connection with our road and highway program? That is wrong.

Hearings are required on this meas-

ure.

There are those who would suggest that this is the road to follow, that we are not getting anywhere in these GATT ministerial meetings, that everyone else is doing it so why should we not?

Mr. President, the implication is that the United States does not have to be responsible. The implication somehow is that we are free because of the failure to achieve at Geneva everything we wanted. We are free to

pursue our own objectives, greedy though they might be, oriented only for the elite few of American labor though they might be, harmful though they might be to the workers of the rest of America, in this greedy special interest legislation. But let us go back to Mr. Brock and see what he had to say to the Finance Committee.

Reporting on his trip to Geneva:

We came so close to a disaster that maybe the biggest achievement we had was in keeping the system in some form intact and at least without going backwards. We did not go backwards. We made some limited progress in a few areas, clearly not enough and certainly not enough to satisfy the United States.

However, said Ambassador Brock:

It is important that we did commit to the other 87 contracting parties to take or maintain no new action that would be destructive to the trading system. It is my judgment that if the United States were to begin to take these actions, while not overtly in contradiction to the Government procurement code, we admit that.

We are not saying this is overtly contradictory to the Government procurement code.

It certainly is in contradiction to a healthy liberalized trading system for us and for us to start saying that the products sold here will all have to be produced domestically.

More rationally-

Continues Ambassador Brock:

laying aside the theory of the GATT and the theory that we are pursuing in our trade stance, if in fact a part of the logic of this bill is to create greater employment in the construction industries of this country, this will not do it.

This will raise the price and that will mean less jobs to be held by Americans. I think that is the best single argument I can make against the buy American approach.

When asked whether the Housepassed buy American provision creates more or less jobs in the American steel industry, Ambassador Brock replied:

If it contributes to inflation which has been the primary cause of unemployment and therefore recession, ultimately the cost will be devastating.

I do want to say in one of the points made by Mr. Brock he alluded to the fact that the buy American provision offered by the Senator from Ohio is not in violation of the GATT code on Government procurement. Strictly speaking that is correct, and it is ultimately one of the most powerful arguments of the proponents of this measure.

But our objective as one of the great traders in the world is to expand and broaden the code to include just the sort of practices that the amendment would implement. Mr. Brock said:

I am concerned that this legislation will interfere with our efforts to open foreign government procurement markets to U.S. exports. We have made considerable progress in achieving this goal with the entry into force of the international government procurement code in 1981.

Look at it. A year ago we extered into this agreement, which opened other Government procurements to American businesssmen, to all countries.

Nevertheless, important limitations in the coverage of this agreement remain, and we had initiated efforts aimed at expanding it.

In particular, we are seeking to expand the code to cover foreign government entities that are major purchasers of transportation, telecommunications and power generating equipment.

However, our credibility with our negotiating partners will be sorely tested if we enact new buy national restrictions at the same time as we are trying to negotiate limitations on such practices.

Mr. President, much has been said about foreign retaliation against this sort of protectionism. I just do not think we realize just how intense are worldwide pressures for protectionist actions. The major world economies are all in recession, especially in Europe. Eastern bloc countries are in particularly dire economic straits.

Many of the more advanced developing countries have huge foreign debts.

In order to service these debts, countries like Brazil, for example, simply must continue to export to countries like the United States which are in need of the raw materials, consumer products and manufactured products they produce.

Mr. DANFORTH. Mr. President, will

the Senator yield?

Mr. CHAFEE. I am glad to yield to the distinguished Senator from Missouri for a question or whatever it might be.

Mr. SPECTER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. SPECTER. Mr. President, is the Senator from Rhode Island yielding to the Senator from Missouri for the purpose of a question, because I believe that is the only right he has to yield?

Mr. DANFORTH. All I wanted to do was to engage the Senator from Rhode Island in some questions.

The PRESIDING OFFICER. The Senator from Pennsylvania has correctly stated it as the Senator from Missouri has acknowledged the rights of the Senator from Missouri and the Senator from Rhode Island.

Mr. SPECTER. I thank the Senator.
Mr. CHAFEE. The Senator from
Rhode Island has the privilege of
yielding to the Senator from Missouri
for a question, without losing his right
to the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. CHAFEE. I am delighted to hear the question of the Senator from Missouri.

Mr. DANFORTH. The Senator from Rhode Island pointed out in his initial comments concerning the Metzenbaum amendment that this buy American amendment is special interest legislation and one thing that interested me in the Senator's comments was that he seeks to express surprise that a special interest amendment would be offered on the floor of the Senate. But would the Senator not acknowledge that in the last days of a Congress when Members of Congress are attempting to get home for the holidays it is not unusual to have a Senator offer a special interest amendment and try to tack it onto the bill.

Mr. CHAFEE. I respond to the distinguished Senator from Missouri that no, I am not surprised at special interest amendments. They are rampant

around here.

But what I did express surprise about was that that Senator who has been so righteous, I might even say self-righteous when others offer special interest amendments, and who has assumed a special role of protector of the American public against special interests, should himself come to this Chamber with the biggest special interest amendment that we have seen so far on this bill.

Mr. DANFORTH. Would not the Senator acknowledge that, perhaps, circumstances are different in that the holiday season is drawing near, Christmas is coming, the Christmas tree has now appeared on the floor of the Senate and a beautiful new star has been presented to the Senate for purposes of placing it on the very pinnacle of that Christmas tree and, therefore, given the holiday season and given the fact that the Christmas tree is with us, it is perhaps appropriate for us to entertain a special interest amendment at this time?

Would the Senator say that or

would the Senator disagree?

Mr. CHAFEE. Well, there is no question but the mammoth star has been toted into the Chamber by the distinguished junior Senator from Ohio who is bent down with the heavy load he is carrying, with this mammoth special interest package which he seeks to place atop the tree. It is just a little bonbon for the wealthiest workers in the United States, something for them, something that is being paid for by all the other workers who earn far less and many of whom in other industries have been prepared to make sacrifices in order to keep their jobs.

Mr. HEINZ. Mr. President, will the

Senator yield for a question?

Mr. DANFORTH. I would like to ask the Senator, if I may, something concerning special interest legislation. Would the Senator agree that one of the problems with special interest legislation such as this Buy American amendment is that in the clamoring to assist the special interest we are often doing real damage to the general interest, and in this case in attempting to carry in the ornament for one interest, namely, the steel industry, we

would be causing real damage to other interests; for example, we would be diverting funds that otherwise would be used for the construction of highways and for the rebuilding of our infrastructure and using those funds which could be used to build highways for the purpose of creating an artificial subsidy for one special interest and thereby damaging the general interest?

Mr. CHAFEE. There is no question the Senator from Missouri has put his finger exactly on it. Apparently the sponsors of this legislation are perfectly prepared to trample on the other citizens of the United States in the advancement of their proposal that they have on the floor. That is the ultimate in special interests.

Mr. DANFORTH. And one consequence of doing this would be that we might be helping some steel workers but we would be hurting the interests of some construction workers who would be employed building highways with the same funds which would be diverted into a Buy American provision. Would the Senator agree with

that?

Mr. CHAFEE. I certainly would agree with that. The Senator from Missouri has restricted himself to jobs that would be lost in additional highways that could be built if we did not have to pay so much for this steel. But it does far beyond that; 13 percent of the jobs in the United States of America are export-related; 1 out of of every 7 workers in Rhode Island has a job which is dependent upon exports.

What the sponsors of this legislation

are saying is:

We do not care about you; we do not care about you, you 13 percent.

In the greed to get this for this special little group of workers, they say:

We are going to trample on you, on everybody else and endanger their jobs.

Mr. DANFORTH. Is it the Senator's view that Buy American legislation could lead to retaliation by other countries and that that would thus endanger the jobs of American workers who are dependent on exports for their jobs?

Mr. CHAFEE. No question about it. Mr. DANFORTH. Would it, for example, endanger the jobs of, say, the 300,000 workers in the State of Ohio who are dependent on exports for their employment?

Mr. CHAFEE. It could very well do that. It could very well endanger jobs across the country, the entire 13 per-

cent involved in exports.

For instance, as I mentioned earlier, we are making massive, vigorous efforts to penetrate the Government controlled telecommunications markets in various countries with some success. But obviously this type of legislation invites retaliation against that.

I might also mention, in answer to the distinguished Senator from Missouri, that the largest exporting group in the United States of America, where 25 percent of the income comes from exports, is from farms, farm produce. One-quarter of everything that is produced on United States farms is exported.

Now we invite all kinds of retaliation against the farm groups, and that is why the farm groups have been so concerned about restrictive types of legislation such as this. As a matter of fact, as the distinguished Senator from Missouri is aware, in connection with the domestic content legislation, which is involved in our automobiles. the same principle applies; 16 farm groups have unified in order to fight that domestic content legislation, and if they were aware of this radical piece of legislation that is before us on the floor today I suspect they would be just as upset.

Mr. DANFORTH. Would the Senator agree that one of the purposes, perhaps the principal purpose, of debate on the floor of the Senate is to call to the attention of the American people the damage that could be done by legislation which would impact on them and, therefore, those who serve in the Senate—

Mr. SPECTER. Mr. President, point of order. Mr. President, point of order. Mr. CHAFEE. Mr. President, I be-

lieve I have the floor.

Mr. SPECTER. The point of order is, has the Senator from Rhode Island lost the floor by permitting the Senator from Missouri to speak without yielding the floor for a question, which he did not just do but the Senator from Missouri simply took over?

The PRESIDING OFFICER (Mr. KASTEN). If the Senator from Rhode Island yields for more than a question, the floor becomes open. He will be recognized. In the opinion of the Chair the Senator yielded for a question.

Mr. SPECTER. I suggest the Senator did not yield at all. The Senator from Missouri sought to ask a question but there was no yielding.

Could I ask if it is a fact that the Senator from Rhode Island did, in effect, lose the floor by permitting the Senator from Missouri to start to speak even though it was in the form of a question without yielding for a question?

Mr. President, I ask for a ruling on my parliamentary inquiry.

The PRESIDING OFFICER. Is the Senator from Pennsylvania making a point of order or making a parliamentary inquiry?

Mr. SPECTER. Both.

The PRESIDING OFFICER. In the opinion of the Chair the Senator from Rhode Island was yielding for a question and the Senator has the floor at this time.

Mr. RIEGLE. Mr. President, parliamentary inquiry. Is it possible for a Member to object to that ruling and ask for a vote on that question? Second, is it appropriate as well to ask that the record be read back so that we can ascertain precisely whether or not a request was made to yield the floor at that point or not, which would be reflected in the notes that have been taken by the Official Reporter here?

The PRESIDING OFFICER. The Senator from Michigan would need the floor in order to raise the point of order. Since the Senator from Rhode Island has the floor at this time, the Senator from Rhode Island is recognized.

Mr. DANFORTH. Mr. President, I was interrupted in my question. I wonder if the Senator from Rhode Island will let me finally continue the question that he so graciously yielded to me to ask in the first place.

Mr. CHAFEE. I am delighted to yield the floor to the Senator from Missouri to ask a question, but I am not yielding the floor permanently; let the record so show.

Mr. DANFORTH. Mr. President, I appreciate the courtesy of the Senator.

The question that I was asking was simply this: Is it not so that perhaps the most significant purpose of debate on the floor of the Senate is to call attention to the American people, to call their attention to how they will be affected by pending legislation? And, if it is true that a Buy American provision in this bill would have very serieconomic consequences on a number of groups in this country, is it not the duty of the Senate to debate at considerable length those possible dangers so as to inform each of the potentially affected groups how it may be affected by the pending amendment?

Mr. CHAFEE. I would say, in answer to the Senator's question, absolutely. It seems to me that we are hired, we are paid to come down here and to represent the people of our country, not just of our State but of the Nation as a whole, and that we have a duty, when legislation comes forward that is rank with greed, to expose it for what it is and to point out the dangers that legislation such as the amendment that we are considering here on the floor holds for most American workers.

But, Mr. President, I do not think it is our duty to come here and solely represent a tiny little group in America that is at the top of the wage scale.

ica that is at the top of the wage scale.

Mr. DANFORTH. Would the Senator agree that the amendment offered by the Senator from Ohio constitutes very significant trade legislation and further that the amendment offered by the Senator from Pennsylvania also constitutes very significant trade legis-

lation on which there have been no hearings in the Senate Finance Committee and, therefore, that each of the two amendments deserves quite extensive debate on the floor of the Senate?

Mr. CHAFEE. I would say, in answer to the question of the Senator from Missouri, absolutely; apparently the Senator from Pennsylvania was unsuccessful in prying his amendment out of the committee that it was before, I presume it was before the Judiciary Committee, so he is raising it as an amendment on the floor. Of course, it has never been considered in the Finance Committee and perhaps its jurisdiction lies solely in the Judiciary Committee. But, as the Senator from Missouri pointed out, it has wide ramifications on international trade, and so, Mr. President, does the amendment of the Senator from Ohio. And that, of course, is legislation that should come before the Finance Committee where, as we mentioned earlier, there have been no hearings whatsoever.

Mr. STAFFORD. Will the Senator yield to me for a brief question?

Mr. CHAFEE. I would be glad to yield to the Senator from Vermont.

Well, the senior Senator from Pennsylvania has been very, very—I was going to say patient but perhaps the word is impatient in trying to ask a question, so if the Senator from Vermont would not mind.

Mr. STAFFORD. I would be glad to defer to the Senator. My question would be a single question and very brief.

Mr. HEINZ. I thank the Senator from Rhode Island for yielding on the understanding he will not lose his right to the floor.

Mr. CHAFEE. Absolutely.

Mr. HEINZ. Now that we have taken care of all of those concerns, I want to say, as a preamble to the question, that I listened very carefully to the Senator's remarks and then his extended colloquy with Senator Danforth, and I heard the Senator say a number of things. I hope the body will understand and note that the amendment of the Senator from Ohio is not in violation of the procurement code, it is not in any way contradictory to GATT, and that, indeed, there is nothing legally wrong with it at all.

Second, as I understood the Senator from Rhode Island, he allowed as to how, nonetheless, the enactment of this amendment would in some way prejudice our negotiating position with respect to a freer world trading system.

Of course, this amendment is being brought up long after the ministerial meeting, a meeting which did not produce anything that is in any sense tangible except to avert disaster. My question to the Senator is this: The Senator made much of the fact that we negotiated a procurement code as part of the 1978 Tokyo Round and

that were we to put into law a Buy American provision for roads and highways—in many respects similar to Buy American provisions that we have in many other laws. In mass transit, for example, the Surface Transportation Act of 1978 has a Buy American provision in it. Many other statutes have Buy American provisions in them—if we were to put such a provision into law, our gains under the code could be jeopardized, the progress made in the ministerial meeting impeded.

My question is this: What, given the procurement code that we negotiated in 1978, given the supposed agreements that we have apparently stuck with, for example, with the Government of Japan's entity known as NTT, Nippon Telephone and Telegraph, what, quantifiably, in dollars have we gotten out of the procurement code in the way of trade that we did not have before? And I would ask the Senator from Rhode Island-and I think his entire case rests on this point-what have we gotten in terms of exports from that procurement code in dollars, not in generalities, not in principles? Could the Senator respond to that question?

Mr. CHAFEE. The USTR has estimated a potential gain from the code of about \$20 billion in already negotiated sales. No one can say with exact certitude. But I will suggest in response to the Senator from Pennsylvania that my entire case does not rest on the GATT. It was I who stated clearly that this was not in violation of the GATT. It was I who said it was not in violation of the procurement code. So this Senator has made no suggestion in that regard.

Mr. HEINZ. Will the Senator yield for a clarifying question?

Mr. CHAFEE. Let me just continue. I recognize that the Senator from Pennsylvania was not suggesting that. But let us make it very clear that in my remarks earlier, I clearly went into that and indeed I quoted from Ambassador Brock on the subject.

Mr. HEINZ. If the Senator would yield, I certainly agree with him. But I do want to ask a clarifying question on his answer.

Mr. CHAFEE. Let me just finish, if I might. What we are trying to do, as the distinguished Senator from Pennsylvania—who is active in this matter in the Finance Committee and also in the Banking Committee, where he has taken a very active role in the Trading Company Act, for instance, of which he was the principal author—realizes, exports are extremely important to the U.S. workers and that what we are doing here is taking a step toward protectionism. And it is not just a little step, it is a new and giant step toward protectionism.

As I said in my earlier remarks, I recognize that we have had a Buy American provision in this area for a total of 51 percent, but not for 100 percent that is sought here. And we are thus erecting further barriers against export of American products on which 13 percent of American jobs depend.

Mr. HEINZ. Will the Senator yield

for a clarification?

Mr. CHAFEE. I yield without losing my right to the floor.

Mr. HEINZ. I thank the Senator for

yielding.

By the way, I hope the Senator does understand that when I was referring to the fact that there was no violation of the GATT or of the Procurement Code, I did indicate that the Senator himself had said that in his opening remarks.

In answer to the question that I posed to the Senator, my question being how much has this Procurement Code realized to U.S. exporters in dolars, I think, Mr. President, it is important to note, unless the Senator wishes to change his answer, that what he said was that there is a potential here for \$20 billion. He left unanswered the question of how much we have received from the Procurement Code in the way of export business in the last 5 years.

This Procurement Code was under negotiation for 5 years, and it is a bit late now still to be talking in terms of the potential of the Code. Saying the potential is still \$20 billion, is to tell me that we do not have any numbers that indicate that any potential has

been realized whatsoever.

I do not wish to put words in the Senator's mouth, but I am sure he is as aware as anybody else that the Government of Japan and NTT have made practically insignificant purchases of anything made in America since the alleged implementation of this Code.

I ask the Senator again: here it is, 5 years later. Does he have any hard numbers? Does he have any indication at all, quantifiably, of what we have received from the Procurement Code

so far?

Mr. CHAFEE. It is so rare to find the senior Senator from Pennsylvania in error that I am reluctant to point it out.

Mr. HEINZ. Surely the Senator jests.

Mr. CHAFEE. The fact that it so rarely occurs makes it astonishing. [Laughter.]

The Senator has suggested the Procurement Code has been in effect 5 years. If he will search his memory, he will realize that it has been in effect for a year-and-a-half, not for 5 years. The figures are due out from the STR in about a month-and-a-half. As he well knows, if the State of Pennsylvania is anything like our State, getting figures back rapidly on complicated

matters such as this—and, of course, this is far more complicated than any State deals with—is difficult.

We anticipate having those figures from the USTR within the next 2 months. When they come out, I will make it a point of seeing that the Senator from Pennsylvania receives a copy.

I will yield to the Senator from Vermont for a question without losing my

right to the floor.

Mr. STAFFORD. I thank the distinguished Senator for yielding. My question is this: I am sure the distinguished Senator is aware of the fact that on December 6, 1978, we adopted Public Law 95-599, title 4, which is a Buy American provision. Under that statute, the recipients of Federal funds are required generally to purchase products manufactured in the United States with substantially all domestic components. That is in the language of the statute. The "substantially all" requirement has been interpreted by regulations as requiring 51 domestic components percent value.

My question is this: Do we not now have the Buy American policy under that particular statute which requires that there be over 50 percent domestic components by value in the transportation issue that is being attempted to be addressed by Senator Metzenbaum and others?

Mr. CHAFEE. I say in response to the senior Senator from Vermont that in the current legislation there is, as he suggested, a 50-percent, or 51-percent, if you would, Buy American provision

What the Senator from Ohio seeks to do, he who has joined the fallen in pursuit of this special interest, is to make it 100 percent.

Mr. STAFFORD. If the Senator will

yield further—

Mr. CHAFEE. Without losing my right to the floor.

Mr. STAFFORD. That is the understanding of the Senator from Vermont, that the current amendments

would require 100 percent.

Is it not reasonable to say that present law strikes a reasonable balance between the need to protect our domestic industries and the need to hold down the cost of transportation construction and equipment for both the States and the Federal Government?

Mr. CHAFEE. In answer to the distinguished Senator from Vermont, I would think getting half of the pie ought to be satisfactory. To come in and demand all the pie I would think would promote some embarrassment on behalf of the sponsors. But it has not slowed them up, at least to date.

I would point out, and it might be interesting, that all the States share in exports. In my State, for example, one out of every seven manufacturing jobs is dependent upon exports, a higher ratio than the national average. For example, Ohio was the third largest exporting State in 1981, the last year for which we have figures. Ohio exports over \$113 billion of goods. The main exports from Ohio, being an agricultural State, the ninth largest, are feed grains, soybeans, and dairy products.

It is not just Ohio and it is not just Rhode Island. I suspect Vermont has a vigorous export industry, and so does Pennsylvania and all the other States of the Nation.

Mr. President, I would like to pursue the subject of retaliation. For us to overlook that in the atmosphere in which the countries of the world are now operating I think would be a great mistake. By pursuing this proposal of increasing from 51 percent to 100 percent the domestic content in our bridges, highways, and roads, we are taking a massive step forward—or a step backward is a better way to phrase it—into the area of protectionism.

Mr. President, this is a road down which the United States has gone before. Of course, we refer to the Smoot-Hawley tariff in 1930, probably the most iniquitous piece of legislation that passed this Chamber, or one of the most iniquitous pieces of legislation to pass this Chamber, in this century.

I think everyone who has carefully studied the roots of World War II will acknowledge the Smoot-Hawley tariff was one of the principal causes that brought about World War II. It contributed to the international depression. It contributed to the rise of demagogues such as Hitler and Mussolini, and, of course, that led to the instigation of World War II in 1939.

Mr. President, I would like to make a couple of technical points, if I might, about the amendment.

One very important point is that the bill, according to industry analysts, will not lead to lower steel imports.

Steel imports are, in effect, regulated by voluntary agreements setting aggregate import levels. If the effect of the bill were to displace foreign structural steel such as that used in highway and bridge products, foreign steel manufacturers would quickly fill their quotas with other types of steel products, like steel plate, sheet, and specialty steels. There is a serious danger in a substitute having this effect, in that there is a higher U.S. labor content in sheet and specialty steel. If foreign manufacturers were to shift to those products as one result of this Buy American provision, more jobs could be lost in the steel industry than would possibly be gained by the new, artificial demand for U.S. structural

Another point is that the Japanese are now informally limiting their steel exports. Were we to adopt a Buy American provision, some analysts believe the Japanese would simply abandon their informal restraint and ship much higher quantities of steel. Here again, the Buy American provision of the Senator from Ohio would cost American jobs.

In summary, Mr. President, the amendment is bad policy. It is bad economic policy because it creates a new subsidy for an industry and a union already favored. It is bad policy because it means that the taxes we raise in this bill will buy less highway and bridge improvement. It is bad trade policy because it produces retaliation by our trading partners, which could escalate into a full scale trade war from which no one would gain and everyone would lose. The amendment should be rejected because it has not been studied by the committee of jurisdiction, in spite of its potential dangers. It should be rejected because it is bad for consumers, bad for taxpayers, and bad for our Nation.

I thank the Chair.

Mr. DOLE. Will the Senator yield? Mr. CHAFEE. I am glad to yield to the Senator from Kansas for a question.

Mr. DOLE. As I understand, this debate has just started. Is there a chance the Senator could continue for another 4 or 5 hours?

Mr. CHAFEE. We would have no trouble, in answer to the distinguished Senator from Kansas, in continuing this, because there is a substantial amount of material on the subject.

Mr. DOLE. I know it is a very important amendment. I am not certain we ought to leave it today. It seems to me it is one of those amendments that deserves-since we have not had many hearings, we ought to have a discussion.

Mr. SPECTER. Will the Senator from Kansas use his microphone?

Mr. DOLE. I was just suggesting that this is perhaps an amendment that ought to be debated until we get a cloture vote, as far as this Senator is concerned, until tomorrow. Then we would eliminate all the nongermane amendments hanging around. There are 80-some amendments, and if, in fact, we intend to finish this bill, as the President wants us to do and as the majority leader wants us to do. I think an amendment like this, as important as it is to many people, is probably one we ought to take a lot of time on. I hope the Senator will have a chance to rest for a while and maybe regroup a little later.

Mr. CHAFEE. I do not know quite how to take that suggestion, or question. In any event, we have mountains of material here. As a matter of fact, I have a book on the subject. It is of such importance that I want to bring

do not want to slough over it. It is a detailed, serious matter that I believe should be explored in considerable depth. May I just start?

Mr. SPECTER. Mr. President, a parliamentary inquiry.

Mr. CHAFEE. Mr. President, I believe I have the floor.

Mr. SPECTER. Is it true that the Senator from Rhode Island yielded the floor and then yielded again for a

question to the Senator from Kansas. which has now been answered, so the Senator from Rhode Island has in fact yielded the floor?

The PRESIDING OFFICER. It is the opinion of the Chair that the Senator from Rhode Island yielded to the Senator from Kansas for a question but did not yield the floor. So for the immediate period, the Senator from Rhode Island is recognized.

Mr. DANFORTH. Would the Senator yield for a question on that?

Mr. CHAFEE. I can, but because so many people are interested in this book, I thought I would read the front page so we can get an understanding of its weight and merit.

This is the Center for Strategic and International Studies Significant Issues Series. "The Economic Importance of Exports To the United States," by Jack Carlson and Hugh Graham. It is the U.S. Export Competitiveness Project. Georgetown Universi--a prestigious institution in Washington,

That is just the cover I was reading. I shall be glad to yield to the Senator from Missouri for a question without losing my right to the floor.

Mr. METZENBAUM. Mr. President, I object. I object. Mr. President, the words of the Senator from Rhode Island are that "I yield to the Senator from Missouri." He has no right to do that. He loses the floor. It was not stated as a question.

Mr. CHAFEE. Without losing my

right to the floor.

The PRESIDING OFFICER. It is the opinion of the Chair that the Senator from Rhode Island yielded to the Senator from Missouri for the purpose of a question

Mr. METZENBAUM. I want to point out to the Chair that you cannot change the language of a Member on the floor of the Senate. You have consistently been doing that. He has not been saying that he yields for the purpose of a question. He has been saying, "I yield." You have consistently changed the language in order to accommodate the Senator from Rhode Island. You have no right to do that.

The PRESIDING OFFICER. It is the opinion of the Chair that the yielding for the purpose of a question is not intended to yield the floor.

Mr. DANFORTH. Mr. President, I would simply like to ask the Senator from Rhode Island, with respect to the Metzenbaum amendment, if he feels that I can play some useful part

it to the attention of my colleagues. I in the debate and, if the Senator feels so, whether I should ask some workmen to deliver my files to the floor of the Senate so they may be available to me for the purpose of debate?

> Mr. CHAFEE. I think that the Senator from Missouri would do well to ask the workmen to deliver the files to him, because this matter requires a good deal of research. I think the Senator should have that material handy and if we are going to be here for a while-and there is such intense interest in this, as evidenced by the number of Senators on the floor-perhaps it would be wise to order those files.

> Mr. DANFORTH. Would the Senator further agree that the Specter amendment has received very little attention, either in committee or on the floor of the Senate; that the Specter amendment also constitutes very serious changes in trade laws; and that the Specter amendment deserves extensive consideration on the floor?

> Mr. CHAFEE. Oh, there is no question, in answer to the Senator from Missouri, that the amendment of the junior Senator from Pennsylvania is fraught with trade matters. I am sure he will admit that. That is what it is all about.

> At this time, I am favored by the presence of another study on this subject, which is called, from the Federal Trade commission, "Staff Report on Effects of Restrictions on United States Imports, Five Case Studies in Theory," by Morris E. Morkre and Theory," by Morris E. Morkre and David G. Tarr, from the Bureau of Economics, June 1980.

> I am torn between which of these important books to read first, because they are both significant and they both bear on the issue. Why do I not start on the first one?

> So that we can know what we are dealing with-it is a Significant Issues Series of papers that are written for and published by the Center for Strategic and International Studies at Georgetown University. The views expressed in these papers are those of the authors, not necessarily those of the Senator. (The Significant Issues Series, vol. II, No. 5.)

> Before taking the substance of the book, I think perhaps it would be well to read the foreword so we can understand just what it is about, because this bears on the economic importance of exports to the United States.

> This is the foreword, which I believe my colleagues will find of interest:

The United States faces a chronic crisis in its international trade accounts that adds to inflation, buffets the value of the dollar, contributes to unemployment, and heightens the increasing pressures for protectionist import policies.

Mr. President, if I have ever heard anything that is on the mark, that is it. And this is merely in the foreword. So I think we can look forward to the remainder of the book with interest because the foreword, it seems to me, gives a tantalizing portrayal of what is to come.

The authors say:

The problem is partly the lack of a sustained, comprehensive, national economic policy that gives priority to increasing U.S. exports. The statistical evidence illustrates this problem.

The United States exports only 6.7 percent of its GNP: a trifle figure when compared with some of our major trading competitors—West Germany 23 percent—

and I do not think many Senators realized this before this was brought to their attention in this book—

England 20 percent, France 17 percent, and Japan 12 percent.

I find it interesting, and I am sure my colleagues do, too, that Japan exports only 12 percent of its GNP.

As a result of the U.S. export performance, the rising price of imported oil and other industrialized and newly-industrialized nations, the United States ran a staggering \$24.6 billion trade deficit in 1979. In the last decade, the United States incurred a balance of trade surplus only three times.

In 1980, the problem will most likely be more acute because of cooling of the economies of our major trading partners, a decline in U.S. price competitiveness, growing barriers abroad to U.S. trade, further increases in our foreign dependence on raw materials, and the heightening of tensions between the United States and the Soviet Union.

In recent months, these startling trends and accompanying trade figures have begun to awaken the government, the citizenry, and the media to the serious implications of the bankrupt trade policies we have practiced for so long. Awareness of export difficulties is finally emerging in public policy debates and will continue to gain momentum through the election year.

tum through the election year.

To serve the national interest, the exportation of American goods and services now must become one of the main foundations of the U.S. market economy. To accomplish this, the United States clearly needs an agressive, sustained, and effective program to expand exports and improve the balance of

trade picture.

Recognizing that a major obstacle to export expansion has been the lack of understanding about the roots of our export problems, CSIS began a major program of studies of U.S. Export Competitiveness over 2 years ago. The following study by Jack Carlson and Hugh Graham considers the role of exports in the U.S. economy, the factors that determine the pattern and size of U.S. international trade, and the benefits to the nation from expanded trade. Carlson and Graham also discuss the structure of U.S. exports and the impact of these exports on the economies of major exporting states in the United States.

We hope that this study will have a significant impact in sharpening the terms of the debate and in contributing to government decisions that will serve broad U.S. interests. (A full listing of the project studies is contained in the last two pages of this book-

let.)

The foreword is signed by Michael A. Samuels, executive director, Third World Studies, and Robert A. Kilmarx, director, Business and Defense Studies, in April 1980.

Now, Mr. President, the list of contents is enough to make one salivate with anticipation. It surely leads to a tasty fare in the field that we are all interested; namely, the importance of exports to the United States.

Let me just look into the contents. First, "The Importance of Exports to the U.S. Economy," followed by a very interesting chapter, "Recent Trends in U.S. Trade Performance; Trade in Services in the Balance of Payments; The Importance of Exports in U.S. Output; U.S. Agricultural Exports."

Certainly that chapter will be of major interest. "Exports of Manufactured Products" is something that I think will appeal to all Members of

the Senate.

They are all so interesting, Mr. President, that one has trouble deciding where to start. It is like a smorgasbord—which does one choose first? Although I will take them out of order, because of the high interest that I find on the floor in the subject of manufactured products, I believe I will start with that first. That is on page

Mr. President, the title, as I say, is "The Exports of Manufactured Products."

According to the latest available census of manufacturers in the United States, exports account for about 7 percent of all shipments of manufactured goods—

Now, mind you, Mr. President, we are talking manufactured goods in this country—

And about 11.3 percent of all manufacturing employment.

The importance of exports as a source of demand for U.S. manufactured products, however, is partially underestimated by these figures since the total value of shipments but not exports from census data unavoidably includes substantial double counting of goods shipped from one industry to another and within each industry itself.

For example, the value of steel is recorded once again—

As I say, Mr. President, we touch on a matter that is at the crux of this debate today, steel.

The value of steel is recorded once in the form of the output of the steel plant and again implicitly in the value of shipments of products made from steel. This double counting artificially increases the value of shipments and so decreases the relative importance of exports that are not subject to double counting.

I hope that that got across to everybody; that when we get into export of steel, that the value of steel as part of our GNP shrinks because steel produced, for example, for domestic production of automobiles is counted twice, once as an output of the steel mill and once as an output of the automobile manufacturer.

After eliminating for the effects of double counting, exports of manufactures as a share of the net output of the manufacturing sector are higher (at 18.3 percent) than the share of exports in shipments. By any measure, however, exports constitute a siza-

ble and increasingly important source of demand for U.S. manufactured products.

That is the key point.

A disproportionately large share of exporting of manufactured goods is done by a few large innovative firms. Of the approximately 39,000 U.S. firms that export manufactured goods, the largest 200 exporters account for over 40 percent of all manufactured exports, and the largest 10 firms account for about 15 percent of U.S. manufactured exports.

Mr. President, I do not think we should be deceived by those statistics. First of all, 39,000 U.S. firms are engaged in the export of manufactured goods—not agricultural products—manufactured goods—not raw materials, not lumber products, but manufactured goods.

Mr. President, many of those 39,000 U.S. firms obviously are small so that when it says that the largest 200 exporters account for over 40 percent of all manufactured exports that should in no way denigrate the fact that the remaining 38,800 firms do not substantially contribute to employment in the United States because through their exports they are able to improve their employment.

I move down to the next paragraph.

The United States has often been seen to have a comparative advantage in exports of industrial goods involving high amounts of skilled labor, advanced technology, and sophisticated capital equipment and/or entrepreneurial skill in their production. In high wage countries such as the United States (or West Germany), industries involving standardized production techniques or that utilize a high proportion of only moderately skilled labor are unlikely to be able to penetrate foreign markets to any substantial degree.

I think that is a further amplification of the point I made earlier, that the smaller firms, the 38,800 smaller firms in the United States that are engaged in exports are not in many instances the most sophisticated, are not large employers, in many instances, but to them and to their employees it is just as important as it is to the largest companies. After all, a job for a job-holder in a small firm is just as important as the job to a jobholder in a large firm.

There are several tables here of which I might get into considerable detail later on, but I will continue with the text:

This view of the determination of U.S. comparative advantage is at least partially confirmed by the industrial makeup of U.S. exports of manufacturers. The nonelectrical and electrical machinery, transportation equipment and scientific and professional instrument sections—all industries involving intensive use of research and development—show above average dependence on export markets. The tobacco and chemical industries also show moderate export dependence. As would be expected, however, the textile and apparel industries are not heavily export-oriented.

That comes forward in table 11, which is of considerable interest. Textiles have, nonetheless, even though we say that it is not significant for textiles, nonetheless \$700 million, three-quarters of a billion dollars is exports. As a rule of thumb, Mr. President, we use 30,000 jobs for every \$1 billion of exports. In other words, for every \$1 billion that the U.S. exports 30,000 jobs are created in the United States, and I believe that is an important figure to remember.

There is a lot of talk around here about jobs and protectionism and, of course, the chief sponsor of this amendment I believe would freely acknowledge that it is protectionism, the ultimate in protectionism. What more protectionism can you get than Buy American, wrap it up in the American flag, serve it to the American public, take care of the highest paid workers in the United States of America, do in the rest of the workers, the lower paid workers and call it good legislation.

By whatever name it travels under it is protectionism and it is bad legisla-

Overall, nearly 1.2 million jobs in manufacturing in the United States are directly related to exports and another 1 million jobs are involved in producing components and parts for use by plants producing for exports. A further 1.3 million employees in nonmanufacturing industries supply materials and services to the manufacturing sector for export production. In all, nearly 3.5 million jobs are associated with exports of manufactured goods.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator might yield to me without losing his right to the floor, without interruption appearing in the Record, without counting as a second speech under the rules of the Senate.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield to me under those conditions?

Mr. CHAFEE. I am glad to yield under those conditions.

Mr. BAKER. Mr. President, it is almost 1 p.m. The Baker substitute is a long document that was filed late yesterday and has not yet been printed by the Public Printer and thus some Members who may have amendments they wish to get in before the qualifying deadline is reached under the provisions of rule XXII it seems to me that it would be fair and equitable to extend that time.

I have discussed this with the minority leader who has no objection to it, I am told.

I wish now to put this request.

I ask unanimous consent that the time for filing amendments pursuant to the provisions of rule XXII be extended from 1 p.m. until 3 p.m., today; provided, however, that no other provisions of rule XXII shall be affected or waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator for yielding.

Mr. CHAFEE. Mr. President, continuing on this extremely fascinating section of the book dealing with manufacturing jobs which is so pertinent to the matter we are discussing here today. The matter we are discussing, as the junior Senator from Pennsylvania I am sure would hastily acknowledge, is the question of manufacturing jobs. It is the question of steel and the attempt by the proponents of the underlying amendment to protect those jobs regardless of the cost to other American workers.

As I said:

In all, nearly 3.5 million jobs are associated with exports of manufactured goods.

About 400,000 of these export related jobs in manufacturing are in the nonelectrical machinery sector and about 300,000 export related jobs are in the electrical machinery sector. Another 250,000 export related jobs are in the transportation equipment industry.

The importance of exports in total manufacturing shipments varies significantly across states.

That is rather curious, while I suppose understandable, that we would find the exports in total manufacturing shipments varying across the different States.

In most of the larger industrial states, including California, Illinois, Michigan, Ohio, and Pennsylvania, export-related jobs (including the supply of parts and components) are about 12 percent of total manufacturing employment.

Even in New York—is that not interesting, going back—those larger States include Pennsylvania, where their export-related jobs are about 12 percent of total manufacturing employment.

Even in New York where the proportion of export-related manufacturing employment is lower than the national.

There is an interruption of some five pages of extremely interesting graphs and charts to which I will refer later, and I will want to pursue in some detail because they present, each of them, a fascinating delineation of the importance of exports to the United States and, indeed, take it up State-by-State. But I do not want to divert to that now because I am in the middle of this section.

Even in New York, where the proportion of export-related manufacturing employment, is lower than the national average, over 150,000 jobs or about 10.5 percent total manufacturing employment is export-related. While several States, such as Delaware, Montana, Nevada, and New Mexico, which export only a very small proportion of their manufacturing output, these States also have very small manufacturing sectors.

In some States the indirect employment effects of manufactured exports are crucial in providing manufacturing employment in the area. For example, the largest single employer in the manufacturing sector in the

State of Washington is Boeing Corporation, which exports 56 percent of its output.

I wonder if the President and others had though about that carefully. And that is not, I presume quantity; that must be by dollars, 56 percent is exported.

Moreover, many additional jobs in manufacturing in the State of Washington depend on supplying Boeing with parts used in aerospace construction and so depend, indirectly, on the exports of the Boeing Corporation.

I think it is no secret, Mr. President, that the Boeing Corporation is encountering severe competitive problems from Airbus which, as we all know, is an amalgamation of several nations, principally France and Great Britain.

Airbus is a major threat to the United States and to Boeing, and certainly I do not think that in this Senate we want to be part of an effort to cut off Boeing from its export markets as a result of retaliation that might be prompted by this iniquitous legislation before us today, this totally Buy American provision.

Exports also provide a source of stability in manufacturing sales and employment, helping to smooth out fluctuations in domestic demand. Again the Boeing Corporation provides an excellent example from the Aircraft industry, wherein for a period of 18 months in the early 1970's, no orders were received for commerical aircraft from domestic companies.

Think of it, Boeing went for 18 months without a single order from a domestic company.

(Mr. STEVENS assumed the chair.)
Mr. CHAFEE. Continuing:

During this period nearly all the jobs in the Boeing Commercial Aircraft Company, the commercial jet division of the Boeing Corporation, were dependent on exports. As the share of exports in total production of U.S. manufactures increases, the stabilizing role of export markets could become even more important.

A more detailed breakdown of these industries having the largest number of exportrelated jobs in manufacturing within each State is given in table 13.

Mr. President, at this particular time I will not pursue the tables because I think we now would like to move into trade in services, a chapter which starts on page 47.

Mr. President, you might say trade in services has nothing to do with what we are discussing today because what we are talking about is a manufactured product, namely, steel, and the effect that this prohibition against the use of any imported steel on federally funded bridges, highways, or the effect of any imported cement or any imported product—as a matter of fact, if I read the amendment of the Senator from Ohio correctly, any product used in the construction of these bridges imported would be prohibited, not just 50 percent, not just 75 percent. This is a measure that goes all

the way. This is the ultimate in greed. This is the ultimate in special interest legislation the likes of which we have not seen on this floor for some time, and that is a big statement, Mr. President, because we see a lot of special interest legislation, special interest legislation for an individual, for a few, for a company, whatever it might be, and often there is some justification that can be prompted for the support of this legislation.

But here we have the grandfather of them all.

Let me move now to the section on trade in services, which is a growing sector of U.S. exports, and if there is going to be retaliation, as everybody who is familiar with this field expects, as a result of the passage of this amendment, should it pass, then trade in services, that growing area in U.S. exports will suffer as well.

This is what the authors have to say about trade in services:

Trade in the services sector in the United States has traditionally been a neglected area in most analyses of trade patterns. A major factor inhibiting a detailed discussion of the contribution of the service sector to U.S. international trade has been the lack of readily available comprehensive data on the service sector, and even a lack of consensus on the definition of the service sector itself.

What are services?

Exports and imports of services is one area where the definitions adopted by statisticians in deriving estimates of the nation's gross national product differ significantly from what most non-statisticians would imagine the term to mean. The scope of the service sector itself is very broad and includes a wide variety of heterogenous activities. Under many U.S. definitions, the service sector includes those industries providing health, legal, engineering, and other professional services, personal, business, repair, and amusement services, educational institutions, and hotels.

Who would have thought of that, hotels falling in the service industry? But, indeed, it should.

Often the financial sector, wholesale and retail trade sector, insurance and real estate, and even transportation and utilities industries are also included in the definition. Indeed, the service sector is more reasonably defined by what it is not rather than what it is-the service sector broadly consists of those private sectors not engaging in primary production or manufacturing activities. The contribution of these sectors to gross national product is shown in Table 14 below.

Well, I think this is of such interest, this particular chart, Mr. President, that I will bring it to the attention of my colleagues. It is interesting how significant these dates are.

Let us take the 1979 figures. Transportation, 3.9 percent of GNP; communications, as you would expect is significant, 2.6; utilities, 2.6; wholesale and retail trade, 16.6; finance, insurance, and real estate, 13.8; miscellaneous, which is not defined, 17.9; and the total private service sector 57.4.

Mr. President, interestingly enough, there is a large growth from 1947 to 1979 in the share that the services constitute of the GNP. For example, the total private service sector in 1947 constituted 46.3 percent. In 1979, that had grown from 46.3 percent to 57.4 percent. That looks to me like a 25percent increase.

Now I think the point that should be stressed, Mr. President, is that the total private service sector of the GNP is growing, and I think we are all aware of that. It is growing signifi-

cantly.
Mr. President, I believe the junior Senator from Pennsylvania would like to explain his amendment. If he is prepared to go forward, I would be pleased to yield to him.

Mr. SPECTER. Mr. President, if that inquiry is to me, I am prepared to go forward.

Mr. CHAFEE. On that basis, Mr. President, I yield the floor to the Senator from Pennsylvania.

Mr. SPECTER addressed the Chair. The PRESIDING OFFICER. The

Senator from Pennsylvania.

Mr. SPECTER. I wish to thank the Senator from Rhode Island for his extraordinary graciousness in yielding the floor. I am advised that it is without precedent for a Senator to challenge for the floor before a Senator who has introduced a pending amendment has had an opportunity to explain and comment on his amendment, as the Senator from Rhode Island has undertaken to do here today.

compliment the Senator Rhode Island on his perhaps brilliant but definitely spirited speech. It is a shame that it is totally irrelevant to the subject matter which is pending before this body, which is not the amendment of the Senator from Ohio, but rather the amendment in the second degree in the nature of a substitute of the Senator from Pennsylva-

The Senator from Rhode Island has gone on at length about the Metzenbaum amendment, when, in fact, the relevant matter which is pending is the proposal which has been referred to as the Specter amendment.

But in order that the statements by the Senator from Rhode Island not be wasted, I modify at this time my amendment by changing it from a substitute to a perfecting amendment so that my language will be added at the end of the amendment of the Senator from Ohio.

Mr. President, the issues raised by the amendment which I have presented are those embodied in Senate bill 2167 and several previous proposed amendments, on which there are a number of cosponsors, including the junior Senator from West Virginia (Mr. ROBERT C. BYRD), the junior Senator from Mississippi (Mr. Cochran), the senior Senator from Utah (Mr.

GARN), the senior Senator from Alabama (Mr. HEFLIN), and the junior Senator from New York D'AMATO).

The essence of 2167, which is now the pending matter in the nature of a substitute, would open Federal court jurisdiction to make a determination of when there is dumping. And by "dumping," I mean when goods are sold by foreign importers below the cost of production or when sold in U.S. markets at a price lower than that sold in their home markets.

The arguments which have been advanced so far today by the Senator from Rhode Island and the Senator from Missouri are essentially arguments against protectionism which they say is being induced by the amendment of the Senator from Ohio. There are valid considerations against limiting free trade. That is a matter which has been established over the course of many, many years.

But an essential ingredient of free trade is fair trade, and that means the absence of dumping and the absence of subsidies. And, regrettably, the facts of life in the United States are that there is massive dumping and there are massive unfair trade practices which extend not only to the steel industry but to many, many other industries in the United Statesto mushrooms, to leather, to textiles, to cement, to virtually every product which is sold in our markets.

It is plain that the laws of this country prohibit dumping. It is equally plain that there are no effective remedies available to stop that dumping. The procedures before the International Trade Commission are totally ineffective. They take a very protracted period of time before they are complete. When they are completed, they are ineffectual because they are invariably prospective only. They are ineffectual because they do not grant damages to the injured parties and they do not stop the dumping.

The International Trade Commission has had some value, however, in establishing certain basic facts. Recently in the proceedings involving steel there was a factual determination made that British steel was being subsidized to the extent of \$250 a ton. In November 1982, last month, there was a meeting of the British-American parliamentary group in the south of England where the issue of trade and the issue of subsidies was a heated topic of conversation.

I had the opportunity to be one of the representatives in the U.S. delegation. The point that we made was that there had been dumping by the British, specifically with respect to steel, pointing to the findings of the Inter-national Trade Commission on the subsidies of \$250 a ton. The British Minister for Trade, Mr. Peter Rees, vehemently denied that there was subsidies as to British steel and quite a controversy arose over that issue.

Two days later, a lead article in the business section of the London Observer on November 14 contained factual information that the British Steel Corp. was losing <sup>1</sup>1 million daily and the Government would soon be faced with a <sup>1</sup>1 trillion bailout unless immediate action was taken to close certain factories.

During the course of the next week I had the opportunity to observe the proceedings in the House of Parliament which was fascinating when the Minister, Mrs. Margaret Thatcher, appeared to respond to questions from both her side of the aisle and the other side of the aisle during a 15-minute period. One irate questioner asked about the future of the giant Ravenscraig steel works where the British press had earlier reported that some 14,000 jobs were involved and 1,000 acres would become blighted if the plant were, in effect, closed.

Certainly, Mr. President, these factors demonstrate conclusively, I would suggest, that there are massive subsidies to British steel. I think the evidence is equally compelling as to imports on steel from Benelux countries, from many countries around the world, including subsidies as to Japanese steel.

I had occasion to meet with representatives of the Japanese steel industry on a visit to Tokyo on January 18, 1982. At that time, in an exchange with these Japanese steel officials, I raised the question about some orderly resolution of the dumping issue and raised the possibility of judicial action with a remedy such as the one which is encompassed in S. 2167, which is the matter now pending before this body.

At this time, Mr. President, I will read a letter which I wrote to the Honorable William E. Brock, U.S. Trade Representative, dated January 19, 1982. The letter summarizes the issue. The letter reads as follows:

U.S. SENATE, Washington, D.C., January 19, 1982. Hon. William E. Brock,

U.S. Trade Representative, Washington, D.C.

DEAR BILL: As part of a Congressional delegation visiting Japan, I had an opportunity to meet with a number of top-level executives in the Japanese steel industry. Mr. Akio Toyoda, Managing Director of Nippon Steel Corporation, hosted a luncheon for me on January 18, attended by representatives of the Sumitomo Metal Industries, Nippon Kokan, K. K., and Kawasaki Steel Corporation. I also had the opportunity to visit the Nippon Kokan, K. K. steel mill outside Tokyo.

My conversations with the Japanese were useful and informative. We discussed one particular topic which is especially important and should be pursued—the issue of Japanese steel exports to the United States.

During our discussions, I raised with the group the position of Thomas Graham,

President of J and L Steel Corporation of Pittsburgh. Mr. Graham believes strongly that quotas should be imposed on Japanese steel exports to the United States. He has made his position clear both in Congressional testimony and in a personal conversation with me in December while I visited the J and L Aliquippa plant where several hundred people have recently lost their jobs.

In addition to discussing Mr. Graham's proposal, I also brought up the possible authorization of private actions in U.S. Federal Courts to enforce violations of provisions such as the Trigger Price Mechanism (TPM).

In response, Mr. Toyoda argued in favor of diplomatic and political solutions to problems in international steel trade. He said that the Japanese steel industry was prepared to cooperate with the United States and that, if an antitrust defense were available because of an official, government to government, request, Japan would limit exports to the United States. He made that remark during a discussion of issues which included U.S. problems with European steel exports and it may be that his suggestion was in the context of not filling the market gap occasioned by potential restraints on European exports. But the important point is that representatives of the Japanese steel industry expressed a willingness to cooperate with the United States and limit exports. None of the Japanese executives at the luncheon disagreed with Mr. Toyoda's comment about limiting Japanese steel exports to the U.S.

I would appreciate your office pursuing the issue of limiting Japanese steel exports to the U.S.

I am considering introducing legislation that would provide an exemption from liability under federal or state antitrust laws where foreign producers voluntarily limit their exports to the U.S. in response to an official U.S. government request. The Japanese are very concerned about liability on antitrust grounds and, if they are willing to cooperate with us in restraining exports, we should try to eliminate that liability. I have reviewed the exchange of letters between the U.S. Attorney General and the Japanese government occurring in connection with the Japanese decision to voluntarily limit exports of autos to the United States. In my own view, the correspondence does not fully protect the Japanese from antitrust action. although it would strengthen their position in a U.S. court. I would very much appreciate your reaction to proposed legislation for an antitrust exemption in this situation.

Senator Cochran and Senator Symms, who were also in Japan, although not at this particular meeting, have authorized me to say that they are in favor of such an antitrust exemption.

I am writing to Secretary of Commerce Baldrige with this same message.

Thank you for your consideration of these matters.

Sincerely yours,

ARLEN SPECTER.

Mr. President, I will next read into the Record a letter from Mr. Brock to me, dated January 26, 1982. The letter reads as follows: THE U.S. TRADE REPRESENTATIVE, Washington, January 26, 1982. Hon. Arlen Specter,

U.S. Senate, Washington, D.C.

DEAR ARLEN: This is in reply to your letter asking my Office to seek limitation of steel imports from Japan.

I share your concern about the currently depressed situation of the American steel industry. I believe the steel import problem must be dealt with effectively if the industry is to be able to raise the massive amounts of capital needed for its thorough modernization.

However, removal of the stringent antitrust constraints for acceptance of offers of voluntary export restraint would not be a desirable step. The aim of the President's economic recovery program is to encourage the freest possible play of market forces as a means of stimulating competition, investment and efficiency. In the long run, there is no other basis for the stable, noninflationary growth that we seek. To freeze the market shares of foreign competitors by way of voluntary restraint or any similar agreement would significantly lessen the responsiveness of producers, here and abroad, to market forces.

It is just such a lack of responsiveness to changing market conditions that has produced our current steel problem. Many of our foreign competitors, particularly in Europe, have maintained excess, inefficient production capacity only with the help of ever greater injections of public capital. It is this condition that makes steel a chronic problem, and it is this condition that will have to change if we are to have any lasting peace in international steel trade. That is why we insist in our dealings with the European Community that solution of the steel problem requires action to phase out their subsidies and eliminate their excess capacity.

Toward that end, the Commerce Department last year launched on its own initiative ten countervailing duty and antidumping investigations. Despite this unprecedented trade law enforcement effort, the domestic steel producers have decided in recent months to file sweeping complaints of their own, involving ten products from thirteen countries. As a result, the Administration had no choice but to suspend the trigger price mechanism. However, it is important to keep in mind that the TPM was only a device to help us do what we are now doing on a massive scale-enforce the unfair trade laws. I can assure you that every well-founded complaint will be vigorously and expeditiously investigated and that special duties will be imposed whenever dumping or subsidization and injury are proven.

This approach, together with the President's economic recovery program to stimulate savings and investment, offers the best hope of a lasting and effective response to the problem of subsidized competition from abroad.

Let me also note that, despite our many trade problems with Japan over the past several years, rising steel imports have not been an issue. In fact, our imports of steel mill products from Japan have decreased rather steadily since 1977, falling 21 percent by 1981. As a result, the Japanese share of the U.S. steel import market has fallen from about 40 percent in the early 1970's to about 31 percent in 1981. Moreover, the Japanese seem to be making a concerted effort to shift into product lines that are less import sensitive, particularly the pipe and tubing categories in which the U.S. domestic

Authorization for such private actions would require new legislation. I understand that the TPM has recently been suspended.

supply is inadequate to meet demand in the booming oil and gas sector.

Very truly yours.

WILLIAM E. BROCK.

Mr. President, the pendency of S. 2167 received one very interesting inquiry which I considered to be a testimonial to the importance and efficacy of S. 2167. It is a seven-page, single-space letter from the chief executive officer and chairman of the Sony Corp., Akio Morita, headquartered in Tokyo, complaining about Senate bill 2167. The complaints by Mr. Morita are an eloquent testimonial to the efficacy of S. 2167.

Mr. President, I ask unanimous consent that this letter be printed in the

RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Sony Corporation, *Tokyo, August 18, 1982.* Re: S. 2167, a Bill To Amend the Antidump-

ing Act of 1916. Hon. Strom Thurmond,

Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express my concern about S. 2167, a bill to amend the Antidumping Act of 1916 which is currently pending before your Committee. The bill would expose importers to the payment of money damages and to a ban against importation of their merchandise if they are included in dumping findings that are issued by the Commerce Department in administrative antidumping investigations. With all respect, I would like to register my strong opposition to the bill.

Please understand that I certainly do not favor unfair import practices. My company, Sony, has been in the American market for over 30 years, and we have worked hard to establish a reputation for quality and integrity. Also, I am not speaking only as the chairman of a Japanese company that exports to the United States. Sony has a major stake in the American economy. We have invested millions of dollars in U.S. plants and are employing about six thou-

have invested millions of dollars in U.S. plants and are employing about six thousand American workers. Today about 80 percent of all the Sony televisions sold in the United States are made in America using American components and American labor.

I oppose S. 2167 because I believe that it is unnecessary and unfair. Passage of this bill would not solve the real problems of U.S. companies that are suffering from foreign competition, and it might only serve to divert management attention from the real tasks at improving productivity and quality control. The bill would only produce more lawsuits—not more jobs. I am sure you will agree that the American legal system does not suffer from any shortage of litigation. I fear that passage of the bill would only encourage the tendency of some American companies to engage in legal harassment of their foreign competitors.

I understand that your Committee has held several hearings on S. 2167 and a similar bill, S. 2517. At the June 24 hearing the Assistant Secretary of Commerce for Trade Administration and the General Counsel of the Office of the U.S. Trade Representative testified that these bills are unnecessary because domestic producers can already get adequate relief under current law, and they also pointed out that the bills may violate

the International Antidumping Code. This testimony raises serious legal and policy concerns which merit close attention by your Committee. I also think these bills, S. 2167 and S. 2517, are unnecessary. I would like to focus on S. 2167 to present my arguments here. I am particularly concerned about the provision in S. 2167 which incorporates administrative antidumping determinations into the Antidumping Act of 1916 and makes importers subject to severe sanctions under the 1916 Act if they are included in antidumping findings under the Trade Agreements Act of 1979.

S. 2167 permits the recovery of damages from importers and a prohibition against imports without any proof of predatory intent. The bill defines dumping in the same terms as the antidumping provisions of the Trade Agreements Act of 1979, and it provides that a final determination of sales at less than fair value by the Commerce Department or of injury by the International Trade Commission in an administrative antidumping proceeding will constitute evidence of a violation of the amended Antidumping Act of 1916. After the Commerce Department or International Trade Commission decision is made the Court can prohibit the importation or sale of the articles concerned until the completion of the suit. and the defendant will have the burden of proving that he has not violated the law. In my opinion, such severe penalties for what could very well be unintentional acts have no place in the American system of justice.

The drafters of the bill may have been under the impression that foreign producers and importers can easily determine whether they are selling at dumping prices. That is simply not true. The law and the regulations are extremely complex and are subject to shifting interpretations. Many of the critical judgments under the antidumping law are left to the discretion of the Commerce Department and the International Trade Commission, and rulings on those issues cannot be predicted with any certainty in advance.

For example, the difference between a price that is considered "fair" and one which is considered "unfair" may depend entirely on whether Commerce considers an expense incurred in home market transactions to be "directly related" to the sale of the merchandise in the home market or to "an overhead expense." If it is the former, the expense will be deducted in the calculation of fair value; if it is the latter, it will not. Whether or not the expense is deducted can make all the difference in the Commerce Department's determination of whether the prices for exportation to the United States are above or below fair value. Yet a foreign producer must take all expenses into account in setting his home market and export prices, whether those expenses are "directly related" or "overhead," and he cannot be expected to predict U.S. Government rulings on such technical distinctions before an investigation is institut-

Antidumping rulings are particularly unpredictable during a period of fluctuating exchange rates. A price which is at fair value can be transformed into a dumping price merely because of a decline in the value of the dollar relative to the foreign currency.

It is often impossible to predict exchange rate movements or to adjust prices quickly enough to avoid being placed in a dumping position because of exchange rate fluctuations. (The Commerce Department allows

only a 45-day grace period.) It is bad enough that importers who cannot adjust their prices in time may have to pay dumping duties merely because of a currency change. It is unconscionable to also ban their imports and to require them to pay damages for matters over which they have no control.

America's trading partners have frequently complained about the unpredictable and technical nature of calculations under the U.S. antidumping law and the exposure of foreign producers to harassment through litigation. This matter was analyzed in the January 1981 report of the Japan-United States Economic Relations Group (the so-called "Wisemen's Group"). The report demonstrates the unfairness of imposing retroactive penalties in addition to antidumping duties. It described the unpredictability of antidumping rulings in the following terms:

"There is a tendency in the United States, especially in Congress, to believe that a clear dividing line can be drawn between "fair" and "unfair" trade practices which can be readily determined by the administering authorities. In fact, the existence of "dumping," "subsidies," and other alleged "unfair trade practices" is often extremely difficult to establish, and it is all the more difficult to set appropriate margins of relief. Variations in products between home market and foreign markets, in manufacturing processes, in business practices, in taxation systems, and the like, do not permit the kind of precision on which the American laws are premised." (page 93)

But it went on to point out that this unpredictability is not a serious problem be-

cause the law is prospective.

"Foreign manufacturers often cannot determine in a technical sense whether or not they may be dumping, but since the laws are prospective, if foreign manufacturers have mistakenly believed they were not dumping, but are found to be dumping, they can comply and will suffer no penalty." (Id.)

In other words, the saving grace of the administrative antidumping law is its prospective nature. S. 2167 would eliminate that saving grace and would make the law retroactive and penal. It would not clarify the uncertainties, nor would it provide any exception for companies that were acting in good faith. Any company that finds itself caught in a dumping finding would be subject to a ban on imports and the payment of money damages, no matter how technical and unpredictable the ruling or how much the determination was affected by currency fluctuations beyond its control. I believe that such a result is completely inequitable.

In addition, passage of the bill would be an open invitation to legal harassment. Almost every antidumping petition that is filed with the Commerce Department would be accompanied by a lawsuit filed in a U.S. District Court under the amended Anti-dumping Act of 1916. As soon as the Commerce Department finds sales at less than fair value the plaintiff would get a court excluding his foreign competitors from the American market until the conclusion of the lawsuit, which could drag on for years. (The bill does not even require a finding of injury by the International Trade Commission before the imports can be excluded.) Plaintiffs would be tempted to file broad complaints so that the exclusion order would cut off as much competition as possible and the ultimate damage award would be magnified by the number of defendants ensnared. They might name every

foreign producer of competing products in petitions under the Trade Agreements Act of 1979 and in lawsuits under the Antidumping Act of 1916, whether or not there is any real evidence of dumping against each of them, hoping that technical rulings or currency fluctuatios would ensnare the "innocent" with the "guilty."

This is no exaggeration. I know whereof I speak, since Sony was unjustly included in the finding of dumping that was issued on Japanese television sets in March 1971, even though Sony's prices were the highest in the American market, and even though Sony was cleared of dumping charges during the fair value investigation. Sony was included because the Treasury Department had adopted the policy of issuing all findings of dumping on a country-wide basis. It took four more years to persuade the Treasury Department to exclude Sony from the dumping finding, and even then Sony had to go through more years of investigation and bureaucratic confusion over the liquidation of entries that were made up to the date of Sony's exclusion. What is worse, the fact that Sony was erroneously included in the original dumping finding led to its being named as a defendant in a lawsuit that was filed under the Antidumping Act of 1916 and the antitrust laws. After ten years of litigation the complaint against Sony was finally dismissed in 1981 when the court affirmed Sony's longstanding position that it has never engaged in illegal pricefixing tactics and in fact has always sold its televisions in a fair and legal manner in the United States. The case is now under appeal. If S. 2167 had been in the law at that time, Sony could have been prohibited from importing television sets during the entire ten years of the case merely because it was included in the original dumping find-

There is a real risk that such an injustice could occur if this bill is enacted. The Commerce Department regulations permit exclusion of an individual foreign producer from an affirmative determination only if all of the company's exports to the United States during the period under investigation were made at fair value prices. Even a single sale at a small margin is enough to bring a company within an affirmative determination. If the company does not qualify for exclusion from the original finding, it can revise its prices to eliminate dumping margins and can be excluded later if it can demonstrate that it has made no sales at less than fair value for at least two years after the finding is issued. But all of this would be to no avail if S. 2167 were enacted. Such a company would be subject to a court order excluding its merchandise from the United States during the pendency of a lawsuit which could last many years, and it might ultimately have to pay damages to one or more domestic manufacturers.

I appreciate the opportunity to present my views on this legislation, and I hope that my comments will help to point out the serious problems with S. 2167. Despite all of the trials and tribulations of U.S.-Japan economic relations, I have always had faith in the essential fairness of the American legal system. I trust that the Committee will recognize the unfairness of S. 2167, and will ensure that such legislation is not enacted into law.

With best regards, Sincerely yours,

Akio Morita, Chairman. Mr. SPECTER. Mr. President, it is my view that to the maximum extent possible the United States should adhere to the principles of free trade. If we are to stay with the principles of free trade, it is indispensible that we stop unfair trade practices and stop dumping.

The current remedies are totally insufficient. There is no reason why existing U.S. law, such as the one which prohibits dumping, should not have an effective remedy in the U.S. court. It is well-known that the U.S. courts are open to virtually every sort of a claim or counterclaim and that, in fact, our courts are inundated with litigation which really ought not to be in court. But if there is any controversy which is important to the people of this country and to the people of the world it is the controversy as to whether there is dumping on the United States to the detriment of very important industries in the United States.

The debate today has principally involved the steel industry, but similar arguments could be made and similar considerations could be given as to other industries. The steel industry is perhaps significant because of its indispensable role in defense. If permit foreign imports to dry up the American steel industry, then one day we may well face a national emergency without the steel industry with which to defend ourselves, similar to the way we have faced energy shortages when OPEC nations raised the price of oil on the market. We might face a similar situation with respect to the steel industry.

We might find a similar situation with even an industry like the glove industry. On Saturday of this week I met with officials of a small glove manufacturing company in Brookville, Pa., who brought a complaint to me about unfair trade practices on those who import gloves.

Gloves might not seem enormously important at first blush, but the point was made by those representatives that in time of industrial expansion, gloves are indispensable if we are to be able to mobilize for national defense. During World War II many workers in important and essential industries were compelled to work with stockings on their hands. So the glove industry is very important to our Nation's welfare.

Mr. President, the issue ranges all the way from steel to gloves, catching many, many industries in between, industries like mushrooms, which are an essential part of the industry in Pennsylvania and being victimized by unfair trade practices.

If foreign exporters seek U.S. markets, it is eminently fair, I submit, Mr. President, that they should be subject to U.S. court jurisdiction.

Our courts have a tradition for fairness. The text of my law would give

exclusive jurisdiction in these suits to the U.S. District Court for the District of Columbia in order to avoid any possible worry that a court in any particular American city might be overly concerned with the local industry. By having jurisdiction limited to the U.S. District Court for the District of Columbia, expertise could be developed and impartiality could be doubly assured.

There is ample precedent for that procedure by analogy to the provisions of the Voting Rights Act, where jurisdiction is limited to the U.S. District Court for the District of Columbia.

The Federal courts have shown the ability to handle complex matters in relatively short periods of time. Last year a complex piece of litigation was handled by a U.S. District Court in Ohio, involving efforts by Mobil Oil Corp. to take over Marathon Oil. That case involved complex facts and complex law. In the course of a few weeks, it was decided and an extensive opinion was written on the subject.

So the process could be handled on an expeditious basis.

It would also be appropriate to have available the discovery procedures of the Federal Rules of Civil Procedure so that, if a company seeks to sell in the United States, a foreign company, it should be compelled to respond to factual matters as can be developed through the discovery rules to make a determination as to whether there is or is not dumping. Once an injunction is issued, that injunction would be in force and effect and would stop further imports until an appellate court had reversed, if in fact that were to be the case, so what judgment can be rendered in the course of a few weeks need not await the lengthy, time-consuming processes of appellate court procedure, absent the posting of a bond, which is highly unlikely under such considerations and in such cases.

I suggest, Mr. President, that the current matter pending before the Senate, the gas tax, is a very appropriate, relevant, and germane bill for the consideration of this legislation because, in repairing the infrastructure of the United States, there will be the purchase of much by way of materiel. We ought not to be spending American tax dollars to buy subsidized goods which are unfairly competing with the American taxpayers who are paying for the purchase and the construction of those public projects.

This bill has been pending before the U.S. Senate since March 4. I am amused by the comments of the Senator from Missouri and the Senator from Rhode Island about the absence of hearings. Hearing were requested of the Finance Committee so that that committee could consider this matter, hear the evidence, and take whatever action it deemed appropriate. Somehow, the Committee on Finance and the subcommittee chaired by the junior Senator from Missouri have not seen fit to undertake those hearings. I suggest that it is hardly an appropriate objection to the consideration of this amendment at this time that such hearings have not have held when the responsibility for not holding such hearings rests with the person who did, in fact, raise that objection.

Mr. President, if this amendment is adopted and if the Federal courts are open for jurisdiction, I suggest that the purpose of broader legislative action in the nature of protectionism may well be avoided. We may be able to enact this gas tax without having the provisions which were sent to us by the House of Representatives on buying only American steel and American concrete for the construction of the roads, bridges, and other aspects of the infrastructure being addressed by this legislation. I suggest that no one can really object to a procedure which guarantees fair trade practices, which is at the heart of free trade. No one should object to having matters of controversy determined by the Federal courts in this country, which have long been a bastion of protection of rights, individual and property rights, and the dispensation of justice in a way which is unequalled, certainly unexcelled, in the history of the world.

I thank the Chair and I yield the floor.

Mr. STAFFORD. Mr. President, would the distinguished Senator from Pennsylvania, the author of the amendment, be willing to answer a few questions?

Mr. SPECTER. I would be delighted to respond to any questions of the distinguished senior Senator from Vermont.

Mr. STAFFORD. I say to my good friend from Pennsylvania that I think many of us can understand the concerns we have with the invasion of American markets by foreign countries which export to us and, in some cases, without allowing us any reasonable access to their markets in return. The Senator from Vermont believes generally in free trade, as I understand the Senator from Pennsylvania does. The Senator from Vermont is somewhat concerned with the Senator's amendment at this time. It appears to the Senator from Vermont, and I therefore ask my friend from Pennsylvania, have hearings been sought in the Committee on the Judiciary with respect to this legal proceeding which is established under his amendment?

Mr. SPECTER. Yes, hearings have been sought, hearings have been held.
Mr. STAFFORD. They have been

Mr. SPECTER. Yes, Mr. President. Mr. STAFFORD. Has the committee taken any action following hearings? Mr. SPECTER. The committee has not taken action on the bill.

Mr. STAFFORD. It would appear to the Senator from Vermont that he would be more comfortable if this amendment had had action on the part of the Judiciary Committee with respect to it. The Senator says that partly because we think it establishes a complicated system of judiciary handling of matters and partly because, for the first time in this Senator's experience in the Senate, we find large numbers of amendments being added to the highway portion of this bill which deals with taxes, highways, mass transit and so on. The Senator from Vermont hates to see the highway portion of this bill, in effect, Christmas-treed, which may sink the whole program of its own weight. While the Senator from Vermont is in some sympathy with what the Senator from Pennsylvania is trying to do here, we respectfully think it is the wrong place and the wrong time to do

Mr. SPECTER. Mr. President, I understand the arguments being made and considerations being raised by the Senator from Vermont. I respond by saying that I have sought action by the Judiciary Committee. That committee has had a very crowded calendar. I have sought, on at least a half-dozen occasions, to find a way of presenting this measure for action by this body. On those occasions, I have been met with the consideration, "This is not the appropriate time to do it; there ought to be hearings."

The reality is that given our workload and our business, there is hardly any time to do it or any time which is appropriate. Here we have an occasion which I think is uniquely appropriate. Why? Because American workers are being asked to pay 5 cents a gallon more for gasoline. If current practices exist, they will be paying out of their own pockets to foreign importers selling with unfair trade practices which have cost them their jobs. It is a very bad picture, succinctly stated, of an unemployed steelworker, hardly the profiteer characterized by the Senator from Rhode Island, who is paying a gasoline tax which is going to bring in steel which is subsidized and which has cost him his job. I can hardly think of any circumstance which points up more fundamental unfairness. That is because there is no remedy.

The concerns of protectionism may well be alleviated and the broader principle addressed by the Senator from Rhode Island and the Senator from Missouri may be accommodated if this is enacted.

Mr. STAFFORD. I thank the Senator. I ask him one more question: Should his amendment prevail with that of the Senator from Ohio, it would mean 100 percent content for

the construction of highways and equipment used in the construction of highways in this country. I point out, as I did once earlier this morning, that in the Surface Transportation Assistance Act of 1978, Public Law 95-599, adopted on November 6, 1978, provision was made—I shall read it since it is a short paragraph—that requires "more than 50 percent of United States content in supplies, materials, manufacture and articles used in mass transit and highway construction programs."

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds \$500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

There are some exceptions that follow, but I shall not bore the Senate by reading those. I point out that, pursuant to that statute, by regulation, the statute has been interpreted to mean that over 50 percent of domestic components by value must be included in the highway and mass transit programs. There is a considerable body of belief that that strikes a balance between the need to protect our domestic industries and the need to hold down the costs of transportation construction and equipment to both the States and the Federal Government.

I tend to agree with that statement. I ask my friend from Pennsylvania what his reaction is.

Mr. SPECTER. Mr. President, my response is that it is a hard line to draw as to fairness when you talk about partial favoritism for American practices in the range of 50 percent or more extensive preference for American products to the range of 100 percent. In a context where the American industrial scene cannot get basic fairness because the State Department and becayse the Commerce Department are sacrificing important American industrial interests on the altar of foreign policy, then it may well be necessary to proceed with really strong medicine, such as that which has been proposed by the Senator from Ohio, so that only American products would be used or otherwise strong medicine, although not quite as strong by just its content, such as the 50-percent requirement, which I understood the Senator from Vermont to be looking toward.

I cannot in good conscience say to my constituents, a large number of whom are steelworkers, that I would oppose legislation which would be Buy American when they have been so unfairly treated by world trade practices, foreign dumping, and the absence of an effective program by the international trade community. If the trigger mechanism had worked, if we had a way of stopping unfair trade practices, then I would be able to have a very different attitude on the question of preferring American products. But given the facts, I think that tough medicine may be necessary. I think that the legislation by the Senator from Ohio may be necessary even if my amendment is adopted because of the difficulty of implementing my amendment in time to take the proper course on these large expenditures which are going to be made on the gas tax bill.

But I think, first things first, the most fundamental thing is to provide a procedure for justice, and absent that we have to use some tougher and some harsher medicine.

Mr. DOLE. Will the Senator yield?

Mr. SPECTER. For a question?

Mr. DOLE. For a question.

Mr. SPECTER. Yes.

Mr. DOLE. Obviously, the Senator from Pennsylvania understands his amendment very well. It does amend the Antidumping Act, which is clearly the jurisdiction of the Senate Finance Committee. We have had no hearings. We believe—we are checking to make certain-that there was an agreement to have a sequential referral from the Judiciary, or at least referred to our committee following action by the Judiciary Committee. And as the Senator noted earlier, the Judiciary Committee has not yet acted on the proposal. I would just suggest that it may well have merit, but here we are in the last few weeks of the session-not the last few days, in my view, but in the last few weeks of this session-trying to wind up a very important piece of legislation and there are probably 80 or 90 amendments and every one of those certainly probably has a great deal of merit.

I hope that we would not adopt an amendment without hearings, without it having been referred to the committee of appropriate jurisdiction, which is the Senate Finance Committee in this case.

We are starting trade hearings the first or second day we are back in January, the 25th of January, to address not only maybe the problem discussed here this morning but others that we believe are important to deal with.

So I hope that at the appropriate time—I am not certain what the appropriate time will be or what the majority leader has in mind—we may dispose of these amendments. If we could get some agreement to vote on cloture today instead of tomorrow, we might be able to go home early tonight.

That is just a thought.

I would ask for the yeas and nays on the Metzenbaum amendment.

The PRESIDING OFFICER. It would take unanimus consent to order the yeas and nays at this time. There is an amendment pending to the Metzenbaum amendment.

Mr. SPECTER. Mr. President, I ask for the yeas and nays on my pending

amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Now is it in order to ask for the yeas and nays—

The PRESIDING OFFICER. It will take unanimous consent to order the yeas and nays on the Metzenbaum amendment at this time.

Mr. DOLE. Do you have any objec-

tion to that?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, a parliamentary inquiry. Is it not true that the yeas and nays will occur on the Metzenbaum amendment after the vote on the Specter amendment?

The PRESIDING OFFICER. If they

are ordered, they would occur.

Mr. METZENBAUM. The only objection, I would respond to the Senator from Kansas, is that the minority leader has asked that we add the word "ferroalloy" to the amendment. If that can be included in the unanimous-consent request, I certainly have no problem, and I certainly do not believe that it is of such significance that anyone would care to make it an issue. I doubt that it adds or subtracts anything from the strength of the amendment.

Mr. SPECTER. Mr. President, will the Senator from Ohio repeat the

word that he seeks to add?

Mr. METZENBAUM. The amendment now talks about steel or cement, and the Senators from West Virginia have indicated that they would like the word "ferroalloy" (f-e-r-r-o-a-l-l-o-y) to be added.

Mr. SPECTER. I understand. I

thank the Senator.

Mr. METZENBAUM. It seems to me that if Senators are for this amendment or against it, they are not going to be affected in their thinking as to whether that particular language is included, and so I would say to my friend from Kansas, if he would be good enough to include that as part of the unanimous-consent request, I have no objection.

Mr. DOLE. The Senator from Kansas has no objection, but I understand—

Mr. SPECTER. Reserving the right to object, Mr. President, I am going to be sure that whatever unanimous-consent agreement is entered into it is subject to an understanding that there will first be a vote on my amendment, which is now pending, and after that vote is completed, then there will be a vote on the amendment by the Senator from Ohio.

Mr. METZENBAUM. I think that is understood.

Mr. DOLE. Except that there could be a motion to table, a motion to table both amendments.

Mr. METZENBAUM. It could be a motion to table, a motion to table the second-degree amendment or a motion to table the first and take the second with it.

Mr. DANFORTH. Mr. President, reserving the right to object—

Mr. SPECTER. Mr. President, in the

Mr. DANFORTH. Mr. President, reserving the right to object—

Mr. SPECTER addressed the Chair. The PRESIDING OFFICER. There is a pending request and the Senator has the right to reserve the right to object.

Mr. DANFORTH. Mr. President, I would simply like to make it clear, so there will be no misunderstanding, it is my understanding that the unanimous-consent request does not include any commitment that there be a vote on the Specter amendment or that there be a vote to table the Specter amendment specifically.

Mr. SPECTER. In that event-

The PRESIDING OFFICER. It is the Chair's understanding.

Does the Senator from Pennsylvania wish to restate the unanimous-consent request?

Mr. SPECTER. Mr. President, as part of the unanimous-consent request, I will object unless it is plain that there will first be a vote on my amendment before there is a vote on the amendment by the Senator from Ohio.

Mr. METZENBAUM. Will the Senator from Pennsylvania yield for a question?

Mr. SPECTER. I do.

Mr. METZENBAUM. Does not the Senator from Pennsylvania actually mean that if and when there is to be a vote at all, that the vote in connection with his amendment would precede the vote in connection with my amendment?

Mr. SPECTER. Mr. President, I do not mean that at all. The Senator from Ohio comprehends wrong. If there is a vote at all, the contingency is that there may be a vote on my amendment.

Mr. METZENBAUM. If there is a motion to table, and it is debatable, then the Senator would not have a vote.

Mr. SPECTER. If the Senator means a vote to table, that would be satisfactory. That would be a vote in effect on my amendment. I would be agreeable to having a unanimous-consent agreement that there be succession.

sive votes on the Specter amendment and the Metzenbaum amendment which could be either up or down or in

the form of a tabling motion.

The PRESIDING OFFICER. The Chair is constrained to state that the statement of the Senator from Pennsylvania is not exactly understood by the Chair, because the unanimous consent would permit a motion to table the basic amendment, which would carry with it the amendment of the Senator from Pennsylvania, and there would not be a vote on the amendment of the Senator from Pennsylvania.

In that event, I ask if the Senator from Pennsylvania wishes to restate the unanimous consent and state his

intent?

But the Chair is constrained to say that the interpretation of the Senator from Pennsylvania of the existing unanimous-consent request is not correct.

Mr. SPECTER. Mr. President, I object to the unanimous-consent request.

The PRESIDING OFFICER, Objection is heard.

Mr. RIEGLE. Mr. President, is the floor open at this time?

The PRESIDING OFFICER. The Senator from Pennsylvania has yielded the floor. It is available.

Mr. RIEGLE. I thank the Chair. The PRESIDING OFFICER. Does the Senator seek recognition?

Mr. RIEGLE. Yes; I do. The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. RIEGLE. Mr. President, I shall speak briefly. The Senator from Ohio wishes to speak, and I shall reserve the main part of my remarks until he has a chance to speak.

While the chairman of the Finance Committee is in the Chamber, I shall make an observation that I think might be a helpful one in light of the discussion that has been going on

Since I have the floor, this Buy American provision is a very important part of this legislation. Certainly that has been the view of the House of Representatives that has put it into the bill that has come over from the House of Representatives. It is the view of many of us here in the Senate.

While one does not know yet where all the votes lie here in the Senate, it would be my own judgment that if this were not to be part of what emerges in the end as part of this legislation, I think it is very doubtful that we will see legislation pass, whether it be in a few days or, as the chairman says, in a few weeks.

I think this provision is vitally important and lies at the heart of the question of whether we are going to get any kind of domestic job creation help from this legislation. If those who have a keen feeling about knocking it out persist in doing so I think

they do so at the risk that this legislation may very well not pass.

I think this amendment is that important and I think it should be weighed on that kind of scale in terms of the tradeoffs involved here.

Mr. DOLE. Mr. President, if the Senator will yield, I cannot determine what other Senators will do. We are going to try to pass the legislation. There has been no vote on it. No one knows where the votes are on this particular amendment. It may be that the majority leader will wish to table both amendments, or one amendment, or whatever, at the appropriate time.

As far as this Senator is concerned I would just as soon discuss this amendment until cloture is either invoked or not invoked on the substitute and on the bill. But that is a matter that must be weighed after we have had a run at it to see where the votes are.

There are a lot of people who want to kill the bill for different reasons, and this might be another reason for some to vote against the final product.

But it is my hope that as to this measure, which has strong bipartisan support, passed the House of Representatives with an overwhelming vote and came out of the Finance Committee with a 15-to-4 vote, we could proceed with that whether this week or next week or the following week.

The Senator from Kansas certainly

understands we might lose.

Mr. RIEGLE. Mr. President, if I might just say, I further appreciate what the Senator said and he is correct in the fact that this did come over with a strong vote from the House of Representatives, but it also came over with a Buy American provision in the legislation. So I think we run a serious problem back on the House side if they were to be asked in the end to pass legislation that might be in the form of a conference committee report that did not have this provision.

I say further to those of us who have not yet made up our minds on how we might vote on final passage, and there are some of us, and happen to be one, who are troubled about the legislation. I say, until we get all the votes, we do not know where 100 people stand on this, but I think this provision is critical enough that how it is disposed of may very well sort of tell the tale on how this entire bill goes in the end, and I just

offer that for what it may be worth. Mr. DOLE. I thank the Senator.

Mr. METZENBAUM. Mr. President, I rise to indicate, first, that if the Senate decides to accept the Specter amendment that would, in my opinion, strengthen the Buy American amendment that is pending before this body. So, when and if that matter comes to a vote, I intend to support it.

But I wish to respond briefly, not at length, to the Senator from Rhode Island, not about his personal characterizations because he has his right to have his own views and I to mine, but rather to the subject that I think is far more important and that is to his indifference to the concern of unemployed steelworkers and the unemployed in this country generally.

I was rather surprised to see the Senator from Rhode Island so caustic about unemployed steelworkers and talking about how they are living high off the hog.

I wish he would come with me into Youngstown and Cleveland, and I would guess he could come into Pennsylvania, and my guess is he could go to other parts of this country and see the real plight of the unemployed steelworkers in this country. And then after he came and visited the homes of the people who are trying to keep their families together because they cannot find a job and because their unemployment benefits have expired. then I would like to have him come to the Chamber of this Senate and say that those poor unemployed people who want a job are special interests as compared to some of those who are pushing the legislation that the Senator of Ohio has indicated he would make every effort to defeat.

Would he compare the unemployed steelworkers of this country to the timber barons of this Nation who want the Federal Government to relieve them of \$2 billion in liability to this Government? Come now. How can he compare those two, one special interest as compared to the other?

Would he compare those who have been found guilty of price fixing and who want the Price Fixers Relief Act passed, would he say that those who are fostering that legislation can be compared as a special interest with the unemployed steelworkers? I see the Senator from Montana (Mr. Baucus) is in the Chamber who provided the leadership in fighting against that measure. Come now, I say to my friend from Rhode Island. Let us be a little bit realistic.

Or would he consider those who want to be exempted from the antitrust laws so that they may sell beer at a higher price as the same kind of a special interest as those of us who believe we should buy American steel? He must be kidding.

Or would he compare it to those creditors and financial institutions that are attempting to deny the poor who want to go bankrupt in this country the right to go bankrupt because it increases their ability to collect their money? How can he possibly make that comparable to the steel interests?

Or would he compare the whole shipping industry that wants exemption from the Antitrust Act with unemployed steelworkers? I think that he does not understand the issue.

The words alone do not speak nearly as loudly as the facts, and the facts are that there is unemployment in this country and the unemployment in this country will not be totally solved but it certainly would be much ameliorated if we did not buy steel from overseas or cement from overseas or ferroalloys from overseas when we build new bridges and highways and repair those same facilities.

I am saddened. I am not angry. I am saddened, saddened that he would see fit to go into a diatribe against unemployed steelworkers because when they were working they were making a decent wage and because they have decided, and that is their judgment, not mine, that they did not want to change their contract with the steel

industry.

I do not know what kind of workers he has in Rhode Island, but I respect them for whatever they do, and I am concerned about their being unemployed and it is my understanding that a great many of them are unemployed.

I would guess if they were asked whether they would support the Buy American amendment, the people of Rhode Island would support it, and certainly, maybe unanimously, the unemployed in Rhode Island would sup-

port it.

So I am proud of the fact that we have a Buy American amendment here. I am aware of the fact that there may be a motion to table and there will be those who will vote for the motion to table for any one of a number of reasons. But if you truly believe that this 5-cent-a-gallon tax is going to have something to do with jobs in this country, then you have to support the Buy American amendment and you have to vote against any motion to table.

Mr. President, I modify my amendment by adding "ferroalloys" after "steel and concrete."

The PRESIDING OFFICER. The Senator may modify his amendment. He will please send a copy of the modified amendment to the desk.

Mr. METZENBUAM. I thank he Chair and I now yield the floor to the

Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise in support of this very important amendment, and I rise as a cosponsor.

I want to begin by commending the Senator from Ohio for his leadership on this issue as well as to commend the Senator from Pennsylvania (Mr. SPECTER) for his patience and hard work earlier today and in days before now in preparing this amendment, his amendment, and bringing this issue to the floor of the Senate.

I want to make a couple of observations at the outset about the very long minifilibuster conducted by the Senator from Rhode Island earlier today.

I have served in Congress now 16 years between the House and the

Senate, and I was trying earlier to recall a single occasion where I could remember a Senator or a Member of Congress rising to interject himself or herself in the speaking order ahead of that of a person who has just laid down an amendment at the desk and was preparing to speak to the amendment just offered. Today was the first time I have seen that happen, where I have seen one Senator interject himself in this instance before the opportunity afforded someone to speak who had just presented an amendment at the desk, and I thought that was not a particularly good practice to see nor do I think it is particularly appropriate, given the nature of how this institution normally works.

But I must say in terms of the comments that were then made and were directed at the Senator from Ohio, I found those remarks by the Senator from Rhode Island to be inappropriate, to be excessive, and I think lowered the tone and the purpose of the

I think it is always easy around here to play for a few laughs from the gallery and to interject some show business technique. But it really, I think, passes the point of serving any useful purpose when it is being done in the form of characterizations about another Member of the Senate and, particularly, one of very high standing and reputation and who is being ridiculed simply because he has a different point of view on an issue, and that is not to say that some measure of ridicule may not be appropriate in a certain debate to make a point or whathave-you.

I am talking about the degree to which one goes overboard in using that technique in a highly personalized way in an effort to exaggerate a point or to elicit a few laughs from either around the Chamber or the gallery. I felt that happen today and I do not think that elevates the Senate, and I also would say that I think that is a very sharp sword, and any time a Senator wants to take that sword out and use it, he may find that in the end he winds up cutting himself as much

as he does anybody else.

I must say, frankly, as I listened to the content of the presentation after the ridicule about the trade issue that the Senator from Rhode Island sounded very much to me as though he were a lobbyist for Japan or a lobbyist for one of the other foreign nations engaged presently in a trade war against the United States, using every manner of predatory trade practice to hurt this country to save jobs in their own country, violate the laws in a number of ways and use every manner of device, technique, gimmick to enhance their own situation in their own country in the case of Japan and other trading nations to the disadvantage of this country and our workers.

So when someone rises here on the Senate floor to make the case in behalf of those predatory trading practices and to defend them when we have got 12 million people unemployed in this country, some in Rhode Island, many in Michigan and in all the 50 States, I am very troubled about that.

(Mr. SYMMS assumed the chair.)

Mr. RIEGLE. I think anyone who feels that passionately about defending the inequitable and unfair trade practices that we see today ought to carry the title of the unofficial president of Japan, Inc. or whatever in terms of promoting and defending the kind of unfair trade practices we have been seeing.

I will tell you this: More and more people in the country are fed up with that, and when poll questions are asked in national polls by Gallup and Harris and others about domestic content legislation, which is much tougher than what is in this "buy American" provision, in this so-called jobs bill, that the majority of the American people support domestic content laws because they understand what is happening to the foundations of this country, and they understand we are in deep trouble. And it is not a matter of opinion. It is a matter of fact, in cases that have come before judicialtype processes to try to sort out these issues. We have had suits brought against trading violations by other countries. We have had findings recently in the area of steel alone that show that other nations have been employing unfair trade practices against this country that have helped put hundreds of thousands of workers in this country out of their job.

So if we are to talk about special interest pleading, I heard special interest pleading today from the Senator from Rhode Island and the Senator from Missouri in behalf of foreign workers and against American workers. I wish the people from their States might have been here in the gallery to hear it because I think we would have heard a lot of hooting and hollering and, as a matter of fact, if that debate had been able to take place prior to November I suspect we might very well have had two new Senators in here who had different views on these issues.

Fundamentally those have become life-and-death issues for people. I do not know how many people saw it in the paper this morning; it was buried in section B, I think the page was B12 of the Washington Post-but we have had four people here in the District of Columbia die of hypothermia within the last week. That means they froze to death. These are people, presumably they were those who were va-grants or who cannot find work or who were dispossessed in some other way in this very Capital City in a 7day period, four of them, and they merit a mention on page 12 of section

B of today's paper.

We could multiply this by hundreds of thousands of people across this country who are going hungry this very minute, and who are living in situations of absolute desperation, and all they want to do is to be able to go to work, yet we hear all this pious nonsense by other Senators in this body speaking today to the effect that this foreign trade invasion that is going on is something we cannot do anything about. I wish we had free trade because I believe in free trade. The fact is it disappeared on this planet a long time ago. We do not have free trade today. We do not have anything close

The gimmicks and the arrangements that are built into the terms of credit differentials, in terms of barriers against our products in foreign markets, all kinds of devices, are used to change the differential trading relationships; currency valuations, even in the cost of labor costs. The Senator from Rhode Island continued to talk about the issue of the question of what steelworkers may earn per hour. Well, when you start comparing that with workers in other countries it be-

comes very difficult.

For example, in Japan today much is made of the wage differential between American workers and Japanese workers. In Japan, they have national health insurance provided by the government, paid for by public expense. It is not in the labor bill, it is not part of the wage contract, it is not factored into labor costs in a direct way as it is in this country. It is just one of many contradictions that has to be sorted out.

I must say that I find it appalling, when we are literally on the eve of the Christmas season in this country, and the national television networks night after night are beginning to start to tell the story of people across this country-children, old people, workers in their forties and fifties who have worked a lifetime and lost their jobs and who have no prospects for work, desperate for work, want to work, desperately need the income to provide for themselves and their family, and here we have this modest, absolutely modest, so-called jobs bill to try to do something to repair highways and the least we could do is to see to it that the items that are going to be used in those projects provide some work for people in this country.

Why should that not be an obligation of the U.S. Senate? Where are the

people to turn?

I had an idea the other day. I know where I would turn if I were out there in the communities across the country like this and wanting to organize and move events toward providing jobs. There are stories in the paper saying these citizens have started going now to the city halls to call on the mayors. Well, in most instances the mayors do not have any money. They cannot solve this problem. This problem is much too big for that. It takes macroeconomic policy initiatives to do something about it.

I think, rather than going to see the mayors, they would be a lot better off going to see the Republican county chairmen in the various counties across the country; go visit them and talk to them about their problems. Ask those county chairmen if they cannot call the President or call Mr. Meese or call the majority leader or call the other Republican leaders that are in charge of this Government today to talk about the severity of this problem and the urgency of this problem.

My goodness, what have we come to when we have 12 million out of work in this country and the number rising day by day? Here we are talking about a jobs bill, and we are not even prepared to see to it that the steel and the other basic items are things that are going to be built and produced and provided by American workers. That just does not make a shred of sense at

In fact, if you want a justification for this bill, that is a justification, to try to see to it that some of our people have a chance to go back to work. You know, it is awfully easy, I think, for people who are getting three square meals a day and enjoying a fine living standard and so forth to tend to assume that those who are far less fortunate are somehow going to be able to get by.

The fact of the matter is people are not getting by. Less than half of the unemployed people in the country today are getting unemployment compensation benefits, meager as they are, because they have been cut back this administration-cut back to less than what they were when Gerald Ford was President or even when Richard Nixon was President. But fully half of the people in the country now unemployed do not even have unemployment compensation benefits. Their health insurance has expired. They are in desperate conditions. Why should they not have the chance to build the steel? Why should they not have the chance to provide the cement? Well, they ought to. They ought to.

That is what we are here to try to do something about. That is what the people said in this last election. They said they wanted jobs. And, as a matter of fact, when the results of the election were fresh in everybody's mind in the 24 hours or 48 hours after the election, many of the people on the other side of the aisle, people in positions of leadership, were saying,

"Boy, you know, we are going to have to do something about jobs. You know, people want jobs. Their patience is running out on Reaganomics and the failure of Reaganomics to set off an economic recovery."

Well, they seem to have forgotten that. I guess the days that have passed since the election have prompted them to forget what they were saying right after the election result, where people were saying, "Let's put this country back to work."

Well, we have an opportunity here. I will tell you this: I do not think this legislation is going to pass in the end if this does not have a Buy American provision. I do not know that it ought to pass if it does not have a Buy American provision. The few jobs that it creates, small in number that it isand it is far less than it should be-at least ought to be jobs going to American people.

I was thinking earlier about the Senator from Ohio and the great fight that he has made on this issue to try to bring this issue before the Senate and before the country on the need to say to it that American workers have a chance to provide the materials that are going to be used in this road building and repair program. I know the Senator made that a major issue in this last campaign, because those of us who ran in 1982 had an opportunity to take these views out to the public and to discuss these issues and to have to address these issues in a pointed way.

I know the Senator from Ohio was elected with nearly 60 percent of the votes in one of the largest States in this country. I think it is a great credit to him, and it is a great credit to his leadership on the issues.

It is interesting to me to note that those who have argued the most forcefully on the other side of this issue, who also just came through this campaign in 1982, escaped by the very skin of their teeth in terms of hanging on to their jobs. It may well have been something to do with these kinds of fundamental issues.

People want work in this country. They want work. And if we have time to do other things-whether it is raise congressional salaries or talk about the MX system or talk about other things or raise other issues or whether it is those that are in here seeking various special interest items in the closing days of the Congress-certainly we have an obligation to address, first and foremost, the jobs issue. That is the issue. That is the overriding issue. The rest of these issues basically boil down to next to nothing by comparison.

And that is why the Buy American provision here is important. It is absolutely vital. This country is in deep financial trouble, and so is the whole world. All you have to do is pick up the morning newspaper or yesterday's

newspaper or tomorrow's or step through that door and look at the ticker tape. The stock market was off again yesterday and off again today, despite the fact that the Federal Reserve, finally realizing that their monetary policy was destroying the economy, changed direction and are lowering the interest rates. They cannot lower them fast enough because they have kept them so high so long. And they have done so much damage there is a question now if we can even set off an economic recovery.

But to come here with a modest socalled jobs bill, a highway building bill, in the late hours of a special session of Congress, and not be prepared to see to it that the jobs that come out of it go to American workers would be a travesty, an absolute travesty. And to have that justified in the name of free trade, when free trade disappeared a long time ago, just multiplies the travesty.

I do not understand how thinking people can do that, quite frankly. If you look at our balance of payments, we are being murdered in the trade account every single day. Look at the trade deficit with Japan or other nations. They are not taking our goods back. They are dumping their goods in here and they are not taking our goods back.

Do you know what the unemployment rate today is in Japan. It is about 3 percent. And it is now nearly 12 percent in this country because too many people in the U.S. Congress are unwilling to do something about it, except maybe a few pious platitudes here and there, and so forth and so on.

But we are the court of last resort for people in this country who are saying to us, "Do something to give us our jobs back." We have a chance to do it here.

Instead, what we are doing is we are debating all of these lofty notions of free trade while the rest of the world is picking us clean—absolutely picking us clean.

Coming here, as I do, from a State with 17.2-percent unemployment this very day, we are at depression levels, and yet I have to listen in this Chamber to people who talk about a concept of fair trade that does not exist anymore and to be told that my workers cannot have jobs out of this bill because we have to let these foreign items, foreign products, foreign supplies come in here to build American roads. I say no to that.

Mr. LONG. Will the Senator yield at that point?

Mr. RIEGLE. Yes, I am happy to yield.

Mr. LONG. Does the Senator have some idea of how much advantage it means to a Japanese manufacturer in putting his commodities into our market when the exchange rate on the

two currencies does not reflect true my just shut right down. The deficit is value?

Mr. RIEGLE. Well, as the Senator is suggesting, when the currency values are out of line and the yen is artificially depressed, it gives them a price advantage in this country and it helps them get rid of their surplus production here in the U.S. market. Of course, evey time they do that, that keeps their people at work and it puts our people out of work. That is precisely what they are doing.

Mr. LONG. Might I just illustrate the point by mentioning a person who has made something of a study of this matter? That person explained to me recently that the difference between the currency exchange rate and the real value of the yen at that point was such that when the Japanese were selling their equipment, their farm machinery and automobiles and other goods, in the United States, it was just as though they were selling it at a 40 percent discount because of the unrealistic currency exchange rate.

Now, perhaps the exchange rate is more in line now with true value than it was at that point. But even if it were the equivalent of a 30-percent discount, when one looks at what amounts to a 30-percent discount by way of an artificial currency exchange rate-considering the fact that the United States helped Japan establish the same kind of technology as we have, every bit as modern and in many respects more modern, and every bit as efficient as ours-can the Senator explain to me how this Nation can expect an American industry manufacturing that kind of equipment to survive against Japanese equipment that has anywhere from a 30- to 40-percent discount in our market?

Mr. RIEGLE. The Senator puts his finger on a critical part of this trade war that is going on, which we are losing. What we are seeing is major companies in the United States which have been in business for decades-and I am talking about farm machinery companies and other companies that supply earth moving equipment and things of that kind, as well as the automobile companies and otherswhat we are finding is that they cannot survive under that kind of competitive differential that is the result of nothing having to do with productivity differentials or the fact that somehow they are smarter than we are. It is through the different kinds of trade manipulation. It has done a great damage.

When the unemployment starts to press up against 12 percent in this country, and as the Senator knows every 1 percent in unemployment increases the Federal deficit on the order of \$30 billion, part of our problem is that as these predatory trade practices go on and we do nothing about it. We are seeing our own econo-

my just shut right down. The deficit is going right up off the chart, beyond anything anybody has seen before. Now you have the anomaly of an administration that came in here to balance the budget now faced with the deficits rising so fast they cannot even calculate them. One week they think it will be \$170 billion and the next thing you know it is up to \$185 billion and rising.

The Senator is exactly right. This country is in danger today of losing major economic sectors, major firms, hundreds of thousands of jobs that we may not be able to bring back on line again if we just stand by and do nothing while these predatory trade practices take place.

Mr. LONG. Is the Senator familiar with the extent of our unfavorable balance of trade for this year?

Mr. RIEGLE. The Senator makes a good point. The Senator, I think, is well aware of what happens here, that they come in here and unload their goods in our country through a variety of devices, sometimes a two-tier pricing system, sometimes currency valuation or manipulation. But what is happening is they are turning around and recycling the money and coming back in here and buying prime assets in the United States, shopping centers, buildings, prime land, things of that kind. The Senator has related to me instances that he is aware of.

I think it would be well if we could maybe put that in the RECORD so people would know about it.

Mr. LONG. If you look at an unfavorable trade balance that might reach \$60 billion this year and simply put that in terms of jobs, at let us say an average of \$15,000 a job, how many jobs does that work out to?

Mr. RIEGLE. I would say probably about 4 million jobs.

Mr. LONG. There are 4 million jobs right there in that unfavorable trade balance. If we could eliminate that unfavorable trade balance would that not solve the whole depression? And assuming that you had 4 million jobs making automobiles, steel, TV sets, and other goods that does not even count the fallout. We used to be told that every job in manufacturing was good for about three jobs in other areas because when you have a manufacturing payroll in the community, with those jobs in manufacturing goes some fallout, the jobs that prepare the sandwiches, that provide groceries, drugstore facilities, and all the rest for the people who work in the factories.

Mr. RIEGLE. Absolutely, I believe the Senator is right.

Mr. LONG. If you had those 4 million manufacturing jobs plus the other jobs that they create, would that not just about take care of the 12 percent unemployment we are talking about in America?

Mr. RIEGLE. It would turn the economy around. We could see an economic recovery that we are waiting for. That would do it. A change of that magnitude would give us economic recovery.

Mr. LONG. Can the Senator tell us if any progress is being made in persuading the Japanese to buy something here and take it home with

them, for example?

Mr. RIEGLE. It is interesting that the Senator asks that question. I have talked to a lot of business people who have been trying to break into the Japanese market. The phrase they most often use is, "They talk us to death." They are willing to talk and talk and talk and talk and that is all there is, just talk. When it gets down to the hard questions of changing the imbalance of the trade relationship, taking down some of their barriers, easing up on the degree to which they are flooding our markets with their products, we do not seem to be able to get concrete results. Frankly, the committees here in the Congress and in the Senate that ought to deal with this problem have not done much

When I hear the argument that says, "Let us not take it up here as an amendment because this ought to come through the committees of jurisdiction," that is all well and good but that does not mean anything if the committees with jurisdiction are not out ahead of this problem and bringing tough legislation to the Senate floor, giving us the opportunity to act on it. The fact of the matter is that

has not happened.

I would say over the last 2 years the committees of jurisdiction have sidestepped this problem. They have not taken hold of it. As a matter of fact, I have had a hard time understanding that and the country has had a hard time understanding it. I would much rather offer these amendments in the context of a full-blown debate on these issues, but we should have done that a year ago, a year-and-a-half ago, 6 months ago. We should not have to take it up in the lameduck. We do not control the committees any more, so our side of the aisle does not have the privilege of bringing those matters for-

We need precisely what we are talking about here to make some change in this situation. Otherwise, I think what we are going to see is the rest of the world unloading their unemployment problems here in the United States. They are going to keep their people at work and in turn force our people out of work. That is the pattern and it is as clear as a bell.

The \$60 billion trade deficit that has been illuminated is the heart of the

problem.

Mr. LONG. Is the Senator aware of the fact that the Japanese who trade with us like to tell us that it would not be good for the Japanese to eat more beef? They say that it is better for them to eat soybeans, that people get healthy on soybeans, it is better for the body than beef, for example. Is the Senator aware of the fact that they come and tell us that kind of thing?

Mr. RIEGLE. Exactly. The other part of it is they are going to send about 2 million automobiles into the United States this year. This is a very high value-added product. There is a lot of living standard and national economic strength in those 2 million cars, whichever country produces them. They are going to take back about 20,000 of our cars. We are going to lose about \$13 billion in the process.

Then we try to sell them a few oranges or a few tobacco products and lo and behold we find out first of all that does not begin to offset the magnitude of dollars, of you have 2 million cars coming, or steel, or whatever the expensive, heavy products are. But when we try to sell just a few products, just a little bit of this or a little bit of that, then we find the Japanese have a hundred reasons why they just cannot take our products back. All the time the ships are coming across, unloading the Datsuns, the Toyotas, and driving them across this country, which is impoverishing the United States.

Mr. LONG. Is the Senator aware of the fact that all this money they are making in trade with us is being in large measure brought back here, but not in ways that create jobs? It is brought back to buy up our real estate, to buy our farms, our homes, our office buildings, even our best companies, to buy them up. The money is coming back, all right.

Is the Senator aware of the fact that it is just about the same as if a farmer, instead of raising his entire food needs on his farm, decided it was cheaper to go to town and buy milk than to have a cow, cheaper to go to town and buy eggs and chickens rather than raise his own and in due course find that in order to pay for that he was having to sell his farm acre by acre?

Is that not about what we are doing here, letting all these products come in here, selling them at a discount, putting Americans out of work while we have depression and they have full employment?

Mr. RIEGLE. And they are coming back in. It is exactly like the example of the farmer the Senator speaks of, who is selling off his farm acre by acre to buy the products he could be pro-

ducing himself.

Mr. LONG. And in that particular case, where the farmer is selling his farm acre by acre to buy things he could just as easily produce on the farm, he is achieving a balance of payments. But he is balancing payments by selling his farm. Is not that about

what the United States is doing right now? We have a trade deficit that may reach \$60 billion this year, keeping our people out of work while we import all these things we could just as well make here—and in the name of free trade, yet we let them discriminate against our goods world without end?

As I recall, do not the Japanese do a pretty good job of "buying Japanese"?

Mr. RIEGLE. I agree with the Senator. I think he makes an important point here. If we take this one further step, we can imagine that once they have managed to cave in certain industries in this country or damage them so badly that they are no longer in a competitive position, that they cannot modernize because they do not have the capital, they do not have the sales volume, and so forth, I think we can anticipate that at that point, after certain basic economic sectors of the United States have been damaged beyond repair, then we are going to see the price for these foreign goods go up.

This is the classic pricing pattern of somebody who is coming in to capture a market. They come in with a lower price and with a variety of devices, until they destroy the competition as they see it which, in this case, are American suppliers. Then, normally what happens is after the American suppliers have been knocked out of the ball game, the foreign suppliers raise their prices; they go right up again. Then what we find, going back to the farm example, is not only has the farmer lost the farm, but he is finding that what he is paying the other fellow to do the producing continues to go higher and higher.

We are going to end up in just that kind of situation. It is amazing to imagine that could happen to the United States because we have lived with notions about the tremendous economic strength we were able to demonstrate during World War II, for example, when we had this massive national mobilization. New people came into the fork force; we were able to do things we never imagined we would be able to do. That is being destroyed section by section, sector by sector, at the present time. I see it in my part of the country, but as I talk with Senators from Alabama and Senators from Washington and other places where other economic sectors are in trouble, I see this happening all over the place.

Not just in heavy manufacture, the concern we are focused on here. We are seeing it in agriculture. Our agricultural sector is in terrible trouble. We are seeing it in a host of other areas as well. I just do not think we can continue to do that and think we can provide for our own people or project the kind of leadership around

on over the last few years.

We provide most of the defense spending for Japan. They are under a defense umbrella we provide, which is paid for by the earnings and the livelihood of the American people. There will come a point when we are not going to be able to pay that bill. We may be there now, simply because we cannot produce enough and our production is being badly damaged by this import invasion of foreign products.

The kind of proposal in this amendment is what we are going to have to do and we can do it. It is consistent with what we have done before. It goes to submissions to bodies when we have had problems of predatory trade practices, where we have had findings that indicate we are the victims of dumping violations. We have to get this issue focused. If the ranking mi-nority member of the Finance Committee were still chairman, I suspect we would have legislation out here that would be much more to the point so we could take this up directly and not have to come at it through an amendment process to a roads bill.

Mr. LONG. Will the Senator from Michigan yield?

Mr. RIEGLE. Yes, I yield.

Mr. LONG. Is it not logical to extend the argument made by the Senator from Rhode Island into other areas? For example, if the Senator were to suggest by his argument that we should not do anything to save jobs in our steel industries because we want those steelworkers to work for less, would not the same argument suggest that we should not do anything to build ships because we want our shipyard workers to work for less? And we should not do anything to help automobile workers save their jobs because we want them to work for less? And we should not do anything to help textile workers save their jobs because we want them to work for less? And we should not do anything to help the people in the electronics industry to save their jobs because we want them to work for less? Perhaps we shold not do anything in any other areas-farm machinery, or even eventually something like airplanes-because we want our workers to work for less.

Can the Senator suggest just how much less they should earn? About what earnings level do we want them to work at? Do we want them to work at the standard of the Japanese worker, or do we want them reduced to the standard of a Korean worker, or reduced to the standard of the Dominican or the Haitian worker? Just how much less do we want our workers to

work for?

Mr. RIEGLE. I think that is a good question because there are a lot of countries out there that are coming into the stream of world commerce and as pressures increase, they want to

the world on the scale we have taken come in and produce our products at a fraction of our living standards. If we are willing to abandon all those sectors of our economy to those foreignbuilt products, we are not going to have much of a country left.

> It is one thing to think about it in an academic way, though I do not see how you can defend it even as an academic suggestion, but take somebody who has worked in an industry, is 50 years old and worked over a period of years with an implement company or building steel or whatever. They are buying a house, a car, trying to raise their family, trying to help their children get an education and make their way out into the work world. Suddenly, you tell that person, "You have been getting by on an income of \$22,000 a year, or \$25,000." That is well above the median income in the United States. Now the proposition that we are hearing from Senators on the other side is, "We want you to live on less, earn less, have less to spend and so forth. We would like you to gear down to maybe an income level of \$18,000, maybe \$15,000."

I do not know where they are heading, but I know if you are out there and you are 50 years old or 53 and have been working a lifetime in a certain area and you are trying to pay off a mortgage on a house and so forth, I do not find that those families have any extra money. If you are going to try to crank down their income \$3,000 a year, \$5,000, \$7,000, I do not know how they are going to be able to survive in the kind of America we know today. Utility bills are going up. We had a big fight in here yesterday on that issue. The cost of medical care is going up, interest rates are sky high. It is awfully hard for me to see how a lot of rank-and-file people across this country who are having a hard time making ends meet on an \$18,000- or \$15,000-a-year income are somehow going to be better off if they are only earning \$12,000 or only \$8,000 a year.

I agree with the Senator. I do not know where that leads us except in the wrong direction. I would like to see us in a situation where we cannot only preserve our living standard but hopefully, if we all work hard and all work together, we can improve our living standard so there is a chance for us to perhaps have a higher living standard down the road, rather than have to embark on a policy that is going to give us a lower and lower standard.

Mr. LONG. The question that occurs to this Senator is this: If we really want the American worker to settle for a lesser standard of living, why do we not tell him that? I personally cannot find it in my heart to ask him to lower his standard of living. But all who really want the American working people to settle for a lesser standard of living, why do they not make it clear

to the American people that this is their position?

Mr. RIEGLE. I think that puts it very straightforwardly. That is what they should be saying, because that is what they are advocating.

Mr. LONG. The Senator, I believe, has voted for a pay raise for Government employees generally. Have we not raised their pay during this Congress? It is my impression that we have raised the pay for Government employees generally.

Mr. RIEGLE. Is the Senator referring to within the last year?

Mr. LONG. The last couple of years. Mr. RIEGLE. Yes; we passed a costof-living increase for all Government employees.

Mr. LONG. If we really want all American workers to have a lower standard of living, not to receive as much pay as they are receiving now, what sense would it make that we have given a cost-of-living increase to civil service workers? Those are good jobs, jobs a lot of people would like to have. Why give our Government employees a pay raise if we really believe that American workers ought to have a lower standard of living?

Mr. RIEGLE. I think the Senator is correct in suggesting that that is a contradiction, that you really cannot have two standards. You cannot, on the one hand, vote to see to it that one class of workers, people over the country, have a chance to move ahead in terms of their living standards and at the same time be advocating policies that mean that most of the rest of the American people are in fact going to have less and less and have a lower living standard. I think that is a contradiction. I think that contradiction lies at the heart of the proposition that those on the other side have brought forward today.

Mr. LONG. Will the Senator yield further?

Mr. RIEGLE. Yes.

Mr. LONG. The Senator very ably represents the State of Michigan. He lives among the people of that State. He has been elected by those people. He was just compaigning among them only this year. Can the Senator tell me, are the automobile workers out there living the life of Riley, those who have a job? Are they really living it up, living on the fat of the land, enjoying the best of everything?

Mr. RIEGLE. I am glad the Senator asked that question, because the average autoworker-and there is a lot of misunderstanding about it-earns a figure of less than \$25,000 a year.

Now, by some standards, that is a high salary. But when you look at the basic components of the cost of living today, you look at housing, you look at energy bills, you look at food costs, medical costs, and so forth, \$25,000 is not an inflated or a lavish income by

any standard. And many, by the way, do not make as much as that.

Might I say one other thing about it, because there has been a tendency, I think unintentionally, to demean in some way the work of the steelworker or the work of the autoworker. These are tough jobs and people ought not to misunderstand.

The best way to figure it out is to stand outside a plant gate and watch the workers file through as they go into work or they come out at the end of the work shifts.

In the course of a half an hour, you will see maybe 1,500 workers of all ages go by. You will see those who are very young and who have just taken jobs, and then you will see those who are close to retirement age. But in these heavy manufacturing jobs, as you watch all the people going through, it is as if you are watching one person at every stage of their life. What you see in those that are in their fifties, for those who are still able to work, maybe even early sixties-many have to go out on early retirement because their health is shotis what these jobs take out of a person physically. You notice the fact that these jobs over the course of a workday drain the life right out of the workers who are in these kinds of work environments.

These jobs pay somewhat more on the average than someone who may be working in McDonald's or working somewhere else, but these are hard jobs and oftentimes are dangerous

jobs. They are noisy jobs.

But in the end, what I have tended to notice is that the people who work those jobs pay for it in terms of their physical health. They pay for it in terms of aging faster than may be true for people in other occupations throughout our society.

throughout our society.

I have the feeling that they earn what they are paid and that they are not earning some excessive wage that is two or three times beyond either what they contribute or what they ought to expect to earn for work of

that sort.

Mr. LONG. Has the Senator ever noticed that when he visits a plant gate in the morning, fellows on their way to work have time to visit. They feel pretty good and they are glad to see you. But if you stand around trying to shake hands at the plant gate when people come out of one of those factories in the evening, they do not want to be bothered, they do not want to shake hands, visit, or say hello. They just want to get home; they are tired and weary, many of them exhausted. Is that not the type of thing the Senator has in mind when he says those people work hard for their money?

Mr. RIEGLE. They work hard for it, and if you take a look at what most of them end up with at the end of a worklife—and I am talking about

somebody that is in their fifties or somebody in their sixties who has spent their whole life as a steelworker, working as an autoworker-if you take a look at their portfolio and their holdings, what you normally find is that in order to help their families come along-because most of them have children and need to help the children go out and make their own way or to help their own parents, and there is a tendency of a higher incidence of health problems, partly because the work does demand a lot-in most cases if the person has managed to buy a house, that may be the extent of any asset accumulation that they have managed over a lifetime. They will have the furnishings in the house and they may be buying the car and paying for it on time, and so forth, but it is the rare autoworker or steelworker that you will find sitting there with a portfolio of common stocks or bonds, two or three houses or lavish other personal assets that they have acquired over a lifetime. It is just not the way it works.

As a matter of fact, a lot of these jobs that have what seem to be higher than normal wage levels do not provide a full year's work. We are talking about industries that have tended to be quite cyclical because they relate to the way the economy tends to go, in cycles. So very often you will find that for those workers, if you compute their salary on an annual basis, it is one number but very often they do not have an opportunity to work for a full

year

That is also true of people in the construction business, as the Senator well knows. In the wintertime oftentimes and during slack periods or when interest rates are high, construction workers who may have a high hourly wage, because they do not have an opportunity to work for the entire year, end up earning an actual income that is less than what you would compute if they were working 12 months of the year.

So my observation has been that the folks that we are talking about here, who, by the way, have built an awfully big part of this country—they have built it with the sweat of their back and with their muscle—at the end of a worklife in terms of assets that they have earned and accumulated, they do not have an awful lot to show for it.

Mr. LONG. In other words, is the Senator saying that the average worker for whom he is speaking, after a lifetime of hard work, going to work, let us say, at about age 20 and working to age 65, has a home to show for it?

Mr. RIEGLE. That is right.

Mr. LONG. That is the life of Riley we are talking about?

Mr. RIEGLE. Yes.

Mr. LONG. That is what some think is just too much for a workingman?
Mr. RIEGLE. That is exactly right.

When I talk to workers now who are approaching retirement, they are full of apprehension because they are finding that even though they worked all their lifetime and they may have acquired a house as their one principal asset-and by the way, frankly, largely due to policies of the Federal Government; if we had not had the GI bill and some of the other things, the way we managed interest rates and monetary policy in this country we probably would not even see the high incidence of homeownership that we have achieved over the last, say, 20, 25, 30 vears

But what I am finding now is that people who are close to retirement are finding that their sons and daughters who are now of an age maybe in their twenties or thirties have formed families and cannot acquire housing. In other words, they cannot get a house because the housing prices are high. They cannot accumulate a large enough downpayment. They cannot afford the high interest rates. They do not have job security, if they have a job at all. As a result, more and more working people of the kind we are speaking about, are finding now that the one asset that they have which is their house, prior to retirement agesay, somebody between 60 and 65-are now faced with two new facts: One, that maybe social security is going to be cut away, which they have been depending upon and which is the way they see being able to meet their needs after they retire, so now suddenly that is in jeopardy; No. 2, in order to help their children be able to at least get the start where maybe they will have a chance to acquire a house over their lifetime, many of these workers are now faced with having to go out and take a new mortgage on their house-the one thing that they have worked all these years to pay off so that they would have a little peace of mind when they reached retirement and would not have those house payments every month; they would know that they had a house that they could live in, presumably the rest of their lives. They are now finding that if they are going to see their children have the same opportunity, they are going to have to go back to the bank, and take out a new loan on their house.

And I can tell Senators about the anxiety and the stress that is creating in so many of the workers that I talked to in these families, because this comes at a time when health problems are setting in, and so forth, they do not want to abandon their children; they want to help their children whom they see needing help.

But again when workers in this country are somehow characterized as having made off with the great wealth of this country or somehow sabotaged

the system or somehow gotten more than they deserved to get, now we have to punish them, we have to make sure we grind down their standard of living, take it down \$3,000, \$5,000, whatever people have in mind, which they have not made clear-I mean I just cannot accept that and I do not see how there is any equity in that proposition.

Frankly, I must just say, and this will express my feelings about equalitarianism in this comment, but I do not hear those kinds of things being stated by people who do not have much. Inevitably, whenever I hear this, and I do not just refer here in the Chamber, but also outside the Chamber, the people who pound the hardest on the working people and pound the hardest on others who are living in modest economic levels are invariably people who are pretty well situated and who are living well and who normally have the comfortable situation and who eat well and who are housed well and have the opportunities of the best educations and health care for their children, and so forth and so on.

I have yet to find a case, as a matter of fact-I am wracking my brain right now-I cannot recall a case of someone who comes out of a more modest circumstance who is out there leading the charge to tighten the screws down on people who basically live under modest circumstances.

So I must say I get troubled about

that.

But I thank the Senator for the comments he has made and the questions he has asked.

Mr. LONG. I thank the Senator. Mr. RIEGLE. Mr. President, I wish to say a few more things here.

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. RIEGLE. I yield. Mr. BRADLEY. Will the Senator agree that the issue here is not the productivity of the American worker?

Mr. RIEGLE. I do not think that is the critical issue here. I think one might argue that in a shortrun period one can get caught in a capital shortage and a lack of modernization, and so one can have some productivity differentials.

But my view would be that those can be corrected. I mean we need to cor-

Mr. BRADLEY. What we need is some time; is that correct?

Mr. RIEGLE. I think time is part of the answer, although time alone will not do it unless we have supportive policies that help us close some big gaps which I think exist in our current

economic circumstances.

Mr. BRADLEY. One of the things that I know the Senator would not like to have his amendment do is to divert attention from the point that the Senator from Louisiana made a few moments ago about the relative price differentials among products due to changes in exchange rates. I think that the Senator would agree that in large part the reason there has been a price differential of sometimes close to 40 percent in the last year and a half has been because of the monetary policy that has been followed by the Federal Reserve; is that not correct?

Mr. RIEGLE. I think that has been a major factor, but I would not rule out also national policy strategies taken by foreign nations to in effect arrange where their own currency values level out vis-a-vis the dollar.

Mr. BRADLEY. I think it is very important since this is the kind of opening debate of a very long debate probably over the next several years that we make that clear distinction, that the problem today from a trade standpoint would not be nearly so bad had we had a more balanced macroeconomic policy followed by this administration. Foreign goods, whoever produces them, Japan, Germany, whatever, would not be as cheap as they are in the country today had we not followed an unbalanced macroeconomic policy.

Mr. RIEGLE. I would agree with the Senator's point to the effect that the economic policy that we have had in place for the last 2 years which has driven interest rates high and kept them high-I am talking about real interest rates as well as nominal interest rates-has had the effect of making this currency valuation problem more severe and it has made us less competitive and it has hurt in the trade ac-

count.

Mr. BRADLEY. The Senator from Louisiana and the Senator from Michigan also engaged in a colloquy in which they talked about the big imbalance in trade with the Japanese. It is, I think, fair to point out that there has been a sizable surplus with the Europeans at the same time and that it is important to look at the overall picture to see what is the equilibrium position which has deteriorated here because of the relative price differentials caused by exchange rate fluctuations due to a bad monetary policy in this country.

Mr. RIEGLE. I would agree that that is a major element of this puzzle. But I would want to say again that there are other elements, too. In other words, as the Senator knows, there are a variety of pricing gimmicks used either to have a two-tier pricing system so that the goods sold here are sold for less than they are in the exporting country and also barriers in other countries that block our goods from coming in. There are a variety of devices used to take and hamstring the free flow of goods, and we have been victimized by that to a very large extent.

Mr. BRADLEY. The Senator also engaged in the discussion in which one side argued the pure free trade position is really unrealistic in a world where we have very high unemployment. Would the Senator not agree to that?

Mr. RIEGLE. I think that is correct. Mr. BRADLEY. If everyone is working and I produce paper and the Senator from Michigan produces glasses and we each produce them at the cheapest level it pays that we trade together. But if 10 to 20 percent of the workers who produce this paper are out of a job and I am in a modern industrial economy I have a cost for that unemployment that has to be figured into the total picture. I would argue that in theory one can reach a point where unemployment gets to such levels that the theory of comparative advantage, free trade no longer applies as clearly as it does where we have full employment.

Mr. RIEGLE. I think the Senator is exactly right, and I think in addition another thing that adds to the problem that he points up is that if you are the last of the big large open markets, as the United States market is, you become the market that everyone has to seek. In other words, if the world is deflating and what buying power is left is in large measure in this country, whether it be for paper or whatever other items one wants to imagine, then the flow of goods in that production from around the world is going to find its way into this market and puts enormous pressures on domestic suppliers in the United States. We are seeing that happen.

Mr. BRADLEY. The Senator, I think, has expressed a very important point in recognizing that relative prices are important here and, second, that unemployment has costs. The key thing is at what point do you begin to put up the barriers and what danger does that pose for the entire trading system itself?

I think certainly no one would make the argument that this amendment alone challenges that entire trading system. But there are at least in this case certain problems with implementing it as I understand it. Is that not correct?

Mr. RIEGLE. I am not sure there are. There is some difference of opinion on that, but as to the Senator's first point, I think that it is possible here to work these problems out if we were dealing with them as they are, as they truly are taking place. For example, if we had some transition strategies to deal with the industrial base problems that would be temporary in nature that might extend for a 3- to 5year period to enable us to adjust, for example, for an energy shock or a basic change in competitive position with foreign suppliers we could work ourselves through a transition and have those mechanisms that enable us to do that that would be temporary so that we have them in place for a period of time, and it may even involve special credit facilities, and so forth, and then at the end of the period of time if the plan works as it is designed we withdraw those things and then we are back on a truly competitive footing

If we had some response to our problems that enabled us to adjust in a different fashion, then we would not be in as severe condition as we find our-

selves today.

But I must say that has not happened and as a result we are left with initiatives that are not designed with as much sophistication and over as long a timeframe as we might want.

But I think we can finally reach a point where the damage that is being done is so severe and it is so cumulative that finally we have to do something that is direct and deals with the

problem here.

But I want to hasten to say that I agree with the Senator from Pennsylvania (Mr. Specter) and the Senator from Ohio (Mr. Metzenbaum) in the sense that I find this proposal within the law. I do not find this proposal as violating the trade laws that now exist and, as a matter of fact, to those who would suggest—and I am not saying the Senator from New Jersey is suggesting that—but I want to make it clear that I think this approach is entirely within the framework of the trade laws as they now stand.

Mr. BRADLEY. I would like to ask

Mr. BRADLEY. I would like to ask just one final question: Is the Senator's amendment intended to be temporary in nature or is it permanent?

Mr. RIEGLE. Well, I think we are talking here about the scope of this particular special roadbuilding program, so it is by definition limited to the scale of this initiative.

But to the larger question as to where we go next year, I do not think anyone has the answer to that. I would much prefer to be here in a more orderly way, through a more orderly process, with the Trade Subcommittee of the Committee on Finance having acted fully on this issue, and I mean well before now, having brought us serious policy recommendations upon which we could act, which we could debate, which we could make decisions on as a fuil Senate. That has not happened, and there is no prospect that is about to happen any time soon.

So what we are left with here now is tailored to this instance. This is an approach that is a function of one unusual procedure we are faced with. We are in a lameduck session of Congress. That by itself is unusual. We are here in large, part because we have got a jobs crisis in the country. We have got major industries that relate to this kind of activity that are running at 30 to 40 percent of operating capacity,

and where you have hundreds of thousands of workers out of work. So we have here a very simple and, in fact, a temporary response on a small scale that will say:

Look, at least in this emergency road program we are going to put together, let us use materials, basic materials, that can come out of our own internal economy, our own domestic economy, which we can provide where we have idle capacity, and let us put some people to work.

I mean, let us kill two birds with one stone. That is the proposition, and it is by no means an assault on all of the large issues that others would like to bring in in an effort to sidetrack this proposition.

It is very simple, it is very straightforward, and I think it is sound. I think it is the soundest step we can take at this time.

Mr. BRADLEY. I thank the Senator. Mr. RIEGLE. I thank the Senator for his comments.

I might just say, before yielding the floor, that I want to thank the Senator from Louisiana for his comments and his questions, as well as the Senator from New Jersey for his comments. and to say that I am very hopeful that the Senate will take the step here that the House has previously taken. I want to again comment on the odds of this legislation finally emerging later on down the line, after whatever number of days, and surviving a conference committee and coming back and surviving all the parliamentary challenges that could be leveled at the late hours of the Congress against this legislation. I think if the Buy Ameri-

the odds are less than 50-50. I yield the floor.

Mr. HEINZ addressed the Chair. The PRESIDING OFFICER. The

can amendment is in here, this legisla-

tion has a better than a 50-50 chance

to survive. If it is not in here, I think

Senator from Pennsylvania.

Mr. HEINZ. Mr. President, the debate on this amendment started late last night, and began again at about 10:45 this morning, and in the course of the consideration of this Buy American amendment I have heard some extraordinary statements made.

I, of course, support this amendment, I spoke briefly on the floor earlier today, and I also support Senator Specter's amendment in the nature of a perfecting amendment to Senator METZENBAUM's amendment.

But at this point I particularly will not comment on one of the statements made by one of the opponents of the legislation, that, if enacted, this legislation was somehow going to cause us jobs.

Now, most people in this body, Mr. President, want the underlying bill, the highway bill, to pass the Senate, It will create 320,000-some jobs, and is self-financing by virtue of the gas tax increase and the user fee. There are a

few who remain unconvinced, we all realize, but the vast majority of the Senate wants this bill to go through, and although it may be a highway and rehabilitation repair bill to some or a job bill to others the truth is that it is both. It is good investment in our infrastructure. It comes at a time when people need work, when there is substantial unemployment in the construction industry, substantial unemployment in those industries that supply the materials, including steel, to highway and bridge repair. It is good legislation, it is supported by the President. It has bipartisan support.

The jobs-creation aspect of this legislation, the 320,000 jobs as estimated, falls roughly into two groups: Those people who would be put to work in construction on the highways and those in supplying industries, and one of the major supplying industries, no doubt about it, will be the steel industry. You cannot build bridges without steel, you cannot build overpasses without steel, you cannot have guardrails along the highways without steel in most instances. Steel is going to be purchased to fulfill the building requirements that we would like to see enacted.

A substantial portion, therefore, of the 160,000 jobs that will be created, aside from onsite, are going to be in the steel industry, and the question, Mr. President, is really very simple: Whose steel industry is going to be the beneficiary of those jobs? Are those steel jobs going to be created in the United States or are they going to go to Japanese steelworkers, Taiwanese steelworkers, Korean steelworkers, steelworkers all over the world?

Frankly, if anybody in this body would say that there is some virtue to creating jobs today, I would think they would want to create them in the United States of America, not help other countries out of their economic problems. There is some irony in that because many of the countries that would be beneficiaries are some of the worst offenders when it comes to protectionism, when it comes to thumbing their noses at the 1979 trade agreements-the codes from the mutilateral trade negotiations that we solemnly invoke on dumping, on countervailing duties, on procurement. There is no worse offender than Japan, no greater beneficiary from this legislation unless this amendment passes.

Those who maintain that somehow the enactment of this amendment would cost Americans jobs really ought to know the facts, that the failure to enact it will cost us thousands upon thousands of American steelworkers' jobs, workers in other supplying industries such as cement, asphalt, tar, all the other components that go into putting together the highways,

the transportation system that we know we have to have in this country.

It has been suggested too that

It has been suggested, too, that somehow or another the taxpayer loses because the price might be a little bit higher if we have Buy American provisions included in this bill.

Now, it is probably true that there will be some modest increase in cost—although, frankly, nobody that I know in, for example, the steel industry is making any money. They are all going broke. There are not any steelworkers getting fat; 150,000 of them are currently out of work, laid off.

I have not seen any gigantic rush to make new investments in the steel industry to modernize it. I have not seen any dramatic turnaround in this industry in any firming of prices—indeed, prices are weak, so much so that we could very well lose permanently a substantial portion of the industry that is now shut down. Over 60 percent of the capacity of the steel industry is now out of business; it is shutdown. How much of it will be permanently closed, we do not know. But one thing we can be sure of is that a lot of it will end up being permanently shut down if we do not wake up.

Some people have suggested that we might lose a few construction jobs if this amendment went through. Presumably, we would lose them because a few more steelworkers got employed, a few more people in cement plants

got employed.

Now I want to help our construction workers. We have a lot of them out of work in the Commonwealth of Pennsylvania. But without granting the premise that this would take one group of jobs away from one and give it to another-and I do not grant that premise for a reason I will state in a few minutes-even if it were so, I ask my colleagues to assess what industry has the worst problem right now, steel or construction? Which has greater unused capacity? In steel about 36 percent of capacity utilization is where we are. In construction, I do not have exact statistics but it cannot be as bad as that. We are not talking about much difference, I suppose, in wage levels here between the two.

So I ask my colleagues, what is so sacrosanct about the construction industry that we cannot protect the American steel industry by insuring that it benefits from this legislation and not just one or two other very select, albeit deserving, industries.

Mr. President, I said a minute ago that a few have expressed the concern that somehow this legislation is not in the interest of the taxpayer. I remember confronting that issue well over 4 years ago when I first came to the Senate and there were a number of arguments made against our putting into the Surface Transportation Act of 1978 the Buy American provisions that are now in there

One of the ways that I was able to, I think, help that legislation and add to the debate was to ask the Library of Congress, the Congressional Research Service, to do a study of the extent to which a taxpayer's dollar, a dollar of Federal procurement spent in America, differed in terms of its return to the Federal Treasury from that spent on one used for purchases coming in from overseas.

At the time the study was done, tax rates at the time being somewhat higher, the study by the Congressional Research Service said that roughly \$555 for every \$1,000 spent by the Federal Government on domestic procurement would be returned to the U.S. Treasury, compared to the same \$1,000 spent for procurement from overseas where the return to the U.S. Treasury would be virtually zero. Well, frankly, Mr. President, that sounds like a pretty good deal to be able to get 55 cents back on every dollar rather than zero back on every dollar.

Then some people said that study was out of date. We went back to the Congressional Research Service. They reviewed the numbers and we have a more recent study dated September 23, 1980, where the numbers are still comparable. It amounts to \$473 in return to the Fectral Treasury for every \$1,000 spent on domestic procurement. And that is a considerable return on the taxpayer's investment, the more so when you realize it is virtually zero if you buy overseas.

(Mr. CHAFEE assumed the chair.)

Mr. HEINZ. It is my hope, therefore, Mr. President, that all friends of the taxpayer—and I trust we are all friends of the taxpayer—will realize that a dollar spent in this country generates a lot of revenues from income taxes, from corporate taxes, from excise or sales taxes, and gasoline taxes, even, and that anybody who suggests that somehow this amendment is going to be in any way detrimental to the American economy simply cannot marshal the facts to bear out that point.

Mr. President, we have also talked a good deal today about how the enactment of this amendment would affect the world trading environment. We are all aware that U.S. Trade Representative Bill Brock and other members of the President's Cabinet returned after the Thanksgiving weekend from the GATT ministerial. We

know that the GATT ministerial was short of a disaster, which is to say it was not a success at all. We wish it

had been otherwise,

Maybe it will be possible for us in the next Congress to fashion a responsible, tough-minded trading policy that will have as its goal the realization of a freer, more open world trading system where nontariff barriers are widely reduced, where dumping and the subsidization of exports is sub-

stantially diminished, where Government intervention, overt or covert, on behalf of industries, companies, or specific markets is relegated to the past.

But I can tell you this: This country is becoming very fed up, not just with the inability of one set of negotiators to make progress when confronted by intransigent trading allies, but they are getting impatient with the fact that America is being taken to the cleaners day in and day out by people who say that they are on our side, want access to our markets, and then slam the door of their markets in our faces.

We know very well that there are a range of possible solutions that are being contemplated now and will be contemplated in the future in the legislative process.

Senator Danforth and I, earlier this year, in the hope that we could get early enactment, introduced two reciprocity bills. They were good bills. They have been combined into a somewhat more modest version of either of our bills. The bill has been reported on the calendar. It is moving slowly but surely, we hope, toward enactment. But, because of the change in attitude and realization that the rest of the world is becoming more protectionist, there are a growing number of Senators who are coming to the conclusion that that legislation will not be strong enough to do the job, to open the markets that we believe everybody should have a right to compete in.

We know that there are other proposals around. The local content bill has a majority of House Members supporting it. It is expected to pass. There may be a vote here in the Senate. It might pass in the Senate. It is a controversial bill. Some of us support it; some of us do not. But the fact is that unless we begin to fashion a more effective trade policy that works, legislation like that is going to continue to attract support and, irrespective of the adjectives that may be applied, sooner or later that legislation will pass and it will have a much more dramatic effect than the legislation we are considering today.

I think there are some better alternatives than the scenario I have just described. I think it is possible for us to do some creative rewriting of our trade laws so that they work within the context of the fora we all like to think we share with other countries to do a better job.

What do I have in mind? Well, what I have in mind is our escape clause, section 201. It has been rather a disappointment for a number of reasons. It is very hard to explain why, when 2 years ago, almost to this day, the U.S. auto industry got a ruling from the U.S. International Trade Commission, which ruling was that the U.S. auto industry, then in just about as bad

shape as it is in now, was not being substantially injured by reason of imports, at a time when, as largely now, when one out of every five cars being driven off a lot was a Datsun, a Toyota, a Japanese, or a European import.

The American people found it very difficult to understand how the U.S. International Trade Commission, an agency of the Federal Government created by the Congress, could come to that conclusion, when to their commonsense the American auto industry was certainly being hurt by foreign imports, as indeed it is today.

We on the Finance Committee know part of the reason for that. We know the way the law is written and the

shortcomings it contains.

Second, often when relief has been recommended by the Commission against a substantial amount of import injury, that advice in the nature of a recommendation that must be accepted, modified, or rejected by the President, is, in fact, ignored. It was ignored by President Carter on many occasions. This President has ignored it on occasion. It is not a successful statute as it now stands.

What I would like to suggest that we need some time to do in the coming months, so that we can enact something in the coming year, is the opportunity to rewrite our escape clause legislation so that a defined and sufficient period of import relief, carefully and effectively crafted import relief, is available to hard-pressed industries, provided that they undertake a genuine program of adjustment.

We are going to have to face up to this issue in the Finance Committee because the adjustment assistance legislation that is on the books expires in 1983. It expires on September 30. It is going to be extremely important for us to find something other than a regulatory method or a method of centralized Government planning to deal with the problems of industries that are going through a period where they must do something to adjust, improve their product line, modernize, intelligently shift into new areas, retrain their workers, do all those things that we understand industry sometimes needs to do in order to get a new and longer lease on life and on the employment of their work force.

We do not have any legislation like that on the books today. We have a little adjustment assistance for workers. We have a little program to try to give some loans but more often moral support to a few companies that qualify for assistance. But by the time they qualify for assistance they are particularly dead on their feet, it is so

We do not ever, under any circumstances, tie adjustment, as I believe we must and should, and, frankly, as I be-

lieve we will, to import relief, except in the most informal of ways.

I remember in my home State of Pennsylvania a little over 2 years ago the Carter administration received a recommendation from the International Trade Commission on mushrooms, and the recommendation made by the Commission was a very strong recommendation. It recommended a very strong set of import relief reductions. The Carter administration went to the industry. They looked at the industry and they said, "Well, we do not think this industry can really make it. We are just going to whack back this relief." What happened was that they made a self-fulfilling prophecy. By cutting back the amount of relief they made sure the industry could not possibly make a really strong economic impact. As a result of that, we have had continuing problems in that industry, a major employer in southeastern as well as southwestern Pennsylva-

It is not something that most Senators are very knowledgeable about because the mushroom industry is concentrated mainly in Pennsylvania, if you exclude Taiwan, Hong Kong, Korea, and the People's Republic of

That is a brief illustrative history of

the problems we face.

What I am saying, Mr. President, is that I think there are some better answers, some consistent answers, some progressive answers, some answers that will help get industries back on their feet in better ways. Those laws do not now exist on our books. I intend to try to be in the forefront or a part of any team effort to try to rewrite those laws, to structure them so that they really work for the benefit of this country, and so that they really do marry a genuine adjustment program with genuine import relief.

Today, we do not have the luxury of having those kinds of laws available. That is why this important but, frankly, I would have to say, judged by the size of the problem-with 150,000 steelworkers out of work-modest relief, legal relief under the GATT and under the Procurement Code that this Buy American provision repre-sents, needs to be enacted by this

I have in front of me today, just off the AP wire, the following dispatch dated 2:57 p.m. eastern standard time:

U.S. Steel Corp. suspended plans Wednesday to modernize its Edgar Thomson plant as a high-volume producer of slab steel because of a depressed market, high labor costs and low productivity.

The announcement was another economic blow to the battered Monongahela River Valley near Pittsburgh, which has already seen more than 15,000 steelworkers lose their jobs.

"It's bad news, no question about it," said Thomas, President of United Steelworkers Union Local 1219 in nearby Brad-

dock, where the Edgar Thomson plant is located.

Mr. President, what we are going to see is the continued undermining of an absolutely essential industry. country cannot survive without a sufficiently strong steel industry to underpin both our economic growth and our national defense requirements. It is no accident that virtually every country in the world has a steel millat least every country that has a minimal amount of ambitions. They have steel mills, for the most part, built through subsidized export financing, in part or largely facilitated by the French and others, who are supposed to be rather restrained in their offering of export financing.

The result is that with that world overcapacity in steel, unless we start acting—and I do not mean the middle of next year, I mean now-by the time we do start acting in a meaningful way next year, we shall have very little to act upon to save. That is why, Mr. President, I want to see this amendment offered by the Senator from Ohio succeed. It is very similar, with one important difference not related to the highway and bridge portion of this amendment, to an amendment that I have filed in a variety of forms down at the desk. Hopefully, this issue will not be seen by people as a question of being philosophically pure on free trade or somehow a sacrificing of principle on free trade. I consider myself a free trader, but I also like to consider myself realistic when it comes to succeeding in negotiations.

You do not get something for nothing. You have to have a strong negotiating position if you are to succeed with other tough negotiators. Right now, the negotiators of the other trading countries are, indeed, tough. According to the headlines from 21/2 weeks ago, they are almost intransigent.

Ambassador Macdonald just re-turned from Japan with virtually nothing to show for it. I fear that our negotiations with the Japanese have settled into a cycle where we shall escalate the rhetoric in this country for 2 months, 4 months, 6 months; the pitch of the rhetoric will be keen and sharp and high, indeed. We shall then send a negotiator over to Japan. He will have talks with all the powers that be. There will be an attempt at some kind of communique, but ultimately, the negotiator will return with very little-indeed, often nothing at all—to show for his efforts.

Mr. RANDOLPH. Will my colleague vield?

Mr. HEINZ. If the Senator will allow me to finish two more sentences, I shall be happy to yield to the Senator from West Virginia.

I find it the height of irony that, as this body is about to debate whether

or not we ought to have some kind of MX missile funding in order to preserve the President's credibility in the negotiations on arms control at Geneva, with all the incredible pressure that the Senate is being put under to preserve the President's strength in those negotiations, making sure that he has, at a minimum, that kind of bargaining chip, we would be here on the Senate floor, saying there something un-American taking a much more modest but, nontheless, equally realistic approach to dealing with trade.

Mr. President, I hope the Senate does not adopt a double standard. There is nobody I know of who is for absolutely unilateral disarmament in the defense area. I trust that the Senate will not go on record as favoring unilateral disarmament when it

comes to trade.

Mr. President, I shall be happy to yield to my good friend, the senior Senator from West Virginia (Mr. Randolph).

Mr. RANDOLPH. Mr. President, the able Senator from Pennsylvania has discussed trade with other countries from the standpoint of, let us say, Pennsylvania and its products, and certainly, West Virginia would be in that category as a producer of steel. I do know that few realize that since 1977, when we organized the steel caucus in the Senate, with the active participation of my colleagues, the Senator from Ohio, Mr. METZENBAUM, and the Senator from Pennsylvania, Mr. Heinz, who now serves as our able chairman, we have sought to have what we called fair trade between the United States and Japan or any other country, including our friends in

So we are saying in essence that we are at a disadvantage, apparently, in the production of steel and other products in this country, because, realistically, we are faced with products that come into the United States of America that are produced at a much lesser cost than we can produce those products in the United States. Therefore, we cannot compete against those products and when the money to produce those products, let us say, in Japan or some other country, is lacking, the government, in whatever country it may be, makes up the difference that, in effect, those governments are subsidizing their own industries. Is that not true?

Do we not run into that constantly? Mr. HEINZ. The Senator is quite correct. His statement is accurate.

Mr. RANDOLPH. Is it not also true that today—and I cannot give the figure at the moment, though perhaps I can place it in the Record—it is almost astonishing, incredible, the amount of money in the form of loans and grants that goes from the United States to other countries, billions and

billions of dollars. Those billions of dollars, my friend knows, go into companies that produce products that come in direct competition with the products manufactured in the United States. I ask unanimous consent that a table from the December 13 issue of U.S. News & World Report which shows "Where Billions in Economic Aid Have Gone" be included in the Record.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[From the U.S. News & World Report, Dec. 13, 1982]

Where Billions in Economic Aid Have Gone

U.S. GRANTS AND LOANS SINCE WORLD WAR II

	Millions
Middle East and South Asia	\$35,100.0
Egypt	7,921.6
Israel	6,369.7
India	5,777.2
Pakistan	4,158.8
Turkey	2,654.0
Bangladesh	1,698.2
Greece	1,566.4
Jordan	1,412.9
Syria	544.8
Iran	440.6
Other nations	2,560.7
	2,000.1
Europe	20,500.0
Britain	4,497.2
France	3,131.2
West Germany	2m960.1
	2,857.1
Italy	
Yugoslavia	1,352.3
Austria	1,099.6
Spain	796.3
Netherlands	789.9
Belgium	465.5
Norway	223.6
Other nations	2,323.6
Africa	9,000.0
Morocco	778.9
Tunisia	752.1
Zaire	606.2
Sudan	489.9
Liberia	405.1
Nigeria	382.5
Kenya	372.1
Ethiopia	328.8
Somalia	313.8
Tanzania	306.7
Ghana	301.1
Libya	204.1
Other nations	3.740.5
Far East	24,400.0
Vietnam	6,457.4
South Korea	5,540.5
Indonesia	2,448.6
Philippines	2,034.6
Taiwan	1,879.6
Japan	1,685.4
Laos	902.6
Cambodia	822.9
Thailand	716.5
Burma	66.3
Other nations	1,834.1
Latin America	10,900.0
Brazil	1,807.7
DIAMI	1,001.1

	Millions
Colombia	963.4
Bolivia	730.5
Chile	725.3
Dominican Republic	629.3
Peru	587.6
El Salvador	524.5
Guatemala	429.8
Panama	375.4
Nicaragua	358.6
Other nations	3,733.1
Oceana	900.0
Aid not allocated by region	29,500.0
The state of the s	CANADA CONTRACTOR

Mr. RANDOLPH. That money does not go for any reason except it goes to help to build the economy—is that not true—of the country in question?

Mr. HEINZ. That is often the case. Mr. RANDOLPH. Billions of dollars. So we get into the category of—well, call it fair trade or unfair trade. It must be a realistic trade. That is what the Senator is asking, is it not?

Mr. HEINZ. The Senator has stated it better than I did myself.

Mr. RANDOLPH. Mr. President, I think this is a matter of genuine concern to the Members of the Senate, regardless of these so-called tactics of delay, which I deplore at any time. I believe in moving through debate and then voting an amendment up or down or taking action legislatively, at a time after matters have been discussed, not filibustered. I do not believe in it, never have, and I have never supported it.

And so I think we ought to come to grips with and vote on this amendment. Is that what the Senator desires?

Mr. HEINZ. The Senator has read my mind. I hope that it would be possible for us to get to a vote on this issue. I do not see what purpose is being served by the kind of delay that is taking place on this amendment. This is not the first time a Buy American amendment has been considered on the floor of this Senate. When the Senator himself was managing a bill about 3 years ago, I know that he and I had a debate on a Buy American amendment. Our colleagues were involved in it and the amendment was disposed of in less than an hour. It is not the kind of amendment, frankly, that is all that unusual. It is not precedent-setting in that we have other versions of this kind of legislation in the law already, and they have been debated without filibuster on many previous occasions.

Mr. RANDOLPH. This further word, and then I am through. I am very appreciative of the Senator's understanding of my question.

I do not say to any Senator that he or she not have the right under the rules of the Senate to use the parliamentary procedures to the advantage that they hope to gain. I understand that, and I have used the words often; I respect my colleagues in their judgment and conscience, but I do feel that there are matters that can be discussed and then after the discussionthorough, to be sure-we should vote that proposal up or down. It seems to me that this is the time to act on the matters that the Senator from Pennsylvania, and Senator Metzenbaum, and others have brought to the attention of this Senate.

Mr. HEINZ. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Buy American amendment and the antidumping enforcement mechanism that are pending are excellent examples of legislation that is designed to help our people to keep their jobs and expand the economy. I strongly support both efforts. At a time when our crucial domestic steel industry is utilizing approximately 40 percent of its total operating capacity due to the depression-I call it a depression with 12 million people out of work and with some West Virginia counties, at least one, with the unemployment running at better than 34 percent-due to the depression and unfair trade, what could be more sensible, more rational than requiring the Federal Government to use American steel? When steel hurts, coal hurts. When the steel industry in West Virginia is operating at 40 percent of capacity, West Virginia coal miners are thrown out of work. And when West Virginia coal miners are thrown out or work, retail sales are down, store clerks are thrown out of work, truck drivers are thrown out of work, other people are thrown out of work. The infrastructure improvements that are authorized in this legislation will require a substantial volume of steel. Given the unacceptable unemployment rate in the steel industry, which in November 1982 was 26 percent, the steel used should be of American origin.

Now, I talked with the British Ambassador some time ago, and I told him about our dilemma, that we have thousands of steelworkers who have lost their jobs and the State is faced with a possible closure of the steel facility at Weirton if something is not done and done soon.

I have tried to be helpful to that plant in every way that I could. The employees there are attempting to set up an ESOP—an employees stock ownership plan—so that they would take over the plant and operate it, and that plan is on target, thus far. We hope to

get some help from certain Federal agencies.

The Environmental Protection Agency has already been helpful. It has approved the first bubble proposal, and there is a second bubble proposal in the works. This bubble proposal that has been approved by the Environmental Protection Agency, and hopefully the second one will be approved, will save the plant millions upon millions of dollars which would have to otherwise be spent for antipollution equipment, which can otherwise be used in the ESOP approach.

If that plant goes down, it will be a catastrophe, not only for 11,000 workers and former workers there but also for their families and for associated industries and the workers in those industries. It would be a catastrophe for the Ohio Valley, the northern pan-

handle of West Virginia.

I was talking with Sir Nicholas Henderson, British Ambassador, and I said, "Mr. Ambassador, your government is subsidizing the steel industry and it hurts our steel industry." And he said, "Well, we do that so that we will continue to keep our steelworkers employed."

"Well," I said, "it takes jobs away

from our steelworkers."

The same thing is true with Japan and Germany. These other governments subsidize their native industry. The same thing is true with footwear as with steel.

Mr. RANDOLPH. Will my colleague

yield at that point?

Mr. ROBERT C. BYRD. Yes, I will

yield to my colleague.

Mr. RANDOLPH. As the Senator knows, in West Virginia we have 11 footwear facilities of one type or another. Usually they are in the more rural communities and perhaps 55, 60 percent of the employees are women. And they have been doing a good job, and they have employed 2,500 individuals in our State. In one plant there might be as many as 325 workers as we have had in my home county just south of Elkins, as the Senator knows, near Beverly with the Bata Shoe Co. Only recently, why, it had no layoffs. They had had layoffs, but its doors closed in September 1982. A few individuals, 45, have been called back to work now, but many workers remain unemployed. All over West Virginia in these counties like Greenbrier and Preston and Hampshire and Pendle-

Mr. ROBERT C. BYRD. Tucker.

Mr. RANDOLPH. Yes, Tucker, Preston, and Geilmer, why, these plants are operating at maybe 20 percent, 30 percent of capacity. When I was in West Virginia recently to meet with over 100 of the workers at Bata Shoe, one of the men from Bata Shoe brought his son into me. He said, "I would like for you to see the shoes that he is wearing." He took them off,

and I found they were made in Korea, but they were being sold in West Virginia at a price of about \$1.75 cheaper than we can produce any shoes that this man could buy for his son. I am very supportive of the footwear industry and worker's trade cases currently under investigation by the U.S. Trade Representative, and I hope the investigation will go forward.

So it is a very practical matter that the Senator brings to our attention today in reference to not only that very important steel industry at Weirton but throughout the steel industry as a whole.

These are difficult times, and we cannot live unto ourselves alone. But we must not live in a world where we are being driven to the wall by unfair

trade practices from abroad.

Mr. ROBERT C. BYRD. I thank my colleague for his observations. He is correct. Other countries look out for themselves and their people. It is steel today. Tomorrow it will be computers. The Japanese are coming on very aggressively, and it will not be long until our lead in technology may be taken away from us. In high tech, computers, and so forth, the Japanese are very aggressive. They are going to be No. 1 in that area before long. We are No. 1 now. But the same thing is going to happen there as has happened to steel and footwear. My colleague has spoken about footwear. I was in Parsons, in Tucker County, not many weeks ago where they have had to cut a good many people off there.

A good many employees in the town have lost their jobs in the footwear plant. I was told by the manager of the plant that since the quotas were lifted back the middle of the year, the increase in imports of footwear is about 30 percent from abroad. He also told me that about 60 percent of the footwear that the American people use is now imported.

So every country except this country is looking out for its own people.

Protectionism is a bad word around here. It should not even be in the dictionary. It is a bad word. It is not a four letter word, but it is a bad word.

I feel that the time has come for America to show a little toughness on this issue, and it would seem to me if America did that we would find that our neighbors would be willing to sit down and talk about fair trade—which ought to be a two-way street.

I was about to say that the infrastructure improvements that are authorized in this legislation will require substantial volumes of steel, and I pointed out in November, this last month, that the unemployment rate in the steel industry was at 26 percent. An important portion of steel has special alloys in it for purposes of strengthening it and making it more resistant to corrosion.

might be like a piece of rubber if it were not for these alloys.

So then where would our skyscrapers be? Where would our bridges be if those steel beams and steel columns were devoid of this important and vital ingredient-ferro alloys.

An important portion of steel has special alloys in it for purposes of strengthening it, making it more resistant to corrosion. These alloys, ferro, chrome, and chrome alloy are necessary ingredients for many of the high-strength steels that are needed for the bridge and road improvement program.

In Fayette County, in Glen Ferris, there are West Virginians whose jobs have been destroyed by unfair foreign trade in the ferroalloy industries. The domestic ferroalloy industries. The domestic ferroalloy industry is operating at less than 20 percent of capacity. Think of that-less than 20 percent of capacity.

Suppose this country gets into a war. Are we going to be dependent upon other countries for the steel and the ferroalloys that are so vital to our security? Or are we going to make our ships, our tanks, and our armored vehicles out of fiberglass?

Our economy is fast becoming a service-oriented economy, and I am glad to see service-oriented industries grow. I want them to grow. But this Nation should not become just a service-oriented Nation.

We must remain an industrialized Nation if we are going to have a foreign policy that works and if we are going to be prepared militarily to keep our country secure.

Mr. RANDOLPH. Mr. President, will my colleague yield?

Mr. ROBERT C. BYRD. I yield. Mr. RANDOLPH. When my colleague mentions service-oriented industry. I do know that in just one fast food firm, McDonald's, there are more workers in that one company than all the workers in all the steel plants of the United States of America today. Over 404,000 men and women are employed by McDonald's and at this time there are over 146,000 steelworkers unemployed, which is nearly 50 percent

I am not against a hamburger by Wendy's or McDonald's or whatever it may be. But we cannot continue, as my colleague is saying, we cannot continue to develop a service-oriented industry in this country. We have to have that strong industrial base with which the Nation has prospered and which, frankly, if we lose it the Nation shall be the loser.

of the work force.

Mr. ROBERT C. BYRD. I agree with my friend and my senior colleague.

Secretary Regan said recently to our steel people that they could forget their old jobs, that they might never

In other words, a piece of steel have them again, that Sears and some of the other industries were employing more employees than the steel indus-

> When De Tocqueville visited this country in the early 1840's, he said the "incredible American believes that if something has not yet been accomplished it is because he has not yet attempted it."

> people do Incredible incredible things. And it was the incredible American who put a man on the Moon, and it took the launching of Sputnik I to galvanize America into developing a space program that 10 years later put Neil Armstrong on the Moon.

> For centuries man had stood upon his native Earth and looked longingly at the Moon. But the incredible American put a man on the Moon, where he stood and looked lovingly back upon his home Earth, and it was the incredible American ingenuity that brought that man safely back to Earth again.

> To tell the steelworkers of this country that they "may as well forget it, they might never have their old jobs back," that is foreign, that is alien to the spirit that built this country, that built America, and I do not agree with that attitude at all.

> I think we just need to have a little ferroalloy in our backbones, to stiffen our backbones in dealing with our friends and let them know that if they are going to set up these barriers or these time-consuming testing procedures and certification procedures, as the Japanese do-our products are already tested when they are sent to Japan-but if they set up these timeconsuming procedures, certification procedures, testing procedures, if they subject our products to those and cause the price to go up, and Japanese buy Japanese products first and there are various and sundry barriers that are set up to keep our products out and to keep our products from being bought in other countries, then we will retaliate. Instead, our Treasury Secretary just says, "Well, boys, you might as well forget it. In other words, ours is becoming a service-oriented economy. You can get a job at Sears, Roebuck or at McDonald's."

As my senior colleague has said, we mean no reflection by that. We want to see McDonald's prosper. We want to see Sears prosper. But if our steelworkers are out of work and our coal miners are out of work and our ferroalloy people are out of work and our leather goods and footwear workers are out of jobs, who is going to buy at

Mr. RANDOLPH. And our aluminum workers.

Mr. ROBERT C. BYRD. Our aluminum workers.

Mr. RANDOLPH. And our glass

Mr. ROBERT C. BYRD. Our glass workers.

Mr. RANDOLPH. Our chemical workers.

Mr. ROBERT C. BYRD. Our chemical workers.

You name it. Anyplace we can be soft in trade with our trading partners we are being soft.

I have been around here for 30 years on this Hill and we have talked about free trade and all that, and I want to see us increase our exports to other countries and we can do that. But we are going to have to do something to protect our basic industries because, under the Constitution, Congress has the responsibility to promote the common defense of this country, and we cannot do it if we do not have the vital steel industry and ferroalloy industry and other basic industries to keep our country free.

Mr. METZENBAUM. Mr. President, will the Senator from West Virginia vield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. Mr. President, would the Senator from West Virginia agree that even those of us who consider ourselves free traders in the past are now living in a world where there is truly very little free trade? The only free trade that exists is for those who are exporting their products into our country. Almost with no exceptions every other nation in the world has some kind of protective barrier against American products being sold there, any one of a number of kinds of restrictions, so that free trade is just a myth that we continue to talk about here in this country but really does not exist when we try to export our products to other nations.

Mr. ROBERT C. BYRD. It is great in theory, and I would like to see it. I would like to see free trade, but we are not witnessing free trade when Belgium, the Netherlands, Brazil, Germany, Luxembourg, Italy, Japan, and these other countries subsidize their own native industries.

I told the German Foreign Minister, Hans-Dietrich Genscher, the same thing when he visited my office sometime ago. They protect their industries, they subsidize their industries, and it enables those industries to send products to this country and sell them at cost, below the cost of producing those goods in this country. Our steel mills cannot compete under those situations, so what should we do, just give up and say to our steel people, "Forget it, you won't ever have your old jobs back"? But an industrialized nation has to have a viable steel industry.

I know there are those who say, "Well, you will start a war." I say we have been in a trade war for many years, and we are losing it. We are losing that trade war. We are losing it without firing a shot.

So I hope Senators will support the Metzenbaum amendment, and the Specter amendment along with it, and commend the Senators for their leadership in proposing those amendments, and I am glad to join in cosponsoring them.

If one has to be called a protectionist, why, so be it, even if it is a bad word. But you go over there and talk to those steelworkers, go over there and talk with them, talk to those coa! miners, those people who are out of jobs in Parsons in Tucker County, in the footwear industry, talk to them; talk to the people, talk to the people within the companies; talk to management in the companies; talk to them about forgetting it, you know. "You might as well get yourself a job in a pie factory."

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. The Senator has traveled all around the State of West Virginia and probably knows his State as well as any Member of this body, and I know that bordering my own State of Ohio there was a steel mill in West Virginia that at one time employed 12,000, if my recollection is correct.

I have heard comments today on the floor of the Senate about how steelworkers are living at a very high pace, tremendous amounts

I know the Senator knows his State well, I would like to ask him has the Senator seen the conditions near the steel mills in the areas in which the steel mills operate, and will the Senator give his impression as to whether steelworkers are living in this great lap of luxury which has been described to us earlier in the day? Or are the steelworkers in West Virginia doing that which steelworkers in Ohio are doing, and that is they are at best trying to make out and trying to keep their families together, to educate them, clothe them, house them, feed them?

Mr. ROBERT C. BYRD. Well, Weirton, W. Va., is going to become another Youngstown if something is not done and done pretty quickly, and the same thing that is happening with Weirton Steel is happening with other steel companies.

Wheeling-Pittsburgh Steel is having its problems, and one can understand why. Weirton Steel produced, I suppose, over 1 billion dollars' worth of steel last year, I believe, and the margin of profit was something like one-half of 1 percent. Well, one can do much better than that by just purchasing market certificates or Treasury bills.

One can talk about the wage of the coal miner. My foster father worked in the coal mines, worked for \$2 a day;

sometimes he was overdrafted and in debt to the company.

Of course, coal miners are getting more money now, and they are entitled to every dollar they get, because those who would criticize the wages of the coal miner just have not been back in those damp, dank bowels of the Earth and heard the timber cracking to the right and the timbers cracking on the left, and have not had to wear the kneepads as they slog through the waterholes back in the bowels of the Earth, and they have not stood at the mine mouth after an explosion to see the faces of members of the families waiting. The miners are entitled to every dollar they earn, and so are the steelworkers.

But there may come a time when industry and management will have to work more closely together and with Government. Perhaps there needs to be more cooperation among the three but, at the same time, I do not think we can stand idly by and see these other countries shipping goods into our country at prices which our native industries cannot meet, forcing those industries to close down, people to go out of work, go on unemployment compensation, food stamps, and welfare. With each 1 percent of increase in unemployment, the Federeal deficit is increased by \$28 billion-\$7 billion in food stamps, in welfare, unemployment compensation, and \$20 billion to \$21 billion in lost revenues to the

So the crocodile tears that are shed by those who speak out against protecting the American workers and American business do not impress me. They might go over to Weirton and talk to those steel people there and see what they think, and they will be impressed pretty quickly by the fact that those people over there believe that their elected Representatives ought to stand up for America and Americans and American industries, American working people and American businesses, and not be told, in essence, "Boys, you may just as well forget it. You may never have your jobs back. We are exporting our jobs overseas. Furthermore, we will continue to do so; get yourself a job in a service station, or at Sears, or at MacDonald's."

DANFORTH addressed the Mr. Chair.

The PRESIDING OFFICER (Mrs. HAWKINS). The Senator from Missou-

Mr. DANFORTH. Madam President, it was clear from the outset when the Senator from Ohio first offered his amendment last night that we were in for a very lengthy debate, and it is equally clear that this debate has given every indication of having a very long, long way to go.

There are times on the floor of the Senate when issues are before us and they are debated at length, and those lengthy debates are known as filibusters, and they are nothing but wastes of the Senate's time. They go on and on for hours, days. Trivial matters are discussed, there are long procedural wrangles which are undertaken and, frankly, it is nothing but just a filler.

I would point out in connection with this debate that I think very serious substantive matters have been discussed, and they have been discussed by both sides. They have been discussed by the advocates of the Metzenbaum amendment and they have been discussed by the opponents of the Metzenbaum amendment.

Madam President, it is now approximately 10 minutes after 4 in the afternoon, and I arrived on the floor this afternoon at about 20 minutes after 2. So that is just short of 2 hours. I would point out that during that 2hour period of time, all of the debate was being conducted by those who support the Metzenbaum amendment or the Specter amendment, or both amendments.

So this is not simply a debate to delay something; although it is my hope, for reasons to be stated, that we do not end up voting on the merits of either of these two amendments during this lameduck session. But it has been a very hopeful airing of the merits, of the substance. And the substance has to do with U.S. trade policy.

It is interesting that during the last nearly 2 hours, when I have been on the floor, the discussion has really ranged through the whole spectrum of U.S. trade problems. We have been talking not only about the problems of the steel industry, but we have been talking about the shoe industry, we have been talking about the U.S. deficit with the rest of the world in international trade.

Now, the distinguished minority leader says that this is not the beginning of a trade war, but that we are already in a trade war. But I think that it is clear that something very dramatic is about to happen in the United States with respect to trade policy. What we are hearing today on the floor of the Senate is either the first shot in a trade war or, in the alternative, it is an attempt to accomplish a very significant escalation in a war which has been conducted at a much lower level than is anticipated by the debate today.

Mr. METZENBAUM. Without losing his right to the floor, would the Senator from Missouri yield for a question?

Mr. DANFORTH. Of course.

Mr. METZENBAUM. We are aware of the fact that this matter has been debated an entire day. We are all aware of the fact there are some strong positions and views stated. I am also aware of the fact that the Senator from Missouri has not concluded his own personal statement. But, in order that the matter might be brought to a vote, would the Senator from Missouri consider offering a motion to table so that we might see whether we do or do not have sufficient strength in support

of this amendment?

Mr. DANFORTH. Right now the Senator from Missouri would not be prepared to offer a motion to table, because I do want to offer my own comments on the merits of both the Senator's amendment and also Senator Specter's amendment, which has been underdebated so far, but I do think it deserves attention. Whether or not either I or someone else will offer a tabling motion in the future, I am just not prepared to say.

Mr. METZENBAUM. I thank the

Senator from Missouri.

Mr. DANFORTH. Madam President, I think that it is clear what we are going to see is either the beginning of a trade war—in fact we may have seen the first shot fired today—or a major escalation in the trade war. And I think the fact that this has been coming has been clear to many of us

now for some time.

We are in a recession right now. It is not simply a recession which affects the United States. Often when we pick up the newspaper or listen to the television and read or hear about the recession, we conclude that only the United States is in a recession and that it has lasted only a very short period of time. But that is not the case. This has been coming for some years now, and it has been a recession which is worldwide. It has certainly affected Europe, it has affected Latin America, and it has even affected Japan. We sometimes think that Japan is omnipotent in its economy. Well, Japan would not state that right now.

This is a worldwide recession. And at a time of world recession, countries all over the world are saying, "What can we do to help ourselves? How can we

protect ourselves?"

There is nothing like an economic decline to cause introspection. There is nothing like a decline to cause people not to look toward the wide horizons of the world in a sense of optimism and a desire to conquer those horizons, but instead to cause people to hunker down and to crawl into their own shells and to think about themselves and only themselves, to turn inward. And that is what we are seeing now all over the world.

We have certainly seen it with respect to Japan. Everything that has been said on the floor of the Senate about Japan today has been absolutely right. The Japanese want to export everything they can to the United States. And the Japanese want to import as close to nothing as they possibly can. It is difficult to export to Japan. It has been pointed out agricul-

tural exports are difficult. Indeed, they are.

The distinguished Presiding Officer represents a citrus-producing State. Japanese barriers against U.S. citrus exports are legendary and the same is true with respect to beef. These are not exactly high value-added products. These are agricultural products and even there the Japanese are protectionists. And it seems as though they are increasingly protectionist.

We are having more difficulties, not less, with the Japanese. Everyone who says we have been talking, we have been complaining, we have been tearing our hair out, we have been screaming and yelling and threatening and it does not seem to do any good, they are absolutely right. It does not do any good. It is posturing; it is crying wolf. We threaten them and we do not follow up and do anything. There is no systematic mechanism for dealing with the Japanese, and I want to talk about that more in a moment.

With respect to Europe, we just came from a GATT ministerial meeting in Geneva. The problem in Geneva was primarily a problem with Europe. The Europeans are practicing a variety of measures which together do constitute if not economic warfare, it is something very close to it—agricultural subsidies, export subsidies. As a matter of fact, I think that it is fair to say that France attempted successfully to thwart virtually everything that the United States was interested in accomplishing at the GATT ministerial conference.

We are having difficult times, and we are having difficult times because basically the approach of the United States has been, and is, not to close down its own markets but to try to do business in world markets. And other countries are saying, "At a time of international recession, we do not want to do business any more. We want to take care of number one. We want to protect ourselves. We want to subsidize our products and what we make in our country."

So what has been going on for the last day on the floor of the Senate has been quite predictable: A reaction on the part of the United States, a reaction to unfair advantages taken against us by other parts of the world.

But, Madam President, reaction striking back, striking out—does not necessarily make sound U.S. trade policy.

Yes, it is understandable. It is understandable to get mad. It is understandable to want to retaliate, to want to play their game with them. But if we are going to protect, truly protect, the interests of the United States, does it not make sense that we do so in a well thought out way? Should we not contemplate where we are heading before we embark on our course?

Should we not attempt to anticipate where we are going rather than to just dispute something? That is what we are being asked to do with these amendments.

Here we are, Madam President, on the 15th of December. We were told that we were coming back for a "lameduck" session of the Congress to deal primarily with the continuing resolution and with the highway bill. We were told that this would be a 3-week "lameduck" session and that it would end up the 17th of December.

A lot of us do not think it will end up with the 17th of December, but maybe it will. That at least is the target.

But here we are 2 days before the target. Each House of the Congress in something that very much resembles a state of chaos, Members of the Congress desirous to go back to their homes for the Christmas holidays, their kids arriving back from college or wherever for the holidays. We are asked now, with 2 days left to go before we are supposed to adjourn, to take up two blockbuster initiatives in the very serious matter of international trade—blockbuster initiatives. We are asked to do that, Madam President, without any bill having worked its way through the committee system.

I may be wrong, but on the steel question and the "buy American" provision in steel, I do not even know that a bill has been introduced on this subject. I may be wrong. I do know in the Finance Committee hearings have not been held. I do know that nothing has been marked up.

With respect to the Specter amendment, the Specter amendment has had hearings in the Judiciary Committee. It has not been marked up in the Judiciary Committee.

The Finance Committee, which has jurisdiction on trade matters, has asked for a sequential referral of the bill and has not received a referral of the bill and, therefore, has not held hearings and has not marked up anything.

So, with 2 days left in this Congress—hopefully 2 days left in this Congress—we are asked on the floor of the Senate to address major matters of trade policy at a time when people want to just strike out in response to protectionism by other countries.

I would like to say some words about the Specter amendment.

Madam President, back in 1979, in connection with the Trade Act that was passed in 1979, we in the Congress undertook major procedural reforms dealing with antidumping and countervailing duty cases. I remember it vividly because I was right at the heart of that effort to reform our procedures for dealing with dumping cases and with subsidy cases.

When Senator Heinz was speaking earlier, I was reminded of the great effort that we put into changing the procedures in dealing with trade cases.

Madam President, I can honestly tell you it was the most tedious undertaking I have had since I have been in the Senate.

First of all, we started with enormous staff work. Then we proceeded to the Finance Committee in a seemingly interminable process dealing with how many days should such and such event occur; what kinds of procedures should be undertaken simultaneously; what is the proper forum for determining one thing or another thing that has to be determined in these extremely complicated casesvery complicated cases. What is the subsidy? What is the bargain price? What is it being sold at? What is cost? What is injury? All of these are very, very difficult, factual questions. How can they be determined?

It was clear in 1979 when we addressed these questions in the Congress that the system as it existed at that time was not working well. There were horror stories, Madam President, about endless delays in the system, in trying to process these cases. We attempted to fix those endless delays, to shorten them, to have a better system for processing trade cases.

But I must say what we went through to accomplish that objective was not just a simple matter. It was not something that was reserved for the floor of the Senate. We could not have done it on the floor of the Senate. To try to do so on the floor of the Senate would be comparable to try to make a very delicate machine on the floor of the Senate. It was long, it was tedious, hard work. But it was necessary work.

We did it in the committee and they did it in the Ways and Means Committee at the committee level. We worked it out with the U.S. Trade Representative in lengthy, lengthy negotiations, and we worked it out in conference. That was in 1979.

Now we are facing the question, what did we do in 1979 and how has it operated? How have we fixed or not fixed the question of how to proceed in antidumping cases and countervailing duty cases? When I ask practitioners in the field of trade law how we did, I get mixed results. Some people say, "It looks good." Some people will say, "We are on such a fast track now that it is a lawyer's paradise. You have to have so many lawyers operating at any given time that it is just too expensive to go through."

Other people say, and I think this is probably the majority of people who are knowledgeable about antidumping and countervailing duty cases, that it is too early to tell. They say, "We really do not know yet."

Madam President, the point is this: In this complex area of enforcement of the trade laws, of procedural measures to enforce the trade laws, in this area which took us a seeming eternity to work out in 1979 and in which we are still not sure whether or not we did the right thing, should we now, on the floor of the Senate, without hearings in the Finance Committee and without a markup of anything, attempt at the 11th hour to set in motion a whole new enforcement process?

My answer to that question is to do so would be harebrained, having gone through this thing before. We cannot undertake a procedural reform on a matter this complex on the floor of the Senate.

I wonder, Madam President, in all honesty, how many Members of the Senate know what the procedure is

I wonder, if we were to give an examination to Members of the Senate on how dumping cases or subsidy cases are processed today, how many people would score a passing grade? I would not, because it has been about 3 years since I have really gotten into the details.

Maybe other Members of the Senate are conversant with it and know with certainty how the process should work—but I doubt it. I do not believe we should go off halfcocked and, furthermore, I am told by staff that the process that is now being suggested is a violation of the Geneva Agreement on Tariffs and Trade.

If that is so, Madam President, and I cannot speak to that definitely myself, but if that is so, are we prepared now to violate an international agreement to set in motion a new procedure for enforcing the trade laws without hearing in the Committee on Finance and without any markup? I hope the answer to that question is no.

Madam President, some would argue that the system is too complex and too slow now in the Department of Commerce and in the International Trade Commission. Some practitioners would say that it is too fast. I take it that the Senator from Pennsylvania believes that it is too slow. I do not know what the answer to that question is. I do know this: The solution of trying to move this process from the Commerce Department to the International Trade Commission and from the International Trade Commission to the court system is hardly a blueprint for an expeditious process.

The amendment of the Senator from Pennsylvania would put the courts in the act of adjudicating antidumping and countervailing duty cases. It would put the courts in the business of adjudicating very complex situations involving economic determinations. I ask the Senate, does the judicial system have expertise to adjudicate

economic questions? Do judges, when they are confirmed by the Senate, have the sort of expertise, do we quiz them on that kind of expertise that we would expect from the International Trade Commission?

How can the courts have the competence to make this kind of determination? If they do have that kind of competency and we do think that that is a reasonable forum to make this kind of determination, do we really expect the courts to act expeditiously on these cases?

I have practiced law. The distinguished author of this amendment is a very distinguished lawyer. Maybe the courts in Pennsylvania are not like the courts in Missouri, but one of the things I never was able to figure out when I practiced law was how to get a judge to decide a case.

In fact, in the trade cases that have been before the courts, we have seen exactly the same thing. The famous Zenith case went on 8 or 9 years. Consider virtually any complicated antitrust case that goes before the courts. How long does it take to decide an antitrust case from the time that the case is filed—from the time that it is finally completed and determined, how long does an antitrust case take? Does anybody think that it takes half a year or less? Does anybody think that it takes 5 years or less?

Antitrust cases go on and on forever. A complicated trade case involving many of the kinds of considerations, as a matter of fact, that go into antitrust litigation, would go on at least as long. It would be endless.

A lot of people are concerned about clogging up our judicial system. They say that the courts are overloaded, that there are too many cases. Wait till we lay this one on them. Wait till we try to put trade litigation before the courts. It would go on forever.

Madam President, if I were an aggrieved party from an unfair trade practice, would I want my case to be in the judicial system? Why would I? Would I want to subject myself as an American corporation, an American business, to the Federal Rules of Civil Procedure? Would I want to subject my officers to having their depositions taken, to having my books and records opened and examined by foreign competitors? No.

Wait until the first interrogatories are served, or the first deposition is taken in a trade case, before you see a procedure really backfire.

Therefore, Madam President, I believe that the Specter amendment is ill considered, I believe that it would cause chaos in the trade system, that it would possibly violate the Geneva Agreement on Tariffs and Trade, and that, as a matter of procedural

remedy, we would embark ever deeper into the woods.

At this point, Madam President, I would like to read a statement by the U.S. Trade Representative, Bill Brock. It states as follows:

The Administration opposes enactment of Amendment No. 1448 proposed by Senator Arlen Specter to H.R. 6211 or any similar amendment. Amendment No. 1448 amends the Antidumping Act of 1916 to provide a judicial means of antidumping action for U.S. industry. Practical legal problems strongly weigh against enactment of Amendment No. 1448, moreover, Amendment No. 1448 would violate the international obligations of the United States under the General Agreement on Tariffs and Trade (the GATT) and the GATT Antidumping Code. Exporters in many of our most competitive industries depend on the protection of these obligations, and enactment of Amendment No. 1448 or any similar amendment, would expose them to retaliation in kind from our trading partners.

Amendment No. 1446 is premised on the belief that going to court for a judicial remedy under the antitrust laws would be faster and less expensive for domestic industry than pursuing the existing administrative remedies. In our view, however, the remedy in Amendment No. 1448 would further overload the courts, and would subject domestic industry to the uncertainty, high cost and well-known delays of the judicial process, typified by antitrust litigation. The foreign defendant could prevent resolution

of such a case for years.

A judicial remedy for antidumping, in fact, would expose the domestic plaintiff to substantial down-side risk from a foreign defendant's possible antitrust counterclaims for treble damages. A foreign exporter could use discovery in such a case to probe extensively into the U.S. plaintiff's business operations. The U.S. plaintiff would also realistically have severe problems in obtaining discovery of the facts concerning the defendant's business which would be necessary in order to show dumping. In contrast, the present system offers no risk to the domestic petitioner, and discovery problems are handled at no cost to the petitioner by the Commerce Department.

We also oppose Amendment No. 1448 because it would be inconsistent with United States international obligations under Article VI of the GATT and the Antidumping Code. These obligations concern the fair and open operation of anti-dumping measures; the Antidumping Code was approved by the Congress in the Trade Agreements Act of 1979. Enactment of Amendment No. 1448 or any similar amendment, would invite passage of similar measures by our major trading partners such as Canada, Japan and some of the European countries. Such measures could have a severe impact on U.S. firms and workers producing goods

exported to those markets.

The Trade Agreements Act of 1979 mandated expeditions handling of antidumping and countervailing duty cases. The Commerce Department has enforced the antidumping and countervailing duty laws in a vigorous, tough and timely fashion. The record shows that this Administration is processing more antidumping and countervailing duty cases now than at any time in the history of these laws. Adding the judicial remedy proposed in Amendment No. 1448 or any similar amendment would be neither necessary nor desirable.

The fact that Amendment No. 1448 proposes a judicial remedy for dumping does not exempt it from our international obligations. The full obligations of the Code apply to any remedy for dumping. Provisions of Amendment No. 1448 are at odds with basic requirements of the Code and the GATT concerning findings of injury, non-excessive assessment of antidumping duties, customs clearance and due process in antidumping investigations. Therefore, we believe that the statement in Amendment No. 1448 that this Amendment is consistent with the GATT is incorrect.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the presentatin of these comments.

Madam President, that is the comment of our U.S. Trade Representative. That is the position of the administration on this amendment. It is opposed by the administration. It is a possible violation of the GATT. It is a process which subjects aggrieved U.S. parties to discovery, to having their books and records and businesses opened up by foreign competitors.

Madam President, I have been approached by the distinguished President pro tempore who has a privileged matter which he would like to bring before the Senate, and therefore I ask unanimous consent that the Senator from South Carolina be recognized at this point without losing my right to the floor or without it being counted two speeches under the rule.

The PRESIDING OFFICER. Is

there objection?

Mr. RIEGLE. Reserving the right to object, and I do so on behalf of the leadership until we ascertain whether this item has been cleared, I would be compelled to object until such time as we are sure it has been cleared on this side.

Perhaps the Senator could put his request shortly, not right at the moment, so that we can determine whether that has been cleared on this side.

Mr. DANFORTH. So. Madam President, given the fact that there have been no hearings in the Finance Committee on this amendment, it has never been marked up by any committee in the Congress, to my knowledge, certainly no committee in the Senate, given the fact that it would contemplate a new procedure for pursuing trade cases while the 1979 procedures are still in a shakedown cruise, so to speak, given the fact that the court system is even more time consuming and elaborate than the processes by which these cases are now handled on the administrative level, and given the fact that it subjects U.S. companies to discovery and to counterclaims, I hope that at the appropriate time the Senate agrees this is not the occasion to consider a matter this complex and this far reaching with respect to the enforcement of our trade laws.

Now, Madam President, I turn to the question of U.S. trade policy in gener-

al, where we stand now and what we should do about it, where we should go from here, because it is my opinion that the route we should not take, at least we should not take without thinking it out in advance, is the route outlined by the Senator from Ohio.

Madam President, it is clear that the United States has serious difficulties in international trade, and it is also clear that for some time it has been known to us that we have been treated unfairly by our trading partners and most particularly and obviously by Japan. This is not new news, and, as a matter of fact, in 1981 the Senate Finance Committee passed a committee resolution which pointed out the very serious nature of the situation which we then perceived and now perceive with Japan.

I should like to read into the RECORD the resolution adopted by the Committee on Finance, United States Senate, on December 2, 1981.

# COMMITTEE ON FINANCE: COMMITTEE RESOLUTION

Whereas the 1981 bilateral trade deficit with Japan will exceed \$15 billion and by 1985 may reach \$25 billion:

Whereas there is no indication that under present trading conditions the projected growth rate of this bilateral trade deficit, will decline;

Whereas the United States is committed to free and fair trading relations;

Whereas United States producers and exporters as a practical matter are denied reciprocal access to Japanese markets;

Whereas hundreds of thousands of American workers and thousands of American producers are adversely affected by this lack of reciprocal market access; and

Whereas the continued denial of equivalent access and the perception of denial of access to Japanese market will inevitably damage our long term trade relationship and support for free trade in the United

States: Now, therefore, be it

Resolved, That it is sense of the United States Senate Committee on Finance that the United States Trade Representative and other officials of the United States Government take such actions as are necessary and appropriate to bring the denial of equivalent market access specifically and directly to the attention of the Government of Japan; to achieve expeditiously reciprocal trading opportunities for all American producers in the Japanese market; to take such other action including the use of existing laws, existing international agreements, or the submission of any needed legislation, as appropriate to guarantee equitable market access in Japan.

That is the sense of the Senate Finance Committee as expressed a year ago this month. And I am confident that a very similar resolution would be passed unanimously by the Committee on Finance today if it were offered. This resolution, as a matter of fact, did set in motion some favorable measures that were accomplished with respect to Japan. We did express through our U.S. Trade Representative our position that we are being treated unfairly.

There were some concessions which were offered by the Japanese to reduce some nontariff barriers that were in existence. So there were some

forward steps.

Madam President, this resolution that was offered last year is so typical of the way we in Congress view our dealings with other countries and particularly Japan in international trade. It is as though we believe that making a speech or issuing a resolution, making a statement or complaining will somehow accomplish results. Sometimes they do accomplish some results. Usually they are very minor and very short lived.

But our approach to dealing with our trading partners has been typically sporadic. We complain, we gripe, and we hope that by complaining, threatening, and crying wolf some-

thing will be done.

We talk so often about sending our trading partners a signal. We talk about sending them the right signal or sending them the wrong signal.

What resolution can we pass? What speech can we make? Can we send over delegations from Congress basically to

complain to the Japanese?

When I was in Japan along with the Senator from Rhode Island, Senator Chafee, last January, we were not alone. It seemed that every time we picked up the paper there was another delegation of Members of Congress or members of the executive branch arriving from Washington to voice their complaints to the Japanese. You turn on the evening television and you would have the electrifying experience of seeing your colleagues with translators describing in Japanese what they were saying and you knew the message was always the same. We were hurt. We wanted something done. We were threatening them.

This strategy of complaining, griping, and hoping that there will be some relief has, as I say, brought some modest relief every now and then but, Madam President, I for one do not believe that this is the way the United States should deal with other countries in foreign trade or anything else.

If all we do is use the signal method, flashing signals to other countries, use the right words, hope that we will scare them, eventually they will say, "Well they do not mean it. They are

crying wolf."

So the verbal abuse method, it seems to me, is not serving the United States particularly well, and I do not think that that is the way a great country should act toward another great coun-

So when I went to Japan with Senator Chaffe last January that is precisely the same message that I made and that I gave, and I wish to read into the RECORD the comments that I made to the Keidanren, the Japan Federation of Economic Organizations, in Tokyo on January 12, 1982. The statement is this:

I am very pleased to be here today to share with you some thoughts on U.S.-Japan economic relations. Your kind invitation has made this visit, my first to Japan. possible and has provided me with an invaluable opportunity to take a first-hand look at one of America's very closest friends and allies.

As Chairman of the Senate's International Trade Subcommittee, it is appropriate for me to focus on the subject of the trade relationship between our two nations. This is a particulary good time for a fresh assessment of our trade relations, and I intend to offer an American perspective on where we stand.

I need not tell you that our trade relations are strained. This American politician is very concerned by what he sees.

When we look at America's balance of trade with the rest of the world, the outlook is gloomy at best: In 1971 the U.S. trade balance went into deficit for the first time in more than three quarters of a century. Last year that deficit reached \$36 billion. Today, it appears that the U.S. trade deficit may have exceeded \$40 billion in 1981.

The statistics on America's trade deficit with Japan are even more dismal. In one year, the U.S. trade deficit with Japan is likely to jump an incredible 50 percent. From an appalling \$10 billion bilateral deficit in 1980, it now appears that our 1981 deficit exceeded \$15 billion. This is a trend which has clear political implications in the United States. It cannot be permitted to

Taken together with other comparative economic data, it should not be surprising that many of us in Congress now question the equity in the existing trade relations between the United States and Japan. In 1980, the rate of growth in GNP reached 4.3 percent in Japan in contrast to no growth at all in the United States. The increase in consumer prices in the United States was almost twice that of Japan. And the rate of unemployment in the United States reached 7.1 percent in contrast to Japan's 2 percent rate. With the recession this past year in the United States, this gap has widened.

The remarkable nature of Japan's postwar economic growth cannot be disputed. Your own efforts and strength of domestic demand in Japan have been major factors. But it cannot be denied that this "economic miracle" has, in large measure, come about through the generosity of open American markets and, to a significant degree, at the expense of American products that were at one time more competitive. The United States has followed a free market policy. One result of this policy has been a boom economy in Japan and widespread unemployment in the United States.

At the same time that American markets are open to Japan, there is indisputable evidence that the Japanese market remains closed to the better part of American exports. What we observe, from our side of the Pacific, is a Japanese approach to trade policy that combines an "infant industry" import strategy with an export program that has concentrated on targeting and protecting high-growth and high value-added industries.

TVs, autos and steel got this treatment in the last two decades; high technology products such as computers and telecommunications have it now.

I fully recognize that the trade problems that exist between our two countries result in part from factors other than the inaccessibility of Japanese markets. Some of these factors are of our own making. However, we are now engaged in an effort to tackle our domestic economic problems head-on.

In Congress, we are implementing budget cuts that are tough, often politically unpopular and demonstrative of an unprecedented degree of self-discipline. We are confronting the need for regulatory and tax reform. We are reaching for a bipartisan approach to stimulate research and development, sav-ings and investment, and productivity. And one by one we are reducing or eliminating a number of unilateral disincentives faced by American exporters.

This brings me to the issue of U.S. competitiveness. On a number of occasions it has been suggested that the problems American businessmen face in penetrating the Japanese market come not as a result of import barriers, but rather from a lack of U.S. competitiveness. The inexplicably low levels of Japanese imports of products ranging from computers and telecommunications equipment to manufactured tobacco products, leather, beef and citrus-where the United States is clearly competitivedemonstrate that competitiveness is not the source of the problem.

In response to the related allegation that we are not trying hard enough to export, I suppose I could accept the argument if American businessmen were the only ones unable to sell their products successfully in Japan. However, Japan's trade surplus with the world reached \$25 billion in 1978 and businessmen throughout the world-be they German, Australian or Korean, all complain about the problems they face selling in

Putting aside these tired arguments and counter-arguments we have all repeated for the past five years, the bottom line is clear:

As an elected official and as an American, the prospect of a bilateral deficit with Japan of over \$15 billion is clearly, clearly, unacceptable in view of the lack of reciprocity of access between our markets. It is inconceivable to me that the government of Japan would tolerate a bilateral trade deficit even close to that amount if the situation were reversed.

Most aggravating to the United States is the fact that Japan's market is not open. This closed market condition is perpetuated. even encouraged, by broader Japanese practices in the area of investment.

Protection of the Japanese market is maintained in a variety of ways-some clearly intended, some not. Some of the barriers are obviously illegal under the GATT, but others may not be.

But regardless of whether these impedi-ments are formal or informal, legal or illegal, the fact is that they work.

Illegal import quotas on products such as beef, citrus, and leather prevent competitive American exports from gaining more than a fraction of the Japanese market.

Unusually high tariff on other principal U.S. exports including computers, manufactured tobacco products, and plywood are also highly restrictive.

Other practices that serve as severe nontariff barriers are less obvious. There are the restrictive customs practices that preclude administrative or judicial review. There are standards and certification procedures that are far more extreme than those elsewhere in the world with some, such as the use of a "positive list" of additives, that seem designed to prevent changes. And there are a myriad of others such as government purchasing policies, government regulations, import cartels and other closed industry practices that exist in fact, if not in law

Finally, there exist in Japan a growing number of restrictions not traditionally considered under the general GATT framework. These include barriers to services and invesment that are not only harmful in and of themselves, but that also have a major impact on trade in goods. For instance, the difficulty facing American firms in investing in Japan and in buying Japanese firms, effectively blocks one potential solution to the problem of Japan's complex distribution system. I refer specifically to the ability to purchase a distribution system that is al-ready in place. Japanese firms face no such barriers to investment in the U.S. and take full advantage of the benefits.

I am not sure the full range of Japanese barriers to trade has ever been adequately catalogued, or that their true impact on our bilateral trade has ever been measured. What is clear is that they severely inhibit trade, and that they are the result of, and are in turn perpetuated by, practices and preferences which, taken together, result in a distinct anti-import bias. That Japanese growth is export-led is evident from the statistics: Last year some 80 percent of the 4.2 percent growth of GNP in Japan was based on exports. This occurred at a time when the rest of the developed world faced recession. As a major economic power, Japan cannot view this situation in a vacuumwithout regard for their impact on the rest of the world.

In recent months a multitude of American politicians and government leaders have traveled to Japan to complain about your trade policies and to plead with you to change your ways. Were I to follow their lead, this would be the point in my speech where I would make a plea that you alter your customs and open your markets to our products. I do not intend to follow that lead, because I am increasingly convinced that such complaining and pleading is not only useless, it is demeaning to both our countries.

To date, America's reaction to the lack of access to the Japanese market has been characterized by diatribe and threats. We have sent over repeated missions to Cabinet officials from the U.S. Trade Representative's Office, the Department of Commerce, the Department of Agriculture, the Department of Transportation and the Departments of State and Treasury to make the same speech I just made. Then, having listed their grievances, they have pleaded, urged, begged, argued and admonished Japan to change it ways.

I reject this approach and will not engage

in it.

The approach has had only limited success in terms of fundamental changes in Japanese import practices, and even this incremental progress has occurred at the cost of constant strain in the overall bilateral relationship caused by the well-publicized diatribe and rhetorical attacks.

This is no way for two great nations to behave. The constant rhetoric is demeaning to both sides. The United States should not be in a position where it must plead for equity. And Japan, as a sovereign nation, should not have to be told by outsiders to change its economic practices, customs and traditions to placate another country.

The United States and Japan must move

beyond rhetoric.

Both countries have a major stake in the economic and political health of the world and of each other. Japan, in particular, because of its national dependence on exports, has an immense stake in the economic well being of its principal markets. And both countries must set the policies that they perceive to be in their own interests. Once these policies are set, it is then up to the other country to respond in an appropriate fashion.

This method of non-rhetorical response is what I would propose for America's trade relations with Japan, and the objective of this form of response would be summed up

in a single word: reciprocity. One of the basic principles embodied in the GATT is that of reciprocal market access. But the GATT has not achieved reciprocity in the true sense of the word. Free trade is largely a myth. Moreover, GATT rules do not address directly many of the more sophisticated impediments to imports found in the world today. Finally, barriers to the free flow of investment and services, an integral part of international trade in today's world, are not addressed by the GATT at all. These barriers, and other trade restrictive policies undertaken by nations such as Japan, continue to grow in the absence of any guidelines at all.

The United States has, since the inception of the GATT, taken the leadership role in lowering international barriers to trade. We have had to push and cajole our trading partners into accepting each new guideline; unlike most of those countries, we have taken pains to employ the GATT's dispute settlement provisions; and we have been in the forefront of any negotiations aimed at the reduction of tariff and non-tariff bar-

It is time for the United States not only to protect our interests through the GATT rules, but to move beyond the GATT to seek reciprocity in the areas of trade in services and investment.

This new approach could be undertaken unilaterally by the United States, requiring no action on the part of Japan. I respect Japan's customs and have come to truly appreciate Japan's culture. Japan should be free to engage in whatever policies it deems appropriate. It would, however, still be up to the United States to respond in an equally appropriate fashion.

If offsetting measures are necessary to achieve reciprocal and equitable access between the Japanese and U.S. markets, than we should consider a straightforward mechanism to put them into place. Therefore, it would be incumbent on the United States to fashion its own mechanism by which to achieve our goals of fair and reciprocal trade, rather than constantly telling Japan what to do.

The Japanese economy is now approaching 10 percent of world GNP. Japan is clearly a major international economic power, whose presense is felt throughout the world. With its great power and proud tradition which I so deeply respect, Japan should be expected to set its own course and follow its own ways without the preaching or pleading of any other country.

Yet, Japan should understand that the United States, as well, is a great power with a proud tradition, and that we must set our own course and do what is necessary to respond when the policies of others injure our people.

The time of rhetoric and bombast, so demeaning to both of our countries, should be brought to an end. The time of understanding and action is at hand.

Madam President, I conclude my remarks as follows:

I believe that what we need is a systematic way of redressing our trade grievances, not this sporadic verbal method and not this business about flashing signals by having ridiculous bills or amendments offered in this Chamber.

I think we lose credibility by the verbal approach, and that is why I have introduced the reciprocity bill, and that is why I hope that the reciprocity bill is eventually enacted. The sooner the better because it provides us with an ongoing continuing mechanism to correct real problems of unfair treatment where those problems exist.

To offer an amendment and vote for it in this Chamber in the 11th hour on the notion that somehow it scares another country or other countries just does not work and it has not worked in the past and it demeans us.

We need an ongoing mechanism to deal with these grievances on a systematic basis and that is what the reciprocity bill does.

That is why I hope that Senators who are perhaps tempted by the Metzenbaum amendment might consider the reciprocity bill as a reasonable and sensible alternative.

Madam President, I yield the floor. Mr. METZENBAUM and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas yield to me 1 minute?

Mr. DOLE. I yield.

Mr. METZENBAUM. Madam President, I send to the desk two amendments in the second degree.

I yield the floor to the Senator from Kansas.

Mr. DOLE. Madam President, I shall take just a minute or two. I understand the distinguished majority leader will offer a motion to table the underlying amendment in the next few moments so that we may vote.

We have had a good discussion of this amendment. It is an important amendment.

I must say I share the views expressed by the distinguished Senator from Missouri.

I first shall take a minute to speak to the amendment offered by the distinguished Senator from Pennsylvania, Senator Specter.

It seems to me that what the Senator proposes is a radical change in the antidumping laws without committee action. It has not been marked up by the Judiciary Committee, nor has it been considered by the Finance Committee which has principal jurisdiction over international trade issues, including how U.S. international trade agreements are implemented in U.S. law. The Senate, therefore, does not have the benefit of the wisdom of those committees with principal interest in

So, again, it may be meritorious, it may have every reason it should be acted upon, maybe modified, maybe not modified. But unfortunately it is not the fault of the Senator from Pennsylvania. We just have not had hearings on it. It has not been referred to our committee and we would hope that without even getting into the merits or demerits of the amendment that we have a chance to take a look at it in our committee.

The administration is strongly opposed to the bill. The administration argues that even if altered as Senator SPECTER proposes, S. 2167 violates numerous provisions of the GATT and the International Antidumping Code. U.S. exporters would be subject to severe retaliation if the United States violates its international commitments in such a wholesale manner.

There is some doubt whether or not the amendment would accomplish its desired purpose to expedite administration of antidumping cases. It would place them in the Federal courts. The 1979 Trade Agreements Act provided stiff time limits for the Commerce Department and the ITC to issue determinations. No Federal judge could make such determinations as fast or accurately as the large staffs available to these agencies. On the contrary, justice is likely to be delayed substantially; comparable litigation over trade and antitrust matters takes years to complete.

The bill's remedies are disproportionate to and do not accord with the problem. The purpose of the antidumping laws is to relieve material injury caused by discriminatory pricing; because injury need not be material, and equitable relief can be granted without regard to injury. S. 2167 goes much further; it allows articles to be excluded totally from importation without such a finding. Because dumping can result from many reasons beyond the importer's control-including exchange rate fluctuations, lack of knowledge of home market prices, Commerce Department adjustments to price calculations-it is unfair to penalize them and consumers by totally denying access to the U.S. market.

The amendment ignores the severe domestic and international procedural obstacles to discovery that would be required by this bill. The Westinghouse antitrust litigation in the mid-1970's entangled the parties and the courts in years of fruitless litigation over foreign discovery issues. Those cases further sparked a major adverse reaction in our foreign relations with several allies that led to retaliatory legislation in several countries. Further, it is doubtful that U.S. firms would wish to be subject to the counterclaims and discovery that would be afforded to foreign firms by the bill.

The difficulties of individual firms with dumping can be remedied in less counterproductive ways. In principle, something can be said for providing individually injured firms with damages to compensate for injury from predatory dumping. But this bill is not likely to lead to any such remedy, for the reasons given above. There may be other ways of providing such compensation, however, or at least providing some relief from the costs of bringing an antidumping suit. Such possibilities should be fully explored in the responsible committees before coming to the floor for adoption into law.

The prima facie evidence rule operates to put the burden of proof on the defendant upon a final Commerce Department finding alone. Thus, a domestic company would not have to demonstrate injury to win its case.

This would violate the code.

The amendment does not address the difficulties caused to many U.S. firms, in addition to the plaintiff, by the extensive discovery that would have to be allowed the defendants in these private actions.

The amendment authorizes an injunction against exportation of goods to the United States without any clear basis in international law or practicality. Such orders are certain to cause enormous strain to U.S. foreign relations with the affected countries and would lead to retaliation, for example, under the British Protection of Trading Interests Act or similar statutes.

The amendment clearly bears no relation to the purpose of the 1916 act. in that there is no requirement of any intent at all (unlike S. 2167's "reasonably foreseeable" standard). It thus cannot be compared to antitrust laws; it is solely a dumping statute and must be held up to U.S. international obliga-

Mr. President, with reference to the so-called Buy American provision, and there has been a lot of debate, and again I do not quarrel with the motive of the authors of the amendment, it just seems to us that it is something that again we are all frustrated about people out of work. I had the opportunity to go to the GATT meeting in Geneva.

It is fair to say not much happened there. About the only positive thing you could say about the meeting is we still have the GATT framework. Countries are still willing to sit down and talk about problems.

When we consider there are 35 million people out of work in the industrial nations and we are all searching for some easy way to get an economic recovery and we are all focusing on trade, those of us who live in farm States are concerned about gluts, surpluses of grain at very low prices, unprecedently low prices, and we are

looking at some way to help the American farmer, I believe that the Buy American provision, as in local content legislation, is appealing in its simplicity but in reality it could be dangerous. It could be dangerous because I doubt that anyone can predict the ramifications of this type legislation, and every time we approve a provision supporting one segment of American workers to the exclusion of others, it makes it harder to deny the same treatment to others.

Second, this process inevitably leads to, will encourage, our trading partners to enact the same kind of legisla-

Now, I do not believe this amendment violates the letter of our international commitments, but it does violate the open trading policy we are trying to maintain. We support this policy because in the long run it is a policy which will create the most jobs in this country.

One of every three acres of farmland is now planted for export. The conference board recently issued a report which indicates that 80 percent of the jobs created in the last several years were export-related. Every \$1 billion in exports is estimated to produce 30,000 jobs. What we need are more exports not less, and that is why I am reluctant to support what sounds good. Buy American, who could be opposed to that? But I just believe that will more likely mean fewer jobs than more jobs.

Let us face it, our economic base is shifting and we must do all we can to guarantee our growth sectors have export markets.

Every Senator in this Chamber wants to protect the strategic industrial base of America, and no one holds to this position more strongly than the Senate Committee on Finance or its chairman. But every Senator also recognizes that for better or worse our economic industrial base is changing. We are going to reduce our heavy industrial capacity simply because other nations have increased theirs and, as a result, there is overcapacity around the world so far as some products are concerned.

We know we need to secure a national industrial base, but I also recognize that job creation is taking place in sectors like the service sector and high technology products. We are competitive in these areas because of the unique skills in our society. I think we have to do everything we can to make certain that the workers possessing these skills and the new workers who will be employed have an opportunity to work to produce these products and sell their services in every possible market.

We have had reference to Ambassador Brock's concern about this bill. Let us face it, he did not have a very good time in Geneva. It was not a very successful meeting. It was not his fault. Ambassador Brock, I believe, did everything he could and worked hard and long to bring about some agreement, but agreements were just hard to come by.

Ambassador Brock has addressed this issue in both testimony before the Finance Committee and in a letter to me and opposes this provision.

Madam President, as you know, Bill Brock just finished a somewhat unsatisfactory round of negotiations in Geneva with our trading partners. He sought to move our trading partners to accept more international discipline in areas like services and high tech products. While our partners would not agree to this, the countries at that meeting did commit to restrict protectionist pressures. I think that commitment was correct and should be respected. Even though we did not move the GATT system into new areas we kept it from falling apart. It is still possible to try again another day to fashion a trading system which will take account of our economic self-interest.

At this point I ask unanimous consent to insert into the RECORD the letter which Ambassador Brock wrote to me on this subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE, Washington, December 8, 1982. Hon. Robert J. Dole,

Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

Dear Bos: I am writing to express our concern regarding a provision being considered for inclusion in the proposed Surface Transportation Assistance Act of 1982. The provision in question would significantly extend the "Buy America" provisions presently included in the Surface Transportation Assistance Act by, inter alia, removing any proviso dealing with unreasonable cost. I strongly

urge that this provision be deleted.

I have several concerns with the trade provisions under consideration. First, I believe that a sector specific bill which creates new barriers to trade will be harmful to U.S. trade interests. Just two weeks ago, at a ministerial level meeting of the GATT, we and our trading partners undertook to do all in our power to resist pressures to close our markets to imports. While the Ministerial did not produce all the results we had hoped for, this was an important and positive result. Exports are vitally important to our economy. One of every seven manufacturing jobs and one of every three acres of agricultural production depend on exports. If after just two weeks, we violate this Ministerial commitment by adopting this new trade restrictive legislation, we will be inviting other countries to similarly forget their commitment to resist protectionist pressures. That would not be in our economic interests.

Second, I am concerned that this legislation will interfere with our efforts to open foreign government procurement markets to U.S. exports. We made considerable progress in achieving this goal with the entry into force of the International Government Procurement Code in 1981, which was implemented under the Trade Agree-

ments Act of 1979. Nevertheless, important limitations in the coverage of this agreement remain and we have initiated efforts aimed at expanding it. In particular, we are seeking to expand the Code to cover foreign government entities that are major purchasers of transportation, telecommunications, and power generating equipment. However, our credibility with our negotiating partners will be sorely tested if we enact new buy national restrictions at the same time as we are trying to negotiate limitations on such practices.

Finally, I am concerned that an absolute preference, with no provision for unreasonable cost, will be at cross purposes with the objectives of the bill. The purpose of the bill is to repair and improve the infrastructure of our transportation network. Even with the revenues that will be generated by the increased gas tax, resources will be limited. A provision of this nature which limits competition will inevitably lead to more expensive sources of supply, which will limit our ability to make these infrastructure improvements.

For the reasons I have just enumerated, I urge that this provision not be adopted.

Very truly yours,

WILLIAM E. BROCK.

Mr. DOLE. I just suggest that the country that will be hurt the most with this type legislation will be Canada. I do not suggest that we do not have problems with Canada, but I am certain that those who support this amendment would agree with me they are nowhere near the magnitude of the problems we have with the European Community, Japan, and other areas.

Will this provision help us get access to Japanese markets? Will it encourage Europeans to reduce their agricultural export subsidies? I think the answer is clearly "No." How will the Japanese react to this provision? They will probably smile and say to themselves:

The next time the Americans talk about market access, thank goodness we can talk about "Buy American."

For all the reasons stated by those who have debated this at length today, it would seem to me that we ought to be given an opportunity next year to take an overall look at trade policy and how it might impact on the industrial sector and other sectors of our economy.

I can assure those who have strong concerns about American jobs and exporting American jobs, preserving American jobs, we are going to do that. In fact, we have scheduled hearings really the first full day we are back here in January to start looking at trade policy.

Madam President if we are going to endanger our export markets let us do it in a fashion which will be useful in getting the attention of those with whom we have real trade problems.

Madam President, I yield the floor.

(Mr. MURKOWSKI assumed the chair.)

STEEL DUMPING

Mr. HEFLIN. Mr. President, I rise to call for action against a foreign practice that is sapping the strength of our American industries, a practice that this Congress must address. I refer to the practice of dumping, that method by which foreign governments subsidize their own industries and dump foreign goods into this country at prices below the sale price in the United States. I support the amendment of Senator Specter to put teeth into our laws to end this undermining of the American economy.

We need only look at the statistics to see the need for such a measure. Unemployment in our Nation has reached what a few years ago was a totally unthinkable figure, upward of 11 percent. A large number of these working men and women are idled because of the hard economic times that important industries—particularly steel and rubber—are suffering through.

In my home State of Alabama, just this summer one of the largest steel manufacturers in Birmingham announced plans to shut down one of its primary plants. The impact such closings have had on my State is apparent in the unemployment rate, which this month is over 15 percent.

Witnesses in hearings held by the Judiciary Committee this summer also reaffirmed the adverse impact of these foreign subsidized imports on our

economy.

Quite simply, manufacturers of steel, rubber, and other goods and materials are being devastated by a combination of extraordinarily high interest rates and excessively subsidized foreign imports.

Our industries cry out for immediate assistance. They are being severely damaged by these unfair trade practices. While I am a firm believer in free competition, I also believe it is unfair for foreign governments to subsidize the manufacture of their own countries' products, only for these products to be dumped into the United States for a lesser price than American goods.

I believe that if American workers are given a fair and equal chance they can outwork and outproduce any other industries in the world. We must give these industries, these working men and women, the fair chance they deserve.

I believe it is critical that we act at this time to save American industry. Our present statutes provide no mechanism for vigorous and effective enforcement of dumping, which is unlawful. I urge the Senate to support this amendment before us.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I earlier indicated probably at some point I

would make a tabling motion against the Metzenbaum amendment.

Debate has continued now for most of this day. I have taken the precaution of notifying all of those I know of who have a particular interest in this matter of my intention to make that motion at approximately 5 p.m. I believe everybody is aware of that situation.

Mr. President, I now move to table the Metzenbaum amendment, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second

The yeas and nays were ordered. The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee to lay on the table the amendment of the Senator from Ohio.

The clerk will please call the roll The legislative clerk called the roll. Mr. STEVENS. I announce that the Senator from Arizona, (Mr. Gold-WATER), and the Senator from Maryland (Mr. Mathias), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 51, nays 47, as follows:

## [Rollcall Vote No. 412 Leg.] YEAS-51

Abdnor Exon Nickles Andrews Garn Nunn Armstrong Gorton Packwood Hart Percy Hatfield Rancus Proxmire Bradley Hawkins Quayle Brady Hayakawa Roth Burdick Rudman Helms Byrd, Harry F., Jr. Humphrey Schmitt Stafford Jackson Chafee Jepsen Johnston Stevens Chiles Symms Cochran Kassebaum Thurmond Laxalt Cohen Tower Danforth Matsunaga Dole Mattingly Weicker Domenici McClure Murkowski East

# NAYS-47

Glenn Bentsen Mitchell Grassley Hatch Moynihan Biden Pell Boren Boschwitz Heflin Pressler Pryor Randolph Bumpers Heinz Byrd, Robert C. Hollings Cannon Huddleston Riegle Sarbanes Cranston Inouye D'Amato Kasten Sasser DeConcini Kennedy Simpson Specter Stennis Denton Leahy Levin Dixon Dodd Tsongas Wallop Long Durenberger Lugar Eagleton Melcher Zorinsky Ford Metzenbaum

# NOT VOTING-2

Mathias Goldwater

So the motion to lay on the table amendment No. 5008, as futher modified, was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

#### SENATE AGENDA

Mr. BAKER. Now, Mr. President, if I could have the attention of Senators. I would like to suggest a course of action for this evening, for tonight, and for tomorrow. It goes without saying that we still have two major items to deal with before we can adjourn the Congress sine die, the highway bill, which is now pending, and the continuing resolution, which is now in the Appropriations Committee in markup and has not yet been reported.

There is no way we can reach the ontinuing resolution until that continuing occurs, and I do not expect that before sometime tomorrow at the earliest.

Mr. President, there are a number of other items, however, that can be dealt with. I am going to suggest two or three of them that we might do in a relatively short period of time. And then, of course, we have rule XXII, which will require a cloture vote sometime tomorrow on the Baker substitute to the pending measure, which was the first cloture motion filed.

Mr. President, first I would like to suggest that the Senate ought to consider whatever conference reports are available to us, particularly conference reports dealing with appropriation bills.

I would call to the attention of the Senate that fact that there is a report here on the Commodity Futures Trading Commission, which is H.R. 5447.

I am advised that it may be possible to dispose of that conference report with a very short time limitation, maybe about 20 minutes equally divided.

There is also a conference report on the agriculture appropriations bill, Mr. President, which is H.R. 7072-more particularly, the conference report to accompany H.R. 7072. On this side, at least, I believe the distinguished chairman of the committee has indicated that it might be possible to get a short time limitation, maybe even 10 minutes equally divided, to dispose of that conference report on that appropriation bill.

Mr. President, I had also hoped that the agriculture PIK bill, S. 3074. I am advised now that maybe that cannot be done, or that at least, we cannot get a time limitation on that measure. On this side. I advise Senators that the matter can be dealt with in fairly short order and I encourage those who are principally involved in and interested in that matter to explore still further the possibility of a time agree-

ment and a time certain to deal with that measure

Mr. President, what I am about to propose is that we go off the highway bill temporarily, that we go to the CFTC conference report and finish that; that then we go to the agricultural appropriations conference report and finish that; then, Mr. President, that we go to the cloture vote tonight-this afternoon or tonight-on the Baker substitute instead of waiting until a minute or two past midnight, which might be possible to do, or wait until tomorrow in order to get to that cloture vote. It is as much a matter of conserving energy as it is anything else, but at some point, the rules require that we have that vote. I respectfully suggest that the best interests and perhaps the health of Members would be best served if we go ahead and have that vote tonight, say 7 o'clock, spending 2 or 3 hours dealing with the post-cloture situation-if indeed cloture is invoked—then recess the Senate over at midnight or thereabouts and get a fresh start tomorrow, when we come back.

That is the plan I advance for consideration. Most Senators are on the floor so let me put this request.

#### UNANIMOUS CONSENT REQUEST

Mr. President, I ask unanimous consent that, at the hour of 6 p.m., the Senate temporarily set aside the pending business, H.R. 6211, the highway tax bill. I further ask unanimous consent that the Senate then turn to consideration of the CFTC conference report, H.R. 5447, under a time agreement of 20 minutes equally divided.

After the disposition of that matter, Mr. President, I ask unanimous consent that the Senate turn to the consideration of H.R. 7072, the agricultural appropriations conference report, under a 10-minute time limitation, to be equally divided. I ask unanimous consent that the control of the time be in the usual form.

Mr. President, I then ask unanimous consent that the Senate resume consideration of H.R. 6211, the highway tax bill, and that the provisions of rule XXII be waived and the rollcall vote occur on the motion to invoke cloture on the Baker substitute amendment to H.R. 6211.

Mr. ROBERT C. BYRD. Reserving the right to object, Mr. President, there will probably be amendments in disagreement to the agriculture conference report, in which case they will be amendable. I call that to the attention of my colleagues, so they can have that in mind as they consider this request.

As to waiving rule XXII and voting at 7 o'clock, I personally do not have any objection to that because the majority leader can, if he wishes, arrange to have a cloture vote in the morning at about 1:15 a.m. I have done it

before, myself, and he can do it. It would not be 2 minutes past midnight, because there has to be a lapse of an hour on the following day except one. I personally have no feeling about that. I would just as soon vote for cloture at 7 o'clock tonight as at 1:30 in the morning.

I do want my colleagues to know that those amendments in disagreement are amendable. I personally have no objection to the request, but I thought that my colleagues should have their eyes open in the event that they might be concerned about amendments that are in disagreement.

Mr. METZENBAUM. Reserving the right to object, Mr. President.

Mr. ROBERT C. BYRD. Conference reports, of course, are privileged and a Senator can bring a conference report up any time he wants to.

Mr. METZENBAUM. I understand they are privileged, Mr. President, but they do not have a limitation of time with respect to debate. I have been trying to get clarified with the leader, if he will repeat a little more slowly which three conference reports he is intending to bring up and what kind of time limit.

Mr. BAKER. Mr. President, there are only two. Originally, I had hoped to take up three items. I have stricken one from the list, the agriculture PIK measure, which we could not clear. The two are CFTC conference report, the other one is the conference report on Agriculture appropriations, which is H.R. 7072.

Mr. METZENBAUM. Since there are items in disagreement with respect to that measure, are they subject to amendment, do I understand the majority leader?

Mr. BAKER. Yes. Mr. President, as I understand, any item in disagreement would be subject to amendment. The way the unanimous-consent agreement was put by me, however, may I inquire of the Chair, if there is no further elaboration of that request, all debate on the conference report itself and items in disagreement would be subject to that time limitation?

The PRESIDING OFFICER. There was no time limitation placed on the items in disagreement.

Mr. BAKER. Mr. President, I amend my request then to provide for 10 minutes equally divided on any amendment to an item in disagreement.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I think I understand pretty well what can be done—what at least can be tried. I would personally not want to agree to it. As far as I am personally concerned, I have no amendments that I want to offer, but I want to protect my colleagues. If they want to enter into that kind of agreement without knowing what amendments might be offered, they can do so.

Also, on the invoking of cloture, what does the majority leader propose to do about amendments in the second degree which under the cloture rule will have to be offered by the time the cloture vote began? If we have the cloture vote at 7, I do not know whether my colleagues have any amendments that they want—

Mr. METZENBAUM. I filed my amendments.

Mr. ROBERT C. BYRD. What is the

Senator saying?

Mr. METZENBAUM. I said I do not know what the Senators' positions are, but I filed amendments that I have. I have no concern of going to a vote on cloture at 7 o'clock.

Mr. ROBERT C. BYRD. They are filed as second degree?

Mr. METZENBAUM. They are amendments in the first degree and second degree, yes.

Mr. ROBERT C. BYRD. The Senator, as usual, has looked ahead and taken adequate precautionary measures.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I have an amendment dealing with California utilities and a problem they have that I would like to be sure I will be able to bring

Mr. BAKER. Mr. President, as the Senator knows, I support his position on the California utilities measure and, indeed, tried to get that measure up as a freestanding bill before the Senate.

I do not know what form that amendment would take and whether it would be germane and qualify after cloture or not. But if the Senator wishes to offer it before the time for cloture, then we could arrange that.

Mr. CRANSTON. I would like to have it arranged that I can do it before cloture.

Mr. DOLE. If the Senator will yield, I do not think we can arrange that.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I am told by the distinguished chairman of the committee that he would not be able to arrange that.

The PRESIDING OFFICER. Will the Senate please come to order?
The majority leader.

Mr. BAKER. Mr. President, under the rule, the second-degree amendments, if there are any, would still have to be filed an hour before the vote, I believe, and we can protect against that if anybody has any second-degree amendments that have not already been filed.

On the question of amendments to items in disagreement on the agriculture conference report, we can certainly accommodate that. It may take

some time.

Let me ask, does any Member have any amendments—maybe we could identify any—that are going to be offered to items in disagreement to the agriculture conference report?

Mr. ROBERT C. BYRD. Mr. President, may I respond to the majority leader?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. There is a Senator who I do not see on the floor at this time, and for his sake I should think I would have to object until I get clearance from him on that portion of the request.

Mr. JOHNSTON. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I am wondering if the majority leader has insured that on the agricultural appropriations bill there is a germaneness rule on the amendments or else

that the amendments are identified?

Mr. BAKER. No. I will be glad to do that, Mr. President. To tell you the truth, until this moment, I was not aware in fact there were items in disagreement.

My information was that there were not, but I will check into that, and we will see.

Mr. President, if I could have the attention of the Senate, it is clear to me—

The PRESIDING OFFICER. The Senate will come to order. The majority leader.

Mr. BAKER. It is clear to me that we are going to have to work some more on this unanimous-consent request, but it also appeals to me that there seems to be a general willingness to try to work something out so that we can have the cloture vote some time tonight at a decent hour, even, I presume to say, a civilized hour. So I am going to come back and make this request again, but before I do so, and so we do not go to a lot of trouble for nothing, let me ask if any Senator intends to offer an objection that they are aware of at this time to the general proposition of trying to do these items, these two conference reports, to provide a brief time for other amendments to be offered in advance of the cloture vote and then to set a time certain for that cloture vote tonight, say, at 9 o'clock or thereabouts?

Now, that is about the shape I am going to come back in. If somebody is going to shoot down, I sort of wish they would tell me now.

Mr. ROBERT C. BYRD. Will the majority leader allow us to determine whether or not there are Senators who want amendments voted on before cloture on this side?

Mr. BAKER. Yes. Mr. President, let me see if there is any Senator who wishes to answer my question, and then I am going to suggest the absence this matter further.

Mr. HUMPHREY addressed the

Mr. BAKER. I yield to the Senator

from New Hampshire.

Mr. HUMPHREY. If the majority leader will yield, I would object to the request as I understand it now. I would like an opportunity to discuss matters with the majority leader.

Mr. BAKER. I thank the Senator. Mr. President, I suggest the absence of a quorum.

Mr. PRYOR addressed the Chair. The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BAKER. Mr. President, I will withhold the request, and I yield to the Senator from Arkansas.

THE CONTINUING RESOLUTION

Mr. PRYOR. I would just ask a question as to the continuing resolution which relates to everything else in this body at this time.

Will the majority leader please inform us as to whether there is any communication with the leadership in the House as to an extension of time on the continuing resolution whereby it might be considered before expiring?

Mr. BAKER. Mr. President, the question of the Senator was whether or not there have been any communications or contact between the Speaker and me or others on the possibility of an interim and temporary extension of the present continuing resolution in order to accommodate the problems we have with the time.

Yes; the Speaker and I have discussed that. Both of us agree it is a bad idea; that we ought to try to go forward with the matter that we have and try to complete the continuing resolution and get it to conference and try to get it on the President's desk.

I do not rule out the possibility that we may have to do something else, but I do not think we ought to do something else if we can help it. I really do

not believe he does either.

Mr. PRYOR. So the majority leader is basically saying we are going to try to finish this legislation and the continuing resolution by 12 Friday night, is that correct?

Mr. BAKER. Yes. Mr. President, that is so. Of course, I must tell Senators, in all candor, that we may run over into Saturday morning sometime or even during the day Saturday. But it is still my intention to try to finish on Friday before midnight, December

Mr. PRYOR. I thank the majority

Mr. LEVIN. Will the majority leader withdraw his request for a quorum call?

Mr. BAKER. Yes, I withhold.

SURFACE TRANSPORTATION ACT OF 1982

Mr. LEVIN. I have been waiting this afternoon to offer an amendment. I

of a quorum so we can inquire into have a bipartisan amendment to one would like to just offer his, but we extend unemployment compensation benefits.

Will the majority leader withhold his quorum call request so that I can be recognized and offer that amendment? That is one of the amendments that I would want to be covered by your unanimous-consent request in any event.

Mr. BAKER. Mr. President, the Senator from Michigan has indicated to me that he wanted to do that. Other Senators have done the same, however, and in fairness to all Senators I prefer to get a list and see where we

Mr. SARBANES. Will the majority

leader yield for a moment?
Mr. BAKER. Yes, I yield to the Sen-

ator from Maryland.

Mr. SARBANES. One of the difficul-ties I think with the cloture vote request is that many of us have amendments, which technically, I take it, might be ruled as nongermane to the bill, which we should offer. Actually a lot of us were here all day long waiting to do that. Of course, the whole day was messed up with one amendment.

Mr. BAKER. What does the Senator

suggest?

Mr. SARBANES. I suggest that we have some way to cover that. Does the majority leader intend to do that?

Mr. BAKER. Mr. President, I plan to do that. As I indicated to the minority leader, perhaps we need to canvass our Members, and I will on this side, to see who has amendments that they want to offer in advance of the cloture vote. I am perfectly willing to try to provide a time for Members to do that in advance of the time that we ordered the cloture vote to occur.

So I recommend, if I may, that the Senator from Maryland might make his wishes known to the minority leader, and I will consult with the minority leader and we will see what we can do in that respect.

Mr. DOLE. Mr. President, will the

majority leader yield?

Mr. BAKER. I yield. Mr. DOLE. I say, while so many Members are in the Chamber, there are about 80 amendments pending. If everyone wants to offer amendments before we have cloture I do not see any reason to have a cloture vote. Some of the amendments are going to take a long, long time to discuss. Once we have cloture they are not going to be germane.

That does not mean Senators cannot get a vote on appeal. But if in fact, if there is any desire to finish this weekend, someone is going to have to start saying, "I will offer my amendment next year to something." If everyone insists on his amendment we are going to be here New Year's Eve. I still think we will be here New Year's Eve what-

ever happens.

In any event, there are 80-some amendments around here, and every-

cannot pick and choose. I am sure we are going to have to treat everyone the

So hopefully if there are any volunteers who suddenly in the spirit of Christmas or the holiday season wish to take an amendment away, we would be glad to give it back to him.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Boschwitz). Without objection, it is so ordered.

Mr. BAKER. Mr. President, in the course of the last several minutes, the minority leader has attempted to canvass Members on his side, he advises, to see if they have amendments that they would like to offer before the cloture vote, particularly if the amendment might be considered nongermane and cut off in case cloture is invoked.

To my acute distress, I find that he has five pages with tightly spaced names and title descriptions.

Mr. President, on my side of the aisle, we did not quite have five pages, but we had five Senators who also have made known the fact that they had amendments that they would like to offer in advance of cloture.

Now, what that means is, once more, my ambition is thwarted. I do not see any chance that we can be fair and expeditious at the same time. Therefore, I am going to abandon the idea of trying to have that cloture vote tonight. I do not think there is any way we can arrange to do all the things that have been made known now and arrive at a time certain to vote on cloture prior to midnight.

Mr. President, just so Senators will not take what I have just said as a threat, I also do not intend to try to take the Senate out before midnight and bring us back after midnight. which would technically qualify the cloture vote. I think, while that is possible and, as pointed out by the minority leader, it has been done on a number of occasions, it also puts us in the worst possible set of circumstances to try to deal with these matters. We are tired, there is an accumulated burden of fatigue, and I do not think it would serve a good purpose.

Mr. ROBERT C. BYRD. Especially if you do not have the votes. That is the point.

Mr. BAKER. The minority leader, somewhat ungraciously, makes the observation that it is always more difficult when you do not have the votes.

Mr. ROBERT C. BYRD. I do not mean to be ungracious to the majority leader.

Mr. BAKER. But, you know, there is a modicum of truth in that. I will add, for the benefit of the minority leader. I hope, by the generosity of this gesture, that I will earn some votes when the time comes for cloture and for final passage on this measure.

But, all kidding aside, Mr. President, there are many Senators who have much work to do prior to the cloture vote. I abandon the idea that we can have that tonight. It will occur tomorrow routinely. The live quorum contemplated by rule XXII will begin 1 hour after we convene.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, what I urge is that Senators be prepared to go forward with these amendments. But, before we do, there is one other thing I would hope to do.

The two conference reports I really think ought to be done now before we get back into serious debate on the highway bill.

Mr. President, as I recall, there was not any serious problem with the CFTC conference report request. It was pointed out by the minority leader that there were three items in disagreement to accompany the conference report on the Agriculture appropriations bill and that each of those is amendable. I am going to try to provide that they cannot be amendable.

Maybe that will cut the knot. PROCEDURAL UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I ask unanimous consent that, at this time, the Senate temporarily lay aside the pending business, H.R. 6211 the highway tax bill, and I ask unanimous consent that the Chair lay before the Senate the conference report to accompany H.R. 5447, the CFTC bill on which there will be a time limitation of 20 minutes to be equally divided.

Mr. President, I ask unanimous consent that following on after the disposition of the CFTC conference report, the Senate turn immediately to the consideration of the agriculture appropriations conference report to accompany H.R. 7072; that no amendment be in order to any item of disagreement accompanying that conference report; and that the debate on that measure be limited to 10 minutes, to be equally divided.

Mr. President, when I was in the process of making that request, I was advised by one of my staff that there is one other Senator that we have to clear this with. So, before the Chair puts the request to the Senate, I am

going to suggest a brief quorum call so cannot be accepted, even though they that we can complete that.

Mr. FORD. Mr. President, before the distinguished majority leader suggests the absence of a quorum, would he mind answering a question?

Mr. BAKER. I would be happy to.

Mr. FORD. I understand the majority leader's dilemma. I happen to be one that has a couple of amendments. I am willing to try to work them out if they can be reasonably acceptable on a time limit. I do not think there is any problem. There may be. But I am perfectly willing to have a very short time agreement on both of those amendments. I would like to expedite them and get them out of the way and help the majority leader as much as I can. I think you will find other Senators that have amendments that can be worked on and I believe expedite some of these amendments at the present time.

Mr. BAKER. Mr. President, I thank the Senator from Kentucky. I am very grateful.

The minority leader has also indicated that there might be possibilities for time agreements.

I see the Senator from Arkansas is seeking recognition.

Mr. PRYOR. Mr. President, will the majority leader please indicate, after we finish with these two items of business, if we then go back to the gas tax bill?

Mr. BAKER. Yes. Mr. President, I include that in my request. After disposition of the second conference report, the Senate will return immediately to the consideration of the highway bill.

Mr. President, while we have some time during the deliberations on the conference report, if we get to that, I urge Senators to confer with either the minority leader or the ranking member, if the minority leader so directs, to see if we can negotiate time agreements. The distinguished manager of the bill on this side, Senator DOLE, will be the clearing point for such negotiations on this side.

Mr. DOLE. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. DOLE. Mr. President, as you know there are four titles in the bill. Amendments going to title II, which Senator STAFFORD would have, would have to be cleared with Senator STAF-FORD and I think with Senator Packwoop-I am not certain there are any amendments to that title-and with Senator GARN in the Banking Commit-

But I would say we have a number of amendments that have been given to us. It is not that we do not want to take the amendments. We are looking at a number of amendments from Senators. Some are technical in nature, and I do not see any reason why they

are not germane.

That would be my hope, that there might be four, five, or six that we might be able to accept and do very quickly. It is those that we think, on the revenue side, that are very costly or for some other reason we just cannot accept them. But we are now in the process. I promised Senator FORD to let him know in the next few minutes. I know Senator MITCHELL has an amendment. We have other amendments on this side. So we are trying to see if we can accept some of the amendments. If we can do that, we can do it very quickly. We need to do at least enough to get cloture.

Mr. Baker. Which is a seizure of excess candor I have seldom witnessed on the floor of the Senate.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished majority leader, not ungraciously, because he is always most gracious to me and to those on this side of the aisle, that we will attempt, on this side of the aisle, to see if those who have nongermane amendments would be willing to enter into time agreements and then we will come back and notify the majority leader.

Mr. BAKER. I thank the minority leader. I am most grateful.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is a pending request.

Mr. SYMMS. Mr. President, I withhold the amendment.

The PRESIDING OFFICER. Is there objection to the majority leader's request.

Mr. BAKER. Mr. President, a request is pending.

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Mr. President, I have been advised that there is no objection that we are aware of on this side and I now renew the request.

Mr. HUMPHREY. Mr. President, reserving the right to object, I point out that the Senate has been in session for 8 hours. Very little business has transpired.

I would point out further that this is not the result of any filibuster. There is no filibuster underway. We are in late night session which does not involve those who oppose the gasoline tax. There has just been a slow pace of business in the Chamber today.

I will not object to the majority leader's request. I welcome that. We have important work to do. Speaking for myself. I do not wish to slow down that business. In particular, I urge the majority leader to move to the continuing resolution as soon as it is ready for action. It must be passed by Friday night, I must emphasize to everyone. I assume that the gasoline tax must not interfere with the passage of the continuing resolution.

Mr. BAKER. Mr. President, I appre-

ciate the clarification.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader repeat

his request?

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate temporarily set aside the pending business, H.R. 6211, the highway tax bill. I further ask unanimous consent that the Senate turn to the consideration of the CFTC conference report, H.R. 5447, under a time agreement of 20 minutes to be equally divided and the controlled time to be in the usual form.

Mr. President, I ask unanimous consent that after the disposition of the conference report to accompany H.R. 5447, the Senate immediately turn to the consideration of the conference report to accompany the agriculture appropriations bill, H.R. 7072, on which there will be a 10-minute time limitation, equally divided.

I further ask unanimous consent that no amendments be in order to any item in disagreement to accompa-

ny the appropriations bill.

I ask unanimous consent, Mr. President, that after the disposition of the agriculture appropriations bill conference report, the Senate immediately return to resume consideration of the highway tax bill.

Mr. ROBERT C. BYRD. Mr. President, I know of no objection on this

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### FUTURES TRADING ACT OF 1982-CONFERENCE REPORT

Mr. BAKER. I submit a report of the committee of conference on H.R. 5447 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference

(The conference report is printed in the House proceedings of the RECORD

of December 13, 1982.)

Mr. HELMS. Mr. President, as the chairman of the Committee on Agriculture, Nutrition, and Forestry, I am delighted and, I might add, totally relieved to bring before the Senate the conference report dealing with the reauthorization of the Commodity Futures Trading Commission, the Futures Trading Act of 1982. The House and Senate conferees held three sessions during the past week and from those sessions emerged this conference report. I am glad to report that the conference report is a balanced one which strengthens the Commodity Futures Trading Commission, provides greater protections for investors and free market mechanisms, and opens avenues for orderly expansion of the futures trading industry.

I particularly want to commend the distinguished Senator from Indiana (Mr. Lugar), the distinguished Senator from Kentucky (Mr. HUDDLESTON), and the distinguished Senator from Oklahoma (Mr. Boren) for the splendid efforts they devoted to crafting the compromises between the differing House and Senate provisions. It would be an understatement to say they labored untiringly to develop compromise proposals and to lead the conferees to agreement. I also want to commend Senators Roth and Rudman who, while not conferees, attended portions of the conference and unselfishly gave of their time so that the conferees would have a better understanding of the provision relating to State anti-

fraud jurisdiction.

The conference substitute contains many important provisions. While I will not go into all of them now, I would like to discuss just a few of them.

Probably the most visible provision in the bill is one which does not deal with futures trading. The conferees agreed to the "contract sanctity" provision added to the Senate bill by Senator Durenberger. This provision prohibits the President, except in times of declared war or national emergency, from embargoing the export of any agricultural commodity covered by an export sales contract which meets two conditions. These conditions are that (1) the export contract must have been made before the embargo is announced and (2) delivery of the goods covered by the export contract must be made within 270 days of the date the embargo is imposed.

At the outset, I think it is important to focus on the limited nature of this proposal. First, this proposal places no limitation whatsoever on the President's powers to embargo agricultural

exports in times of national emergency or war.

Second, in times other than a national emergency or war, the President's powers to embargo agricultural exports are limited only if the two conditions are met. At the very most, the provision merely delays the effective date of an embargo for those agricultural products that meet the two conditions.

This provision will go a long way toward restoring the image of the United States as a reliable supplier of agricultural commodities. It has wide support in the farm and agribusiness communities throughout the country. I believe it is consistent with President Reagan's position on embargoes of agricultural commodities, and I hope the President will not feel it is necessary to veto the bill because of its inclusion.

The conference substitute implements a modified version of the jurisdictional agreement previously made between the Commodity Futures Trading Commission and the Securities and Exchange Commission. The conferees agreed to the Senate provisions applicable to the approval of stock index futures contracts for all such contracts submitted to the CFTC for approval prior to December 9, 1982

However, the conferees agreed to a modfied version of the House bill preventing the CFTC from approving any stock index futures contract submitted to the CFTC on or after December 9. 1982, if the Securities and Exchange Commission determines that the contract fails to meet certain statutory criteria applicable to such contracts. Mr. President, I am not happy with this provision, but it is the best we could get under the circumstances. The Committee on Agriculture, Nutrition, and Forestry will certainly monitor the operation of this provision very closely.

The conference substitute contains a compromise provision dealing with the issue of user fees. The bill clarifies the agency's authority to charge fees for certain types of services. The types of services for which specific fees can be charged are specifically set forth in the Statement of Managers. I feel this is a good compromise all around, one which will permit us to turn our attention to matters which have been overshadowed by the debate over transaction or user fees.

The conference substitute provides for an authorization for appropriations for the commission for a period of 4 years. The Senate provision coupled its 2-year period of reauthorization with resolution of the user fee issue. When a compromise on the user fee issue was reached, the conferees adopted the House provision reauthorizing appropriations for the Commission for a period of 4 years.

The conference substitute gives States new powers to attack "off-exchange boiler rooms" and other frauds. The States will be allowed to apply any State statute or regulation to any activity lying outside the regulatory preview of the Commodity Exchange Act. In addition, the conferees adopted a modified version of the Senate provision offered by Senators ROTH and RUDMAN. The conference substitute provides that nothing in the Commodity Exchange Act will preclude the States from proceeding in State court against any person registered under the Commodity Exchange Act-other than a floor broker or a registered futures association-for violation of any of the antifraud provisions of the Commodity Exchange Act or any antifraud rule, regulation or order issued pursuant to the act. The Commission would have the right to intervene in any State antifraud action brought under the Commodity Exchange Act, as well as to file an appeal in the action or to remove the action to Federal court.

The Commission will also have the right to appear as amicus curiae in any proceeding brought under the Commodity Exchange Act, in the event the Commission has not intervened or is not otherwise a party. Nothing in this provision precludes the Commission from filing joint enforcement actions with any of the several States, should the Commission and the individual

States wish to do so.

Mr. President, this State jurisdiction issue was one of the most difficult matters considered by the conferees. The House conferees were strongly opposed to any provision at first but finally agreed to the provision included in the conference substitute. While it may not go as far as some would like. again it was the best we could get.

The conferees adopted the House provision authorizing an explicit private right of action for violations of the Commodity Exchange Act. The Senate had not included a statutory private right of action in its bill, since the issue of the existence of such an implied right had been decided by the Supreme Court in the case of certain violations at the time the Senate considered the bill. The conferees decided to adopt the House provision because this area of the law is new and unchartered, and it was felt that the provision would be helpful in clarifying the limits of liability for violations of

The conferees achieved a true compromise on the differences between the House and Senate on the issue of authorizing the CFTC to permit trading in agricultural options. The conference substitute follows the House approach of authorizing agricultural options trading within the concept of a pilot program no longer than 3 years. The conferees, however, dropped the

House provision preventing the CFTC from approving more than 1 option contract per exchange. Under the conference substitute, the CFTC could authorize options in as many agricultural commodities as will provide an adequate test of these options.

It is my hope that the concept of agricultural options will be tested in a broad cross-section of agricultural commodities. In order to achieve the intent of this provision, the CFTC may wish to authorize more than one agricultural option contract on some exchanges.

The conference substitute also provides for a study, costing not more than \$3,000,000, on the effects of the trading of futures and option contracts. The study is to be carried out by the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, and the Securities and Exchange Commission, with assistance to be provided by the Treasury Department. The Board of Governors would be responsible for organizing and administering the study. Among the areas to be studied are:

First. The effect of such trading on the formation of real capital and on the structure of liquidity in credit markets.

Second. The economic purposes, if any, served by the trading of such instruments.

Third. The sufficiency of the public policy tools available to regulate such trading activity to avoid harmful economic effects in the markets for such instruments, the underlying cash markets, and related financial markets.

Fourth. The adequacy of investor protections afforded to participants in the markets for such instruments.

Fifth. The extent to which such instruments may be utilized to manipulate, or profit from the manipulation of, the markets for evidences of indebtedness, foreign currency, and securities.

The conference substitute gives the Commodity Futures Trading Commission and the Securities and Exchange Commission the primary responsibility for selecting and studying the instruments under their respective juridictions. The Board of Governors will review the portions of the study performed by the Commodity Futures Trading Commission and the Securities and Exchange Commission and may supplement these portions with analysis of its own, should it choose to do so. A report of the study will be submitted to Congress by September 30, 1984.

Mr. President, there are many other issues in this bill which I could discuss. I believe it is clear, however, that the bill is in the best interest of the people and I would ask my colleagues to join with me in supporting adoption of the conference report.

Mr. President, I say again to my friend from Indiana that I am eternally grateful to him for the immense amount of work he contributed to this legislation. It took a year and a lot of patience. He has been a real trooper and I thank him very much.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished chairman of the Committee on Agriculture for his thoughtful comments, and, likewise, his indefatigable leadership throughout the past 2 years.

I am also deeply grateful to Senator HUDDLESTON, the ranking member on the committee, and Senator Boren, who has been the ranking member of our subcommittee. He held extensive hearings and extensive markups and his labor resulted in a successful con-

I want to pay tribute also to Senators Roth and Rudman for the contribution they made on State participation in the enforcement area and cracking down on fraud in this area.

I especially pay tribute to Senator DURENBERGER of Minnesota, who provided language on contract sanctity which had been avidly sought and was adopted by the conferees unanimous-

I believe we have produced a worthy product in these 2 years that will offer greater strength to the industry, greater safety to consumers, certainly a strong statement with regard to agricultural policy in this country.

There are two areas of controversy which I shall outline for Members. One does surround the amendment offered by the distinguished Senator from Minnesota at the time that this body considered this legislation in late September. We believe the contract sanctity language offers a strong indication of our feelings on this subject but, at the same time, it preserves clearly to the President of the United States and the Secretary of State, who are involved in the diplomacy of our country, all the options they have save for the fact that contracts cannot be cut across for 270 days after they are entered into. This offers considerable assurance to exporters in this country with regard to agricultural exports, to require in our country those 9 months of certainty for contracts to be com-

Clearly, the President of the United States, through a declaration of war on national emergency, can abrogate the sanctity provision, but it would require a very serious situation indeed for those contracts to be abrogated. We feel that is an important contribution to both the agricultural policy and the foreign policy of this country.

The second major item that preoccupied us was the question of user fees. Clearly, the committees of the House and the Senate relevant to this legislation have worked out a user fee arrangement which we believe and estimate will lead to \$3 million of new revenues for the CFTC. We think this is a substantial contribution and a worthy compromise in what was undoubtedly one of the more controversial portions of this 2-year quest.

Mr. President, these are the only major objections that I know of to the legislation and I believe they have received considerable consideration from all parties. Therefore, I ask at this point that Members give enthusiastic attention to this product and support it.

Mr. HUDDLESTON. Mr. President, I am pleased to support the conference report on H.R. 5447, the Futures Trading Act of 1982.

The conference report contains provisions authorizing appropriations for fiscal years 1983 through 1986 to carry out the commodity futures regulatory program under the Commodity Exchange Act. It also contains a number of amendments to the Commodity Exchange Act to improve and update the commodity futures regulatory program.

The conferees have developed a bill that is comprehensive and that includes provisions recommended by the Commodity Futures Trading Commission, the futures industry, the General Accounting Office, farm organizations, securities regulators, and others. It provides, I believe, a strong framework for the continued improvement of the Federal regulatory effort.

The conference report also contains a provision, of importance to our Nation's farmers, to guarantee delivery under contracts for the exports of agricultural commodities. Under this provision, except in periods of declared war or national emergency, the President cannot, under a suspension of trade, curtail the exports of agricultural commodities covered by export contracts already signed if the contract calls for delivery within 270 days after the suspension is imposed.

I wish to commend Senator Helms for his leadership as chairman of the conference committee. It is in no small part due to his efforts that the conference was able to resolve successfully the differnces between the House bill and Senate amendment. Of course, Congressman de la Garza, chairman of the House Agriculture Committee and leader of the House conferees on H.R. 5447, also deserves commendation for his major contributions to the successful conclusion of the conference.

Senator Lugar, chairman of the Subcommittee on Agricultural Research and General Legislation, and Senator Boren, the ranking Democrat on the subcommittee, deserve special thanks for their dedicated work, from the time the bill was introduced through

the conference deliberations, in shaping this important legislation.

NEED FOR LEGISLATION

Futures trading plays an increasingly important role in our economy. Futures contracts are being written on a diverse array of commodities and instruments vital to farmers and industry. The contracts cover agricultural commodities, forest products, precious metals, energy products, foreign currencies, interest-bearing instruments, and stock composites.

More than three dozen new future contracts have been authorized since the Commodity Exchange Act was last amended in 1978. In 1981, the number of futures contracts traded was double the number of contracts traded in 1978.

Trading in financial futures has skyrocketed. In connection with this type
of trading, last December, the Commodity Futures Trading Commission
and the Securities and Exchange Commission reached an agreement on jurisdiction and regulatory responsibilities with regard to futures contracts
on securities indexes, futures and
option contracts on exempted securities, and options on foreign currencies.

Recently, the National Futures Association began operations. This organization will manage the industry's self-regulatory efforts and assist the Commodity Futures Trading Commission in overseeing the activities of industry professionals.

When the Agriculture Committee began its work on the Commodity Futures Reauthorization earlier year, we were presented with suggestions for changes in the law from a number of sources. The Commodity Futures Trading Commission and the SEC had legislative proposals relating to their jurisdictional agreement. The Commodity Futures Trading Commission had developed a number of other proposals to make their regulatory effort more efficient and to improve prosecution of commodity-related frauds. The General Accounting Office had performed a thorough study of the operations of the Commission and developed its own recommendations for legislative changes to improve the operations of the Commission.

The futures industry, State regulators, and others had prepared proposals for legislation to address problems stemming from the rapid expansion of the industry and increased involvement by the general public in futures trading.

It was clear that, in addition to reauthorizing appropriations, other revisions of the law brought about by the evolution in futures trading and its regulation since 1978 would be needed.

Mr. President, H.R. 5477, as reported by the conference committee, is the culmination of a year-long effort to develop legislation that responds to

the changed needs of the industry and its regulators. It addresses every area of major concern brought to the attention of Congress.

It is a comprehensive bill that is the result of many hours of hard work sifting through a multitude of suggested changes in the law; and it represents a concerted effort to balance competing interests. For these reasons, the conference report deserves the support of the Senate.

CFTC-SEC ACCORD

The conference report contains amendments to the Commodity Exchange Act covering the CFTC portion of the jurisdictional agreement reached by the Commodity Futures Trading Commission and the Securities and Exchange Commission. The agreement resolves jurisdictional ambiguities as to the regulatory responsibilities of the CFTC and the SEC, brought about by gaps in existing law.

The Commodity Futures Trading Commission will continue to regulate trading that serves hedging and price discovery functions, and the Securities and Exchange Commission will continue to regulate trading that has an underlying investment purpose. A related law, enacted earlier this year, amended Federal securities law to codify other portions of the CFTC-SEC jurisdictional agreement.

I would note that the conference report includes a compromise provision, not in the bill passed by the Senate. Under it, the Commodity Futures Trading Commission, before approving stock index futures or options contracts, will be required to consult with the SEC. For contracts submitted to the CFTC after December 8, 1982, the SEC will have authority to disapprove the contract if it believes the proposed new contract does not meet requirements set out under H.R. 5447. Any board of trade whose proposal for such a contract is rejected because of an SEC order will be able to appeal to Federal courts.

### ADMINISTRATIVE IMPROVEMENTS

H.R. 5477, as reported by the conference committee, makes a number of changes in the Commodity Exchange Act to improve the administration of the Federal regulatory effort.

The bill will streamline the rule review process and require the Commodity Futures Trading Commission to act expeditiously to approve proposed rules and contract market designations.

The bill substantially revises the process by which industry professionals are registered to do business under CFTC oversight. Generally, the bill spells out the criteria for disqualification and provides the Commission with flexibility in handling registration matters. The bill will also permit the Commission to cooperate with other entities, such as the National

Futures Association, in processing applications for registration.

IMPROVEMENTS IN ENFORCEMENT EFFORTS

H.R. 5477, as reported by the conference committee, makes changes in the Commodity Exchange Act to broaden the scope of, and strengthen, enforcement efforts under this act.

The bill will require contract markets to enforce rules that have been approved by the Commodity Futures

Trading Commission.

It will permit the Commission to set speculative limits by rule or regulation, as well as by order, and will make it unlawful for anyone to knowingly violate the speculative limits of contract markets that the Commission

has approved.

The bill will make it unlawful for any commodity pool operator or commodity trading adviser to permit a person to be associated with him if the pool operator or trading adviser knows, or should know, that the person is not registered. The bill also extends, to these associated persons, the antifraud provisions applicable to pool operators and trading advisers.

Also, it makes it unlawful for any registrant under the act to permit a person to be associated with him if the registrant knows, or should know, of facts that are grounds for statutory disqualification from registration. A registrant would be excused from this prohibition if he notifies the Commission of the fact and the Commission determines that the person should be registered anyway or temporarily licensed.

The bill extends the criminal provisions of section 9(a) of the act, which makes the conversion of margin money a felony, to all persons registered under the act. Under existing law, section 9(a) applies only to Futures Commission merchants. It also calls for mandatory disqualification from registration under the act for persons who commit crimes specified under section 9.

The bill amends the act to make persons who aid or abet in the commission of violations of the act or its regulations liable in judicial proceedings under the act, as well as in administra-

tive proceedings.

The bill includes a provision to establish greater accountability on the part of persons within an organization who control practices that give rise to violations of the act. Specifically, the bill provides that any person who directly or indirectly controls another person who violates the act or its regulations can be held liable for the violation to the same extent as the controlled person if the controlling person does not act in good faith or knowingly induces-directly or indirectly-the violation. This provision would apply to actions brought by the Commission, and the Commission would have the burden of proof.

OPEN SEASON

H.R. 5477, as reported by the conference committee, includes a proposal made by the Commodity Futures Trading Commission to declare open season on off-exchange scams operating outside the act's regulatory structure. The bill will amend the act to explicitly permit the application of all Federal and State laws to any person who should register under the act but fails to do so, and to any commodity transaction that is not conducted on, or subject to, the rules of a contract market or-unless otherwise specified by the Commission-a foreign board of trade. The bill will authorize the Commission to refer such cases to Federal or State agencies for appropriate disposition. This change would not apply to dealer options or leverage transactions, which would remain under the Commission's exclusive jurisdiction.

In conjunction with the provision, the bill will explicity permit the Commission to share, with States and foreign governments, information that is now subject to confidentiality provisions in the act, so long as the information is provided for law enforcement purposes and the Commission is satisfied that the information will be disclosed only in connection with law enforcement proceedings. Also, the bill will require the Commission to furnish, to State and local governments, information on persons obtained as part of registration, if requested by the State or local government.

Also, the bill authorizes States to bring actions in State courts to enforce antifraud sections of the Commodity Exchange Act against persons—but not including exchanges or registered futures associations—registered under the act. In these cases, the Commission could intervene in the State proceeding, and either the Commission or a defendant could remove the action to a Federal court.

IMPROVEMENTS IN REGULATION

Among the legislative proposals submitted to Congress by the Commission was one relating to the independent brokers who solicit and accept orders from the public on futures trades without handling funds, and who fulfill the trades they obtain through registered Futures Commission Merchants. Under current law, these brokers are not required to register. However, they are listed as agents of Futures Commission Merchants in the applications of the Commission merchants for registration, even though they are not subject to the control of the Futures Commission Merchants but are truly independent contractors.

H.R. 5477, as reported by the conference committee, calls for regulating these independent brokers by establishing a new category of commodity professionals, to be called introducing brokers, into which the independent

brokers will fall.

Introducing brokers will be required to register and be subject to ongoing regulation, as the Commission has requested, but would be treated separately from Commission merchants. They will have to stand on their own.

The conference committee adopted the House provisions, with modifications, relating to leverage transactions. Under the conference report, the Commission will specifically be required to regulate leverage transactions involving commodities other than agricultural commodities. However, the Commission will be authorized to prohibit leverage transactions in any commodity not being lawfully offered and sold on December 9, 1982, if the Commission finds that leverage transaction in the commodity would be contrary to the public interest.

I realize that, given the limitations on the Commission's resources to regulate an expanded industry, some caution in lifting the moratoria on leverage transactions should be exercised. However, the conference report does not ratify or extend the current moratoria since they are inherently anti-competitive and, thus, contrary to the fundamental objectives of economic competition and the free marketplace. Healthy competition between sound companies can insure as much public protection as rules governing their conduct. We want the double benefits of both rules and competition, and the sooner the better.

The bill requires the new National Futures Association, the industry self-regulatory group, to implement by September 30, 1985, a concrete plan for its regulatory activities as directed by the Commission. The Commission will be authorized to require the NFA and any other similar associations to take over certain regulatory activities, including the registration of commodity brokers and others engaged in futures dealings.

## RIGHTS OF INDIVIDUALS

H.R. 5447, as reported by the conference committee, specifically authorizes private suits to recover actual financial damages in some futures cases. Such cases, subject to certain limitations, could be brought when a person suffers financial damage in a commodity futures or related transaction, either on or off regulated markets, because of a violation of the Commodity Exchange Act by another person, such as a commodity dealer, trading adviser, or contract market. A related portion of the bill broadens the right of individuals to request arbitration of claims against commodity brokers.

#### MAJOR POLICY STUDIES

H.R. 5477, as reported by the conference committee, provides for a study, led by the Federal Reserve Board with the aid of the CFTC, the SEC, and the Treasury, to assess the effect of futures and options trading on the econ-

omy, including the effect of such trad ing on capital investment in industry and business, and to determine whether any new laws are needed to protect the national interest. Also, the study will seek to determine what effect stock index futures are having on the underlying securities and on capital formation. Following the study, the Federal Reserve Board will give Congress—by September 30, 1984—any recommendations growing out of the review. In a related area, the CFTC will be required to make a 2-year study of so-called insider trading in commodity futures markets and to report on whether it has enough authority to prevent any abuses in this area. The conference committee, in its report, instructed the CFTC to take immediate regulatory action if it finds insider trading problems that can be corrected with regulations under existing law.

#### CONCLUSION

Mr. President, the futures industry is an integral part of the Nation's

economy.

H.R. 5477, as reported by the conference committee, will update the Commodity Exchange Act to give the regulators of this industry the tools they need to insure that futures markets continue to meet the needs of those served by them. It will also make the Federal regulatory program more efficient and responsive to the needs of the industry.

Mr. President, I urge my colleagues to agree to the conference report. I wish again to express my appreciation to the distinguished chairman of the committee (Mr. Helms) and to Senator Lugar, chairman of the subcommittee, and all of the members and staff, on

both sides.

On our side, I especially thank Senator Boren, who took a lead on this particular legislation. This has always been one of the most complex pieces of legislation that we have had to deal with, because we are dealing with a large and complex industry and the regulatory machinery for dealing with that industry.

The Senator from Indiana, and I, have already discussed the contract sanctity provisions contained in the bill. These provisions are of great importance to our Nation's farmers and to the world at large as far as the trading interests of the United States are

concerned.

Mr. President, I yield to the distinguished Senator from Oklahoma.

Mr. BOREN. I thank the Senator

from Kentucky.

Mr. President, I wish to associate myself with the remarks that have already been made by the Senator from Kentucky and the Senator from Indiana and express my personal appreciation for being able to work with both of them and the distinguished chairman of the full committee, the Sena-

tor from North Carolina (Mr. Helms), on this particular piece of legislation. The subcommittee and the committee both worked long and hard on preparing this piece of legislation. We did our best to strike the proper balance between those who had different points of view on the most controversial issues, and to try to come forward with the bill that will protect the general public and the agricultural community and, at the same time, make possible the legitimate functions of the exchanges to be carried out without undue interference by unnecessary regulation.

We have had important features, as has already been mentioned, spelled out in this legislation with regard to contract sanctity. I strongly support that provision and am delighted that the committees of both Houses in conference have been able to include a very meaningful provision on that subject in the final work product.

Again, Mr. President, I am happy to endorse this legislation. I commend my colleagues, who worked long and hard on bringing us to this point, I urge my fellow Members of this body to approve the conference report.

Mr. JEPSEN. Mr. President, before we vote on the CFTC conference report, I would like to bring to the attention of my colleagues excerpts of a letter I received from a prominent constituent of mine, R. W. Fischer.

He, like many of us, is concerned with the reports \* \* \* the rumors that the President is being urged to veto this bill if it reaches the White House—the major reason being the inclusion of the contract sanctity provision

Like Bob Fischer, I believe this provision is needed. No longer should we let a cloud hang over export markets as to whether or not we will make good on our promise to ship grain. The 1980 embargo is proof of that—the year we lost our credibility as a reliable supplier.

Mr. Fischer points out that:

The fallout in the mid-continent would be awesome (if the President vetoes the bill with the contract sanctity provision in it). Farmers and agri-business men blame the Carter Embargoes for the agricultural recession. This move would put Reagan in the same corner.

The President told Ray Beck (Iowa Soybean Association President) in August—on the farm near Marshalltown—that he favored sanctity for all contracts. It was widely publicized through the agricultural community. Not signing would be a serious

It would also cause the Soviets to set up their plans to fill all their needs from other countries, or to do without. It would seriously impair plans and efforts towards a Long-Term Grain Agreement.

Most important, anticipation of Soviet belt-tightening would seriously hurt the world commodity markets.

That could precipitate a world financial crisis . . . the collapse of major financial in-

stitutions. The reason is: if the commodity exporting LDCs (Argentina, Brazil, and a host of smaller ones) cannot maintain export earnings for commodities, they will default on some loans, which could start the international banking system to unravel.

George Schultz and Paul Volcker are keenly aware of the hazards. What they may not realize is that a signal to the market that commodity sales might be inhibited for diplomatic reasons short of war or major emergency could be the straw that would initiate the process they are trying so hard to avoid.

I doubt if those in State or the White House who want to keep the trade-card in their hands have thought this through, or have any idea what it could do to the world financial system perched, as it is, on a knife-edge. In fact, I doubt if they know anything about commodity markets anyway, or their relation to financial markets.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. One final word, Mr. President. I want to pay my deepest respects to the staff on both sides, headed by George Dunlop for the majority and Carl Rose for the minority. Others who worked hard on this legislation were Bob Franks, Terry Wear, Ron Wilson, Jim O'Mara, Warren Oxford, Phil Fraas, and David Dyer.

Other staffers who assisted materially in the preparation of this piece of legislation were Chuck Connor, Jeff bergner, and Paula Tosina of Senator Lugar's office; Kelly Eversole of Senator Boren's staff; and CFTC staffers Dennis Dutterer, John Manley, and Pat Nicholette.

A lot of the aspects of this legislation were Greek to me as we moved into this, but I learned a lot as we moved along. As Senator Huddleston and Senator Boren have indicated, it is complicated legislation. The staff threaded its way through this maze of complexity and clarified the issues so that we emerged with a piece of legislation that was balanced and fair to all concerned.

I pay my respects to the staff on both sides.

Mr. President, I yield back the remainder of my time.

Mr. HUDDLESTON. I yield back all our time, Mr. President.

The PRESIDING OFFICER. All time having been yielding back, the question is on agreeing to the conference report.

The conference report was agreed to. Mr. HELMS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF AGRICUL-TURE, RURAL DEVELOPMENT, AND RELATED AGENCIES AP-PROPRIATIONS, 1983—CONFER-ENCE REPORT

The PRESIDING OFFICER. The clerk will report the next conference report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conference.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 10, 1982.)

Mr. HUDDLESTON addressed the

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. HUDDLESTON. I suggest the

absence of a quorum.
The PRESIDING OFFICER. The

clerk will call the roll.

The assistant legislative clerk pro-

The assistant legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, we have before us the conference report on H.R. 7072 making appropriations for the Agriculture, Rural Development, and Related Agencies programs for fiscal year 1983.

This conference report was passed by the House of Representatives earlier today by a vote of 324 to 73.

H.R. 7072 makes funds available for numerous important activities of the Department of Agriculture, such as research and extension, conservation, rural housing and farm loans, and farmer income and price support programs.

For the Commodity Credit Corporation (CCC), which is the funding source for our farm programs, \$10.5 billion is provided—nearly one-third of the bill's total.

A large portion of this bill—over 47 percent—consists of the various nutrition programs administered by USDA, including the food stamp program, the child nutrition programs, and the feeding program for women, infants, and children (WIC).

The bill also provides funding support for the Food and Drug Administration (FDA) and the Commodity Futures Trading Commission (CFTC),

and establishes lending levels for Rural Electrification Administration (REA) programs

Total obligation authority in this appropriations bill is \$34 billion. Of that total, \$31.7 billion is new budget authority. The difference of \$2.3 billion represents funds transferred from customs receipts for use in various nutrition programs.

The bill's budget authority total of \$31.7 billion is below the President's budget request by \$100 million, and below last year's level by \$108 million.

I have also received the assurances of the chairman of the Budget Committee (Mr. Domenici), that this bill falls within the 302(b) budget allocation for budget authority, under by \$500 million, and for outlays, under by \$200 million.

Since this bill was considered and passed by the Senate in September, the President has submitted amended budget requests totaling \$8.7 billion, \$6.7 billion for the Commodity Credit Corporation and \$2 billion for three major nutrition programs.

The committee of conference on H.R. 7072 considered 72 amendments in disagreement between the two Houses. The conferees did everything possible to resolve our differences and to make this bill fiscally responsible, reflective of true needs, and acceptable to both Houses of Congress, as well as to the administration. We have obtained positive indications that the President will sign the bill.

I urge my colleagues to support this important appropriations measure. The American farmer, rural Americans in every State, and participants in our vital nutrition programs are all

depending on it.

Mr. President, I commend and thank
the distinguished Senator from Missouri (Mr. Eagleton), who is the ranking Democrat on the Appropriations
Subcommittee for Agriculture. He has
provided very important leadership
and assistance to me personally and to
all of the members of this committee
as we worked on this bill.

I yield to the Senator from Missouri. Mr. EAGLETON. Mr. President, I thank my colleague (Mr. Cochran) for his kind remarks, and I return them in all sincerity in kind, both to him and to his excellent staff. I throw in my excellent staff as well.

Mr. President, the conferees on the fiscal year 1983 Agriculture appropriations bill labored for 3 days to achieve an agreement which balances the desires of the administration and the Congress as well as the needs of agriculture and the hungry of our Nation who depend on the funds provided by this bill.

Certain compromises were reached with which I do not totally agree, but in all I believes we have achieve a good bill which deserves the support of my colleagues, and should be signed into law.

The bill as reported by the conferees contains substantially more funding than was originally provided by either the House or the Senate. Over the last several weeks, the Reagan administration submitted budget amendments that total approximately \$9.4 billion. The majority of the funds requested by those amendments, \$6.7 billion, is necessitated by the disastrous failure of last year's farm program at reducing levels of surplus stocks of wheat, feed grains, and soybeans. As a result of these large stocks, commodity prices remain depressed and outlays for farm price support activities have skyrocketed. The conferees were faced with the need to replenish the Commodity Credit Corporation for the net cost of the price support programs. According to the administration's own estimates, if the additional funds for the CCC are not forthcoming by the end of December, the farm programs will have to be shut down.

In addition to the budget amendment for the Commodity Credit Corporation, the administration submitted a budget amendment for \$1.2 billion for the food stamp program, \$352 million for the child nutrition programs, and \$1.092 billion for the special supplemental food programs for women, infants, and children.

In submitting the budget amendment for food stamps and child nutrition, the President indicated that this would fully fund these programs according to the estimates of the Congressional Budget Office. It is important to point out, however, that the CBO estimates the President used are several months old and, very likely, inaccurately reflect the full funding needs for these programs.

Looking at the request for the food stamp program specifically, the President's full funding request of \$10,815,657,000 is actually below the estimates the subcommittee received from the Department of Agriculture just prior to our markup in September. What is key to point out, however, is that CBO's estimates were based on the following quarterly unemployment assumptions for fiscal year 1983; 9.5 percent for the first quarter, 9.1 percent for the second, 8.9 percent for the third, and 8.8 percent for the fourth quarter. It should be plainly and, unfortunately, painfully obvious to everyone that these assumptions are totally unrealistic. It was the clear opinion of the conferees that the President should submit a supplemental request for full funding of the food stamp program. Clearly, it would be inappropriate for the administration to even consider benefit reductions amongst program recipients unless the Congress was presented with and rejected a supplemental request which accurately reflected the full funding needs of the food stamp program.

I am pleased that the administration recognized the value of the WIC program by submitting a budget amendment at a level of funding equal to that which was provided in the Senate bill. It is my sincere hope that this is an indication that this administration has come to realize that the WIC program is highly cost effective, saving much more in avoided long-term medical care costs for low-birth-weight infants than the program itself costs.

Clearly, the direction provided in the Senate report that the WIC program be administered in accordance with the reallocation provisions of current law should not be ignored. It is most disturbing that it took court action to force compliance with this

direction last year.

The Senate bill had contained a provision I authored which prohibited the use of any funds provided by the bill to be used to place into effect any rule which would not maintain or enhance the nutritional integrity of the WIC food package. The conferees dropped this language after we had received word from the Department of Agriculture that they did not intend to place into effect in the near future any regulations which would not comply with the Senate language.

The conferees inserted language in the statement of the managers, proposed by Senator Andrews and modified by me, indicating their concern that the current nutritional quality of the WIC program be maintained and that any future modification of the national standards for the WIC food package be based on comprehensive scientific evidence necessitating the consideration of a food item as a

whole.

Recent news articles regarding the intent of this language have been misleading. This language should not impact changes in WIC regulations issued in 1980 and now implemented by virtually every State in the Nation. Those regulations were based on scientific evidence, as referenced in those regulations, and were in direct response to current law which states as follows:

To the degree possible, the Secretary shall assure that fat, sugar, and salt content of the prescribed foods is appropriate.

Any changes in regulations or national standards which would potentially allow the States to not maintain the nutritional quality of the WIC program currently implemented in the vast majority of the States would not be supported by the direction given by the conferees. The concern was over future regulations to be developed and implemented by the Food and Nutrition Service, as was the original intent of the Senate bill language. The conconcern about eliminating foods from the WIC food package based on a single component thereof, was likewise referring to future regulations not yet issued or implemented by the States. My overriding concern and that of the conferees was that the nutritional quality of the WIC program be maintained. This was the message of my original amendment and continues to be the message in the statement

of the managers.

Mr. President, the amendment to which I took exception in the conference report had the net effect of changing the mandate that was in both the House and Senate bills that no less than \$500 million be used for direct export credit, to a discretionary authority to permit the Secretary to spend up to \$500 million for direct export credits. In the current climate of the world marketplace the availability of reasonably priced credit can make the difference between export sales and no sales at all. I did not believe that now was the time to step back from the commitment to promote agricultural exports. It is my hope and it is the direction of the conferees that this administration use the export credit authority provided to the maximum extent. I can assure my colleagues that I will closely follow the administration's efforts in the export

The funding levels provided in the conference for research and extension as well as for the vital soil conservation programs funded by this bill were substantially above the President's budget request. We need to maintain a commitment to these programs if we expect to have a vital agricultural sector in the future.

I urge my colleagues to support the conference agreement.

Mr. President, I ask unanimous consent that a letter I received from the chairman and the ranking members of the Elementary, Secondary, and Vocational Education Subcommittee of the House Education and Labor Committee regarding the WIC program be made a part of the Record.

There being no objection, the letter was ordered to be printed in the

RECORD, as follows:

COMMITTEE ON EDUCATION AND LABOR, Washington, D.C., December 15, 1982. HOD. THOMAS EAGLETON, U.S. Senate,

Washington, D.C.

DEAR SENATOR EAGLETON: In view of your long and firm commitment to the Special Supplemental Food Program from Women, Infants and Children (WIC), we are writing to express our concern over language adopted in the Agriculture Appropriations Conference's Statement of Managers. Although the language is only advisory in nature, there is some question as to the meaning and effect of the language addressing the content of the prescription WIC food package.

As you know, WIC has been remarkably successful in improving the outcome of pregnancy and reducing the great medical and emotional costs of physical and mental handicaps resulting from low birth weight. Congress has consistently recognized the

critical role that the WIC program plays in promoting and protecting the present and future health of this nation's low-income women and infants at risk, and has defeated all proposals for cutting the WIC program budget during this past year.

When Congress extended the WIC program in 1978 and increased its funding authorization, it also adopted amendments concerning the WIC food package. [P.L. 95-6271 These amendments required that the sugar, fat and salt content of the WIC program package be set at "appropriate levels" [§ 17(f)(12)], and that the WIC package contain "supplemental foods" providing the essential nutrients found to be lacking in the diets of poor pregnant and nursing women, their infants and children. [§ 17(b)(14)].

Section 17(f)(12) of the Child Nutrition Act clearly requires that the Secretary of Agriculture consider the sugar content of individual food items when determining whether a food item is appropriate for inclusion in the WIC food package. Language in the Statement of Managers in the 1983 Agriculture Appropriations advising that the sugar content of an individual food item not be a basis for this decision is thus contrary to the Child Nutrition Act and cannot override the language of Section (17)(f)(12).

Just as the House and Senate authorizing committees had done during their deliberations about the WIC reauthorization, in developing proposed regulations to comply with the law, the Department of Agriculture obtained expert recommendations from the National Advisory Council on Maternal, Infant and Fetal Nutrition, a food package advisory panel, and the professional nutri-tion, medical and dental communities-atlarge. Of particular concern during review of the WIC food package was the level of added refined sugar in those cereals allowed in the program. Based upon these recommendations, the Department concluded that the most logical means of decreasing the amount of added sugar in the total WIC food package was to place a limit on refined sugar in those cereals allowed in the WIC program. A new limit of six (6) grams per one ounce serving of cereal was proposed.

The Department of Agriculture received over 1,000 public comments following publication of the proposed regulations. On the issue of sugar content in cereal alone, nearly 500 individuals responded. These comments were overwhelmingly in support of the Department's proposal to limit the content of added sugar in cereals available to WIC participants. Commenters repeatedly stated that the WIC program should remain a supplemental food program with an emphasis on nutrition education to improve eating habits. In addition, the added costs associated with highly sugared cereals were of concern to both the Department and commenters, as these costs would directly affect the number of eligible people served. The rulemaking record is clear that the adoption of the sugar limit was based on comprehensive. expert evidence, provided by members of the public health, medical, dental and nutrition communities. These changes are in the public's interest, and a positive step for the WIC program and its participants.

In November, 1980, these WIC food package regulations were issued in final form, and we fully expect USDA will implement these regulations nationwide, as scheduled on December 31, 1982. At this time nearly every state WIC program has implemented most, if not all, of the November 1980 food package final regulations.

We are seriously concerned that the language contained in the Statement of Managers could be interpreted by the cereal and sugar industries as an endorsement for the inclusion of costly, highly sugared cereals in the WIC program. Under such an interpre-tation, the entire package of prescribed WIC foods would become ripe for intrusion by any food industry seeking to expand their markets without regard for the exceptional nutritional needs of pregnancy, infancy, and childhood. Such an interpretation of this advisory language is in direct contradiction to the statutory mandate of § 17(f)(12) and legislative history of the WIC program. Obviously, the Statement of Managers cannot be interpreted to repeal the statute's

As the Chairman and the ranking members of the Elementary, Secondary and Vocational Education Subcommittee which has jurisdiction over the WIC program, we strongly oppose restoration of these food items in the WIC food package. In our judgment, such as inclusion would violate the Child Nutrition Act.

Sincerely.

CARL D. PERKINS,

Chairman.

WILLIAM F. GOODLING,

Member of Congress.

GEORGE MILLER,
Member of Congress.

Mr. COCHRAN. Mr. President, I understand the Senator from Nebraska has a statement that he would like to make, and a colloquy, and I yield to him at this time for that purpose.

The PRESIDING OFFICER. The

Senator from Nebraska.

Mr. EXON. I thank the Chair, and I thank my friend and colleague from

Mississippi.

Mr. President, I have had the pleasure during the 4 years that I have been in the Senate to work very closely on agricultural appropriations matters with the managers of the bill, the distinguished Senator from Mississippi and the distinguished Senator from Missouri. I want to compliment them for another job tremendously well done under some very, very difficult circumstances, especially the courtesy and consideration that they have always extended this Senator from Nebraska on my suggestions with regard

to agricultural appropriations. I am very pleased to see that the conference report to accompany H.R. 7072, making appropriations for Agriculture, contains \$827,000 as the first installment of Federal dollars for the Old West Region School of Veterinary Medicine. This amount is the result of extensive hearings and studies which have determined that there is a legitimate need for such a veterinary school. May I inquire of the distinguished chairman of the Agriculture Appropriations Subcommittee if he agrees that this sum contained in the conference report constitutes a Federal commitment to the continued appropriation of matching dollars to

complete this project?
Mr. COCHRAN. Mr. President, the
Senator from Nebraska is correct. The
sum of \$827,000 is the amount agreed

upon in conference with the House, and is the Federal share of the startup costs of the Old West Region Veterinary School of Medicine. Subsequent appropriations will be forthcoming as the project progresses.

Mr. EXON. I thank my friend from Mississippi, and I thank the Chair.

Mr. COCHRAN. Mr. President, let me add that this Senator appreciates very much the assistance of the Senator from Nebraska, not only with this item that is very important to his area of the country, but in all of our deliberations on the Agriculture appropriations bill.

Mr. President, I also want to thank most sincerely the members of the staff of this subcommittee who have really done an outstanding job in bringing us to this point, working our way through hearings earlier in the year, through the development of the bill, and conference with the House. I think an outstanding job has been done by each one of them.

Mr. LEAHY. Mr. President, the special supplemental food program for women, infants, and children (WIC) has been remarkably successful in improving the outcome of pregnancy and reducing the great medical and emotional costs of physical and mental handicaps resulting from low birth weight. There is some concern as to the meaning of the language adopted in the Agriculture appropriations conference's statement of managers, and the impact that this would have on this most valuable nutrition and preventive health program.

The language, although only advisory in nature, appears to contradict the statutory mandate of section 17(f)(12) of Public Law 95-627, the authorization legislation of the WIC program, which states that the Secretary of Agriculture must look at the sugar, fat, and salt content of the individual food items and that this must be a factor when determining the content of allowable goods in the WIC food package. In my view, the language contained in the statement of managers report is inconsistent with this and cannot override the language of the statute.

WIC food package regulations which take effect December 31, 1982, fully satisfy the statutory requirements of section 17(f)(12). I hope and fully expect that the Department of Agriculture will implement them without change.

• Mr. DOMENICI. Mr. President, I submit the following table for inclusion in the RECORD. The table presents spending totals for the Agriculture, rural development, and related agencies appropriation bill as reported from the committee of conference.

The table follows:

TABLE 1.—AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES—SPENDING TOTALS

[In billions of dollars]

	Fiscal ye	ar 1983
	Budget authority	Outlays
Outlays from prior-year budget authority and other actions completed	0.4 34.1	1.4 19.9
Total for Agriculture, Rural Development, and Related Agencies Subcommittee	34.6	21.4
scorekeeping procedures	-10.5 +.2	+.5
Adjusted total Budget resolution 302(b) allocation President's request 1 Adjusted total compared to:	24.3 24.8 24.0	21.8 22.0 21.6
Budget resolution 302(b)	5 +.3	2 +.2

¹ Includes President's budget amendments transmitted December 6, 1982 for food assistance programs, less CCC.●

Mr. DODD. Mr. President, while the Senate is approving the conference report on the fiscal year 1983 Agriculture appropriations bill. I would like to take this opportunity to comment on the language contained in the managers' statement. Accepting this report should not be construed as an indication that Congress does not intend the WIC regulations to go into effect on December 31, 1982. These regulations, as provided for in past legislation, best implement the statutory purpose of the WIC program which is to safeguard the health of mothers, infants, and children by providing them with the best nutritional supplements available.

EXPLANATION AS TO WHY SENATOR ABDNOR CHOSE NOT TO SIGN THE AGRICULTURAL AP-PROPRIATIONS CONFERENCE REPORT

Mr. ABDNOR. Mr. President, on Friday of last week, members of the Conference on Agricultural Appropriations were informed by the administration that the conference report on agricultural appropriations would be acceptable if but one word was changed. We were asked to substitute the word "more" for "less" in the provision calling upon the Secretary of Agriculture to spend not less than \$500 million in direct export credit loans provided by the Commodity Credit Corporation.

The conference report now reads that the Secretary shall not spend more than \$500 million for such programs.

Because of that change I choose not to sign an otherwise acceptable conference report.

I wish now to explain to my colleagues in the Senate, particularly those who are members of the Subcommittee on Agriculture Appropriations and especially Chairman Than Cochran, my reasons for not signing the conference report. And let me say that Chairman Cochran has done a masterful job in bringing forth the conference report under very difficult

circumstances, but I believe this issue must be raised.

The change in language, of course, provides the administration with the option to spend no funds in direct export credit loans.

Following the less than fruitful General Agreement on Tariffs and Trade conference held last month, the newspapers have been full of speculation concerning the good prospects of an

agricultural trade war.

The administration, by insisting on this language change, has sent a clear signal to our competitors that there will not be a war because we choose not to fight. Rather, we are going to disarm by dismantling our export credit program, raise the white flag, and become international agricultural trade pacifists. It is shocking to note that less than a month ago, Secretary Block in referring to the irresponsible attitude of other world agricultural trades, was quoted as saying:

They have to be realistic and realize that we do have ammunition on our side if we need to use it. We are not without firepower. We can fire if we have to.

Agriculture's Deputy Under Secretary for International Affairs stated: "the United States is not proposing to let its agricultural trade go by default" and "we intend to stand up for U.S. agricultural interests" and "our farmers depend on exports and it is our job to make sure those markets are there for them." The platitude that comes readily to mind is "talk is cheap" which, tragically, may accurately describe this administration's international farm policy.

And now, over the weekend, reports out of Brussels strongly confirm this administration's concessional approach to international agricultural trade. In a recent appearance before the Senate Agriculture Committee, Gary Myers, president of the National Council of Farmers Cooperatives of-

fered the observation:

The National Council firmly believes that the Administration will continue to be unsuccessful in their attempts to negotiate the issue of export subsidies with the EC because the U.S. is bargaining from a position of weakness.

Studying once again the agricultural conflict between the U.S. and the European Community will cost this country thousands of more farms and a further weakening in our competitive position in world agricultural markets.

It is going to take a lot of convincing that the administration did anything short of literally giving away the farm in Brussels.

I cannot help but contrast this country's too apparent lack of commitment and support to U.S. businesses in world trade versus its aggressive, challenging and confident approach to international military relations. Certainly we must have more than a single dimension to our foreign policy.

U.S. agriculture is an international advantage well worth defending, Mr. President. American agriculture has a decided, inherent advantage in food production. U.S. farmers presently provide food for an estimated 12 to 15 percent of the world's population. It is in the world's interest that the United States defend its innate advantage to produce food. Yielding world food markets to less efficient producers will have catastrophic global economic, political and social impacts.

It should not be an incidental note in world history that the most foodproductive land on the face of the Earth was placed in the hands of the most capable enterprising and innovative individuals and that these individuals were provided with an economic system which rewarded initiative, hard work and risk taking. For the first time in the history of mankind a country stands poised to produce and deliver food in proportion to the hunger in the world. Choosing not to compete in international agricultural markets would violate every social, political and economic principle of our democratic and capitalistic heritage.

Mr. President, given my hard-earned 10-year record in the Congress as a fiscal conservative, the amendment I intend to introduce shortly to the Agriculture Act of 1982 is symbolic of how desperate I view the current economic condition of American agriculture to be, and how bleak its future

prospects.

The amendment establishes a direct link between crop production and the Government's effort to expand exports. It recognizes the mutual obligation of farmers and the Government to contribute to the reduction of pricedepressing surplus grain stocks. Clearly, the quickest and most effective way to eliminate burdensome and costly surpluses is to simultaneously reduce production and expand exports. The amendment would implement an export market diversion program to complement the present paid land diversion program. The objective of the export market diversion program is to divert export markets toward U.S. farmers. The amendment establishes a parallel export market diversion fund equal in size to the total payments to farmers participating in the paid land diversion program. That is, for every dollar paid to farmers to divert land out of production a dollar will be used to promote and expand commercial export sales. The Secretary of Agriculture is directed to draw upon the export market diversion fund to finance export enhancing programs.

In addition to the export market diversion program being a needed further incentive for farmers to reduce output, our foreign competitors will view our unilateral decision to reduce production in a totally different light—the more successful we are at

reducing production the greater our capability to respond to market opportunities and challenges.

The amendment, in combination with the provisions of the Agricultural Act of 1982, constitutes the fundamental elements of a much overdue U.S. international farm policy—a policy which recognizes and is designed to effectively deal with realities of world agricultural markets during the decade of the 1980's.

Mr. COCHRAN. Mr. President, I know of no other Senator who has asked to be recognized or who would like to make a statement.

At this point, I move the conference report be adopted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. COCHRAN. Mr. President, I yield back all my time. I am advised that the Senator from Missouri yields

back his time as well.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the conference report.

The conference report was agreed to.
Mr. COCHRAN. Mr. President, I
move to reconsider the vote by which
the conference report was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Senate consider the amendments in disagreement en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum inserted by amendment, insert: \$323,221,000.

Resolved. That the House recede from its

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: ": Provided, That 20 percentum of the farm ownership loans and 20 percentum of the operating loans insured, or made to be sold and insured, under this provision may be for low-income limited resource borrowers; guaranteed economic emergency loans under the Emergency Agricultural Credit Adjustment Act of 1978, \$600,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as

follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 625. Notwithstanding any other provision of this Act, appropriations under this Act to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed, are

\$10,466,057,000, and, as authorized by law, the Commodity Credit Corporation shall carry out an Export Credit Sales direct loan program of not more than \$500,000,000 in fiscal year 1983."

Mr. COCHRAN. Mr. President, I move that the Senate concur en bloc with the amendments of the House of Representatives to the amendments of the Senate numbered 14, 37, and 70.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi.

The motion was agreed to.

Mr. COCHRAN. I thank the Chair. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SURFACE TRANSPORTATION ACT OF 1982

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I would say I think we have an amendment to be offered by the distinguished Senator from Oklahoma that is acceptable, and then we, perhaps, can go to Senator Symms who has an amendment after that.

#### UP AMENDMENT NO. 1449

(Purpose: To exclude from the excise tax on heavy trucks certain farm trucks)

Mr. BOREN. Mr. President, I have an amendment I send to the desk.

The PRESIDING OFFICER (Mr. QUAYLE). The clerk will report.

The legislative clerk read as follows: The Senator from Oklahoma (Mr. Boren), for himself, Mr. Wallor and Mr. Pryor proposes an unprinted amendment numbered 1449.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Subsection (a) of section 112 of the matter proposed to be inserted is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

(4) EXEMPTION OF FARM EQUIPMENT USED IN TRANSPORTING LIVESTOCK.—Subsection (a) of section 4063 is amended by adding at the end thereof the following new paragraph:

"(9) FARM EQUIPMENT DESIGNED TO TRANS-PORT LIVESTOCK.—The taxes imposed by section 4061 shall not apply in the case of any truck body, trailer body, or semitrailer body (or any part or accessory thereof) which is uniquely designed to transport livestock to and on farms.".

Mr. BOREN. This is a very noncontroversial amendment. The revenue impact of it is negligible, probably less

than \$1 million, which has been discussed with the Treasury.

It is an amendment that simply would expand the definition of agricultural vehicles in terms of the exemption of those vehicles from the manufacturer's excise tax, and would include those vehicles specifically developed for livestock transportation, both trucks and trailers, to and from farms for agricultural purposes.

Mr. DOLE. Mr. President, the Senator from Kansas is familiar with the amendment. I have discussed it with the Senator from Oklahoma and the Senator from Wyoming and others.

It was raised in committee, and we tried to resolve it in committee. We asked the Senator to defer the amendment so that we could confer with DOT and Treasury, and there is no objection to accepting it.

Mr. BOREN. The Senator is correct. We have scaled it down after consultation with Treasury and others, and it is now limited strictly to farm transportation of livestock. It is a slight expansion of the definition that is contained in the committee bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1449) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand Senator Sarbanes had an amendment that appeared to be acceptable. I would prefer to wait until Senator Stafford arrives. I know he is on his way to the floor.

Perhaps, in the meantime we can take up the amendment of Senator SYMMS. I am not certain whether it will be objectionable or not.

## UP AMENDMENT NO. 1450

Mr. SYMMS. Mr. President, I have an amendment at the desk that I offer on behalf of myself, Senator Boren, and Senator Grassley, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Idaho (Mr. Symms), for himself, Mr. Boren, and Mr. Grassley, proposes an unprinted amendment numbered 1450 to the amendment proposed by Mr. Baker.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment proposed by Mr. Baker, insert the following:

Sec. . EFFECTIVE DATE OF GENERATION-SKIPPING TRANSFER PROVISIONS.—Section 2006(c) of the Tax Reform Act of 1976 [Public Law 94-455] (relating to the effective dates of generation-skipping transfer provisions), as amended by section 702(n)(1) of the Revenue Act of 1978 [Public Law 95-600], is amended to read as follows:

#### "(c) EFFECTIVE DATES .-

"(1) In GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after December 31, 1984.

"(2) Exceptions.—The amendments made by this section shall not apply to any generation-skipping transfer—

"(A) under a trust which is irrevocable on December 31, 1984, but only to the extent that the transfer is not made out of corpus added to the trust after December 31, 1984,

"(B) in the case of a decedent dying after December 31, 1984, if the decedent on December 31, 1984, is under a mental disability to change the disposition of his property and either at no time thereafter regains his competence to dispose of such property or thereafter does regain his competence but, within the 2-year period following the first date upon which he regains such competence, dies without having amended the will (or revocable trust) in any respect during such 2-year period.

For purposes of subparagraph (A), (i) a trust shall be considered irrevocable on December 31, 1984, if on that date it is not subject to a power that would cause the value of the trust to be included in the grantor's gross estate for Federal estate tax purposes by reason of section 2038 of the Internal Revenue Code of 1954 (without regard to those powers relinquished during the 3-year period ending on that date) if the grantor died on that date; (ii) a trust created after December 31, 1984, by reason of the terms of, or the exercise of a power granted under, a trust which is, or is considered, irrevocable on December 31, 1984, shall be considered irrevocable on December 31, 1984; and (iii) any portion of the corpus of a trust which is, or is considered, irrevocable on December 31, 1984, remaining in trust after the post-December 31, 1984, release, exercise or lapse of a power of appointment over that portion of such corpus shall not be treated as corpus added to the trust.

"(3) TRUST EQUIVALENTS.—For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection (d) shall apply."

Mr. SYMMS. Mr. President, I am offering this amendment today to delay the impact of the generation-skipping tax until after January 1, 1985. The generation-skipping tax is extremely complex and costly to administer. It is in fact so complex that even the most knowledgeable individuals or corporate fiduciaries, insurance people, accountants, and attorneys, all of whom are affected by this tax, are finding it extremely difficult to interpret and apply it.

This just delays it for 2 years so the Treasury will have time to work out what they consider an acceptable solution.

As a matter of fact, this amendment is supported by the American Bar Association, the American Bankers Association, the American Institute of Certified Public Accountants, the American College of Probate Council, and many State and local bar associations. They all favor the outright repeal of the tax and by them favoring the outright repeal of the tax tells us really that no one understands how the generation-skipping tax is to work.

As a result of that, hundreds of thousands of dollars have been spent in an attempt to understand the law and it has been done to no avail. Two volumes, each the size of the Yellow Pages, have been published in an at-

tempt to comprehend the law.

There are numerous, complicated analytical steps that must be followed in order to determine whether any amounts are held in trust that will be subject to the generation-skipping transfer tax. This analytical process often results in an unexpected and inequitable application of the tax.

It has been more than 5 years since the generation-skipping transfer tax became effective and the IRS still has not issued key generation-skipping definitional regulations. If the Internal Revenue Service is unable to fully comprehend the underlying statute, how can Congress expect taxpayers even to begin to comply with the law.

The generation-skipping transfer tax will not accomplish the purposes for which it was enacted. The wealthy can employ techniques which will avoid the tax. Therefore, the responsibility for paying the tax and the costs of administering it will fall unfairly upon the already overburdened middle- and

upper-middle income classes.

The purpose of all of our tax laws is to collect a tax. To date, the generation-skipping transfer tax has not collected 1 cent in taxes and is expected to collect maybe \$300 million in revenue in its 20th year. If the Congress intends to have a generation-skipping tax then it should implement a tax that individuals can easily pay. Individuals will inadvertently be tax evaders simply because they will not know that they have to pay this tax-let alone be able to interpret how to pay it. There is no line on the IRS 1040 form for income received from a generation-skipping trust. Unless, the bank is the executor of the estate and creator of the trust, it is very unlikely that anyone will know that they owe a

The generation-skipping transfer tax is a threat to our voluntary compliance tax system because individuals will involuntarily be tax evaders. The generation-skipping transfer tax cannot be defended on revenue grounds because it is very unlikely that the U.S. Government will ever

collect the \$300 million it expects to receive 20 years from now since nobody will know that they have to pay the tax. The tax is so complex that there are perhaps two attorneys in the United States who believe that they "almost" understand the statute. The statute will never work unless everyone in the estate plan dies in order. If anyone dies out of order, then everything falls apart, and the wrong generations start being taxed.

I know in the years that I have served as a Member of Congress, that the Congress has been able to do many things but there is one thing I am sure of and that is that Congress will never be able to make individuals understand or comply with this law, and more importantly, I do not believe that we will be able to make people die in order.

So I urge my colleagues to support the amendment. Again, this amendment will not cost the Treasury money. No revenue has been collected and it is extremely doubtful that any revenue will be collected in the next 2 years.

The amendment offered on behalf of myself and the ranking minority member of the Estate and Gift Tax Subcommittee, Senator Boren and Senator Grassley will simply impose a moratorium on the generation-skipping tax until the House and the Senate and the Treasury have had an opportunity to review this matter in detail as the subommittee reviewed this matter.

If this amendment is not passed, individuals will not be able to comply with the law because not only are they unable to understand the law but they will not be able to receive the necessary information from the IRS to complete the forms.

It is important that it be passed now because of the timing of the situation, as this will have to go into effect on the 1st of January of this coming year, January 1, 1983.

Mr. DOLE. Is that 1 year or 2 years? Mr. SYMMS. Mr. President, we made it 2 years.

I say to my good friend from Ohio that he already approved this earlier this year in another tax bill. We were unable to get it on the bill for 1 year. The reason I made it for 2 years, I say to my good friend from Ohio, is because for 2 years Senator Wallop, Senator Boren, and others on the Senate Finance Committee, have tried to get this worked out and tried to get some kind of a solution. We have yet to get regulations from Treasury that all of these distinguished lawyer groups-the American Bar Association, the American Bankers Association, the American Institute of Certified Public Accountants, the American College of Probate Counsel, and others-can understand.

So I felt, rather than do it for 1 year, that we should extend it for 2 years. Hopefully we will come up with some kind of a solution for it after 2 years. At the rate we are working in this body, I have little confidence that we will be able to do it in 1 year or the Treasury will be able to do it in 1 year. We will give them 2 years to get it corrected.

I urge my colleagues to accept this amendment. It will be one that their constituents that are affected by this will be greatly appreciative of and I think all Americans will be appreciative of.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. SYMMS. I am happy to yield for

Mr. METZENBAUM. I have three questions. First, What is the revenue impact? I am advised it would be \$250 million in the outyears. Second, Does Treasury have a position with respect to the proposal? Third, When did the Senator from Ohio agree to the 1-year measure?

Mr. SYMMS. Mr. President, I may be incorrect. If I am incorrect, I will stand correct. But last summer, or in the summer of 1981, the Senator from Idaho brought this up and my friend from Ohio has some objections to it. I personally discussed it with him on the floor at that time for a 1-year extension. Treasury objected to it and so we never offered the amendment. In personal conversations, the Senator from Ohio has never approved it on the floor.

Mr. METZENBAUM. Will the Senator from Idaho yield.

Mr. SYMMS. Let me answer the Senator's questions first.

On the revenue loss, first of all, there has never been any money raised on the generation-skipping tax debate. It is predicted it might raise even up to \$300 million 20 years from now. But no one else I know of, and I have not yet found an attorney that understands how to apply the generation-skipping tax, or tax accountant. That is why I think we find these various groups supporting outright repeal. I am not calling for repeal here tonight. I am only calling for an extension

One year would be fine, but it just seems to me, as complicated as this is and knowing the workings of the Finance Committee, that we would all be better served by making it 2 years so, hopefully, Treasury could come up with some kind of regulation or a solution to this problem.

Was there another question?

Mr. METZENBAUM. The Senator from idaho stated Treasury had been opposed to this amendment?

Mr. SYMMS. That is correct.

Mr. METZENBAUM. Would the Senator from Idaho be inclined to lay

the matter aside temporarily, without losing his position on the calendar, until such time as representatives of Treasury might get here? I do not see any of them on the floor at the moment. I think that might be productive.

Mr. SYMMS. The Senator from Idaho of course, would not like to do that. If it is necessary and I have no choice in the matter, I guess we could do that. But I only say to my friend from Ohio that this generation-skipping transfer tax is, in fact, so complex that we have yet to find a fiduciary, an accountant, corporate insurance people, or attorneys who are affected by the tax that are not finding it extremely difficult to interpret.

I would just say to my good friend from Ohio and appeal to him that the Senator from Idaho is in no way doing anything here that will cost the Treasury any money. It will not draw any money until 20 years, anyway, it is estimated. So we are talking about a delay of 2 years before it goes into effect. Because, as of 2 weeks from now, when we get into 1983, we will have many, many Americans in noncompliance with the law. And I know the Senator from Ohio is one of the champions to have voluntary compliance and to have equity in our Tax Code. This makes it possible to have equity in the Tax Code. I hope he would not ask me to set it aside at this point, because I have talked to Treasury on many occasions and have always received the same nonanswer from Treasury on this particular issue. I think it will be a waste of everyone's time to let this aside. I hope he will not ask that we do that.

Mr. President, I would also say that if some complication arose that the Senator had a good deal of concern with, I suppose maybe something could be worked out in the conference where the leadership on both sides could work out an agreement. I hope the Senator will not ask us to set it aside. I hope we can get this passed and have it behind us for another

year.

Mr. METZENBAUM. I will say to the Senator from Idaho that this is amending a rather recently passed piece of legislation that created the problem in the first instance. I think it only fair to point out that the essence of the generation-skipping trust, in effect, is a way for the wealthy skipping one generation as far as estate taxes are concerned.

Treasury has indicated, according to the reports which I have, that we are talking about \$250 million loss to the

Treasury in the outyears.

Under those circumstances, I do not think we can handle the matter in a casual way.

I have not suggested that the matter be defeated at this point, but I have suggested that it be laid aside until

Senator Dole can see to it that some of his own staff as well as Treasury arrive on the floor.

Mr. SYMMS. I would like to answer the Senator from Ohio that Senator DOLE, Senator Long, and members of the Finance Committee are very familiar with this. The staff is very familiar with it. I think it will not benefit anyone to lay this aside at this hour.

The wealthy people that the Senator talked about layered their trusts anyway. They are not affected. The kind of people who are affected are the ones who are quite wealthy so that they may owe an estate tax, but not wealthy enough to have the sophisticated type of legal help.

If the Senator would feel more comfortable about it, I would be happy to bring it back to 1 year. I can assure him that it will have no cost to the Treasury in this 2-year period, but I

will take it back to 1 year.

Maybe we can work it out next year. I would certainly like to get it on this

bill and have it behind us.

Mr. METZENBAUM. I suggest it be laid aside. I suggest that we lay it aside temporarily until Treasury arrives on the floor, without preventing it from being brought up at a subsequent hour.

Mr. SYMMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. FORD. Mr. President, I have a minor amendment here which would expedite reclamation funding. I would like to pursue it, if it is all right with the floor manager of the bill. It was included in the nongermane list. Perhaps we could get it out of the way while they are trying to work out their problems.

Mr. DOLE. Would that be in the tax

area or a different title?

Mr. FORD. I am not sure. What this does is to expedite the funding under the office of Surface Mining which will be appropriated to those States which are qualified to accept the funding

Mr. DOLE. I think this is to amend title 2. Senator Stafford is on his way to the floor. The Senator from Kentucky and the Senator from Maryland both have amendments.

I am not familiar with it, but I know

he is on his way to the floor.

Mr. FORD. I asked him about that this afternoon and he was not sure about it going into the highway fund. What I have done is to insert it in the appropriate place. The Parliamentarian said that was the best way because he could not figure out exactly where

it should go. So I get caught in limbo here, whether it is under section 2 or section 1. Nobody objects to it.

Mr. DOLE. The Senator from Kansas has no objection, but I would

like at least--

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent that the date on my amendment be changed from 1985 to December 31, 1983. In other words, it will reduce it by 1 year. Instead of being a 2-year extension, it will be a 1-year extension.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so

modified.

The amendment, as modified, is as follows:

At the appropriate place in the amendment, insert the following:

SEC. . EFFECTIVE DATE OF GENERATION-SKIPPING TRANSFER PROVISIONS.—Section 2006(c) of the Tax Reform Act of 1976 (Public Law 94-455) (relating to the effective dates of generation-skipping transfer provisions), as amended by section 702(n)(1) of the Revenue Act of 1978 (Public Law 95-600), is amended to read as follows:

"(c) EFFECTIVE DATES .-

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to any generation-skipping transfer (within the meaning of section 2611(a) of the Internal Revenue Code of 1954) made after December 31, 1983.

"(2) Exceptions.—The amendments made by this section shall not apply to any gen-

eration-skipping transfer-

"(A) under a trust which is irrevocable on December 31, 1983, but only to the extent that the transfer is not made out of corpus added to the trust after December 31, 1983, or

or

"(B) in the case of a decedent dying after
December 31, 1983, if the decedent on December 31, 1983, is under a mental disability
to change the disposition of his property
and either at no time thereafter regains his
competence to dispose of such property or
thereafter does regain his competence but,
within the 2-year period following the first
date upon which he regains such competence, dies without having amended the bill
(or revocable trust) in any respect during
such 2-year period.

For purposes of subparagraph (A), (i) a trust shall be considered irrevocable on December 31, 1983, if on that date it is not subject to a power that would cause the value of the trust to be included in the grantor's gross estate for Federal estate tax purposes by reason of section 2038 of the Internal Revenue Code of 1954 (without regard to those powers relinquished during the 3-year period ending on that date) if the grantor died on that date; (ii) a trust created after December 31, 1983, by reason of the terms

of, or the exercise of a power granted under, a trust which is, or is considered, irrevocable on December 31, 1983, shall be considered irrevocable on December 31, 1983; and (iii) any portion of the corpus of a trust which is, or is considered, irrevocable on December 31, 1983, remaining in trust after the post-December 31, 1983, release, exercise or lapse of a power of appointment over that portion of such corpus shall not be treated as corpus added to the trust.

"(3) TRUST EQUIVALENTS.-For purposes of paragraph (2), in the case of a trust equivalent within the meaning of subsection (d) of section 2611 of the Internal Revenue Code of 1954, the provisions of such subsection

(d) shall apply.

Mr. DOLE. Mr. President, as I understand, there is no problem with that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1450), as

modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed

Mr. SYMMS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to

Mr. DOLE. As I understand, I say to Senator FORD, there is objection on both sides to his amendment.

Mr. FORD. Mr. President, the Energy Committee staff is here. The Energy Committee on this side says it is all right. I am on the Energy Committee. This is part of the legislation I sponsored. I wish we could get it cleared on the other side.

Why not consider it and, if it is wrong, we will take it down.

Mr. DOLE. All right.

## UP AMENDMENT NO. 1451

(Purpose: To expedite Office of Surface Mining grants to States for Abandoned Mine Land Reclamation projects)

Mr. FORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Kentucky (Mr. FORD), for himself, Mr. ROBERT C. BYRD, and Mr. HUDDLESTON, proposes an unprinted amendment numbered 1451.

Insert at the appropriate place in the

Baker substitute:

. Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State under the provisions of the Surface Mining Control and Reclamation Act (91 Stat. 460) the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations

Mr. FORD. Mr. President, the amendment that I offer addresses a problem under the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87). At the outset, I would emphasize three points. The amendment does not open up Public Law 95-87. The amendment does not increase appropriations under the act. The amendment does not require the levy of any new tax or fee. The amendment does seek to accelerate payments to the States from the State's share of fees collected under the act for abandoned mine land reclamation projects.

Mr. President, the provisions of title IV of Public Law 95-87 were crucial in arriving at the compromises that led to the enactment of the Surface Mining Control and Reclamation Act. Payments to the States have been slow. This has not been solely due to OSM action, or inaction. States have been slow in sending in projects for approval. OMB scrutiny of the State allotments has been a factor.

Mr. President, to put the matter in perspective, data provided by the Office of Surface Mining show that through fiscal year 1982, State and tribe entitlements totaled Indian \$452,095,114. However, States Indian tribes had received only a total of \$93,105,763 of the entitlements.

Mr. President, I ask that the pertinent information on the status of individual State entitlements be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

## STATUS OF STATE ABANDONED MINE LAND FUND ENTITLEMENTS, FISCAL YEAR ENDED SEPT. 30, 1982

State or Indian tribe	Collections	Entitlements	Grants of entitlements
Alabama	\$28,491,723	\$14,245,862	\$3,977,002
Alaska	1,275,265	637,633	
Arizona		0	
Arkansas	408,860	204,430	
Colorado		11,778,887	1,180,640
Georgia		12,915	
Illinois		31,611,226	4,940,689
Indiana	44,620,702	22,310,351,	6,699,381
lowa	912,133	456,067	
Kansas	1,761,439	880,720	
Kentucky	159,331,655	79,665,828	15,893,953
Maryland	4,339,228	2,169,614	
Missouri	8,986,365	4,493,183	3,545,740
Montana	40 100 501	21,551,796	7,045,943
New Mexico		5,903,579	803,010
North Dakota	7 000 010	3,663,010	5754772
Ohio	FO C10 000	26,306,683	12,450,284
Oklahoma	0 501 574	4.290.787	1,588,890
Pennsylvania		51,201,841	10,935,037
Tennessee		5.274.846	1.164.367
Texas	10 000 200	6,433,195	-1
Utah	0 000 000	4,315,454	
Virginia		15,594,422	7,577,561
Washington	7 000 000	3,996,600	
West Virginia	05 707 740	47.868.870	15,303,206
Wyoming		67,969,412	
Crow Tribe		3.128,236	
Hopi Tribe		1,093,588	
Navajo Tribe		15,036,079	
U.S. total	904,190,214	452,095,114	93,105,763

Source: OSM, Office of Budget, December 1, 1982.

## PROJECTED STATUS OF ABANDONED MINE LAND FUND, FISCAL YEAR 1983

	Amounts
Fees collected to date (including interest on late payments)	\$904,190,214 - 36,647,000
TotalLess appropriations 1979–82	867,543,214 -354,185,000
Total	513.358.214

PROJECTED STATUS OF ABANDONED MINE LAND FUND. FISCAL YEAR 1983—Continued

TATALETE SALES SERVICE	Amounts
Less anticipated appropriations 1983	-111,609,000
Balance Anticipated 1983 receipts.	401,749,214 229,515,000
Unappropriated balance	631,264,214

Mr. FORD. Before a State can submit projects for funding, it must have an approved regulatory program and an approved abandoned mine land reclamation program under its regulatory program. Twenty-four States have approved regulatory programs and 18 of these have an approved AML program. The six States without an approved program are in various stages of preparation (Alabama, Arkansas, Iowa, North Dakota, Utah, and Wyoming).

Mr. President, I ask unanimous consent that a summary of the status of AML plans for States where plans have not been approved be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

STATUS OF AML PLANS FOR STATES WHERE PLANS HAVE NOT BEEN APPROVED

Wyoming 1-Plan resubmitted to OSM on August 16, 1982. Anticipate approval of resubmission in February.

Arkansas 1-Awaiting plan amendment from state-overdue since September; approval and small grant anticipated in fiscal vear 1983.

Utah 1—State plan submission expected mid-January, approval and grant can be anticipated in the Spring.

Alaska—State is beginning to develop plan with October 1982 planning grant from OSM, approval possible late this fiscal year.

Iowa 1-Informal draft received by the OSM field office, currently under review, small construction grant anticipated this year.

Louisiana 1-Has no allocation, but state anticipates developing a plan in the future. Mississippi 1-No interest on the part of

the state in developing an AML plan; no allocation funds available.

Crow, Hopi, Navajo Tribes-The Crow and Hope Tribes have submitted plans; Navajo Tribe plan is expected this fiscal year. Until regulatory program legislation is enacted, these plans will be "on the shelf." No construction grants expected in fiscal year 1983.

Mr. FORD. Mr. President, I feel that my amendment requiring OSM to release money for grants within 60 days will act as a spur for States to submit AML plans for approval. It also will serve to spur all States with approved plans to submit projects for approval.

Mr. President, States are moving toward submission of projects. I ask unanimous consent that an OSM pro-

<sup>&</sup>lt;sup>1</sup>States with approved regulatory program, but no AML.

vided table setting forth, by State, a be printed in the Record at this point. was ordered to be printed in the list of approved and pending projects There being no objection, the table Record, as follows:

shafts and portals, correct subsidence  portals shafts and portals. shafts, eliminate hazardous structures.  portals do do do portals and shafts do do portals and shafts, reclaim refuse areas shafts and portals.  portals and shafts, reclaim refuse areas shafts and portals.  portals and shafts.  airshaft portal, reclaim refuse area.  portals and shafts.  airshaft airshaft portal, seliminate higheal portals, eliminate highwall inate highwalls and impoundment portals, remove refuse pile inate highwalls and impoundment portals, eliminate tipple, reclaim strip mine aim surface mine aim mine spoils inate highwalls and revegetate mine spoils aim mine spoils inate highwalls and revegetate mine spoils aim mine spoils, repair silt pond.  do do aim mine spoils, remain silt pile, aim mine spoils, repair silt pond. do do aim mine spoils, eliminate highwall portals and shafts.  shafts. portals and shafts.  shafts. portals and shafts.  portals and shafts.  portals and shafts.  portals and shafts.	\$10,668.00 3,664.00 8,971.00 45,902.00 2,622.00 3,564.00 3,246.00 32,246.00 32,246.00 32,246.00 32,246.00 33,246.00 33,246.00 33,246.00 33,246.00 33,246.00 33,445.00 33,445.00 33,445.00 34,278.00 42,278.00 42,278.00 43,965.00 67,138.00 14,171.30.00 14,171.30.00 33,475.00 14,171.30.00 14,171	Approved May 14, 1982, expir May 13, 1985.  Do. Do. Do. Do. Do. Do. Do. Do. Do. D
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portals, eliminate highwall iniate highwall iniate highwall.  portals, remove refuse pile	43,965,00 67,138,00 31,680,00 166,112,00 14,713,00 144,602,00 2,162,00 100,850,00 33,475,00 125,036,00 450,035,00 77,677,00 8,694,00 89,776,00	Do.
portals, remove retuse pile inate highwalls and impoundment portals, eliminate tipple, reclaim strip mine am surface mine am surface mine aim mine spoils inate highwalls and revegetate mine spoils aim mine spoils, repair silt pond do aim mine spoils, repair silt pond do aim mine spoils, eliminate highwall portals and shafts. inate highwall d abatement portals and shafts.	31,680,00 166,112,00 14,713,00 144,602,00 2,162,00 100,850,00 125,036,00 450,035,00 77,677,00 8,694,00 89,776,00	Do. Do. Do. Do. Do. Do.
aim surface mine aim mine spoils inate highwalls and revegetate mine spoils aim mine spoils. aim mine spoils, repair silt pond. do aim mine spoils, eliminate highwall portals and shafts. inate highwall do abatement portals and shafts.	166,112.00 14,713.00 144,602.00 2,162.00 100,850.00 33,475.00 125,036.00 450,035.00 77,677.00 8,694.00 89,776.00	Do. Do. Do. Do. Do.
aim surface mine aim mine spoils inate highwalls and revegetate mine spoils aim mine spoils. aim mine spoils, repair silt pond. do aim mine spoils, eliminate highwall portals and shafts. inate highwall do abatement portals and shafts.	14,713.00 144,602.00 2,162.00 100,850.00 33,475.00 125,036.00 450,035.00 77,677.00 8,694.00	Do. Do. Do. Do. Do. Do.
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inate highwalls and revegetate mine spoits aim mine spoils, repair silt pond.  do aim mine spoils, epair silt pond.  do aim mine spoils, eliminate highwall portals and shafts. inate highwall portals and shafts.  portals and shafts.	100,850.00 33,475.00 125,036.00 450,035.00 77,677.00 8,694.00 89,776.00	Do. Do. Do.
aim mine spoils, repair silt pond	125,036.00 450,035.00 77,677.00 8,694.00 89,776.00	Do.
do	450,035.00 77,677.00 8,694.00 89,776.00	
aim mine spoils, eliminate highwall portals and shafts. inate highwall d d abatement portals and shafts. shafts	77,677.00 8,694.00 89,776.00	
d abatement portals and shafts	89,776.00	Do.
d abatement portals and shafts	268 707 00	Do. Do.
shafts		Do.
portals and airshaft	3,222.00	Do.
	3,835.00 6,685.00	Do. Do.
portals and airshaft	251,868.00	Approved May 14, 1982.
portals and shafts	3,609.00	Do.
portals	2,719.00 96,590.00	Do. Do.
ect highway subsidence portals and shafts, eliminate hazardous structures	7,725.00	Do.
portals and shafts.  portal, eliminate hazardous highwall, structure and impoundment	19,365.00 39,331.00	Do. Do.
portals.	1,753.00	Do.
inate hazardous structure	8,112.00	Do.
portals and shafts, eliminate embankment portals, eliminate hazardous structure	80,062.00 7,806.00	Do. Do.
portals, eliminate highwall	37,691.00	Do.
portals, eliminate highwall inate embankment, reclaim mine spoils shaft, reclaim surface mine spoils	93,324.00 109,649.00	Do. Do.
its	53,831.00	4.00
		Approved Aug. 10, 1982, exp Aug. 10, 1985. Do.
e openings, burning coal waste	28,001.00	Do.
e openings, collapsing structures	17,749.00	Do.
pen entries, air shaft	3,530.00 68 944 00	Do. Do.
n shafts, subsidence, waste banks	15,228.00	Do.
e openings, crown hole above open incline	7,212.00	Do. Do.
n, conapsing entry underground mine life, sinknoles	142.031.00	Do.
e openings	26,754.00	Do.
sidence	13,481.00	Do.
ntify areas of Illinois subject to mine subsidence	\$100,000.00	Approved June 1, 1982, expir
nare and inform Illinois units of Cou't on subsidence	38 000 00	May 31, 1985. Do.
sibility and environmental studies for A projects	200,000.00	Do.
n slope entrance flooded mine works		
cre Refuse. Waterfilled air Shaft.		
drainage, coal refuse	45,000.00	Do.
osed mine refuse, Water filled air shaft	25,000.00	Do.
	Companya (01)	
		July 20, 1985.
ubsidence areas	75,800.00	Do.
tical opening, shaft gob	188 800 00	Do. Do.
fts	15,400.00	Do.
A	12,200.00	Do. Do.
ft, mine buildings, gob	76,600.00	Do.
fts	82,500.00	Do.
pe portal, parren spoil, siurry		
fts	194,400.00	Do.
At	46.800.00	Do. Do.
Ge e prome nhie si nt con is utili titi fifti fi	Sordon Mine—16 mine openings 7 waste banks openings, burning coal waste openings, collapsing structures en entries, air shaft shafts, inclines shafts, inclines shafts, inclines shafts, subsidence, waste banks openings, crown hole above open incline collapsing entry underground mine fire, sinkholes afts w/ deteriorating caps, open incline openings deince  tify areas of Illinois subject to mine subsidence are and inform Illinois units of Gov't on subsidence biblity and environmental studies for 4 projects slape entrance flooded mine works water impoundment, dangerous mine structures rer Refuse, Waterfilled air Shaft drainage, coal refuse er Refuse, Waterfilled air shaft area Refuse, Water filled air shaft ghwalls, waterfilled pit, low water quality bisidence areas cal shaft, drainage into old works cal opening, shaft gob ts ts ts ts ts ts ts ts trine buildings, gob ts trine buildings, gob ts trifled slope entry	Sordon Mine — 16 mine openings 7 waste banks   151,576.00

State and project	Problem	Funding	Status
inshall/Coal Bluff Mine	Water filled shaft, barren spoil, gob, slurry	315,500.00 25,300.00	Do.
urnett NO. 1	Water filled shaft	25,300.00 50.800.00	Do. Do.
ugar Valley Mine		53,800.00	Do.
fainut Hill	Vertical shaft	17,800.00 838,200.00	Do. Do.
oyce abraith Mine rigsby Mine	Water filled shafts	30,600.00	Do.
rigsby Mine	Water filled shafts	197,700.00	Do.
ame unknown—128 urner Mine	Open portal  Highwall, harren toxic spoil acid drainage	7,700.00 912,700.00	Do. Do.
aulin 117	Highwali, barren toxic spoil acid drainage.  Open drift entry  Subsidence mine opening	10,300.00	Do.
ulphur Springs No. 2 Mine	Subsidence mine opening	17,900.00	Do.
aulin Mino 125	Shaft Shaft	15,400.00 17,300.00	Do. Do.
ugusta Mine	Highwall, water-filled pit.	101,700.00	Do.
ame unknown—145 ame unknown—11	Highwall Highwall, water-filled pit.	17,000.00 33,800.00	Do. Do.
ame unknown—143	Highwalle	60,900.00	00.
finslow Mine ame unknown—142	Openings, portal, gob hazardous structure Highwalls, water-filled pits	53,300.00	Do.
enna Mine	Mine shaft	118,600.00 9,600.00	Do. Do.
nton No. 5 Mine	Water-filled subsided shaft	9,600.00	Do.
ame unknown—165 ummit Mine	Mine shaft	7,700.00 23,600.00	Do. Do.
well No. 2 Mine	Subsidence	75,600.00	Do.
g Four Mine		7,700.00	Do.
aker Mine		7,700.00 7,700.00	Do. Do.
aker Mine—ame unknown—100 aker Mine—99.	Highwalls	339,000.00	Do.
aker Mine—99.	Steep inclines into water-filled pits	10,200.00	Do.
ame unknown—97	Highwall water-filled pit	33,800.00 27,100.00	Do. Do.
Igonia Mine landler Mine	Highwall, water-filled pit. Highwall, tipple. Coal refuse, deteriorating structure. Water-filled shaft.	28,100.00	Do.
nander Mine	Coal refuse, deteriorating structure	229,600.00	Do.
ame unknown—87 falton (Decker Mine)	Water-filled shart, barren spoil, bazardous structure	7,700.00 233,000.00	Do. Do.
esser Mine	Shaft, deserted buildings Highwalls	46,800.00	Do.
Irwin Road Mine	Highwalls Water-filled shafts	3,400.00 143,100.00	Do.
esser mine.  rowin Road Mine gar Cree Mine en Valley Mine. me Unknown—151 me Unknown—150	Shaft, concrete pits	141,700.00	Do. Do.
ame Unknown—151	Highwall	17,000.00	Do.
arne Unknown—150 arne Unknown 144	Highwall, water filled pit Highwall	20,400.00 33,800.00	Do. Do.
ummins Mine	Open slope portal Open, brick-lined air shaft	10,300	Do.
umera Mine	Open, brick-lined air shaft	7,700.00	Do.
ame Unknown—153	Water-filled shaft	11,800.00	Do.
ent Mountain Reclamation Project			Approved May 18, 1982, expi May 18, 1985.
lankenship Property Reclamation ond Forfeiture Reclamation Group	Open adits, shafts, deep mine drainage, abandoned tipple.  10 projects; open pits, impoundments, sooil piles, acid conditions, sedimentation, slides.  Numerous slids, lack of vegetation access to residence threatened.  Stream sedimentation, flooding threatening 15 residents, loss of crops on 3,000 acs.  Slide encroaching on road and residence, clogged silt structure and culvert cause flooding of farmland and home during rainfall.  Major landfish, clonged cross flood, dames to borne.	207,486.68	Do.
ond Porteture Reciamation Group  orders Coal Co. Permit No. 2482–70.	Numerous slids, lack of vegetation access to residence threatened	2,098,511.18 1,148,095.75	Do. Do.
uck Creek Feasibility Study	Stream sedimentation, flooding threatening 15 residents, loss of crops on 3,000 acs	41,044.23	Do.
orn Creek Slide	Slide encroaching on road and residence, clogged silt structure and culvert cause flooding of	321,414.45	Do.
ranks Creek Watershed Reclamation.	Major landship, clogged creek flood, damage to home.  Deep mine, acid drainage, sedimentation, stream pollution coal preparation plant, burning	993,868.01	Do.
awson Springs Reclamation	Deep mine, acid drainage, sedimentation, stream pollution coal preparation plant, burning	758,252.84	Do.
aines Mine air shafts	refuse pile. 4 abandoned open shafts.	87,632.96	Do.
all'a Cilt atmotures	2 matable all atombuse about 1 house assets addinguisting matable autologic	210,679.58	Do.
ighland Drive Reclamation	Surstation shift structures adove 4 nones, erosion sedimentation, unstation outsides.     Exposed highwall, erosion threatening road above highwall.     Bare spoil, abandoned impoundments.     6 acre burning refuse pile on hillside, 15 homes affected, erosion, sedimentation, fish and wildlife habitat degraded.  ### Application of the pile of the p	161,635.50 700,002.11	Do. Do.
hnson's Bottom Reclamation	6 acre burning refuse pile on hillside. 15 homes affected, erosion, sedimentation, fish and	1,021,190.41	Do.
	wildlife habitat degraded.		
HIVIF Refuse Pile Reclamation	4.5 acre burning refuse 3 open portals	1,193,443.22 329,631.49	Approved. Do.
t. Ash Reclamation	Abandoned tipple remains, 5 hazardous mine openings	99,299.61	Do.
ew Circle Coal Co	wildlife habitat degraded. 4.5 acre burning refuse 3 open portals. Large slide on steep, rocky slope, material blocks road. Abandoned tipple remains, 5 hazardous mine openings. Numerous slides, severe erosion, stream sedimentation & blockage, clogged culvert, flood portential.	531,174.76	Do.
easant Run Reclamation	potential. Stream sedimentation flooding within Nortonville	126,112.26	Do.
and Creek and Drakesboro Rect.	Slides, acid drainage abandoned highwalls & impound open shafts and portals, waste banks &	357,445.97	Do.
d Fox Mining	TITPS SUID ON SOUL THOSE		Do
chland Reclamation	2 mine openings, slides, erosion, impounding open pits, mudflow potential	380,207.58 492,083.61	Do. Do.
Provide Provide CEde	pond.		0
nnels Branch Slide	Large slide threatens 5 homes open portals, mine refuse erosion, sedimentation	705,255.37 316,042.52	Do. Do.
w Branch Watershed		783,897.32	Do.
	endimentation	105 157 57	
nking Branch Reclamation Feasibility Study	2 clides erosion serimentation debris and abandoned structures	105,157.57 341,597.80	Do. Do.
wn and Country dewater River Reclamation study st Ky Coal Co. No. 9 Mine Recl	Acid mine drainage, stream sedimentation, flooding.	102,820.26	Do.
ist Ny Coal Co. No. 9 Mine Recl	2 open shafts, surrounding subsidence, fires, refuse, abandoned railroad bed.	161,997.26 372,473.81	Do. Do.
iltesburg Slide low Creek Watershed Study	Acid mine drainage, stream sedimentation, flooding.  2 open shafts, surrounding subsidence, fires, refuse, abandoned railroad bed.  2 slides, overloaded outslopes impounding pit, severe erosion stream sedimentation  Sedimentation of Yellow Creek and tributaries	115,898.45	Do.
			Approved July 23, 1982 exp
: wis Coulee	and the same of th		July 22, 1985. Do.
wis Coulee	AND MICH ANNOUNCE	1 011 010 00	
wis Coulee	Acid Mine drainage	1,011,319.00	Do
ta Mine. anack Reclamation Cooperative Project	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles  Mine subsidence.	157,715.00 477,794.00	Do.
ta Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles  Mine subsidence.  Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste	157,715.00	Do.
ta Mine anack Reclamation Cooperative Project lack Diamond Mine Subsidence rown Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles  Mine subsidence.  Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material.  Inobstructed mine opening and unsightly toxic coal waste	157,715.00 477,794.00 288,081.00	Do.
ta Mine nack Reclamation Cooperative Project ack Diamond Mine Subsidence own Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles Mine subsidence. Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material. Unobstructed mine opening and unsightly toxic coal waste. Acid drainage	157,715.00 477,794.00 288,081.00 193,242.00 579,221.00	Do. Do. Do. Do.
ta Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles Mine subsidence. Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material. Unobstructed mine opening and unsightly toxic coal waste. Acid drainage	157,715.00 477,794.00 288,081.00 193,242.00 579,221.00 321,516.00	Do. Do. Do. Do. Do.
Is Mine La Min	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles  Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material.  Unobstructed mine opening and unsightly toxic coal waste.  Acid drainage  Two mine openings, unstable mine structures and unsightly toxic coal waste material.  Unobstructed mine openings, water polluted with acid and toxic metals	157,715.00 477,794.00 288,081.00 193,242.00 579,221.00 321,516.00 584,985.00	Do. Do. Do. Do. Do. Do.
ta Mine ta Mine anack Reclamation Cooperative Project ack Diamond Mine Subsidence own Mine enterville D lotrado Tailings sist Belt Mines khorn Mine claren Mill Site curren Mill Site	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles.  Mine subsidence.  Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material.  Unobstructed mine opening and unsightly toxic coal waste.  Acid drainage.  Two mine openings, unstable mine structures and unsightly toxic coal waste material.  Unobstructed mine openings, water polluted with acid and toxic metals.  Acid Mine drainage.  Open mine void and toxic coal waste material.	157,715.00 477,794.00 288,081.00 193,242.00 579,221.00 321,516.00 584,985.00 1,011,319.00 271,858.00	Do. Do. Do. Do. Do. Do. Do.
Invis Coulee  ta Mine  anack Reclamation Cooperative Project  ack Diamond Mine Subsidence  own Mine  blorado Tailings  sist Belt Mines  khorn Mine  claren Mill Site  orth Delt Mine  orth Cubertson Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles Mine subsidence. Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material. Unobstructed mine opening and unsightly toxic coal waste. Acid drainage. Two mine openings, unstable mine structures and unsightly toxic coal waste material. Unobstructed mine openings, water polluted with acid and toxic metals. Acid Mine drainage. Open mine void and toxic coal waste material. Surface subsidence	157,715.00 477,794.00 288.081.00 193,242.00 579,221.00 321,516.00 584,985.00 1,011,319.00 271,858.00 585,251.00	Do. Do. Do. Do. Do. Do. Do. Do.
ta Mine  ta Mine  anack Reclamation Cooperative Project  ack Diamond Mine Subsidence  cown Mine  enterville D  aligna  sta Belt Mines  khorn Mine  claren Mill Site  orth Delt Mine  orth Cubertson Mine  chrolibertson Mine	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles Mine subsidence. Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material. Unobstructed mine opening and unsightly toxic coal waste. Acid drainage. Acid drainage. Iwo mine openings, unstable mine structures and unsightly toxic coal waste material. Unobstructed mine openings, water polluted with acid and toxic metals. Acid Mine drainage. Open mine void and toxic coal waste material. Surface subsidence  do	157,715.00 477,794.00 288.081.00 193,242.00 579,221.00 321,516.00 1,011,319.00 271,858.00 585,251.00 433,266.00	Do.
ta Mine  ta Mine  anack Reclamation Cooperative Project  ack Diamond Mine Subsidence  rown Mine  enterville D  anack Barnon Mine Subsidence  enterville D  anack Barnon Mine  claren Mine  claren Mine  claren Mine  claren Mine  corth Belt Mine  orth Belt Mine  orth Culbertson Mine  elvold-Shaw Property  orth Star Mine  Vevold-Shaw Property  orth Star Mine  Vevold-Shaw Property  orth Star Mine  W. Centerville Subsidence	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles.  Mine subsidence Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material.  Unobstructed mine opening and unsightly toxic coal waste.  Acid drainage. Two mine openings, unstable mine structures and unsightly toxic coal waste material.  Unobstructed mine openings, water polluted with acid and toxic metals.  Acid Mine drainage.  Open mine void and toxic coal waste material.  Surface subsidence	157,715.00 477,794.00 288.081.00 193,242.00 579,221.00 321,516.00 584,985.00 1.011.319.00 271,858.00 433,266.00 433,266.00 330,727.00	Do.
awis Coulee  Ita Mine.  anack Reciamation Cooperative Project  ack Diamond Mine Subsidence  rown Mine  enterville D  olorado Tailings.  st Belt Mines  khorn Mine  claren Mill Site  orth Belt Mine  orth Culbertson Mine  word Shaw Property  orth Star Mine.  W. Centerville Subsidence.  0. 5 Coulee Mouth	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles  Mine subsidence.  Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material.  Unobstructed mine opening and unsightly toxic coal waste.  Acid drainage.  Two mine openings, unstable mine structures and unsightly toxic coal waste material.  Unobstructed mine openings, water polluted with acid and toxic metals.  Acid Mine drainage.  Open mine void and toxic coal waste material.  Surface subsidence	157,715.00 477,794.00 288,081.00 193,242.00 579,221.00 321,516.00 584,985.00 1,011,319.00 271,858.00 585,251.00 433,266.00 430,276.00 167,057.00	Do.
ta Mine  ta Mine  anack Reclamation Cooperative Project  ack Diamond Mine Subsidence  rown Mine  enterville D  anack Barnon Mine Subsidence  enterville D  anack Barnon Mine  claren Mine  claren Mine  claren Mine  claren Mine  corth Belt Mine  orth Belt Mine  orth Culbertson Mine  elvold-Shaw Property  orth Star Mine  Vevold-Shaw Property  orth Star Mine  Vevold-Shaw Property  orth Star Mine  W. Centerville Subsidence	Unobstructed mine openings, unsound mine related buildings, unstable toxic mine waste piles.  Mine subsidence. Unobstructed mine opening, unstable mine related structures, unsightly toxic coal waste material. Unobstructed mine opening and unsightly toxic coal waste.  Acid drainage. Two mine openings, unstable mine structures and unsightly toxic coal waste material. Unobstructed mine openings, water polluted with acid and toxic metals.  Acid Mine drainage. Open mine void and toxic coal waste material.  Surface subsidence.  do do Mine openings, surface subsidence and toxic coal waste material. Unobstructed mine opening and unsightly coal waste material.  Surface Subsidence.	157,715.00 477,794.00 288.081.00 193,242.00 579,221.00 321,516.00 584,985.00 1.011.319.00 271,858.00 433,266.00 433,266.00 330,727.00	Do.

State and project	Problem	Funding	Status
souri: Silver Fork Reclamation Project	Mine shaft	7,251.00	Approved July 7, 1982, expires
Tebo Creek Reclamation Project	5 sites; toxic spoil, stream sedimentation, acid mine drainage	3,455,338.00	July 6, 1985. Do.
ihoma:			
		51,218.12	Approved Aug. 12, 1982, expire Aug. 11, 1985.
Callahan 096	Dangerous highwall Water impoundment and highwalls	60,452.70 156,979.36	Pending. Do.
Evans 007	Dangerous strip pits, erosion of road	261,226.28	Do.
Horsepen Creek 240, phase I	Water-filled strip pits	151,860.86 10,854.54	Do. Do.
Rock Island 919 Volks 151	Abandoned water-filled strip pit	90,065.16 201,879.28	Do. Do.
White Creek 214	4 dangerous strip pits	202,215.00	Do.
	3 dangerous strip pits	65,248.16	Do.
Africa Road	Abandoned strip mine, erosion toxic spoil	2,340,000.00	Approved Aug. 15, 1982, expire Aug. 15, 1985. Do.
Belmont County Road No. 10	Landslide and mine seepage 2 areas of subsidence (10 ft. diameter)	55,000.00	Do. 13, 1303.
Blaine School subsidences Bond Subsidence	Z areas of subsidence (10 ft. diameter)	5,500.00 2,000.00	Do. Do.
Cavin Subsidence	Subsidence under norch of unoccupied home	5,500.00	Do.
Fee-German Subsidence Green Township Road 64	Subsidence 2 feet by 8 feet deep. Abandoned strip mine, earth slip from seepage through roadbed Collapsed offit entry, subsidence	11,000.00 86,000.00	Do. Do.
Coe Subsidence Glenns Run	Collapsed drift entry, subsidence	2,200.00 550,000.00	Do. Do.
Harrison County Road No. 2	Abandoned strip mine, unstable/sliding highwall	125.000.00	Do.
Holland Mine Entries.	2.700 serve abandoned strip mine stream contention	11,000.00	Do. Do.
Indian Run	Refuse pile, decaying mine structures	70,000.00	Do.
Lake George/Jefferson County Rd. 53.  Jefferson County Road No. 1.	Adandoned strip mine, blocking and displacement of natural watercourse  Strip mine pit seeping into spoil bank, unstable outslopes, slide onto country road	120,000.00 200,000.00	Do. Do.
Lewis and Wolfe Drive Mine openings  Martin-Velecca Earthslip	2 abandoned, collapsing drift entries, mine drainage	30,000.00 27,000.00	Do. Pending.
Meigs No. 2	Abandoned coal mine 71.7 acs. sedimentation of Shade River (West Branch) dwellings, and	580,000.00	Do.
Mills Subsidence		11,000.00	Do.
New Lexington Reservoir II—Perry State Forest	Acid mine drainage affecting reservoir New Lexington.	2,000,000.00	Do.
New Lexington Subsidence Perko	Several subsidence areas  Hillside seepage, landslide, damage to private home.	120,000.00 40,000.00	Do. Do.
Village of Richmond	Abandoned pit, 50-foot highwall spoil banks sloping into pit.	37,700.00 11,000.00	Do. Do.
Rivers. Snowville	Subsidence (2'x4'x10' deep) Acid mine drainage affecting reservoir New Lexington. Several subsidence areas Hillside seepage, landslide, damage to private home. Abandoned pit, 50-foot highwall spoil banks sloping into pit. Deep mine seep, slope instability, slump, danger to residence Heavy sedimentation, poor water quality, flooding of w.br. of shade river 30,000 linear feet	1,037,500.00	Do. Do.
Tecumsels Village Trailer Park	of highwall.  Water-filled pits, dangerous highwalls.	119,000.00	Do.
Triple V Construction	4 impounded pits, toxic spoil active erosion	852,800.00	Do.
Trumbull Shafts Uhrichsville Mine Seep	Drainage from underground mine flooding	240,000.00 11,000.00	Do. Do.
Walton Shaft	Airshaft—subsided several times	7,700.00 16,200.00	Do. Do.
Willoa Creek Road	Mine seep (acid drainage) collapsed mine entry	16,500.00	Do.
WTOV Mine Shaft Youngstown Shafts	Vertical air chaft	11,550.00 50,000.00	Do. Do.
Zemba (Bridgeport Mine Drainage)	Acid drainage from several abandoned coal mines, earth instability damage to dwellings,	10,000.00	Do.
Z and H Mining, Inc. Landslide	Two subsided entries on private property, one entry on city-owned land Acid drainage from several abandoned coal mines, earth instability damage to dwellings, drains, and appliances. Slide threatens 4 occupied dwellings.	25,000.00	Do.
Final design projects: Barberton	Coupral proper of eutherdonna	20,000.00	Do.
Village of Barton	Eroding refuse pile, mine drainage (acid) flooding	80,000.00	Do.
Columbian County Shafts	4 abandoned shafts, entries subsidence	30,000.00 15,000.00	Do. Do.
Harrison County Road 2	Heatable of Fire Michaell adjacent to recent and	10,000.00 15,000.00	Do. Do.
Jefferson Cc inty Rd. 1	Unstable silonite injerwale adoptent to country road. Coal refuse pile, decaying structures. Earth slip, seepage from pit into spoil bank. Seeps, spoil and refuse, slides stream blockage. Acid drainage, pollution and stream sedimentation flooding. Refuse placed on stream bank stream sedimentation, floods.	15,000.00	Do.
Jug Run II  Little Leading Creek II	Seeps, spoil and refuse, slides stream blockage.  Acid drainage, collution and stream sedimentation flooding	40,000.00 20,000.00	Do. Do.
Little Short Creek	Refuse placed on stream bank stream sedimentation, floods	60,000.00 30,000.00	Do. Do.
Mahoning County Shafts Nelsonville Mine Seeps	Landsides affecting homes and city streets.	20,000.00	Do.
New Lexington Reservoir II. New Lexington Subsidence	Affect of acid drainage on city reservoir	75,000.00 30,000.00	Do. Do.
Perko	Seep, landslide, damage to residence	10,000.00	Do.
Trumbull County Shafts	Subsiding mine shafts	20,000.00 35,000.00	
nessee: Royal Blue Mine Reclamation Project	Open portals Dismantle block structures	11.882.00	Approved Aug. 3, 1983, expire
			Aug. 2, 1985.
19-B Garbage Dump Reclamation Project Frozen Head Reclamation Project	Open portals 2 waste disposal onh areas	296,712.00 41,817.00	Do.
Kent Hollow Landslide Reclamation Project	Unstable slope of surface mine spoils	110,520.00 344,239.00	Do. Do.
Twinton reclamation project	Unstable slope of surface mine spoils Dangerous highwall impoundment of acid water Open vertical arishalt dilapidated timber tipple Maintain 140 acres of reclaimed land	5,887.00	Do.
inia:		36,525.00	Do.
Inman No. 2 Refuse	Unstable coal refuse	310,000.00	Approved March 22, 1982, expires March 28, 1985.
Meade Fork Refuse Pile	Dangerous landslide Refuse Pile	733,000.00	Do.
Lynn Springs Deep Mine Project		31,400.00 202,000.00	Do. Do.
Levisa Fork Tipple	Refuse embankment, abandoned tipple	100,000.00	Do.
Swan Fork Landslide	Control lands and lands lide	500,000.00 50,000.00	Do.
Derby Deep Mine No. 1 and 2 Project Bold Camp Sedimentation Dry Fork Project	Two deep mine portals, landslide, abandoned dilapidated mining structures	10,000.00 205,000.00	Do.
Dry Fork Project	Sediment pong	77,800.00	Do.
Townhill Tipple	TIDDIE CIOPPED STEAM	15,000.00 150,000.00	
Jewell Valley Gob Pile No. 1 Roseann Gob Pile 1	Dangerous pile Retuse embankment surface burning	802,638.00	Do.
Straight Hollow Refuse Area Pawpaw Landslide	Dangerous 3-acre slide	1,268,199.00 434,000.00	Do
Mill Branch Landslide	Dangerous slide	255,297.00 81,700.00	Do.
Driftwood Landslide Project Dixiana Surface Mine	Abandoned surface mine sedimentation of River	218,150.00	Do.
Tipple Roseann Gob Pile 2 Crabtree Fork Sedimentation	Refuse embankment, 2 tipples	45,000.00 77,100.00.00	Do. Do.
Boisse Vain refuse Area	Dangerous pile	191,857.00 200,000,00	Do.

State and project	Problem	Funding	Status	
West Virginia:				
Davis Street Mine Opening	Four underground mine openings accessible to residents	13.093.00	Approved Aug. 1, 1982, Expires July 31, 1984.	
		200000000	July 31, 1984.	
Swartz Mine Drainage Point Marion Landslide	Control mine drainage flowing across Swartz property  Deep mine drainage causing landslides; threatening homes	25,493.00 56,340.00 10,255.00 182,368.00	Do.	
Point Marion Landslide	Deep mine drainage causing landslides; threatening homes	56,340.00	Do.	
DeMoss Goines mine openings	Mine Openings Mine Openings Stabilize landslide-prone area, public road threatened Stabilize landslide area above three homes Reroute drainage from underground mines away from homes Fill deep mine opening, prevent access to children Stabilize landslide behind residence	10,255.00	Do.	
Robinson Run Landslide	Stabilize landslide-prone area; public road threatened	182,368.00	Do.	
Cecil Dent Landslide	Stabilize landslide area above three homes	5,824.00	Do.	
Gore Mine Drainage	Reroute drainage from underground mines away from homes	15,209.00 15,199.00 313,224.00	Do.	
Benwood portal	Fill deep mine opening; prevent access to children	15,199.00	Do.	
Midland Avenue Landslide	Stabilize landslide behind residence	313,224.00	Do.	
Lauret Valley Landslide Ohio Avenue Landslide	Stabilize landslide causing damage to 12 homes  Correct landslide that has blocked one lane of city st.	649,219.00 59,615.00	Do.	
Ohio Avenue Landslide Revision No. 1:	Correct landslide that has blocked one lane of city st	59,615.00	Do.	
REVISION NO. 1: Defense Dile	Erosion, slides, stream sedimentation, property damage from flooding of creek	2050 505 00	Annewed Navember 24 1001	
Revision No. 2:	Erosion, siloes, stream sedimentation, property damage from flooding of creek	2,050,586.00	Approved November 24, 1981	
Control Midland Defuse Dile	E consequente 22 acres of and solves cattlement acred with west-ble force	245 000 00	Pending.	
Dhice Coal refuse File	5 open portals, 22 acres of coal refuse, settlement pond with unstable face.     3 acre burning refuse pile on hillside above 14 homes.     12 acre valley fill refuse pile, actively burning, erosion, unstable slopes, inadequate drainage,	245,009.00 206,916.00	Do.	
Holden No. 2 Coal Police	12 area valley fill refuse nie artikule burnin erseinn unstahle slopes inadenuste drainane	435,902.00	Do.	
Holden No. 2 Codi nelose	Stream sedimentation.	455,502.00	00.	
Minden Coal Refuse Piles/Minden Codeou Refuse	12 are humod refuse nile heavy drainage damage to homes	1,166,092.00	Do.	
Fairment Mine Subsidence	12 acre burned refuse pile heavy drainage, damage to homes.  Subsidence affecting 6 blocks within city limits.	2.912.595.00	Do.	
Harris Rennett Mine Drainage	Mine drainage, damage to residence Settlement in old mine voids cause rock sildes; potential for major rockslide. Burning coal refuse, erosion, unstable slopes, stream sedimentation, flooding. Burning Coal refuse, surface drainage, erosion, sedimentation.	130,000.00 240,000.00 2,000,000.00 50,000.00	Do.	
Wolfe Rock Landslide	Settlement in old mine voids cause rock slides: potential for major rockslide	240,000.00	Do.	
Helen Burning Coal Refuse	Burning coal refuse, erosion, unstable slopes, stream sedimentation, flooding	2,000,000.00	Do.	
Vance Burning Coal Refuse Pile	Burning Coal refuse, surface drainage, erosion, sedimentation	50,000.00	Do.	
Pennsylvania:				
Baldwin Borough	Subsidence within city units	41,776.,00	Approved Oct. 10, 1982, expired Sept. 30, 1985.	
TO A CONTRACTOR OF THE CONTRAC			Sept. 30, 1985.	
Carbondale Phase 1		4,540,367.00		

Mr. FORD. Mr. President, as to those States that are eligible, that have filed, it just says they can go to work reclaiming the land, it creates jobs, puts equipment to work, and it is an environmental improvement.

Mr. STAFFORD. Will the Senator yield for a question?

Mr. FORD. Yes, Mr. President.

Mr. STAFFORD. This, I understand, has to do with orphan mine sites.

Mr. FORD. That is correct, old orphan mines.

Mr. STAFFORD. Would this be what we might call an orphan amendment under the present circumstances?

Mr. FORD. Yes, Mr. President, we might call it that. It does reclaim the land, it does improve it environmentally, it does not levy a tax, and it puts people and equipment to work. We have 17-percent unemployment in the coalfields in our area. This helps reduce the unemployment.

Mr ROBERT C. BYRD. Mr. President, does the Senator from Kentucky have the floor?

Mr. FORD. Yes, Mr. President.

Mr ROBERT C. BYRD. Will he yield?

Mr. FORD. Yes.

Mr ROBERT C. BYRD. Mr. President, this amendment does correct these environmental hazards. Under the act, for abandoned mine land reclamation, fees are collected, so much per ton. It is placed in a fund. Part of it is a State portion, part of it a Federal portion. It will be used to put unemployed miners back to work. There are surface miners that are well equipped to do the work. There are construction firms that are well equipped to do the work. It is not Federal money per se; it is paid into the fund for this purpose.

Mr. FORD. Only half of it is returned to the States. The Federal Government keeps the other half.

Mr. ROBERT C. BYRD. The Federal Government should release some of the money.

I ask the Senator to put my name on it as a cosponsor.

Mr. FORD. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. ROBERT C. BYRD) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that my colleague (Mr. Huddleston), be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. Chairman, I might say to my friend we are having the amendment read to Senator McClure, who is chairman of the committee which has the jurisdiction. This particular amendment has no problem, but we would like the Senator to forbear.

Mr. FORD. Mr. President, I had an understanding with the Senator that if it is not acceptable, I shall be the first to come to the floor and withdraw that amendment.

Mr. DOLE. Mr. President, we have been advised of that. We have read it to Senator McClure. He would like a chance to look at it. We have dispatched a copy to his office. I wonder if we could temporarily set it aside. It has been offered. We can get that far and if there is no objection, we can go ahead and take it.

Mr. FORD. Mr. President, I ask unanimous consent that my amendment be temporarily set aside and that it come back in sequence with the other amendments.

THE PRESIDING OFFICER. Without objection, the amendment is temporarily laid aside.

Mr. FORD. What bothers me just a mite is that other amendments will come along and be debated. I do not

want to lose my amendment our there somewhere,

A parliamentary inquiry,

THE PRESIDING OFFICER. The Senator will state it.

Mr. FORD. I understand it is temporarily set aside, the next item is taken up, then mine comes back in sequence?

The PRESIDING OFFICER. The Senator's amendment will occur after the next amendment is disposed of.

Mr. FORD. I thank the Chair.

Mr. DOLE. Mr. President, let me assure the Senator from Kentucky that we are trying to work it out.

Mr. FORD. I understand that, Mr. President. There is a lot of slip between the lip and the cup between 2 and 3 o'clock in the morning.

## UP AMENDMENT NO. 1452

(Purpose: To allow the transferability of Interstate System funds to 4R projects)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Maryland (Mr. Sarbanes), for himself, Mr. Moynhan, and Mr. Mathias, proposes an unprinted amendment numbered 1452.

Mr. SARBANES. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place in the substitute insert the following new section:

#### INTERSTATE SYSTEM 4R TRANSFERABILITY

SEC. . Section 119 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) (1) Upon application by a State and approval by the Secretary, the Secretary may authorize the transfer of not more than 50 per centum of the amount apportioned to such State in any fiscal year under

section 104(b)(5)(A) of this title to the apportionment under section 104(b)(5)(B) of

"(2) Any amounts so transferred under paragraph (1) of this subsection shall be restored by such State to the apportionment under section 104(b)(5)(A) of this title from apportionments to such State made for the following two fiscal years under section 104(b)(5)(B) of this title.

(3) In order to insure such restoration. transfers made under paragraph (1) of this subsection shall be limited to the total amount expected to be apportioned to such State under section 104(b)(5)(B) of this title for the fiscal years during which restoration

is required.

(4) If any State fails to restore the amounts of such transfer as required by paragraph (2) of this subsection, the cost estimate submitted to Congress under section 104(b)(5)(A) of this title for the cost of completing segments of the Interstate System open to traffic in such State (other than high occupancy vehicle lanes) for the fiscal year immediately following the period of restoration shall be reduced for such State in an amount equal to the amount transferred under this subsection.

Mr. SARBANES. Mr. President, I offer this amendment on behalf of myself, Mr. Moynihan, and Mr. Ma-THIAS. This amendment would allow a State to transfer interstate construction funds into the interstate rehabilitation and reconstruction 4R category with a payback provision. There is a requirement for a payback provision. This provision would greatly enhance funding flexibility and would promote the maximum and timely use of the anticipated new revenues.

Under the proposed amendment, a State could borrow interstate construction funds, use them on 4R projects, then pay back the fund to the interstate construction category when such projects are ready to com-

mence.

The provision would allow States to put funds immediately to use generating employment, contributing to economic recovery, and preserving the National System of Interstate and Defense Highways.

The required payback would insure the scheduled completion of the Interstate System and not require any additional authorizations beyond those

now being considered.

I think it is a very sensible amendment. It would enable us to move ahead by transferring from construction to rehabilitation, but then requiring a payback so we will not be drawing down that account over the cycle of this bill.

THE PRESIDING OFFICER. The

Senator from Vermont?

Mr. STAFFORD. The attention of the Senator from Vermont was temporarily diverted. I assume the Senator from Maryland asked that we accept the amendment?

Mr. SARBANES. That is correct.

Mr. STAFFORD. Speaking for myself and I think for the majority side, we have examined the amendment and we think it is desirable. We are prepared to accept it.

We understand from staff that the manager on the minority side (Mr. RANDOLPH) is also agreeable to accepting the amendment; so we are prepared to accept the amendment.

Mr. SARBANES. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maryland.

The amendment (UP No. 1452) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. STAFFORD. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Kansas. I just wanted to call up a small amendment.

Mr. DOLE. I have another amendment to offer, but I would just as soon take care of that one.

The PRESIDING OFFICER. It will take unanimous consent to set aside the Ford amendment.

Mr. ROBERT C. BYRD. I make that request.

The PRESIDING OFFICER, Without objection, it is so ordered.

UP AMENDMENT NO. 1453

(Purpose: To add "modifications to chloralkali electrolytic cells" as specially defined energy property eligible for the business energy credit)

Mr. ROBERT C. BYRD. Mr. President. I send an amendment to the desk and ask that it be immediately considered.

THE PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from West Virginia (Mr. ROBERT C. BYRD) proposes an unprinted amendment numbered 1453.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with.

The amendment is as follows: At the end of the substitute amendment

add the following:

"(a) Paragraph (5) of section 48(1) of the Internal Revenue Code of 1954 (defining specially defined energy property) is amended-

(1) by striking out "or" at the end of subparagraph (L).

(2) by redesignating subparagraph (M) as subparagraph (N) and by inserting after subparagraph (L) the following new subparagraph

"(M) modifications to chlor-alkali electrolytic cells, or" and

(3) by striking out "(M)" in the second sentence and inserting in lieu thereof "(N)".

(b) The table contained in clause (i) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"VII. Chlor-Alkali Electrolytic Colls—Property described in 10 percent ...... Jan. 1, 1980 Dec. 31, Cells—Property describ section 48(1)(5)(M).

Mr. ROBERT C. BYRD. Mr. President, a while ago, I wrote a letter concerning this matter to the distinguished ranking member of the Finance Committee and to the distinguished chairman. I introduced a bill at that time which would allow the chlor-alkali industry, including a West Virginia plant, to modernize its electrolytic cells, which are used to produce raw materials for chemical feed stocks. It would also benefit a chlor-alkali modernization project which is now underway in Louisiana, I believe.

The distinguished Senator from Louisiana (Mr. Long) is nodding in the affirmative.

I have discussed this with the distinguished manager of the tax section of the bill and the ranking member. I believe it meets with their approval. I therefore hope that they will accept the amendment.

Mr. DOLE. I might suggest that it is also this Senator's understanding that the Treasury does not support this amendment. I have been told that the cost over what, 3 years-

Mr. ROBERT C. BYRD. Three to four years.

Mr. DOLE [continuing]. Is \$15 million.

Mr. ROBERT C. BYRD. An estimated \$15 million.

Mr. DOLE. But in any event, the Senator from Kansas is willing to accept the amendment and do what we can with it.

Mr. ROBERT C. BYRD. It would mean 200 jobs in this one plant in Natrium, W. Va.

ENERGY INVESTMENT CREDIT FOR MODIFICA-TIONS TO CHLOR-ALKALI ELECTROLYTIC CELLS

Mr. President, my amendment would afford the chlor-alkali industry, including a proposed cell modernization project at a West Virginia plant, the energy tax treatment legislatively provided alumina electrolytic cells by a 1980 amendment to the Windfall Profits Tax Act. It would also benefit a chlor-alkali modernization project which is now underway in Louisiana and was done in expectation of the energy credit. The chlor-alkali cell modernization program at the one West Virginia plant would create over 200 jobs during the next several years. The revenue impact of the enclosed modified amendment proposal would total an estimated \$15 million spread over 3 to 4 years. The revenue loss would be less than \$5 million in any one year.

On March 2, 1982, I introduced S. 2151, a bill similar to this amendment. On March 30, the Subcommittee on Energy and Agricultural Taxation held a hearing on S. 2151, at which the need for this legislation was presented.

A 10-percent energy investment credit is allowed under current law to encourage various types of energy conservation and conversion activities. One category of eligible investment for this energy credit is "specially de-fined energy property" under Internal Revenue Code section 48(1)(5). This category of energy conservation property includes 12 specified types of investment, such as recuperators, heat exchangers, preheaters, and modifications to alumina electrolytic cells. It is required for eligibility as specially defined energy property that this investment occur in connection with existing processes at existing industrial or commercial facilities and that it be for the principal purpose of reducing energy consumption. In addition to the 12 enumerated types of investment, the Secretary of the Treasury or his delegate is authorized, under code section 48(1)(5)(M), to specify by regulations other types of eligible specially defined energy property. The energy credit for specially defined energy property is generally available for investments which occur before January 1, 1983.

The chlor-alkali industry electrolytic uses cells to produce chlorine gas and caustic soda—basic feedstocks used in turn to produce a variety of other chemical products. The chlor-alkali industry nationwide uses more electricity than any other industry except the aluminum industry. It consumes 2 percent of all electricity used in the United States.

There is technology presently available that reduces energy usage in the electrolytic cell process commonly used by the chlor-alkali industry. This technology, for all practical purposes, is identical in function to modifications to alumina electrolytic cells which presently qualify for the energy investment credit as specially defined energy property under code section 48(1)(5)(L). Both involve changes to existing industrial processes for the purpose of reducing the amount of energy consumed. This would in turn result in substantial overall energy savings. At one chloralkali plant, which uses electricity generated by oil and natural gas, these modifications would reduce energy consumption by over 460,000 barrels of fuel-oil equivalent each year. These chlor-alkali cell modifications are basically motivated by energy efficiency. They would not increase the productive capacity of the cells and are not periodic replacements of cell components since the existing cell configurations can continue to be used for a number of years.

A facility in Natrium, Marshall County, W. Va., will be able to take advantage of this new provision, as will other chlor-alkali plants nationwide. This idea will help protect existing jobs, create new jobs, and save significant amounts of energy.

I want to express my appreciation to the distinguished chairman of the Finance Committee, Senator Dole, for his cooperation on this matter. I also want to thank the distinguished ranking member of the committee, Senator Long, for his assistance and unfailing support of this measure. Senator Randolph, a cosponsor of S. 2151, and Senators Domenici, Johnston, Matsunaga, and Specter also deserve thanks for their support of this effort.

Mr. DOLE. I am prepared to accept the amendment.

Mr. ROBERT C. BYRD. I thank the distinguished chairman.

Mr. LONG. I favor the amendment. Mr. ROBERT C. BYRD. I thank the ranking member.

The amendment (UP No. 1453) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.
The PRESIDING OFFICER. The
Senator from Kansas.

UP AMENDMENT NO. 1454

(Purpose: To amend the Internal Revenue Code of 1954 to lower the limitation on defined benefit plans established for policemen and firemen)

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of the distinguished Senator from New York (Mr. D'AMATO). It affects the limitation of benefits under police and fireman's pension plans. I think the total cost is less that \$200,000. It has been cleared. It has been discussed. I know of no objection to the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that my amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. DOLE. I thank the Senator.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Kansas (Mr. Dole), on behalf of the Senator from New York (Mr. D'AMATO), proposes an unprinted amendment numbered 1454.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Baker amendment insert the following:

SEC. . LIMITATION ON BENEFITS UNDER POLICE AND FIREMEN'S PENSION PLANS

(a) In General.—Paragraph (2) of section 415(b) of the Internal Revenue Code of 1954 (relating to annual benefit) is amended by adding at the end thereof the following new subparagraphs:

"(F) SPECIAL LIMITATION FOR QUALIFIED POLICE OR FIREMEN'S PENSION PLANS.—In applying subparagraph (C) with respect to a participant in a qualified police or firemen's plan, '55' shall be substituted for '62' each place it appears.

"(G) QUALIFIED POLICE OR FIREMEN'S PLAN DEFINED.—For purpose of this paragraph, the term 'qualified police or firemen's plan' means a defined benefit plan—

"(i) which is maintained by a State, or political subdivision thereof, for the benefit of all full-time employees of any police department or fire department that is organized and operated by such State or political subdivision to provide police protection, fire-fighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision,

"(ii) under which benefits are determined solely by reference to the length of service of the employee in—

"(I) such a police or fire department, or "(II) the armed forces of the United States, and

"(iii) which requires, as a condition of participation of any employee in the plan, that the sum of—

"(I) the number of years such employee was employed on a full-time basis by such State or political subdivision in such a police or fire department, plus

"(II) the number of years such employee served in the armed forces of the United States (to the extent such years are taken into account under the plan),

equals or exceeds 20 years.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if it had been included in section 235 of the Tax Equity and Fiscal Responsibility Act of 1982.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as I understand it, the Senator from Louisiana has no objection to the amendment. The Senator from Kansas has no objection to the amendment.

The amendment (UP No. 1454) was agreed to.

(Later the following occurred:)

Mr. DOLE. Mr. President, earlier we failed to table the motion to reconsider on the D'Amato amendment. I move to table the reconsideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. What is the pending

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Kentucky.

Mr. FORD. Mr. President, will the Senator from Kansas indicate whether there is any word from Energy yet?

Mr. DOLE. We have dispatched, I may say to the Senator from Kentucky, a copy of the amendment to the distinguished chairman of the committee (Mr. McClure).

Mr. FORD. Mr. President, I ask unanimous consent that my amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

UP AMENDMENT NO. 1455

(Purpose: To clarify the eligibility for interstate funding of four interstate highway projects)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Minnesota (Mr. Duren-BERGER) proposes an unprinted amendment numbered 1455.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Baker substitute insert the following

## PARKING FACILITIES

Subsection (b) of Section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding before the last sentence thereof a new sentence as follows: "Notwithstanding any other provisions of law, including any other provision of this subsection, where a project is to be constructed (a) to provide parking garage ramps in conjunction with high occupancy vehicle lanes which flow into a distributor system emptying directly into ramps for offstreet parking with preferential parking for carpools, vanpools, and buses and the ramps are part of an environmental mitigation effort and are designed to feed into an aerial walkway system, or (b) to provide a parking lot near the terminus of an Interstate System spur route which radiates from an Interstate System beltway which will be used as an intermodal transfer facility for a light rail transit project to be constructed in the median of the spur route and the parking lot is part of an environmental mitigation effort, or (c) to provide a parking garage and associated facilities as part of an intermodal transfer facility with a transit system near or within an Interstate System route right-of-way which will have direct and indirect access to the facili-

ty by way of local streets and the parking garage and associated facilities are part of an environmental mitigation effort, or (d) to provide for the comprehensive upgrading of existing high occupancy vehicle lanes, new ramps and parking facilities at mass transit intermodal transfer points on an existing Interstate System rout which has tempohigh occupancy vehicle lanes in the median and the parking facilities and ramps are part of an environmental mitigation effort, the costs of such parking garage ramps, parking lots, parking garages, associated interchange ramps, high occupancy vehicle lanes, and other associated work eligible under 23 United States Code shall be eligible for funds authorized by this subsection as if the costs for these projects were included in the 1981 interstate costs estimate and shall be included as an eligible project in any future interstate cost estimate.

Mr. DURENBERGER. Mr. President, the amendment I have sent to the desk is necessary to clarify the eligibility for interstate funding of four important projects. When Congress approved the 1981 interstate cost estimate in the 1981 Highway Act, Public Law 97-134, it never intended that these projects should be excluded from interstate construction funding eligibility. However, the Federal Highway Administration has adopted a restrictive interpretation of the criteria set out in that act which has prevented these projects from being considered with funds apportioned under the interstate program.

Interstate eligibility for each of these four projects has been previously recognized either in floor statements by various Senators or in Appropriations Committee reports. Last fall, during debate on the 1981 cost estimate, this Senator noted the need for fringe parking facilities along Interstate 394 and established, in a colloquy with Senator Symms, that this project would be eligible for interstate construction funds.

Unfortunately, the FHWA has determined otherwise. Similarly, during debate on the 1981 act Senator RAN-DOLPH specifically indicated that the FHWA should approve for interstate construction funding a bus and parking facility proposed by the District of Columbia to be located adjacent to Interstate 295 in Southeast Washington, D.C. However, the FHWA has re-

peatedly refused to do so.

Appropriations Committee The report on the 1982 urgent supplemental bill, Senate Report 97-402, noted that the FHWA had failed to approve for interstate construction funding certain projects associated with I-95 in Dade County, Fla. These high occupancy vehicle lanes, parking facilities, and connections from the highway to rapid transit terminals should be constructed within the interstate program. The Florida projects were approved by the Federal Highway Administration on October 8, 1980, and the cost for all elements of this project was included in the interstate cost estimates for 1981.

Finally, the Appropriations Committee report on the 1982 Supplemental Appropriations Act, Senate Report 97-516 recognized that the I-295 bus and parking project in Washington, D.C., as well as a parking facility along I-795 near Baltimore, Md., should similarly qualify for interstate construction funding.

Mr. President, this amendment would not establish anything new. It would merely clarify prior congressional intent with respect to the scope of the interstate highway program and reverse the FHWA's overly restrictive interpretations of the 1981 act. It would require no new funding but merely allow the four States to spend moneys already available to them from their interstate apportionments. I should also add, Mr. President, that this amendment would not be necessary if the Federal Highway Administration had been more willing to follow the intent of Congress as expressed in the various reports mentioned above. I have been advised that Senators Mathias, Randolph, and CHILES have indicated their strong support for this amendment.

I believe that this has been cleared. Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. As I understand, the principal impact of this legislation would be to finance construction of peripheral parking lots in order to facilitate movement of traffic in and out of metropolitan areas?

Mr. DURENBERGER. The Senator is correct.

Mr. STAFFORD. The Senator from Vermont thinks that this is a worthy program to proceed with, and on behalf of the majority I am prepared to accept the amendment. I understand from staff of the manager on this part of the bill for the minority (Mr. RANDOLPH) that this is agreeable to him, too. So we are prepared to accept the amendment.

Mr. DURENBERGER. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1455) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON and Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The and the Senator from Kansas for clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. HUMPHREY addressed the Chair

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. HUMPHREY. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

CRANSTON addressed the Mr. Chair.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DOLE. I object.

The PRESIDING OFFICER (Mr. ABDNOR). Objection is heard.

Mr. HEFLIN. I ask that the quorum call go live.

The PRESIDING OFFICER. The clerk will continue the call of the roll. The assistant legislative clerk con-

tinued the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HUMPHREY. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the calling of the roll.

The assistant legislative clerk resumed the call of the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I thank the distinguished Senator from New Hampshire.

AMENDMENT NO. 1451

Mr. President, we now have the distinguished Senator from Idaho here, the chairman of the Energy Committee, to discuss my amendment that is pending on the floor.

Mr. McCLURE. I wonder if the Senator from Kentucky would yield for a

series of questions.

Mr. FORD. I would be very pleased to yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, first, I thank the Senator from Kentucky

making it possible for me to look at this amendment and consider it before it came up for consideration on the floor. Let me say I support the thrust of the amendment. It is the kind of thing we have been trying to get done. but I think we need to establish a little legislative history about what is meant by it so we know how it can be

What I would like to focus on for just a moment is the meaning of the term "complete abandoned mine reclamation fund grant application."

Now if I understand correctly, the meaning of that term should be in this context: First, a State must assume primacy; they have to have a program in place that is sufficient to be certified for administration of the program.

Mr. FORD. The Senator is correct.

Mr. McCLURE. Second, they must have an abandoned mine reclamation plan that is also approved by the Federal Government.

Mr. FORD. The Senator is correct. Mr. McCLURE. Then pursuant to that plan they must submit a grant application for a project which would have been through the EIS process.

Mr. FORD. Environmental assess-

Mr. McCLURE. Yes, the environmental assessment would have to be completed before it would be deemed a complete grant application.

Mr. FORD. The Senator is correct. Mr. McCLURE. And they would have to, in addition to that, be in position to spend the money once received by them. In other words, they would have to have their share of the project moneys in hand by the time the money would reach them so they

could spend the money. Mr. FORD. The Senator is correct. I might add one caveat to that. It is not this Senator's intention for the State to receive the money and put it in the Treasury and draw interest on it. What I am interested in is getting the job done based on the law so we can remove the orphan land banks, that we can make the environmental assessment and put the people to work. I fully agree with the Senator's statement.

Mr. McCLURE. I understand, too, that the process now in effect which you would not vary by this amendment is that there is an earmarking of funds by State that is done when the money is appropriated and then so much is set aside for each State.

Mr. FORD. The Senator is correct. I do not intend for one State to receive other States' money. What has been collected and what is due them is all they are entitled to based on what is appropriate.

Mr. McCLURE. So that this requirement for disbursement of the money would be confined to that amount of

money which has been set aside for that State's program.

Mr. FORD. The Senator is correct.

Mr. McCLURE. Mr. President, I say to the Senator from Kentucky that I am perfectly satisfied that the legislative history now tells us what is required, what would be the process; that the money would go into real reclamation activities and do so very

I commend the Senator from Kentucky for his amendment. I fully support it. I think it is a valuable addition to the bill and ought to get some people back to work and some mined areas reclaimed.

Mr. FORD. This also, I might say to my distinguished friend from Idaho. would accelerate the States to comply some and to get into this. This may be a little carrot and stick operation here. If they are not in, they do not get in, and they do not get the expedited procedure here. So I think it will help encourage the States to comply where they may be a little bit lax at the present time.

Mr. McCLURE.Will the Senator yield further?

Mr. FORD. Yes.

Mr. McCLURE. I agree with the statement of the Senator from Kentucky. I think it will be an additional carrot as well as an additional stick for the States. I think it it can stimulate greater activity on the part of the States. I think it is an excellent amendment. I hope it will be agreed

Mr. FORD. I yield back my time.

Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. WARNER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Kentucky (Mr. Ford).

The amendment (UP No. 1451) was

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## UP AMENDMENT NO. 1456

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. HUMPHREY. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kansas (Mr. Dole for himself and Mr. Jepsen) proposes an unprinted amendment numbered 1456.

At the appropriate place in the amendment, insert the following:

SEC. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) In GENERAL.-

(1) Capital gains.—Paragraphs (1) and (3) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "5 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 of such Code are each amended by striking out "1 year" and in-

serting in lieu thereof "6 months".

(b) CONFORMING AMENDMENTS.—The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (re-

lating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the

case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HUMPHREY. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. Mr. President, I ask for yeas and nays.

The PRESIDING OFFICER. The clerk will resume the reading of the amendment.

The bill clerk resumed reading as follows:

(6) Paragraph (2) of section 582(c) (relat-

ing to capital gains of banks).

- (7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).
- (8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).
- (9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).
- (10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).
- (11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).
- (12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).
- (13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).
- (14) Paragraph (11) of section 1223 (relating to holding period of property).
- (15) Section 1231 (relating to property used in the trade or business and involuntary conversions).
- (16) Paragraph (2) of section 1232(a) (relating to sale or exchange in the case of bands and other evidences of indebtedness).
- (17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section

1233 (relating to gains and losses from short sales).

(18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

on foreign investment company stock).

(21) Section (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(22) Subsection (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

(c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.—Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended—

(1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 5 months before such cutting", and

(2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "5 months".

(d) Technical Amendment Relating to Straddles.—Section 1092(d)(2) of such Code (defining position) is amended—

(1) by striking out clause (ii) of subparagraph (B) and inserting in lieu thereof the following:

"(ii) is part of a straddle none of the offsetting position of which would, if sold by the taxpayer on the last day on which such option could be exercised, result in the recognition of—

"(I) long-term capital gain or loss, or

"(II) in the case of a syndicate (within the meaning of section 1256(e)(3)(B)), long-term capital gain or loss or ordinary income or loss." and

(2) by adding at the end thereof the fol-

lowing new subparagraph:

"(C) Special rules for application of subparagraph (b)(ii).—For purposes of subparagraph (B)(ii)—

"(i) a stock option (other than an option meeting the requirements of section 1236 or which would meet such requirements if section 1236 applied to such option) held or granted by a dealer shall not be treated as meeting the requirements of such subparagraph unless such option is entered into the normal course of the dealer's trade or business, and

"(ii) the determination as to whether a sale would result in long-term capital gain or loss shall be made without regard to the rules of subsections (b) and (d) of section 1233 (as made applicable by reason of subsection (b))."

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. HUMPHREY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk continued reading the amendment, as follows:

(c) Technical Amendment Relating to Certain Short-Term Government ObligaTIONS.—Section 1232(a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year."

(f) EFFECTIVE DATES .-

(1) In general.—Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1983.

(2) Conforming amendments.—The amendments made by subsection (b) shall

take effect on July 1, 1983.

(A) Conforming amendments; timber, etc.—The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1983.

(4) STRADDLES.—The amendments made by subsection (d) shall apply to any position which is part of a straddle (within the meaning of section 1092(c) of the Internal Revenue Code of 1954) held after June 30, 1983.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1457

Mr. DOLE. Mr. President, I send an amendment to the desk.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole for himself and Mr. Jepsen) proposes an unprinted amendment numbered 1457 to unprinted amendment numbered 1457.

In place of the language proposed to be in-

serted insert the following:

SEC. DECREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) In GENERAL.-

(1) Capital Gains.—Paragraphs (1) and (3) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 of such Code are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) Conforming Amendments.—The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (relating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for cer-

tain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 582(c) (relat-

ing to capital gains of banks).

- (7) Subparagraphs (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust
- (8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts)
- (9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).
- (10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).
- (11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).
- (12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).
- (13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).
- (14) Paragraph (11) of section 1223 (relating to holding period of property).
- (15) Section 1231 (relating to property used in the trade or business and involuntary conversions).
- (16) Paragraph (2) of section 2132(a) (relating to sale or exchange in the case of bonds and other evidences of indebtedness).
- (17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and loss from short sales)
- (18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).
- (19) Subsection (a) of section 1235 (relating to sale or exchange of patents).
- (20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).
- (21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income current-
- (22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).
- Subparagraph (A) of 1251(e)(1) (defining farm recapture property).
- (c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL, AND DOMESTIC IRON ORE.— Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended-
- (1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting",
- (2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months".
- (d) TECHNICAL AMENDMENT RELATING TO STRADDLES.-Section 1092(d)(2) of such Code (defining position) is amended-
- (1) by striking out clause (ii) of subparagraph (B) and inserting in lieu thereof the following:
- "(ii) is part of a straddle none of the offsetting positions of which would, if sold by the taxpayer on the last day on which such

option could be exercised, result in the recognition of-

'(I) long-term capital gain or loss, or

"(II) in the case of a syndicate (within the meaning of section 1256(e)(3)(B)), long-term capital gain or loss or ordinary income or loss.", and

(2) by adding at the end thereof the following new subparagraph:

(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (B) (II) .- For purposes of subparagraph (B)(ii)-

- "(i) a stock option (other than an option meeting the requirements of section 1236 or which would meet such requirements if section 1236 applied to such option) held or granted by a dealer shall not be treated as meeting the requirements of such subparagraph unless such option is entered into in the normal course of the dealer's trade or business, and
- "(ii) the determination as to whether a sale would result in long-term capital gain or loss shall be made without regard to the rules of subsections (b) and (d) of section 1233 (as made applicable by reason of subsection (b))."
- (e) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGA-TIONS.-Section 1232(a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year"

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading be dispensed with.

Mr. BUMPERS. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will proceed.

Mr. DOLE. Mr. President, did somebody object?

Mr. BUMPERS. Yes, Mr. President, I objected.

The PRESIDING OFFICER. The objection is heard.

The assistant legislative clerk continued reading as follows:

(f) EFFECTIVE DATES .-

- (1) In general.-Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1983.
- AMENDMENTS.-The CONFORMING (2) amendments made by subsection (b) shall take effect on July 1, 1883.
- (A) CONFORMING AMENDMENTS; TIMBER, ETC.—The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1983.
- (4) STRADDLES.—The amendments made by subsection (d) shall apply to any position which is part of a straddle (within the meaning of section 1092(c) of the Internal Revenue Code of 1954) held after June 30,

Mr. METZENBAUM and Mr. DOLE addressed the Chair.

Mr. METZENBAUM. Mr. President, the rules of the Senate provide that the first Member who is on the floor asking for recognition is entitled to that recognition. I was on the floor asking for recognition. The Chair looked over at the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for consideration of an amendment to be offered by the distinguished Senator from Missouri, and only for that purpose, with no amendments to be in order.

The PRESIDING OFFICER, Without objection, it is so ordered.

Mr. METZENBAUM. Is it with the understanding that it is only for this amendment, as originally indicated by the Senator?

Mr. DANFORTH. Yes.

Mr. METZENBAUM. With that understanding, I have no objection.

UP AMENDMENT NO. 1458

(Purpose: To exclude home energy assistance provided by private nonprofit organizations or by utilities from income for purposes of supplemental security income and the aid to families with dependent children programs)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri (Mr. Dan-FORTH), for himself, Mr. Heinz, Mr. Duren-BERGER, Mr. PACKWOOD, Mr. PERCY, Mr. GRASSLEY, Mr. COHEN, Mr. SPECTER, Mr. ROTH, Mr. PRESSLER, Mr. HATFIELD, Mr. DECONCINI, Mr. WEICKER, Mr. ABDNOR, Mr. LUGAR, Mr. CHAFEE, Mr. MOYNIHAN, Mr. TSONGAS, Mr. HEFLIN, Mr. RIEGLE, Mr. BRAD-LEY, Mr. LEVIN, Mr. GLENN, Mr. SASSER, Mr. CRANSTON, Mr. BENTSEN, Mr. MITCHELL, Mr. EAGLETON, Mr. KENNEDY, Mr. SARBANES, Mr. CANNON, Mr. METZENBAUM, Mr. BOREN, Mr. MATSUNAGA, and Mr. BAUCUS, proposes an unprinted amendment numbered 1458.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute add the following new section:

SEC. . (a) Section 1612(b) of the Social Security Act is amended-

(1) by striking out "and" at the end of paragraph (11);

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof and"; and

(3) by adding at the end thereof the following new paragraph:

"(13) any assistance received to assist in meeting the cost of home energy, including

both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is (A) based on need for such assistance, and (B) furnished by a private nonprofit agency, by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a state or Federal governmental entity, or by a municipal utility providing home energy."

(b) Section 402 (a) of such Act is amend-

ed-

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the fol-

lowing new paragraph:

"(35) provide, at the option of the State, that in making the determination for any month under paragraph (7) the State agency shall not include as income any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is (A) based on need for such assistance, and (B) furnished by a private nonprofit agency, by a supplier of home heating oil or gas, by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy."

(c) The amendments made by subsections (a) and (b) shall be effective with respect to home energy assistance received in months beginning on or after the date of the enactment of this Act and prior to July 1, 1985.

(d) The Secretary of Health and Human Services shall submit a report to the Congress, prior to April 1, 1985, on the implementation and results of the provisions of sections 1612(b)(13) and 402(a)(35) of the Social Security Act, including any recommendations with repect to whether such provisions should be extended in the same or modified form or allowed to expire.

Mr. DANFORTH. Mr. President, under the present law, if a private organization or an individual or a utility makes a contribution to an individual for the purpose of helping that individual pay his or her utility bill, the effect of that contribution is that it is counted as income for the purpose of computing AFDC or SSI benefits. Therefore, the result is that there is a dollar-for-dollar offset on AFDC or SSI payments for such contributions to the individual.

If, for example, a utility were to help an individual pay his utility bill, the indirect effect of that would be a contribution of a like amount to the U.S. Treasury; obviously, not what was intended by the individual and obviously a deterrent to people or organizations or utilities trying to do good things for other individuals.

This amendment has the effect of correcting that situation and providing that such payments would not be used to offset AFDC or SSI payments.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, it is an outstanding amendment. It is a good amendment. It has, I do not know, how many cosponsors?

Mr. DANFORTH. Approximately 35

cosponsors.

Mr. DOLE. Thirty-five to thirty-six. We have checked this with our staff, and I know of no objection to the amendment. It should be passed.

Mr. BRADLEY. Mr. President, I urge we adopt this amendment. I think it is a critical amendment at a

very difficult time.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DANFORTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, we have a little difficulty that has developed on this amendment we are trying to work out, and until we do so I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, if the Senator will withhold, we have 4 or 5 amendments we think are noncontroversial. We have Treasury people in one room and we are working in there and on the floor, and I hope we might move some of the noncontroversial, nongermane amendments. Some that are controversial we are going to have problems with, but if in fact somebody believes it is truly noncontroversial, no big revenue impact, then we ought to see it because I agree with the majority leader that there are some of these things we can do and if we can we ought to do them. We have about four prospects, and if there are others, I would appreciate knowing about them.

Mr. PRYOR. Mr. President, will the Senator from Kansas yield? While we are waiting on the noncontroversial amendments what would be wrong with taking up a controversial amendment? I have one I would be glad to send to the desk.

Mr. DOLE. There is one right now I

would like to get to.

Mr. PRYOR. It is 10 after 9, and I have an amendment that I am sure is going to be controversial, but at least we could start on it.

Mr. DOLE. Give us a little time to work out four or five of these. I have no quarrel with that. I do not know what the amendment is.

Mr. PRYOR. It is a very fine amendment and one which, when I explain

Mr. DOLE. Mr. President, it is an it, should not be controversial, but it is atstanding amendment. It is a good right now.

Mr. DOLE. Does it refer to the gas tax or highway bill?

Mr. PRYOR. It refers to the gas tax. It refers to the excise portion of the gas tax. We have had no discussion on the excise tax, and it does refer to that particular section.

Mr. DOLE. I think the Senator from Kansas is familiar with the amendment. It is important and it would be refreshing to have an amendment that really dealt with the tax bill.

Mr. PRYOR. This would be a germane amendment. I know it would be a little unique. I would like at this time, if I could, go forward.

Mr. DOLE. The Senator from Kansas will certainly undertake to bring that up a little later.

Mr. PRYOR. A little later?

Mr. DOLE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HEFLIN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. HEFLIN. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it

is so ordered.

Mr. TSONGAS. Mr. President, for those of us who have amendments that are germane, I have one that changes the formula so that more money goes into repair than new construction, could we be advised as to what we should anticipate, whether we go tonight or whether we go tomorrow? What should we be doing at this time?

Mr. DOLE. Mr. President, if it deals with title I of the bill, the Senator from Kansas would be happy to go tonight. What we thought we would do in the next 20 or 30 minutes is to take care of four or five amendments. I was originally told they were noncontroversial. It seems they may be. There is a noncontroversial amendment pending now on the holding period, but that may turn out to be controversial.

I am aware of the amendment of the Senator from Massachusetts. It is one that ought to be considered. If we cannot resolve these noncontroversial amendments in the next 10 minutes, we will go to controversial amend-

Mr. TSONGAS. What about mine?

Mr. DOLE. That is fine with me. If it is germane, you have no problem anyway

Mr. TSONGAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. DOLE. Mr. President, we have now cleared an amendment to be offered by the distinguished Senator from Alaska (Mr. Murkowski). think he is prepared to offer that amendment now

Mr. MURKOWSKI. I thank the

Senator.

I send an amendment to the desk and ask for its immediate consider-

ation. The PRESIDING OFFICER. The

Chair advises that it will take unanimous consent to set aside the two

amendments pending.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendments be temporarily set aside for the purpose of consideration of the amendment to be offered by the distinguished Senator from Alaska, Senator Murkowski.

Mr. METZENBAUM. With the understanding that no amendment to that amendment would be made.

Mr. DOLE. That is correct.

Mr. MURKOWSKI. I agree with that.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1459

(Purpose: To raise by \$1 the threshold amount of gross income which triggers the requirement that a dependent file an income tax return)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration. I also ask unanimous consent that the senior Senator from Alaska (Mr. STEvens) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the amendment.

The legislative clerk read as follows: The Senator from Alaska (Mr. MURKOW-SKI), for himself and Mr. STEVENS, proposes an unprinted amendment numbered 1459.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I of the matter proposed to be inserted, insert the following:

SEC. -. DEPENDENTS REQUIRED TO MAKE RE-TURNS OF INCOME.

(a) In General.-Clause (iv) of section 6012(a)(1)(C) (relating to exceptions) is amended by striking out "of the exemption amount or more" and inserting in lieu excess of the exemption thereof "in

(b) Effective Date.-The amendment made by this section shall apply to taxable years beginning after December 31, 1981.

Mr. MURKOWSKI. Mr. President, the purpose of this amendment is technical in nature. It is strictly to provide minors in the State of Alaska, who are beneficiaries of a dividend, the privilege of not having to file for a social security number and income tax because the dividend would be fully deductible on the individual refund. This is supported by the Treasury Department and the IRS. There is absolutely no effect monetarily.

Mr. DOLE. Mr. President, I understand that this amendment has been cleared. I can verify it is supported by the Treasury Department. We have no objection to the amendment and are willing to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. MURKOWSKI).

The amendment (UP No. 1459) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I understand the Senator from Illinois (Mr. DIXON) has an amendment that has been cleared. It is supported by the distinguished Senator from Louisiana (Mr. Long). Treasury has no objection to the amendment in its present form.

I ask unanimous consent that the amendment pending be temporarily set aside for the consideration of the amendment to be offered by the Senator from Illinois without additional amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

UP AMENDMENT NO. 1460

(Purpose: To require the Secretary of the Treasury to conduct a study with respect to the tax status of members of religious orders and to suspend application of certain revenue rulings)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The

clerk will report.

The legislative clerk read as follows: The Senator from Illinois (Mr. DIXON) proposes an unprinted amendment numbered 1460.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following:

SEC. -. TAX STATUS OF CERTAIN INCOME OF MEM-BERS OF RELIGIOUS ORDERS.

(a) STUDY .-

(1) In GENERAL.—The Secretary of the Treasury shall conduct a study of the effects of treating any member of a religious order who performs qualified services as the agent of such religious order with respect to such services for purposes of the Internal Revenue Code of 1954.

(2) REPORT .-

(A) In general.-The Secretary of the Treasury shall submit to Congress a final report on the study conducted under paragraph (1) by no later than 60 days after the date of enactment of this Act.

(B) PROPOSAL; RECOMMENDATIONS.-The report submitted under subparagraph (A)

shall include-

(i) proposals for legislative or administrative action which would-(I) have the effect of according to mem-

bers of religious orders the treatment de-

scribed in paragraph (1), and (II) minimize any tax avoidance or other abuses which may result from such treat-

(ii) the recommendations of the Secretary of the Treasury with respect to the tax status of members of religious orders who perform qualified services; and

(iii) proposals for any legislative or administrative action required to implement such recommendations.

(3) Definitions.—For purposes of this subsection-

(A) QUALIFIED SERVICES .- The term "qualified services" means services performed by a member of a religious order which-

"(i) are required by such religious order to be performed, and

"(ii) are performed by such member as an employee of-

'(I) an organization described in section 501 (c) (3) and exempt from tax under section 501 (a) (other than as an employee of

an unrelated trade or business (as defined in section 513) of such organization), or

"(II) an educational institution or hospital operated by a governmental entity described in section 170 (c) (1), and "(iii) are performed for remuneration—

"(ii) are performed for remuneration—
"(I) which, by reason of vows of poverty
and obedience made by such member, are
the property of such religious order, and

"(II) the use and disposition of which are

not controlled by such member.

(B) Member of religious order.—The term "member of a religious order" means any individual who is required to take a vow of poverty and obedience as a member of such religious order.

Mr. DIXON. Mr. President, this is a simple amendment to ask Treasury to make a study with respect to the tax treatment of religious persons performing charitable works for third-party employers, such as the Daughters of Charities, who work, for example, in a leprosarium in Louisiana. They are presently subject to income tax on funds that are earned by the sisters working at the leprosarium and which are passed over to the order. This has been cleared on both sides. Treasury has approved it, and I appreciate the support of the membership.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I confirm what the distinguished Senator from Illinois stated. This amendment was passed on an earlier occasion, and we had some difficulty in conference. As I understand it, that problem has been resolved.

We are willing to take this amendment to conference again. It has the support all over the country as far as Salina, Kans.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois (Mr. DIXON).

The amendment (UP No. 1460) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I suggest to anyone else that has a truly non-controversial amendment that this is the time to bring it up. If they are controversial, we probably should discuss them further.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HEFLIN. Mr. President, object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. It would take unanimous consent to set aside the pending amendment.

Mr. TSONGAS. I so request, Mr. President.

Mr. DOLE. Mr. President, I ask unanimous consent to temporarily set aside the pending amendment and proceed to the consideration of the

amendment to be offered by the distinguished Senator from Massachusetts (Mr. Tsongas), I think with reference to allocation, and no amendments be in order.

Mr. HEFLIN, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TSONGAS. Mr. President, I would make the same request.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. The Senator makes the same request?

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1461

(Purpose: To reapportion funds from the Interstate System to 4R programs and bridge replacement and rehabilitation programs)

Mr. TSONGAS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Massachusetts (Mr. Tsongas) proposes an unprinted amendment numbered 1461.

Mr. TSONGAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, beginning with line 7, strike out all through page 39, line 14, and insert in lieu thereof the following:

Sec. 202. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of \$3,225,000,000 for the fiscal year ending September 30, 1984", and all that follows through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of \$2,000,000,000 for the fiscal year ending September 30, 1984, the additional sum of \$2,000,000,000 for the fiscal year ending September 30, 1985, the additional sum of \$2,000,000,000 for the fiscal year ending September 30, 1986, the additional sum of \$2,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of \$1,000,000,000 for the fiscal year ending

September 30, 1988, the additional sum of \$1,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of \$1,000,000,000 for the fiscal year ending September 30, 1990."

On page 41 subsection (7) strike out "\$1,700,000,000" and insert in lieu thereof "\$2,513,000,000".

On page 41, subsection (7), strike out "\$1,700,000,000" and insert in lieu thereof "\$2,600,000,000".

On page 41, subsection (7), strike out "\$1,800,000,000" and insert in lieu thereof "\$2,700,000,000".

On page 41, subsection (7), strike out "\$2,000,000,000" and insert in lieu thereof "\$3,000,000,000".

On page 41, subsection (7), strike out "\$2,000,000,000" and insert in lieu thereof "\$3,500,000,000".

On page 41, subsection (7), strike out the period and insert in lieu thereof a comma and "\$2,000,000,000 for the fiscal year ending September 30, 1988, and \$2,000,000,000 for the fiscal year ending September 30, 1989.".

On page 45, strike out "\$800,000,000" and insert in lieu thereof "\$1,012,000,000".

On page 45, strike out "\$1,800,000,000" and insert in lieu thereof "\$2,700,000,000".

On page 45, strike out "\$2,400,000,000" and insert in lieu thereof "\$3,300,000,000".

On page 45, strike out "\$2,800,000,000" and insert in lieu thereof "\$3,800,000,000".

On page 45, strike out "\$3,200,000,000"

and insert in lieu thereof "\$4,700,000,000".

On page 45, strike out "\$3,400,000,000" and insert in lieu thereof "\$4,400,000,000".

On page 45, after September 30, 1988 strike out the period and insert in lieu thereof a comma and "and not to exceed \$1,000,000,000 for the fiscal year ending September 30, 1989.".

Mr. TSONGAS. Mr. President, if I could say to the Senator from Kansas, if he would like a lesson in social graces, which I have just acquired, I would be glad to yield to him for that purpose.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. TSONGAS. Yes.

Mr. DOLE. I understand, Mr. President, this amendment will be handled by the distinguished Senator from Vermont (Mr. STAFFORD), along with the distinguished Senator from West the distinguished Senator from West Virginia (Mr. RANDOLPH), who is now on his way to the Chamber. It does involve title I of the bill.

Mr. TSONGAS. Mr. President, I rise to offer an amendment to assure that the bill before us will achieve its intended and most compelling purpose, namely, the repair and rehabilitation of our Nation's roads and bridges.

We all remember the plea made by the President as to the need to repair the bridges and roads of our country. That, indeed, has been the thrust of the argument for the gasoline tax.

This urgent need justifies rapid consideration of the gasoline tax increase and the accompanying Federal Aid Highway Improvement Act.

Yet, as currently proposed—and I do not think most people understand this—the bill devotes more than half of its spending authority to the construction of new interstate highways and bridges rather than repair.

My amendment changes these spending priorities by reducing the authority for new interstate construction and correspondingly increasing the spending authority for interstate road and bridge repair.

What I am trying to do is to make the bill consistent with the public argument that has been made these many months.

many months.

Mr. President, we do not have order

in the Chamber.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Massachusetts will not proceed until there is order.

The Senator from Massachusetts.

TSONGAS. Mr. President, in this bill, we ask the American taxpayers to dig into their pockets for an additional \$5.5 billion and contribute it to the highway trust fund. The rationale, we have heard, is the crying need for repair and maintenance of the public roads. I agree with that rationale. Such rehabilitation is essential for maintenance of a part of our transport network that is critical to our economy. The magnitude of our needs has been documented in virtually every major national news publication. Years of deferred maintenance have left many roads and bridges in desperate condition; 1 in every 10 miles of interstate highway is rated substandard by the Federal Highway Administration. One in every five bridges in the country is closed or restricted because of serious deficiencies. Dilapidated bridges are collapsing at the rate of 150 each year, resulting in the loss of a dozen lives on average.

Estimates of the cost to fix our public infrastructure run from \$600 billion to \$3 trillion, the size of the entire annual output of the U.S. economy. To deal with these massive needs, the measure before us would raise an additional \$27.5 billion over the next 5 years for the highway trust fund. Obviously, this sum would not pay for all necessary repairs. With needs so great and resources so limited, we must make special pains to put those resources to work where they are the most needed. That is why I am so concerned with the spending priorities of the Senate bill as it now

stands.

Let me deal with the bill as it currently exists. The bill provides \$27.225 billion in authorization to be spent on new interstate construction. This sum is more than half of the total \$50.825 billion authorization for the three main programs—interstate construction, interstate repair—the so-called 4R—and bridge repair. I believe our first priority should be maintaining our public infrastructure already in place, rather than bulldozing new roads and leaving other roads to crumble.

It seems to me it would be very difficult to argue why, given the clearly stated public needs for repair, half the money is going to go into new construction.

Further, much of the proposed increase of new construction could be for projects of questionable national

significance.

The CBO—and this is where we are getting our figures—in a June 1982 study of the Interstate System, concluded that many of its uncompleted portions are of local and regional, rather than national, importance. An independent analyst, Mark Scrotsky of Colorado, has calculated that 56 percent of the uncompleted segments are economically unwarranted, given the cost and anticipated benefit.

My amendment would simply change the spending priorities in the bill. It leaves \$11 billion in authority for new construction—an amount sufficient, according to CBO, to complete the interstate segments of national

significance.

I do not object to the moneys in the bill for new construction, Mr. President. I simply lower it so that the moneys available for new construction of highways will be consistent with what the CBO says is necessary to complete the program.

The additional \$16 billion of new construction spending authority now in the bill would reallocate to repair both Interstate roads and bridges. The amendment would change the authorization levels for the three programs in

these ways:

INTERSTATE CAPITAL CONSTRUCTION

The bill provides \$27.225 billion in construction authority over the next 7 years. This amendment reduces the authorization to \$11 billion—an authorization level sufficient to complete the nationally significant portions of the Interstate System.

INTERSTATE RESURFACING (SECTION 106)

The bill provides \$14.4 billion in authorization over the next 6 years. This amendment increases that authorization to \$21.5 billion—an amount sufficient to meet the long-term resurfacing needs estimated by the Department of Transportation.

So the first two numbers that we have used are, first, how much is required to complete the system of new construction. That figure comes from the CBO. Second, how much is necessary for interstate resurfacing. That number comes from the Department of Transportation. We then have section 3, bridge replacement and rehabilitation.

BRIDGE REPLACEMENT AND REHABILITATION (SECTION 103; SUBSECTION 6)

The bill currently provides for \$9.2 billion in authorization over the next 5 years. This amendment raises the authorization to \$18.313 billion to be spent over the next 7 years. This almost doubles the authorization cur-

rently in the bill and makes a serious effort to redress the woeful neglect of our bridge repair needs. The Federal Highway Administration estimated in its third annual report to Congress that it would cost over \$47 billion to replace or rehabilitate the Nation's deficient bridges. Obviously the longer we delay in taking serious corrective action, the higher the bill for repair will be.

This amendment would leave unchanged the total level of authorization in the bill for the three programs at \$50.8 billion. So in terms of budget impact, there is no change. It would not change the current formulas for apportioning these funds among the States. There is no change in that respect either. States certifying that their resurfacing needs are met, could still use remaining funds on new construction, as currently provided in the bill. So that remains in place, also. I would like to stress that my amendment would not designate uncompleted interstate segments as being of national or local significance. That is, it would not demap any of the current system. The amendment would leave State government with the discretion on how to proceed with new construction projects. I believe the changes in authorization proposed here would simply encourage the States to set priorities for their construction programs and to proceed with those segments of greatest importance. That also remains in place. More importantly, by matching spending authority with the areas of greatest need, we would give the States the power to spend where they see the greatest need. This approach begins to correct incentives built into the system that encourage States to proceed with unnecessary or marginal new construction projects for fear of losing Federal dollars whether or not the projects are needed.

At a time of severely limited governmental resources, I believe it is imperative that we make best use of each dollar by spending it on those repairs most critically needed. We simply cannot afford anything else.

It seems to me, Mr. President, the time has come to make sure that the dollars have been spent well. This is an attempt to move in that direction.

To sum up, I would like to note that States like Oregon, Michigan, Ohio, North Carolina, Montana, Arizona, Wisconsin, Missouri, and Louisiana are rated as having the greatest interstate pavement repair needs in the country. Obviously, in States with those kinds of needs, this would be a very beneficial amendment.

The Federal Highway Administration has listed the various States that have more than 30 percent deficient bridges which is a very high number, and included in that among others would be Connecticut, Florida, Georgia, Indiana, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New York, North Carolina, Tennessee, Vermont, and Wisconsin.

I end by stating that it seems to me that the American people have been told that what we are into these days is infrastructure repair, and what my amendment does is simply try to be consistent with how this program has been sold and would also argue consistent with what the needs are of our Nation, the numbers coming from CBO and the Department of Transportation.

Finally, Mr. President, I ask unanimous consent that the following materials also be included in the Record. A summary table of changes in authorization made as a result of the amendment, a table of deficient bridges prepared by the Federal Highway Administration, a table of pavement deficiencies prepared by the Federal Highway Administration, and finally a report by a private consultant of traffic safety planning and management systems.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF CHANGES IN AUTHORIZATION IN S. 3043 AS A RESULT OF TSONGAS REPAIR AMENDMENT

Fiscal year	Inters		Interstal	e repair	Bridges		
	Bill	Tson- gas	Bill	Tsongas	Bill	Tsongas	
1983 1984 1985 1986 1987 1987 1988	3.625 3.8 3.8 4.0 4.0 4.0	2.0 2.0 2.0 2.0 1.0 1.0	0.800 1.8 2.4 2.8 3.2 3.4	1.612 2.7 3.3 3.8 4.7 4.4 1.0	1.7 1.7 1.8 2.0 2.0	2.513 2.6 2.7 3.0 3.5 2.0 2.0	
Totals	27.225	11.0	14.4	21.5	9.2	18.313	

LIST OF DEFICIENT BRIDGES BY STATE: FEDERAL-AID SYSTEM

	Number of bridges in inventory	Structur- ally deficient	Function- ally obsolete	Number of deficient bridges	Percent- age of bridges
Alabama	7,008 524 4,187 5,438 13,665 3,244 2,458 437	671 49 51 312 555 193 98 49	830 10 92 772 1,434 204 695 6	1,501 59 143 1,084 1,989 397 793 55	21.4 11.3 3.0 20.0 14.6 12.2 32.3 12.6
District of Columbia . Columbia . Florida . Georgia . Hawaii . Idaho . Illilinois . Indiana . Illilinois . Illililinois . Illilinois . Illililinois . Illilililinois . Illilililinois . Illilililinois . Illilililililililililililililililililil	5,719 1,148 2,360 3,673 5,516 5,071 7,191 8,560 2,235 5,131 718	49 186 343 343 238 1.064 631 631 635 484 2.235 384 83 384 2.235 384 100 100 100	1,424 2,390 42 89 1,143 1,918 1,533 1,516 1,009 1,354 1,22 341 686 3,016 192 1,297 101 201	55 1,610 2,733 327 2,207 2,549 2,231 2,442 1,563 1,837 1,837 1,164 4,103 3,400 2,75 1,726 1,111 303	21.4 30.0 35.3 20.8 19.3 22.7 41.5 31.6 15.6 57.1 29.1 21.2 23.8 24.1 24.1 25.1 26.1 27.7 27.7 28.7 28.7 28.7 28.7 28.7 28.7

LIST OF DEFICIENT BRIDGES BY STATE: FEDERAL-AID SYSTEM—Continued

	Number of bridges in inventory	Structur- ally deficient	Function- ally obsolete	Number of deficient bridges	Percent- age of bridges
New Jersey	3,042	500	127	627	20.7
New Mexico	2,832	156	208	364	12.9
New York	8,570	3,073	338	3,411	30.8
North Carolina	4,917	679	1,951	2,630	53.4
North Dakota Ohio	11.699	240 733	384 318	1.051	3.5 8.9
Oklahoma	7,239	397	476	873	12.0
Oregon	3.718	241	253	494	13.2
Pennsylvania	10.419	1.027	645	1,672	16.0
Rhode Island	558	58	11	69	12.3
South Carolina	4,052	156	362	518	12.7
South Dakota	2,798	160	224	384	13.7
Tennessee	7,303	1,133	1,408	2.541	34.7
Texas	23,833	422	3,261	3,683	15.4
Utah	1,292	44	112	156	12.0
Vermont	1,267	78	380	458	36.0
Virginia	6,511	516	700	1,216	18.6
Washington	3,995	121	215	336	.8
West Virginia	3,298	391	349	740	22.4
Wisconsin	5,997	1,195	877	2,072	34.0
Wyoming	1,888	46	143	189	10.0
Puerto Rico	715	75	434	509	***************
Total	256,505	23,689	37,860	61,549	

Source: Highway Bridge Replacement & Rehabilitation Program, FHWA, March 1981.

# ECONOMICS OF COMPLETING THE INTERSTATE HIGHWAY SYSTEM

Twenty-six years after the start of the interstate highway program the interstate system remains incomplete. At the same time the system is incomplete, it is facing accelerating decay. While only 3.7 percent of the mileage remains to be completed, over \$40 billion will be required for that completion. This is about half of what has already been spent. Even though inflation distorts this proportion, \$40 billion is still a huge sum of money. More disturbing, though, is the decline and decay of the already completed sections of interstate highway. If the present system is to be brought back into good repair, huge new sums are going to have to be appropriated for maintenance and repaid. Estimates of this repair bill range between \$16 billion and \$30 billion for the next eight years. It is not likely that both the necessary repair and system completion can be financed by the American taxpayer.

The proposal for a five-cent per gallon gasoline tax increase for five years, calculated to raise \$27.5 billion dollars, it should be noted, will not pay for the completion of the interstate system. The tax proposal would pay for the repair bill on the interstate system. But if the motivation is to bring the interstate highway system back into good repair Congress could do that without any tax increase by simply scaling back or eliminating the completion program.

This brief paper, prepared by a Registered Professional Engineer practicing traffic engineering in Colorado, gives economic measures for each of the remaining segments of the interstate highway system where construction has not yet begun. These economic measures are similar to and based on the familiar economic Benefit Cost Ratios and New Present Values normally used in economic studies. (Benefit-cost ratios are the benefits of a project divided by the costs of that project. The Net Present Value is the benefit of a project minus the cost of the project.) This paper is being presented to help in the tough choices that face the American public and their leaders regarding the completion of the interstate highway system.

#### ECONOMIC CRITERIA FOR DECISION MAKING

The most usual criteria for economic decision making in the public sector is the economic benefit-cost ratio. This ratio simply compares the economic benefits of some project or program to the economic costs incurred in carrying out that project or program. If the ratio is greater than one, a project's benefits outweigh its costs, and it is said to be economically justified. If the ratio is less than one, on the other hand, the project's costs are greater than the economic benefits realized, and the project is not economically justified.

not economically justified.

While a single number, the benefit-cost ratio, either greater or smaller than one, is an easy way to communicate the economic justifiability of a project to an economist or other specialist, it often says nothing to the general public. This paper presents a more easily grasped means of communicating economic measures to the public and other non-specialists, and will hopefully make tough decisions easier, and their consequences more clearly understood.

The benefit-cost ratio is computed by combining all the economic benefits occurring during all the twenty years an economic analysis normally covers and comparing them to the costs of building or implementing a project or program. We can get a more graphic measure for the highway case if we divide all those benefits and costs by the number of trips that cars or trucks will make on the new highway project during the twenty years. This division gives us the costs and benefits per trip for the highway project. The costs and benefits per trip are very easily understood, have a very graphic meaning, and give the public and their decision makers new criteria upon which to base decisions.

To finally communicate the idea of costs and benefits per trip in a single number we can define the easily understood idea of a highway subsidy. If the costs of building the project are greater than the benefits the highway users will derive, we can call the excess of the cost over the benefit (which the taxpayers fund) the highway subsidy, or just plain subsidy. In cases where the benefits received are greater than the costs incurred, a "negative subsidy" is created. This negative subsidy" indicates an economically justifiable project. In the case of the 168 projects on the Interstate system where construction has not yet begun, 73 of them generate "negative subsidies", while 95 of them require tax subsidies from the American Taxpayer. The subsidies range from \$7.73 per trip to a negative \$12.18 per trip. Here is the list of the 168 interstate projects listed in order in increasing justifiability:

RESULTS OF SUBSIDY ANALYSIS FOR 168 INTER-STATE PROJECTS AWAITING START OF CON-STRUCTION

The results of the subsidy analysis for the remaining segments of interstate highway are shown in the list at the end of this report. The projects are identified by state, interstate route number, city or geographic area, and the Department of Transportation (DOT) national or local significance (given in a 1976 Federal Highway Administrative report) and DOT urban or rural classification.

The first column of numbers, the "excess of capital cost over benefits", is the taxpayer subsidy for each project. The next two columns give the individual costs and benefits per trip. Note that the subsidy is simply the difference in these two columns. Columns 4 and 5 give the costs and benefits for

each highway segment per vehicle mile. A vehicle mile is one vehicle traveling one mile. These columns remove the total length of the project from consideration, and can be compared from project to project. Columns 5 through 9 give cumulative project data for length, total cost, total user benefits and total vehicle miles traveled. Columns 10 and 11 give the overall benefit-cost ratio and net present value for the segment. These numbers are the usual output of a public works project economic analysis. The last four columns give the local or national designation from the Congressional Budget Office (CBO) study, The Interstate Highway System: Issues and Options, June 1982, The 20 year traffic growth estimate for the segment given by the Federal Highway Administration (FHWA), the percent of trucks in the main highway stream, also from FHWA, and the road type designation, from the CBO report.

In this list the first 95 projects require a subsidy. They are not economically justifiable. The last 73 projects generate "negative subsidies" and are economically justifiable.

#### NONECONOMIC CRITERIA FOR DECISIONMAKING

To make a decision on the future of the completion of the interstate system, we need to look at more than just this list of economic criteria. The interstate system was created for several reasons. The high speed highways save lives, they are more relaxing to drive on than ordinary highways, they make long distance communting or vacation trips possible, they increase land values along their corridors, some of them are pretty, they aid in the national defense, and so on. Many, in addition to the above, cut travel costs by relieving congestion and permitting higher speeds to be maintained.

The only thing measured with the benefitcost ratio (or the subsidy) is the relieving of congestion and the increased travel speed. The other reasons for building interstate highways are not measurable in economic terms. The answer to the question of whether the United States should complete noneconomically justifiable interstate segments cannot be given just in terms of economic analyses. Instead we have to turn to other ways of thinking.

For instance, how many of the original objectives of the interstate highway system have been realized? How much better may the original objectives be realized if an additional \$40 billion is spent on the interstate system? Would \$40 billion be best spent on completing the remaining 1575 miles (3.7% of the total 42,944 mile system) or repairing and maintaining the 96.3% that is complete. Or would something completely different give a greater return to the American taxpayer?

These questions are difficult and will require close attention of our country's leaders. While interstate highways are built to provide many benefits, in the decade of the 1980's any projects that are chosen to go forward in spite of non economic justifiability must be closely scrutinized and double checked. The choice to go forward with a project that is not economically justifiable must be fully documented and debated, must be consciously made by both the country's leaders and its citizens (it must not "slip through the cracks" or be swept along in a public works or job creation juggernaught), and must be supported by overwhelming reasons of non-economic nature.

## RECOMMENDATIONS

The facts are these:

1. The interstate highway system, as well as the rest of the nation's roads and bridges, is decaying at a rapidly accelerating rate.

2. Increasing quantities of new dollars, many of them Federal, will have to be devoted to highway repair and maintenance in the future. This is a new Federal expense, as in the past, according to Federal law, the states and the states alone repaired and maintained our nation's highways. This new expense is estimated to be between \$16 and \$30 billion dollars through 1990 just to bring the interstate system back into the condition it was in in 1975.

3. The interstate highway system, the 42,944 mile system of modern highways designed to connect the nation's major cities, is still not complete even though Congress has "accelerated constuction" on the system for 26 years.

4. While only 1575 miles of additional highway (3.7% of the total) is needed to "complete the system," these few additional miles will cost \$40 billion through 1990.

5. Most people agree that the original functions of the interstate system, to provide a network of modern high-speed highway to connect the nation's cities, is largely complete

6. The federal gasoline tax generates about one billion dollars for every penny of tax per gallon of fuel.

7. A five cent per gallon increase in gasoline tax for five years, at current gasoline consumption rates, would raise about \$27.5 billion dollars.

8. The \$27.5 billion nearly would cover the maximum amount estimated to repair and maintain the interstate system for the decade.

9. The \$27.5 billion would not complete the interstate system even if all of it were devoted to interstate completion.

10. If Congress wishes to bring the already existing interstate highways back into the condition they were in in 1975, it can do so without any tax increase if it simply declares the interstate system complete and provides no more funding for the 1575 remaining miles.

To simply cancel the remainder of the interstate system may be too quick and too simple a decision. After all, 73 interstate completion projects are economically justifiable in their own right. A responsible tactic may be to

1. postpone any further interstate completion until the existing interstate highways are brought back to the condition they were in in 1975.

2. After the repair and replacement work is complete, and after provision is made to ensure the interstate system will not again lapse into disrepair, consider constructing some of the more economically justifiable projects.

3. while the economically justifiable projects are under construction, study the non-economic values associated with the non-justifiable projects and determine which, if any, of those projects should be built in spite of their economic non-justifiability.

4. to give the states some guidance with their construction programs to adopt some time schedule, say January 15, 1985, by which to inform them of the projects to be built and those to be finally dropped from the federal construction program.

NOTES ON THE PREPARATION OF THIS REPORT

The economic measures given for the interstate segments in this paper were compiled by methods given in A manual for conducting Highway Economy Studies, by

David A. Curry and Dan G. Haney of the Stanford Research Institute, Menlo Park, California. This is a widely recognized and used highway economic analysis technique. The process was automated by placing it in a Comprpro 816 A mini-computer. The computer program was carefully calibrated to give identical results to the lengthy manual computations given in the Stanford technique.

Care must be exercised when using Benefit Cost ratios, especialy when priorities must be made among several projects, all of which are economically justified according to their benefit cost rations. This paper does not get into ranking, scheduling, or prioritizing projects, so there is no need to go into arcane economic theory to explain what these caveats might be. The reader should simply be made aware that the techniques used in this paper are specialized and cannot be thoughtlessly applied to other economic decision making problems.

All the data for the computations came from the Federal Highway Administration, as prepared by the individual states in their 104(b)(5) studies, to be compiled in the biannual Interstate Cost Estimate. This is the most uniform source for highway statistics for the 47 states that still have interstate segments to complete.

'However there is a caution that must be recognized when using the figures from the Interstate Cost Estimate (or the 104(b)(5) report as it is often referred to). The results of Stanford Benefit Cost technique is largely determined by levels of traffic congestion. That is, if congestion exists on the highway now or in the future, then the benefit cost measure of building a new road is very high. If congestion is not present at any time now or in the future then there is a very low benefit cost for building a new road. Unfortunately the Interstate Cost Estimate (ICE) provides present and future traffic levels assuming the interstate link exists. That means the ICE predicts traffic levels that do not exist today and will exist in the future if and only if the interstate link is completed. This is a built-in bias toward building. If the interstate link is not built, in many cases, the traffic cannot and will not build to the levels predicted in the Interstate Cost Estimate. Either other roads will be improved to handle the increased traffic, other modes of transportation will be created to handle the increased travel demand, some combination of these will occur, or some other event completly unforeseen will happen to preclude the traffic levels predicted in the ICE. In many cases the present roads simply cannot physically handle the traffic levels predicted in the ICE."

Accident costs for fatal injury and property damage only accidents have not been included in this examination. Generally speaking, the absolute number of accidents that could be prevented by building the segments under question is likely to be overshadowed by the costs of the segment.

It may be eloquently argued that human life or suffering cannot be valued in dollars, and hence any saving of life or prevention of suffering must take precedence over other economic considerations. This is a valid argument, and was mentioned in the section on non-economic criteria for decision-making.

But if decisions are going to be based on criteria of human life and suffering, decision makers must look not only at saving lives and preventing suffering on our highways, but also at saving lives and preventing suffering throughout society. If money is

spent to save lives and prevent suffering on our highways, which highway or segment of highway should get the money, and when? If money is spent on lifesaving devices in one highway location, it is not available to be spent in another location. Going a step further, if it is spent on highways, it cannot be spent on airway safety, or ship safety, or on heating subsidies for the indigent, or for food to feed the starving, or any of the others of hundreds of projects and programs that save human lives and prevent human suffering. Trying to sort out those choices would be an enormous undertaking, far beyond the scope of this paper. This paper is dealing with only 1575 miles of highway and \$40 billion of potential highway construction

The amount of total monetary savings over twenty years if all the segments were constructed, using accident rate statistics from Colorado, amounts to just over \$3.4 billion. This is only 8.5% of the \$40 billion investment required to complete the interstate highway system.

Maintenance costs are also not included in this cost-effectiveness examination. Maintenance costs are typically in the order of thousands of dollars per mile per year. Construction costs are in the order of millions of dollars per mile, or more frequently tens of millions of dollars per mile. It should be noted that out of the 168 interstate completion projects, 13 cost over \$100 million per mile. Including maintenance costs will not be a significant contribution to the cost-effectiveness measure.

#### CONCLUSION

This paper has discussed and disclosed the cost-effectiveness measures of the 168 individual projects required to "complete the interstate highway system". It uses the measure of a highway subsidy, or the excess of taxpayer costs to user benefits. Those subsidies range from a worst case of a \$7.73 taxpayer subsidy required per trip to a best case of users benefiting \$12.18 per trip more than the taxpayers have provided.

This paper has been presented in the belief that the American public is able to

make wise decisions if it has all the information available pertaining to that decision. We believe the public has not had this information available to it concerning the interstate highway system. We believe past decisions on completing the interstate highway system have been based upon arguments of "Congress' commitment" to finishing the interstate system, dedication to 1950's ideas of transportation needs, pressure from special interests having a financial interest in highway building, and the idea of an ever expanding Highway Users Trust Fund with which to build the interstate system.

We think the realities of shrinking highway dollars, shrinking growth rates in highway travel, greatly increasing repair and maintenance needs, and a newly perceived idea that we as a nation cannot afford all that we once thought we could, require this hard look at the concept of finishing the interstate system. We hope this new look at the concepts and benefits of interstate highway completion will aid in the discussion of and determination of this program.

## ANALYSIS FOR TAXPAYER SUBSIDY (EXCESS OF CAPITAL COSTS OVER USER BENEFITS) FOR INTERSTATE PROJECTS

	Dollars per trip		Dollars per vehicle mile			Millions of dollars		Million		Net		FHWA 20- Passas	Dercont		
Interstate project	Excess of capital cost over benefits	Cap cost per vehicle trip	Benefits provided per vehicle trip	Cap cost per vehicle mile	Benefits per vehicle mile	Length of segment (miles)	Project cost	User benefits	vehicle miles traveled	B/C ratio for segment	present value million dollars	CB0 designation	year growth estimate (percent)	Percent trucks in future traffic	Symbols
Massachusetts I-90 Boston DOT national	7.734	7.813	0.119	3.125	0.047	2.5	406.3	6.2	130.0	0.01	-400.1	L	130	12.0	S,D
urban. Rhode Island 1–895 near Providence DOT local rural.	4.721	5.315	0.592	0.143	0.015	37.1	543.0	60.5	3790.0	0.11	-482.5	t	110	4.0	B,C
ławaii H-3 outside Honolulu DOT local rural.	3,306	4.241	0.933	0.451	0.099	9.4	686.7	151.2	1522.0	0.22	-535.5	L	93	3.0	C
olorado 1–70 Glenwood Canyon DOT national rural.	3.283	3.957	0.670	0.314	0.053	12.6	291.5	49.4	928.0	0.17	-242.1	N	166	13.0	1
Itah 1-70 San Rafael Swell DOT national rural	2.568	2.992	0.431	0.063	0.009	47.4	42.3	6.1	670.0	0.14	-36.2	N	30	17.0	1
fontana 1–15 near Butte/Boulder DOT national rural.	2.534	2.543	0.000	0.185	0.000	13.7	36.2	0.0	195.0	0.00	-36.2	N	62	12.0	1
exas I-27 Lubbock DOT national rural Itah I-70 Richfield DOT national rural Maryland I-83 Baltimore DOT local	2.014 1.869 1.467	2.569 3.184 1.515	0.548 1.307 0.041	0.068 0.073 0.445	0.014 0.030 0.012	37.5 43.4 3.4	401.3 91.8 575.6	85.6 37.7 15.6	5857.0 1251.0 1291.0	0.21 0.41 0.03	-315.7 -54.1 -560.0	N	148 66 34	5.5 15.5 10.0	
urban. laryland 1–95 Baltimore Harbor Tunnel	1.432	1.557	0.131	0.916	0.077	1.7	871.2	73.3	951.0	0.08	-797.9	L	27	17.0	C,D,I
DOT national urban. lew York I-478 Westway DOT local	1.379	2.002	0.627	0.465	0.145	4.3	1410.0	441.8	3028.0	0.31	-968.2	t	25	7.0	D,C
urban. daho I-15 DOT national rural (2 lane	1.315	1.965	0.623	0.043	0.013	45.0	29.0	9.2	664.0	0.32	-19.8	N	70	16.0	1
sections). outh Carolina 1–526 Charleston DOT	1.261	1.266	0.000	0.145	0.000	8.7	253.3	0.0	1740.0	0.00	-253.3	L	220	12.0	S
local urban and rural. Iontana I-90 near Lodge Grass DOT	1.199	1.786	0.576	0.077	0.025	22.9	31.9	10.3	409.0	0.32	-21.6	N	33	19.5	1
national rural. ew Hampshire I-93 Franconia Notch	0.986	1.595	0.608	0.097	0.037	16.4	85.5	32.6	879.0	0.38	-52.9	L	113	6.0	91
DOT local rural. ichigan I-69 near Lansing DOT nation-	0.967	1.006	0.008	0.024	0.000	40.3	234.4	2.0	9384.0	0.00	-232.4	N	63	13.0	1
al urban and rural. /yoming 1–90 north of Sheridan DOT	0.893	1.059	0.163	0.113	0.017	9.3	18.8	2.9	165.0	0.15	-15.9	N	23	16.0	1
national rural. Idiana 1–164 Evansville DOT local	0.879	1.025	0.144	0.048	0.006	21.3	103.3	14.6	2145.0	0.14	-88.7	L	63	27.0	S,B
urban. Iontana I–15 gap sections (2) near	0.804	1.382	0.564	0.062	0.025	22.0	19.6	8.0	312.0	0.41	-11.6	N	60	24.0	1
Idaho DOT national rural. ermont 1–93 near St. Johnsbury DOT	0.769	1.173	0.401	0.107	0.036	10.9	40.6	13.9	377.0	0.34	-26.7	t	71	11.0	С
local rural. outh Dakota 1-29 Sisseton DOT nation-	0.710	1.111	0.403	0.075	0.027	14.8	19.0	6.9	253.0	0.36	-12.1	N	350	16.0	1
al rural. lew Jersey 1–695 near New York DOT	0.614	0.733	0.117	0.215	0.034	3.4	31.7	5.1	147.0	0.16	-26.6	L	83	18.0	F,I
local urban. Iorida I-595 Ft. Lauderdale DOT local	0.539	0.870	0.332	0.207	0.079	4.2	457.4	174.9	2206.0	0.38	-282.5	L	171	10.0	S,D
urban. Iontana 1–94 near Miles City DOT	0.467	0.619	0.152	0.123	0.030	5.0	11.4	2.8	92.0	0.24	-8.6	N	32	26.0	1
national rural. Innesota 1–394 Minneapolis-St. Paul	0.450	0.458	0.000	0.049	0.000	9.2	188.9	0.0	3790.0	0.00	-188.9	L	64	4.0	C,D
DOT local urban. irginia 1–95 near Petersburg DOT na-	0.443	0.470	0.000	0.016	0.000	27.7	228.2	0.0	13435.0	0.00	-228.2	N	270	14.0	F,C,I
tional rural. lawaii H-3 DOT local urban	0.426 0.423	0.485 0.482	0.060 0.062	0.538 0.074	0.066 0.009	0.9 6.5	109.4 12.4	13.6 1.6	203.0 167.0	0.12 0.12	-95.8 -10.8		93 22	3.0 14.0	
Maryland 1–70 Baltimore DOT local urban.	0.407	0.784	0.382	0.191	0.093	4.1	351.1	171.3	1834.0	0.48	-179.8	L	43	7.0	C,D
firginia 1–85 near Petersburg DOT na- tional rural.	0.403	0.477	0.073	0.048	0.007	9.9	50.4	7.8	1044.0	0.15	-42.6	N	370	11.0	I,C
/irginia I-264 Norfolk local urban lorida I-75 Everglades DOT national	0.401 0.397	0.509 1.353	0.106 0.945	0.221 0.017	0.046 0.012	2.3 78.0	259.1 291.4	53.9 203.7	1169.0 16797.0	0.21 0.70	-205.2 -87.7		110 164	4.0 10.0	
rural. Montana 1–90 4 gap sections DOT na-	0.385	1.304	0.913	0.037	0.026	34.7	34.7	24.3	923.0	0.70	-10.4	N	43	22.0	1
tional rural.  California I–105 Los Angeles DOT na- tional urban.	0.365	0.631	0.267	0.394	0.167	1.6	397.3	168.3	1006.0	0.42	-229.0	L	. 188	7.0	S,C,D

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ANALYSIS FOR TAXPAYER SUBSIDY (EXCESS OF CAPITAL COSTS OVER USER BENEFITS) FOR INTERSTATE PROJECTS—Continued

	Dollars per trip			Dollars per vehicle			Millions of dollars		Million	0.0	Net		FHWA 20- p	Percent	
Interstate project	Excess of capital cost over benefits	Cap cost per vehicle trip	Benefits provided per vehicle trip	Cap cost per vehicle mile	Benefits per vehicle mile	Length of segment (miles)	Project cost	User benefits	vehicle miles traveled	B/C ratio for segment	present value million dollars	CBO designation	growth estimate (percent)	trucks in future traffic	Symbols
Mississippi I-110 Biloxi DOT local urban	0.336	0.336	0.000	0.240	0.000	1.4	44.5	0.0	185.0	0.00	-44.5	L	110	10.0	S,D
New York 1-88 Binghamton DOT national rural New Jersey 1-295 Trenton DOT national	0.314 0.293	0.340 0.316	0.024 0.020	0.130 0.052	0.009 0.003	2.6 6.0	48.2 133.4	3.4 8.7	368.0 2529.0	0.07 0.06	-44.8 -124.7	N	61 70	15.0 21.0	l,F B
urban. Louisiana I-49 main route DOT national	0.290	7.432	7.101	0.041	0.040	177.4	1215.3	1161.1	29007.0	0.96	-54.2	N	93	14.0	I,C
urban/rural.  Pennsylvania I–476 Philadelphia DOT local urban.	0.272	0.641	0.368	0.052	0.030	12.2	230.9	132.5	4,389.0	0.57	-98.4	L	24	12.0	B,C
Minnesota I-35 Duluth-Superior DOT na- tional urban.	0.257	0.349	0.092	0.145	0.038	2.4	107.8	28.6	741.0	0.26	-79.2	L	67	6.0	S
Pennsylvania 1–579 Pittsburgh DOT local urban.	0.249	0.252	0.003	0.505	0.007	0.5	109.6	1.7	217.0	0.01	-107.9	L	6	8.0	D
Ohio 1-470 near Wheeling DOT local	0.245	0.288	0.039	0.051	0.007	5.6	40.7	5.6	790.0	0.14	-35.1	L	35	19.0	В
rural. Oklahoma 1–235 Oklahoma City DOT local urban.	0.242	0.308	0.064	0.096	0.020	3.2	149.5	31.5	1551.0	0.21	-118.0	L	140	4.0	A,B,C
Colorado 1–76 Barr Lake Hudson DOT national rural.	0.241	0.550	0.311	0.045	0.025	12.2	48.0	27.1	1063.0	0.56	-20.9	N	103	19.0	1
Montana 1–90 near St. Regis DOT na- tional rural,	0.238	0.312	0.074	0.094	0.022	3.3	8.8	2.1	93.0	0.23	-6.7	N	72	22.0	1
Alabama 1–65 Birmingham* DOT nation- al/urban.	0.230	0.325	0.089	0.039	0.011	8.1	81.7	22.4	2036.0	0.27	-59.2	N	41	13.0	I,F
Washington 1-705 Tacoma DOT local	0.228	0.323	0.095	0.215	0.063	1.5	95.4	28.2	443.8	0.29	-67.2	L	89	7.0	S,D
urban. Pennsylvania I-676 Philadelphia DOT na-	0.217	0.270	0.052	0.168	0.033	1.6	167.8	32.9	994.0	0.19	-134.0	1	18	10.0	D,C
tional urban. Utah 1-84 near Idaho border DOT na-	0.213	0.503	0.289	0.041	0.023	12.1	16.7	9.6	401.0	0.57	-7.1	N	41	20.0	1
tional rural. Idaho I-86** DOT national rural (2-lane	0.197	1.116	0.914	0.051	0.042	21.5	50.9	41.7	980.0	0.82	-9.2	N	78	26.0	1
sections). Michigan I-696 Detroit DOT national	0.195	0.357	0.161	0.048	0.021	7.4	262.2	118.4	5434.0	8.45	-143.8	L	68	10.0	B,C,D
urban. Minnesota I–494 Minneapolis-St. Paul	0.191	0.196	0.000	0.033	0.000	5.8	97.2	0.0	2863.0	0.00	-97.2	L	75	6.5	B,C,D
DOT national urban. Colorado 1–70 Debeque Canyon DOT	0.188	1.195	1.004	0.059	0.050	20.0	82.0	68.0	1372.0	0.84	-13.1	N	166	14.5	1
national rural. Connecticut 1–691 New Haven Meriden	0.179	0.321	0.140	0.089	0.039	3.6	62.6	27.4	702.0	0.44	-35.2	t	22	10.0	C
DOT local urban. Florida 1–95 outside Palm Beach DOT	0.176	0.619	0.442	0.018	0.013	33.9	254.6	182.2	13943.0	0.71	-72.4	N	124	12.0	1
national rural. Arizona 1–40 west of Flastaff DOT na-	0.176	0.229	0.053	0.085	0.019	2.7	15.4	3.6	181.0	0.23	-11.8	N	31	20.0	1
tional/rural. Idaho 1–90 Coeur D'Alene DOT national	0.171	0.278	0.106	0.047	0.018	5.9	26.0	9.9	550.0	0.38	-16.1	N	95	14.0	1
urban. Texas 1–40 McLean DOT national rural	0.161	0.224	0.063	0.083	0.023	2.7	19.7	5.6	237.0	0.28	-14.1		92	14.0	1
Connecticut 1–84 eastern Connecticut DOT national rural.	0.157	2.642	2.489	0.074	0.071	35.0	434.9	409.7	5761.0	0.94	- 25.2		51	8.0	
New Hampshire 1–393 Concord DOT local urban.	8.144	0.181	0.036	0.106	0.021	1.7	16.9	3.4	158.0	0.20		L	89	5.0	
California 1–980 San Francisco* DOT local, urban.	0.143	0.145	0.000	0.483	0.000	0.3	41.1	0.0	85.0	0.01	-41.1		14		C,D
California I-580 San Francisco* DOT national urban.	0.133	0.134	0.000	0.103	0.000	1.3	79.8	0.0	774.0	0.00	-79.8	L	21	2.0	C,D
Utah I-70 Green River DOT national rural.	0.129	0.211	0.080	0.091	0.035	2.3	6.8	2.6	74.0	0.38	-4.2	N	54	15.0	1
Nevada I-515 Las Vegas DOT local urban.	0.127	0.177	0.848	0.035	0.009	5.0	100.6	27.3	2834.0	8.27	-73.3	L	110	6.0	S,D
Utah 1-15 near Idaho DOT national rural Ohio 1-670 Columbus DOT local urban California 1-188 San Francisco DOT local	0.126 0.120 0.116	0.845 0.271 0.346	0.721 0.158 0.389	0.061 0.061 0.059	0.052 0.034 0.024	13.8 4.4 5.1	35.4 152.6 195.5	30.2 84.7 134.7	578.0 2469.0 3169.0	0.85 0.55 0.66	-5.2 -67.9 -62.8	L	67 30 229	14.0 10.0 10.0	
urban. Maryland 1–370 Washington DOT local	0.097	0.201	0.104	0.074	0.038	2.7	37.1	19.2	496.0	0.51	-17.9	L	110	4.0	S
urban. Minnesota 1–94 Minneapolis St. Paul	0.095	0.169	0.073	0.018	0.007	9.3	56.8	25.4	3234.0	0.43	-33.4	N	43	9.0	I,F
DOT national urban.  Utah I-15 south of Nephi DOT national	0.082	1.662	1.584	0.057	0.054	29.0	75.2	71.7	1312.0	0.95	-3.5	N	87	17.0	1
rural.  Montana I–15 near Dillon DOT national	0.081	1.018	0.935	0.147	0.135	6.9	15.8	14.5	107.0	0.92	-1.3	N	43	24.0	1
rural, Missouri 1-229 St. Joseph DOT local	0.075	0.343	0.268	0.052	0.040	6.6	26.5	20.7	509.0	0.78	-5.8	Ĺ	49	16.0	F,B
urban and rural. Arkansas I-630 Little Rock DOT local/	0.064	0.065	0.000	0.081	0.000	0.8	31.6	0.0	386.0	0.00	-31.6	L	87	10.0	D
urban, Arizona I-10 outside Ph. DOT national/	0.064	0.073	0.005	0.013	0.001	5.4	49.9	3.9	3671.0	0.08	-46.0	N	103	7.0	1
rural. Virginia 1–595 Washington DOT national	0.060	0.071	0.011	0.089	0.013	0.8	25.0	3.9	280.0	0.15	-21.1	Ĺ	100	4.0	S.D
urban. Louisiana I-110 Baton Rouge DOT local	0.059	0.059	0.000	0.119	0.000	0.5	7.5	0.0	63.0	0.00		L			S.C
urban. Massachusetts I-95 Boston DOT local	0.052	0.060	0.000	0.032	0.004	1.9	20.2	2.9	630.0	0.14		N			1,D
urban. Alabama I-65 just outside Birmingham	0.049	0.209	0.158	0.032	0.024	6.4	42.2	32.0	1291.0	0.76		N		15.5	
DOT national /rural. Florida 1-75 Miami DOT national urban	0.047	0.135	0.088	0.135	0.088	1.0	44.9	29.3	331/0	0.65		N			I,F
Connecticut I-484 Hartford DOT local urban.	0.043	0.191	0.147	0.239	0.184	0.8	40.0	30.8	167.0	0.77		ï		8.0	C,D
Pennsylvania 1–79 Erie DOT national rural and urban.	0.040	0.075	0.036	0.151	0.072	0.5	8.8	4.2	58.0	0.47	-4.6	L	33	9.0	S,D
Maryland 1-70 Fredrick DOT national urban and rural.	0.039	0.164	0.123	0.043	0.032	3.8	38.0	28.7	880.0	0.76	-9.3	N	50	9.5	1
Maryland I–170 Baltimore DOT local urban.	0.039	0.163	0.124	0.233	0.178	0.7	67.3	51.3	288.0	0.76	-16.0	L	34	7.0	S,D
Massachusetts I–391 Springfield DOT local urban.	0.031	0.031	0.000	0.155	0.000	0.2	5.6	0.0	36.0	0.00	-5.6	L	47	10.0	S
Florida I-275 St. Petersburg DOT local	0.028	0.088	0.059	0.049	0.033	1.8	32.8	22.2	668.0	0.68		L		10.0	C,D
urban. Kansas 1–670 Kansas City DOT local	0.027	0.233	0.221	0.291	0.277	0.8	93.0	88.5	319.0	0.88	-4.5	L	45	7.0	D
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## CONGRESSIONAL RECORD—SENATE

ANALYSIS FOR TAXPAYER SUBSIDY (EXCESS OF CAPITAL COSTS OVER USER BENEFITS) FOR INTERSTATE PROJECTS—Continued

	Dollars per trip			Dollars per	vehicle mile		Millions o	f dollars	Million		Net		FHWA 20-	Percent	
Interstate project	Excess of capital cost over benefits	Cap cost per vehicle trip	Benefits provided per vehicle trip	Cap cost per vehicle mile	Benefits per vehicle mile	Length of segment (miles)	It Project	User benefits	vehicle miles traveled	B/C ratio for segment	value million dollars	CBO designation	growth estimate (percent)	trucks in future traffic	Symbols
Ohio I-480 Cleveland DOT national	0.019	0.193	0.176	0.036	0.033	5.3	85.6	77.8	2339.0	0.90	-7.8	L	25	14.0	B,C
urban. Washington 1–90 Seattle DOT local	0.017	1.795	1.787	0.280	0.279	6.4	879.9	875.9	3136.0	0.99	-4.0	1	50	4.0	C,D
urban. Kentucky 1-255 Louisville DOT local	0.014	0.136	1.111	0.252	0.016	2.4	37.6	33.1	714.0	0.88	-4.5	L	68	10.0	S
urban. Florida 1–275 south of St. Petersburg	0.013	0.101	0.088	0.025	0.022	4.0	22.0	19.2	863.0	0.87	-2.8	L	133	10.0	C
DOT local rural. Pennsylvania 1–279 Pittsburgh DOT local	0.012	1.299	1.298	0.106	0.106	12.2	403.0	402.7	3784.0	0.99	3	t	39	10.0	F,I
urban. Connecticut 1–284 Hartford DOT local	0.012	0.144	0.132	0.046	0.042	3.1	33.1	30.3	710.0	0.91	-2.8	L	47	10.0	C,D
urban. New Jersey I-195 Trenton DOT national	0.009	0.086	0.077	0.051	0.045	1.7	26.8	23.9	525.0	0.89	-2.9	t	50	11.5	F,S
urban. alifornia 1–80 Auburn DOT national urban	001	0.160	0.162	0.076	0.077	2.1	60.3	60.8	787.0	1.01	0.5	N	184	7.0	F
Connecticut I-291 Hartford DOT local urban.	005	0.264	0.269	0.041	0.042	6.3	66.8	68.1	1593.0	1.02	1.3	t	44	10.0	C,D
North Carolina 1-277 Charlotte DOT local urban.	006	0.062	0.072	0.036	0.042	1.7	26.0	29.9	705.0	1.10	3.9	L	110	19.0	D
Massachusetts 1–895 Providence DOT local urban.	009	0.058	0.068	0.039	0.045	1.5	13.6	16.0	348.0	1.17	2.4	L	92	10.0	В
Oregon I-82 DOT national rural District of Columbia I-295 DOT local	014 028	1.432 0.159	1.446 0.188	0.135 0.122	0.136 0.145	10.6	90.8 122.1	91.7	672.0	1.01	0.9	N	150	20.0	
urban.  Georgia 1–575 north of Atlanta DOT	020	0.800	0.830	0.072	0.143	1.3		144.3	994.0	1.18	22.2		34	5.0	
local rural.  Maryland 1–795 Baltimore DOT local	031	0.129	0.162	0.072	0.075	4.1	63.9	66.3 87.1	878.0 2203.0	1.04		L	186	15.0	
urban.  Indiana I–165 Indianapolis* DOT local	031	0.125	0.102	0.031	0.053	2.7	91.7	125.0	2355.0	1.25	17.7		170	11.0	
urban.  Tennessee I-440 Nashville DOT local	042	0.105	0.143	0.038	0.050	7.4	130.5	148.1	2962.0	1.36	33.3 17.6		24 89		S,C,D
urban.  Washington I–5 Kelso DOT national	043	0.019	0.065	0.009	0.032	2.0	5.1	17.4	535.0	3.40	12.3		40		C,D
urban.  New Jersey 1-95 Trenton DOT national	043	0.019	0.064	0.019	0.052	1.0	9.5	31.4	490.0	3.30	21.9	N		16.0	
urban.  Maine I-95 north of Portland segment	080	0.023	0.107	0.013	0.032	3.3	4.2	19.1	587.0	4.50	14.9		72 25	16.0	
DOT national urban.  Maine I-395 Bangor DOT local urban	0.016	0.210	0.193	0.063	0.058	3.3	38.2	35.0	598.0	0.92	-3.2	N	110	9.0	S,C
California I–380 San Francisco* DOT national urban.	083	0.034	0.120	0.028	0.100	1.2	40.7	141.5	1409.0	3.48	100.8	i	21	6.0	S,D
Alabama I-565 just outside Huntsville	091 112	0.048 0.478	0.142 0.592	0.030 0.029	0.088 0.036	1.6 16.2	14.6 105.6	43.2 130.8	486.0 3576.0	2.90 1.24	28.6 25.2	<u> </u>	120	11.0	
DOT national rural.  California 1–15 north of San Diego DOT	113	0.190	0.309	0.046	0.075	4.1	45.7	74.3	985.0	1.60	28.6		106 293	5.5	
national rural.  Plorida 1–75 near Napels DOT national	118	0.283	0.605	0.025	0.036	11.0	48.0	68.7	1862.0	1.43	20.7		127	10.0	
rural. Virginia I–81 Wytheville DOT national	-122	0.207	0.334	0.025	0.040	8.2	40.2	64.8	1588.0	1.60	24.6		46	28.0	
rural. Missouri 1–435 Kansas City DOT local	129	0.448	0.577	0.031	0.040	14.4	91.9	118.3	2948.0	1.29	26.4		60		
urban and rural. New Jersey 1–95 near New York DOT	138	0.052	0.199	0.037	0.068	2.9	25.3	96.8	1406.0	3.80	71.5		73	12.5	
national urban.  New Jersey 1–78 near Phillipsburg DOT	150	0.216	0.384	0.033	0.059	6.5	51.5	91.5	1548.0	1.70	40.0		33	28.5	I.
national rural.  Maryland I-195 Baltimore DOT local	- 151	0.239	0.391	0.109	0.177	2.2	79.6	129.9	730.0	1.63	50.3	1	220		S,C
urban. Alabama 1–565 Huntsville DOT local/	156	0.414	0.572	0.081	0.112	5.1	144.2	199.2	1773.0	1.38	55.0	201000000000000000000000000000000000000	120	6.0	
urban. South Carolina 1–77 Columbia DOT na-	163	0.291	0.455	0.182	0.284	1.6	24.8	38.7	136.0	1.56	13.9	N	180	27.0	
tional urban. New York 1–481 Syracuse DOT local	165	0.275	0.440	0.051	0.081	5.4	43.3	69.1	848.0	1.60	25.8	1	110		B,C
urban. New Jersey 1–295 Philadelphia DOT na-	172	0.068	.0239	0.034	0.119	2.0	30.1	105.4	881.0	3.54	75.3	1	-4	30.0	5.700
tional urban. Pennsylvania I-95 Philadelphia DOT na-	190	0.039	0.233	0.066	0.389	0.6	23.2	136.2	350.0	5.80	113.0	L	150		F,I
tional urban. Wissouri I-170 St. Louis DOT local	207	0.040	0.252	0.023	0.148	1.7	26.0	164.1	1103.0	6.31		L	25		S,C,D
urban. Colorado 1–76 Denver * DOT local urban .	225	0.322	0.569	0.062	0.109	5.2	106.1	187.1	1709.0	1.70	81.0		185		C,D
daho I-90 near Montana border DOT national rural.	240	0.304	0.544	0.190	0.340	1.6	27.2	48.7	143.0	1.79	21.5		125	8.5	
Ohio I-490 Cleveland DOT local urban Texas I-20 Fort Worth DOT national	242 243	0.090 0.117	0.335	0.069 0.029	0.258 0.090	1.3	56.1 21.8	208.4 67.3	807.0 742.0	3.70 3.10	152.3 45.5		35 160	12.0 10.5	D,C
urban. Illinois I-255 East St. Louis DOT local	266	0.333	0.607	0.035	0.065	9.3	146.6	267.1	4086.0	1.82		L			B,C
urban. Minnesota 1–35E Minneapolis-St. Paul	273	0.176	0.459	0.019	0.051	9.0	92.7	241.5	4730.0	2.60		L	40	7.5	14.5
DOT local urban. Utah I-15 south of Beaver DOT national	- 275	0.106	0.393	0.014	0.053	7.3	5.3	19.6	364.0	3.70		N		17.0	
rural. California I-15 San Diego DOT national	290	0.097	0.393	0.040	0.164	2.4	44.4	179.1	1092.0	4.03		L		4.0	
urban. Louisiana I-510 New Orleans * DOT	316	0.388	0.708	0.143	0.262	2.7	116.9	213.1	812.0	1.82		L	80		S,C
national urban. Louisiana 310 New Orleans DOT local	350	2.698	3.059	0.284	0.322	9.5	185.8	210.6	654.0	1.13		L	95		S,C
rural. California I-15 San Bernardino-Riverside	369	0.509	0.889	0.045	0.080	11.1	152.2	265.5	3313.0	1.74		N	353	10.0	
DOT national urban.  New York 1–990 Buffalo DOT local	401	0.164	0.569	0.048	0.167	3.4	27.0	93.6	559.0	3.46		L	160	8.0	
urban. Washington 1–82 Richland DOT local	411	0.695	1.114	0.049	0.079	14.0	128	206.1	2589.0	1.60		L	67	9.0	
urban and rural.  North Carolina 1–40 2 seg near Raleigh	431	1.098	1.546	0.023	0.032	46.9	199.7	281.1	8524.0	1.40		N	120	21.0	
DOT national rural. Florida I-75 outside Tampa DOT national	- 449	0.439	0.894	0.047	0.097	9.2	48.4	98.5	1013.0	2.04		N	208	14.0	
rural.  New Mexico north of Albuquerue DOT	466	0.463	0.957	0.017	0.036	25.9	61.9	127.9	3459.0	2.06		N	100	10.0	
national rural.		0.400	0.507	0.017	0.000	0.2	01.3	121.0	0100.0	2.00	00.0		100	10.0	

ANALYSIS FOR TAXPAYER SUBSIDY (EXCESS OF CAPITAL COSTS OVER USER BENEFITS) FOR INTERSTATE PROJECTS—Continued

Interstate project	Dollars per trip			Dollars per vehicle mile			Millions o	f dollars			Net		FHWA 20-	-	
	Excess of capital cost over benefits	Cap cost per vehicle trip	Benefits provided per vehicle trip	Cap cost per vehicle mile	Benefits per vehicle mile	Length of segment (miles)	Project cost	User benefits	Million vehicle miles traveled	B/C ratio for segment	present value million dollars	CBO designation	year growth estimate (percent)	Percent trucks in future traffic	Symbols
Pennsylvania 1–78 2 segment Allentown DOT national urban/rural	525	0.673	1.213	0.033	19.9	0.050	276.1	497.2	8156.0	1.80	221.1	N	59	14.0	B,I
Maryland 1–297 near Annapolis DOT national rural.	546	0.365	0.925	0.038	0.098	9.4	105.2	266.0	2703.0	2.53	160.8	L	110	17.0	S
Georgia I-675 Atlanta* DOT local urban Rhode Island I-84 Eastern part of State DOT national rural.	582 596	0.297 0.394	0.899 1.019	0.028 0.032	0.087 0.084	10.3 12.1	101.6 102.8	307.7 265.7	3522.0 3152.0	3.02 2.54	206.1 162.9	L	385 174	10.0 8.0	F,C
Louisiana I-220 Shreveport DOT local urban.	598	0.321	0.923	0.064	0.184	5.0	94.3	271.0	1468.0	2.87	176.7	L	230	8.0	B,C
Ohio I-675 Dayton DOT local urban South Carolina I-326 south of Columbia DOT local rural.	664 673	0.558 0.246	1.239 0.927	0.033 0.074	0.075 0.280	16.5 3.3	163.1 63.4	362.0 238.5	4817.0 849.0	2.22 3.76	198.9 175.1	ţ	36 340	20.0 15.0	
Arizona I-10 inside Phoenix DOT local/ urban.	698	0.375	1.352	0.059	0.214	6.3	272.7	982.1	4575.0	2.88	512.7	L	121	5.0	C,D
New Jersey 1-95 north of Trenton DOT national rural	716	0.335	1.067	0.021	0.068	15.5	160.8	511.7	7433.0	3.20	350.9	N	73	18.0	F,I
New Jersey I-78 near New York DOT local urban.	791	0.255	1.050	0.044	0.181	5.8	121.4	498.1	2751.0	4.10	376.7	L	61	12.0	F,I
Alabama I-210 Mobile DOT local/urban Kansas I-435 DOT local urban Florida I-75 Tampa* DOT national rural Arizona I-10 Phoenix area DOT national	870 896 915 -1.025	0.447 0.393 0.436 0.304	1.324 1.293 1.377 2.297	0.072 0.044 0.028 0.040	0.213 0.145 0.090 0.306	6.2 8.9 15.2 7.5	170.2 114.2 123.8 207.1	503.5 375.6 390.5 1562.0	2357.0 2584.0 4310.0 5099.0	2.95 3.29 3.15 4.42	261.4	L N N	126 174 155 103	10.0 6.5 14.0 7.0	B,C
rural. Washington 1–82 2-segments near Sun-	-1.058	1.529	2.580	0.030	0.051	50.4	117.8	198.7	3881.0	1.70		N	97	18.5	1. 1. 1. 1.
nyside DOT national rural. Alabama 1–759 Gadsen DOT/local urban Maryland 1–97 near Annapolis DOT na-	-1.060 -1.305	0.173 0.191	1.252 1.517	0.039 0.023	0.278 0.185	4.5 8.2	34.8 49.3	251.0 390.5	902.0 2110.0	7.20 7.92	216.2 341.2	<u>L</u>	434 52	6.0 12.0	S,D,C
tional rural. New Jersey 1–287 near New York DOT	-1.324	1.515	2.854	0.072	0.136	20.9	474.5	893.8	6544.0	1.88	419.3	L	37	11.0	B,C
national urban.  Texas I-20 Dallas DOT national urban  Georgia I-420 Atlanta DOT local urban  Massachusetts I-495 Taunton DOT local	-1,420 -1,433 -1,443	0.578 0.247 0.052	2.048 0.392 1.505	0.029 0.045 0.015	0.104 0.072 0.430	19.6 5.4 3.5	206.4 104.7 17.5	731.2 166.2 499.3	6995.0 2287.0 1161.0	3.50 6.90 28.50	524.8 61.5 481.8	<u> </u>	150 152 170	14.0 9.0 8.0	C.D
urban. Louisiana 1–49 Shreveport DOT national	-1.716	0.391	2.109	0.046	0.248	8.5	237.0	1276.9	5146.0	5.39	1039.9	N	120	12.0	I,F
urban. Florida 1–75 outside Miama DOT national urban.	-1.766	0.509	0.689	0.029	0.039	17.4	274.6	371.6	9373.0	4.50	97.0	N	148	9.0	1
West Virginia 1-64 Beckley DOT national urban.	-1.823	3.062	5.052	0.091	0.151	33.4	419.0	691.3	4570.0	1.60	272.3	N	150	17.0	1
lowa 1–380 Cedar Rapids and Waterloo DOT national urban.	-2.264	2.110	4.428	0.036	0.076	57.7	365.1	766.1	9982.0	2.09	401.0	L	47	20.0	S
California 1–105 DOT national urban Virginia 1–664 Norfolk New Bridge DOT national urban.	-3.136 -3.937	1.745 1.250	4.872 5.199	0.111 0.201	0.310 0.838	15.7 6.2	1216.6 445.9	3396.6 1853.3	10944.0 2210.0	2.80 4.16	2180.0 1407.4	t	224 170	9.0 8.0	C,D S,D
West Virginia 1-77 (Toll road) DOT national urban. Total	-12.177	3.583	15.807	0.088	0.388	40.7 1890.5	510.0 24856.6	2550.0 32496.9	5793.0 390272.0	4.40	1740.0 6798.3	N		28.0	1

<sup>&</sup>lt;sup>1</sup> B-beltway; C-connector; D-downtown; F-feeder; I-intercity; and S-spur.

The PRESIDING OFFICER. Does the Senator from Massachusetts yield the floor?

Mr. TSONGAS. I do.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I have listened to the distinguished Senator from Massachusetts and the description of the amendment which he has offered to the part of the bill which was written by the Committee on Environment and Public Works. I have to reluctantly oppose the amendment offered by the Senator from Massachusetts, and at the outset I should point out that the provisions in the bill which the Senator from Massachusetts proposes to change were written by the Committee on Environment and Public Works and were adopted by the committee, as was the final product entirely, by a unanimous vote, as the chairman recalls it, 16 to nothing. So that as chairman of the committee I would in any event be constrained to have to oppose the amendment of the Senator.

I do so reluctantly. I support the concept of the distinguished Senator from Massachusetts, the concept that he seeks to implement, but I have to say that the amendment he has of-

fered does result, in the judgment of this Senator, in a radical redistribution of the funding as provided by the Committee on Environment and Public Works for interstate construction, 4R construction and bridge construction.

I believe the Federal aid highway program should increasingly be directed to insuring that the Nation's existing highway system is maintained in a manner that promotes safe, efficient transportation rather than the construction of grandiose new superhighways.

The Environment and Public Works Committee worked hard to develop a bill that significantly increases funding for the rehabilitation and repair of existing roads and bridges. At the same time, the committee's bill recognizes that there is a long history of planning and commitments by States to the completion of the Interstate System. Funding for interstate new construction in the committee bill is increased very little, even though revenues increase substantially assuming enactment of the tax increase. The increased revenues were directed almost entirely in the committee bill to the rehabilitation of existing roads and bridges.

Mr. President, the committee bill in the opinion of the Senator from Vermont strikes a balance between continuing funding levels already relied on and planned for by the States and emphasizing, on the other hand, repair and rehabilitation of our road systems and bridges so necessary.

Under the circumstances, Mr. President, without speaking further at the present time on the matter, I find myself forced to oppose the amendment of the Senator from Massachusetts and express the hope that the Senate will not adopt it.

Mr. RANDOLPH. Mr. President, I rise in opposition to the amendment. I join, of course, with the able chairman of our Committee on Environment and Public Works (Mr. Stafford) in congratulating our colleague from Massachusetts for his concern and his knowledge as presented in the amendment.

As has been indicated by our chairman, the measure now before us, which incorporates the provisions of the Senate including jurisdictional parts of the highway measure within the jurisdiction of our committee, was adopted after very carefully consideration.

I reiterate that there was very, very active consideration of many proposals, but when we came to reporting the legislation to the Senate it was by a vote of 16 to nothing that the measure comes before us.

Mr. President, the amendment offered by our able colleague from Massachusetts (Mr. Tsongas) is contrary to the policy of the Federal highway program since, as we recall, its inception in 1956. We realize that there are times certainly when changes should be made, but we must not forget that the Congress has designated 42,500 miles of a system of national interstate highways. We must not forget the very name of the network includes defense highways. That is a designation, and so there is this overall dual program for the interstates.

This system has approximately 1,200 miles at the present time that are not completed out of the 42,500 miles. This has been a massive, monumental program of construction. There are difficulties, of course, in connection with impact statements, environmental interests, in connection with the remaining 1,200 miles. No one can say tonight whether all of this mileage will be completed, but we do know that this system must be completed to the maximum extend possible.

Other Congresses have said to the present 97th Congress that this is a job of road building, bridge building, the network of our transportation arteries stretching in all the States, and, yes, this program must go forward if it is possible to complete the remaining 1.200 miles.

It is very important for us to understand in the Senate exactly what the amendment does. This proposal, I remind my colleagues, would reduce the authorizations for the construction of interstate roads to the level which would make completion under our present apportionment formula based on cost, which is the way it should be based, almost impossible.

Sufficient funds would not move to the States, the State of Massachusetts, the State of Vermont, the State of West Virginia, or any of our States under the current apportionment formula which have noncontroversial segments yet to complete. I have indicated that some of them are controversial.

Under the statute no mechanism is available to transfer apportionments from the State of Louisiana, shall we say, to the State of Texas. Certainly, this mechanism is something that we must consider. We must remember that we have to provide sufficient funds in the State which is able to move forward with contracts.

In 1981 here in the Senate and in the House of Representatives, Members addressed the growing problem of interstate completion by reducing— this is very important for us to remem-

ber in opposing this amendment-the cost to complete to \$37 billion. Eliminations under that proposal would take from this program eligible costs which are not necessary to provide for a system which is open to what we believe to be the traveling and the shipping public.

Now, we believe that what we have done by those amendments is satisfactory, I say to my colleague, the chairman of the committee, Mr. STAFFORD. We believe that those amendments expedited the completion of our important Interstate System. There is absolutely no well-reasoned need that we have heard of which would indicate otherwise. So there is no necessity to have a provision, I say in good candor, like that proposed in the current amendment.

As the Senator from Vermont says and as I echo, we do not rise in opposition to an amendment just because we want to preserve exactly what the Senate committee has done in bringing the measure to the floor. But we feel that on the merit of the amendment which has merit in it, and we said so, there should be a rejection of the proposal as set forth by our colleague from Massachusetts based on continuing national priority for interstate completion.

Mr. MELCHER. Mr. President, I wonder if the author of the amendment would agree to yield for some questions?

Mr. TSONGAS. Yes.

Mr. MELCHER. As we understand the amendment as it will affect Montana, over a period of time the State of Montana would receive something like \$30 million more 4R improvements.

Mr. TSONGAS. Let me say to the Senator that I am not in a position since we have asked the administration to get the recalculations back to us to suggest what those numbers would be. Some have said that would be the case, but I am certainly not in a position to certify that since the administration has been unable to get the numbers to us in time for this amendment to be proposed.

Mr. MELCHER. We have asked the Montana Department of Highways to comment on the amendment and I seek clarification from the Senator from Massachusetts on the points

they made.

They advise us that less funds would be available for interstate completion throughout the United States and that a State, however, would have the flexibility to reprogram its 4R funds if it can certify that its 4R needs have been met?

Mr. TSONGAS. That is correct.

I would say to the Senator that issue was raised and that is why that provision was put in so that States that wanted to move their moneys from resurfacing which has been completed into new construction could do that.

Mr. MELCHER. Our Department of Highways in Montana is unable to project when they would be able to certify that their 4R needs within Montana would have been met and completed. While the Senator's amendment would eliminate those parts of the interstates that are not categorized as being of national importance-and that is the main thrust of the Senator's amendment, is it not?

Mr. TSONGAS. It does not demap. There is no attempt in the amendment to demap any projected roadways. What we simply do is follow the CBO estimate of what is necessary to complete the nationally significant segments. But if we ever try to get into demapping process in the amendment we would be here all night.

Mr. MELCHER. Even though the segments of interstate that are incomplete in Montana would probably be categorized as of national importance, would it not also be likely that there would be less money available for those segments that were categorized as of national importance?

Mr. TSONGAS. No, because the number we arrived at for new construction was the CBO number, what is necessary for all nationally significant interstate sections, so we specifically put the number at an amount that would complete the system.

Mr. MELCHER. I do not believe the intent of the committee was to devise a system of allowing more money than was necessary to complete the system, or was it?

Mr. TSONGAS. I was not present during the deliberations, but the Congressional Budget Office estimates I have and that is where we began, and it seems to me that their June 1982 report is certainly current and should be given credence.

Mr. MELCHER. I simply state that the office of Montana Department of Highways feels that the amendment would reduce the amount of money available in the near term at least for interstate completion in Montana for about \$7 million, that it would receive more in reprograming money over the long run, but reluctantly they find it difficult to recommend passage of the amendment.

I thank the Senator for yielding.

Mr. BENTSEN. Mr. President, what you are seeing here is a very major reallocation of funds, and when we start to talk about whether one State gets a little more or gets a little less by this change, that is really not the point.

What we are looking at here more than any other section of this legislation is what is a true overall Federal project for the Nation.

That is the question of completion of the interstate which has been under-way for some 25 years. Ninetyfive percent of it is completed.

But what is proposed by the Senator from Massachusetts is that we cut the allocation for the completion of the interstate from \$27.2 billion to \$11 billion. He does turn around and put it to the 4R account, he puts it to bridge rehabilitation. But what you end up with will not be enough to do the job that has to be done even for those parts of the interstate that are noncontroversial.

Legislation adopted by Congress in 1978 established deadlines for the States to decide whether to build the remaining segments by September 30, 1983, and that the construction had to

begin by September 30, 1986.

These provisions were added to push the completion of the Interstate System. But for these provisions to be meaningful, for us to be able to see it accomplished, means you have to have adequate funds to do it. If this amendment were adopted, you simply would not have the funds to accomplish it, certainly not in the time frame we are talking about.

In 1981 Congress passed legislation to redefine the concept of what was included in the interstate construction category. Those were carefully crafted changes designed to assure that essential segments of that interstate were going to be built. We had extensive hearings in that regard, and yet we are talking about coming along now and taking some CBO estimate and making a very major change in what our hearings led us to decide as to what should be done.

Now to do that on the floor of the U.S. Senate tonight, I think, is a very

serious mistake.

To realistically complete this defined interstate in a timeframe that is consistent with the deadlines we have set forth is going to require the kind of funding levels that we have categorized in this particular bill.

The magnitude of the change proposed by this amendment is far beyond anything that was considered by the committee or proposed to the Senate when the interstate was de-

fined only a year ago.

If Congress seeks to deemphasize the completion of the interstate, as this amendment would drastically do, then it should fully understand the implications of that kind of an action.

The committee has never considered changes of this magnitude in the interstate, and the amendment should not be considered without the Members of this Senate undertanding what they are about to do in that regard. I think it would be a serious mistake. I think we ought to push for completion of the interstate.

We have fought long and hard to bring it to completion, and we have set forth legislation that will bring that about, and I strongly urge the Members of the Senate to uphold the allocations set forth by members of the committee who have had long and extensive hearings in that regard.

Mr. RANDOLPH. Mr. President, will my colleague from Texas yield?

Mr. BENTSEN. I would be happy to yield to my distinguished friend, the former chairman of the committee, and a man who has been long interested in the building of the Interstate System, who was here when it started, and who contributed so much to its progress. No Member of the Senate is more knowledgeable, or worked harder for completion of the interstate highway than the Senator from West Virginia. In 1937 he introduced the forerunner of the Interstate System, the Intercontinental Highway Act.

Mr. RANDOLPH. Mr. President, I

Mr. RANDOLPH. Mr. President, I think for the record we should know that within the structure of the Environment and Public Works Committee we have a Subcommittee on Transportation. That subcommittee was once called the Subcommittee on Roads, but we widened it for other forms of transportation to a degree, not losing, of course, the basic program of roadbuilding. The knowledgeable Senator from Texas was for many, many years the chairman of our subcommittee.

Mr. President, while the amendment—and I will be very frank to say—has laudatory goals with respect to the interstate 4R work in replacement of deficient bridges, the interstate construction, all of these will, we know if the amendment were adopted, decline significantly in the United States.

In our State of West Virginia we would not receive, Mr. President, enough annual apportionments of Federal funds to complete essential work on the important Interstate 64 and the equally important interstate which is listed as 77, that interstate being particularly valuable in the southern part of West Virginia.

So we have to be realistic, I say to the Senator from Massachusetts. Here is just one State that would suffer. All of the States, practically, with interstate programs still to be completed would come up short, and we do not feel, therefore, that the amendment has the equity which is necessary at a time when no interruption of the completion of the interstate should be brought to the surface. We should continue under the program we now have, doing as much as possible-we realize the environmental matters-I mentioned them, and they are understandable-but this program must go forward, and I believe the Senate desires that the measure, without unsound reasons, should be passed in the Senate as reported from your committee that has jurisdiction, has studied these matters and brings a bill to the floor of equity and a bill that is absolutely necessary if the work is to go forward.

Mr. SYMMS. Mr. President, will the Senator yield?

Mr. RANDOLPH. Yes; I yield to the able chairman of our Subcommittee on Transportation.

Mr. SYMMS. I thank the distinguished Senator from West Virginia. I quite agree with everything he has said, and what the Senator from Texas has said.

I think we should make the point here that the committee accepted an amendment earlier from the Senators from Maryland, Senator Sarbanes and Senator Mathias, which makes it much more flexible for the States to use the money either in repairs or new construction, with a payback.

There is a piece of paper around the floor here that has each respective State, what is gets, and I will only say to my colleagues do not look at this paper and think just because your State may get a little more money under the Tsongas formula and a little bit less under the committee formula that somehow you are getting less.

You end up, as Senator Bentsen so properly pointed out, that we have a policy working here that maybe your State may get slightly more money under the formula offered by our good friend from Massachusetts, However, it may take you 10 years longer to complete those uncompleted sections of the interstate, and there comes a tradeoff.

We tried to work this out so that it is the most equitable. We accepted the amendment of the two distinguished Senators from Maryland which allows more flexibility in the bill. But I think it would be a mistake to go this far with it because we start losing the significance of trying to tie this great land of ours all together with the completed Interstate System.

One other thing I think should be said. Last year, 1981, this committee reported language, as Senator Randolph said so well a few minutes ago, and I hope all our colleagues will understand this point, where we reduced and extended the authority of DOT to remap enough miles off the interstate, so that we reduced the total in the future from \$53.8 billion down to \$38 billion. So we are already doing what our good and able friend, the Senator from Massachusetts, is talking about.

But I think to take that extra step is a policy step that will delay possibly the completion of the Interstate System, and it could delay it for many, many years. So I think Senators should be very wary of looking at this and just thinking instantly that this is a great idea; that we will spend more money on repairs and less on new construction.

There is a little bit more to this than meets the eye, and I would urge all Senators to support the position that Senator Randolph and Senator Bentsen and the committee have taken on

this because I think it is a better posture for the entire Nation with a National Interstate System that this amendment be defeated.

Last year the committee reported legislation which the Congress approved that reduced the total cost to complete the interstate from \$53.8 billion to \$38 billion, as Senator Randolph just noted. The committee will continue to review the cost to complete the Interstate System.

It is important to complete the Interstate System as expeditiously as possible because many of the existing miles of interstate need major rehabilitation, and major amounts of money will be needed to preserve the

existing system.

I assure the distinguished Senator that the committee will continue to review this. However, until a determination is made that certain parts of the Interstate System should not be completed, we must continue the Federal commitment to complete the Interstate System. The Senator's amendment would only postpone both the completion of the system and the determination of what is essential for a connected Interstate System.

I yield back to the distinguished

Senator.

Mr. RANDOLPH. Mr. President, in conclusion, what the Senator from Idaho is saying is accurate. He has sketched what we have done. He has indicated the attention that we have given to this problem and what we have brought to the Senate is well reasoned.

It is not necessary for us to speak longer. We have spoken of our appreciation for the interest and concern of the Senator from Massachusetts. But we believe, in this area in which he is working with the pending amendment, that he is in error as to the result that would flow if his amendment is incorporated in the present measure.

I thank the Chair.

Mr. TSONGAS addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. TSONGAS. Mr. President, I will only take a couple of minutes and then I am going to ask that we vote on this and request the yeas and nays.

Mr. President, I find the discussion rather interesting, because the argument has been that we are not going to complete the Interstate System under the amendment. That simply is not the case. How do I know? Because I have in front of me the June 1982 report of the Congressional Budget Office. Who requested their report? I did not request it. It was the committee. So all I am doing is using numbers submitted by our Congressional Budget Office to the Senate committee.

The committee cannot have it both ways. Those of us who are relying upon the numbers submitted to the

committee have a right to argue that our numbers are credible. The CBO says \$11 billion to complete the system, and my amendment is \$11 billion. Now how are you going to go back and explain to your constituents why, if it takes \$11 billion to complete the system, you are going to put \$27 billion into the bill? How do you explain to your constituents, when you have a \$47 billion need on bridge repairs, that you only provide \$9 billion? If anything, this amendment of mine is overly skewed to new construction. It makes no sense to go beyond the \$11 billion necessary to complete the system at a time when the infrastructure is crumbling.

What has the debate been about these last few months? Crumbling infrastructure. That is why we justified the gasoline tax. Your vote on this amendment will determine whether we were talking about that or simply a figleaf to cover up undue expendi-

tures.

CBO says \$11 billion for new construction and it is in the amendment. DOT says \$14 billion for interstate resurfacing. It is in the amendment. FHA says \$47 billion for bridges. We do not have enough. Mine only has \$18 billion and the committee only had \$9 billion.

The Interstate Highway System is going to be completed with my amendment or without it. The question is whether we have before us legitimately a reconstruction and repair bill, because that is what has been sold to the American public. I want to give my colleagues a chance to vote on whether that indeed is going to be reality.

Mr. President, I ask for the yeas and

nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. Bentsen addressed the Chair.

The PRESIDING OFFICER. The

Senator from Texas.

Mr. BENTSEN. Mr. President, the reference that the Senator from Massachusetts made as to the request to the Congressional Budget Office was one to agree to set out our options for us. We have given those States until 1986 to make that decision, whether you map them out or not.

We did not choose to have the Federal Government make that decision for them. And so, under the procedure as we now have it, you will have a very orderly manner in which they will map those choices if they choose to do so. But the State will be making that decisions and I think that is the way it

ought to be.

If you accept the action taken by this amendment, you will force a much earlier conclusion on that. I believe we have an orderly process to accomplish it. I further believe that you still would have such a curtailment in

allocation to those areas that are not controversial that you would then in no way be able to complete them in a timeframe which we have called for in this piece of legislation.

So I would urge the Members of the Senate not to disrupt what has been a well thought out and orderly manner of bringing about the completion of the necessary parts of the interstate.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts (Mr. Tsongas). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. EXON (after having voted in the affirmative). Mr. President, on this vote, I have a live pair with the Senator from New York (Mr. Moyniman). If he were present and voting, he would vote "nay." I have voted "yea." Therefore, I withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), and the Senator from Connecticut (Mr. Weicker), are necessari-

ly absent.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. Cranston), the Senator from Missouri (Mr. Eagleton), the Senator from Ohio (Mr. Glenn), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

I also announce that the Senator from New York (Mr. Moynihan), is absent because of illness.

I further announce that, if present and voting, the Senator from Ohio (Mr. Glenn), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 17, navs 74, as follows:

[Rollcall Vote No. 413 Leg.]

## YEAS-17

Oole Heinz Humphrey Kasten	Lugar Metzenbaum Pell Proxmire	Sarbane Sasser Specter Tsongas
Kennedy	Quayle Riegle	Zorinsky
	NAYS-74	

Abdnor D'Amato Inouye Andrews Danforth Jackson DeConcini Jepsen Armstrong Baker Denton Johnston Dixon Baucus Kassebaum Dodd Laxalt Biden Domenici Leahy Long Boren Durenberger Mathias Boschwitz East Bradley Ford Matsunaga Brady Garn Mattingly Gorton McClure Bumpers Burdick Grassley Melcher Mitchell Hart Byrd, Harry F., Jr. Byrd, Robert C. Hatfield Murkowski Nickles Hawkins Hayakawa Nunn Cannon Packwood Chafee Heflin Chiles Percy Pressler Helms Hollings Cochran Cohen Huddleston Pryor

Randolph Roth Rudman Schmitt

Simpson Stafford Stevens

Thurmond Tower Wallop

PRESENT AND GIVING A LIVE PAIR, AS RECORDED-1

Exon, for,

## NOT VOTING-8

Cranston Glenn

Goldwater Hatch Moynihan

Stennis Weicker

So the amendment of Mr. Tsongas (UP No. 1461) was rejected.

Several Senators addressed the Chair

UP AMENDMENTS NOS. 1456 AND 1457 The PRESIDING OFFICER. The

Senator from Kansas.

The question recurs on the Dole amendment, two Dole amendments

(UP Nos. 1456 and 1457). The names of Mr. HARRY F. BYRD

and Mr. LEAHY were added as cosponsors of UP amendments Nos. 1456 and 1457.

SEQUENCE OF CERTAIN AMENDMENTS

Mr. DOLE. Mr. President, the Senator from Kansas understands that there is a number of noncontroversial amendments that can be disposed of. It is my understanding that they have been cleared with the distinguished Senator from Louisiana (Mr. Long), with the Senator from Alabama (Mr. HEFLIN), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Kansas.

If there is no objection, I would like to ask unanimous consent that the pending amendments be temporarily set aside for consideration of the amendment to be offered by the distinguished Senator from Delaware (Mr. ROTH), and no amendment to the amendment be in order, followed by an amendment by the distinguished Senator from Illinois, and no amendment be in order, and the distinguished Senator from North Carolina (Mr. HELMS), to a title that I do not control, but I think I can make the request for Senator Stafford. I make the same request for Senator Dodd, which is an amendment to title II of the bill, which is controlled by the Senator from West Virginia and the Senator from Vermont.

Mr. BAKER. Mr. President, will the Senator from Kansas yield to me without losing his right to the floor?

Mr. DOLE, Yes; I yield.

Mr. BAKER. Mr. President, the best I can count, that is about five amendments that we are stacking up.

May I inquire how many of those are going to require rollcall votes?

Mr. DOLE. None.

Mr. STAFFORD. None that I know

Mr. BAKER. Mr. President, could I ask the two managers of this bill for the practical purposes of this colloquy, Senator Dole and Senator Stafford, if they anticipate that there will be

measures up tonight which will require rollcall votes?

Mr. STAFFORD. Mr. Leader, speaking only for my part of the bill, I know of no amendments at this time that might require a rollcall vote to title II. I would ask my colleague (Mr. RAN-

DOLPH) if he knows of any.

Mr. RANDOLPH. Mr. President, we have checked these matters during the day. We believe there is no amendment-

Mr. HEFLIN. I have one. I have one that requires a rollcall.

Mr. DOLE. If it comes up.

Mr. HEFLIN. I have been trying to come up. I thought the Senator would get generous and allow me to come up.

Mr. DOLE. I think when everybody else leaves we could stay and debate it.

Mr. HELFIN. I believe the Christmas tree is too big. Maybe I just have

to object to everything.

Mr. DOLE. The Senator from Arkansas (Mr. PRYOR) has an amendment that would require a rollcall, if there is no objection to bringing it up-it is germane. Maybe we should not consider germane amendments. it would take what, about an But hour?

Mr. PRYOR. I would certainly think it would take no longer than that.

Mr. DOLE. I would say we could probably finish that by midnight.

Mr. BAKER, Mr. President, I thank the Senator. If he would yield further, may I say that I am obviously trying to figure out how long it would be useful and productive for the Senate to remain in session tonight. The best I can figure, on the basis of the information that we have just received, it looks like we are going to be here for another hour or so, with the possibility of a rollcall vote.

Mr. ROBERT C. BYRD. Mr. President, may we have the aisles cleared so that some of us can see the Chair?

The PRESIDING OFFICER. The majority leader is trying to make an announcement that is important to all of us. Senators will clear the well and conduct any conversation they have in the cloakrooms.

Mr. BAKER. Mr. President, I am prepared to ask the Senate to remain in as long as it serves a useful purpose in trying to dispose of the amendments that have been filed.

That, of course, is a matter that directs itself primarily to the attention of the managers of this bill and severtitles of this bill, but for the moment it looks like we have several amendments to deal with. There may or may not be rollcall votes on most of them, but Senators should plan to be here past midnight. I hope to have a further announcement to make a little later.

Mr. METZENBAUM addressed the Chair.

Mr. DOLE. Mr. President, the Senator from Kansas has the floor.

THE PRESIDING OFFICER. The Senator from Kansas has the floor unless he would yield without losing his right to the floor.

Mr. DOLE. Mr. President, I move to reconsider the vote on the Tsongas

amendment.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, as I understand, there is no objection to the four amendents.

Mr. METZENBAUM. Mr. President, may I respond to the Senator from Kansas? It is my understanding that the amendment of the Senator from Delaware will be limited to 1 year and that the amendment of the Senator from North Carolina is to be amended in the manner which he previously discussed

Mr. HELMS. It already has been.

Mr. METZENBAUM. And that the Senator from Illinois has an amendment having to do with the formula.

Mr. DIXON. Interstate transfer funds-I can tell the Senator from Ohio it has been cleared with the chairman of both committees, Finance and Public Works, and the ranking members on both sides.

Mr. METZENBAUM. And the amendment of the Senator from Connecticut?

Mr. DODD. The amendment is noncontroversial. It has been cleared on both sides.

Mr. METZENBAUM. Those were the only four amendments?

Mr. DOLE. Yes those are the only four.

Mr. METZENBAUM. Does the unanimous-consent request of the Senator from Kansas include the fact that these amendments shall have no amendments them that to and they

Mr. DOLE. The request does contain that statement, that no amendments to the amendment be in order in each case and that we will revert to the consideration of the pending amendment following disposition of those matters.

Mr. METZENBAUM. Is there any limit with respect to the time in connection with these amendments?

Mr. DOLE. No; I hope they take a long time myself.

Mr. METZENBAUM. I have no objection.

Several Senators addressed

The PRESIDING OFFICER. The Chair seeks clarification of the Senator from Kansas. Is he intending to lay aside his amendment until all four of these amendments are taken care of?

Mr. DOLE. That was the request of the Senator from Kansas, that the pending amendments be temporarily set aside for consideration of the

amendments of the distinguished Senator from Delaware (Mr. Roth), the Senator from Connecticut (Mr. Dopp), the Senator from Illinois (Mr. DIXON), and the Senator from North Carolina (Mr. Helms); that no amendments to the amendments be in order, and that we would revert to the pending amendment following disposition.

Mr. DIXON. Will the Senator from

Kansas yield to this extent?

Mine is actually two amendments, for clarification purposes, to be taken en bloc, but it does the same thing and

it is not controversial.

Mr. DOLE. If the Senator from Indiana will indulge the Senator from Kansas, I understand now that a previous amendment that was not noncontroversial has now been resolved so it is noncontroversial. It is coauthored by 36 of our colleagues, Senator BRAD-LEY, Senator DANFORTH, 2and others. The question on that has been resolved with Senator Long; is that correct?

Mr. DANFORTH. Yes.

Mr. DOLE. I would include that in the request unless there is some objection.

We had it up on the floor at one time and it was withdrawn so they could tighten up the amendments.

Mr. BUMPERS. Will the Senator

from Kansas yield further?

Mr. PRYOR. Reserving the right to object-

Mr. DOLE. I would be happy to

Mr. BUMPERS. Is the amendment of the Senator from Arkansas (Mr. PRYOR) included in that list?

Mr. DOLE. I would be happy to in-

clude that.

Mr. PRYOR. I would like to request that.

Mr. BUMPERS. Mr. President, that means the Pryor amendment will be included?

Mr. DOLE. It is not a noncontrover-

sial amendment.

Mr. BUMPERS. It is not noncontroversial, and as I understand it will re-

quire a rollcall vote.

Reserving the right to object, Mr. President-and I hope I do not have to-I was just wondering, can we do those sequentially the way the Sena-

tor has named them? Mr. DOLE. It is my hope-it might be better if we could do the Pryor amendment first and vote; everybody could go home except those who had an interest in the others. I would rather reverse the order, if I had my druthers. Unless there is some objection, we could take up the Pryor amendment first, have the rollcall, if the majority leader has no objection, do the four amendments and then-

Mr. HUDDLESTON. Will the Sena-

tor yield?

Mr. DOLE. Does the Senator have

any objection to that?

Mr. LEVIN. Reserving the right to object, if the Senator is going to in-

clude noncontroversial amendments in your list of priorities, I do not know how you handle the other controversial amendments. The amendment of the Senator from Arkansas, I do not want to do anything to jeopardize his chances, is a germane amendment, as I understand it. That can come after cloture. Some of us have nongermane controversial amendments we have been waiting to offer. I think we will avoid digging ourselves a deeper hole if we try to dispose of some of the nongermane controversial amendments, leaving the germane controversial amendments until after cloture.

I ask though if the Senator could add me, since we have a controversial amendment in there, if he could add the Levin-Specter unemployment com-

pensation amendment.

Mr. DOLE. Again the Senator from Kansas wishes to accommodate everyone in the Chamber.

Mr. HEFLIN. Include me.
Mr. DOLE. Including the distinguished Senator, my friend from Ala-

But if we take all the nongermane amendments I do not know why we have cloture. If we are going to have all the nongermane amendments and then vote for cloture, I do not know why we are going through the exer-

We are trying to eliminate nongermane amendments that are highly controversial. I hope we can accommodate the Senator from Michigan.

Also, if he will allow us to proceed with the others I think we always have in the past been able to accommodate the Senator from Michigan.

Mr. HEFLIN. Mr. President, I am going to have to object to it if the Senator is going into noncontroversial amendments. I wish to take my chances on getting mine up. The timeframe is running to 11 a.m. in the morning when we are going to vote on cloture if we come back at 10 a.m.

Mr. DOLE. Does the Senator object to noncontroversial amendments?

Mr. HEFLIN. No; I do not object to noncontroversial amendments, except I had agreed to a noncontroversial amendment, but if the Senator is getting into controversial amendments I think we all will compete not with each other but we are competing against the clock.

Mr. DOLE. That is right.

Mr. DODD. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Would it not be likely to deal with the noncontroversial amendments? There are four of them. I do not think it will take 10 minutes to deal with those four. It has almost taken enough time to deal with all four of them already.

Mr. LEVIN. Mr. President, if the Senator from Kansas will yield for another question, I wonder if he and the majority leader would consider laying

down the number of controversial amendments tonight and voting on them tomorrow before cloture?

Mr. DECONCINI. That is a good idea.

Mr. DOLE. The Senator from Kansas cannot speak for the majority leader. I am certainly willing to consider that.

Mr. HEFLIN. Suggest the absence of a quorum while we consider it.

Mr. DOLE. Why do we not take care of the noncontroversial ones and make some progress and see what the controversial amendments are? We will take a look at the whip's check and then we can determine whether or not-

Mr. HEFLIN. I believe we can move to them.

Mr. MATSUNAGA. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I am happy to yield.

Mr. MATSUNAGA. I have amendments that have been cleared on both sides of the aisle.

Mr. DOLE. They have been cleared on both sides. In fact, I think three of the four amendments are actually title II of the bill or are they not in title I of the bill? They are amendments that have been cleared by Senators RAN-DOLPH, STAFFORD, HEFLIN, HUMPHREY, METZENBAUM, and the other assistant commissioners.

Mr. MATSUNAGA. One has already been cleared. The other has been checked with the Treasury and the Treasury has withdrawn objection to that. I have that amendment ready also.

Could the Senator include my two amendments?

Mr. DOLE. If the Senator from Hawaii would clear it with the assistant commissioners I will be glad to put it on the list.

Mr. MATSUNAGA. It has been cleared with the three sides.

Mr. METZENBAUM. The Senator from Hawaii has one amendment that has been cleared having to do with shipping limitation of \$2,000 per passenger. His other amendment has not been cleared, the educational investments. I think he wanted to give that further consideration.

The one having to do with the passengers on ships has been cleared.

Mr. MATSUNAGA. The Senator from Ohio said it was OK.

Mr. METZENBAUM. I had said earlier I thought it would be. I was attempting to find the Senator to indicate that.

Mr. DOLE. Why do we not take the one on the ships?

Mr. MATSUNAGA. All right.

Mr. PRYOR. Mr. President, if the Senator from Kansas will yield, I may have a possible thought here that may help everyone.

If the Senator from Kansas would consider taking this amendment, first, let us vote, and then take the four noncontroversial amendments. I would be more than willing to set a time certain for the vote at, say, 20 minutes after 11, and then that would give us about 25 minutes. I may not take my portion of that period. So we could have a quick vote and move to the noncontroversial ones. I would be glad to do it if that will help accommodate.

Mr. DOLE. The Senator from Kansas wants to be fair. I am perfectly happy to do that. I do not want to offend the Senator from Alabama more than I have or offend the Sena-

tor from Michigan.

Mr. PRYOR. I do not want to offend anyone. As I say, I attempted to make that accommodation if that would be of assistance.

Mr. HEFLIN. Mr. President, I would like to have the same request for me

immediately following him.

Mr. DOLE. We are continuing a whip check on his amendment. It looks doubtful.

Mr. LEVIN. I am afraid to ask what the check looks like on ours.

Mr. DOLE. The Senator's looks better.

Mr. LEVIN. In that case I hope the Senator continues with the whip

I wonder if we cannot pursue the suggestion the Senator made about laying down the number of amendments tonight and voting in the morning prior to the cloture vote while taking up the noncontroversial amendments.

Mr. HEFLIN. And get it out of the

Mr. DOLE. I am willing to sit down with the Senator from Alabama and the minority and majority leader. Why do we not go ahead and take care of the five or six noncontroversial amendments, the one on the cruise ship and the one on the AFDSSI, Senator Danforth and Senator Bradley, plus the other four named, and then we are going to be here a while.

Then, who is first? I think the Sena-

tor from Delaware is first.

The PRESIDING OFFICER. Will the Senator from Kansas please restate his unanimous-consent request after all this discussion?

Mr. DOLE. Mr. President, if we may have order, I think it would be better

understood.

The PRESIDING OFFICER. The Senate will be in order while the Senator from Kansas recaps for clarification the unanimous-consent request.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside.

Mr. ROBERT C. BYRD. Mr. President, I apologize to the Senator from Kansas for the interruption, but I think we should have order in the Senate. The Senator from Kansas asked for order, and we have not gotten it.

The PRESIDING OFFICER. The minority leader is correct.

Please have sufficient silence in the Senate so that we can hear the restatement of the unimous-consent request for clarification from the Senator from Kansas.

Mr. DOLE. I thank the distinguished minority leader.

I ask unanimous consent that the pending amendments be temporarily set aside for consideration of the following noncontroversial amendments:

An amendment to be offered by the distinguished Senator from Delaware, Senator Roth; an amendment by the Senator from Connecticut, Senator Dopp; an amendment by the Senator from Illinois, Senator Dixon-he has two amendments—an amendment by the Senator from North Carolina, Senator Helms; an amendment by the Senator from Missouri, Senator Dan-FORTH; and one amendment by the distinguished Senator from Hawaii, Senator Matsunaga, and that no amendments to the amendments be in order and that we will revert to consideration of the pending amendments following disposition of those amendments.

PRESIDING OFFICER. The there objection to that unanimous-

consent request?

Mr. MATSUNAGA. Mr. President, reserving the right to object, is the Senator excluding all amendments after that?

Mr. DOLE. No. I am just talking about the Senator's amendment not that it be subject to amendment.

We are going to have a lot of amend-

ments after this.

Mr. MATSUNAGA. Will the Senator restate his unanimous-consent request?

Mr. DOLE. I keep forgetting the names.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. What I have requested, I say to the Senator from Hawaii, is that we consider the noncontroversial amendments. The Senator from Connecticut has one. The Senator from Illinois has two. The Senator from Hawaii has one. The Senator from Missouri has one. The Senator from Delaware has one. The Senator from North Carolina has one.

And that just takes care of six that are noncontroversial. There are probably 20 other amendments that we are working on that we may consider later, including one that I know the Senator from Hawaii has an interest in.

Mr. MATSUNAGA. That is right.

Mr. HEFLIN. I wonder if the distinguished Senator from Kansas will amend his unanimous-consent request to say that no amendment would take longer than 5 minutes.

Mr. DOLE. I am happy to do that. I think we can do them all in 5 minutes if we just do them.

The PRESIDING OFFICER. There has been a unanimous-consent request for a 5-minute limit on each amend-

Is there objection to that request? Without objection, it is so ordered.

The Chair recognizes the Senator from Delaware.

UP AMENDMENT NO. 1462

(Purpose: To amend the Tax Reform Act of 1976 to extend, for an additional 1 year, the exclusion from gross income of the cancellation of certain student loans)

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk and I offer this amendment on behalf of myself, Senator Packwoop, Senator BENTSEN, and Senator BIDEN.

The PRESIDING OFFICER. The

amendment will be stated.

The legislative clerk read as follows: The Senator from Delaware (Mr. ROTH) for himself and Mr. Packwood, Mr. Bentsen, and Mr. Biden proposes an unprinted amendment numbered 1462.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert in the appropriate place in the bill the following: That subsection (c) of section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended by striking out "January 1, 1983" and inserting in lieu thereof "January

Mr. ROTH. Mr. President, amendment I am offering very simply extends an existing provision in tax law which excludes from gross income the amount of a student loan forgiven by a hospital in exchange for the student's meeting postgraduation work requirements with that hospital. Since 1976, hospitals which suffer from a shortage of health care professionals, particularily those in rural areas, have been able to provide free educational benefits in return for the student working at the hospital for the required number of years after graduation. Under current law these educational benefits are tax free to the student. After January 1, 1983, this tax exemption will expire.

Mr. President, there is no reason to let this provision expire, this country faces a chronic shortage of registered nurses and other health professionals. This particular program is a cost effective and efficient way to address the problem. Many, many students have been able to receive an education they would not otherwise have been able to afford. Hospitals in rural areas have been able to recruit and retain qualified personnel. Health training programs administered by the Department of Health and Human Services currently offer the same kind of taxexempt loan program.

In hearings before the Finance Committee last week, witnesses testified that a 4-year extension was necessary because of the long-term nature of the commitments made in this program. The Treasury agreed that a 1-year extension would be acceptable. We cannot, and should not, take away this benefit from students who are in the "pipeline" of working off their educational loan.

Mr. President, in the spirit of compromise I am asking that we extend this exemption for 1 year for this worthy program which provides an educational opportunity in the health care professions.

I yield back the floor, Mr. President. The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, as indicated earlier, this amendment has been approved, it has been looked at by Treasury and looked at by a number of Senators. The majority has no objection. I think the distinguished Senator from Louisiana has no objection to the amendment.

The PRESIDING OFFICER. Does the Senator yield back his time?

Mr. DOLE. I yield back the time. Mr. ROTH. I yield back my time. The PRESIDING OFFICER. The

question is on agreeing to the amendment of the Senator from Delaware.

The amendment (UP No. 1462) was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## UP AMENDMENT NO. 1463

Mr. DODD. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Connecticut (Mr. Dodd) proposes an unprinted amendment numbered 1463.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment add the following new section:

SEC. . Resolution on Highway Trust

SEC. . Resolution on Highway Trust Fund obligations.

Whereas a properly maintained national highway system is essential to the safe travel of American motorists and passengers and to the economic health of American trade and commerce; and

Whereas the administration and Congress have agreed that our national highway system is in serious disrepair and requires a major Federal restoration effort; and

Whereas the Highway Trust Fund was established in 1956 for the purpose of financing the construction, maintenance and repair of our highway system through a

system of federal taxes and highway programs; and

Whereas recent trust fund balances have reached historical highs and have not been adequately employed to finance needed maintenance and repair; and

Whereas accelerated trust fund obligations will permit an expansion of needed maintenance and repair, create employment opportunities and encourage cost savings

over time: Now, therefore, be it Resolved, That it is the Sense of the Congress that the administrators of the Federal Highway Trust Fund shall act to expedite highway program obligation, to the maximum extent that such can be accelerated under law.

Mr. DODD. Mr. President, very, very briefly, my amendment would add a new section to the gas tax bill that expresses the sense of the Congress that the administrators of the trust fund shall act as expeditiously as is permissible under law.

Mr. President, this is an amendment that I have discussed at some length with the distinguished Senator from Vermont (Mr. Stafford) and others. I believe we have reached agreement on this at this point.

Mr. President, I yield back the floor. Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. Who yields time? Does the Senator from Kansas yield time to the Senator from Vermont?

Mr. STAFFORD. I would say respectfully to the Chair that I think the Senator from Vermont controls the time on this side.

The PRESIDING OFFICER. The unanimous-consent agreement had a certain order that provided for Sena-

certain order that provided for Senators to control the time, and if the Senator wishes to address this amendment, it is in order.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, I have discussed this amendment offered by the distinguished Senator from Connecticut, which is a sense of the Senate resolution that the administrators of the Federal Highway Trust Fund shall act expeditiously, to expedite highway program obligations to the maximum extent those obligations can be extended by law, and that is the intent of the Committee on Environment and Public Works, and I think the Senate can get as much work out to help the unemployment situation as we possibly can.

So for the majority I am prepared to accept the Senator's amendment, and I believe the minority, Senator Randler, and I yield to Senator Randler, and I yield to Senator Randler, and I will be senator to be senato

Mr. RANDOLPH. I will state to the Senator discussing this measure that, of course, this is in the interest of the support of the obligation of highway funding and it is in order. We of the minority of the committee join with the majority of the committee in support of the amendment offered by the able Senator from Connecticut.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER (Mr. WARNER). Is all time yielded back?

Mr. STAFFORD. I yield back the time we have.

Mr. DODD. I yield back such time as I have.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

The amendment (UP No. 1463) was agreed to.

Mr. STAFFORD. I move to reconsider the vote by which the amendment was agreed to.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Illinois is next to be recognized.

### UP AMENDMENT NO. 1464

Mr. DIXON. Mr. President, on behalf of Senator Percy, Senator Kennedy, Senator Dodd, Senator Moyni-Han, Senator DeConcini, and Senator Weicker and myself I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

Mr. DIXON. There are two amendments en banc, Mr. President.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Illinois (Mr. Dixon), for himself and others, proposes an unprinted amendment numbered 1464.

Mr. DIXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 48, beginning with line 11, strike out all through page 49, line 2, and insert in lieu thereof the following:

"(c) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by deleting the words "the date of enactment of the Federal-Aid Highway Act of 1976 or the date of approval of each substitute project under this paragraph, whichever is later," and inserting in lieu thereof the words "June 30, 1980."

On page 49, between lines 14 and 15, insert the following:

(f) The third sentence of section 103(e)(4) of title 23, United States Code, is amended by deleting the words "Substitute projects" and inserting in lieu thereof "Concept programs for substitute projects".

Mr. DIXON. Mr. President, these amendments have been cleared with the chairman of the Public Works Committee, the chairman of the Committee on Finance, the ranking members on both of those committees, and all interested parties on both sides.

It has to do with the cost adjustment mechanism previously guaranteed us and other States in the law on interstate transfer fund use, and I request the support of the membership for these amendments.

Mr. President, the committee bill includes a provision eliminating the existing interstate transfer escalation clause. This would discontinue adjustments to the unfunded transfer balances after the fiscal year 1983 interstate cost estimate (ICE) is approved.

This change from current law could cost each State and local government participating in the interstate transfer programs literally millions, perhaps tens of millions, of dollars. The result will surely be that many interstate transfer substitute projects will not be able to be completed-construction will have to slow or even cease on some projects.

This occurs because capping the cost adjustment factor based on the fiscal year 1983 ICE artificially limits construction funds for substitute projects. Construction costs have declined for the past 2 years, because of the severe recession, a recession that has hit the construction industry particularly hard. In fact, some estimates indicate that unemployment in the building trades in my State is currently as much as 50 to 60 percent.

However, these construction cost decreases are unusual and do not reflect long-term construction price trends. Capping the cost adjustment factor, therefore, at a time of severe recession, and based on recession-caused price decreases, is neither equitable

nor sensible.

As the economy recovers from the recession, construction price increases will return, likely again outpacing the overall inflation rate. At the funding level proposed in the committee bill, the interstate transfer program will continue through 1990. If outstanding balances are frozen at the current artificially low level, the return of inflation would severely reduce the number of substitute projects ultimately built.

The escalation of balances for the interstate construction continues in the committee bill. I strongly believe it should also continue for the interstate transfer program. However, if the cost adjustment mechanism must he dropped, then at least an adjustment to transfer balances should be made so that future program accomplishments are not curtailed because of today's poor economic conditions.

Mr. President, the amendment I am offering accomplishes that objective. It would end the cost adjustment factor based, not on the artificially low, recession-caused fiscal year 1983 ICE, but rather on a year that more accurately reflects long-term construction cost trends-fiscal year 1980.

The Federal Government committed to the States and local governments involved that it would provide sufficient financing to complete all approved substitute projects. In reliance

on this commitment, the States and local governments have spent substantial amounts of their own money. Project construction is underway and will continue for the next several years, at least. I think it is imperative, therefore, that we give the participants in the program the maximum opportunity possible to complete all the approved substitute projects. Our previous promises to the States and local governments involved require us to do no less. I urge the Senate to adopt my amendment.

Mr. President, section 103(e)(4) of title 23 of the United States Code states, in relevant part, that:

Substitute projects under this paragraph [the Interstate transfer program] may not be approved by the Secretary under this paragraph after September 30, 1983, . .

My understanding of this clause is that it requires that a State's "concept plan" for substitute projects must be approved by the September 1983 date.

I do not believe, however, that the clause was ever intended to require the Secretary to approve every individual substitute project in detail by that time, nor do I believe that it should be potentially capable of that interpretation. Since, at the current and planned rate of interstate transfer spending, the program will run at least 6 more years, it is not reasonable to require that each project be finally approved by September 1983. Doing so would require States and local governments to have a project's plans and specification approved as much as 6 years or more before construction begins.

It would deny States and local governments, and the Department of Transportation any flexibility in substituting one project for another if cir-

cumstances should require it.

Along with my distinguished senior colleague from Illinois, Senator PERCY, therefore, I am offering an amendment to clarify legislative intent in this regard. The amendment makes it clear that the deadline only applies to the concept plan for substitute projects. I think this is a reasonable amendment, technical in nature, and, I would hope, noncontroversial; I urge its adoption.

Mr. PERCY. Mr. President, the interstate transfer program was created to permit States to withdraw unbuilt segments of the Interstate Highway System and to use the funds freed by this move for substitute highway and transit projects. The highway bill, as reported by the Senate Environment and Public Works Committee, eliminates the inflation adjustment and caps the amount which may be authorized for the program. I am pleased to join my distinguished colleague from Illinois, Senator Dixon, in offering an amendment to establish the 1980 construction inflation index as the benchmark to adjust the unfunded balance to inflation. The 1980 level is important because it does not include the 2 years of deflation we have had in the construction industry since that time. The 1980 index more accurately reflects long-term industry cost trends. The removal of the Crosstown Expressway in northeastern Illinois from the Interstate System has freed approximately \$700 million for substitute projects in the six-county Chicago area. Illinois' unfunded transfer balance, however, now stands at more than \$2 billion, representing approximately 35 percent of the nationwide total unfunded transfer balance. Illinois withdrew its interstate highway projects under a signed agreement with the Federal Government and expects to receive full funding.

Had the States and local governments chosen to build their interstate segments, they would have received a regular allocation under the highway trust fund. And, these States would have received an amount adjusted for inflated construction costs. It is simply unfair, now that an agreement is signed and sealed, to go back and deny these States full funding as reflected in the 1980 index.

For these reasons, I would urge my colleagues to support this amendment retaining the cost adjustment factor of existing law. I would note that this amendment has drawn the support of the U.S. Conference of Mayors and environmental groups. I know my colleagues will agree that it is only right for the Federal Government to live up to its part of the agreement in the withdrawal of the interstate segments.

Mr. President, I support the clarifying amendment of my distinguished and valued colleague from Illinois, Senator DIXON.

This amendment is a technical clarification to indicate that the existing September 30, 1983 deadline for Federal approval of "substitute projects" under the interstate transfer program only means the approval of a "concept plan," and not approval of a rigid and unchangeable project listing. Certainly, the existing law was never intended for the Federal Government to approve every single substitute project in detail by 1983. This amendment would not allow for such an interpretation, and I urge its adoption.

Mr. STAFFORD. Mr. President, for the majority I have had an opportunity to discuss these amendments with Senator Dixon and Senator Percy, and I am prepared for the majority to accept each of them.

Mr. RANDOLPH. Mr. President, I will say to the able Senator from Illinois that the thrust of this proposal is to provide funds for interstate transfers at the maximum level, and that is the reason why we support the proposal. It is well-reasoned and it is necessary, and we do give it our support.

Mr. DIXON. I thank my friend from West Virginia.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STAFFORD, I yield back the time of the majority.

Mr. DIXON. I yield back my time. The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 1464) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 5002 (AS MODIFIED)

Mr. HELMS. Mr. President, I call up amendment 5002 (as modified).

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from North Carolina (Mr.

HELMS) proposes an amendment numbered 5002 (as modified).

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment insert the following:

APPROVAL OF RELOCATION OF INTERSTATE HIGHWAYS

SEC. . (a) Notwithstanding the provisions of section 4(b) of the Federal-Aid Highway Act of 1981, the Secretary may approve a change in location of any Interstate route or segment and approve, in lieu thereof, the construction of such Interstate route or segment in a new location if the original location of such route or segment-

(1) has been designated under section 103(e) of title 23. United States Code: (2) is serving Interstate travel as of the

date of enactment of this section; and (3) requires improvements which are eligible under the Federal-Aid Highway Act of

1981, and which would either involve major modifications in order to meet acceptable standards or result in severe environmental impacts and such major modifications or mitigation measures relating to the environmental impacts are not cost effective.

The cost of the construction of such Interstate route or segment on the location with funds available under section 108(b) of the Federal-Aid Highway Act of 1956, shall not exceed the estimated cost of the eligible improvements on the original location as eligible under the Federal-Aid Highway Act of 1981 and included in the 1983 Interstate cost estimate as approved by the Congress. Upon approval of a new location, any funds apportioned under section 104(b)(5)(A) of title 23, United States Code, which were expended on the route or segment in the original location shall be refunded to the Highway Trust Fund and credited to the unobligated balance of the State's apportionment made under section 104(b)(5)(A) of such title, and other eligible Federal-aid highway funds may be substituted in lieu thereof at the appropriate Federal share.

(b) When the Secretary approves a relocation of an Interstate route or segment under the provisions of subsection (a) of this section, such route or segment shall not be eligible for withdrawal under the provisions of section 103(e)(4) of title 23, United States Code, and shall be subject to the Interstate System completion deadlines provided in subsections (d) and (e) of section 107 of the Surface Transportation Assistance Act of 1978 or subject to Interstate System completion deadlines as may be determined by Congress.

Mr. HELMS. Mr. President, I ask unanimous consent that Mr. East be

listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I thank the Chair.

President, this amendment authorize the Secretary of Transportation to approve a change in location of Interstate 40 at Winston-Salem, N.C. Although the amendment is written in general terms, as far as I know it only affects the situation in Winston-Salem, N.C.

Briefly, Mr. President, there is an incomplete section of Interstate 40 running through Winston-Salem that is one of the most heavily traveled and dangerous sections of interstate highway anywhere in the country. It is an understatement to say this section of highway poses a serious safety prob-

The city fathers of Winston-Salem, together with State highway officials of North Carolina, have proposed an alternate route, a proposal U.S. Department of Transportation officials have no problem with. In fact, as far as I know, no one is opposed to the alternate route.

The problem, Mr. President, and the reason this amendment is needed, is that the Secretary of Transportation needs legislative authority to approve this redesignation. My amendment would authorize it.

I have contacted Senator STAFFORD and Senator RANDOLPH, chairman and ranking member of the Committee on Environment and Public Works; and Senator Symms and Senator Bentsen, chairman and ranking member respectively of the Transportation Subcommittee. As far as I know, all are in agreement with this amendment. It will not cost the taxpayers a penny.

Mr. President, I move the adoption

of my amendment.

Mr. President, I yield back the re-

mainder of my time.

Mr. STAFFORD. Mr. President, I have had an opportunity to confer with the distinguished Senator from North Carolina with respect to his amendment which proposes to circumvent the town of Winston-Salem at no additional cost and at no additional length of highway. It appears to me to be a meritorious amendment. I am prepared, for the majority, to accept

Mr. RANDOLPH. Will my colleague yield?

Mr. STAFFORD. I yield to my distinguished colleague, the ranking minority Member.

Mr. RANDOLPH. Mr. President, this is an approval of a realignment of an important interstate—and it is important. It is a segment that is necessary and certainly there should be no objection. We support the amendment.

Mr. HELMS. I thank the Senator. The PRESIDING OFFICER. Is all

time yielded back?

Mr. STAFFORD. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina (Mr. HELMS).

The amendment (No. 5002, as modified) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Missouri.

UP AMENDMENT NO. 1465

(Purpose: To exclude home energy assistance provided by private nonprofit organizations or by utilities from income for purposes of the supplemental security income and the aid to families with dependent children programs)

Mr. DANFORTH. Mr. President, I send an amendment to the desk on behalf of myself and others and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Missouri (Mr. Dan-FORTH), for himself and others, proposes an unprinted amendment numbered 1465.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the substitute add the following new section:

SEC. . (a) Section 1612(b) of the Social Security Act is amended-

(1) by striking out "and" at the end of paragraph (11):

(2) by striking out the period at the end of paragraph (12) and inserting in lieu thereof ; and"; and

(3) by adding at the end thereof the following new paragraph:

"(13) any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive of-ficer of the State may designate) (A) is based on need for such assistance, and (B) is assistance furnished in kind by a private nonprofit agency, or is assistance furnished by a supplier of home heating oil or gas or assistance by an entity providing home energy whose revenues are primarily de-rived on a rate-of-return basis regulated by

a State or Federal governmental entity, or by a municipal utility providing home energy

(b) Section 402(a) of such Act is amend-

(1) by striking out "and" at the end of paragraph (33);

(2) by striking out the period at the end of paragraph (34) and inserting in lieu thereof ; and"; and

(3) by adding at the end thereof the fol-

lowing new paragraph:

(35) provide, at the option of the State, that in making the determination for any month under paragraph (7) the State agency shall not include as income any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is (A) based on need for such assistance, and (B) assistance in kind furnished by a private nonprofit agency, or assistance furnished by a supplier of home heating oil or gas or by an entity whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy.

(c) The amendments made by subsections (a) and (b) shall be effective with respect to home energy assistance received in months beginning on or after the date of the enactment of this Act and prior to July 1, 1985.

The Secretary of Health and Human Services shall submit a report to the Congress, prior to April 1, 1985, on the implementation and results of the provisions of sections 1612(b)(13) and 402(a)(35) of the Social Security Act, including any recom-mendations with respect to whether such provisions should be extended in the same or modified form or allowed to expire.

The cosponsors are as follows:

Mr. Heinz, Mr. Danforth, Mr. Duren-erger, Mr. Packwood, Mr. Percy, Mr. Percy, Mr. berger. Mr. Grassley, Mr. Cohen, Mr. Specter, Mr. Roth, Mr. Pressler, Mr. Hatfield, Mr. Domenici, Mr. Weicker, Mr. Abnor, Mr. Lugar, Mr. Chafee, and Mrs. Kassebaum.

Mr. Moynihan, Mr. Tsongas, Mr. Heflin, Mr. Riegle, Mr. Bradley, Mr. Levin, Mr. Glenn, Mr. Sasser, Mr. Cranston, Mr. Bent-sen, Mr. Mitchell, Mr. Eagleton, Mr. Kennedy, Mr. Sarbanes, Mr. Cannon, Mr. Metzenbaum, Mr. Boren, Mr. Matsunaga, Mr. Baucus, Mr. DeConcini, Mr. Payor, and Mr.

Mr. DANFORTH. This amendment would provide that SSI or AFDC payments not be reduced because of assistance furnished by energy suppliers to help low-income people meet their heating or cooling bills. It also would prevent a reduction in such payments when a nonprofit organization makes an "in-kind" donation to help such persons with their energy needs. This would include, for example, a payment made by a nonprofit organization directly to a utility company to help pay an individual's heating bill. I believe this meets the problem raised by Senator Long.

Mr. LONG. Yes. My concern was that the amendment not open the door to a disregard of regular cash payments made directly to welfare recipients by nonprofit agencies. Such a provision could easily be abused. This

provision is more limited but will allow nonprofit agencies to provide help as long as it is "in-kind" such as the donation of a heater or a payment made to a utility company to help meet a gas or electric bill.

Mr. HEINZ. Mr. President, I am pleased to be an author of this amendment which will further encourage the private sector to provide energy assistance to individuals and families with low incomes. As chairman of the Senate Special Committee on Aging, I have had a longstanding interest in developing and encouraging programs in both the public and private sectors, to assure that seniors who need help in paying for their energy costs receive

This amendment is necessary to resolve what may be a serious problem for many low-income senior citizens this winter-the reduction of their supplemental security income benefits because they might also receive financial assistance from private energy assistance programs. This unfortunate situation exists because of a provision in the SSI statute which requires, with certain exceptions, that support and maintenance, in kind or in cash, be counted as income in determining SSI eligibility and payment amounts. Program regulations define support and maintenance in kind as anything given to a recipient for food, clothing, or shelter. Gas, electricity, and fuel assistance from the private sector can be considered shelter support. These same statutory provisions and regulations apply to the AFDC program. Federal income energy assistance payments, however, are not considered to be income under present SSI and AFDC program rules.

At a time of rapidly rising energy costs, fuel assistance programs are more necessary than ever before. For example, gas prices have risen an estimated 20 to 60 percent over the past year in many parts of the country. Further increases are expected this

Many private utilities have sponsored programs, making available money or lines of credit to low-income citizens that have been quite effective in supplementing the Federal lowincome energy-assistance program. Approximately 25 investor-owned gas and electric utility companies have established fuel fund programs to assist low-income customers with their utility bills. Generally, the companies operating such fuel funds solicit contributions from their employees, customers, and/or stockholders. The funds are collected by the utilities and then turned over to a third party, a charitable organization such as the Red Cross or the Salvation Army, which determines who should receive the assistance and the amount, and then reimburses the utility.

In my home State of Pennsylvania, the Philadelphia Gas Works is setting aside up to \$500,000 in utility credits to customers for a fund to assist lowincome Phildelphians to meet the cost of gas heat.

In addition, the Equitable Gas Co. located in Pittsburgh, Pa., has dispersed over \$2 million dollars to assist their low-income customers, and a small fuel oil business located in Lebanon. Pa.-the Parr Co.-has begun to contribute to a special fund set up to assist needy individuals.

To have low-income persons who receive SSI and AFDC benefits lose those beneits upon receiving this private assistance is simply unfair. Nor do I believe that we want to have local voluntary efforts result in a loss of necessary health benefits for the poorest of our citizens. Since medicaid benefits are automatically provided to SSI and AFDC recipients. This could happen if assistance payments are counted as income and SSI and AFDC eligibility are terminated as a result.

Mr. President, we know that lowincome households generally consume considerably less energy than the average household. This means, among other things, that most low-income funds are already conserving about as much as possible. Yet their home energy bills have been unaffordably large. It would be a national disgrace to ask them to take further reductions in their incomes, and possibly lose their health benefits, because of prohibitive regulations that discourage and prevent local groups and companies from assisting low-income people with their high utility costs.

Mr. President, as we debate this issue, poor people around the Nation are approaching another hard winter and wondering how they will meet this year's heating bills. This simple amendment is a small step toward an adequate and fair response to their needs-but a step that is well worth

Mr. DANFORTH. Mr. President, this amendment relates to the treatment of both cash assistance from utilities and assistance in kind from private nonprofit organizations to help people pay their utility bills. It provides that such payments are not treated as income for the purpose of computing SSI and AFDC payments. It has been discussed on the floor a few hours ago in a slightly different version. Senator Long and I have worked out the difficulties on the question and I think it has been agreed to by all parties.

Mr. President, I wish to express my appreciation for considerable work on this bill by Frank McArdle and Mike Rodgers on the Special Committee on the Aging; Ted Blanton of my staff; and Joe Humphries, Mike Stern, and Sydney Olsen of the Finance Committee staff.

Mr. DOLE. Mr. President, the Senator correctly stated that the Senator from Louisiana originally had some question about the amendment, and that has now been resolved, as I understand it. There is no objection to the amendment. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Missouri (Mr. Danforth).

The amendment (UP No. 1465) was

agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

UP AMENDMENT NO. 1466

(Purpose: To amend the Internal Revenue Code of 1954 to allow a business expense deduction for certain conventions on cruise ships and to reinstate the convention reporting requirements)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The

clerk will report.

The legislative clerk read as follows: The Senator from Hawaii (Mr. Matsunaga), for himself and Senators Inouye and Cranston, proposes an unprinted amendment numbered 1466.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. —. DEDUCTION FOR CONVENTIONS ON CRUISE SHIPS.

(a) In GENERAL.—Subsection (h) of section 274 (relating to disallowance of certain entertainment, etc., expenses) is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the following: "unless the taxpayer meets the requirements of paragraph (5) and establishes that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212 and that—

"(A) the cruise ship is a vessel registered

in the United States; and

"(B) all ports of call of such cruise ship are located in the United States or in possessions of the United States.

In no event shall the amount of the deduction allowable to any taxpayer for any taxable year under section 162 or 212 with respect to any conventions, seminars, or other meetings held on any cruise ship exceed \$2,000 (\$1,000 in the case of a married individual filing separately).", and

(2) by adding at the end thereof the fol-

lowing new paragraph:

"(5) REPORTING REQUIREMENTS.—No deduction shall be allowed under section 162 or

212 for expenses allocable to attendance at a convention, seminar, or similar meeting on any cruise ship unless the taxpayer claiming the deduction attaches to the return of tax on which the deduction is claimed—

"(A) a written statement signed by the individual attending the meeting which in-

cludes-

"(i) information with respect to the total days of the trip, excluding the days of transportation to and from the cruise ship port, and the number of hours of each day of the trip which such individual devoted to scheduled business activities.

"(ii) a program of the scheduled business

activities of the meeting, and

"(iii) such other information as may be required in regulations prescribed by the Secretary; and

"(B) a written statement signed by an officer of the organizatin or group sponsoring the meeting which includes—

the meeting which includes—
"(i) a schedule of the business activities of

each day of the meeting.

"(ii) the number of hours which the individual attending the meeting attended such scheduled business activities, and "(iii) such other information as may be re-

"(iii) such other information as may be required in regulations prescribed by the Sec-

(b) The amendments made by this section

shall apply to taxable years beginning after December 31, 1982.

Mr. MATSUNAGA. Mr. President,

Mr. MATSUNAGA. Mr. President, the amendment which I am offering, with the cosponsorship of Mr. INOUYE and Mr. Grassley, would permit deductible business expenses for conventions held on American-flag cruise

The Finance Committee in 1980 established the current rules for business convention expenses. The committee adopted my proposal as an amendment to H.R. 5973, which was enacted as Public Law 96-608. In drafting the proposal, I disallowed, as the Treasury Department sought, all business convention expenses incurred on a cruise ship. I had initially planned to exempt conventions on American-flag cruise ships, but the Deputy Assistant Secretary for Tax Policy stated that the Treasury Department could not accept such an exemption. I did not pursue the issue, because I knew of no American ship in the cruise trade.

As events developed, I learned that an American ship did offer cruises for business conventions. Also, two ships have entered the Hawaiian trade and other American ships are seeking to enter the cruise trade which has been dominated completely by foreign flag ships. To encourage the building of American ships, I have introduced S. 2647, with the senior Senator for Hawaii (Mr. INOUYE).

There are defense as well as economic reasons to encourage the building of our merchant marine fleet. The British effort in the Falkland Islands underscored the importance not only of the Royal Navy, but also of the crucial role of the British merchant fleet. Forty-nine commercial ships were employed in British actions. They included container ships, tugs, trawlers, freighters, tankers, and most signifi-

cantly, three passenger ships, the *Queen Elizabeth*, the *Canberra*, and the *Uganda*, used as troop and hospital ships. Had these merchant vessels not been available, the movement of materials and personnel to the Falklands, leading to early victory for the British, would not have been possible.

Had we Americans been confronted with the same situation, we would have found ourselves in a sad plight, indeed, for although there was a time when the United States could boast of and take pride in its merchant fleet, it has today shriveled to the point where its effectiveness in an emergency is open to grave doubt. The passenger ships of the United States Line, the Grace Line, the Dollar Line, State Steamship Line, and the Matson Line no longer sail.

It was most heartening for me, therefore, to witness with 700 invited guests the inauguration of the SS Independence in the Hawaiian inter island cruise service, on June 5, 1982, in Honolulu Harbor. A beautifully refurbished luxury liner, the SS Independence joins its sister passenger cruise ship SS Constitution already providing interisland service in Hawaii. A most significant point to note is that both ships, owned by American Global Line, Inc., fly the American flag. Mr. Robert Suan, president of the company and his associates deserve not only commendation on their bold venture, but more importantly encouragement. Their success will likely lead others to follow suit.

I therefore introduced S. 2647 with Senator Inquye as a cosponsor to encourage the use of American passenger liners by American businessmen. Our bill would allow an annual tax deduction up to \$2,000 per taxpayer, or \$1,000 in the case of a married person filing separately, for expenses incurred in attending business conventions, seminars, or meetings on an American ship plying between American ports. The allowance would not apply to ships putting into foreign ports. To prevent abuse, the bill would impose additional reporting requirements which would not apply to usual business convention deductions.

The House considered a similar measure on the suspension calendar last Monday, and a large majority voted in its support, although not a two-thirds majority.

The finance Subcommittee on Taxation held hearings on S. 2647 December 10, 1982. The amendment before the Senate incorporates that bill, except that a limitation on the total deduction is included upon the insistence of the Senator from Ohio (Mr. Metzenbaum). The projected revenue loss is negligible.

I urge adoption of my amendment. The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, the Senator from Kansas has discussed this with the Senator from Hawaii. I understand the Treasury objection has been resolved. Is that correct?

Mr. MATSUNAGA. That is correct. Mr. DOLE. Mr. President, I know of no objection to the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. A11 time having been yielded back, the question is on agreeing to the amendment of the Senator from Hawaii (Mr. MATSUNAGA).

The amendment (UP No. 1466) was

agreed to.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Kansas.

Mr. PERCY. Mr. President, will the manager be good enough to set aside those amendments so we could take up one more noncontroversial amendment?

Mr. STAFFORD. Mr. President, I understand that the unanimous-consent agreement was for two amendments by Mr. Dixon and Mr. Percy. Only one has been handled so far. So I think the second one should be given the attention of the body at this time.

Mr. DIXON. Mr. President, a point of clarification, may I say to my distinguished friend from Kansas, I had two amendments and my distinguished senior colleague had the full subject matter of this amendment. It has all been cleared with everybody on both sides. I apologize to my senior colleague, but in the matter of putting this together he was off the floor temporarily. I ask that we get unanimous consent so that my senior colleague may proceed to the third amendment to which there is no objection.

Mr. DOLE. The Senator from Kansas has no objection that we temporarily set aside the pending amendments for the consideration of the amendment of the distinguished Senator from Illinois and that no amendment to the amendment be in order.

The PRESIDING OFFICER. Is there objection? Without objection. the Senator from Illinois is now recog-

## UP AMENDMENT NO. 1467

(Purpose: To allow approval of project to replace LaSalle Peru Bridge)

Mr. PERCY. Mr. President, I thank my distinguished colleague. As my valued and distinguished colleague from Illinois, Senator Dixon, has said, this has been cleared on both sides. It is a noncontroversial amendment.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

clerk will report.

The bill clerk read as follows:

The Senator from Illinois (Mr. PERCY), for himself and Mr. Dixon, proposes an unprinted amendment numbered 1466.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER, Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

#### LASALLE PERU BRIDGE

The Secretary of Transportation may approve, under section 144(g) of title 23, United States Code, a project to replace the LaSalle Peru Bridge in the State of Illinois, which project is part of a complete replacement of U.S. Route 51 in a new location.

Mr. PERCY. Mr. President, I am offering an amendment along with my distinguished colleague from Illinois, Senator Dixon, to allow approval of a project to replace the LaSalle/Peru Bridge in Illinois. This amendment clarifies that this bridge is eligible under the bridge repair program. The LaSalle/Peru Bridge does not fall under the strict requirements of the Federal bridge repair program, and this amendment would permit the bridge to quality under the program.

The existing highway bridge on U.S. Route 51 over the Illinois River at La-Salle/Peru is functionally obsolete and in poor condition. The existing structure cannot accommodate projected traffic volumes, and routing the bridge through these twin cities of 22,000 would be expensive and undesirable. The design for this project has been approved and the cost estimated at \$47 million.

Mr. President, Illinois is particularly deserving of the authorization of this project due to the elimination of the Federal priority primary program. This program, which has funded construction of U.S. 51 from Rockford to Decatur, is eliminated under the highway bill as reported by the Senate Environment and Public Works Committee. A massive capital investment of over \$300 million-including over \$200 million in State funds-has been spent to date on Illinois' two priority primary routes, U.S. 51 and the so-called Kansas City to Chicago Expressway from Peoria to Quincy, Ill. Given this level of commitment, it is important that Federal funding not be terminated abruptly. And, recognizing this need, the House specifically authorized construction of the LaSalle/Peru Bridge, a vital segment of U.S. 51. Mr. President, I urge my colleagues to adopt this amendment.

Mr. DIXON. Mr. President, I am pleased to join my distinguished senior colleague from Illinois, Senator Percy, in offering an amendment to provide

The PRESIDING OFFICER. The funds for a new bridge across the Illinois River at La Salle-Peru.

This bridge would replace the existing inadequate structure on U.S. 51, and is part of the complete replacement of that heavily traveled route. The U.S. 51 corridor, between Rockford and Decatur, is one of the most heavily traveled highways in the State. It desperately needs expansion and modernization.

The State of Illinois, therefore, using Federal and State funds, has been constructing a new freeway along the general route of U.S. 51. The new bridge, which is included in H.R. 6211, is an essential part of the overall proj-

Funding construction of the new bridge out of discretionary bridge program funds is particularly important because the committee bill eliminates priority primary program financing, the chief source of Federal funds for the project.

I have spoken before on the importance of the Route 51 project to Illinois. It is a key transportation corridor down the center of the State, and would link five major interstate routes. I believe the bridge project is essential. I urge my colleagues, therefore, to support the Percy-Dixon amendment.

Mr. STAFFORD. Mr. President, for the majority, this being the highway part of the total bill, I have examined the amendment offered by my good friend, the distinguished Senator from Illinois, on the LaSalle-Peru Bridge, and in view of the language which has been agreed to I am prepared to accept the amendment for the majority.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, for the minority, we have no objection to the amendment.

The PRESIDING OFFICER. Is all time vielded back?

Mr. PERCY. I yield back the remainder of my time.

Mr. STAFFORD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Illinois (Mr. PERCY).

The amendment (UP No. 1467) was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DIXON. I move to lay that motion on the table.

The motion to lay on the table was

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Kansas.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for consideration of an amendment to be offered by the distinguished Senator from Arkansas (Mr. PRYOR) and that no amendments to the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas is recog-

# UP AMENDMENT NO. 1468

(Purpose: To eliminate the increase in, and extension of, excise taxes on articles other than gasoline, diesel fuel, and special motor fuels and to maintain current gross weight, length, and width limitations for vehicles using interstate system)

Mr. PRYOR. Mr. President, I have an amendment at the desk. I ask unanimous consent at this time that I may have the right to modify the amendment. I have already submitted the amendment with modification.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment, as modified.

The bill clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 1468.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out sections 112-423 and insert in lieu thereof the following:

#### Subtitle D-Highway Trust Fund; Mass Transit Account

SEC. 131. EXTENSION OF HIGHWAY TRUST FUND.

(a) Extension.—Subsections (c) and (f) (3), (4), (6), and (7) of section 209 of the Highway Revenue Act of 1956 (23 U.S.C. 120

note) are amended as follows: (1) by striking out "October 1, 1984" each place it appears and inserting in lieu thereof

October 1, 1989", and
(2) by striking out "September 30, 1984", each place it appears and inserting in lieu thereof "September 30, 1989", and

(3) by striking "July 1, 1985" each place it appears and inserting in lieu thereof "July

(b) Conforming Amendments .-

(1) Management of trust fund.—Subsection (e)(1) of section 209 of the Highway

Revenue Act of 1956 is amended by striking 'Commerce" and inserting in lieu thereof "Transportation", and by striking "up to and including the fiscal year ending September 30, 1985".

(2) EXPENDITURES FROM TRUST FUND.—Subsection (f)(1) of section 209 of the Highway Revenue Act of 1956 is amended as follows:

"(1) FEDERAL-AID HIGHWAY PROGRAM .-Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before October 1, 1990, to meet those obligations of the United States heretofore or hereafter incurred which are authorized by law or which are attributable to Federal-aid highways (including those portions of general administrative expenses of the Federal Highway Administration payable from such appropriations)."

(c) INVESTIGATION AND REPORT TO CONgress.-Section 210 of the Highway Reve-

nue Act of 1956 is repealed.

(d) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4061-11) is amended as follows:

(1) by striking out "October 1, 1984" and inserting in lieu thereof "October 1, 1989";

(2) by striking out "July 1, 1985" each place it appears and inserting in lieu thereof 'July 1, 1990".

(e) INCREASE IN AMOUNT TRANSFERRED TO NATIONAL RECREATIONAL BOATING SAFETY AND FACILITIES IMPROVEMENT FUND.—Clause (ii) of section 209(f)(5)(A) of the Highway Revenue Act of 1956 (23 U.S.C. 120 note) is amended-

(1) by striking out "\$20,000,000" and inserting in lieu thereof "\$45,000,000", and

(2) by striking out "October 1, 1983" and inserting in lieu thereof "October 1, 1989". SEC. 132 MASS TRANSIT ACCOUNT

(a) In General.-Section 209 of the Highway Revenue Act of 1956 is amended by adding at the end thereof the following new subsection:

(h) Mass Transit Account .-

"(1) In general.-There is established on the books of the Treasury of the United States an account within the Highway Trust Fund to be known as the 'Mass Transit Account'.

"(2) TRANSFERS TO MASS TRANSIT AC-COUNT.—The Secretary of the Treasury shall transfer to the Mass Transit Account oneninth of the amounts appropriated to the Highway Trust Fund under this section which are attributable to taxes under sections 4041 and 4081 imposed after March 31, 1983.

"(3) EXPENDITURES FROM ACCOUNT .-Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital expenditures before October 1, 1989 (including capital expenditures for new projects), under section 22 of the Urban Mass Transportation Act of 1964.

"(4) DUTIES OF THE SECRETARY OF THE TREASURY WITH RESPECT TO THE MASS TRANSIT ACCOUNT.-It shall be the duty of the Secretary of the Treasury to manage the Mass Transit Account and to make an annual report to the Congress as provided in subsection (e) of this section. The interest on, and the proceeds from the sale or redemption of any obligation held in the Mass Transit Account shall be credited to and form a part of the Mass Transit Account.

"(5) REPAYABLE ADVANCES.—There are hereby authorized to be appropriated to the Mass Transit Account, as repayable ad-

vances, such additional sums as may be required to make the expenditures referred to in paragraph (3) of this section. Advances made pursuant to this paragraph shall be repaid and interest on such advances shall be paid to the general fund of the Treasury when the Secretary of the Treasury determines that moneys are available in the Mass Transit Account for such purposes. Such interest shall be at rates computed in the same manner as provided in subsection (e)(2) of this section for special obligations and shall be compounded annually."

#### TITLE II-FEDERAL-AID HIGHWAY IMPROVEMENT SHORT TITLE

SEC. 261. This title may be cited as the "Federal-Aid Highway Improvement Act of

#### REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR INTERSTATE SYSTEM

SEC. 202. Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of \$3,225,000,000 for the fiscal year ending September 30, 1984", and all that follows through the period at the end of the sentence and by inserting in lieu thereof the following: "The additional sum of \$3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of \$3,800,000,000 for the fiscal year ending September 30, 1985, the additional sum of \$3,800,000,000 for the fiscal year ending September 30, 1986, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1987, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of \$4,000,000,000 for the fiscal year ending September 30, 1990.".

## HIGHWAY AUTHORIZATIONS

SEC. 203. (a) For the purpose of carrying out the following provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund:

(1) For the Federal-aid primary program not to exceed \$1,700,000,000 for the fiscal year ending September 30, 1983, \$2,100,000,000 for the fiscal year ending September 30, 1984, \$2,400,000,000 for the fiscal year ending September 30, 1985, and \$2,400,000,000 for the fiscal year ending September 30, 1986, and \$2,600,000,000 for the fiscal year ending September 30, 1987.

(2) For the Federal-aid rural program not to exceed \$614,520,548 for the fiscal year ending September 30, 1983, and \$700,000,000 for the fiscal year ending September 30. 1984, \$700,000,000 for the fiscal year ending September 30, 1985, \$700,000,000 for the fiscal year ending September 30, 1986, and \$700,000,000 for the fiscal year ending September 30, 1987.

(3) For the Federal-aid urban program not to exceed \$629,041,096 for the fiscal year ending September 30, 1983, and \$800,000,000 for the fiscal year ending September 30, 1984, \$800,000,000 for the fiscal year ending September 30, 1985, and \$800,000,000 for the fiscal year ending September 30, 1986, and \$800,000,000 for the fiscal year ending September 30, 1987.

(4) For forest highways not to exceed \$50,000,000 for the fiscal year ending September 30, 1983, \$50,000,000 for the fiscal year ending September 30, 1984, \$50,000,000 for the fiscal year ending September 30, 1985, and \$50,000,000 for the fiscal year ending September 30, 1986, and \$50,000,000 for the fiscal year ending September 30, 1987.

(5) For public lands highways not to exceed \$50,000,000 for the fiscal year ending September 30, 1983, \$50,000,000 for the fiscal year ending September 30, 1984, \$50,000,000 for the fiscal year ending September 30, 1985, and \$50,000,000 for the fiscal year ending September 30, 1986, and \$50,000,000 for the fiscal year ending September 30, 1987.

(6) For parkways and park highways \$75,000,000 for the fiscal year ending September 30, 1983 and \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(7) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, not to exceed \$1,700,000,000 for the fiscal year ending September 30, 1983, and \$1,700,000,000 for the fiscal year ending September 30, 1984, \$1,800,000,000 for the fiscal year ending September 30, 1985, and \$2,000,000,000 for the fiscal year ending September 30, 1986, and \$2,000,000,000 for the fiscal year ending September 30, 1986, and \$2,000,000,000 for the fiscal year ending September 30, 1987.

(8) For the highway safety improvement program not to exceed \$316,657,534 for the fiscal year ending September 30, 1983, and \$400,000,000 for the fiscal year ending September 30, 1984, \$400,000,000 for the fiscal year ending September 30, 1985, and \$400,000,000 for the fiscal year ending September 30, 1986, and \$400,000,000 for the fiscal year ending September 30, 1986, and \$400,000,000 for the fiscal year ending September 30, 1987.

(9) For Indian reservation highways \$75,000,000 for the fiscal year ending September 30, 1983 and \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(b) The unapportioned or unallocated balance of sums authorized by sections 4 and 5 of the Federal-Aid Highway Act of 1982 is

(c)(1) For each of the fiscal years 1984, 1985, 1986, 1987, and 1988, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for ex penditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended.

(2) Subsection (g) of section 144 of title 23, United States Code, is amended as follows:

"(g) Of the amount authorized per fiscal year, for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987, all but \$300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 shall be apportioned as provided in subsection (e) of this section; \$300,000,000 for fiscal years 1983, 1984, 1985, 1986, and 1987 of the amount authorized shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such sums shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement and rehabilitation cost of each of which is more than \$10,000,000 and for any project for a highway bridge replacement or rehabilitation cost of which is less than \$10,000,000 if such cost is at least twice the amount apportioned to the State in which such bridge is located under subsection (e) of this section for the fiscal year in which application is made for a grant for such bridge. Not less than 15 per centum of the amount apportioned to each State in a fiscal year shall be expended for projects to replace or rehabilitate bridges located on public roads, other than those bridges on public roads functionally classified as arterials or major collectors. The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on public roads functionally classified as arterials or major collectors when he determines that such State has inadequate needs to justify such expenditure."

(d) Of the sums apportioned to each State under subsections (a)(1), (a)(2), and (a)(3) of this section, beginning with fiscal year 1984, not less than 60 per centum of such program funds shall be expended by the States on projects for resurfacing, restoring, rehabilitating, and reconstructing existing highway facilities for the purpose of preseving or enhancing the operational integrity, efficiency, and safety of such existing highways unless the State certifies to the Secretary that such percentage of funds are in excess of the resurfacing, restoring, rehabilitating, and reconstructing needs of existing highways in the State and the Secretary accepts such certification.

#### DISCRETIONARY BRIDGE CRITERIA

Sec. 204. The Secretary of Transportation shall develop a selection process for discretionary bridges authorized to be funded under section 144(g) of title 23, United States Code, and shall propose and issue a final regulation no later than six months after the date of enactment of this Act, including a formula resulting in a rating factor based on the following criteria for such process. Such criteria shall give funding priority to those discretionary bridges already eligible under section 144(g) of title 23, United States Code. Eligible bridges after the issuance of a final regulation shall only include those with a rating factor of one hundred or less, based on a scale of zero to infinity. The criteria for such additional bridges which the Secretary shall consider

- (1) sufficiency rating computed as illustrated in appendix A of the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges, USDOT/FHWA (latest edition);
- (2) average daily traffic using the most current value from the national bridge inventory data;
  - (3) average daily truck traffic;
  - (4) defense highway system status;
- (5) the State's unobligated balance of funds received under section 144 of title 23, United States Code, and the total funds received under section 144 of title 23, United States Code;
  - (6) total project cost; and
- (7) special consideration should be given to bridges closed to all traffic or restricted to loads less than ten tons. Other unique considerations and the need to administer the program from a balanced national perspective should also be considered.

# INTERSTATE SYSTEM RESURFACING APPORTIONMENT

SEC. 205. (a) Section 104(b)(5)(B) of title 23, United States Code, is amended (1) by striking the number "55" and inserting in lieu thereof "60" and (2) by striking the number "45" and inserting in lieu thereof "40".

(b)(1) The Secretary of Transportation shall make a full and complete study regarding the procedures for distributing Federal financial assistance for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System in order to maintain a high level of transportation service. The study shall analyze current conditions and factors including, but not limited to, volume and mix of traffic, weight and size of vehicles, environmental, geographical, and meteorological conditions in various States, and other pertinent factors that can be utilized to determine the most equitable and efficient method of apportioning available Interstate 4R funds to the several States. In conducting the study the Secretary shall consider such criteria as need, national importance, impact on individual State highway programs, structural and operational integrity, and any other relevant criteria, to determine the most equitable method of distribution.

(2) In conducting this study the Secretary shall consult with other agencies of the Federal Government, the States and their political subdivisions, and other interested private organizations, groups, and individuals.

(3) The Secretary shall report to Congress not later than six months after the date of enactment of this section the results of such study together with recommendations for necessary legislation.

# INTERSTATE SYSTEM RESURFACING AUTHORIZATION

SEC. 206. Section 105 of the Federal-Aid Highway Act of 1978 is amended to read as follows: "In addition to any funds authorized to be appropriated, there is authorized to be appropriated out of the Highway Trust Fund, not to exceed \$175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, and September 30, 1981, not to exceed \$275,000,000 for the fiscal year ending September 30, 1982, not to exceed \$800,000,000 for the fiscal year ending September 30, 1983, not to exceed \$1,800,000,000 for the fiscal year September 30, 1984, not to ending exceed \$2,400,000,000 for the fiscal year ending 30, 1985, September not to exceed \$2,800,000,000 for the fiscal year September 30, 1986, not to \$3,200,000,000 for the fiscal year ending September 30, 1987, and not to \$3,400,000,000 for the fiscal year exceed ending September 30, 1988. Such sums shall be obligated for projects for resurfacing, restoring, rehabilitating, and reconstructing routes of the Interstate System designated under sections 103 and 139(c) of title 23, States Code (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978), except that where a State certifies to the Secretary that any part of such sums are in excess of the needs of such State for resurfacing, restoring, re-habilitating, and reconstructing the Interstate System and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1) of title 23, United States Code. Such sums may also be obligated for projects for resur-

facing, restoring, rehabilitating, and reconstructing a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence. Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury."

#### INTERSTATE SUBSTITUTION AUTHORIZATION

SEC. 207. (a) In addition to any funds authorized to be appropriated out of the general fund, there is authorized to be appropriated, out of the Highway Trust Fund, for substitute highway projects under section 103(e)(4) of title 23, United States Code, \$500,000,000 for the fiscal year ending September 30, 1983, \$600,000,000 for the fiscal year ending September 30, 1984, \$600,000,000 for the fiscal year ending September 30, 1985, and \$650,000,000 for the fiscal year ending September 30, 1986, and \$650,000,000 for the fiscal year ending September 30, 1987. Funds authorized to carry out this section shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States

(b)(1) The first sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which is within an urbanized area or which passes through and connects urbanized areas within a State and".

(2) The second sentence of section 103(e)(4) of title 23, United States Code is amended by striking "which will serve the urbanized area and the connecting nonurbanized area corridor from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the urbanized area or area to be served, and which are submitted by the Governor of the State in which the withdrawn route was located." and inserting in lieu thereof, "which will serve the area or areas from which the interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or the States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located."

(c)(1) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approved by Congress," the words "or up to and including the approved 1983 interstate cost estimate,

whichever is earlier,".

(2) The second sentence of section 103(e)(4) of title 23, United States Code, is

amended by striking in the second sentence the phrases "the date of enactment of the Federal-Aid Highway Act of 1976 or" and "whichever is later, and in accordance with the design of the route or portion thereof that is the basis of the latest cost esti-

(3) The second sentence of section 103(e)(4) of title 23, United States Code, is amended by inserting in the second sentence after the words "approval of each substitute project under this paragraph," the words "or the date of approval of the 1983 interstate cost estimate, whichever is earli-

(d) Section 103(e)(4) of title 23, United States Code, is amended by adding at the end of such subsection the following: "Any route or segment thereof added to the Interstate System after March 7, 1978, pursuant to specific legislation will not be eligible for withdrawal and substitution under this subsection."

(e) The first sentence of section 120(d) of title 23, United States Code, is amended by inserting after the words "traffic control signalization," the following: "including traffic control signalization projects under section 103(e)(4) of this title, notwithstanding the provisions of the fifth sentence of section 103(e)(4),".

#### FEDERAL-AID PRIMARY PROGRAM

SEC. 208. (a) Section 104(b)(1) of title 23, United States Code, is amended by (1) striking out "and priority primary routes" in the first sentence, and by (2) striking out "(other than the District of Columbia)" in the second sentence.

(b) Section 147 of title 23, United States

Code, is repealed.

(c) Effective on October 1, 1982, any unobligated amount authorized under subsection (c) of section 104 of the Federal-Aid Highway Act of 1978 shall be apportioned by the Secretary of Transportation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code, for the Federal-aid primary system, and shall thereafter remain available for obligation for the same period as such apportionment.

(d) The analysis of chapter 1 of title 23 is

amended by deleting
"147. Priority Primary Routes."

and inserting in lieu thereof "147. Repealed.".

# FEDERAL-AID URBAN PROGRAM

SEC. 209. Section 103 of title 23, United States Code, is amended by deleting subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary may approve Federalaid urban programs in urban areas which programs shall be selected by the appropriate local officials so as to serve the goals and objectives of the community, with the concurrence of the State highway department, as provided in section 105 of this title. The programs shall facilitate transportation in the urban area and include projects to: reduce congestion and improve the flow of traffic on arterial and collector routes, aid integration of different transportation modes to and from airports and other terminals and business districts, support clean air and energy conservation objectives, make highway capital improvements, improve highway safety, eliminate safety hazards and roadside obstacles, implement transportation systems management activities and serve other national goals and objectives. All public roads in urban areas are eligible except those on the primary system and the Interstate System. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to urban programs, except those provisions determined by the Secretary to be inconsistent with this subsection. The Secretary shall not waive the applicability of the planning requirements of section 134 of this title.".

#### FEDERAL-AID RURAL PROGRAM

SEC. 210. Section 103 of title 23, United States Code, is amended by deleting subsection (c) and inserting in lieu thereof:

"(c) The Federal-aid rural program shall be selected by the State highway agencies and the appropriate local road officials in cooperation with each other, subject to approval by the Secretary as provided in subsection (f) of this section and section 105 of this title. In making such selections, the needs of agriculture roads, rural mail routes, public school bus routes, local rural roads, airport and water port access roads, and goods movement shall be considered. All public roads, except those on the primary system, the Interstate System, and those in urban areas are eligible. Projects to improve highway safety and nonurbanized public transportation projects, including facilities and technical assistance, are also eligible for assistance under this section. The applicable provisions of chapters 1 and 3 of this title, including provisions applicable to Federal-aid systems, shall apply to rural programs, except those provisions determined by the Secretary to be inconsistent with this subsection.".

#### TRANSFERABILITY

SEC. 211. Paragraphs (1) and (2) of subsection (d) of section 104 of title 23, United States Code, are amended by striking out "50" each place it appears and inserting in lieu thereof at each such place "100".

# HIGHWAY SAFETY IMPROVEMENT PROGRAM

SEC. 212. (a) Section 151 of title 23, United States Code, is amended to read as follows: "8 151. Highway safety improvement program

"(a) The Secretary, in cooperation with the States, shall establish a highway safety improvement program for projects on any public road or street in rural or urban areas. Assistance shall be available under this program for highway safety improvement projects, as defined in subsection (a) of section 101 of this title; for railway-highway crossing projects as provided for in section 130 of this title; for the implementation of highway-related safety requirements and guidelines issued by the Secretary under section 402 of this title; and for the development, implementation, and evaluation of the highway safety improvement program required under subsection (b) of this section.

"(b) Each State shall develop and implement on a continuing basis a highway safety improvement program including procedures for the planning, implementation, and evaluation of highway safety improvement projects on all highways, with the specific objective of reducing the number and severity of highway traffic accidents. Each State shall have a process for collecting, maintaining, and analyzing accident, traffic, and highway data; for conducting engineering studies of hazardous locations, sections and elements, for assigning priorities to the various types of hazards identified; for implementing safety improvement projects in accordance with the priorities developed; and for the evaluation of the safety benefits obtained

"(c) Of the funds authorized to carry out this section each State shall expend 35 per centum of the sums apportioned for projects under section 203 of the Highway Safety Act of 1973 unless the State requests the Secretary to waive this minimum and the Secretary finds other safety projects are of a higher priority.

"(d)(1) Funds authorized to carry out this section shall be available for expenditure for projects on any public road (other than

the Interstate System).

(2) The Federal share payable on any project under this section shall not exceed 90 per centum of the cost thereof except that the Federal share of safety improvement projects for the elimination of hazards of rail-highway crossings shall not exceed that as provided in section 120(d) of this title.

"(3) The unobligated balance of contract authority established prior to enactment of this section for carrying out section 402 by the Federal Highway Administration shall remain available for obligation as provided prior to enactment of this section and shall lapse not later than September 30, 1984

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as follows: 60 per centum in the ratio which the population of each State bears to the total population of all States, and 40 per centum in the ratio which the public road mileage in each State bears to the total public road mileage in all States. The annual apportionment for each State shall not be less than one-half of 1 per centum of the total apportionment. Such sums shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive such provisions of this title that he deems inconsistent with the purposes of this section.

"(f) In any State wherein the State is without legal authority to construct or maintain a project under this section, such State shall enter into a formal agreement for such construction or maintenance with the appropriate local officials of the county or municipality in which such project is lo-

"(g) One-half of 1 per centum of funds authorized for carrying out this section shall be made available to the Secretary of the Interior, who shall exercise the responsibilities assigned to States under subsection (b) of this section in carrying out this section on Indian reservations. Such funds shall be subject to a deduction of not to exceed 5 per centum for the necessary costs of administering the provisions of this section.

"(h) Each State shall report to the Secretary of Transportation not later than December 30 of each year, on the progress being made to implement the highway safety improvement program and the effectiveness of safety improvements in reducing the number and severity of accidents. The Secretary of Transportation shall submit a report to the Congress not later than April 1 of each year on the progress being made by the States in implementing the highway

safety improvement program.".
(b) Section 152 of title 23, United States

Code, is repealed.

The analysis of chapter 1 of title 23, United States Code, is amended by deleting

"151. Pavement marking demonstration program.", and "152. Hazard elimination program.", and inserting in lieu thereof

"151. Highway safety improvement pro-program.", and

"152. Repealed."

(d) Section 203(e) of the Highway Safety Act of 1973 (Public Law 93-87), as amended by the Congressional Reports Elimination Act of 1980 (Public Law 96-470), is repealed.

#### HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION PROGRAM APPORTIONED FUNDS

Sec. 213. (a) Subsection (e) of section 144 of title 23, United States Code, is amended to read as follows:

'(e) Funds authorized to carry out this section shall be apportioned among the several States on October 1 of the fiscal year for which authorized according to the lowing formula: All deficient bridges will be divided into four categories: (1) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for replacement, (2) Federal-aid system bridges, and bridges on public roads functionally classified as arterials or major collectors, eligible for rehabilitation, (3) off-system bridges, and bridges on public roads not functionally classified as arterials or major collectors eligible for replacement, and (4) off-system bridges and bridges on public roads not functionally classified as arterials or major collectors eli-gible for rehabilitation. The square footage of deficient Federal-aid system bridges, or bridges on public roads functionally classified as arterials or major collectors, both those eligible for replacement and those eligible for rehabilitation, shall be multiplied by a factor of two. The square footage of deficient bridges in each category shall be multiplied by the average national unit cost, on a State-by-State basis, as determined by the Secretary; and the total cost of each State divided by the total cost of the Nation's deficient bridges shall yield the apportionment factors. No State shall receive more than 9.25 per centum or less than 0.25 per centum of the total apportionment for any one fiscal year. The Secretary shall make these determinations based upon the latest available data, which shall be updated annually. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for three years after the close of the fiscal year for which they are authorized."

(b) Notwithstanding any other provision of law or Federal regulation, any new bridge which is to be constructed pursuant to section 144 of title 23, United States Code, in tandem with any existing major structure built after June 28, 1969, with no more than 2.7 miles of highway between them need not carry a roadway width in excess of 69 feet.

## FEDERAL LANDS HIGHWAYS PROGRAM

SEC. 214. (a) Section 202 of title 23, United States Code, is amended to read as follows:

"Sec. 202. Allocations.—(a) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways according to the relative needs of the various elements of the national forest system as determined by the Secretary, taking into consideration the need for access as identified by the Secretary of Agriculture through renewable resource and land use planning, and the impact of such planning on existing transportation facilities.

"(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest development roads and trails according to the relative needs of the various national forests. Such allocation shall be consistent with the renewable resource and land use planning for the various national forests.

(c) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States, respectively, as determined by the Secretary upon application of the State highway departments of the respective States. The Secretary shall give preference to those projects which are significantly impacted by Federal land and resource management activities.

'(d) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for park roads and parkways each according to the relative needs of the various elements of the national park system, taking into consideration the need for access as identified through land use planning and the impact of such planning on existing transportation

facilities

"(e) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for Indian reservation roads according to the relative needs of the various reservations as jointly identified by the Secretary and the Secretary of the Interior.'

(b) Section 204 of title 23, United States Code, is amended to read as follows:

"Sec. 204. Federal Lands Highways Program .- (a) Recognizing the need for all Federal roads which are public roads to be treated under the same uniform policies as roads which are on the Federal-aid systems, there is established a coordinated Federal lands highways program which shall consist of the forest highways, public lands highways, park roads, parkways, and Indian reservation roads as defined in section 101 of

title 23. United States Code.

'(b) Funds available for forest highways and public lands highways shall be used by the Secretary to pay for the cost of construction and improvement thereof. Funds available for park roads, parkways, and Indian reservation roads shall be used by the Secretary of the Interior to pay for the cost of construction and improvement thereof. In connection therewith, the Secretary and the Secretary of the Interior, as appropriate, may enter into construction contracts and such other contracts with a State, or civil subdivision thereof as deemed advisable. In the case of Indian reservation roads, Indian labor may be employed in such construction and improvement under such rules and regulations as may be prescribed by the Secretary of the Interior.

"(c) Before approving as a project on an Indian reservation road or bridge any project on a Federal-aid system in a State, the Secretary must determine the obligation of funds for such project is supplementary to and not in lieu of the obligation, for projects on Indian reservation roads and bridges, of a fair and equitable share of funds apportioned to such State under sec-

tion 104 of this title.

"(d) Cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement, and any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands highways to which such funds were contrib-

"(e) Construction of each project shall be performed by contract awarded by competitive bidding, unless the Secretary or the Secretary of the Interior shall affirmatively find that, under the circumstances relating to such project, some other method is in the public interest.

"(f) All appropriations for the construction and improvement of each class of Federal lands highways shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

(g) The Secretary shall transfer to the Secretary of Agriculture from appropria-tions for forest highways such amounts as may be needed to cover necessary administrative expenses of the Forest Service in connection with forest highways.

"(h) Funds available for each class of Federal lands highways shall be available for adjacent vehicular parking areas and scenic

easements.'

(c)(1) The definition of "park roads and trails" in section 101(a) of title 23, United States Code, is amended to read as follows: "The term 'park road' means a public road that is located within or provides access to an area in the national park system."

(2) The term "Indian reservation roads and bridges" in section 101(a) of title 23, United States Code, is amended to read as "Indian reservation roads"; and the defini-tion of such term is amended by deleting the words "and bridges" each place they appear and by inserting the word "public" before "roads" the first place it appears

(3) Section 101(a) of title 23, United States Code, is amended by adding after the defini-tion of the term "forest development roads and trails" the following new definition: "The term 'Federal lands highways' in accordance with section 204 of this title means forest highways, public lands highways, park roads, parkways, and Indian reservation roads which are public roads."

(d) Sections 206, 207, 208, 209, and 214(c) of title 23, United States Code, are repealed.

(e) The analysis of chapter 2 of title 23, United States Code, is amended by deleting the following headings:

"202. Apportionment or allocation.";

"204. Forest highways."

"206. Park Roads and trails.";

"207. Parkways.";

"208. Indian reservation roads."; and

"209. Public lands highways." and inserting in lieu thereof:

"202. Allocations.";

"204. Federal Lands Highways Program.";

"206. Repealed.";
"207. Repealed.";

"208. Repealed."; and "209. Repealed.".

(f) Section 203 of title 23, United States Code, is amended by striking out the term 'park roads and trails" wherever it appears and inserting in lieu thereof the term "park road".

# PROGRAM CONSOLIDATION

Sec. 215. (a)(1) Sections 143, 148, 155, and 156 of title 23, United States Code, are repealed.

(2) Section 163 of the Federal-Aid Highway Act of 1973, as amended, is repealed.

(b)(1) Any unobligated balance of contract authority established by any Act prior to enactment of subsection (a) of this section for carrying out sections 143 and 148 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unexpended balance of sums appropriated prior to enactment of subsection

(a) of this section for carrying out sections 155 and 156 of title 23, United States Code, and section 163 of the Federal-Aid Highway Act of 1973, as amended, shall remain available for expenditure under the conditions applicable prior to such enactment.

(3) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out sections 148, 155, and 156 of title 23, United States Code, is rescinded.

(c) The analysis of chapter 1. United

States Code, is amended by striking

"143. Economic growth center development highways.'

and inserting in lieu thereof

"143. Repealed."; by striking

"148. Development of a national scenic and recreational highway.'

and inserting in lieu thereof

"148. Repealed.":

by striking

"155. Access highways to public recreation areas on certain lakes.

and inserting in lieu thereof

"155. Repealed.": and by striking

"156. Highways crossing Federal projects." and inserting in lieu thereof

"156. Repealed.".

#### CARPOOL AND VANPOOL PROJECTS

SEC. 216. (a) Section 120(d) of title 23. United States Code, is amended by inserting before the words "may amount to 100 per centum" the words "or commuter carpooling and vanpooling".

(b) The Secretary of Transportation is authorized and directed to expend such sums as are necessary out of the administrative funds authorized by subsection (a) of section 104, title 23, United States Code, to carry out the provisions of subsection (d) of section 126 of the Federal-Aid Highway Act of 1978.

# PUBLIC TRANSPORTATION

SEC. 217. Section 142 of title 23, United States Code, is amended as follows:

(1) In subsection (a)(1) delete in the first sentence the words "bus lanes" and insert in lieu thereof the following: "high occupancy vehicle lanes" and delete the words "bus and other" and insert in lieu thereof the fol-

lowing: "high occupancy vehicle and".
(2) In subsection (b) delete the word "bus" and insert in lieu thereof "high occupancy

vehicle".

(3) In subsection (f) delete the words 'public mass transportation systems" and insert in lieu thereof "high occupancy vehicles".

## FRINGE AND CORRIDOR PARKING

SEC. 218. Section 137 of title 23, United States Code, is amended by inserting the

following new subsection (f):

"(f)(1) The Secretary may approve for Federal financial assistance from funds apportioned under section 104(b)(5)(B) of this title, projects for designating existing facilities, or for acquisition of rights of way or construction of new facilities, for use as preferential parking for carpools, provided that such facilities (1) are located outside of a central business district and within an interstate highway corridor, and (2) have as their primary purpose the reduction of vehicular traffic on the interstate highway.

(2) Nothing in this subsection, or in any rule or regulation issued under this subsection, or in any agreement required by this subsection, shall prohibit (1) any State, po-

litical subdivision, or agency or instrumentality thereof, from contracting with any person to operate any parking facility designated or constructed under this subsection, or (2) any such person from so operating such facility. Any fees charged for the use of any such facility in connection with the purpose of this subsection shall not be in excess of the amount required for operation and maintenance, including compensation to any person for operating the facility.

"(3) For the purposes of this subsection, the terms 'facilities' and 'parking facilities' are synonymous and shall have the same meaning given 'parking facilities' in subsection (c) of this section".

#### EMERGENCY RELIEF

SEC. 219. (a)(1) The first sentence of subsection (a) of section 125 of title 23, United States Code, is amended by striking the first sentence thereof and inserting in lieu there-of the following: "An emergency fund is authorized for expenditure by the Secretary, subject to the provisions of this section and section 120 of this title, for the repair or reconstruction of highways, roads, and trails which the Secretary shall find have suffered serious damage as the result of (1) natural disaster over a wide area such as by floods, hurricanes, tidal waves, earthquakes, severe storms, or landslides, or (2) catastrophic failures from any external cause, in any part of the United States. In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges which have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to structural deficiencies or physical deterioration.".

(2) Subsection (a) of section 125 of title 23. United States Code, is further amended by inserting in the second sentence, as that sentence read prior to the amendments made by paragraph (1) of this subsection, after the word "appropriated" the words "from the Highway Trust Fund".

(b) Notwithstanding any other provision of law, all expenditures made under section 125 of title 23, United States Code, prior to the fiscal year ending September 30, 1978. are authorized to have been appropriated from the Highway Trust Fund.

(c) Subsection (a) of section 125 of title 23, United States Code, is amended by inserting in the second sentence after the words "after September 30, 1976," the words "and not more than \$100,000,000 is authorized to be expended in any one fiscal year commencing after September 30, 1980,

(d) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the period at the end of the first sentence, inserting a colon in lieu thereof, and by adding the following: "Provided, That obligations for projects under this section, including those on highways, roads, and trails mentioned in subsection (c) of this section, resulting from a single natural disaster or a single catastrophic failure shall not exceed \$30,000,000 in any State.'

(e) The amendments made by subsection (d) of this section shall apply to natural disasters or catastrophic failures which the Secretary finds eligible for emergency relief subsequent to the date of enactment of this section.

(f) Subsection (f) of section 120 of title 23, United States Code, is amended to read as

"(f) The Federal share payable on account of any repair or reconstruction provided for by funds made available under section 125

of this title shall not exceed 75 per centum of the cost thereof: Provided, That the Federal share payable on account of any repair or reconstruction of forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads may amount to 100 per centum of the cost thereof. The total cost of a project may not exceed the cost of repair or reconstruction of a compa-rable facility. As used in this section with respect to bridges and in section 144 of this title, 'a comparable facility' shall mean a facility which meets the current geometric and construction standards required for the types and volume of traffic which such facility will carry over its design life."

(g) All obligations for projects resulting from a natural disaster or catastrophic failure which the Secretary finds to be eligible for emergency relief subsequent to the date of enactment of this subsection shall provide for the Federal share required by subsection (f) of section 120 of title 23, United States Code, as amended by this section.

(h)(1) Subsection (b) of section 125 of title 23, United States Code, is amended by striking the words "the Federal-aid highway systems, including the Interstate System" and by inserting in lieu thereof the words "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," in the two places the stricken words appear.

(2) Subsection (c) of section 125 of title 23, United States Code, is amended by striking the words "on any of the Federal-aid highway systems" and inserting in lieu thereof the words "routes functionally classified as arterials or major collectors".

#### BICYCLE TRANSPORTATION PROGRAM

Sec. 220. Section 217 of title 23, United States Code is amended—

(1) by striking in the first sentence of subsection (a), the words "and the multiple use of highway rights-of-way" and "on or in conjunction with highway rights-of-way":

(2) by inserting after the first sentence in subsection (a) the following: "Federal-aid highway projects may include nonconstruction programs or projects which can reasonably be expected to enhance the safety and use of bicycles.";

(3) by striking out in subsection (b) the words "that provided in section 120 of this title" and inserting in lieu thereof "100 per centum"; and

(4) by striking out subsection (e).

# HIGHLAND SCENIC HIGHWAY

SEC. 221. Section 161(f) of the Federal-Aid Highway Act of 1973, as amended by section 21 of Public Law 96-106, is further amended to read as follows:

"(f) The Highland Scenic Highway as authorized by subsection (a) of this section and all associated lands and rights-of-way shall be managed as part of the Monongahela National Forest for scenic and recreational purposes. Vehicle use shall be confined to passenger cars, recreational vehicles, and limited truck traffic to the extent such use is compatible with the purpose for which the highway was constructed. Commercial use by trucks shall be limited and controlled by permit."

## ALLOCATION OF URBAN FUNDS

SEC. 222. Section 150 of title 23, United States Code, is amended by adding the following sentence at the end thereof: "Funds allocated to an urbanized area under the provisions of this section may, at the request of the Governor and upon approval of

the appropriate local officials of the area and the Secretary, be transferred to the allocation of another such area in the State or to the State for use in any urban area.".

#### CERTIFICATION ACCEPTANCE

SEC. 223. (a) Subsection 117(a) of title 23, United States Code, is amended by striking out "projects on Federal-aid systems, except the Interstate System," and inserting in lieu thereof "Federal-aid projects on systems other than the Interstate System" and by adding at the end thereof the following new sentence: "Notwithstanding the above, the Secretary may discharge any of his responsibilities under this title relative to the physical construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects using the procedures of this section.".

(b) Subsection 117(b) is amended by striking out "make a final inspection of each subject project upon its" and inserting in lieu thereof "establish procedures for the inspection of such projects upon".

(c) Subsection 117(f)(1) is amended by striking out the words "the Federal-aid secondary system," when they first appear and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System," and by striking out "all projects on the Federal-aid secondary system" and inserting in lieu thereof "such projects".

(d) Subsection 117(f)(3) is revised to read as follows:

"(3) Paragraphs (1) and (2) of this subsection shall not be construed to relieve the Secretary of his obligation to establish procedures for the inspection of such projects upon completion and to require an adequate report of the estimated and actual cost of construction as well as other information as

he determines necessary.".

(e) Subsection 105(b) of title 23, United States Code, is amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Sectetary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects".

(f) Subsection 106(b) of title 23, United States Code, is amended to read as follows:

"(b) In addition to the approval required under subsection (a) of this section, proposed specifications for projects for construction, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation and reconstruction projects, except in States where all public roads and highways are under the control and supervision of the State highway department, shall be determined by the State highway department and the appropriate local road officials in cooperation with each other.".

(g) Subsection 112(e) of title 23, United States Code, is amended by striking out "projects on the Federal-aid secondary system" and inserting in lieu thereof "projects, as defined by the Secretary and which are not on the Interstate System except for the construction phase of Interstate resurfacing, restoration, rehabilitation, and reconstruction projects,".

# DEFENSE ACCESS ROAD

SEC. 224. Section 210(c) of title 23, United States Code, is amended by striking "Not exceeding \$5,000,000 of any funds appropriated under the Act approved October 16, 1951 (65 Stat. 422)", and inserting in lieu

thereof "Funds appropriated for defense maneuvers and exercises".

#### MAINTENANCE

SEC. 225. (a) Subsection (a) of section 116 of title 23, United States Code, is amended by striking the second sentence.

(b) Subsection (b) of section 116 of title 23, United States Code, is amended by striking "constructed on the Federal-aid secondary system or within a municipality,".

(c) The second sentence of subsection (c) of section 116 of title 23, United States Code, is amended to read as follows: "If, within ninety days after receipt of such notice, such project has not been put in proper condition of maintenance, the Secretary shall withhold approval of further projects of all types on one or more of the Federal-aid systems or programs in the State highway district, municipality, county, other political or administrative subdivision of the State, or the entire State, in which such project shall be located, as the Secretary deems most appropriate until such project shall have been put in proper condition of maintenance."

(d) Section 109 of title 23, United States Code, is amended by striking subsection (m) and by relettering subsection (n) as (m).

(e) Section 116 of title 23, United States Code, is amended by adding subsection (f) as follows:

"(f) The Secretary shall issue guidelines describing the criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed.".

(f) Section 119 of title 23, United States Code, is amended by striking subsection (b).

(g) Section 116 of title 23, United States Code, is amended by adding subsection (g) as follows:

'(g) Not later than one year after the date of issuance of initial guidelines under sub-section (f) of this section each State shall have a program for the Interstate System in accordance with such guidelines. Each State shall certify on January 1 of each year that it has such a program and the Interstate System is maintained in accordance with the program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate System in accordance with such program, the next apportionment of funds to such State for the Interstate System shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate System in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year-period, the amount withheld shall be reapportioned to all other eligible States."

## CONSTRUCTION

SEC. 226. (a) Subsection (a) of section 114 of title 23, United States Code is amended to read as follows:

"(a) The construction of any highways or portions of highways located on a Federal-aid system or under a Federal-aid program shall be undertaken by the respective State highway departments or under their direct supervision. The construction work and labor in each State shall be in accordance

with the laws of that State and applicable Federal laws. Except as provided in section 117 of this title, the Secretary shall establish procedures for the inspection and approval of such construction. Construction may begin as soon as funds are available pursuant to subsection (a) of section 118 of this title. The State highway department shall not erect any informational signs other than official traffic control devices conforming with standards developed by the Secretary on any project where actual construction is in progress and visible to highway users."

(b) Subsection (a) of section 113 of title 23, United States Code, is amended to read as follows: "The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid systems, the primary as well as its extensions in urban areas, and the Interstate System, or under the Federalaid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of August 30, 1935, known as the Davis-Bacon Act (40 U.S.C. 267a)."

(c) Subsection (c) of section 121 of title 23, United States Code is amended by striking the words "following inspections".

#### RESEARCH AND PLANNING

SEC. 227. (a) Subsection (c) of section 307, title 23, United States Code, is amended by adding paragraph (5) as follows:

- "(5) The sums provided pursuant to paragraph (2) of this subsection shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned under section 104(b)(1) of this title."
- (b) Subsection (c)(2) of section 307, title 23, United States Code, is amended by strik-"1964" and inserting in lieu thereof "1983", and by striking "section 104" and inserting in lieu thereof "sections 104 and 144"
- (c) Section 120 of title 23, United States Code, is amended by adding a subsection (i) as follows:
- "(i) The Federal share payable on account of any project financed under section 307(c) of this title shall be 85 per centum, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments. exceeding 5 per centum of the total area of all lands therein, the Federal share shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area, except that such Federal share payable on any project in any State shall not exceed 95 per centum of the total cost of any such project.".

(b) Section 307(c)(1) of title 23, United States Code, is amended by adding in the last sentence after "highways and highway systems" the words "and for study, research and training on engineering standards and construction materials, including evaluation and accreditation of inspection and test-

#### NONDISCRIMINATION

SEC. 228. (a) The first and third sentences of subsection (a) of section 140 of title 23, United States Code, are amended by striking the words "or national origin" and inserting in lieu thereof the words "national origin or sex"

(b) Section 140 of title 23. United States Code, is amended by adding new subsection

(c) as follows:

- "(c) The Secretary, in cooperation with any other department or agency of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), or any other organization or person, is authorized to develop, conduct, and administer training programs and assistance programs in connection with any program under this title in order that minority businesses may achieve proficiency to compete. on an equal basis, for contracts and subcontracts. Whenever apportionments are made under subsection 104(a) of this title, the Secretary shall deduct such sums as he may deem necessary, not to exceed \$10,000,000 per fiscal year, for the administration of this subsection. The provisions of section 3709 of the Revised Statute, as amended (41 U.S.C. 5), shall not be applicable to contracts and agreements made under the authority herein granted to the Secretary notwithstanding the provisions of 41 U.S.C.
- (c) The title of section 140 of title 23, United States Code, is amended to read:

"§ 140. Nondiscrimination"

and the analysis of chapter 1 of title 23, United States Code, is amended by striking

"140. Equal employment opportunity." and inserting in lieu thereof

"140. Nondiscrimination.".

#### INTERAGENCY AGREEMENTS

SEC. 229. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 156 the following new section:

# "§ 157. Interagency agreements

"Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall enter into agreements with the Secretaries of the Departments of Interior and Defense, the Administrator of the Environmental Protection Agency, and the heads of such other Federal departments, agencies, and instrumentalities as the Secretary determines, to minimize, to the greatest extent possible, duplication, paperwork, and delays in the development and approval of projects under this title and any other provision of law relating to the Federal highway programs. Notwithstanding any other provision of law, such agreements shall provide that actions on applications or requests for permits, licenses, findings, and other approvals and determinations required for such projects will be fully coordinated by the Department of Transportation with the review process established under the National Environmental Policy Act of 1969, as amended, and, to the greatest extent practicable, that a decision with respect to each such application or request will be made contemporaneously with approval of the environmental impact statement, finding of no significant impact, or categorical exclusion required for such project, but in no event later than one hundred and eighty days after the date of approval of such environmental review document.

(b) The analysis of chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following:

"157. Interagency agreements.".

#### OBLIGATION LIMITATION AND ALLOCATION FORMULA

Sec. 230. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1983 shall not exceed \$12,000,000,000, for fiscal year 1984 shall not exceed \$12,800,000,000, for fiscal year 1985 shall not exceed \$13,600,000,000, for fiscal year 1986 shall not exceed \$14,500,000,000, and for fiscal year 1987 shall exceed not \$14,900,000,000. These limitations shall not apply to obligations for emergency relief under section 125 of title 23, United States Code, section 9 of the Federal-Aid Highway Act of 1981, and section 118 of the Union Station Redevelopment Act of 1981, No obligation constraints shall be placed upon any ongoing emergency project carried out under section 125 of title 23, United States

(b) For the fiscal years 1983, 1984, 1985, 1986, and 1987, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal

year.

(c) During the period October 1 through December 31, 1982, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection.

(d) Notwithstanding subsections (b) and

(c), the Secretary shall-

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1983, August 1, 1984. August 1, 1985, August 1, 1986, and August 1, 1987, respectively, revise a distribution of the funds made available under subsection (b) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year. In revising such distributions, the Secretary shall give priority to those States which, because of statutory changes under these amendments and under Public Law 97-134, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses and forest highways.

# CERTIFICATION OF STATE PROCEDURES

SEC. 231. (a) The Secretary of Transportation in cooperation with the State of Vermont shall carry out a project to demonstrate the feasibility of reducing the time and the cost required to complete highway projects, other than projects on the Interstate System, in areas that require improved access between rapidly growing suburban areas and established urban core areas, by extending the coverage of State certifica-tions under section 117(a) of title 23 of the United States Code, to any Federal law, regulation, or policy that applies to such

(b) In implementing this section, the Secretary shall review applications for projects submitted by the State of Vermont with respect to which the State agrees to assume the responsibility of the Secretary with regard to any such Federal law, regulation, or policy. The Secretary shall be deemed to have fulfilled his responsibility under such

law, regulation, or policy, provided that—
(1) the Secretary finds that the State has procedures which are sufficient to assure that the project will be carried out in accordance with the provisions of such law,

regulation, or policy;

(2) the State highway department is authorized and consents to accept the jurisdiction of the Federal courts in any suit brought to enforce any such Federal law or regulation; and

(3) the State highway department certifies that the project has been carried out in accordance with the procedures specified under subsection (b)(1) of this section.

(c) In carrying out the demonstration project authorized under this section, the Secretary may continue to discharge his responsibilities directly with respect to those laws, regulations, and policies for which he finds State procedures are not sufficient.

(d) In implementing this section, the Secretary shall consider the procedures devel-oped pursuant to section 141 of the Federal-Aid Highway Act of 1976, as amended, and shall encourage the State to carry out its responsibilities in cooperation with appropriate political subdivisions of the State.

(e) There is authorized to be appropriated out of the Highway Trust Fund to carry out the project authorized under this section a

sum not to exceed \$50,000,000.

(f) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(g) Not later than six months after the completion of such project, the Secretary shall submit a report to Congress which includes, but is not limited to, a description of the methods used to accomplish the project and the changes, if any, required to adopt expanded certification. The report should also contain recommendations for applying the methods to other highway projects, and any changes to existing law which may be necessary to permit more widespread use of expanded certification acceptance.

# ALASKA HIGHWAY

SEC. 232. (a) Subsection (a) of section 218 of title 23, United States Code, is amended by adding after the second sentence the following: "In addition to such funds, the State of Alaska is authorized to expend on such highway any Federal-aid highway funds apportioned to the State of Alaska under this title as its Federal share. Notwithstanding any other provision of law any obligation limitation enacted for fiscal year 1983 or for any fiscal year thereafter shall not apply to projects authorized by the previous sen-

(b) This amendment shall be effective upon the date of the enactment of this Act. TERRITORIAL HIGHWAY PROGRAM

SEC. 233. (a) Section 215 of title 23, United States Code, is hereby repealed.

(b)(1) The unobligated balance of sums appropriated prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available for obligation under the conditions applicable prior to such enactment.

(2) The unappropriated balance of sums authorized prior to enactment of subsection (a) of this section for carrying out section 215 of title 23, United States Code, shall remain available until expended under the conditions applicable prior to such enact-

(c) Section 120(i) of title 23, United States Code, repealed.

(d) Section 401 of title 23, United States Code, is amended by deleting the second sentence thereof.

(e) The sixth sentence of section 402(c) of title 23, United States Code, is amended to read as follows: "The annual apportionment to each State shall not be less than one-half of 1 per centum of the total apportion-

(f) The analysis of chapter 2 of title 23, United States Code, is amended by deleting: "215. Territories highway development pro-

gram.' and inserting in lieu thereof:

"215. Repealed.".

## ACCELERATION OF BRIDGE PROJECTS

SEC. 234. Section 147 of the Surface Transportation Assistance Act of 1978, as amended by section 15 of Public Law 96-106 (93 Stat. 798) is repealed. Funds previously set aside in accordance with such section 147 shall be available for obligation for a period of two years from the date of enactment of this Act. Such funds may be obligated under the same conditions which existed prior to the repeal of such section 147. Funds not obligated within that period of availability shall be permanently withdrawn and such funds shall be apportioned by the Secretary to the several States in accordance with section 144(e) of title 23, United States Code.

## LAKE ROAD EROSION DEMONSTRATION

SEC. 235. (a) The Secretary of Transportation is authorized to carry out demonstra-tion projects in and around Devils Lake, North Dakota, for the purpose of demonstrating construction techniques to prevent wave erosion on closed basin lakes with grade level highway crossings.

(b) The Secretary is authorized to reimburse from funds authorized by subsection (c) the State of North Dakota for funds previously expended on projects described in

subsection (a).

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out this section not to exceed \$4,500,000 for the fiscal year ending September 30, 1983

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall not exceed 75 per centum of the total cost thereof and such fund shall remain available until expended.

## TRUCK SAFETY DEMONSTRATION

SEC. 236. The Secretary of Transportation, in cooperation with the State of Idaho, shall conduct a project on a primary segment of highway experiencing a high incidence of truck accidents. The study shall include an analysis of factors contributing to truck ac cidents such as weather conditions, sight distance, road curvature, roadway width, and gradient. The study shall also include an analysis of the benefit-cost ratio of certain safety improvements implemented to correct hazards contributing to truck acci-

(b) There is authorized to be appropriated, out of the Highway Trust Fund, to out this section not to exceed carry \$6,500,000

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection shall be 100 per centum of the total cost thereof and such funds shall remain available until expended.

(d) The Secretary of Transportation shall submit to Congress a report on the results of the demonstration project not later than one hundred and eighty days after comple-

tion of such project.

#### DEFINITION

SEC. 237. The definition of the term "construction" in section 101(a), title 23, United States Code, is amended by striking the period at the end thereof and inserting in lieu thereof the following: "and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.'

#### REPORTS

SEC. 238. (a) Section 307 of title 23, United States Code, is amended by adding a new subsection (e) as follows:

"(e) The Secretary shall report to the Congress in January 1983, and in January of every second year thereafter, estimates of the future highway needs of the Nation."

(b) Section 3 of Public Law 89-139, 79 Stat. 578, August 28, 1965, and section 17 of the Federal-Aid Highway Act of 1968 are hereby repealed.

#### CONSTRUCTION BY STATES IN ADVANCE OF APPORTIONMENT

SEC. 239. (a) Section 115(a) of title 23, United States Code, is amended to read as follows:

'(a)(1) When a State has obligated all funds apportioned or allocated to it under sections 103(e)(4), 104, or 144 of this title, other than Interstate funds, and proceeds to construct any highway substitute, Federalaid system or program or bridge project, other than an Interstate project funded under section 104(b)(5) of this title, without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under sections 103(e)(4), 104, or 144 of this title if-

"(A) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects, and

"(B) the project conforms to the applicable standards adopted under section 109 of

"(2) The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State. No application may be approved which will exceed the State's expected apportionment of such authorizations.

(b) Section 115(c) of title 23, United States Code, is amended by striking "104" and inserting in lieu thereof "103(3)(4), 104, or

144"

# DESIGN AND CONSTRUCTION QUALITY ASSURANCE

Sec. 240. (a) The Secretary of Transportation is directed to coordinate a study with the National Bureau of Standards, the American Society for Testing and Materials, the Office of Technology Assessment, and other organizations as deemed appropriate, (1) to determine the existing quality of design, construction, products, use, and systems for highways and bridges; (2) to determine the need for uniform standards and criteria for design, processing, products, and applications, including personnel training and implementation of enforcement techniques; and (3) to determine the manpower needs and costs of developing a national system for the evaluation and accreditation of testing and inspection agencies.

(b) The Secretary shall submit such study to the Congress not later than one year after the date of enactment of this section.

#### VENDING MACHINES

Sec. 241. Notwithstanding section 111 of title 23, United States Code, before October 1, 1983, any State may permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the National System of Interstate and Defense Highways in such State. Such vending machines may only dispense such food, drink, and other articles as the State highway department determines are appropriate and desirable. Such vending machines may only be operated by the State. In permitting the placement of vending machines under this section, the State shall give priority to vending machines which are operated through the State licensing agency designated pursuant to section 2(a)(5) of the Act of June 20, 1936, commonly known as the Randolph-Sheppard Act (20 U.S.C. 107(a)(5)). The costs of installation, operation, and maintenance of vending machines under this section shall not be eligible for Federal assistance under title 23, United States Code.

# RELOCATION OF UTILITY FACILITIES

SEC. 242. (a) Section 101(a) of title 23, United States Code, as amended by section 237 of this Act, is amended by inserting the phrase "and utility appurtenances," after the word "crossings," in the definition of "construction"

(b) Section 123 of title 23, United States

Code, is amended-

(1) by striking in subsection (a) "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting in lieu thereof "a Federal-aid system or under a Federal-aid program,"; and (2) by adding a new subsection (d) at the

end thereof to read as follows:

"(d) When a State relocates utilities solely to correct hazards to the traveling public from utility appurtenances on or near the right-of-way of Federal-aid projects, the Secretary may waive the provisions of subsection (a) of this section to the extent such provisions restrict Federal participation in such work if the Secretary determines such waiver would serve a public purpose by facilitating the State's safety improvement program.".

#### TECHNICAL AMENDMENTS

SEC. 243. (a) Section 101(a) of title 23, United States Code, is amended as follows:

(1) In the tenth sentence, by inserting the words "or under one of the Federal-aid pro-grams" immediately after the words "Federal-aid systems":

(2) In the nineteenth sentence, by striking the period at the end thereof and adding the words "or under the Federal-aid pro-

(3) In the thirtieth sentence, by deleting the words "secondary system" and inserting in lieu thereof the words "rural program", and by deleting the word "system" and in-

serting in lieu thereof the word "program";
(4) In the thirty-first sentence, by deleting the word "system" each time it appears and inserting in lieu thereof the word "pro-

gram": and

(5) By adding after the twenty-eighth sentence the following sentence: "The term 'Federal-aid program' means any one of the Federal-aid highway programs described in section 103 of this title.'

(b)(1) Section 103 of such title is amended by adding to the title the words "and pro-grams" after the words "Federal-aid sys-

(2) Section 103(a) is amended to read as follows:

"(a) For the purpose of this title, the Federal-aid systems, which consist of the primary system and the Interstate System, along with the Federal-aid programs, which consist of the Federal-aid rural program and the Federal-aid urban program, are established and continued pursuant to the provisions of this section.

(3) Section 103(f) is amended to read as follows

"(f) The Secretary shall have authority to approve in whole or in part the Federal-aid primary system, the Federal-aid rural program, the Federal-aid urban program, and the Interstate System, as and when such systems and programs or portions thereof are designated, or to require modifications or revisions thereof. No Federal-aid system or program or portion thereof shall be eligible for projects in which Federal funds participate until approved by the Secretary.

(4) Subsections (g) and (h) of section 103

are repealed: and

(5) The analysis of chapter 1 of title 23 is amended by deleting

"103. Federal-aid systems." and inserting in lieu thereof

"103. Federal-aid systems and programs.".

(c) Section 104 of such title is amended as follows:

(1) In subsections (a) and (b)(1), by inserting the words "and programs" immediately after the words "Federal-aid systems" each time they appear:

(2) In paragraph (2) of section 104(b), by deleting the words "secondary system" and inserting in lieu thereof the words "rural program"

(3) In paragraph (6) of section 104(b) by deleting the word "system" and inserting in

lieu thereof the word "program'

(4) In subsection (c)(1), by deleting the "commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374).": and

(5) In subsection (f)(1), by inserting the words "and programs" immediately after

the words "Federal-aid systems".

(d) Section 105 of such title is amended as follows:

(1) In the first sentence of subsection (a) by inserting the words "and programs" after the words "Federal-aid systems", and by deleting in the third sentence the comma and all that follows and inserting a period after the word "part": and

(2) In subsection (d) by deleting the words "programs for", and by deleting the words "on the Federal-aid urban system" and inserting in lieu thereof the words "under the

Federal-aid urban program".

(e) Section 106 of such title is amended as follows:

(1) Section 106(b) is amended by striking the word "on" and inserting in lieu thereof the word "under," and by striking the word 'system" each place it appears and inserting in lieu thereof the word "program".

Section 106(d) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid

system"

(f)(1) Section 108(a) of such title is amended by inserting the words "or under any of the Federal-aid highway programs," immediately after the words "Interstate System," the first time they appear, and by inserting the words "and programs" immediately after the words "Federal-aid highway systems" the second time they appear;

(2) Section 108(c)(2) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system"; and

(3) The last sentence of section 108(c)(3) is amended by inserting the words "or under the Federal-aid program" immediately after the words "Federal-aid system".

(g)(1) Section 109(a) of such title is amended by inserting the words "or under any Federal-aid program" immediately after

the words "Federal-aid system"

(2) Section 109(c) is amended by deleting the words "Projects on the Federal-aid secondary system" and inserting in lieu thereof the words "Federal-aid rural program

(3) Section 109(e) is amended by deleting the phrase "No funds shall be approved for expenditure on any Federal-aid highway,' and inserting in lieu thereof the following phrase: "No funds shall be approved for expenditure on any highway on the Federalaid highway system or under the Federalaid highway program,";

(4) Section 109(h) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Feder-

al-aid system"

(5) Section 109(i) is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system" each time they appear in the first and second sentences, by inserting the words "or under a Federal-aid program" im-mediately after the words "Federal-aid system" in the third sentence, by inserting the words "or program" immediately after the words "Federal-aid system" in the fifth sentence, and by inserting the words "or under" immediately after the word "on" in such sentence: and

(6) Section 109(1)(1) is amended by inserting the words "or under any Federal-aid program" immediately after the words

"Federal-aid system"

(h)(1) Section 113(a) of such title is amended by deleting the words "the primary and secondary, as well as their extensions in urban areas, and the Interstate System, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems," and inserting in lieu thereof the words "the primary as well as its extensions in urban areas, and the Interstate System, or under the Federal-aid programs, authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems and programs,"; and

(2) Section 113(b) is amended by inserting the words "or under any of the Federal-aid programs" immediately after the words

'Federal-aid systems"

(i) Section 115(a) of such title is amended

to read as follows:

'(a) When a State has obligated all funds for the primary system or for any of the Federal-aid programs, other than the Interstate System, apportioned to it under section 104 of this title, and proceeds to construct any projects without the aid of Federal funds, including one or more parts of any project, on the primary system or under any of the Federal-aid programs in such State, other than the Interstate System, as that system may be designated or any of those programs may be comprised at that time, in accordance with all procedures and all requirements applicable to projects on the primary system or under any such program, except insofar as such procedures and requirements limit a State to the construction of projects with the aid of Federal funds previously apportioned to it, the Secretary, upon application by such State and his approval of such application, is authorized to pay to such State the Federal share of the costs of construction of such project when additional funds are apportioned to such State under section 104 of this title if-

(1) prior to the construction of the project the Secretary approves the plans and specifications therefor in the same manner as other projects on the Federal-aid system or under the Federal-aid program involved,

(2) the project conforms to the applicable standards adopted under section 109 of this title.

The Secretary may not approve an application under this section unless an authorization is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for such State and that no application may be approved which will exceed the State's expected apportion-

ment of such authorization.".

(i) Section 118(d) of such title is amended by inserting the words "or under a Federalaid program" immediately after the words

"Federal-aid system"

(k)(1) Section 120(a) of such title is amended by deleting in the first sentence all of the words between "(a)" and "(A)" and inserting in lieu thereof the words "Subject to the provisions of subsection (d) of this section, the Federal share payable on account of any project, financed with primary, rural, or urban funds, on the Federal-aid primary system, under the Federal-aid rural program, and under the Federal-aid urban program shall either"; and

(2) Section 120(g) is amended by deleting the words "Federal-aid highways" and inserting in lieu thereof the words "Federal-

aid projects".

(1) Section 121(c) of such title is amended by inserting the words "or under a Federalaid program" immediately after the words

"Federal-aid system".

(m) Section 123(a) of such title is amended by deleting the words "the Federal-aid primary or secondary systems or on the Interstate System, including extensions thereof within urban areas," and inserting

in lieu thereof the words "a Federal-aid system or under a Federal-aid program."

(n) Section 124(a) of such title is amended by inserting the words "or under any of the Federal-aid programs," immediately after "including the phrase the Interstate System,"

(o) Section 129 of such title is amended as

(1) In subsection (c), by inserting the words "and programs" immediately after the words "Federal-aid highway systems";

(2) In subsections (f) and (g)(2), by inserting the words "or programs" immediately after the words "Federal-aid systems" each

time they appear; and

(3) In subsection (i), by deleting the words "Federal-aid system, other than the Inter-state System," and inserting in lieu thereof the words "Federal-aid project other than one of the Interstate System,".

(p) Section 135(b) of such title is amended by placing a period after the word "flow" and deleting the remainder of the sentence.

(g) Section 137(a) of such title is amended by deleting the words "project on the Feder-al-aid urban system" and inserting in lieu thereof the words "project under the Federal-aid urban program".

(r) Section 140(a) of such title is amended by inserting the words "or under any of the Federal-aid programs" immediately after

the words "Federal-aid systems"

(s) Section 141(b) of such title is amended

to read as follows:

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing in accordance with section 127 of this title all State laws respecting maximum vehicle size and weights permitted on all roads receiving funds under the Federal-aid program, including the primary system, the Interstate System, and is a route functionally classified as an arterial or major collector.

(t) Section 142 of such title is amended as follows:

(1) In subsection (a)(1) by inserting the words "and highways under the Federal-aid programs" immediately after the words "Federal-aid systems", and by deleting the words "as a project on any Federal-aid system":

(2) In subsection (a)(2) by deleting the words "project on the Federal-aid urban system" each place it appears and inserting in lieu thereof "project under the Federal-

aid urban program"; and

(3) In subsection (e)(2) by deleting the words "projects on the Federal-aid urban system" and inserting in lieu thereof "projects under the urban program".

(u) Section 149 of such title is amended by inserting the words "or under any Federal-aid program" immediately after the words "Federal-aid system".

(v) Section 150 of such title is amended as

(1) By deleting the word "system" in the title and inserting the word "program" in

(2) By amending the analysis of chapter 1 of title 23, United States Code, by deleting: "150. Allocation of urban system funds."

and inserting in lieu thereof:

"150. Allocation of urban program funds.". (w) Section 302(b) of such title is amended by deleting the words "on the Federal-aid secondary system," and inserting in lieu thereof the words "under the Federal-aid rural program", and by deleting the words "secondary funds," and inserting in lieu thereof the words "rural funds,".

(x) Section 304 of such title is amended by inserting the words "and highways under the Federal-aid programs" between the between the word "systems" and the comma.

(y) Section 317(d) of such title is amended by inserting the words "or under a Federalaid program" immediately after the words

"Federal-aid system".

(z) Section 320(a) of such title is amended by inserting the words "or programs" imme-diately after the words "highway systems" in the second sentence.

(aa) Section 322 of such title is amended as follows:

(1) In subsection (c)(1) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is a route functionally classified as an arterial or major collector,"; and

(2) In subsection (c)(2) by deleting the words "any Federal-aid system," and inserting in lieu thereof the words "the Interstate System, the Primary System, or is not a route functionally classified as an arterial or

major collector.'

(bb) Section 402(d) of such title is amended by inserting the words "and programs" immediately after the words "Federal-aid systems"

#### TEMPORARY MATCHING FUND WAIVER

Sec. 244. (a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending September 30, 1983, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

(b) For purposes of this section, the term "qualifying project" means a project ap-proved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of-

(1) the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act, over

(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid High-

way Act of 1981.

(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the last apportionment made for the category of funds for which the money so used was originally apportioned.

If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to a State under section 104(b) of title 23, United States Code, except for section 104(b)(5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment.

#### MINIMIZATION OF CONTRIBUTIONS

Sec. 245. (a) On October 1, the Secretary of Transportation shall allocate among the States, as defined in title 23, United States Code, amounts sufficient to insure that a State's percentage of apportionments in each such fiscal year of primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard elimination, and railhighway crossings funds under sections 104(b), 144, and 152 of title 23. United States Code and section 203 of the Highway Safety Act of 1973, as amended, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, excluding the Mass Transit Account, in the latest fiscal year for which data is available.

(b) Amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the year authorized plus three fiscal years, shall be subject to the provisions of title 23, United States Code, and may be obligated for primary, secondary, Interstate, urban, bridge replacement and rehabilitation, hazard rail-highway crossings elimination. and projects. Obligation limitations for Federalaid highways and highway safety construction programs established by this Act or any subsequent Act shall not apply to obligations made under this section except where the provision of law establishing such limitation specifically amends or limits the applicability of this sentence. Sums allocated pursuant to this section shall not be considered to be sums allocated for purposes of section 104(b) of this Act.

(c) In order to carry out this section there is authorized to be appropriated, out of the Highway Trust Fund, excluding the Mass Transit Account, \$526,000,000 for the fiscal year ending September 30, 1983, and such sums as may be necessary for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

## INNOVATIVE TECHNOLOGIES

SEC. 247. (a) The Congress hereby finds and declares that it is in the national interest to encourage and promote utilization by the States of highway and bridge surfacing, resurfacing, or restoration materials which are produced from recycled materials or which contain asphalt additives to strengthen the materials. Such materials conserve energy and reduce the cost of resurfacing or restoring our highways.

(b) The Secretary of Transportation is hereby authorized for each of the fiscal years through September 30, 1985, to increase the Federal share as provided in sections 119, 120, and 144 of title 23, United States Code, by 5 per centum of any project submitted by the State highway departments which contains in the plans, specifications, and estimates submitted pursuant to section 106 of title 23, United States Code, the use of the materials described in subsection (a). To be eligible for such supplemental Federal assistance, significant amounts of asphalt additives or recycled materials must be used in each project approved by the Secretary.

#### ENERGY IMPACTED ROADS

SEC. 248. (a) Section 105 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(h) In preparing programs to submit in accordance with subsection (a) of this section, the State highway department may give priority to projects for the reconstruction, resurfacing, restoration, or rehabilitation of highways which are incurring a substantial use as a result of transportation activities to meet national energy requirements and which will continue to incur such use, and in approving such programs the Secretary may give priority to such projects."

(b) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection—

"(k) Notwithstanding any other provision of this section, the Federal share payable on account of any project under this title to reconstruct, restore, and rehabilitate any highway which the Secretary determines, at the request of any State, is incurring a substantial use as a result of transportation activities to meet national energy requirements and will continue to incur such use is 85 per centum of the cost of such project."

# DEMONSTRATION PROJECT—DOWNTOWN CONGESTION RELIEF

SEC. 249. (a) The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid urban system for the construction of a high level bridge over a high volume intercoastal waterway segment. The project shall demonstrate the reduced congestion resulting in the downtown area from the construction of such a bridge which serves a major port. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway projects on the Federal-aid system.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed \$23,000,000 for the fiscal year ending September 30, 1983. Funds authorized to carry out this section shall be available in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. Obligations for this project shall not be subject to any obligation limitation for Federal-aid highways.

(c) In carrying out this section, the Secretary shall consult with the Secretary of the Army and the Commandant of the Coast Guard concerning permit procedures which will expedite completion of this bridge.

(d) The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary.

# DEMONSTRATION PROJECT

SEC. 250. (a) The Secretary is authorized to carry out a demonstration project in the vicinity of east Baton Rouge, Louisiana, for the purpose of demonstrating the efficacy of reducing traffic congestion in the immediate vicinity of a partial-diamond, partial-cloverleaf interchange which connects an east-west highway on the Interstate System and a four lane highway not on such system by providing a direct access ramp to, and a travel lane on, the Interstate highway and by eliminating a crossover which is used for access to the Interstate highway.

(b) There is authorized to be appropriated to carry out this section, out of the High-

way Trust Fund, not to exceed in the aggregate \$5,000,000 for the fiscal years beginning after September 30, 1982.

(c) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be 100 per centum of the total cost of such project, and such funds shall remain available until expended.

## TITLE III-MASS TRANSIT

#### SHORT TITLE

SEC. 301. This title may be cited as the "Federal Public Transportation Act of 1982".

# AMENDMENTS TO SECTION 3 CAPITAL GRANT PROGRAM

SEC. 302. (a) Section 3(a)(2)(A) of the Urban Mass Transportation Act of 1964 (hereinafter in this title referred to as the "Act") is amended—

(1) by striking out "and" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following;

"(iii) sufficient capability to maintain the facilities and equipment.".

(b) Section 3(a) of the Act is amended by adding at the end thereof the following:

"(5) The Secretary shall take into account the adverse effect of decreased commuter rail service in considering applications for assistance under this section for the acquisition of rail lines and all related facilities used in providing commuter rail service which are owned by a railroad subject to reorganization under title 11, United States Code."

## DIRECT TRANSIT ASSISTANCE FUND

SEC. 303. (a) The section heading of section 4 of the Act is amended to read as follows:

# "DIRECT TRANSIT ASSISTANCE FUND"

- (b) Section 4(b) of the Act is repealed.(c) Section 4 of the Act is amended—
- (1) by striking the second sentence in subsection (a) and inserting in lieu thereof the following: "The Federal grant for any project to be assisted under section 3 which involves the construction of a new fixedguideway system or an extension to an existing system (other than an exclusive facility for buses) shall be in an amount equal to 60 per centum of the net project cost. The Federal grant for any other project to be assisted under section 3 shall be in amount equal to 70 per centum of the net project cost. Notwithstanding the preceding two sentences, the Federal share of the total project cost of any project covered by a full funding contract, letter of intent, or letter of commitment in effect on the date of enactment of the Federal Public Transportation Act of 1982, or those projects within the federally agreed upon scope for the Washington, District of Columbia, metropolitan area transit system (as of such date),
- shall not be altered.";
  (2) by redesignating subsection (a) as subsection (b); and
- (3) by inserting after "Sec. 4." the following:
- ing:
  "(a)(1) To finance assistance under sections 3, 8, 9, 16(b), and 18 of this Act, and to finance assistance under subsection (e) of this section, there are authorized to be ap-

propriated not to exceed \$3,130,000,000 for the fiscal year ending September 30, 1983; \$3,130,000,000 for the fiscal year ending September 30, 1984; and \$3,130,000,000 for the fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 3, 8, 9, 16(b) and 18 of this Act and subsection (e) of this subsection shall remain available until expended.

(2) Of the amount appropriated pursuant to this subsection, the Secretary shall make available for the purposes of sections 6, 10, and 11 of this Act, and for administrative costs, including salaries and necessary expenses, not to exceed \$75,000,000 for the fiscal year ending September 30, 1983, \$75,000,000 for the fiscal year ending September 30, 1984, and \$75,000,000 for fiscal year ending September 30, 1985. Amounts appropriated for the purposes of sections 6, 10, and 11 shall remain available until expended.

"(3) Of the remaining amount appropriated pursuant to this subsection, the Secre-

tary shall make available

"(A) 24 per centum (10 per centum beginning with the fiscal year ending September 30, 1985) for grants and loans under section 3(a) of this Act:

"(B) 67.25 per centum (79.63 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(2) of this Act for urbanized areas with populations of two hundred thousand or more:

"(C) 6.5 per centum (7.7 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 9(a)(3) of this Act for urbanized areas with populations under two hundred thousand: and

'(D) 2.25 per centum (2.67 per centum beginning with the fiscal year ending September 30, 1985) for grants under section 18 of this Act

"(4) Of the funds available for obligation under section 3 \$50,000,000 shall be used for the purposes of section 8 of this Act. Nothing herein shall prevent urbanized areas from using additional funds available under this subsection for planning purposes.

(d) Subsections (c), (d), (e), and (f) of such

section are repealed.

(e) Subsection (g) is redesignated as subsection (c) and is amended by adding at the end thereof the following: "Notwithstanding the preceding sentence or any other provision of this Act, the total amount authorized to be appropriated under this Act and under Public Law 96-148 may not exceed \$3,495,000,000 for the fiscal year ending September 30, 1983; and \$3,495,000,000 for the fiscal year ending September 30, 1984.".

(f) Subsection (h) of such section is redes-

ignated as subsection (d).

(g) Subsection (i) of such section is redesignated as subsection (e) and is amended by striking out "available pursuant to section 4(c)(3(A)" and inserting in lieu thereof "appropriated for the purpose of section 3".

#### FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

SEC. 304. (a) The Urban Mass Transportation Act of 1964 is amended by inserting immediately after section 8 the following new

"FORMULA CAPITAL AND OPERATING ASSISTANCE PROGRAM

"SEC. 9. (a)(1) Grants under this section shall be available to finance the planning, acquisition, construction, improvement, and operating costs of facilities, equipment, and associated capital maintenance items for use, by operation or lease or otherwise, in mass transportation service. As used in this section, the term 'associated capital maintenance items' means any equipment and materials each of which costs no less than 1 per centum of the current fair market value of rolling stock comparable to the rolling stock for which the equipment and materials are to be used.

"(2) To provide grants to urbanized areas with populations of two hundred thousand or more, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to section 4(a)(3)(B) as follows:

"(A) 68 per centum of such sums shall be apportioned among urbanized areas as fol-

"(i) 75 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of one million or more, and on the basis of a formula under which such urbanized area or parts thereof will be entitled to receive an amount equal to the sum of-

(I) 50 per centum of the amount available under this paragraph mulitiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized areas or part thereof bears to the total bus revenue vehicle miles in all such

urbanized areas:

'(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest Federal census;

'(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by

the Secretary; and

"(ii) 25 per centum shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than one million and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of-

(I) 50 per centum of the amount available under this paragraph multiplied by the ratio which the total bus revenue vehicle miles operated in or directly serving such urbanized area or part thereof bears to the total bus revenue vehicle miles in all such

urbanized areas;

'(II) 25 per centum of such amount multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas as shown by the latest available Federal census; and

'(III) 25 per centum of such amount multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by

the Secretary; and

"(B) 32 per centum of such sums shall be made available for expenditure on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of-

"(i) 60 per centum of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway revenue vehicle miles, as de-

termined by the Secretary; and

"(ii) 40 per centum of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of fixed guideway route miles, as determined by the Secretary.

No urbanized area providing commuter rail service and having a population of seven hundred and fifty thousand or more shall receive less than 0.75 per centum of the sums made available under this subparagraph (B). Under this subparagraph, fixed guideway revenue vehicle or route miles provided, and passengers served thereby, in an urbanized area of less than two hundred thousand population, where such revenue vehicle miles or route miles and passengers served would otherwise be attributable to an urbanized area with a population of 1,000,000 or more in an adjacent State, shall be attributable to the public body in the State in which such urbanized area of less than two hundred thousand population is located as if the public body were an urbanized area of two hundred thousand or more so long as such public body contracts, directly or indirectly, for such service. For the purpose of this subparagraph, the terms fixed guideway revenue vehicle miles' and 'fixed guideway route miles' shall include ferry boat operations directly or under contract by the designated recipient.

"(3) To make grants to urbanized areas with populations of less than two hundred thousand, the Secretary shall apportion for expenditure for each fiscal year the sums authorized and appropriated pursuant to

section 4(a)(3)(C) as follows:

"(A) 50 per centum of the amount available under this paragraph multiplied by the ratio which the population of such urbanized areas in the State bears to the total population of all such urbanized areas in all States as shown in the latest available Federal census; and

(B) 50 per centum of such funds multiplied by a ratio for such urbanized areas determined on the basis of population weighted by a factor for the average density for urbanized areas in such State as determined

by the Secretary.

'(4)(A) The Federal grant for any construction project under this subsection shall not exceed 80 per centum of the net project cost of such project. The Federal grant for any project for operating expenses shall not exceed 50 per centum of the net project cost of such project. The remainder shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

(B) The amount of funds apportioned under this section which may be used for operating assistance shall not exceed 80 per centum of the amount of funds apportioned in fiscal year 1982 under paragraphs (1)(B), (2)(B), and (3)(B) of section 5(a) of this Act to an urbanized area with a population of one million or more, 90 per centum of funds so apportioned to an urbanized area with a population of two hundred thousand or more and less than one million population; and 95 per centum of funds so apportioned to an urbanized area of less than two hundred thousand population. Notwithstanding the preceding sentence, an urbanized area that became an urbanized area for the first time under the 1980 census may use not to exceed 40 per centum of its apportionment under this section for operating assistance.

"(5)(A) Notwithstanding the provisions of paragraph (4)(B), any recipient may, in fiscal years 1983 and 1984, transfer the use for operating assistance a portion of its apportionment under this section that other-

wise is available only for capital assistance, except that the recipient's total operating assistance under this section (including any amounts transferred from its capital apportionment) for the fiscal year in which the transfer occurs shall not exceed the amount of Federal funds such recipient was apportioned under sections 5(a)(1)(A), 5(a)(2)(A), and 5(a)(3)(A) of this Act for the fiscal year ending September 30, 1982. The total operating assistance under this section (including any amounts transferred from its capital apportionment) for a recipient in an urbanized area that became an urbanized area for the first time under the 1980 census may not exceed 50 per centum of its apportionment under this section.

"(B) Any recipient that intends to carry out a transfer under this subsection shall, at the time it submits a statement of activities the Secretary under subsection

(b)(1)(B)-

"(i) certify that it has provided public notice of its intent to transfer its capital apportionment (including notice of the funding reductions resulting from utilization of this subsection and other requirements of this subsection) and provided an opportunity for public comment; and
"(ii) certify that it has developed a three-

year plan to assure that in the fiscal year ending September 30, 1985, it will not need to use and will not use its capital apportion-

ment for operating assistance.

"(C) Whenever any recipient transfers its capital apportionment for operating assistance in accordance with the requirements of this subsection, two-thirds of the amount transferred shall be available to the recipient for operating assistance and the remaining one-third amount shall be available to the Secretary to make discretionary grants under this section. In making such discretionary grants, first priority shall be given to any urbanized area that is apportioned an amount under this section in fiscal year 1983 which is less than the amount such urbanized area was apportioned under section 5 of this Act for the fiscal year ending September 30, 1982. Any amounts remaining shall be available for discretionary construction grants under this section subject to the second and third sentences of section 4(b).

'(D) The authority of recipients to use the provisions of this paragraph shall termi-

nate on September 30, 1984.

"(6)(A) The Governor, responsible local officials, and publicly owned operators of mass transportation services in accordance with the planning process required under section 8 of this Act shall designate a recipient or recipients to receive and dispense the funds appropriated under this section that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract, or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. As used in this section, the term 'designated recipient' shall refer to the recipient selected according to the procedures required by this section.

'(B) Sums apportioned under this subsection not made available for expenditure by designated recipients in accordance with the terms of subparagraph (A) shall be made available to the Governor for expenditure in urbanized areas or parts thereof with popu-

lations of less than two hundred thousand.
"(7) The Governor may transfer an amount of the State's apportionment under

paragraph (3) to supplement funds apportioned to the State under section 18(a) of this Act, or to supplement funds apportioned to urbanized areas with populations of 300,000 or less under this subsection. The Governor may make such transfers only after consultation with responsible local officials and publicly owned operators of mass transportation services in each area to which the funding was originally apportioned pursuant to paragraph (3). The Governor may transfer an amount of the State's apportionment under section 18(a) to supplement funds apportioned to the State under paragraph (3). Amounts transferred shall be subject to the capital and operating assistance limitations applicable to original apportionments of such amounts.

(8) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeed-

ing fiscal year.

(9) As used in this subsection, the term 'density' means the number of inhabitants per square mile, and the term 'population' means population as designated by the Bureau of the Census as shown by the latest available Federal census.

"(b)(1) To receive a grant under this sec-

tion for any fiscal year, a recipient—
"(A) shall comply with title VI of the Civil Rights Act of 1964 in the use of funds under this Act, and subsections (e), (f), and (g) of section 3 of this Act, and section 13 of this

"(B) shall, within the time specified by the Secretary, submit a statement of activities to be funded under this section prepared pursuant to subsection (d), a description of its proposed use of funds, and the certifications required by this subsection;

(C) shall provide satisfactory assurances, in such manner and form as may be required by the Secretary and in accordance with such terms and conditions as the Secretary may prescribe, that the rates charged elderly and handicapped persons during nonpeak hours for transportation utilizing or involving the facilities and equipment of the project financed with assistance under this subsection will not exceed one-half of the rates generally applicable to other persons at peak hours, whether the operation of such facilities and equipment is by the applicant or is by another entity under lease or otherwise.
"(2) Upon receipt of the statement, de-

scription, and certifications required by this section, after finding that a recipient is in compliance with paragraph (1), and after compliance with the National Environmental Policy Act of 1969 using the provisions of subsection (e) or otherwise, the Secretary shall make the amounts determined pursuant to this section available to the recipient.

"(c) To receive a grant under this section. the recipient must certify that the recipient

"(1) has or will have the legal, financial, and technical capacity to carry out the proposed project;

"(2) has the authority to apply for the grant under this subsection;

(3) will carry the project in compliance with the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 and section 7 of this Act;

"(4) will have satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities or equipment assisted under this Act and will maintain such facilities and equipment;

"(5) in carrying out procurements under this subsection, will use competitive procurements (as defined or approved by the Secretary), will not use procurements utilizing exclusionary or discriminatory specifications, and will carry out procurements in compliance with section 401 of Public Law 95-599:

"(6) will comply with the National Flood Insurance Act of 1968;

"(7) has complied with the requirements of subsections (d) and (e);

"(8) has available and will provide funds from other than Federal sources as required by section 4 of this Act and has complied with the requirements of sections 8, 16, and 19 of this Act; and

"(9) has a locally developed process to solicit and consider public comment prior to raising fares or implementing a major reduction of transit service.

"(d) Each recipient shall-

"(1) make available to the public information concerning the amount of funds available under this subsection and the range of activities that the recipient proposes to undertake with such funds;

"(2) develop a proposed statement concerning activities to be funded in consultation with interested parties, including pri-

vate transportation providers:

"(3) publish a proposed statement in such a manner to afford affected citizens, private transportation providers, or as appropriate, local elected officials an opportunity to examine its content and to submit comments on the proposed statement and on the performance of the recipient; and

"(4) hold one or more public hearings to obtain the views of citizens on activities to

be funded under this subsection.

In preparing the final statement to be submitted to the Secretary, the recipient shall consider any such comments and views, particularly those of private transportation providers, and shall, if deemed appropriate by the recipient, modify the proposed statement. The final statement shall be made available to the public. Compliance with this paragraph will satisfy the requirements of subsection (d) of section 3.

(e)(1) In order to assure that the National Environmental Policy Act of 1969, and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary), are effectively implemented in connection with the expenditure of funds under this subsection. and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may, under regulations issued by him, provide for the release of funds to recipients who assume all of the responsibilities for environmental review, decisionmaking, and acting pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

"(2) The Secretary shall approve the release of funds in accordance with the procedures authorized by this subsection only if. at least fifteen days prior to such approval

and prior to any commitment of funds, the applicant has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of paragraph (3). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the application and release of funds for projects to be carried out pursuant thereto which are covered by such certification.

(3) A certification under the procedures authorized by this subsection shall

'(A) be in a form acceptable to the Secre-

"(B) be executed by the chief executive officer or other officers of the applicant qualified under regulations of the Secretary;

"(C) specify that the applicant has fully carried out its responsibilities as described

under paragraph (1); and

"(D) specify that the certifying officer-

"(i) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary to the extent that as the provisions of such Act or other such provisions of law apply pursuant to paragraph (1); and

"(ii) authorizes and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purposes of enforcement of his responsibilities

as such an official.

The Secretary shall not approve a grant for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act.

'(g) As soon as practicable after receiving the submissions required in this section, the Secretary shall enter into an annual projects agreement with the Governor, his designee, or the designated recipient of each

urbanized area.

"(h)(1) Each recipient of assistance under this section shall submit to the Secretary annually, at a time determined by the Secretary, a statement concerning the use of funds made available under this section together with an assessment of how such use compares to the statement of activities identified under subsection (d). The Secretary shall, at least on an annual basis, conduct, or require the recipient to have independently conducted, reviews and audits as may be deemed necessary or appropriate by the Secretary to determine whether-

'(A) the recipient has carried out its activities submitted in accordance with subsection (b)(1)(B) in a timely and effective manner and has a continuing capacity to carry out those activities in a timely and ef-

fective manner; and

"(B) the recipient has carried out those activities and its certifications and has used its Federal funds in a manner which is consistent with the requirements of this Act and other applicable laws. Audits of the use of Federal funds shall be conducted in accordance with the accounting standards of the General Accounting Office.

"(2) In addition to the reviews and audits described in paragraph (1), the Secretary shall, not less than once every three years, perform a full review and evaluation of the performance of a recipient in carrying out the recipient's program, with specific reference to compliance with statutory and administrative requirements, and consistency of actual program activities with the statement of proposed activities required under subsection (b) of this section and the planning process required under section 8.

"(3) The Secretary may make appropriate adjustments in the amount of annual grants in accordance with the Secretary's findings under this subsection, and may reduce or withdraw such assistance or take other action as appropriate in accordance with the Secretary's review, evaluation, and audits under this subsection.

"(i) The provisions of section 1001 of title 18, United States Code, apply to any certification or submission under this section. In addition, if any false or fraudulent statement or related act within the meaning of section 1001 of title 18. United States Code. is made in connection with a certification of submission under this subsection, the Secretary may terminate and seek appropriate reimbursement of the affected grant or grants directly or by offsetting funds available under this subsection.

'(j) A recipient may request the Secretary to approve its procurement system. If, after consultation with the Office of Federal Procurement Policy, the Secretary finds that such system provides for competitive procurement, the Secretary shall approve such systems for use for all procurements financed under this subsection. Such approval shall be binding until withdrawn. A certification from the recipient under subsection (c)(5) is still required.".

#### LETTERS OF INTENT

SEC. 305. Section 3(a)(4) of the Act is amended-

(1) by inserting after the first sentence thereof the following: "At least thirty days prior to the issuance of a letter of intent under this paragraph, the Secretary shall notify, in writing, the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, of the proposed issuance of such letter of intent.":

(2) by striking out "in section 4(c)" and inserting in lieu thereof the following: "to

carry out section 3"; and
(3) by adding at the end thereof the following: "Funding for projects covered by letters of intent or letters of commitment issued, and full funding contracts executed, prior to the date of enactment of the Federal Public Transportation Act of 1982 shall be given priority in making grants under this section after the date of enactment of such Act. None of the terms and conditions of any such letter of intent and full funding contract may be altered unless agreed to by all parties to the contract. The Secretary may not, directly or indirectly, take any action with respect to future available budget authority except as provided by this paragraph."

# AMENDMENTS TO SECTION 5 URBAN MASS TRANSIT PROGRAM

SEC. 306. Section 5 of the Act is amended-(1) by adding immediately after subsection (c)(4) the following:

"(5) Apportionments for fiscal year 1975 shall be deemed to have lapsed on September 30, 1977, and apportionments for fiscal year 1976 shall be deemed to have lapsed on September 30, 1978."; and

(2) by adding at the end thereof the fol-

lowing new subsection:

(o) Notwithstanding any other provision of this section, sums authorized, appropriated, and apportioned pursuant to this section that have not lapsed shall remain available as initially apportioned to the urbanized areas or parts thereof for expenditure in accordance with the provisions of this section until September 30, 1985.".

#### AMENDMENTS TO SECTION 12

SEC. 307. (a) Section 12(c)(1) of the Act is amended by inserting before the semicolon the following: ", and such term also means any bus rehabilitation project which extends the economic life of a bus five years or

(b) Section 12(c)(2) of the Act is amended by inserting before the semicolon the following: "and any public transportation facility which utilizes a right-of-way rail usable by other forms of transportation and also means a public transit facility which utilizes a fixed catenary system".

#### AMENDMENTS TO THE REPORTING SYSTEM

SEC. 308. Section 15(b) of the Act is amended by striking out "section 5" and inserting in lieu thereof "section 5 or 9"

#### AMENDMENTS TO FORMULA GRANTS FOR NONURBANIZED AREAS

SEC. 309. (a) Section 18(a) of the Act is amended by striking out "section 4(e)" and inserting in lieu thereof 4(a)(3)(D)".

(b) Subsection (c) of such section is amended by striking out "three years" in the first sentence and inserting in lieu

thereof "two years".

(c) Subsection (c) of such section is amended by inserting after the first sen-tence thereof the following: "After September 30, 1982, any amounts remaining unobligated at the end of such period of which are deobligated at the end of such period shall be added to the amount available for apportionment under section 4(a)(3)(D).

## AMENDMENTS TO SECTION 16

SEC. 310. Section 16(b) of the Act is amended by striking out "section 4(c)(3) of this Act, 2 per centum" and inserting in lieu thereof "section 4(a)(3)(A) of this Act, 3.5 per centum".

#### INTERCITY BUS SERVICE/TERMINAL DEVELOPMENT PROGRAM

SEC. 311. Sections 21 and 22 of the Act are repealed.

#### WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 312. Section 320(b) of the Surface Transportation Assistance Act of (Public Law 95-599) is amended by adding at the end thereof the following: "No funds are authorized to be appropriated to carry out the provisions of subsection (a) after September 30, 1982."

## REPEAL OF SAFETY AUTHORITY

SEC. 313. Section 107 of the National Mass Transportation Assistance Act of 1974 (Public Law 93-503) is repealed.

# TRANSIT CAPITAL INFRASTRUCTURE PROGRAM

Sec. 314. (a) In addition to amounts authorized under section 3(a) of the Urban Mass Transportation Act of 1964, there are authorized to be appropriated from the Transit Account of the Highway Trust Fund not to exceed \$550,000,000 for the fiscal year ending September 30, 1983, and \$1,100,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985. Nothwithstanding the preceding sentence, the amount authorized to be appropriated for any fiscal year shall not exceed the amount as estimated annually by the Secretary of the Treasury to be re-ceived in the Transit Account of the Transit Account of the Highway Trust Fund includ-

ing interest thereon in each such fiscal year from subsections (a) and (b) of section 4041 of the Internal Revenue Code of 1954 and section 4081 of the Internal Revenue Code of 1954.

(b) Using sums available pursuant to subsection (a) the Secretary is authorized to make grants under this section to finance ubran transit capital infrastructure projects for fiscal years 1983 and 1984. The Secretary shall award grants under this section to applicants with projects which can begin construction or manufacturing within the shortest possible time. The Secretary may not limit grants under this section for bus purchases if the Secretary finds that qualified bus manufacturers do not have the capacity to meet the requirements of the preceding sentence. To the extent practicable the Secretary shall emphasize projects which are labor intensive.

(c) The Secretary shall, to the extent practicable, provide for a fair and equitable distribution among all States of funds appropriated pursuant to this section. In any fiscal year, amounts so distributed to recipients in any State shall not be less than onehalf of 1 per centum of the funds available under this section in that fiscal year. The Secretary is authorized to withdraw funds made available under this section for use for transit capital infrastructure projects and to use those funds to make grants for eligible highway projects under title 23, United States Code. The Secretary shall not approve a grant for such a highway project unless he has received assurances from the Governor, on behalf of urbanized areas of less than two hundred thousand population, made after consultation with operators of publicly owned mass transportation systems in such areas, or the designated recipient, in an urbanized area of two hundred thousand or more population, made after consultation with mass transportation providers in such urbanized areas, that there are not a sufficient number of qualified transit capital infrastructure projects within that fiscal year within such State or urbanized area to use the funds distributed by the Secretary under this section. The aggregate amount of such nontransit grants shall not exceed 15 per centum of the total funds available under this section in any fiscal year.

(d) As used in this section, the term "transit capital infrastructure development project" means any project in an urbanized area or portion thereof involving the acquisition, rehabilitation and replacement of rolling stock, the construction, rehabilitation, and modernization of commuter rail and fixed guideway systems, the construction, rehabilitation, modernization, and replacement of bus facilities and related equipment, the renovation and improvement of historic transportation facility with related private investment, and intermodal terminals.

(e) The Federal share for projects approved under this section shall be 80 per centum.

(f) The limitations contained in subsections (b), (c), (d), and (e) shall expire on September 30, 1984. After that date funds authorized under subsection (a) shall be available under the requirements of section 3(a) of the Urban Mass Transportation Act of 1964.

(g) Except as othewise provided by this section, a grant under this section shall be subject to the same terms and conditions as are applicable to grants under section 3 of the Urban Mass Transportation Act of 1964.

#### TITLE IV-COMMERCIAL MOTOR VEHICLE SAFETY

# DEFINITIONS

SEC. 401. For purposes of this title, unless the context otherwise requires, the term-

(1) "commerce" means trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, or which affects trade, traffic, or transportation between a place in a State and a place outside of such State:

(2) "commercial motor vehicle" means any self-propelled or towed vehicle used on the highways in commerce principally to transport passengers or cargo

(A) if such vehicle has a gross vehicle weight rating of ten thousand or more

(B) if such vehicle is designed to transport more than ten passengers, including the

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. 1801 et seq.);

(3) "employee" means-

(A) a driver of a commercial motor vehicle (including an independent contractor while in the course of personally operating a commercial motor vehicle);

(B) a mechanic:

(C) a freight handler; or

individual other than (D) any employer;

who is employed by a commercial motor carrier and who in the course of his employment directly affects commercial motor vehicle safety, but such term does not include an employee of the United States, any State, or a political subdivision of a State who is acting within the course of such em-

(4) "employer" means any person engaged in a business affecting commerce who owns or leases a commercial motor vehicle in connection with that business, or assigns employees to operate it in commerce, but such term does not include the United States, any State, or a political subdivision of a

State;
(5) "person" means one or more individuals, partnerships, associations, corporabusiness trusts, or any other organized group of individuals;
(6) "Secretary" means the Secretary of

Transportation; and

(7) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or the Commonwealth of the Northern Marianas.

## DUTIES

SEC. 402. Each employer and employee shall comply with the safety and health rules, regulations, standards, and orders issued pursuant to this title which are applicable to his own actions and conduct.

## REGULATORY AUTHORITY AND STANDARDS

SEC. 403. (a) The Secretary shall establish and revise such rules, regulations, standards, and orders as may be necessary in order to further the purpose of this title. The Secretary shall where practicable consider costs and benefits before revising existing rules, regulations, standards, orders or before promulgating new rules, regulations, standards, or orders. Such rules, regulations, standards, and orders shall be directed toward assuring that-

(1) commercial motor vehicles are safely maintained, equipped, loaded, and operated;

(2) the responsibilities imposed upon drivers of commercial motor vehicles do not impair a driver's ability to operate safely;

(3) the physical condition of drivers of commercial motor vehicles is adequate to

enable them to drive safely; and

(4) the operation of commercial motor vehicles does not create deleterious effects on the physical condition of such drivers.

(b)(1) The Secretary shall promulgate any such rule or regulation within a period of one year after the date of commencement of any proceeding respecting such rule or regulation. If the Secretary determines that any such promulgation will not be completed within such time period, the Secretary shall immediately notify the Congress and shall furnish the reasons for the delay, information regarding the resources assigned, and the projected completion date, for any such proceeding. If such rule or regulation has not been promulgated within one year after the date of the commencement of any proceeding with respect to such rule or regulation, the Secretary shall supply the Congress with current data regarding the information specified in the preceding sentence, and shall provide the Congress with such information at the end of every sixty-day period thereafter during which the proceeding remains incomplete.

(2) All rules, regulations, standards, and orders issued under this section shall be promulgated in accordance with section 553 of title 5, United States Code (without regard to sections 556 and 557 of such title), except that the time periods specified in paragraph (1) of this subsection shall apply to such

promulgation.

(c) The Secretary may waive in whole or in part application of any rule, regulation, standard, or order established under this section with respect to any person or class of persons if he determines that such waiver is in the public interest and is consistent with the safe operation of commercial motor vehicles. Any waiver permitted under this subsection shall be published in the Federal Register, together with the reasons for such waiver. Any final agency action taken under this section is subject to judicial review as provided in chapter 7 of title 5. United States Code.

(d)(1) The Secretary and the Director of the National Institute for Occupational Safety and Health shall, in consultation with the Secretary of Labor, undertake a study of health hazards to which employees engaged in the operation of commercial motor vehicles are exposed, and shall develop such materials and information as are necessary to enable such employees to carry out their employment in a place and manner free from recognized hazards that are causing or are likely to cause death or serious physical harm. The study shall include recommendations regarding the most appropriate method for regulating and protecting the health of operators of commercial motor vehicles. Such study shall be submitted to the Congress within one year after the date of enactment of this title.

(2) There are authorized to be appropriated out of the Highway Trust Fund to the Secretary for fiscal year 1984 not to exceed \$1,500,000 for purposes of carrying out the provisions of this subsection.

(e) The Secretary, the Director of the National Institute for Occupational Safety and Health, and the Secretary of Labor shall coordinate their activities to insure adequate protection of the safety and health of operators of commercial motor vehicles. Such Secretaries and Director shall attempt to minimize paperwork burdens, to assure maximum coordination, and to avoid overlap or the imposition of undue burdens on persons subject to such rules, regulations, standards, and orders.

#### GENERAL POWERS

Sec. 404. (a) The Secretary is authorized to conduct, directly or indirectly, such research, development, demonstrations, and training activities as are considered appropriate to develop rules, regulations, standards, and orders authorized to be promulgated under section 403 of this title, to design and develop improved enforcement procedures and technologies, and to familiarize affected persons with such rules, regulations, standards, and orders.

(b) In carrying out his functions under this title, the Secretary is authorized to perform such acts including conducting investigations and inspections, compiling statistics, making reports, issuing subpenas, requiring production of documents, records, and property, taking depositions, holding hearings, prescribing recordkeeping and reporting requirements, and carrying out and contracting for such research, development, testing, evaluation, and training as he determines necessary to carry out the provisions of this title, or rules, regulations, standards, or orders issued pursuant thereto. With respect to the provisions of this title, if the Secretary approves a plan pursuant to section 411 of this title, the Secretary may delegate to a State such functions respecting the enforcement (including investigations) of the provisions of this title or rules, regulations, standards, or orders issued pursuant thereto as he determines appropriate to carry out the provisions of this title.

#### INSPECTIONS AND WARRANTS

Sec. 405. (a)(1) To carry out the Secretary's responsibilities under this title, agents of the Secretary are authorized to enter upon, inspect, and examine facilities, equipment, operations, and pertinent records without advance notice, in accordance with the provisions of paragraph (2) of this subsection. Any such agent of the Secretary shall display proper credentials when requested and may consult with employers and employees and their duly authorized representatives, and shall offer them a right of accompaniment.

(2)(A) A warrant under this paragraph shall be required for any entry or administrative inspection (including impoundment of motor vehicles or motor vehicle equipment) authorized by this section, except if such entry or inspection is—

(i) with the consent of the employer or agent of the employer in charge of the business, establishment, or premises;

 (ii) in situations involving inspection of motor vehicles where there is reasonable cause to believe that the mobility of the motor vehicle makes it impractical to obtain a warrant;

(iii) in any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking:

(iv) for access to and examination of books, records, and any other documentary evidence which can be easily altered, manufactured, or falsified; and

(v) in any other situations where a warrant is not constitutionally required.

(B) Issuance and execution of administrative inspection warrants shall be as follows:

(i) Any judge of the United States or of a State court of record, or any United States magistrate, may, within his territorial jurisdiction, and upon proper oath or affirmation showing probable cause, issue warrants for the purpose of conducting administrative inspections authorized by this section and of impoundment of motor vehicles or motor vehicle equipment appropriate to such inspections. For the purposes of this section, the term "probable cause" means a valid public interest in the effective enforcement of this title, or rules, regulations, standards, or orders issued thereunder sufficient to justify administrative inspections of the area, establishment, premises, records, or motor vehicles, or contents thereof, in the circumstances specified in the application for the warrant.

(ii) A warrant shall be issued only upon an affidavit of an officer, or representative of the Secretary having knowledge of the facts alleged, sworn to before the judge or magistrate and establishing the grounds for issuing the warrant. If the judge or magistrate is satisfied that grounds for the application exist or that there is a reasonable basis for believing they exist, he shall issue a warrant identifying the area, establishment, premises, or motor vehicle to be inspected, the purpose of such inspection, and, where appropriate, the type of property to be inspected, if any. The warrant shall—

(I) identify the items or type of property to be impounded, if any;

(II) be directed to a person authorized under this section to execute it;

(III) state the grounds for its issuance and the name of the person or persons whose affidavit has been taken in support thereof;

(IV) command the person to whom it is directed to inspect the area, establishment, premises, records, or motor vehicle identified for the purpose specified, and where appropriate, shall direct the impoundment of the property specified;

(V) direct that it be served during the hours specified in it; and

(VI) designate the judge or magistrate to whom it shall be returned.

(iii) A warrant issued pursuant to this section must be executed and returned within ten days of its date unless, upon a showing by the Secretary of a need therefor, the judge or magistrate allows additional time in the warrant. If property is impounded pursuant to a warrant, the person executing the warrant shall give the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. The return of the warrant shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was taken, if they are present, or in the presence of at least one credible person other than the person making such inventory, and shall be verified by the person executing the warrant. The judge or magistrate, upon request, shall deliver a copy of the inventory to the person from whom or from whose premises the property was taken and the applicant for the warrant.

(iv) The judge or magistrate who has issued a warrant under this section shall attach to the warrant a copy of the return and all papers filed in connection therewith and shall file them with the clerk of the district court of the United States for the judicial district in which the inspection was made.

#### DUTY TO INVESTIGATE COMPLAINTS; PROTECTION OF COMPLAINANTS

SEC. 406. (a) The Secretary shall timely investigate any nonfrivolous written complaint alleging that a material violation of any rule, regulation, standard, or order issued under this title is occurring or has occurred within the preceding sixty days. The complainant shall be timely notified of findings resulting from such investigation. The Secretary shall not be required to conduct separate investigations of duplicative complaints.

(b) Notwithstanding the provisions of section 552 of title 5, United States Code, the Secretary shall not disclose the identity of complainants unless it is determined that such disclosure is necessary to prosecute a violation. If disclosure becomes necessary, the Secretary shall take every practical measure within his authority to assure that the complainant is not subject to harassment, intimidation, disciplinary action, discrimination, or financial loss as a result of such disclosure.

#### PENALTIES

SEC. 407. (a) If the Secretary finds that a violation of sections 402 through 417 of this title has occurred, the Secretary shall issue a written notice to the violator. Such notice shall describe with reasonable particularity the nature of the violation found and the provision which has been violated. The notice shall fix a reasonable time for abatement of the violation, specify the appropriate civil penalty, if any, and specify the actions which the Secretary proposes to be taken in order to avoid subsequent similar violations. The notice shall indicate that the violator may, within fifteen days of service, notify the Secretary of his intention to contest the matter. In the event of a contested notice, the Secretary shall afford such violator an opportunity for a hearing, pursuant to section 554 of title 5, United States Code, following which the Secretary shall issue an order affirming, modifying, or vacating the notice of violation.

(b) Except as hereinafter provided, any person who is determined by the Secretary to have committed an act which is a violation of recordkeeping requirements issued by the Secretary pursuant to this title shall be liable to the United States for a civil penalty not to exceed \$500 for each offense. Each day of a violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses relating to any single recordkeeping violation shall not exceed \$10,000. If the Secretary determines that a substantial health or safety violation exists or has occurred which could reasonably lead to, or has resulted in, serious personal injury or death, he may assess a civil penalty not to exceed \$10,000 for each offense: Provided, however, That except for recordkeeping violations, no civil penalty provided under this title shall be assessed against an employee for violations of this title unless the employee is an operator of a commercial motor vehicle and the Secretary determines that such employee's actions constituted gross negligence or reckless disregard for safety, in which case such employee shall be liable for a civil penalty not to exceed \$1,000. The amount of any civil penalty, and a reasonable time for abatement of the violation, shall by written order be determined by the Secretary, taking into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violation, the degree of culpability, history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice and public safety may require. In each case, the assessment shall be calculated to induce further compliance.

(c) The Secretary may require any violator served with a notice of violation to post a copy of such notice or statement thereof in such place or places and for such duration as the Secretary may determine appropriate to aid in the enforcement of this title.

(d) If, upon inspection or investigation, the Secretary determines that a violation, or combination of violations, poses an imminent hazard to safety, the Secretary shall order a vehicle or employee operating such vehicle out of service or order an employer to cease all or part of his commercial motor vehicle operations. In making any such order, the Secretary shall impose no restriction on any employee or employer beyond that required to abate the hazard. Subsequent to the issuance of such order, opportunity for review shall be provided in accordance with section 554 of title 5, United States Code, except that such review shall occur not later than ten days following issuance of such order.

(e) Any person other than an employee who knowingly and willfully violates any provision of this title or who knowingly and willfully makes any false statement or representation required under this title shall, upon conviction, be subject for each offense to a fine not to exceed \$25,000 or imprisonment for a term not to exceed one year, or both: Provided, however, That if such violator is an employee he shall only be subject to penalty if while operating a commercial motor vehicle his activities have led or could have led to death or serious injury, in which case he shall be liable, upon conviction, for a fine not to exceed \$2,500.

(f) The Secretary shall promulgate regulations establishing penalty schedules designed to induce timely compliance for persons failing to comply promptly with the requirements set forth in notices and orders.

(g) Any aggrieved person who, after a hearing, is adversely affected by a final order issued under this section may, within thirty days, petition for review of the order in the United States court of appeals in the circuit wherein the violation is alleged to have occurred or where he has his principal place of business or residence, or in the United States Court of Appeals for the Dis-trict of Columbia Circuit. Review of the order shall be based on a determination of whether the Secretary's findings and conclusions were supported by substantial evidence, or otherwise not in accordance with law. No objection that has not been urged before the Secretary shall be considered by the court, unless reasonable grounds existed for failure or neglect to do so. The commencement of proceedings under this subsection shall not, unless ordered by the court, operate as a stay of the order of the Secretary.

(h) The Secretary may obtain enforcement, including injunctive relief, of any penalties or orders issued under this section by applying to the United States district court for the district where the violation occurred or where the cited party has his principal place of business or residence. In addition to granting enforcement, the district court may assess an appropriate penalty for noncompliance and award such further relief as justice and public safety may require.

 (i) All penalties and fines imposed under this section shall be deposited into the Treasury as miscellaneous receipts.

(j) In any action brought under this section, subpenas for witnesses who are required to attend a United States district court may run into any other district.

(k) In any proceeding for criminal contempt for violation of an injunction or restraining order issued under this section, trial shall be by the court, or, upon demand of the accused, by a jury, conducted in accordance with the provisions of rule 42(b) of the Federal Rules of Criminal Procedure.

#### REPRESENTATION BEFORE THE COURTS

SEC. 408. Except as provided in section 518(a) of title 28, United States Code, relating to litigation before the Supreme Court, the General Counsel of the Department of Transportation may appear for and represent the Secretary in all proceedings and in any civil litigation brought under this title. Prior to making any such appearance and representation, the General Counsel of the Department of Transportation shall consult with and inform the Attorney General of the United States of his activities pursuant to this section.

#### PROTECTION OF EMPLOYEES

SEC. 409. (a) No person shall discharge, discipline, or in any manner discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because such employee (or any person acting pursuant to a request of the employee) has filed any complaint or instituted or caused to be instituted any proceeding under or related to this title or other authorities of the Secretary relating to commercial motor vehicle safety, or has testified or is about to testify in any such proceeding, or because such employee has exercised, on behalf of himself or others, any right afforded by this title.

(b) No person shall discharge, discipline, or in any manner discriminate against an employee with respect to the employee's compensation, terms, conditions, or privi-leges of employment for refusing to operate a vehicle when such operation constitutes a violation of any Federal rules, regulations, standards, or orders applicable to commercial motor vehicle safety or health, or because of the employee's reasonable apprehension of serious injury to himself or the public due to the unsafe condition of such equipment. The unsafe conditions causing the employee's apprehension of injury must be of such nature that a reasonable person, under the circumstances then confronting the employee, would conclude that there is a bona fide danger of an accident, injury, or serious impairment of health, resulting from the unsafe condition. In order to qualify for protection under this subsection, the employee must have sought from his employer, and have been unable to obtain, correction of the unsafe condition.

(c)(1) Any employee who believes he has been discharged, disciplined, or otherwise discriminated against by any person in violation of subsection (a) or (b) of this section may, within one hundred and eighty days after such alleged violation occurs, file (or have filed by any person on the employee's behalf) a complaint with the Secretary of Labor alleging such discharge, discipline, or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the person named in the complaint of the filing of the complaint.

filing of the complaint.

(2)(A) Within sixty days of receipt of a complaint filed under paragraph (1) of this

subsection, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify the complainant and the person alleged to have committed a violation of this section of his findings. Where the Secretary of Labor has concluded that there is reasonable cause to believe that a violation has occurred, he shall accompany his findings with a proposed order providing the relief prescribed by subparagraph (B) of this paragraph. Thereafter, either the person alleged to have committed the violation or the complainant may, within thirty days, file objections to the proposed order and request a hearing on the record. Such hearings shall be expeditiously conducted. Where a hearing is not timely requested, the proposed order shall be deemed a final order which is not subject to judicial review. Upon the conclusion of such hearing, the Secretary of Labor shall issue a final order within one hundred and twenty days. In the interim, such proceedings may be terminated at any time on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.

(B) If, in response to a complaint filed under paragraph (1) of this subsection, the Secretary of Labor determines that a violation of subsection (a) or (b) of this section has occurred, the Secretary of Labor shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary damages. If such an order is issued, the Secretary of Labor, at the request of the complainant, may assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

(d)(1) Any person adversely affected or aggrieved by an order issued after a hearing under subsection (c) of this section may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred, or the circuit in which such person resided on the date of such violation. The petition for review must be filed within sixty days from the issuance of the Secretary of Labor's order. Such review shall be in accordance with the provisions of chapter 7 of title 5, United States Code, and shall be heard and decided expeditiously.

(2) An order of the Secretary of Labor, with respect to which review could have been obtained under this section, shall not be subject to judicial review in any criminal or other civil proceeding.

(e) Whenever a person has failed to comply with an order issued under subsection (c)(2) of this section, the Secretary of Labor shall file a civil action in the United States district court for the district in which the violation was found to occur in order to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief, including injunctive relief, reinstatement, and compensatory and exempla-

ry damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

#### GRANTS TO STATES

SEC. 410. Under the terms and conditions of this title, and subject to the availability of funds, the Secretary is authorized to make grants to States for the development or implementation of programs for the enforcement of Federal rules, regulations, standards, and orders applicable to commercial motor vehicle safety and compatible State rules, regulations, standards, and orders.

#### STATE ENFORCEMENT

SEC. 411. (a)(1) The Secretary shall formulate procedures for any State to submit a plan whereby the State agrees to adopt, and to assume responsibility for enforcing rules, regulations, standards, and orders in compliance with this title. Such plan shall be approved by the Secretary if, in his judgment, the plan is adequate to promote the objectives of this title, and the plan—

(A) designates the State motor vehicle safety agency responsible for administering

the plan throughout the State;

(B) contains satisfactory assurances that such agency has or will have the legal authority, resources, and qualified personnel necessary for the enforcement of such rules, regulations, standards, and orders;

(C) gives satisfactory assurances that such State will devote adequate funds to the administration of such plan and enforcement of such rules, regulations, standards, and

orders;

(D) provides a right of entry and inspection sufficient to enforce the provisions of this title;

(E) provides civil penalty procedures, rights, and remedies comparable to those set forth in section 407 of this title;

(F) provides that all reports required pursuant to this title be submitted to the State agency, and that such agency make available upon request to the Secretary all such reports:

reports;
(G) provides that such State agency will adopt such uniform reporting requirements and use such uniform forms for recordkeeping, inspections, and investigations as may be established and required by the Secre-

tary; and

(H) requires registrants of commercial motor vehicles to make a declaration of knowledge of applicable Federal and State safety rules, regulations, standards, and orders.

(2) If a plan submitted under paragraph (1) of this subsection is rejected, the Secretary shall provide the State a written explanation of his action and shall permit the State to modify and resubmit its proposed plan for approval, in accordance with the procedures formulated in such paragraph.

(b) The Secretary shall, on the basis of reports submitted by the State agency, and on his own inspections, make a continuing evaluation of the manner in which each State with a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for comment, that a State plan previously approved is not being followed or that it has become inadequate to assure the enforcement of rules, regulations, standards, or orders issued under this title, he shall notify the State of withdrawal of approval of such plan. Upon receipt of such notice, such plan shall cease to be in effect. Any State aggrieved by a determination of the Secretary pursuant to this subsection

may seek judicial review pursuant to chapter 7 of title 5, United States Code. The State may, however, retain jurisdiction in any case commenced before the withdrawal of the plan whenever the issues involved do not directly relate to the reasons for the withdrawal of approval of the plan.

(c) The Secretary shall not approve any plan under this section which does not provide that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditures for its last two full fiscal years preceding the date of enactment of this title.

#### STATE REGULATIONS

SEC. 412. (a) Except as may otherwise be provided in this or any other law, any State agency may adopt additional or more stringent safety rules, regulations, standards, or orders for commercial motor vehicle safety if such rules, regulations, standards, or orders are not inconsistent with the Federal rules, regulations, standards, and orders issued under this title.

(b) Nothing in this title shall affect existing hours-of-service regulations of any State applying to commercial motor vehicle operations occurring wholly within that State, unless the Secretary affirmatively finds upon review of a State's hours-of-service regulations that such regulations (1) materially diminish commercial motor vehicle safety or the health and safety of employees, (2) are not required by compelling local conditions, or (3) unduly burden interstate commerce. If the Secretary makes such an affirmative determination, he may require such State to adopt Federal hours-of-service regulations.

## FEDERAL SHARE OF COSTS

Sec. 413. By grants authorized under this title, the Secretary shall reimburse any State an amount not to exceed 80 per centum of the costs incurred by that State in that fiscal year in the development and implementation of programs to enforce commercial motor vehicle rules, regulations, standards, or orders adopted pursuant to this title. The funds of the State and political subdivisions thereof which are required to be expended under section 411(c) of this title shall not be considered to be part of the non-Federal share. The Secretary is authorized to allocate, among the whose applications for grants have been approved, those amounts appropriated for grants to support such programs pursuant to such criteria as may be established.

# AUTHORIZATIONS

Sec. 414. To carry out the purposes of sections 410 and 411 of this title, there is authorized to be appropriated out of the Highway Trust Fund not to exceed \$10,000,000 in the fiscal year ending September 30, 1984, not to exceed \$20,000,000 in the fiscal year ending September 30, 1985, not to exceed \$30,000,000 in the fiscal year ending September 30, 1986, not to exceed \$40,000,000 in the fiscal year ending September 30, 1987, and not to exceed \$50,000,000 in the fiscal year ending September 30, 1988. Appropriated funds authorized by this section shall be used to reimburse to States the Federal pro rata share of costs incurred. Grants made pursuant to the authority of this title shall be for periods not to exceed one fiscal year, ending at the end of a fiscal year.

# ANNUAL REPORT

Sec. 415. As part of the Secretary's annual report to the Congress required by section

12 of the Department of Transportation Act (49 U.S.C. 1658), the Secretary shall make a written report to the Congress concerning his efforts and his current plans to upgrade the safety and health of operators of commercial motor vehicles. The report shall include, but not be limited to, an evaluation of commercial motor vehicle safety or health programs of the Department of Transportation, an outline of problem areas and appropriate steps to alleviate them, and recommendations for closer coordination and cooperation among agencies of the Federal Government and between the Federal Government and the States to enforce the rules, regulations, standards, and orders issued pursuant to this title.

#### APPLICABILITY

SEC. 416. Nothing in this title shall apply to the operation of any vehicles engaged in farming activities and logging operations as defined by the Secretary.

# COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE

SEC. 417. (a)(1) Not later than twelve months after the date of enactment of this title, the Secretary shall establish a Commercial Motor Vehicle Safety Advisory Committee and appoint the initial members of the Committee. The Committee shall be composed of the Secretary and fifteen members, each of whom shall be experienced in the safety regulation of commercial motor vehicles or technically qualified by training, experience or knowledge to evaluate commercial motor vehicle rules or regulations. The Committee shall be appointed by the Secretary, after consultation with public and private agencies and organizations concerned with commercial motor vehicle safety. Members shall include representatives of State governments, the motor carrier industry, shippers, union drivers and independent owner-operators, and the public.

(2) A Chairman shall be selected by a majority of the members of the Committee.

(3) Each member appointed by the Secretary shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; (B) the terms of office of members first taking office after the date of enactment of this title shall expire as follows: Five at the end of one year after the date such Committee members are appointed by the Secretary; five at the end of two years after the date such Committee members are appointed by the Secretary; and five at the end of three years after the date such Committee members are appointed, as designated by the Secretary at the time of appointment; and (C) the term of any member shall be extended until the date on which the successor's appointment is effective. None of the members appointed by the Secretary who has served a threeyear term, other than Federal officers or employees, shall be eligible for reappointment within one year following the end of his preceding term.

(4) Members of the Committee other than Federal employees may be compensated at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of basic pay then currently payable under the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) when engaged in the actual duties of the Committee. All members, while away from their homes or regular places of business, may be al-

lowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this section shall not render members of the Committee employees or officials of the United States

for any purpose. (b) The Advisory Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to the activities and functions of the Department in the field of commercial motor vehicle safety. The Committee is authorized to review research projects or programs submitted to or recommended by it in the field of commercial motor vehicle safety and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause and prevention of commercial motor vehicle accidents. The Committee is also authorized to review. prior to issuance, rules, regulations, standards, and orders proposed to be issued by order of the Secretary under the provisions of this title and to make recommendations thereon. Such recommendations shall be published in connection with the Secretary's determination or order.

(c) The Committee shall meet with the Secretary (or his designee) at least once

every year.

(d) There are authorized to be appropriated for each of the fiscal years ending on September 30, 1984, 1985, and 1986, not to exceed \$125,000 for purposes of carrying out the provisions of this section.

#### AUTHORIZATION OF APPROPRIATIONS

Sec. 418. For the purposes of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated out of the Highway Trust Fund:

(1) for carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development) by the Federal Highway Administration, \$13,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and

September 30, 1988;

(2) for carrying out section 402 of title 23, United States Code (relating to highway safety programs) by the National Highway Traffic Safety Administration, \$100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988: and

(3) for carrying out section 403 of title 23, United States Code (relating to highway safety research and development) by the National Highway Traffic Safety Administration, \$31,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

# APPORTIONMENT

SEC. 419. (a) Section 401 of title 23, United States Code, is amended by striking the second sentence.

(b) Section 402(c) of title 23, United States Code, is amended by striking ", except that the apportionments to the Virgin Islands, Guam, and American Samoa shall not be less than one-third of 1 per centum of the total apportionment"

## NATIONAL UNIFORM STATE REGULATION

SEC. 420. (a) There is established in the Department of Transportation a working group, composed of the Secretary (or an official of the Department appointed by the

Secretary) and not to exceed fifty-one members to be appointed by the Secretary. The Secretary shall select the Chairman of the Committee from among the Committee members. The appointed members shall be selected from among representatives of various State governments concerned with vehicle registration, fuel tax, and third structure tax requirements of States. The term of members shall not exceed eighteen months.

(b)(1) The working group shall advise, consult with, and make recommendations to, the Secretary regarding uniform State regulations of interstate motor carriers. The working group is authorized to develop and recommend to the Secretary standards for uniform State regulation of interstate motor carriers in regard to vehicle registration, fuel tax, and third structure tax requirements. These standards shall include-

(A) standardized procedures and forms:

(B) base State certification:

(C) single State unit for filings, applications, and permits;

(D) payment to the base State of fees and taxes due other States;

(E) equitable distribution of revenues; and (F) a limit on fees paid for identification stickers, plates or other indicia.

Such standards shall not define or include the amounts of any State registration fees, fuel taxes, or third structure taxes.

(2) The working group shall also:

(A) define an approach to resolve any discrepancies in States' implementation of standards ultimately promulgated by the Secretary:

(B) identify permanent bodies to develop and recommend future modification to such

standards; and

(C) consult with public and private interests contributing to, affected by, or concerned with State motor carrier requirements during the development of the standards.

(c) Members of the working group who are not officers or employees of the United States shall, while attending meetings or conferences of such working group or otherwise engaged in the business of such working group, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding \$100 per diem, including travel time. While away from their homes or regular places of business, members of the working group may be allowed travel expenses, including per diem in lieu of subsistence, as authorized in section 5703 of title 5, United States Code, for persons in the Government service employed intermittently. Payments under this subsection shall not render members of the working group employees or officials of the United States for any purpose.

(d) The recommendations required by subsection (b) of this section shall be submitted to the Secretary within eighteen months of the date of enactment of this title.

(e) The Secretary may initiate rulemaking after the Secretary has received such recommendations in order to implement those recommendations found acceptable and in compliance with the criteria defined in subsection (b)(1) of this section.

(f) If the working group fails to make such recommendations within eighteen months after the date of enactment of this title, the Secretary may develop such standards and initiate rulemaking to promulgate regulations implementing those standards.

#### MINIMUM FINANCIAL RESPONSIBILITY FOR MOTOR CARRIERS

SEC. 421. (a) Section 30(a)(2) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 820) is amended to read as follows:

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle shall not be less than \$750,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service."

(b) Section 30(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 821) is

amended to read as follows:

"(b)(1) The Secretary shall establish regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts (to be determined by the Secretary) covering public liability, property damage, and environmental restoration for the transportation of hazardous materials (as defined by the Secretary), oil or hazard-ous substances (as defined by the Administrator of the Environmental Protection Agency), or hazardous wastes (as defined by the Administrator of the Environmental Protection Agency) by motor vehicle in interstate commerce, foreign commerce, or intrastate commerce.

"(2) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate commerce, foreign commerce, or intrastate com-

merce-

"(A) hazardous substances (as defined by the Administrator of the Environmental Protection Agency), in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons;

"(B) in bulk class A and B explosives, poison gas, liquefied compressed gas, or

compressed gas; or

"(C) a large quantity of radioactive materials;

shall not be less than \$5,000,000, except that the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

"(3) The minimum level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicles transporting in interstate, foreign, or intrastate commerce any material, oil, substance, or waste not subject to the provisions of paragraph (2) of this subsection shall not be less than \$1,000,000, except

"(A) the Secretary may by regulation reduce such amount for any class of vehicles or operations if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service;

"(B) in the case of any class of vehicles transporting any such material, oil, sub-stance, or waste in intrastate commerce other than in bulk, the Secretary, by regulation, may reduce such amount if the Secretary finds that such reduction will not ad-

versely affect public safety; and

"(C) in the case of any class of vehicles transporting any such material, oil, substance, or waste in interstate commerce in quantities less than those requiring placarding under the Department of Transportation's hazardous materials regulations, the Secretary may by regulation reduce such amount if the Secretary finds that such reduction will not adversely affect public safety.

"(4) If, at the end of the one-year period beginning on the date of enactment of this Act, the Secretary has not established regulations to require minimum levels of financial responsibility as required by paragraph (1) of this subsection for any class of transportation of hazardous materials, oil, hazardous substances, or hazardous wastes by motor vehicle in interstate, foreign, or intrastate commerce, the levels of financial responsibility for such class of transportation shall be the \$5,000,000 amount set forth in paragraph (2) of this subsection or the \$1,000,000 amount set forth in paragraph (3) of this subsection, as the case may be, until such time as the Secretary, by regulation, changes such amount under this subsection."

(c) Section 30(f) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 823) is amended to read as follows:

"(f) This section shall not apply to motor vehicles having a gross vehicle weight rating (GVWR) less than ten thousand pounds, if such vehicles are not used to transport any quantity of class A or B explosives, any quantity of poison gas, or a large quantity of radioactive materials in interstate or foreign commerce."

Mr. PRYOR. Mr. President, could we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PRYOR. I will speak for only a few minutes because I think this amendment speaks for itself.

First, just for a moment, I would like to say, Mr. President, that this piece of legislation before the Senate this evening is basically divided into two particular sections. One section is that section which deals with a 5-centagallon fuel tax. All of us are very familiar with what this does. We all know basically what it will bring to our States. We all know generally how many miles of highways we can build with this money that we derive from this 5-cent-a-gallon tax.

That, to me, right now is not the issue because there is another issue involved in this particular legislation, which I think is a larger issue, in all due respect to the very distinguished committees that worked on this particular legislation.

It is my opinion, after studying this legislation, that we are not fully aware today of what the effects of the use tax and excise tax portion of this legislation is going to have on the following:

We do not know how it is going to affect the trucking industry. I would like to say first this is not a trucking bill. It has not been endorsed by the National Trucking Association. To the very best of my knowledge, the National Trucking Association has no knowledge that this bill is even before the Senate. We have not been bombarded with mail to support or to vote down this legislation.

So, we do not have any real impact or fore knowledge of the impact this excise tax and this use tax is going to have upon the truckers of our country.

Second, we have no idea, Mr. President, of the impact of this legislation and these two taxes upon food prices, upon agriculture, upon industry, and upon ultimately the consumers of America

How much is going to be added to the consumers' bill every time they go to the grocery store, every time they go to the market, every time they go to K-Mart or whatever it might be, to buy merchandise as a consumer?

We do not have a record on this bill. The reason we do not have a record on this bill to look at, to study, and to try to derive some facts and figures from is pretty simple. This bill was introduced into the House on November 30, into the other body. Five days later this bill was approved by the House and sent to the Senate.

We have now been on this piece of legislation for 3 days. It is late in the evening. We are just now beginning to talk, Mr. President, about the merits and the demerits of this particular mammoth tax-use fee that is being brought before us as a Congress.

I would like to say that basically what this amendment does is very simple. It certainly says that the 5-cent-a-gallon gasoline or fuel tax should go through. That is up to you, that is up to me, that is an individual decision.

What it does is to attempt to separate the excise tax and the use tax portion of this bill over into the first part of next year to give us a time to hold hearings, to give us the opportunity for these affected industries to come forward, to make their case, and to have their say as we have always given any industry and any affected party that same right.

It does not cost this Government one dime of revenue to delay this particular tax. The reason it costs us no revenue is because the excise tax and the use tax will not even be in effect by the time we have the opportunity to come forward in February or March and enact a piece of legislation, one, that we all understand, and, two, where we know what the impact is ultimately going to be.

It is my opinion, Mr. President, that if this tax that we are voting on at this late hour, or on tomorrow in all probability, is fair on December 15, 10 days before Christmas, that it will be just as fair on February 15 when we have given an ample opportunity to the people affected and the people who will pay this tax—I must say an enormous increase—an opportunity to be heard.

We can do this. We can do it without a loss of revenue. Mr. President, when we do it, I think full well we will be meeting the fairness test, and I think full well that we will be at that time discharging our obligation.

Finally, Mr. President, I would like to say once again, I would like to

stress, that this particular legislation is not all that appealing to the truckers for this reason: In addition to setting aside the issue of the use tax and the excise tax into February or March of next year, it also sets aside three other areas. I think Senators should be very careful to note this.

It sets aside the 80,000-pound mandate; it sets aside the new width that truckers can have; it sets aside the new length that truckers can have, the existing proposal that we have before us today.

It will consider the length, width, and weight issues along with the amount of tax that they should charge in one package when we can deliberate, when we can look at this whole issue and we can legislate in an atmosphere that I think will be conducive not only to the productivity of this country but also to the protection of the consumers of America.

Mr. President, I wish to yield to the distinguished Senator from Kansas if he would like to make a rebuttal. That is my case. I shall be happy to answer any questions about what this legislation is about.

Mr. DOLE. Mr. President, first, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. I thank the distinguished Senator from Arkansas. I certainly do not quarrel with what he said except we have been considering, on the Senate side, at least, some major changes in the taxing of trucks, the excise taxes and the user taxes, for a number of months. In fact, we held hearings a number of months ago. I believe that we are going to have an additional amendment tomorrow, the Senator from Kansas understands, from some of our colleagues on both sides that will even do more for the trucking industry.

I understand that they are very concerned, and I understand that they are concerned with justification. They are going from some \$240 up to what was a recommended \$2,700 tax. That was reduced to \$2,000 in the House, \$1,600 in the Senate Finance Committee, and we are working on a package that may or may not come to fruition, that will reduce that, even, to \$1,200. It is going to be phased in over a 3-year period.

I say to the Senator from Arkansas that this Senator has had direct discussions with representatives of the American Trucking Association and with truckers in my own State. We have had our staff discuss the legislation with truckers in other States.

Having said that, it seems to me if we delay as the Senator from Arkansas suggests, then we are going to say to all the other people who use the highways, "You pay for it; the truckers are not going to have to do a thing. Next year, they can come back and maybe we will or maybe we will not do something next year."

Under the amendment, the automobile drivers will have to pay the largest share for highway and bridge repairs. There may be and there is disagreement over the fair share that truckers should pay. The distinguished Senator from Idaho has been a leader in this area. We have discussed it with him, with Senator Boschwitz, Senator Melcher, Senator Jepsen, and others who have been concerned about the share truckers would pay.

It seems to this Senator that if we want a bill, if we want this bill to pass—I assume most of us want it to pass; at least we have spent a long time on it if we do not—we ought to make certain that we include everyone in the bill at this time. Notwithstanding the merits of the arguments, I hope that at the appropriate time, the distinguished majority leader will move to table the amendment.

We are in a situation now where heavy trucks pay only 26 percent of the funds going into the trust fund. Under the amendment, the trucks' share would be decreased while others' share would be increased.

The Senator from Kansas is not an expert in this area. I do not subscribe to all the studies made by the Department of Transportation. We have, in effect, discarded those studies in an effort to find some fair way to address the concerns not only of the big, big truckers but smaller truckers in States like Kansas, Iowa, and other States, as well as truckers up and down the line.

I hope this amendment is not adopted, Mr. President. Again, I do not quarrel with the author of the amendment, his motive or intent. Next year, the Senator from Arkansas will be a member of the Senate Committee on Finance and if he finds that there should be, by some rare happenstance, inequity in what we have done, we shall be happy to take it up with a member of the Finance Committee.

Mr. PRYOR. If I may briefly respond, Mr. President, I appreciate the Senator's remarks. I would like to remind my colleagues that basically, what we are faced with here is a great unknown. We are about to pass an enormous tax on one industry. I am one here who comes tonight saying that we know that the truckers should pay a higher degree of tax on our highways. They use our highways more; without question, they have a very divastating effect on certain segments of our highway system. But that is not the issue. The issue is what is a fair price, what is a fair tax, and when does a tax become a punishment?

I think, if I read the legislation correctly, we are bordering on a punishment tax.

I only conclude by saying that we need to know the real impact and

effect of this tax and not deliberate in a lameduck session, not deliberate at 11:30 at night, not worry and fret about what this tax is going to mean. We need to know what it is going to mean. That is why I think this tax should be postponed, separated from the rest of this legislation, and that we have a hearing in February or March and bring legislation back to the Senate and to the House for final disposition.

I did want to call for the yeas and nays. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I do not wish to cut off any Senator who wishes to comment on this amendment. As Senator Dole points out, I do intend to make a tabling motion. If no other Senator seeks recognition to speak on this, I am prepared to do so now.

I move to lay this amendment on the table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the amendment on the table. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from Arizona, (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Packwood), the Senator from Delaware (Mr. Roth), and the Senator from Connecticut (Mr. Weicker), are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Virginia (Mr. Harry F. Byrr, Jr.), the Senator from California (Mr. Cranston), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eacleton), the Senator from Nebraska (Mr. Exon), the Senator from Ohio (Mr. Glenn), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), and the Senator from Mississippi Mr. Stennis), are necessarily absent.

I also announce that the Senator from New York (Mr. Moynihan), is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, navs 37, as follows:

[Rollcall Vote No. 414 Leg.]

#### YEAS-48

Abdnor	Garn	Murkowski
Andrews	Gorton	Pell
Baker	Grassley	Percy
Baucus	Hart	Proxmire
Bentsen	Hatfield	Quayle
Boren	Hawkins	Randolph
Bradley	Havakawa	Rudman
Brady	Heinz	Schmitt
Burdick	Humphrey	Simpson
Chafee	Jepsen	Stafford
Cochran	Kasten	Stevens
D'Amato	Laxalt	Symms
Danforth	Leahy	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Durenberger	Melcher	Warner

#### NAYS-37

Armstrong	Heflin	Mitchell
Biden	Helms	Nickles
Boschwitz	Hollings	Nunn
Bumpers	Huddleston	Pressler
Byrd, Robert C.	Inouye	Pryor
Cannon	Jackson	Riegle
Chiles	Kassebaum	Sarbanes
Cohen	Levin	Sasser
Denton	Long	Specter
Dixon	Lugar	Tsongas
Dodd	Matsunaga	Zorinsky
East	Mattingly	75.69.570.00.750.75
Ford	Metzenbaum	

#### NOT VOTING-15

Byrd,	Glenn	Packwood
Harry F., Jr.	Goldwater	Roth
Cranston	Hatch	Stennis
DeConcini	Johnston	Weicker
Eagleton	Kennedy	
Exon	Movnihan	

So the motion to lay the amendment on the table was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

agreed to.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, will the Senator withhold for a moment?

Mr. DOLE. I withhold.

The PRESIDING OFFICER. The majority leader is recognized.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I announce that there will be no more roll-call votes tonight.

I remind Senators the Senate is convening at 10 a.m. tomorrow and I expect we will be on this bill by 10:30 a.m. The cloture vote will occur after a quorum is established 1 hour after the conventing time.

The Senators who have amendments they wish to offer before cloture are urged to be here and on deck early tomorrow morning.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, if we can have order, I think there are two or three noncontroversial amendments which have been cleared all the way around, but I do not think we can take them up until we have more order.

The PRESIDING OFFICER. The Chair requests that order be restored to the Chamber. The Chair respectfully requests that Senators take their seats and that conversations be conducted in the cloakrooms and that members of the staff retire to the rear of the Chamber.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW; AND FOR THE RECOGNITION OF SENATOR GRASSLEY ON TOMORROW

Mr. BAKER. Mr. President, can I ask the Senator to yield for 1 more minute?

Mr. DOLE. I yield to the majority leader.

Mr. BAKER. I have just been advised that one Senator will require a special order in the morning, and in order to make sure there is some time available for Members to offer amendments, I ask unanimous consent that the time for the Senate to convene be changed from 10 o'clock to 9:45; and I ask unanimous consent that the Senator from Iowa (Mr. Grassley) have a special order for not to exceed 15 minutes, and follow on the recognition of the two leaders under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE, Mr. President, as the Senator from Kansas indicated, there are two or three noncontroversial amendments I understand there is no objection to that we would like to dispose of because we are going to try to do our best to accommodate those who have nongermane amendments between now and the cloture votes tomorrow. One of those is an amendment, I understand, by the distinguished Senator from Idaho, the distinguished Senator from Vermont, the distinguished Senator from Hampshire, and the Distinguished Senator from North Carolina.

So I ask unanimous consent that the pending amendment be temporarily set aside for the consideration of the amendment of the distinguished Senator from Idaho and that no amend-

ment thereto be in order.

Mr. LEVIN. Mr. President, reserving the right to object, I wonder if the Senator from Kansas will make provision to lay down an amendment tonight with the vote scheduled for tomorrow morning prior to the rollcall on cloture? We have a couple of amendments which we have been waiting to get to. I am not seeking a rollcall tonight. I understand there are no more rollcalls.

I would like to lay it down tonight, have a rollcall before cloture tomorrow, and I am wondering if the Senator from Kansas can make provision for that? This is a bipartisan amendment to have unemployment compen-

sation extended.

Mr. DOLE. I would only say to the Senator from Michigan if we are going to try to do that I am not certain that we have got time before the cloture vote, which will be after—Mr. President, I suggest the absence of a quorum.

Mr. PRESIDENT, I understand that while they are discussing the amendment of the Senator from Idaho that a noncontroversial amendment will be offered by the Senator from Pennsylvania, which has been cleared all the way around. We are going to try to accommodate the Senator from Michigan, which we are working on right now, and we are trying to work out something with the Senator from Alabama.

So I ask unanimous consent that the pending amendment be temporarily set aside for consideration of the amendment by the distinguished Senator from Pennsylvania (Mr. Heinz) and no amendment to the amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

#### UP AMENDMENT NO. 1469

(Purpose: Relating to the exemption from taxation under provisions other than the Internal Revenue Code of 1954)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. Heinz) for himself and Mr. Percy proposes an unprinted amendment numbered 1469.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . INTEREST EXEMPT OTHER THAN UNDER THE INTERNAL REVENUE CODE OF 1954.

(a) In General.—Section 103 (relating to interest on certain governmental obligations) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Obligations Exempt Other Than Under This Title.—

"(1) PRIOR EXEMPTIONS.—For purposes of this title, notwithstanding any provision of this section or section 103A any obligation the interest on which is exempt from taxation under this title under any provision of law which is in effect on the date of the enactment of this subsection (other than a provision of this title) shall be treated as an obligation described in subsection (a).

"(2) NO OTHER INTEREST TO BE EXEMPT EXCEPT AS PROVIDED BY THIS TITLE.—Notwithstanding any other provision of law, no interest on any obligation shall be exempt from taxation under this title unless such

interest—

"(A) is on an obligation described in paragraph (1), or

"(B) is exempt from taxation under any provision of this title.".

(b) CONFORMING AMENDMENTS .-

(1) Section 851(b) (relating to definition of regulated investment company) is amended by striking out "103(a)(1)" and inserting in lieu thereof "103(a)".

(2) Section 852 (relating to taxation of regulated investment companies and their shareholders) is amended by striking out "103(a)(1)" each place it appears and inserting in lieu thereof "103(a)".

(3) Section 3454(a)(2)(B) (relating to definitions of interest, dividend, and patronage dividends) is amended by striking out "law" and inserting in lieu thereof "this title".

(4) Section 6049(b)(2)(B) (relating to returns regarding payments of interest) is amended by striking out "law" and inserting in lieu thereof "this title".

(5) Section 6362(b)(4)(A) (relating to qualified State individual income taxes) is amended by striking out "103(a)(1)" and inserting in lieu thereof "103(a)".

Mr. LONG. Mr. President, I have not heard an explanation of the amendment. Are we going to have an explanation or is it going to be read?

Mr. HEINZ. Mr. President, if the Senator will permit me, I do intend to

explain the amendment.

Mr. President, the 1976 Revenue Act created the ability of mutual funds in section 152 to pass through most tax-exempt interest from tax-exempt securities under 103 to the investors of mutual funds.

At the time the legislation was drafted, I am advised that there was an oversight, that tax-exempt bonds under other statutes other than those under the Finance Committee jurisdiction, which are all, of course, 103 statutes, was not considered at that time.

Since that time several mutual funds have made investments in the securities which are tax exempt under laws

other than section 103(a).

The purpose of this amendment is to permit mutual funds to pass through to their shareholders tax-exempt interest received on obligations, mostly housing bonds, by the way, which are tax exempt by virtue of noncode statutes which should be under our Finance Committee jurisdiction.

Under present law mutual funds can pass through under the Internal Reve-

nue Code.

This amendment would bring those other statutory non-Code tax-exempt bonds under section 103.

Mr. LONG. Mr. President, that amendment has not been cleared with the Senator from Louisiana, but I believe it is all right and, therefore, I will not object to it.

Mr. HEINZ. I thank my friend from Louisiana.

Mr. DOLE. Mr. President, I regret that it was not cleared with the Senator from Louisiana. I thought it had been and I apologize for indicating that it was.

Mr. HEINZ. It is my mistake. I cleared it with some people on the other side and I thought clearing it

that way was all that was necessary, and I apologize.

Mr. DOLE. I have no objection.

ADDITIONAL COSPONSOR—UP AMENDMENT NO. 1469

Mr. BOSCHWITZ. Mr. President, I yield for a unanimous-consent request of the Senator from illinois.

Mr. PERCY. Mr. President, I ask unanimous consent that I be added as a cosponsor to amendment No. 1469, the mutual fund amendment of Senator Heinz. We have worked together on this

In 1976, I offered an amendment to a tax bill that allows mutual funds to pass through to small investors the tax exemption on tax-exempt bonds. Previously, only the direct purchaser of those bonds could claim that exemption from taxes. This amendment essentially led to the creation of the tax-exempt mutual fund industry.

Attorneys have recently learned that there was a technical oversight in the 1976 law. Several types of tax-exempt bonds—HUD project notes, Puerto Rican, Virgin Islands, and Indian tribal bonds—are not eligible for this passthrough.

The HUD notes are the most seriously affected by this technicality. If the correction is not made, the market for these HUD notes—mostly public housing—will shrink as mutual funds stop buying them.

I was pleased to join with Senator Heinz in introducing this important clarification and urge my colleagues to support it.

Mr. DOLE. Will the Senator from Illinois yield?

Mr. PERCY. I am happy to yield.

Mr. DOLE. I want to thank the distinguished Senator from Illinois for calling this to our attention and to express my appreciation for the cooperation the Senator from Pennsylvania provided to the Senator from Illinois and the Senator from Kansas.

Mr. PERCY. I have enjoyed working with the distinguished chairman of the committee on this amendment. I think it is an extremely important amendment. The mutual fund industry was created by an amendment that we worked out some time ago. Recently there has come to light a technical difficulty that exempted certain types of bonds and was a hardship to those affected by it. I think this will preserve our original intention.

I thank my distinguished colleague. Certainly, we have enjoyed working with Senator Heinz on it.

Mr. DOLE Mr. President, we appreciate the Senator from Illinois calling it to our attention.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1469) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside and the distinguished Senator from North Carolina be recognized to propose an amendment and that any amendment to the amendment not be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UP AMENDMENT NO. 1470

(Purpose: To provide relief for certain pension plan distributions received during 1976 and 1977 and transferred to an individual retirement account)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from North Carolina (Mr. Helms) proposes an unprinted amendment numbered 1470.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the Baker substitute, insert the following:

SEC. 204. TREATMENT OF CERTAIN DISTRIBUTIONS FROM A QUALIFIED TERMINATED PLAN.

(a) In General.—For purposes of the Internal Revenue Code of 1954, if—

(1) a distribution was made for a qualified terminated plan to an employee on December 16, 1976, and on January 6, 1977, such employee transferred all of the property received in such distribution to an individual retirement account (within the meaning of section 408(a) of such Code) established for the benefit of such employee, and

(2) the remaining balance to the credit of such employee in such qualified terminated plan was distributed to such employee on January 21, 1977, and all the property received by such employee in such distribution was transferred by such employee to such individual retirement account on January 21, 1977,

then such distributions shall be treated as qualifying rollover distributions (within the meaning of section 402(a)(5)(D) of such Code) and shall not be includible in the gross income of such employee for the taxable year in which paid.

(b) QUALIFIED TERMINATED PLAN.—For purposes of this section, the term "qualified terminated plan" means a pension plan—

(1) with respect to which a notice of sufficiency was issued by the Pension Benefit Guaranty Corporation on December 2, 1976, and

(2) which was terminated by corporate action on February 20, 1976.

(c) REFUND OR CREDIT OF OVERPAYMENT BARRED BY STATUTE OF LIMITATIONS.—Notwithstanding section 6511(a) of the Internal

Revenue Code of 1954 or any other period of limitation or lapse of time, a claim for credit or refund of overpayment of the tax imposed by such Code which arises by reason of this section may be filed by any person at any time within the 1-year period beginning on the date of enactment of this Act. Sections 6511(B) and 6514 of such Code shall not apply to any claim for credit or refund filed under this subsection within such 1-year period.

Mr. HELMS. Mr. President, my amendment relates to the treatment of certain distributions from a qualified terminated pension plan, and is designed to remedy the problem encountered by a North Carolina citizen, John Pope.

Mr. Pope had a pension plan with his company, Variety Wholesalers, Inc. The plan was terminated in 1976, and there was a distribution of all the plan's assets in December of that year except for an insurance policy on Mr. Pope's life. Mr. Pope wished to purchase the life insurance policy but could not because at the time Pension Benefit Guaranty Corp. regulations prohibited the sale of a life insurance policy by a pension plan.

In early 1977 Mr. Pope established a rollover IRA account with the proceeds from his payout. Also in early 1977, the PBGC changed its regulations governing the sale of a life insurance policy by a pension plan to allow such a sale. Mr. Pope was able to purchase his policy, and he promptly deposited these funds in a rollover IRA account. A complete rollover of all funds received by Mr. Pope from the terminated pension plan was thus accomplished within 60 days of the plan's termination.

The IRS audited Mr. Pope's 1976 and 1977 tax returns and disallowed the entire rollover because of a technicality that requires all payouts to be made within 1 calendar year. The IRS assessed an income tax deficiency, plus interest and a substantial penalty.

Mr. President, Mr. Pope has been unjustly penalized by the IRS because the PBGC changed the rules regarding the sale of a life insurance policy by a pension plan. When Mr. Pope's pension plan was terminated, PBGC regulations barred the sale of his life insurance policy. But within weeks the PBGC changed its regulations to allow such a sale.

Congress never intended to penalize taxpayers who comply with requirements of the Employee Retirement Income Security Act, but who nevertheless face adverse treatment by the IRS because the payout of the proceeds of a terminated pension plan straddles 2 calendar years.

Mr. President, my amendment would allow Mr. Pope's distribution to be treated as a qualifying rollover distribution. To my knowledge, Mr. Pope's situation is unique, and my amendment would apply to no other taxpayer. Its effect on the Treasury would be

Mr. DOLE. Mr. President, this has been cleared on all sides. The Senator from North Carolina discussed it with Senator Long and Senator Metz-ENBAUM. I have no objection to the amendment. In fact, I was there, I might say to the Senator from North Carolina, throughout the hearing. This is a case that deserves attention. Mr. Pope was also present. I hope the amendment will be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Caro-

lina (Mr. HELMS).

The amendment (UP No. 1470) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

UP AMENDMENT NO. 1457, AS MODIFIED

Mr. DOLE. Mr. President, I send a modification of my second degree amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (UP No. 1457, as

modified) follows: In place of the language prepared to be in-

serted insert the following:

SEC. . DECREASE IN HOLDING PERIOD REQUIRED CAPITAL LONG-TERM TREATMENT.

(a) In GENERAL.

(1) Capital Gains.—Paragraphs (1) and (3) of section 1222 of the Internal Revenue Code of 1954 (relating to other terms relating to capital gains and losses) are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(2) Capital Losses.—Paragraphs (2) and (4) of section 1222 of such Code are each amended by striking out "1 year" and inserting in lieu thereof "6 months".

(b) Conforming Amendments.-The following provisions of the Internal Revenue Code of 1954 are each amended by striking out "1 year" each place it appears and inserting in lieu thereof "6 months":

(1) Paragraph (1)(B) of section 166(d) (re-

lating to nonbusiness debts).

(2) Subsection (a) of section 341 (relating to treatment of gain to shareholders in the case of collapsible corporations).

(3) Paragraph (2) of subsection (a) and subparagraph (L) of subsection (e)(4) of section 402 (relating to capital gains treatment for certain distributions in the case of a beneficiary of an exempt employees' trust).

(4) Subparagraph (A) of section 403(a)(2) (relating to capital gains treatment for certain distributions in the case of a beneficiary under a qualified annuity plan).

(5) Paragraph (1) of section 423(a) (relating to employee stock purchase plans).

(6) Paragraph (2) of section 582(c) (relat-

ing to capital gains of banks).

(7) Subparagraph (A) and (B) of section 584(c)(1) (relating to inclusions in taxable income of participants in common trust funds).

- (8) Paragraphs (3) and (4) of section 642(c) (relating to charitable deductions for certain trusts).
- (9) Paragraphs (1) and (2) of section 702(a) (relating to income and credits of partner).
- (10) Subparagraph (A) of section 817(a)(1) (relating to certain gains and losses in the case of life insurance companies).
- (11) Subparagraph (B) of section 852(b)(3) (relating to taxation of shareholders of regulated investment companies).
- (12) Subparagraph (A) of section 856(c)(4) (relating to definition of real estate investment trust).
- (13) Paragraphs (3)(B) and (7) of section 857(b) (relating to taxation of shareholders of real estate investment trust).

(14) Paragraphs (11) of section 1223 (relating to holding period of property).

(15) Section 1231 (relating to property

used in the trade or business and involuntary conversions). (16) Paragraph (2) of section 1232(a) (re-

lating to sale or exchange in the case of bonds and other evidences of indebtedness).

- (17) Subsections (b), (d), and subparagraph (A) of subsection (e)(4) of section 1233 (relating to gains and losses from short sales).
- (18) Paragraph (1) of section 1234(b) (relating to treatment of the grantor of an option in the case of stock, securities, or commodities).

(19) Subsection (a) of section 1235 (relating to sale or exchange of patents).

(20) Paragraph (4) of section 1246(a) (relating to holding period in the case of gain on foreign investment company stock).

(21) Subsection (i) of section 1247 (relating to loss on sale or exchange of certain stock in the case of foreign investment companies electing to distribute income currently).

(22) Subsections (b) and (g)(3)(C) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

(23) Subparagraph (A) of section 1251(e)(1) (defining farm recapture property).

- (c) TECHNICAL AMENDMENT RELATING TO TIMBER, COAL AND DOMESTIC IRON ORE.—Section 631 of such Code (relating to gain or loss in the case of timber, coal, or domestic iron ore) is amended-
- (1) by striking out "for a period of more than 1 year" in the first sentence of subsection (a) and inserting in lieu thereof "on the first day of such year and for a period of more than 6 months before such cutting", and
- (2) by striking out "1 year" in subsections (b) and (c) and inserting in lieu thereof "6 months"
- (d) TECHNICAL AMENDMENT RELATING TO STRADDLES.-Section 1092(d)(2) of such Code (defining position) is amended-

(1) by striking out clause (ii) of subparagraph (B) and inserting in lieu thereof the following:

"(ii) is part of a straddle none of the offsetting positions of which would, if sold by the taxpayer on the last day on which such option could be exercised, result in the recognition of-

"(I) long-term capital gain or loss, or

"(II) in the case of a syndicate (within the meaning of section 1256(e)(3)(B)), long-term capital gain or loss or ordinary income or loss.", and

(2) by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLICATION OF SUBPARAGRAPH (B) (ii) .- For purposes of subparagraph (B)(ii)-

(i) a stock option (other than an option meeting the requirements of section 1236 or which would meet such requirements if section 1236 applied to such option) held or granted by a dealer shall not be treated as meeting the requirements of such subparagraph unless such option is entered into in the normal course of the dealer's trade or business, and

(ii) the determination as to whether a sale would result in long-term capital gain or loss shall be made without regard to the rules of subsections (b) and (d) of section 1233 (as made applicable by reason of subsection (h)) '

(e) TECHNICAL AMENDMENT RELATING TO CERTAIN SHORT-TERM GOVERNMENT OBLIGA-TIONS.—Section 1232(a)(4)(A) (relating to certain short-term government obligations), as in effect before the amendments made by section 231(c)(4) of the Tax Equity and Fiscal Responsibility Act of 1982, and section 1232(a)(3)(A), as in effect after such amendments, are each amended by striking out "held less than 1 year".

(f) EFFECTIVE DATES .-

(1) In general.-Except as otherwise provided by this subsection, the amendments made by this section shall apply to sales and exchanges made after June 30, 1983.

CONFORMING AMENDMENTS. amendments made by subsection (b) shall

take effect on July 1, 1983. (3) CAPITAL LOSSES .-

(A) CONFORMING AMENDMENTS: TIMBER. ETC.—The amendments made by subsections (b) and (c) shall not apply with respect to losses on the sale or exchange of property held by the taxpayer on June 30, 1983.

(4) STRADDLES.—The amendments made by subsection (d) shall apply to any position which is part of a straddle (within the meaning of section 1092(c) of the Internal Revenue Code of 1954) held after June 30,

At the end of the second degree amendment add the following:

SEC. 2. CHARITABLE CONTRIBUTIONS OF CERTAIN ITEMS CREATED BY THE TAXPAYER AND OF MOTOR VEHICLE USE.

(a) In General.-Subsection (e) of section 170 of the Internal Revenue Code of 1954 (relating to certain contributions of ordinary income and capital gain property) is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR CERTAIN CONTRIBU-TIONS OF LITERARY, MUSICAL, OR ARTISTIC

COMPOSITIONS .-

(A) In general.-In the case of a qualified artistic charitable contribution-

(i) the amount of such contribution shall be the fair market value of the property contributed (determined at the time of such contribution), and

'(ii) no reduction in the amount of such contribution shall be made under subparagraph (A) or (B) of paragraph (1).

(B) QUALIFIED ARTISTIC CHARITABLE CON-TRIBUTION.—For purposes of this paragraph, the term 'qualified artistic charitable contribution' means a charitable contribution of any literary, musical, or artistic composition, any letter or memorandum, or similar property, but only if-

'(i) such property was created by the personal efforts of the taxpayer making such

contribution. (ii) the taxpaver—

"(I) has received a written appraisal of the fair market value of such property by a

person qualified to make such appraisal (other than the taxpayer, donee, or any related person (within the meaning of section 168(e)(4)(D))) which is made within 1 year of the date of such contribution, and

"(II) attaches to the taxpayer's income tax return for the taxable year in which such contribution was made a copy of such

appraisal

'(iii) the use of such property by the donee is related to the purpose or function constituting the basis for the donee's exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described under subsection (c)), and

"(iv) the taxpayer receives from the donee a written statement representing that the donee's use of the property will be in accordance with the provisions of clause (iii).

(C) PARAGRAPH NOT TO APPLY TO CERTAIN CONTRIBUTIONS BY PUBLIC OFFICIALS.—Subparagraph (A) shall not apply in the case of any charitable contribution of any letter. memorandum, or similar property which was written, prepared, or produced by or for an individual while such individual was an officer or employee of the United States or of any State (or political subdivision thereof) if the writing, preparation, or production of such property was related to, or arose out of, the performance of such individual's duties as such an officer or employee.

"(D) MAXIMUM DOLLAR LIMITATION .aggregate amount of qualified artistic charitable contributions allowable to any taxpayer as a deduction under subsection (a) for any taxable year shall not exceed 50 percent of the artistic adjusted gross income of the

taxpayer for such taxable year.

"(E) ARTISTIC ADJUSTED GROSS INCOME.— For purposes of this paragraph, the term 'artistic adjusted gross income' means that portion of the adjusted gross income of the taxpayer for the taxable year attributable to income from all property created by the taxpayer which is similar to the qualified artistic charitable contributions made by the taxpayer during the taxable year.

(b) TREATMENT OF EXCESS DEDUCTION FOR PURPOSES OF MINIMUM TAX.-Subparagraph (B) of section 55(e)(1) of such code (relating to alternative itemized deductions) is amended by inserting "determined without regard to section 170(e)(5)" after "deduc-

tions)"

(C) EXPENSES INCURRED IN USING A MOTOR VEHICLE FOR CHARITABLE PURPOSES -Paragraph (6) of section 170(f) of such Code (relating to disallowance of deduction and special rules) is amended to read as follows:

"(6) DEDUCTION FOR UNREIMBURSED EXPEND-

"(A) EXPENSES INCIDENT TO MOTOR VEHICLE USE.—The amount allowable as a deduction under subsection (a) with respect to unreimbursed out-of-pocket expenditures incurred by the taxpayer during the taxable year in operating any motor vehicle on behalf of an organization described in subsection (c) shall be equal to the lesser of—

"(i) the amount of such expenditures, or

"(ii) the product of-

"(I) 20 cents, multiplied by

"(II) the number of miles such motor vehicle was operated by the taxpayer on behalf of such organization during such tax-

able year.

(B) LOBBYING.-No deduction shall be allowed under this section for any out-ofpocket expenditure made by any person on behalf of an organization described in subsection (c) (other than an organization described in section 501(h)(5) (relating to

churches, etc.)) if the expenditure is made for the purpose of influencing legislation (within the meaning of section 501(c)(3))."

On page 10, line 15, strike out "(c)" and insert in lieu thereof "(d)".

(d) Effective Date.-The amendments made by this section shall apply to contributions made after December 31, 1982, in taxable years ending after such date.

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consider-

ation.

Mr. METZENBAUM. Mr. President,

a point of order.

The PRESIDING OFFICER. It is not in order for the Senator from Idaho to send an amendment to the desk as there are already two pending amendments.

Mr. DOLE. Mr. President, rather than pursue the amendment at this time, I wonder if the Senator from Idaho would let us try to resolve this between now and the morning.

Mr. SYMMS. Mr. President, I say to the distinguished chairman that that would be fine with me. I am surprised, knowing how fuel-efficient motorcycles are and that we have gone to great lengths to try to encourage multiple riderships of automobiles, that my good friend from Ohio would object to allowing people to ride a motorcycle on a highway they helped pay for. But if he wants to wait until morning, that is OK with me,

Mr. DOLE. Mr. President, the modification of the second-degree amendment does, in fact, add to the so-called artist amendment offered by the distinguished Senator from Montana.

That has been modified-

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Chamber. I would like to be able to see the manager of the bill as he proceeds.

Mr. DOLE. I thank the Senator. I

appreciate that.

That has been modified by amendments offered by the distinguished Presiding Officer, the Senator from Colorado, Senator Armstrong. I am not sure we are going to bring it up. I am just indicating we modified the amendment in that respect so there will not be anybody wondering what the modification was.

Mr. President, are there amendments that are noncontroversial? We are going to work out something with the Senator from Michigan, maybe lay his amendment down tonight, and we are trying to work out something with the Senator from Ala-

bama.

Mr. LEVIN. Mr. President, I am wondering on that score whether or not we will be able to work out a time agreement on my amendment.

Mr. DOLE. I certainly hope so, because we do not have much time after

we come in.

Mr. LEVIN. I wonder if we could work out, if the Senator from Kansas would agree, as soon as we lay it down,

a time agreement of perhaps 20 minutes on the amendment and 10 minutes on any motion to reconsider to make sure that it gets to a vote before cloture.

Mr. DOLE. If the majority leader might permit that, it may be we can debate it tonight. We are trying to work out something, if the Senator from Michigan will permit me to speak to the majority leader.

Mr. HUDDLESTON. Will the Sena-

tor from Kansas Yield?

Mr. DOLE. Yes.

Mr. HUDDLESON. Mr. President, I have an amendment that, as far as I know, is noncontroversial. The Senate passed the exact same language as part of the Immigration Act back in August by a very large vote. It would simply add to the bill the provision relating to the employment of illegal aliens, the sanctions contained therein. It complies with the intent of this bill and does in fact create a great many more-

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. HEINZ). The Senator will suspend. The Senate is not in order.

The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, it creates a good many more job opportunities for the American people than the bill we are dealing with now. As far as I know, no one has changed their position on that legislation and very possibly it would not be controversial. I would be happy to present it tonight.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, my good friend from Kentucky has indicated some intention to offer an amendment having to do with the immigration laws. I am not certain exactly where I stand on that issue, but I do think we sort of owe it as a courtesy to those who have been involved in the immigration laws to at least give them an opportunity to know that this matter is before the body. Under those circumstances, just in order to protect their positions, I would think we should not take it up this evening and would have to object to laying aside the pending amendment.

Mr. HUDDLESTON. Mr. President, I would be happy to have some understanding to take it up tomorrow morn-

Mr. DOLE. Mr. President, if the Senator would yield, that is not an amendment to the title the Senator from Kansas has control of from the management standpoint. I think that would be an amendment-it may not be germane to any of the titles. Maybe it would fit anywhere, come to think of it. But I think I agree with the Senator from Ohio. Perhaps we could think about it while we sleep.

Mr. HUDDLESTON. Mr. President, I am not adverse to that. I think the Senate has spoken on this question. But I would be glad to have some opportunity to present it tomorrow if I could be assured of that or give us some time to discuss it tonight and lay it over until tomorrow.

Mr. METZENBAUM. I think Senator SIMPSON and Senator KENNEDY have devoted a lot of time to this subject and are far more knowledgeable than I am. I think, just out of courtesy, since it is totally off the subject of this bill and certainly legislation on it, I think we ought not to even lay aside the pending amendment until they have had a sufficient chance to express their views on it.

Mr. LEVIN. Mr. President, could the Senator use the mike? We were unable to hear him.

Mr. METZENBAUM. I said that since this is a subject totally extraneous to the matter before the Senate this evening and since it deals with our immigration laws and since Senator SIMPSON and Senator KENNEDY have tremendous amount of time in this session on this subject, it would appear to me that, out of courtesy, we ought to wait and give them an opportunity to know that the matter is being presented or some effort is being made to take it up before we agree to lay aside the pending amendment for the purposes of bringing this amendment to the floor. Therefore, I would object.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, a moment ago the Senator from Kansas modified his pending second degree amendment. I would like to take just a moment to explain the nature of the modification because I think it con-

tains a matter of interest to many Senators and perhaps to those beyond the Chamber.

The purpose of his modification, if I understand it correctly, is to incorporate into his amendment the substance and spirit of a proposal offered by the Senator from Montana (Mr. Baucus) relating to the deductibility of certain artistic contributions.

On the last day of the pre-election session, Senators will recall that I objected to considering this matter at that time and felt that it could benefit from additional study. The argument in favor of it basically is tha many local museums and libraries could benefit from the artistic, musical, painting, and sculpture contributions which would be made by artists if they could be given a tax deduction.

Certainly at a time in the history of our country when we want to encourage the preservation and enhancement

of our heritage in this respect, that is a very appealing notion. I had some concern that the proposal, as it was drawn at that point, was unnecessarily broad and might lead to some abuse.

Along with the Senator from Montana and the Senator from Alaska (Mr. Stevens), I have joined in encouraging the Senator from Kansas to offer this modification, but with an additional modification to spell out the fact that such artistic deduction would be limited to no more than 50 percent of the amount of income from artistic endeavors that might be earned by the person claiming the deduction. In other words, to make it absolutely clear we would not have a situation where somebody had income from the practice of law, oil wells, the sale of stock, or something else, and use an artistic contribution to shelter that income.

Moreover, at my request, as a part of the work product of the working group I have just mentioned, there was added to this compromise a provision which permits in the future persons engaged in charitable activity and using their automobiles in the conduct of that activity to get the same mileage deduction for the use of their automobile that persons engaged in business or commerce would be entitled to get.

All in all, I think it is a very worthwhile resolution of the problem. Having been constrained to object to the consideration of this matter a few weeks ago, I wanted to simply report that, with the cooperation of the Senators, we have succeeded, we think, in working out a very neatly balanced item.

Mr. METZENBAUM. Will the Senator yield?

Mr. ARMSTRONG. I will yield to the Senator from Montana first.

Mr. BAUCUS. The Senator has very aptly explained the modification. I want to thank the Senators from Kansas, Colorado, and Alaska for their efforts.

Mr. President, the purpose of the artists tax equity and donation amendment is to encourage and promote charitable donations of artistic and literary works to the depositories—libraries and museums—of our national heritage. The amendment achieves this objective by correcting an inequity in the Tax Code.

# BACKGROUND

Mr. President, in 1969, Congress amended the tax code to prevent political figures from taking tax deductions when donating their public papers to charitable institutions. That 1969 law also included artists and creators of literary works. In effect, the law said that the creator of a literary or artistic work could deduct only the value of the materials used in creating that work when donating it to a charitable institution.

However, the law does permit collectors of artistic works to deduct the full fair market value of the work when donating it to a charitable institution.

This inequity has resulted in a drastic decline in donations of works—many of unquestioned value and importance to the Nation's culture—to our libraries and museums.

This amendment would correct the inequity that exists between creators and collectors, and would encourage and promote donations to our Nation's cultural institutions.

# SUPPORTERS

The original bill from which the amendment is derived enjoys wide support. There are 26 cosponsors in the Senate alone. In addition, President Reagan's Task Force on the Arts and Humanities endorsed the change in the tax law embodied in the amendment in its report of October 1981. Finally, numerous libraries and museums across the country strongly support passage of this measure.

#### REVENUE EFFECT

Mr. President, the loss to the treasury of this bill is small—especially when measured against the importance of preserving works of our national heritage. According to both CBO and JTC, the amendment will cost less than \$5 million in 1983 and less than \$15 million annually thereafter.

#### THE QUESTION OF ABUSE

Mr. President, a few of my colleagues have raised the question of the potential for abuse that may exist with this legislation.

I beliee the risk of abuse is substantially limited by provisions in the amendment, and by mechanisms already in place. The amendment requires an independent appraisal; requires that the institution to which a work is being donated be donated in accordance with the related-use requirement; and the amendment subjects any amount deductible under it to the provisions of the alternative individual minimum income tax.

In addition, the IRS has several tools to reduce the risk of abuse. The IRS has an art advisory panel, which is working well and which has reduced the deductions allowable in a number of instances; the IRS computors raise a red flag whenever a large difference exists between the purchase price of a work and its value for deduction purposes; a red flag is also automatically raised whenever any return contains an art donation valued at \$20,000 or more. Finally, there are penalties in the law for fraudulent behavior, and there are limits on the amount an individual can deduct from his taxable income.

# CONCLUSION

This measure will rectify an inequity that has existed in the tax code for too long and would help reverse the decline in donations of creative works to nonprofit institutions that has occurred over the past decade. I urge support for this amendment, and thank my colleagues for their endeavors on its behalf.

IN SUPPORT OF ARTISTS TAX EQUITY AND DONATION ACT

Mr. SYMMS. Mr. President, I am pleased to lend my strong support for the amendment which would permit the creator of literary, musical, or artistic compositions to deduct as a charitable contribution the fair market value of original works donated to a nonprofit charitable institution or organization. Until 1969 the Internal Revenue Code allowed deductibility for such gifts, not only by collectors, but by the creators themselves.

Since the change in the law in 1969, artists poets, musicians, authors, and scientists have been denied market deductibility for gifts of their own compositions to nonprofit institutions. Only the intrinsic value of the basic materials used could be deducted. The result has been that artists, composers, and authors have ceased contributing valuable works of art, music, and letters. A great wealth of original works has now been lost from preservation by our Nation's archives, libraries, and museums. Only collectors have had the benefit of fair market value tax deductibility when making gifts of literary or artistic works.

The Subcommittee on Estate and Gift Taxation, which I chair, held hearings on this issue in November of 1981, and many notable artists and composers testified in support of legislation to restore this important tax incentive for the donation of materials and creative works to nonprofit institutions.

I am a cosponsor of S. 2225, the Artists Tax Equity and Donation Act of 1982, introduced by Senator Baucus to correct this tax rule which has denied fair treatment in deductibility for artistic works. I applaud and compliment Senator Baucus for his continued efforts to promote this measure, and urge my colleagues to join us in support.

Mr. ARMSTRONG. I am going to yield the floor but before I do I want to again acknowledge my appreciation to the Senator from Montana for being permitted the opportunity to work with him on this. I think we have arrived at a satisfactory compromise.

Several Sentors addressed the Chair. The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, since the matter came up about the contribution of art, manuscripts, and related thing, I think I should state I am opposed to the amendment. In my judgment, the amendment would create a

considerable tax loophole if it should become law.

For example, under this amendment, a person could give a painting or a manuscript and he could deduct the appraised value from his income.

Assuming that that person is one of these successful people who is in a 50-percent bracket and he gave something, let us say, appraised at \$100, that would be worth \$50 to him at the expense of Uncle Sam.

On the other hand, suppose he sold it. Well, 40 percent is a fair or not an unusual commission. So if he sold it for the same \$100 that would leave him \$60. He would owe tax at 50 percent rate, leaving him \$30 after tax. So to give it away it would cost Uncle Sam \$50 and the taxpayer would be richer because he saved this \$50 on taxes he otherwise would have paid.

If he had sold it, Mr. President, it would have been worth \$30 to him by the time he got through paying a commission and his taxes. He makes \$20 at Uncle Sam's expense by donating the art rather than by selling it. That is assuming that he is not doing what so often happens to these appraisals. It is not at all unusual for the appraisal to be 50 percent above the actual selling price.

This area of valuing gifts, paintings and works of art has been one of the areas of tax abuse for a great number of years. The Treasury has been very concerned about it for good reason.

Assuming that the appraisal of a work of art is 50 percent above what the artist could have sold it, and that is not unusual, then, Mr. President, if the artist donates the art with an appraisal of \$150, it would save him \$75 in taxes compared to \$30 he would have left if he had sold it and paid a 40-percent commission. Uncle Sam is paying the \$45 difference through this loophole.

Mr. STEVENS. Will the Senator yield on that one point?

Mr. LONG. I will yield for a question.

Mr. STEVENS. Does the Senator realize that the 50 percent is a limitation on the tax advantage? It is not the tax advantage. In other words, the limitation of the shelter is 50 percent of the income derived from selling similar art

I am afraid the Senator has the impression that this gives a 50-percent advantage by donating a work of art.

Mr. LONG. I am assuming he is, in a 50-percent tax bracket. If he is then the donation is worth 50 percent of the value which he states is the appraised price.

Mr. STEVENS. If the Senator will look at the amendment just agreed to, the maximum tax shelter is 50 percent of the income from the same line of business. By definition, there are few people in the 50-percent tax bracket not selling art.

Mr. LONG. That just makes it all the worse. Basically, what that means is that this is a tax loophole for the benefit of the rich, those who are making a lot of money. The little fellow on his way up, in the 20-percent tax bracket, would not get much benefit since it would not mean much to him. But for those who are making a lot of money in this endeavor by selling paintings, this could be very valuable to them because they would be in the 50-percent tax bracket. The 50percent tax limitation would not make any difference to them because they would have a lot of income from paintings they sold.

Mr. STEVENS. If the Senator will yield for one more comment, I come from an area where there is developing a very strong artist community, but they do not make a lot of money. The only place they can sell their paintings primarily is to people who live outside the State. This means that if they are making some money, if they want to donate some of their works of art to their local museums and their university, their alma mater, they can do it and there is some incentive to do it. Admiral Hedly, there is a tax advantage to people who are in the \$100,000 bracket selling their paintings, perhaps \$25,000 paintings. This means that the maximum tax shelter allowed would be \$50,000, assuming all \$100,000 of their adjusted gross income were attributable to artistic income. Therefore a \$25,000 painting donated to a museum would have a tax value to a donor in the 50 percent tax bracket of \$12,500. The maximum allowable shelter for 1 year would be \$50,000.

Those artists I refer to do not happen to be in the 50-percent bracket at \$100,000. I am sure the Senator would realize that. As a consequence, there is not the savings the Senator assumes in this amendment.

The Senator from Colorado has specifically limited it. We have been advised the maximum exposure is \$5 million in terms of loss to the Treasury annually over the way the Senator from Colorado has amended this proposal.

Mr. LONG. It does not make any difference to me whether the loophole is worth \$5 million, \$50 million, or \$100 million. A loophole is a loophole! When the loophole is one that benefits those in a high tax bracket and would not provide the same benefit to those not in a high tax bracket, then this makes it all the worse kind of a loophole, in the view of this Senator.

The Treasury is opposed to it and for good reason.

Mr. President, I have discussed this matter with people who know something about the subject matter. In my judgment, I should oppose the amendment and I do oppose the amendment for the reasons I have stated.

Mr. DOLE. Mr. President, I send another modification to the desk as a second-degree amendment. This is to so-called California utilities amendment. I send it for myself. Senator Packwood, Senator Cranston, and Senator HAYAKAWA.

The PRESIDING OFFICER (Mr. ARMSTRONG). The amendment will be so modified.

The amendment (UP No. 1457), as further modified, is as follows:

At the end of the amendment add the following:

SEC. TAX TREATMENT OF PUBLIC UTILITY PROPERTY.

(a) NORMALIZATION METHOD FOR PURPOSES OF DEPRECIATION.

(1) In general.—Paragraph (3) of section 168(e) of the Internal Revenue Code of 1954 (relating to special rule for certain public utility property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC.-

'(i) In general.-One way in which the requirements of subparagraph (B) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of sub-

paragraph (B).

"(ii) Use of inconsistent estimates and projections.—The procedures and adjustments which are to be treated as inconsistent for purposes of clause (i) shall include any procedure or adjustment for ratemaking purposes which uses an estimate or projection of the taxpayer's tax expense, depreciation expense, or reserve for deferred taxes under subparagraph (B)(ii) unless such estimate or projection is also used, for ratemaking purposes, with respect to the other 2 such items and with respect to the rate base.

"(iii) REGULATORY AUTHORITY.-The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in clause (ii)) which are to be treated as inconsistent for purposes of

clause (i)."

(2) AMENDMENT TO SECTION 167(1), Subparagraph (G) of section 167(1)(3) of such Code (defining normalization method of accounting) is amended by adding at the end thereof the following new sentence: "For purposes of this subparagraph, rules similar to the rules of section 168(e)(3)(C) shall apply.

(b) COMPUTATIONS FOR PURPOSES OF IN-VESTMENT CREDIT.—Subsection (f) of section 46 of such Code (relating to limitation in case of certain regulated companies) is amended by adding at the end thereof the

following new paragraph:

"(10) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS, ETC., FOR PURPOSES OF PARA-

GRAPHS (1) AND (2).—
"(A) IN GENERAL.—One way in which the requirements of paragraph (1) or (2) are not met is if the taxpayer, for ratemaking purposes, uses a procedure or adjustment which is inconsistent with the requirements of paragraph (1) or paragraph (2), as the case may be.

"(B) USE OF INCONSISTENT ESTIMATES AND PROJECTIONS.—The procedures and adjustments which are to be treated as inconsistent for purposes of subparagraph (A) shall include any procedure or adjustment for ratemaking purposes which uses an esti-mate or projection of the taxpayer's qualified investment for purposes of the credit allowable by section 38 unless such estimate or projection is consistent with the estimates and projections of property which are used, for ratemaking purposes, with respect to the taxpayer's depreciation expense and rate base

"(C) REGULATORY AUTHORITY.-The Secretary may by regulations prescribe procedures and adjustments (in addition to those specified in subparagraph (B)) which are to treated as inconsistent for purpose of subparagraph (A).".

(c) EFFECTIVE DATES .-

(1) GENERAL RULE.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December

(2) SPECIAL RULE FOR PERIODS BEGINNING

BEFORE MARCH 1, 1980.

(A) In general.—Subject to the provisions of paragraphs (3) and (4), notwithstanding the provisions of section 167(l) and 46(f) of the Internal Revenue Code of 1954 and of any regulations prescribed by the Secretary of the Treasury (or his delegate) under such sections, the use for ratemaking purposes or for reflecting operating results in the taxpayer's regulated books of account, for any period before March 1, 1980, of—

(i) any estimates or projections relating to the amounts of the taxpayer's tax expense. depreciation expense, deferred tax reserve, credit allowable under section 38 of such

Code, or rate base, or

(ii) any adjustments to the taxpayer's rate of return,

shall not be treated as inconsistent with the requirements of subparagraph (G) of such section 167(l)(3) nor inconsistent with the requirements of paragraph (1) or (2) of such section 46(f), where such estimates or projections, or such rate or return adjustments, were included in a qualified order.

(B) QUALIFIED ORDER DEFINED .- For DUITposes of this subsection, the term "qualified

order" means an order-

(i) by a public utility commission which was entered before March 13, 1980.

(ii) which used the estimates, projections, or rate of return adjustments referred to in paragraph (1) subparagraph (A) to determine the amount of the rates to be collected by the taxpayer or the amount of a refund with respect to rates previously collected.

(iii) which ordered such rates to be collected or refunds to be made (whether or not such order actually was implemented or enforced).

(3) LIMITATIONS ON APPLICATION OF PARA-GRAPH (2).

(A) TAXPAYER MUST ENTER INTO CLOSING AGREEMENT BEFORE PARAGRAPH (2) APPLIES. Paragraph (2) shall not apply to any taxpayer unless, before the later of-

(i) July 1, 1983, or

(ii) 6 months after the refunds or rate reductions are actually made pursuant to a qualified order.

the taxpayer enters into a closing agreement (within the meaning of section 7121 of the Internal Revenue Code of 1954) which provides for the computation of the taxpayer's increased liability for tax described in subparagraph (B).

(B) COMPUTATION OF LIABILITY FOR TAX FOR TAXABLE YEARS REFLECTING REFUNDS, ETC. MADE.—In the case of any taxable year for which return filed by a taxpayer reflects a refund or rate reduction pursuant to a

qualified order, the closing agreement under subparagraph (A) shall provide that liability for tax of the taxpayer for such taxable year shall be increased by the excess of-

(i) such liability computed without regard to such refund of rate reduction, over

(ii) such liability computed with regard to such refund or reduction.

For purposes of this subparagraph, the term 'refund" shall include any credit allowed by the taxpayer under a qualified order but shall not include interest payable with respect to any refund under such order.

(4) SPECIAL RULES RELATING TO PAYMENT OF REFUNDS OR INTEREST BY THE UNITED STATES OR THE TAXAPAYER.-

(A) DELAY IN MAKING REFUNDS OR CRED-ITS .- No refund or credit of any overpayement of tax attributable to the provisions of paragraph (2) shall be made or allowed before October 1, 1983.

(B) No INTEREST PAYABLE BY UNITED STATES.—No interest shall be payable under section 6611 of the Internal Revenue Code of 1954 on any overpayment of tax which is attributable to the application of paragraph

(C) LIMITATION OF INTEREST IMPOSED ON TAXPAYER.-If the taxpayer timely enters into the closing agreement described in paragraph (3)(A), the last date prescribed for payment of the amount of any increase in tax liability by reason of such agreement shall, for purposes of section 6601 of such Code, be treated as the later of-

(i) June 30, 1983, or

(ii) the date described in paragraph (3)(A)(ii).

(5) No INFERENCE -The application of subparagraph (G) of section 167(1)(3) of the International Revenue Code of 1954, and the application of paragraphs (1) and (2) of section 46(f) of such Code, to taxable years beginning before January 1, 1980, shall be determined without any inference drawn from the amendments made by subsections (a) and (b) of this section or from the rules contained in paragraphs (2), (3), and (4). Nothing in the preceding sentence shall be construed to limit the relief provided by paragraphs (2), (3), and (4).

Mr. DOLE. Mr. President, we are going to work out something for the distinguished Senator from Michigan (Mr. Levin). I think we will capitulate part way to the Senator from Alabama. We are still checking. I promise the Senator we will not leave him empty-handed. We may just leave him but not empty handed. [Laughter.]

I know there is one other noncontroversial amendment we can dispose of.

The Senator from New Hampshire is here. I understand he has cleared this amendment all the way around. I ask unanimous consent that the pending amendments be temporarily set aside for the consideration of the amendment by the distinguished Senator from New Hampshire (Mr. HUMPHREY) and that no amendment to the amendments be in order.

The PRESIDING OFFICER. there objection? Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I am sorry that I did not hear the nature of the request.

Mr. DOLE. I asked unanimous consent that no amendment to the amendments be in order.

Mr. METZENBAUM. And what is the amendment that the Senator from New Hampshire is coming with, Mr. President?

Mr. HUMPHREY. It is an amendment that will insure that States like New Hampshire, which have no mass transit, will be able to spend fully their money on highway programs.

Mr. METZENBAUM. I did not hear

the Senator.

Mr. HUMPHREY. It is an amendment that will insure States which have no mass transit, such as my own, will be able to spend their mass transit funds fully on highway programs.

Mr. METZENBAUM. Is there anything in the amendment beyond that?

Mr. HUMPHREY. There is one minor point that permits my State or any State to spend mass transit funds for the acquisition of railroad rights-

To explain that, there are some railroad rights-of-way that my State wants to acquire to protect them so they will not be developed.

Mr. METZENBAUM. I have no ob-

jection.

The PRESIDING OFFICER. Without objection, the pending amend-ments are set aside and the Senator from New Hampshire is recognized.

UP AMENDMENT NO. 1471

(Purpose: To amend section 314(c))

Mr. HUMPHREY. Mr. President, I send an amendment to the desk on behalf of myself and my colleague (Mr. RUDMAN) and ask that it be considered.

The PRESIDING OFFICER. The

amendment will be stated.

The legislative clerk read as follows: The Senator from New Hampshire (Mr. HUMPHREY), for himself and Mr. RUDMAN, proposes an unprinted amendment numbered 1471

On page 134, in section 314(c)-

(1) after "United States Code" insert ", including the acquisition of railroad rights of way"; and

(2) by striking out the last sentence, and inserting in lieu thereof, "The Secretary shall not approve grants for highway projects in a state to the extent that grants used for such projects and for transit related projects in such state would exceed one half of one percent of the funds available under this section."

Mr. HUMPHREY. Mr. President, as the chairman of the Committee on Finance has pointed out, this amendment has been accepted by both sides of the aisle, by the chairman of the Banking Committee and the ranking member, and urge its acceptance.

Mr. SYMMS. will the Senator yield?

Mr. HUMPHREY. Yes.

Mr. SYMMS. I ask that the Senator

add my name as a cosponsor.

Mr. HUMPHREY, I ask unanimous consent that that be done, Mr. President.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. LEVIN. Will the Senator yield for a question?

Mr. HUMPHREY. Yes.

Mr. LEVIN. Does this change the amount of money going to any State? Mr. HUMPHREY. It does not.

Mr. LEVIN. I thank the Senator. Mr. GARN. Mr. President, will the Senator from New Hampshire yield?

Mr. HUMPHREY. Yes, Mr. Presi-

dent.

Mr. GARN. Mr. President, not only am I pleased to accept the amendment that the Senator from New Hampshire offers, but Senator RIEGLE is also willing to accept it. It is a good amendment. It gives States more flexibility in the use of funds that are already available to them. It is a good amendment, and I commend the Senator from New Hampshire for offering it.

Mr. HUMPHREY. I thank the Senator from Utah. I thank the Senator from Kansas in turn for his kind help in arranging for the acceptance of this

amendment.

Mr. President, I urge adoption of the

amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1471) was

agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENTS NOS. 1456 AND 1457

(Subsequently numbered amendments Nos. 5598 and 5599.)

The PRESIDING OFFICER. The question recurs on the second-degree amendment of the Senator from

Mr. DOLE. Mr. President, we were hoping we might be able to dispose by a voice vote of an amendment that Senator Boschwitz, Senator Grass-LEY, and others have been working on. In the meantime, I understand Senator Sarbanes and Senator Chaffe may have a noncontroversial amendment.

Mr. METZENBAUM. I am looking at that amendment, Mr. President. I have not had a chance to look at it. I shall have to object to this. Boschwitz amendment has something on the truck fees. I have no objection.

The PRESIDING OFFICER. Does any Senator seek recognition?

Mr. DOLE. Mr. President, the amendment of the distinguished Senator from Minnesota has been cleared all the way around, along with the second-degree amendment of the Senator from Iowa

Mr. BOSCHWITZ, Yes, Mr. President, it has

Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER, It is not in order at this time.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside for the consideration of the amendment to be offered by the distinguished Senator from Minnesota (Mr. Boschwitz) to be subject only to one amendment in the second degree to be offered by the distinguished Senator from Iowa (Mr. Grassley) and that no other amendments to the amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The second-degree amendment of the Senator from Kansas is set aside.

#### UP AMENDMENT NO. 1472

(Subsequently numbered amendment No. 5600.)

(Purpose: To lower the threshold weight subject to the vehicle parts tax and to lower the highway use tax)

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk on behalf of myself, Mr. Grassley, Mr. Jepsen, Mr. Melcher, Mr. Johnston, Mr. Symms, Mr. Huddleston, Mr. Abdnor, Mr. Baucus, Mrs. Hawkins, Mr. HELMS, Mr. D'AMATO, Mr. THUR-MOND, Mr. McClure, Mr. Armstrong, Mr. Levin, and Mr. Kasten.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. Bosch-WITZ), for himself, Mr. Grassley, Mr. Jepsen, Mr. Melcher, Mr. Johnston, Mr. SYMMS, Mr. Huddleston, Mr. Abdnor, Mr. Baucus, Mrs. Hawkins, Mr. Helms, Mr. D'Amato, Mr. Thurmond, Mr. McClure, Mr. ARMSTRONG, Mr. LEVIN, and Mr. KASTEN, proposes an unprinted amendment numbered 1472

Strike out sections 112 and 113 of the bill and insert in lieu thereof the following: SEC. 112. EXCISE TAX ON HEAVY TRUCKS.

- (a) CHANGES IN EXISTING MANUFACTURERS EXCISE TAX .-
- (1) INCREASE IN THRESHOLD WEIGHTS .-Paragraph (2) of section 4061(a) (relating to exclusion for light-duty trucks, etc.) amended to read as follows:
- "(2) EXCLUSION FOR TRUCKS WITH GROSS VE-HICLE WEIGHT OF 33,000 POUNDS OR LESS, AND CERTAIN TRAILERS .-
- "(A) The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).
- "(B) The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regulations prescribed by the Secretary)."
  - (2) THRESHOLD WEIGHT FOR PARTS.
- (A) In general.—Section 4061(b) (relating to tax on parts and accessories) is amended by adding at the end thereof the following new paragraph:

"(3) EXCLUSION FOR CERTAIN PARTS AND ACcessories.—No tax shall be imposed by paragraph (1) on any part or accessory which, as determined under regulations prescribed by the Secretary, is suitable for use. and ordinarily used on, or in connection with, a vehicle having a gross vehicle weight of 10,000 pounds or less.

(B) Conforming amendment.—Paragraph (1) of section 4061(b) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(3) EXEMPTION OF CERTAIN RAIL TRAILERS AND VANS.-Subsection (a) of section 4063 (relating to exemptions for specified articles) is amended by adding at the end thereof the following new paragraph:

"(8) RAIL TRAILERS AND RAIL VANS .- The tax imposed under section 4061 shall not

apply in the case of-

"(A) any chassis or body of a trailer or semitrailer which is designed for use both as a highway vehicle and a railroad car, and

'(B) any parts or accessories designed primarily for use on or in connection with an article described in subparagraph (A).

For purposes of this paragraph, a piggyback trailer or semitrailer shall not be treated as designed for use as a railroad car.

(4) TERMINATION OF TAX.—Subsection (a) of section 4061 (relating to trucks, buses, tractors) is amended by adding at the end thereof the following new paragraph:

(3) TERMINATION.—The tax imposed by this subsection shall not apply on and after

April 1, 1983.".

EFFECTIVE DATE.—The amendments (5) made by this subsection shall take effect on the day after the date of the enactment of this Act.

(b) INCREASE IN PARTS TAX.

- (1) IN GENERAL.—Paragraph (1) of section 4061 (b) (relating to tax on parts and accessories) is amended by striking out "8 percent of the price for which so sold, except that on and after October 1, 1984, the rate shall be 5 percent" and insert in lieu thereof "10 percent of the price for which so sold, except that no tax shall be imposed under this paragraph on and after October 1, 1989'
- (2) COORDINATION WITH RETAIL SALES TAX.

(A) Subsection (e) of section 4221 (relating to certain tax-free sales) is amended by adding at the end thereof the following new

"(5) TRUCK PARTS AND ACCESSORIES.-Under regulations prescribed by the Secretary, the tax imposed by section 4061(b) shall not apply to any part or accesssory which is sold for resale by the purchaser on or in connection with the first retail sale by such purchaser of an article which is taxable under

section 4051.

(B) Paragraph (2) of section 6416(b) (relating to special cases in which tax payments considered overpayments) is amended-

(i) by striking out "or" at the end of subparagraph (M).

(ii) by striking out the period at end of subparagraph (N) and inserting in lieu thereof "; or", and

(iii) by inserting after subparagraph (N) the following new subparagraph:

"(C) resold on or in connection with the first retail sale of an article which was taxable under section 4051.".

(3) Effective Date.—The amendments made by this subsection shall take effect on

April 1, 1983.

(c) IMPOSITION OF RETAIL TAX ON SALE OF HEAVY TRUCKS AND TRAILERS.

(1) In general.—Chapter 31 is amended by adding at the end thereof the following new subchanter:

"SUBCHAPTER B-HEAVY TRUCKS AND TRAILERS

"Sec. 4051. Imposition of tax on heavy trucks and trailers sold at retail.

"Sec. 4052. Definitions and special rules.

"Sec. 4053. Exemptions.

"SEC. 4051. IMPOSITION OF TAX ON HEAVY TRUCKS AND TRAILERS SOLD AT RETAIL.

(a) IMPOSITION OF TAX.-

"(1) In general.—There is hereby imposed on the first retail sale of the following articles (including in each case parts or accessories sold on or in connection therewith or with the sale thereof) a tax of 12 percent of the amount for which the article is so sold:

"(A) Automobile truck chassis. "(B) Automobile truck bodies.

"(C) Truck trailer and semitrailer chassis. "(D) Truck trailer and semitrailer bodies.

"(E) Tractors of the kind chiefly used for highway transportation in combination with

a trailer or semitrailer.

"(2) Exclusion for trucks weighing 33,000 POUNDS OR LESS .- The tax imposed by paragraph (1) shall not apply to automobile truck chassis and automobile truck bodies, suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less (as determined under regulations prescribed by the Secretary).

(3) EXCLUSION FOR TRAILERS WEIGHING 26,000 POUNDS OR LESS .- The tax imposed by paragraph (1) shall not apply to truck trailer and semitrailer chassis and bodies, suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less (as determined under regula-

tions prescribed by the Secretary).

"(4) Sale of trucks, etc., treated as sale OF CHASSIS AND BODY .- For purposes of this subsection, a sale of an automobile truck or truck trailer or semitrailer shall be considered to be a sale of a chassis and of a body

described in paragraph (1).

"(b) TERMINATION.—On and after October 1, 1989, the taxes imposed by this section

shall not apply.

"(c) Transitional Rule.—In the case of any article taxable under subsection (a) on which tax was paid under section 4061(a), subsection (a) shall be applied by substituting '2 percent' for '12 percent'.

"SEC. 4052. DEFINITIONS AND SPECIAL RULES.

"(a) FIRST RETAIL SALE.—For purposes of this subchapter-

"(1) In GENERAL.—The term 'first retail sale' means the first sale, for a purpose other than for resale, after manufacture, production, or importation.

(2) LEASES CONSIDERED AS SALES.—Rules similar to the rules of section 4217 shall

apply.

"(3) USE TREATED AS SALE.—

"(A) In general.—If any person uses an article taxable under section 4051 before the first retail sale of such article, then such person shall be liable for tax under section 4051 in the same manner as if such article were sold at retail by him.

"(B) EXEMPT FOR USE IN FURTHER MANUFAC-TURE.—Subparagraph (A) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under section 4051 to be manufactured or produced

by him.

"(C) COMPUTATION OF TAX.—In the case of any person made liable for tax by subparagraph (A), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(b) DETERMINATION OF PRICE.-

"(1) In general.-In determining price for purposes of this subchapter-

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded-

"(i) the amount of the tax imposed by this subchapter.

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee and

"(iii) the fair market value (including any tax imposed by section 4071) at retail of any tires (not inleuding any metal rim or rim

base), and

"(C) the price shall inlcude the value of any trade-in.

"(2) SALES NOT AT ARM'S LENGTH.-In the case of any article sold (otherwise than through an arm's-length transaction) at less than the fair market price, the tax under this subchapter shall be computed on the price for which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) CERTAIN COMBINATIONS NOT TREATED AS FURTHER MANUFACTURE.—For purposes of this subchapter (other than subsection (a)(3)(B)), a person shall not be treated as engaged in the manufacture of any article merely by reason of combining such article with an item described in section 4063(d).

"(d) CERTAIN OTHER RULES MADE APPLICA-BLE.-Under regulations prescribed by the Secretary, rules similar to the rules of-

"(1) subsections (c) and (d) of section 4216 (relating to partial payments),

"(2) subsection (f) of section 4216 (relating to certain trucks incorporating used components), and

"(3) section 4222 (relating to registration), shall apply for purposes of this subchapter.

"SEC. 4053. EXEMPTIONS.

"(a) EXEMPTION OF SPECIFIED ARTICLES. No tax shall be imposed under section 4051 on any article specified in subsection (a) of section 4063.

"(b) CERTAIN EXEMPTIONS MADE APPLICA-BLE.—The exemptions provided by section 4221(a) are hereby extended to the tax imposed by section 4051."

(2) TECHNICAL AND CONFORMING AMEND-

(A) Chapter 31 is amended by striking out the chapter heading and inserting in lieu thereof the following:

"Chapter 31—RETAIL EXCISE TAXES

"Subchapter A. Special fuels.
"Subchapter B. Heavy trucks and trailers.

"SUBCHAPTER A-SPECIAL FUELS".

(B) The table of chapters for subtitle D is amended by striking out the item relating to chapter 31 and inserting in lieu thereof the following new item:

'Chapter 31. Retail excise taxes."

(C) Paragraph (2) of section 6416(b), as amended by this Act, is amended by inserting "or under section 4051" after "section 4041(a)".

(D) Paragraph (1) of section 6416(a) is amended by striking out "chapter 31 (special fuels)" and inserting in lieu thereof "chapter 31 (relating to retail excise taxes)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on April 1, 1983.

SEC. 113. HEAVY TRUCK USE TAX.

(a) INCREASE IN RATE OF TAX.-Subsection (a) of section 4481 (relating to imposition of tax) is amended to read as follows:

"(a) Imposition of Tax.—A tax is hereby imposed on the use of any highway motor vehicle which (together with the semitrailers and trailers customarily used in connection with highway motor vehicles of the same type as such highway motor vehicle) has a taxable gross weight of at least 33,000 pounds in an amount determined under the following table:

"If the taxable gross The amount of tax per

weight is: taxable period is:
Less than 55,000 pounds. \$80, plus \$10 for each 1,000 pounds or frac-tion thereof in excess

of 70,000 pounds

of 33,000 pounds.

At least 55,000 pounds \$300, plus \$20 for each but less than 70,000 1,000 pounds or frac-tion thereof in excess pounds.

but less than 80,000 pounds.

of 55,000 pounds. At least 70,000 pounds \$600, plus \$60 for each 1,000 pounds or frac-tion thereof in excess

80,000 pounds or more .... \$1,200. (b) EXEMPTION WHERE TRUCK USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS .-Section 4483 (relating to exemptions from highway use tax) is amended by adding after subsection (c) thereof the following new subsection:

'(d) EXEMPTION FOR TRUCKS USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS .-

(1) Suspension of Tax.-

"(A) In general.—If—
"(i) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be 5,000 miles or less, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations required with respect to the expected use of such vehicle.

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

(2) EXEMPTION.-If-

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph

(1),
"(B) such vehicle is not used during the taxable period on public highways for more

than 5,000 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period.

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.-If

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to such taxable period.

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"(4) OWNER DEFINED .- For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b)."

(c) CLARIFICATION OF TRAILER CUSTOMARI-LY USED IN CONNECTION WITH HIGHWAY MOTOR VEHICLES .-

(1) In general.—Subsection (c) of section 4482 is amended by adding at the end thereof the following new paragraph:

"(5) CUSTOMARY USE.-A semitrailer or trailer shall be treated as customarily used in connection with a highway motor vehicle if such vehicle is equipped to tow such semitrailer or trailer."

(2) CONFORMING AMENDMENT.—The heading for subsection (c) of section 4482 is amended by inserting "and Special Rule" after "Definitions".

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.—Section 4482 is amended by adding at the end thereof the following new subsection:

(d) SPECIAL RULE FOR TAXABLE PERIOD IN WHICH TERMINATION DATE OCCURS.-In the case of the taxable period which ends on September 30, 1989, the amount of the tax imposed by section 4481 with respect to any highway motor vehicle shall be determined by reducing each dollar amount in the table contained in section 4481(a) by 75 percent."

(e) EFFECTIVE DATE .-

(1) In general.-Except as otherwise provided in this subsection, the amendments made by this section shall take effect on January 1, 1984.

(2) SHORT TAXABLE PERIODS.—For purposes of subchapter D of chapter 36 of the Inter-

nal Revenue Code of 1954-(A) the period beginning on July 1, 1983,

and ending on December 31, 1983, (B) the period beginning on January 1,

1984, and ending on June 30, 1984, (C) the period beginning on July 1, 1984, and ending on December 31, 1984,

(D) the period beginning on January 1. 1985, and ending on June 30, 1985,

(E) the period beginning on July 1, 1985,

and ending on December 31, 1985, and (F) the period beginning on January 1. 1986, and ending on June 30, 1986.

shall each be treated as a taxable period.

(3) TRANSITIONAL RULE FOR FIRST SHORT PERIOD.-In the case of the taxable period beginning on July 1, 1983, the tax imposed by section 4481(a) of such Code with respect to the use of any highway motor vehicle shall be determined by substituting "\$1.50 for the taxable period" for "\$3.00 a year" in such section 4481(a).

(4) TRANSITIONAL RULE FOR SECOND SHORT PERIOD .- In the case of taxable periods beginning in calendar year 1984 the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of-

(A) one-sixth of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(B) one dollar multiplied by the number of thousands of pounds (or fraction thereof) in the taxable gross weight of such vehicle (within the meaning of section 4482(b) of such Code), and

(5) TRANSITIONAL RULE FOR THE TAXABLE PERIOD BEGINNING ON JULY 1, 1984.-In the case of taxable periods beginning in calendar year 1985, the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle shall be an amount equal to the sum of-

(A) one-third of the amount of the tax imposed by such section (determined without regard to this paragraph), plus

(B) 50 cents multiplied by the number of thousands of pounds (or fraction thereof) in the taxable gross weight of such vehicle (within the meaning of section 4482(b) of such Code).

(6) TRANSITIONAL RULE FOR CERTAIN OWNERS FOR THE TAXABLE PERIOD BEGINNING ON JANUARY 1, 1986.-In the case of the taxable period beginning on January 1, 1986, the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle by any person other than an owneroperator shall be an amount equal to onehalf of the amount of the tax imposed by such section (determined without regard to this paragraph).

(7) APPLICATION OF 5,000 EXEMPTION IN CERTAIN TAXABLE PERIODS .- In the case of taxable periods beginning after December 31, 1983 and before July 1, 1986, subsection (d) of section 4483 of such Code as amended by this section, shall be applied by substituting "2,500" for "5,000" each place it appears.

(8) COORDINATION WITH INSTALLMENT PAY-MENT OF TAX .-

(A) The Secretary of the Treasury or his delegate shall by forms or regulation provide for appropriate adjustments in the application of section 6156 of such code with respect to the taxable periods referred to in paragraph (2).

(B) For purposes of subparagraph (A)-

(i) there shall be substituted for the table appearing in section 6156(a) of such Code the following table:

"If liability is incurred The number of installments shall be-

July, August, September, January, Febru-. arv. or March ..

(ii) in lieu of subsection (e) of such section 6156, section 6156 shall not apply to any liability for tax incurred in October, November, December, April, May, or June.

2".

(f) STUDY OF ALTERNATIVES TO TAX ON USE OF HEAVY TRUCKS .-

(1) In general.—The Secretary of Transportation (in consultation with the Secretary of the Treasury) shall conduct a study of-

(A) alternatives to the tax on heavy vehicles imposed by section 4481(a) of the Internal Revenue Code of 1954, and

(B) plans for improving the collecting and enforcement of such tax and alternatives to such tax.

(2) ALTERNATIVES INCLUDED.—The alternatives studied under paragraph (1) shall include taxes based either singly or in suitable combinations on vehicle size or configuration; vehicle weight, both registered and actual operating weight; and distance traveled. Plans for improving tax collection and enforcement shall, to the extent practical, provide for Federal and State cooperation in such activities.

(3) CONSULTATION WITH STATE OFFICIALS AND OTHER AFFECTED PARTIES.-The study required under subsection (a) shall be conducted in consultation with State officials. motor carriers, and other affected parties.

(4) REPORT.-Not later than January 1 1985, the Secretary of Transportation shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under paragraph (1) together with such recommendations as he may deem advisable.

Mr. BOSCHWITZ. Mr. President, the intent of the 5-cents-per-gallon tax on gas is first to improve our crumbling roads, but at the same time rectify some of the current inequities among the heaviest users of our highways. All that, and the promise of creating jobs, some 320,000.

We are repairing roads, it is true. And to do that we will create some jobs, but in accomplishing these two, we may have unfairly hurt the trucking industry, which has had certain problems, as have many industries

during the recession.

To the trucker who is hauling the cement or equipment to build and repair these roads, this all may come as good news and bad news. The good news is that there will be some work. The bad news is that to underwrite this work, the trucker may be taxed out of business.

As part of the piece of legislation the Department of Transportation has wanted to correct some of the inequities in the way heavy-vehicle use taxes are levied. But as it stands, now, it is simply too much of a burden implemented too soon for the already-strapped trucking industry to bear.

Consider this, Mr. President:

In 1982, the trucking industry made only \$120 million in net profits on \$44 billion in sales. At only one-half of 1 percent, that is not good.

To pay for the new taxes, the trucking industry will pay an average of 3 to 3.5 percent of its operating budget—just to underwrite the new tax.

When you consider that 50 percent of that operating budget is labor, you realize that to absorb the new costs will require a 4- to 5-percent cut in labor.

When you consider that this is 8 or 10 times its net profit, that certainly

puts it at great jeopardy.

The recession has been hard not only on small businessmen but truckers as well, particularly small truckers.

Nobody is buying, nobody is shipping—and the trucker gets stuck in the middle. To levy such a sudden tax increase could place an almost unbearable strain on an already hard-pressed industry.

What's more, the industry is still recovering from the 1980 deregulation. Truckers can no longer pass through tax increases through the rate-making capabilities of the Interstate Commerce Commission.

In fact, rates have actually been dropping in some parts of the Nation.

I recognize that the Senate bill thus far has already tried to mitigate some of the more onerous aspects of the bill.

The Senate Finance Committee has allowed a heavy vehicle use exemption for vehicles that travel 5,000 miles or less on highways. It has also phased in

the tax until 1985, to lessen the immediate burden; and finally it has lowered the maximum tax from \$2,000 to \$1,600 annually.

Those changes, however, are not enough. In this amendment, I hope to:

Lower the tax even further, to \$1,200. That is less than half of what was originally proposed.

Extend the phase-in period to 1986; What is more, for independents with three trucks or fewer, that extension goes to 1987.

This entire bill is a good one. I think it is one of the best investments this Government can make. It will give us one of the quickest returns on investment of anything we do here in Washington.

Mr. President, I hope my amendment will make it even better.

Mr. President, this is an effort to stretch out the imposition of the use tax and also to reduce the maximum use tax to \$1,200. It extends the phase-in period to 1986. I believe my friend and colleague from Iowa has an amendment that will apply most specifically to the small truckers.

## UP AMENDMENT NO. 1473

Mr. GRASSLEY. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. Grassley), for himself, Mr. Boschwitz, Mr. Melcher, Mr. Levin, Mr. Thurmond, and Mr. Symms, proposes an unprinted amendment numbered 1473 to unprinted amendment numbered 1472.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Subsection (a) of section 112 of the matter proposed to be inserted is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

(5) EXEMPTION OF FARM EQUIPMENT USED IN TRANSPORTING LIVESTOCK.—Subsection (a) of section 4063 is amended by adding at the end thereof the following new paragraph:

"(9) FARM EQUIPMENT DESIGNED TO TRANS-PORT LIVESTOCK.—The taxes imposed by section 4061 shall not apply in the case of any truck body, trailer body, semitrailer body (or any part or accessory thereof) which is uniquely designed to transport livestock to and on farms."

Subsection (b) of section 113 of the matter proposed to be inserted is amended to read

as follows:

(b) EXEMPTION WHERE TRUCK USED FOR 5,000 MILES OR LESS ON PUBLIC HIGHWAYS; REFUND OR CREDIT FOR CESSATION OF USE.—Section 4483 (relating to exemptions from highway use tax) is amended by adding after subsection (c) thereof the following new subsections:

"(d) Exemption for Trucks Used for 5,000 Miles or Less on Public Highways.—

"(1) Suspension of tax.
"(A) In general.—If—

"(1) it is reasonable to expect that the use of any highway motor vehicle on public highways during any taxable period will be 5,000 miles or less, and

"(ii) the owner of such vehicle furnishes such information as the Secretary may by forms or regulations require with respect to

the expected use of such vehicle.

then the collection of the tax imposed by section 4481 with respect to the use of such vehicle shall be suspended during the taxable period.

"(B) SUSPENSION CEASES TO APPLY WHERE USE EXCEEDS 5,000 MILES.—Subparagraph (A) shall cease to apply with respect to any highway motor vehicle whenever the use of such vehicle on public highways during the taxable period exceeds 5,000 miles.

"(2) EXEMPTION.-If-

"(A) the collection of the tax imposed by section 4481 with respect to any highway motor vehicle is suspended under paragraph (1)

(1),
"(B) such vehicle is not used during the taxable period on public highways for more

than 5,000 miles, and

"(C) except as otherwise provided in regulations, the owner of such vehicle furnishes such information as the Secretary may require with respect to the use of such vehicle during the taxable period.

then no tax shall be imposed by section 4481 on the use of such vehicle for the taxable period.

"(3) REFUND WHERE TAX PAID AND VEHICLE NOT USED FOR MORE THAN 5,000 MILES.—If—

"(A) the tax imposed by section 4481 is paid with respect to any highway motor vehicle for any taxable period, and

"(B) the requirements of subparagraphs (B) and (C) of paragraph (2) are met with

respect to such taxable period,

the amount of such tax shall be credited or refunded (without interest) to the person who paid such tax.

"(4) OWNER DEFINED.—For purposes of this subsection, the term 'owner' means, with respect to any highway motor vehicle, the person described in section 4481(b).

"(e) Use-tax Refunds or Credit.-

"(1) ALLOWANCE OF REFUND OR CREDIT.-If

in any taxable period-

"(A)(i) a highway motor vehicle with respect to which the tax imposed by section 4481(a) has been paid ceases to be used on the highways in a manner which would cause imposition of such tax, and

"(ii) it is reasonable to expect such cessation will continue through the end of the

taxable period, or

"(B) the owner of any highway motor vehicle with respect to which the tax imposed by section 4481(a) for any taxable period has been paid transfers such vehicle to any person during such taxable year and the transferee of such vehicle—

transferee of such vehicle—
"(i) pays the tax imposed with respect to his use of such vehicle for the remainder of such taxable period, and certifies to the transferor that such payment has been

made, or

"(ii) certifies to the transferor that no tax is reasonably expected to be imposed under section 4481(a) with respect to the transferee's use during the remainder of such taxable period,

a refund or credit determined as provided in paragraph (2) shall be made by the Secretary.

"(2) AMOUNT OF REFUND.—The refund or credit shall be reckoned proportionately from the first day of the month following the month in which such cessation of use occurs to and including the last day in such taxable period.

"(3) Exception.—This provision shall not apply to any case to which subsection (d)

applies.

"(4) RULE AUTHORITY.—The Secretary is authorized to promulgate rules to carry out this subsection.".

Subsection (e) of section 113 of the matter proposed to be inserted is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

(8) SPECIAL TRANSITIONAL RULES FOR OWNER-OPERATORS.—

(A) In general.—In the case of taxable periods beginning in calendar year 1986—

(i) the amount of the tax imposed by section 4481(a) of such Code (as amended by this section) on the use of any highway motor vehicle by an owner-operator shall be an amount equal to the sum of—

(I) one-third of the amount of the tax imposed by such section (determined without

regard to this paragraph), plus

(II) 50 cents multiplied by the number of thousands of pounds (or fraction thereof) of the taxable gross weight of such vehicle (within the meaning of section 4482(b) of such Code), and

(ii) subsection (d) of section 4483 of such Code, as amended, shall be applied by substituting "2,500" for "5,000" each place it

appears.

(B) Taxable period beginning january 1, 1987.—In the case of the taxable period be-

ginning January 1, 1987-

(i) the smount of the tax imposed by section 4481(a) of such Code, as amended by this section, on the use of any highway motor vehicle by an owner-operator shall be equal to one-half of the amount of the tax imposed by such section (determined without regard to this paragraph), and

(ii) subsection (d) of section 4483 of such Code, as amended, shall be applied by substituting "2,500" for "5,000" each place it

appears.

(C) OWNER-OPERATOR.—For purposes of this paragraph, the term "owner-operator" means any person who owns and operates at any time during the taxable period no more than 3 highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code for such taxable period.

(D) AGGREGATION OF VEHICLE OWNER-SHIPS.—For purposes of subparagraph (B), all highway motor vehicles with respect to which a tax is imposed by section 4481 of such Code which are owned by—

(i) any trade or business (whether or not incorporated) which is under common control with the taxpayer (within the meaning

of section 53(b)), or

(ii) any member of any controlled groups of corporations of which the taxpayer is a member, for any taxable period shall be treated as being owned by the taxpayer during such period. The Secretary shall prescribe regulations which provide attributable rules that take into account, in addition to the persons and entities described in the preceding sentence, taxpayers who own highway motor vehicles through partnerships, joint ventures, and corporations.

(E) CONTROLLED GROUPS OF CORPORA-TIONS.—The term "controlled groups of corporations" has the meaning given to such term by section 1563(a), except that(i) "more than 50 per cent" shall be substituted for "at least 80 percent" each place it appears in section 1563(a)(1), and

(ii) the determination shall be made without regard to subsections (a)(4) and

(e)(3)(C) of section 1563.

(F) HIGHWAY MOTOR VEHICLES.—The term "highway motor vehicles" has the meaning given to such term by section 4482(a) of such Code.".

Section 113 of the matter proposed to be inserted is amended by redesignating subsections (e) and (f) as subsections (f) and (g) and by inserting after subsection (d) the following new subsection:

and by inserting and lowing new subsection:

(e) Conforming Amendment.—Section 4481 is amended by striking out subsection

i).

Subsection (f) of section 113 of the matter proposed to be inserted, as redesignated, is amended—

(1) by striking out "and" and the end of subparagraph (E), and

(2) by inserting after subparagraph (F) the following new subparagraphs:

"(G) in the case of a highway motor vehicle owned by an owner-operator, the period beginning on July 1, 1986 and ending on December 31, 1986, and

"(H) in the case of a highway motor vehicle owned by an owner-operator, the period beginning on January 1, 1987 and ending on

June 30, 1978,"

Mr. GRASSLEY. This amendment also recognizes the concerns of a group within the trucking industry. These are the independent owner-operators. These individuals generally own one or two trucks and will suffer the most from the increase in heavy-vehicle-use taxes. In recognition of these concerns, this amendment will increase the phase-in period of the heavy-vehicle use taxes for independent owner-operator to 4 years.

In addition, this amendment will exempt truck trailers from the sales tax if they are primarily designed to carry livestock to and on the farm.

The last provision of this amendment addresses the inequitable situation of the imposition the heavy-vehicle use tax on trucks that have been sold or are no longer used on the highway. In these situations, this amendment will allow the payor of the heavy-vehicle use taxes to obtain a refund or credit for the payment of use taxes on a vehicle which he no longer owns or on a vehicle which will no longer be using the highways.

Mr. President, these amendments address current inequities in the highway user taxes and I hope my colleagues will join me in passing these

amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The

Senator from Kansas.

Mr. DOLE. Mr. President, let me commend the distinguished Senator from Iowa and indicate that this is a matter that has been a concern of the Senator from Iowa since prior to the hearings. We have been attempting through calls to Iowa and my own

State of Kansas through staff and personally to make certain we were offering some additional protection for so-called owner-operators, and particularly the smaller owner-operators.

We hope that the amendment Senator Grassley has offered will address

that question.

We know that there are still some concerns about the overall tax, particularly the user fees, but in my view with the amendment offered by Senator Grassley to the amendment of Senator Boschwitz and others, certainly our intent—and I think the Senator from Iowa would agree—was to be helpful. In my view, this will be helpful, and we are going to do the best we can to make certain we retain our position in the conference.

Mr. GRASSLEY. Will the Senator

yield?

Mr. DOLE. I yield.

Mr. GRASSLEY. I want to thank the Senator from Kansas for, over the period of the last week or 10 days, helping me to work on this problem. He has been very helpful in recognizing the problems of these small owner-operators. I think they are the people who have the least ability to pass on additional costs created by the bill because in many instances they operate under other firms' authority.

I want to thank the Senator very much for helping with this problem.

Mr. SYMMS. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I would be happy to vield.

Mr. SYMMS. I join in the praise for the Senator from Minnesota and the Senator from Iowa in getting this amendment here. We have worked on this together. Our distinguished chairman from Kansas certainly has been very helpful to particularly those of us coming from States that are further out that count on truck transportation. I think this amendment will be very helpful to the passage of this bill and will be very helpful to this legislation and make it more fair and equitable in the distribution of these costs.

I thank the Senator.

Mr. LEVIN addressed the Chair.

Mr. DOLE. I yield first to the Senator from Montana who has been seek-

ing recognition.

Mr. MELCHER. I thank the Senator from Kansas for yielding to me. I want to express my pleasure in being able to join with the Senator from Minnesota and the Senator from Iowa in presenting to the Senate a combination of improvements for the trucking industry and particularly for the owner-operators of trucks. After all, as the bill was presented, though improved in the aspects of the Federal use tax, the burden on 80,000-pound trucks and even those that are not quite 80,000 was about 7½ times the current Federal use tax.

This is still high under the amendments that are offered, but there is more reason to it now. There is a more commonsense approach to it. It also has the advantage of having a longer stretch-out period before the \$1,200 amount has to be met.

I thank the Senator for yielding. Mr. LEVIN addressed the Chair. THE PRESIDING OFFICER. The

Senator from Michigan.

Mr. LEVIN. I simply want to commend my friends from Minnesota and Iowa for their amendments and ask unanimous consent that I be added as a cosponsor.

Mr. GRASSLEY. Mr. President, I appreciate the support of the Senator from Michigan. I also ask unanimous consent that the Senator from South Carolina (Mr. Thurmond) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. The amendment of the Senator from Iowa will eliminate some inequities currently in the highway user taxes. The amendment allows certain independent truck owner-operators to have an additional year before the heavy vehicle use tax is fully phased in.

In addition, the amendment will allow certain trailers which are primarily designed to carry livestock to be exempt from the new trailers tax in the Finance Committee bill. The amendment will also allow certain truck owners to obtain a refund or credit for taxes paid on a truck which is subsequently sold or will no longer be used on the highway.

Mr. President, the amendment of the Senator from Iowa has been adopted, is that correct?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Iowa.

The amendment (UP No. 1473) was agreed to.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The

Senator from Kansas.

Mr. DOLE. I should like to briefly state, before yielding to the Senator from New Mexico and the Senator from Rhode Island, that this amendment is in response to concerns that many of us had in the past couple of weeks concerning, first of all, getting the bill passed. I am not going to stand here and suggest that we have pleased everyone or maybe we have pleased anyone, because when you increase taxes substantially, as we do in this bill, rightly or wrongly, they are not going to be accepted with a great deal of enthusiasm. So we have had discussions with representatives of the trucking industry. We have tried to accommodate some of their concerns. It is my hope that the amendment offered by Senator Boschwitz and others and the second degree amendment of the Senator from Iowa and the Senator from Montana and the Senator from Michigan and others will address their concerns. This will reduce the maximum use tax that an 80,000-pound vehicle will be paying at the end of the phase-in period. It is more generous treatment than the House hill

The Senate Finance Committee. frankly, had been criticized by some in the media for being overgenerous with truckers. There will probably be criticism of any additional softening of the impact, but I suggest that the trucking industry is not in an economic boom period right now. They are also in the throes of a recession. They are not in a position to absorb additional costs at this time. That is why we have the phasein in our bill. That is why we also lower the maximum tax under the amendment offered this evening to \$1,200.

Mr. President, this amendment is in response to concerns that I and many of my colleagues have expressed about the impact of the immediate increase in the heavy vehicle use tax on the trucking industry. Many representa-tives of the trucking industry have met with me and other Members of this body and expressed a willingness to pay their fair share for needed highway improvements and bridge repair and maintenance. This amendment is a compromise between the trucker's willingness to pay their fair share and the economic problems the trucking industry is currently experi-

This amendment will reduce the maximum use tax that an 80,000 pound vehicle will be paying at the end of the phase-in period. The maximum use tax will be reduced from the Finance Committee's substitute of \$1,600 to \$1,200. In addition, the phase-in period will be increased from 21/2 years to 3 years. This amendment also modifies the parts and accessories tax. Under the Finance Committee substitute, parts and accessories of vehicles weighing less than 33,000 pounds would not be taxable. Under this amendment, parts and accessories for trucks weighing between 10,000 pounds and 33,000 pounds will be taxable. This amendment also reduces the parts and accessories tax from 12 percent in the Finance Committee bill to 10 percent.

Mr. President, I believe this amendment represents an excellent compromise between the position of the administration and that of the trucking industry. This amendment will gradually increase the heavy use taxes currently being paid by heavy trucks in recognition of the equitable allocation of user fees going into the highway trust fund. This amendment also recognizes the ability of the trucking industry to pay increased heavy use taxes and accommodates their economic concerns.

The PRESIDING OFFICER. The question is on the agreeing to the amendment of the Senator from Minnesota, as amended.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I, too, commend the distinguished Senators for the amendment and the additional amendment to the amendment.

I found that the overall proposal was rather acceptable in my State excepting for the rather exorbitant increase in truckers fees, and I commend both Senators and the distinguished Senator from Kansas for working this out. I think it is far more reasonable and makes the entire bill far more acceptable to the broad community that is paying under it. I understood over the long run you lose no money; is that correct?

Mr. DOLE. That is correct.

Mr. DOMENICI. I thank the Sena-

Mr. DOLE. Mr. President, before I fail to recognize him, probably the leader in this area has been the Senator from Idaho (Mr. Symms). He was working on this earlier this year. In fact, at one point we had a gas tax and were considering other exicise taxes in the so-called tax reform package, TEFRA, which means different things to different people. So certainly the record should indicate the Senator from Idaho has been in the forefront on this. He has been very helpful.

I am happy to be added as a cosponsor and also the Senator from Colorado (Mr. Armstrong) is a cosponsor of the amendment.

Mr. BOSCHWITZ. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

Mr. DOLE. Mr. President, I have been trying to contact the majority leader. The minority leader is in the Chamber. This is a rather substantial amendment. I do not want to preclude anyone having an opportunity to have a rollcall vote on the amendment.

I wonder if I might confer briefly with the Senator from Louisiana, the Senator from West Virginia, and the prime sponsors of the amendment.

Mr. President, I suggest the absence of a quorum.

Mr. CHAFEE. Mr. President, I was wondering pending the consideration of this measure whether I could move forward with another amendment.

The PRESIDING OFFICER. Does the Senator from Kansas withhold his request or does the Senator from Rhode Island ask unanimous consent that the quorum call be suspended?

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that we temporarily set aside the pending amendment, including the amendments of the Senator from Minnesota and the Senator from Iowa, and that for consideration of the amendment to be offered by the Senator from Maryland and the Senator from Rhode Island, and no amendment to the amendment to be in order.

The PRESIDING OFFICER. Is there objection to the request of the

Senator from Kansas?

Mr. BOSCHWITZ. Mr. President, reserving the right to object, am I not correct the amendment of the Senator from Iowa has already been adopted?

Mr. GRASSLEY. Yes.

Mr. DOLE. Excuse me. That is correct.

Mr. BOSCHWITZ. Mr. President, I understand that there was no objection to my amendment and I thought

it was going to go forward.

Mr. DOLE. There is no objection. It just seems to the Senator from Kansas that many, many Senators left the Chamber thinking there would be no more votes, thinking we would be only considering minor amendments. This is a very substantial amendment. I am assuming it is going to pass with an overwhelming vote. But I would not want to deprive some Senator who might go home of an opportunity to support such an outstanding amendment.

Mr. BOSCHWITZ. We certainly will be happy to add whatever Senator wishes to be added as cosponsor in the

morning.

All I have done all day is receive Senators who wanted to be added as cosponsors to the amendment and rather than leave the matter undone tonight I certainly wish to move the

adoption of the amendment.

Mr. LONG. Mr. President, I am not a cosponsor of the amendment, but I for one wish to vote for it. I believe there are other Senators who wish to vote on the amendment. I will vote for the Senator's amendment, but I wish that opportunity. I believe that we should vote on the Senator's amendment and those who want to be recorded in favor of it should have that opportunity. I should think tomorrow would be the time to do it since we have been told there will be no more rollcall votes this evening. I think the amendment will carry by a large margin. I intend to vote for it. But I think Senators should have the privilege of voting on it.

Mr. STEVENS. Mr. President, I see the distinguished minority leader is

here. We have made the announcement that there will be no further rollcall votes tonight. I would not want to see the precedent broken that once that has been agreed to by the majority and minority leaders that their words will not be kept.

I would be ready to have some kind of a consent setting a time certain for this vote to occur tomorrow morning prior to the rollcall vote on the cloture vote so it would not be caught up in a

matter of a cloture vote.

It would be my suggestion that we have a unanimous-consent request that this amendment be the pending business and there be a consent that the amendment would be voted on prior to the cloture vote but not set a specific time until we return in the morning.

Mr. DOLE. Mr. President, there is just one reservation I would have there, and we are going to lay it down if not tonight because of I think a desire to have a Record vote on this, the Senator from Michigan will be recognized under a time agreement to call up his amendment on unemployment compensation. I made that pledge to the Senator from Michigan.

Would that cause him any problem if we first vote on this tomorrow morn-

ing?

Mr. LEVIN. Mr. President, the only problem I would have is if we do not dispose of my amendment prior to cloture. If the distinguished Senator can arrange a unanimous-consent request to assure that my amendment will be disposed of prior to cloture, how he rearranges it to determine the rollcall on this is perfectly fine with me.

My own schedule, frankly, is I prefer that this be voted on first and mine be taken up tomorrow at 10:30 a.m. and then disposed of after a 20-minute time agreement prior to the cloture.

Mr. LONG. Mr. President, if I might suggest to the Senator perhaps we could vote on this amendment after we are in for about 15 minutes. That would help get Senators down here, frankly, and that would have Senators available here to hear the Senator from Michigan explain his amendment and hopefully we could then vote on the amendment of the Senator from Michigan after having voted on this.

Mr. BOSCHWITZ. Mr. President, will the Senator propound what he said, that it be made the pending business and that the vote be set for a

time certain without debate.

Mr. STEVENS. Mr. President, I wish to confer with the Senator from West Virginia and make certain where we are going here because we run into a problem having asked unanimous consent to set off that cloture vote and I do not think that will carry. I think there will be an objection. So I think we have to work out a time frame.

Again I ask the Senator from Kansas if the Senator will allow us to

set aside and let the Senator from Rhode Island proceed. I will confer with my good friend and see if we can get a solution which will not require unanimous consent in the morning.

Mr. METZENBAUM. Mr. President, I wish to ask for the yeas and nays on the second-degree amendment of the Senator from Kansas which is pending although I certainly do not intend to ask for a vote this evening, nor do I intend to ask for a vote at any time.

The PRESIDING OFFICER. The Chair will advise the Senator that the pending business is the amendment of the Senator from Minnesota (Mr. Boschwitz).

Mr. DOLE. We did agree to the second-degree amendment.

Mr. METZENBAUM. We did not agree to have the yeas and nays.

Mr. STEVENS. The Senator's request is for the second-degree amendment of the Senator from Kansas to the basic amendment be set aside. The yeas and nays have not yet been ordered. It has been modified twice now.

Mr. DOLE. The Senator does not

want it modified any more.

Mr. METZENBAUM. I am trying to make a good amendment that which is a bad amendment. If the Senator adds much more I might be forced to vote for it. I am trying to cut him off at the pass.

Mr. DOLE. I have no objection.

Mr. METZENBAUM. If the Senator from Texas has no objection and no one else does, I ask unanimous consent that I may be permitted to ask for the yeas and nays in connection with the second-degree amendment.

The PRESIDING OFFICER. Is there objection to the request of the

Senator from Ohio?

Mr. STEVENS. I object.
The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I object until we can finish this conversation. I really do not know what the request was.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I wish to go home. I think we have one other noncontroversial amendment. That is the amendment of the Senator from Maryland and the Senator from Rhode Island. Then we have one of the Senator from New Mexico and the Senator from West Virginia.

I ask unanimous consent that the pending amendments be temporarily set aside for consideration of those two amendments and that no amendments to the amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UP AMENDMENT NO. 1474

(Purpose: To include business development companies in the definition of regulated investment companies)

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment on behalf of myself and the Senator from Maryland and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Rhode Island (Mr. CHAFEE) for himself and Mr. SARBANES proposes an unprinted amendment numbered

Mr. CHAFEE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment, insert the following new section: SEC. -. BUSINESS DEVELOPMENT COMPANIES.

(a) In General.-Subsection (a) of section 851 of the Internal Revenue Code of 1954 (defining regulated investment company) is

(1) by striking out "or" at the end of para-

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof . and

(3) by adding at the end thereof the fol-

lowing new paragraph:

"(3) which is a business development company within the meaning of section 2(a)(48) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)(48)).".

(b) Effective Date.—The amendments

made by this section shall apply to taxable years ending after the date of enactment of

this Act.

Mr. CHAFEE. Mr. President, this amendment would enable business development companies-in effect, venture capital companies-which are regulated under the Small Business Investment Incentive Act of 1980 to qualify for passthrough tax treatment. This would be the same tax treatment these organizations were previously entitled to when they were registered under the old Investment Company Act of 1940.

What happened was that changed the law in 1980 and inadvertently failed to change another section of the code dealing with the pass-

through provision.

Just like with a mutual fund, it would permit investment earnings to escape double taxation by passing them through the business development company (BDC) directly to the company's shareholders. As long as the BDC distributes at least 90 percent of its earnings, it will not be taxed on those earnings at the corporate level. Essentially, my amendment will conform the tax code to the changes Congress made in the securities law 2 years ago.

This amendment is noncontroversial and has bipartisan support. It was originally introduced in 1981 as S. 1304 by Senators Durenberger, Sarbanes, Baucus, and myself. It had hearings in the Senate Finance Committee and was supported by the Treasury.

It was marked up and reported by the Finance Committee without objection and passed by the Senate on December 16, 1981, as an amendment to H.R. 4717. That was a year ago, Mr. President. The same old things happen around here.

Unfortunately, during the conference it was dropped at the insistence of the Ways and Means Committee for reasons I am not exactly certain.

We believe they objected to so many Senate amendments-there may be other reasons-but in any event it is a good amendment and, as I mentioned, it has been cleared by those who have been interested.

#### PRESENT LAW

Under present law, a regulated investment company-commonly called a mutual fund or money market fund-is treated, in essence, as a conduit for tax purposes. This treatment is achieved by allowing a regulated investment company a deduction for dividends paid to its shareholders. Congress provided conduit treatment for regulated investment companies so that small investors could obtain the advantages of a diversified portfolio of investments and expert investment management without the imposition of a second level of tax generally applicable to corporations.

In order to qualify as a regulated investment company, several require-ments must be met. First, the company must distribute at least 90 percent its income. Second, the company must meet several tests designed to insure that most of its income is from passive sources and that its assets are diversified. Third, a regulated investment company must be a domestic corporation other than a personal holding company. Finally, it either must be registered with the Securities and Exchange Commission at all times during the taxable year as a management company or unit investment trust under the Investment Company Act of 1940, or it must be a common trust fund or similar fund which is not included in the term "common trust under the Internal Revenue Code and which is excluded by the Investment Company Act from the definition of investment company (Code sec. 851(a)). In order to register under the Investment Company Act of 1940, a corporation must have at least 100 stockholders or must be making or presently proposing to make a public offering-the public offering requirement.

Under these rules, a number of companies that provide capital and managerial assistance to small businesses have been able to register under the Investment Company Act because they have at least 100 stockholders or satisfy the public offering requirement and, as a result of this registration, have qualified as regulated investment

Under the Small Business Incentive Act of 1980 (Public Law 96-477), certain investment companies providing capital and management assistance to small businesses-called business development companies-may elect an alternative form of regulation specifically designed for these types of organizations in lieu of registering under the Investment Company Act. However, any business development company electing this alternative form of regulation would be prevented from qualifying as a regulated investment company because the company did not register under the Investment Company Act.

#### EXPLANATION OF THE PROPOSAL

The proposal would enable a "business development company" electing the alternative form of regulation under the Small Business Incentive Company Act of 1980 to qualify as a regulated investment company in those cases where the company could qualify for registration under the Investment Company Act. Thus, only companies which have at least 100 stockholders or which satisfy the public offering requirement could qualify as regulated investment companies.

The proposal was included as part of S. 1304. The proposal does not include another provision in S. 1304, which would have allowed all business development companies and small business investment companies to qualify as investment companies: regulated under the proposal, only business development companies with at least 100 stockholders or that satisfy the public offering requirement could qualify as regulated investment companies.

## EFFECTIVE DATE

The proposal would be effective for taxable years ending after the date of enactment.

## REVENUE EFFECT

The proposal would not have any effect on budget receipts.

Mr. President, I move its passage.

Mr. SARBANES. Mr. President, I am pleased to join with my colleague, the distinguished Senator from Rhode Island, in proposing this amendment.

I think, as many will recall, Congress, in an effort to encourage venture capital companies and small business investment companies, changed the regulatory scheme under which they operated, so that instead of operating under the Investment Company Act of 1940 they operated under the legislation of the Small Business Investment Incentive Act which we passed in 1980.

However, the tax code was not changed at the same time so that the pass-through tax treatment they were afforded when qualifying under the Investment Company Act was no longer available to them.

This amendment is designed to accomplish that and bring the tax treatment into conformity with the regulatory change. I think everyone agrees it is a commendable amendment in the effort to continue to encourage small business investment companies and venture capital companies, and I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode

Island.

The amendment (UP No. 1474) was

agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that

motion on the table.

The motion to lay on the table was

agreed to.

Mr. CHAFEE. Mr. President, I do want to thank all those who have reviewed this and approved its passage. I think it is a significant step forward in the assistance to small business and the investment that goes with it.

The PRESIDING OFFICER. The question now recurs upon the Bosch-

witz amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that that amendment, plus the two pending amendments, be set aside for the Domenici amendment as well as the—

Mr. STEVENS. Mr. President, will the Senator withhold that, with the consent of my good friend from New Mexico? Will the Senator yield to me

for just one monent?

ORDER FOR THE RECOGNITION OF SENATOR GRASSLEY ON TOMORROW VITIATED

Mr. President, we have run into a problem tomorrow. I would like to ask the Senator from Iowa to cancel the special order he requested. I ask unanimous consent that the special order for the Senator from Iowa be vitiated.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. STEVENS. If it is agreeable with the Senator from West Virginia, I propose that the amendment of the Senator from Minnesota be the pending amendment when we come into session tomorrow and that the vote occur on the Boschwitz amendment at 10:15; that the vote on the amendment at that time be no longer than 15 minutes; and the Levin amendment follow that vote and the vote on the Levin amendment take place at 10:45, and it be 15 minutes, so there will be no necessity for disturbing the scheduled cloture vote.

Mr. DOLE. Mr. President, reserving

the right to object-

Mr. LEVIN. Mr. President, will the Senator yield? Will the Senator be able to include in that unanimous-consent request that the Levin-Specter, et al, amendment be disposed of prior to the motion on cloture being voted, notwithstanding rule XXII?

Mr. DOMENICI. Mr. President, reserving the right to object, I do not know what the Levin-Specter amend-

ment is all about. I cannot agree to that. In its original form it is extremely expensive. There may indeed be a point of order that lies against it. I would have no way of knowing that here tonight. I do not want to foul up anything.

Mr. STEVENS. I thought I was careful to say that the vote would occur on the Levin amendment with respect to that amendment, and I am not speaking to say it would not be subject to a point of order or a motion to table, but it would occur, action to dispose of the Levin amendment one way or the other would occur, at 10:45.

Mr. LEVIN. I was simply trying to avoid the possibility of a motion for reconsideration. I was not trying to preempt the Senator from New Mexico from filing or making a point

of order.

Mr. LONG. Mr. President, can we agree that the Levin amendment will not be amended? Has the Levin amendment been printed? Is it available now?

Mr. LEVIN. I have no objection.

Mr. LONG. Is the Levin amendment available?

Mr. LEVIN. Yes, it is at the desk.

Mr. LONG. I ask unanimous consent that the Levin amendment not be subject to amendment.

Mr. LEVIN. Would the Senator modify that—there is a possibility that I may want to slightly amend my own amendment.

The PRESIDING OFFICER. The Chair will request that the Senator from Alaska restate his unanimous-consent request, which has yet to be

agreed to.

Mr. STEVENS. Mr. President, I might state to the Chair the problem is stating to his request so that it is fair and not misleading because the Boschwitz amendment might be subject to a motion to reconsider, and if that took place it would eat up the time for the Levin amendment, and we would want to make sure Senator Levin has an opportunity for at least a vote on the amendment, even though he might not have time for debate on it.

So my request was that the Boschwitz amendment be the pending amendment when we resume consideration of this bill in the morning; that the vote in respect to the Boschwitz amendment take place at 10:15, and again we are not making any commitments as to whether it will be an up or down vote or a motion to table or anything else. I do not know whether there are any points of order that anybody would make. The vote on the Boschwitz amendment would take place at 10:15, the vote on the Levin amendment would take place at 10:45.

Mr. ROBERT C. BYRD. I was going to ask whether it would be possible to switch them and have a vote on Levin first and then we would have no prob-

lem of disposing of it if there is a motion to reconsider.

Mr. STEVENS. Mr. President, I will say I am informed there is a potential point of order against both amendments, and there is a feeling that because Members of the Senate have left and thought there was a 15-minute special order it would be unfair to schedule a vote before 10:15, so the request is under unanimous consent that the first vote will take place at 10:15 when that special order would have expired.

Mr. LEVIN. Mr. President, will the Senator from Alaska modify his unanimous-consent request to assure that there be at least 15 minutes on the Levin amendment, notwithstanding any prior orders or provisions of rule XXII? Could the Senator modify his unanimous-consent request to provide that there be at least 15 minutes of

debate on my amendment?

Mr. DOLE. Mr. President, will the

Senator from Alaska yield?

Mr. STEVENS. I yield. I think I should respond to the Senator from Michigan by saying that as I understand his request he wants at least 15 minutes of debate following disposition of the Boschwitz amendment. It is my understanding if the rollcall vote is commenced prior to that time that the quorum—before the vote would commence on the cloture motion, that would be completed; am I correct in that?

The PRESIDING OFFICER. Will the Senator restate his inquiry?

Mr. STEVENS. My inquiry was what time will the vote occur on the cloture motion tomorrow under the present order?

The PRESIDING OFFICER. Under rule XXII the live quorum will begin 1 hour after convening of the Senate tomorrow, and the cloture vote will follow that.

Mr. STEVENS. The Senator from Michigan wishes a guarantee of a 15-minute period of debate prior to commencing the vote on his amendment.

I say to my friend, again, that if there is not reconsideration to the Boschwitz amendment, there is going to be a 15-minute debate for the Levin amendment. I renew my request that the vote take place with respect to the Boschwitz amendment at 10:15 and that following that period the Levin amendment be laid down and that the vote in relation to the Levin amendment, whatever the motion may be, commence at 10:45.

Mr. SARBANES. Would the majority whip indicate what time the quorum call is to begin with relationship to the cloture motion?

Mr. STEVENS. Unless it is waived by unanimous consent, it must start at 11 o'clock.

Mr. SARBANES. I thought the Chair said it was at 10:45.

The PRESIDING OFFICER. The Chair understands the request of the Senator from Alaska to be that the quorum would occur at 11 o'clock notwithstanding the order of the Senate to reconvene at 9:45. Does the Chair correctly understand the Senator's request?

Mr. STEVENS. That is correct.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. LEVIN. Reserving the right to object.

Mr. DOLE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Kansas.

Mr DOLE. Mr. President, we were not having any problem here until a few minutes ago. What we would like to do is to go ahead and take care of the amendment of the Senator from New Mexico. We also have to accommodate Senator Heflin, who has been waiting patiently. I promised we were going to accommodate him. I do not want to do it and I am not going to fight too hard in conference, but I made that promise. In addition, Senator Bradley indicated he wanted some consideration tomorrow morning of an amendment that will not be germane. and he wanted to bring that up before we got to the cloture vote.

I am afraid, if we lock in those who are here, we are going to lock out some who may not be here. I am perfectly willing to set aside the Boschwitz amendment and lay down the Levin amendment. Everybody else can go home but Senator Levin and myself, and we will debate it about 20 minutes, and we will vote on it in the morning. There will be as many here tonight as there will be in the morning.

Mr. LEVIN. Mr. President, I would want to be assured, as I indicated to the Senator, of at least 10 or 15 minutes of debate tomorrow. I made commitments to other cosponsors on both sides of the aisle to have a minute or two. I am wondering if the Senator could not consider possibly having the cloture vote at 11:15 instead of 11.

Mr. STEVENS. Mr. President, if the Senator from Kansas is suggesting that we consume all the debate on these amendments that are here that we are discussing now tonight and that, when we come back in, immediately after the leader time, there be a vote on the Levin amendment, which would be the one that would be pending, to be followed by a vote on the Boschwitz amendment, with no debate on either one and, in an attempt to be fair to those who have left, to leave some time prior to the commencement of that quorum call, there would be no objection on my part. I think the majority leader would not object. I ask my friend from West Virginia if he would have any objection. Mr. LEVIN. May I make a suggestion? Either we have 15 minutes on my amendment and then vote on it or that our quorum call begin at 11:15.

Mr. STEVENS. The Senator from Kansas is suggesting that you have the debate tonight and tomorrow morning start the vote on the amendment of the Senator from Michigan and the vote on Senator Boschwitz' amendment and we would have 30 minutes for those other routine matters that must occur, because, if cloture is invoked, those amendments would not be in order.

Mr. LEVIN. There are a number of cosponsors of this amendment on both sides of the aisle who want a minute or two. I am wondering if we could provide for 10 minutes of debate before the vote on my amendment tomorrow morning.

Mr. DOMENICI. Mr. President, I say to my good friend, the Senator from Michigan, that there is not any clearance unless they agree with him tonight that his amendment would come up before cloture. They are assuring him of that at this point in time. He does not have any assurance that he would get a vote before cloture but for this agreement.

Mr. LEVIN. That is correct. And there is no assurance that cloture would be voted unless we have an upor-down vote on this amendment, either, because there are many people who simply are not going to vote for cloture unless there is a disposition of this amendment. I am simply trying to inquire whether or not we cannot have 10 minutes of debate tomorrow morning before the vote on this because there are a number of Senators on both sides of the aisle who wanted to just comment for a minute or two on this amendment. It seems to me that 10 minutes could be accommodated before a vote on this amendment in the morning.

Mr. DOLE. The only question the Senator from Kansas has is there will be a motion to table the Senator's amendment, and if the motion to table fails, then I am not certain we could agree that the Senator would have an up-or-down vote before the cloture vote. It might fall because cloture came.

Mr. STEVENS. That was precisely the reason we were trying to schedule it loose, so other matters might not be shut off.

Mr. DOLE. I do not mind the 10 minutes debate as long as we have an understanding that if the motion to table failed, I do not believe that we should be locked in to an up-or-down vote.

Mr. THURMOND. Could we not have 10-minute votes?

Mr. STEVENS. Mr. President, we have no ability to do that at this time. Mr. METZENBAUM. Mr. President, I gather there was not too strong of a

feeling for a rollcall on the Boschwitz amendment. I wonder, perhaps, since no rollcall has been actually ordered in connection with it, and it seems it is going to pass overwhelmingly, if not unanimously, whether we can forgo the need for a rollcall vote on the Boschwitz amendment.

Mr. DOLE. The Senator is right. No one may want a rollcall. I think we should wait until morning, since many Senators went home. They might want to be on record for or against it. I think we may have indicated indirectly that we were only going to consider minor amendments. But we would like to take up the amendment of the Senator from New Mexico and the amendment of the Senator from Alabama and come back in the morning and take up the Levin amendment, give the Senator 10 minutes, and then if there is no request for a vote on the Boschwitz amendment-there is still a Dole amendment pending, too, that I would like to dispose of during that hour, a little technical amendment.

Mr. STEVENS. Mr. President, I withdraw my unanimous consent request.

The PRESIDING OFFICER. The question is on the Boschwitz amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment be temporarily set aside and we might move to the consideration of the amendment of the Senator from New Mexico, Senator Domenici, and that no amendment to the amendment be in order.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, but again I wish to renew my request for the yeas and nays in connection with the second-degree amendment of the Senator from Kansas.

The PRESIDING OFFICER. The Senator would require unanimous consent. Does he seek unanimous consent for this purpose?

Mr. METZENBAUM. I do seek unanimous consent for that purpose, but I am not certain why I need unanimous consent since the pending business is the second-degree amendment. It has not yet been set aside. The Senator from Kansas is asking for consent to do that.

The PRESIDING OFFICER. The Chair will advise the Senator from Ohio the pending business is the Boschwitz amendment.

Mr. METZENBAUM. I thought we just set that aside.

The PRESIDING OFFICER. The unanimous consent request is pending.

Mr. METZENBAUM. I ask unanimous consent that the yeas and nays be in order in connection with the second-degree amendment of the Senator from Kansas.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. BOSCHWITZ. Reserving the right to object. I withdraw my objection.

The PRESIDING OFFICER. Without objection, the Senator is permitted to request the yeas and nays.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that we might temporarily set aside the Dole amendment and the Boschwitz amendment and take up the amendment of the distinguished Senator from New Mexico and that no amendment to his amendment be in order.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Mexico is recognized.

#### UP AMENDMENT NO. 1475

(Purpose: To amend the Internal Revenue Code of 1954 to extend the affirmative commitment rule for the energy tax credit by two years)

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself, Senator Byrd of West Virginia, Senator McClure, Senator Armstrong, and Senator Wallop, and ask for its immediate consideration. I think this has been cleared by everyone.

I say to the Senator from Ohio, Senator METZENBAUM, that I wish to apologize. The first time I sent the amendment up for his approval it had a mistake in it that I did not understand. I told him what I thought it did. It did something else. I thank him for catching it. It is now precisely what we have all agreed upon.

About 5 years ago Congress created the energy tax credit, in part for synthetic fuel plants, but they had to have an affirmative commitment, on their engineering plans and design by the end of this year. We did not realize at the time that many of those plans and designs could not be completed by the end of 1982 through no fault of the building of those plants.

This amendment gives them until the end of 1984 to get their plans in. It does not change the energy credit percentage nor does it change the 1990 date by which the credit expires.

I thank the Senator for his cooperation.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. Do-MENICI), for himself, Mr. ROBERT C. BYRD, Mr. McClure, Mr. Armstrong, and Mr. WALLOP, proposes an unprinted amendment numbered 1475.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment insert:

(J) AFFIRMATIVE COMMITMENT RULE FOR SYNTHETIC FUEL.—Clause (iii) of section 46(a)(2)(C) of the Internal Revenue Code of 1954 (relating to longer period for certain long-term projects) is amended by adding at the end thereof the following new sentence: "In the case of property described in clauses (iii) or (v) of section 48(1)(3)(A), or property described in clause (v) of section 48(1)(2)(A), this clause shall be applied by substituting 'January 1, 1985' for 'January 1, 1983'."

Mr. ROBERT C. BYRD. Mr. President, I am delighted to cosponsor the amendment of the senior Senator from New Mexico.

This amendment extends for 2 years the affirmative commitment rule of the energy tax credit for coal gasification, liquification, and oil shale.

Under present law, the energy credits would have expired at the end of 1982 for such projects whose engineering plans have not been approved in a timely fashion by the synfuels corporation.

Rather than penalize these projects for delays beyond their control, this amendment would extend for 2 years the deadline so that they would continue to be eligible for the energy credits as they would have otherwise been under current law.

It would be shortsighted to allow a temporary decline in energy prices and the recession to terminate these projects when it will be only a matter of time before we are again faced with rising energy prices and shortages.

This amendment is an investment in this country's energy future.

I urge the Senate's adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (UP No. 1475) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

agreed to.

The PRESIDING OFFICER. The question now recurs on the Boschwitz amendment.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I suggest that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are trying to accommodate the Senator from Alabama. We find that we need to have the joint committee staff take a look at the amendment between now and 10 o'clock tomorrow mornig, if that is satisfactory to the Senator from Alabama, and then bring it back to us. We hope we can accommodate the Senator from Alabama at that time

In view of that, I wonder if there is any objection if we just quit. We still want to accommodate the Senator from Ohio, but we want to work it out. We have the amendment of Senator Levin, the amendment of Senator Bradley, the amendment of Senator Dixon and Senator Percy, and the Senator from Colorado has an amendment.

I might say to the acting majority leader I do not think we can work that out between now and the morning.

Mr. STEVENS. Mr. President, the Senator is exactly right. My request was not to change the time set for the beginning of the vote on cloture. It is obvious that if we are to accommodate people before that vote, some change has to be made.

If we just terminate consideration of this bill now until we return in the morning, the Boschwitz amendment is the pending amendment. I think we can see about lengthening the time that will be available then if we can get consent to do it. If not, we shall have to be as judicious as possible. I do not see anything else to do, because we cannot really make any decisions without a basic understanding whether it is going to be possible to change the cloture vote.

Mr. LONG. Mr. President, if the Senator will yield, may I suggest that we can vote on the Boschwitz amendment after we have voted on cloture. The Boschwitz amendment is a germane amendment.

Mr. BOSCHWITZ. If the Senator will yield, why do we not establish a time certain now to vote on my amendment inasmuch as it will be the pending business, 15 minutes after we come in?

Mr. STEVENS. I say to my good friend that that may be unfair if we take the time on an amendment that may be germane if it will squeeze out amendments on which there have been understandings reached here that some amendments that will not be germane will at least be able to be debated before the cloture vote and it may not be possible to vote on them after the cloture vote?

I urge my friend not to insist on a time certain. His amendment, we can assure him, is protected without regard to the outcome of cloture. Our problem is with the other amendments; we cannot make that guarantee.

I am advised, Mr. President, that my statement is in error, that that amendment was not filed within the time provided by the rules and would not be in order after cloture.

Mr. LONG. Mr. President, may I say to the Senator that I felt we should have a rollcall vote on the Boschwitz amendment. In view of the other problems involved, I shall not insist on that. If it will help solve the problem, I shall be willing to waive that.

Mr. DOLE. Why do we not just go home? When we get back in the morning, the majority leader will be here. The first order of business would be disposing of the Boschwitz amend-

ment.

Mr. STEVENS. If the Senator will permit me, we are accomplishing nothing here. I suggest we do the business we have to do, close down the Senate and return at the time which has already been established, which is 9:45.

Would the Chair state the order of business when we do resume in the

morning?

The PRESIDING OFFICER. Under the previous order, the Senate will convene at 9:45 a.m. Following that, there will be leadership time under the standing order. The vote on cloture will occur at 10:45. First would be a live quorum; following that, the vote on the cloture motion.

Mr. ROBERT C. BYRD. Mr. President, the statement of the majority leader, the understanding of the majority leader was that the live quorum would begin at 11 in accordance with a previous statement, notwithstanding the rule. That was his intention, because he had made that announcement. That was his intention to stick with that.

Mr. STEVENS. That was my understanding, also, Mr. President. I was building my time for him within that understanding, if the Chair will recall.

The PRESIDING OFFICER. The Chair can only inform the Senator that the order which has been entered

would prevail.

Mr. STEVENS. I do not intend to make the request to change it now. It was my understanding that we were all talking about 11 o'clock to commence the call for the cloture vote.

Did the Senator from Montana seek recognition? Did he request that I

yield?

Mr. MELCHER. Yes, Mr. President, will the majority whip yield the floor? Mr. STEVENS. May I ask my good

friend what the purpose is?

Mr. MELCHER. I want to make a statement before any more of the faithful leave the Chamber, particularly the chairman of the Committee on Finance. I would like to have his attention.

Mr. STEVENS. Mr. President, if the Senator does wish to make a statement, I shall be happy to yield the floor for him to make the statement.

Mr. MELCHER. I thank the Senator.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, rather than interjecting any objection to what unanimous-consent requests have been made, I withheld doing that because I note it takes sometime 15 minutes to unravel the objections, the reservations or objections. Rather than do that, I would like to take 3 minutes now to explain an amendment that I would like to modify if it will be acceptable to the managers of the bill.

It is an amendment proposed by myself and Senator DeConcini that deals with the transportation expenses of construction workers. This has been a long-standing argument.

Mr. STEVENS. Will the Senator yield to me for just one moment?

Mr. MELCHER. Yes, I yield.

Mr. STEVENS. I would like to listen to his statement and I will listen to his statement, but some people have to leave here in order to get back. They have further to drive than we do. Would the Senator suspend and permit the distinguished Democratic leader and me to conduct four items of routine business which must get done in order to go to the House?

Mr. MELCHER. Yes, Mr. President.

## WYOMING WILDERNESS ACT OF 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar No. 841, which is S. 2118.

The PRESIDING OFFICER. Without objection, it is so ordered. The

clerk will state it.

The legislative clerk read as follows:
A bill (S. 2118) to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment.

To strike out all after the enacting clause, and insert the following:

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TITLE I—SHORT TITLE, FINDINGS AND PURPOSES.

#### SHORT TITLE

SEC. 101. This Act may be cited as the "Wyoming Wilderness Act of 1982".

## DECLARATION OF FINDINGS AND PURPOSES

SEC. 102. (a) The Congress finds that-

(1) certain areas of undeveloped national forest lands in the State of Wyoming possess outstanding natural characteristics giving them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) review and evaluation of roadless and undeveloped lands in the national forest system of Wyoming have identified those areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the national forest system's share of a quality National Wilderness Preservation System; and

(3) review and evaluation of roadless and undeveloped lands in the national forest system in Wyoming have also identified those areas which should be available for multiple uses other than wilderness, subject to the Forest Service's land management planning process and the provisions of the Act.

(b) The purposes of this Act are to-

(1) designate certain national forest system lands in Wyoming for inclusion in the National Wilderness Preservation System in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people;

(2) withdraw, subject to valid existing rights, National Wilderness Preservation System lands in the State of Wyoming, including those so designated by this Act, from operation of the general mining and mineral leasing laws in order to protect the physical characteristics and wilderness values which motivated the Congress to include these lands within the System:

(3) require appropriate inventory to assess and document the minerals potential of National Wilderness Preservation System lands in the State of Wyoming in order to

enhance the data base; and

(4) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and section 302 of this Act. Such lands may be managed for a wide variety of uses, depending on their unique characteristics, including but not limited to fish and wildlife protection and management, developed and undeveloped recreation, scenic enjoyment, preservation of natural characteristics, range management, timber harvesting, watershed and vegetation management, energy and minerals exploration and development, and other uses.

# TITLE II—ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM

DESIGNATION OF THE CLOUD PEAK, POPO AGIE, GROS VENTRE, JEDEDIAH SMITH, AND LARAMIE PEAK WILDERNESS AREAS, AND THE DUNOIR ADDITION TO THE WASHAKIE WILDENESS, THE CORRIDOR ADDITION TO THE TETON WILDERNESS, AND THE GLACIER PRIMITIVE AREA ADDITION TO THE FITZPATRICK WILDERNESS

SEC. 201. In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following national forest system lands in the State of Wyoming, comprising approximately six hundred and seventy-eight thousand four hundred and forty-nine acres and generally depicted on maps appropriately referenced, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System:

(a) Certain lands in the Bighorn National Forest, which comprise approximately one hundred and fifty-seven thousand nine hundred acres, as generally depicted on a map entitled, "Cloud Peak Wilderness Area Proposal", numbered W-one and dated February 22, 1982, and which shall be known as the Cloud Peak Wilderness. The previous classification of the Cloud Peak Primitive

Area is hereby abolished.

(b) Certain lands in the Shoshone National Forest, which comprise approximately one hundred and one thousand nine hundred and ninety-one acres, as generally depicted on a map entitled, "Popo Agie Wilderness Area Proposal", numbered W-two and dated February 22, 1982, and which shall be known as the Popo Agie Wilderness. The previous classification of Popo Agie Primitive Area is hereby abolished.

(c) Certain lands in the Bridger-Teton National Forest, which comprise approximately two hundred and twenty-eight thousand five hundred and fifty acres, as generally depicted on a map entitled, "Gros Ventre Wilderness Area Proposal", numbered Wthree and dated February 22, 1982, and which shall be known as the Gros Ventre

Wilderness.

(d) Certain lands in the Targhee National Forest which comprise approximately one hundred and sixteen thousand eight hundred and fifty-five acres as generally depicted on a map entitled "Jedediah Smith Wilderness Area Proposal" numbered W-four and dated September 1982 and which shall be known as the Jedediah Smith Wilderness.

(e) Certain lands in the Medicine Bow National Forest, which comprise approximately twenty seven thousand and four hundred acres as generally depicted on a map entitled "Laramie Peak Wilderness Area Proposal" numbered W-five and dated September

1982 and which shall be known as the Laramie Peak Wilderness Area.

(f)(1) Certain lands in the Shoshone National Forest, which comprise approximately eleven thousand and one hundred acres, as generally depicted on a map entitled, "DuNoir Addition to the Washakie Wilderness Area Proposal", numbered W-six and dated September 1982 and which shall become a part of the Washakie Wilderness as designated by Public Law 92-476 (86 Stat.

(2) Within the area depicted as the special management unit on the map entitled, "Washakie Wilderness—Proposed", dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and roads that may be constructed for the purpose of timber harvesting or other authorized uses shall be used only for those uses and related administration and shall not be available for general public travel. The determination of authorized use shall consider the needs of the resident and migrating elk herds and other wildlife.

(3) Section 5 of Public Law 92-476 (86

Stat. 792) is hereby repealed.

(g) Certain lands in the Bridger-Teton National Forest, which comprise approximately twenty-eight thousand one hundred and fifty-six acres as generally depicted on a map entitled "Corridor Addition to the Teton Wilderness Area Proposal", numbered W-seven and dated September 1982 which shall become a part of the Teton Wilderness as designated by Public Law (88-577).

(h)(1) Certain lands in the Shoshone National Forest, which comprise approximately six thousand four hundred and ninety-seven acres, as generally depicted on a map entitled, "Glacier Addition to the Fitzpatrick Wilderness Area Proposal", numbered W-eight and dated September 1982 and which shall become a part of the Fitzpatrick Wilderness as designated by Public Law 94-557 and Public Law 94-567.

(2) Within the area described in section 201(h)(1), motorized access for administrative purposes and related activities as determined necessary by the Secretary for the trapping, transporting, and proper management of the area's big horn sheep population shall be allowed.

(3) The previous classification of the Whiskey Mountain Primitive Area is hereby abolished.

## LEGAL DESCRIPTION AND WILDERNESS BOUNDARIES

SEC. 202. As soon as practicable after the enactment of this Act, a map and a legal description of each wilderness area designated under section 201 shall be filed with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

## APPLICATION OF THE WILDERNESS ACT OF 1964

SEC. 203. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of this Act

and the Wilderness Act, except that any reference in the provisions of the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

# TITLE III—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

ADMINISTRATIVE AND CONGRESSIONAL REVIEW
OF ROADLESS AREAS

SEC. 301. The Congress finds that-

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest roadless areas in Wyoming and the environmental impacts associated with alternative allocations of such areas.

# RELEASE OF LANDS NOT DESIGNATED AS WILDERNESS

SEC. 302. (a) The Congress hereby determines and directs that, without passing on the question of the legal and factual sufficiency of the RARE II final environmental impact statement (dated January 1979) with respect to national forest lands in States other than Wyoming, such statement shall not be subject to judicial review with respect to national forest system lands in the State of Wyoming.

(b) national forest system lands in the

State of Wyoming-

(1) not identified by section 201 as additions to the National Wilderness Preservation System, or

(2) not heretofore designated by Act of Congress as components of the National Wilderness Preservation System, shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of all current and future land management plans which are approved before December 31, 2000, and which are required by the Forest Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

(c) Unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area reveiw and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilder-

ness Preservation System.

TITLE IV—WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM OPERATION OF THE MINING AND MINERAL LEASING LAWS

# WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM MINING AND MINERALS ACTIVITY

Sec. 401. Notwithstanding any other provision of law, and subject to valid existing rights, lands within the national forest system in Wyoming which have previously been designated by Act of Congress for in-clusion in the National Wilderness Preservation System, and lands which are so designated by this Act, are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. In the case of the lands referred to in the preceding sentence, for purposes of applying the provisions of section 4(d)(3) of the Wilderness Act, the date of enactment of this Act shall be substituted for the December 31,

1983, and the January 1, 1984, dates referred to in such provisions.

### TITLE V-ASSESSMENT OF MINERALS, PROHIBITION ON DRILLING

SEC. 501. (a) Subject to subsection 501(b) of this Act, and in furtherance of section 4(d)(2) of the Wilderness Act and the policies of the National Materials and Minerals Policy, Research and Development Act (94 Stat. 2305), the Secretary of the Interior shall continue to assess the minerals potential of National Wilderness Preservation System lands within the State of Wyoming in order to expand the data base with respect to the minerals potential of such lands.

(b) Notwithstanding any other provision of law and subject to valid existing rights, exploratory drilling within the boundaries of any congressionally designated unit of the National Wilderness Preservation System in the State of Wyoming for the purpose of assessing oil and gas potential is hereby prohibited.

# RECOMMENDATIONS TO CONGRESS BY THE PRESIDENT

SEC. 502. (a) At any time after the date of enactment of this Act, the President may transmit to the Congress a recommendation that minerals exploration, development, or extraction not permitted under the Wilderness Act and this Act shall be permitted in a specified area or areas within any Wyoming unit of the National Wilderness Preservation System. Notice of such transmittal shall be published in the Federal Register and shall be conveyed to the Governor of Wyoming.

(b) A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on available information—

(1) there is an urgent national need for the minerals activity; and

(2) such national need outweighs the other public values of the wilderness lands involved and the potential adverse environmental impacts which are likely to result from the activity.

from the activity.

(c) Together with a recommendation, the President shall submit to the Congress—

 a report setting forth in detail the relevant factual background and the reasons for his findings and recommendations;

(2) statement of the conditions and stipulations which would govern the recommend-

ed activity; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of that Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of such Act, the President may, if he deems it desirable, include such a statement in his transmittal to Congress.

(d) Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to the Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) For purposes of this section-

 continuity of session of Congress is broken only by an adjournment sine die;
 and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the onehundred-and-twenty-day calendar period.

(f)(1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(2) For purposes of this section, the term

"resolution" means a joint resolution, the

(3) A resolution once introduced with respect to such application shall be referred to one or more committees (and all resolutions with respect to the same application shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representa-

tives, as the case may be.

(4)(A) If any committee to which a resolution with respect to an application has been referred has not reported it at the end of sixty calendar days after its referral, it shall be in order to move either to discharge such committee from further consideration of such resolution or to discharge such committee from further consideration of any other resolution with respect to such application which has been referred to such committee.

(B) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same application) and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be made with respect to any other resolution with respect to the same application.

(5)(A) When any committee has reported, or has been discharged from further consid-

eration of, the resolution, but in no case earlier than sixty days after the date of transmittal by the President of the application to the Congress, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than four hours. This time shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution, shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to, or, thereafter, within such one-hundred-and-twenty-day period, to consider any other resolution respecting the same application.

(6)(A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without

debate.

(B) Appeals from the decision of the Chair relating to the application of the rules to the procedures of the Senate or the House of Representatives relating to a resolution shall be decided without debate.

(7) If one House of the Congress (hereinafter referred to as the first House) receives from the other House a resolution under this section, then the following procedure applies:

(A) The resolution of the other House shall not be referred to a committee in the first House.

(B) The procedure with respect to the resolution of the first House or other resolutions of such House shall be the same as if no resolution from the other House had been received, but on any vote on final passage of a resolution of the first House, where the text of the resolution from the other House is identical, the resolution of the other House shall be automatically substituted for the resolution of the first House.

# TITLE VI-MISCELLANEOUS PROVISIONS

## GRAZING IN WILDERNESS AREAS

SEC. 601. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in the State of Wyoming in order to ensure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act.

## STATE WATER ALLOCATION AUTHORITY

SEC. 602. (a) As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from Wyoming water laws

(b) As provided in section 4(d)(8) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Wyoming with respect to wildlife and fish in the national forests in Wyoming.

## PROHIBITION ON BUFFER ZONES

SEC. 603. Congress does not intend that designation of wilderness areas in the State of Wyoming lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

Mr. STEVENS. I move that the Senate adopt the committee substitute to S. 2118.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a sub-

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. STEVENS. I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## AMENDMENT OF CLAYTON ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 816.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved, That the bill from the Senate (S. 816) entitled "An Act to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause,

and insert:

That section 4 of the Clayton Act (15 U.S.C. 15) is amended-

(1) by striking out "That" and inserting in lieu thereof "(a) Except as provided in subsection (b)," and

(2) by adding at the end thereof the fol-

lowing new subsections:

"(b)(1) Except as provided in paragraph (2), any person who is a foreign state may not recover under subsection (a) an amount in excess of the actual damages sustained by it and the cost of suit, including a reasonable attorney's fee.

"(2) Paragraph (1) shall not apply to a

foreign state if-

"(A) such foreign state would be denied, under section 1605(a)(2) of title 28 of the United States Code, immunity in a case in which the action is based upon a commercial activity, or an act, that is the subject matter of its claim under this section;

"(B) such foreign state waives all defenses based upon or arising out of its status as a foreign state, to any claims brought against

it in the same action;

"(C) such foreign state engages primarily

in commercial activities; and

"(D) such foreign state does not function, with respect to the commercial activity, or the act, that is the subject matter of its claim under this section as a procurement entity for itself or for another foreign state. (c) For purposes of this section-

"(1) the term 'commercial activity' shall have the meaning given it in section 1603(d) of title 28, United States Code; and

"(2) the term 'foreign state' shall have the meaning given it in section 1603(a) of title 28, United States Code."

Amend the title so as to read: "An Act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.".

Mr. STEVENS. I move that the Senate concur in the House amend-

The motion was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FUNDING OF THE SELECT COM-MITTEE TO STUDY LAW EN-FORCEMENT UNDERCOVER AC-TIVITIES OF COMPONENTS OF THE DEPARTMENT OF JUSTICE

Mr. STEVENS. Mr. President, I send to the desk a resolution on behalf of Senators Mathias and Huddleston and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A Senate resolution (S. Res. 517) relating to funding of the Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

• Mr. MATHIAS. Mr. President, when Senate Resolution 350 was enacted by the Senate creating the select committee, it called for the committee to submit its report by December 15, 1982, and to disband the staff by January 15, 1983. However, Senate Resolution 350 provided for paying expenses of the committee only through December 15, 1982. As presently written, the staff could not be paid between December 15 and January 15.

The resolution changes the date through which expenses can be paid to January 15, 1983. (This will not affect the overall budget limit of \$250,000.)

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 517) was agreed to as follows:

## S. RES. 517

Resolved, That the first sentence of section 7 of S. Res. 350, 97th Congress, agreed to March 25, 1982, is amended by striking out "December 15, 1982," and inserting in lieu thereof "January 15, 1983,".

Mr. STEVENS, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### S. 3105-MODIFICATION OF JUDI-CIAL DISTRICTS OF WEST VIR-GINIA

Mr. STEVENS. Mr. President, I yield the to distinguished Democratic leader.

Mr. ROBERT C. BYRD. Mr. President, the Senate has acted twice on legislation to modify the judicial districts of West Virginia. There was a technical error in the legislation that was passed. By virtue of the fact that one of the counties was moved from the northern to the southern district and the language which pertained to the holding of courts did not also make the necessary change in the naming of one of the cities, that would also have to be removed.

I introduce a bill at this time and ask unanimous consent that it may be considered as having been read the first and second times and the Senate proceed immediately to its consideration.

Mr. STEVENS. There is no objection to the consideration of this bill, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows: A bill (S. 3105) to modify the judicial districts of West Virginia.

There being no objection, the Senate proceeded to consider the bill (S. 3105), which was read the first time by title and the second time at length.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3105) was ordered to be engrossed for a third reading, read the third time, and passed as follows:

## S. 3105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 129 of title 28, United States Code, is amended-

(1) in subsection (a) by—
(A) striking out ", Wirt, and Wood";

(B) inserting "Braxton," after "Berkeley,"

(C) inserting "Pocahontas" after "Pleasants,";

inserting "Webster, and" (D) after "Upshur"; and

(F) by striking out "Parkersburg,"; and

(2) in subsection (b) by-

(A) striking out tas," and "Webster,"; and "Wirt, (A) striking out "Braxton,", "Pocahon-

Wood," after "Wayne,"; and

(C) striking out "and Lewisburg." and inserting in lieu thereof "Lewisburg, and Parkersburg.".

SEC. 2. (a) The existing district judgeship for the Southern District of West Virginia, authorized by section 2 of the Act entitled "An Act to provide for the appointment of additional district and circuit judges and for other purposes", approved October 20, 1978 (92 Stat. 1632; 28 U.S.C. 133 note), shall, as of the date of enactment of this Act, be authorized under section 133 of title 28 of the United States Code as a district judgeship for the Northern District of West Virginia, and the incumbent of that office shall henceforth hold office under section 133, as amended by this Act.

(b) The existing district judgeship for the Northern and Southern Districts of West Virginia shall be authorized as the district judgeship for the Southern District.

SEC. 3. The table in section 133 of title 28, United States Code, is amended by striking out the following:

out the following.	
"West Virginia:	
"Northern	1
"Southern	3
"Northern and Southern	1"
and inserting in lieu thereof the follow	ing:
"West Virginia:	
"Northern	2
"Southern	4"

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1464—ADDITIONAL COSPONSOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator Grassley be added as a cosponsor to the amendment offered by the Senator from Illinois (Mr. Dixon), which is amendment No. 1464.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I want to thank the distinguished Senator from Montana for his courtesy, and I yield the floor back to him.

## SURFACE TRANSPORTATION ACT OF 1982

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, the proposal to rectify the situation where construction workers are not permitted to make legitimate deductions from their expenses incurred while working on the job away from home should be rectified. The amendment that Senator Deconcini and I have is not germane to the bill and would have to be offered prior to cloture. Although we have discussed this bill during the course of the evening, the opportunity has not been available to offer the amendment.

Treasury advises that while they have no estimate of any revenue loss,

there probably would be some. It is fair to say that Treasury knows of the problem.

The Internal Revenue Service knows of the problem and has some understanding that the problem should be addressed and that changes in the Internal Revenue Service rules should be made.

It is my proposal, Mr. President, if it is agreeable to the managers of the bill, that the amendment be modified to the form of a study requiring the Internal Revenue Service and Treasury Department to report back within 6 months, making recommendations for corrections and modifications in the statute so that the rules could be refined to allow for proper deductions of away-from-home expenses incurred by construction workers.

Mr. President, I make these comments at this time in the hope that this proposal will be acceptable to the managers of the bill and that it can be accepted prior to cloture in the morning.

Mr. STEVENS. I thank the Senator from Montana for his courtesy.

## MULTIPLE-LAUNCH ROCKET SYSTEM

Mr. PRYOR. Mr. President, the most important questions we need to consider on every defense program are whether we really need the system and how we can get the best product at the lowest price. We do in fact need the multiple launch rocket system-it is the kind of basic surface-to-surface system that responds to the real artillery requirement of the Army today. As to the quality and cost of the system, the present acquisition plan has produced a model of cost, schedule, and performance achievements. Therefore, I am pleased that the Appropriations Committee has amended the continuing resolution to allow continuation of the Army's procurement

The amendment would restore funds for advance multiyear procurement of the multiple-launch rocket system (MLRS) that were removed during consideration by the Appropriations Committee of the DOD bill and delete \$20 million that was added to begin work on a second source production facility.

The MLRS program has been recognized as one of the best managed programs in the Department of Defense. Both the Senate Armed Services Committee and the House Armed Services Committee commended the Army for its management of the MLRS program.

The General Accounting Office issued a report February 5, 1982, entitled "The Army's Multiple-Launch Rocket System Is Progressing Well and Merits Continued Support." GAO concluded that the rocket "has excellent potential for significantly increasing the Army's artillery capability."

It is on cost, on schedule, and is meeting all technical specifications. It

is the only major Army program that is showing a cost reduction in the selected acquisition reports. The costs have decreased by 12 percent between March and December 1981.

Moreover, Maj. Gen. Robert Moore, Commander of Army Missile Command was quoted in Aerospace Daily, September 24, 1982, as saying quite simply that MLRS is "the best weapon system I've got in my command. It is on time, on cost, and on schedule."

The Army's procurement plan is simple: Require a firm fixed-price proposal from Vought for the remaining production run, evaluate the proposal and award a multiyear contract only if the Army is satisfied that projected savings offer the best buy for the Government.

This program is an example of good procuremnt practices. First, the Government is protected by requiring a firm fixed-price contract. I urge greater use of such contracts.

Second, this program has had competition—a lot of it and it may have more. In 1976, five companies competed, two made the cutoff. From 1977 to 1980, these two companies competed and Vought won. Additionally, should Vought's multiyear proposal be unsatisfactory, a second-source competition would take place.

Thus, this has been a competitive procurement that has resulted in one supplier of the system—it has produced a winner of the competition.

Third, the Vought Corp. and its subcontractors have invested over \$50 million of private funds into a facility. Investments like this can protect and enhance our defense industrial base and serve a vital role in our economy.

Fourth, the cost comparison in this case strongly argues against a second source. Multiyear savings according to the Army amount to \$193 million.

I believe that the option of selecting a second-source producer should be retained while the Army considers Vought's offer for a multiyear contractual arrangement. The explicit threat of developing a second domestic source should provide the contractor with maximum incentives for offering the best possible price of MLRS. Appropriating the funds already authorized in long-lead funding for multiyear procurement will allow the Army to exercise either the multiyear or second-source option, depending on which proves to be most cost effective.

The competition for the MLRS program has already been completed and won. The winning contractor now deserves the opportunity to perform in accordance with the intent of the contract. The Army should be allowed to honor its commitment. Failure to do so would raise grave doubts in the future for contractors who had been willing to invest large sums of capital

on behalf of Department of Defense

Deleting the funds authorized to initiate a multiyear procurement strategy and appropriating funds to begin a second-source procurement for the MLRS would jeopardize one of the most successful major weapons programs in recent memory. The success the Vought Corp. has had with this program should be rewarded, not penalized. For the good of the Congress, the Army, and the country we must not force the Army to reject the option for the multiyear procurement of the presently successful MLRS program.

## MULTIPLE LAUNCH ROCKET SYSTEM

Mr. BUMPERS. Mr. President, I am pleased to announce that today the Appropriations Committee adopted my amendment to the continuing resolution to restore full funding for multiyear procurement of the multiple-launch rocket system (MLRS). Specifically, my amendment, as adopted, restores \$53.2 million for advance multiyear procurement of the system multiple-launch rocket (MLRS) that was stripped out during Appropriations the Committee markup of the fiscal year 1983 Department of Defense appropriation bill; and deletes \$20 million that was added by the Appropriations Committee to begin work on a directed second-source production facility. The House version of the fiscal year 1983 Defense appropriations bill includes \$53.2 million for the advance multiyear procurement option. The amendment, which was developed by myself and Senator Pryor, brings the Senate bill into line with the House bill and the Army's recommendation, and removes the MLRS as a potential issue for House-Senate conferees on the continuing resolution.

Passage of this amendment represents approval for the Army's MLRS procurement strategy and should insure that this important system will be produced in a manner that best meets the needs of the Army and the Nation. Three reasons for the unqualified success of the MLRS program have been the vigorous 4-year competition involving five contractors that led to the selection of a prime contractor; investment of more than \$50 million in private capital to build totally modern production facilities; DOD's insistence on fixed-price contracts. The results have been impressive. The cost of the MLRS actually decreased by 12 percent between March and December 1981, and the General Accounting Office has concluded that the MLRS "has excellent potential for significantly increasing the Army's artillery capabilty."

The MLRS program has been one of the few real success stories in the weapons procurement business in recent years. That is why it was selected as a candidate for multiyear procurement by the Department of Defense in 1981, and why funds to implement this approach were authorized for fiscal year 1983. The Army estimates savings in excess of \$100 million over a 5-year contract period by using the multiyear procurement strategy.

I believe the option of selecting a competitive second-source domestic producer should be retained while the Army considers the contractor's offer for a multiyear contractural arrangement. The alternative of developing a competitive second source should provide the contractor with maximum incentives for offering the best possible price for the MLRS. Restoring the \$53.2 million that has already been authorized and funding in the House will allow the Army to exercise either the multiyear or second source option, which ever is most cost effective.

Mr. President, a number of of Senators have taken a keen interest in this amendment and worked hard for its adoption. In particular, I would like to thank the following for their unwavering support: Senators Pryor, Bentsen, Exon, Bradley, Dodd, Specter, Warner, Thurmond, Leahy, Riegle, Nickles, and Dole.

Mr. President, I hope that the entire Senate will agree with me that the committee restoration of the funds previously authorized to initiate a multiyear procurement strategy, and deletion of the additional \$20 million to begin a directed second-source procurement for the MLRS, will guarantee the continued success of one of this Nation's most important weapons programs.

## NORTH CAROLINA HIGHWAY 32 BRIDGE

Mr. HELMS. Mr. President, I would like to call to the attention of the distinguished chairman of the Committee on Environment and Public Works, my distinguished colleague from Vermont, the condition of the North Carolina Highway 32 Bridge connecting Chowan and Washington Counties over the Albemarle Sound in North Carolina.

The bridge is 45 years old, and in a state of serious disrepair. I have here a report on the bridge that sets out in detail its condition and explains what repairs have begun and what other repairs are needed. I ask unanimous consent that it be printed in the Record at the conclusion of my remarks.

I call this bridge to the attention of the Senator from Vermont and my other colleagues on the Committee on Environment and Public Works in the hope that they will consider the condition of this bridge, and if possible include language in their report on this measure citing this bridge as one for which Federal assistance out of the bridge discretionary program should be provided.

Mr. STAFFORD. Mr. President, I would be delighted to examine this in

conference. I thank my good friend from North Carolina for calling this to my attention.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON N.C. 32 BRIDGE OVER ALBEMARLE SOUND, CHOWAN AND WASHINGTON COUN-TIES. JULY 1982

#### GENERAL INFORMATION

The Albemarle Sound Bridge was built in 1937 by the North Carolina State Highway Commission. The longest bridge in North Carolina, it is 3.45 miles in length and has a clear roadway width of 21'-11". The bridge, with the exception of the truss swing span, consists of a concrete deck on steel beams supported by timber piles. The bridge is not capable of supporting maximum legal vehicle weights and is posted to allow usage by single vehicles having a gross weight of no more than 20 tons and truck-tractor semitrailer vehicles having a gross weight of no more than 22 tons.

#### INSPECTION

An in-depth inspection of the bridge was conducted by the consulting firm of Greiner Engineering Sciences, Inc. in 1979. Prior to the inspection, the bridge was posted for a maximum gross weight of 23 tons for single vehicles and 27 tons for truck-tractor semitrailer vehicles. This inspection indicated the truss swing span to be in good condition but the remainder of the bridge was found to be in poor condition due to damaged timber piles and bracing. A limit of 9 tons gross weight was recommended, but this restriction was not posted. As a result, bridge maintenance personnel replaced 31 timber piles and repaired the timber cross bracing. The bridge was then posted single vehicle 20 tons and truck-tractor semitrailer vehicle 22 tons.

A reinspection above the waterline was conducted by the Bridge Maintenance Unit in November 1981. Repairs were recommended for two piles and other minor maintenance items considered normal for a bridge 45 years old. A second phase of this inspection included the under water and above water investigation of the last condition of the timber piles. This work has been conducted during the last several months and is now complete. This systematic inspection included the sounding of 1,296 piles below the waterline and 2,856 above the water. Two decayed piles were found below the water and, as a result of coring 389 piles above the waterline, 40 piles have been identified for replacement.

## MAINTENANCE

The replacement of the 40 piles began July 28, 1982 by our Bridge Maintenance Unit at an estimated cost of \$200,000. This work will take 30 to 45 working days, depending on the weather. One lane of traffic will be maintained during the working hours of 7:00 a.m. to 5:30 p.m. Monday through Thursday. Applications for oversize load permits will be advised of a width restriction during working hours. The current weight limit posting will be maintained during and upon the completion of the work.

The bridge will continue to be inspected at least annually. Our Department is committed to the maintenance required to keep the bridge open to traffic, with little, if any, further reduction in the current posted weight restrictions, until the bridge is replaced.

#### REPLACEMENT

This bridge was originally included for replacement in the 1979-1985 Transportation Improvement Program, subject to availability of funds. The bridge is scheduled for replacement in fiscal year 1984 in the 1982-1991 Transportation Improvement Program, provided sufficient funds are made available. The current estimated cost of the replacement is \$37.5 million.

Over the past several years, North Carolina has received an apportionment of approximately \$16 million per year in federalaid Bridge Replacement/Rehabilitation funds. These funds, plus twenty percent state matching monies, are to be used to replace deficient bridges throughout the State. With approximately 11,000 substandard bridges in North Carolina, the replacement of the Albermarle Sound structure using these funds would significantly neglect other statewide needs, Additional revenues must be identified to replace the NC 32 bridge.

Current federal highway legislation provides for \$200 million discretionary funds nationwide for high cost bridge replacement projects as identified by the Secretary of the U.S. Department of Tranportation. Two major bridges in North Carolina (the NC 32 Albemarle Sound Bridge and the US 421 Bridge over the Cape Fear River near Wilmington) qualify for these funds. To date, our efforts to obtain federal-aid discretionary bridge replacement funds have been tutile. To the best of our knowledge, the U.S. Department of Transportation has consistently allocated the available discretionary bridge funds to those bridges which have been noted in the Congressional legislative record as being eligible.

New multi-year federal-aid highway legislation is currently under consideration by the President and within committees in both Houses of Congress. We have been working with our legislative representatives in Washington to have two North Carolina bridges included in the legislative record. In fact, Congressman Walter Jones has been instrumental in having these bridges included in the report to accompany the House bill (H.R. 6211) currently under consideration by the House Committee on Public

Works and Transportation.

Apparently, time will not permit Congress to enact multi-year highway legislation before the beginning of the fiscal year, October 1, 1982. A one-year extension of the current bill is more likely. However, we must continue to pursue federal-aid discretionary bridge replacement funds for North Carolina through our Congressional delegation. Without these funds or a substantial increase in regular federal-aid bridge replacement funds in future multi-year highway legislation, the replacement of the Albemarle Sound Bridge is likely years away.

Local governments should continue their support and pursuit of funds for the replacement of the Albemarle Sound Bridge through their legislative representatives. Until additional funds become available, the Department of Transportation will continue to maintain the existing bridge to provide the best level of service possible for this vital link in the highway network of eastern

North Carolina.

ON SECTION 147—INNOVATIVE TECHNOLOGIES S. 3043

Mr. DECONCINI. Mr. President, I want to commend my colleague from West Virginia, Senator Randolph, and the Senate Committee on Environ-

ment and Public Works for including section 147, the innovative technologies provision, in this highway bill. Section 147 authorized the Secretary of Transportation to increase payments to States in cases where the States submit highway or bridge surfacing or restoration projects that utilize paying materials containing significant amounts of recycled materials.

This new statutory provision is long overdue and especially appropriate in the case of asphalt/rubber, which is produced by combining approximately 75 to 80 percent asphalt with 20 to 25 percent rubber recovered from recycled tires. For years, the State of Arizona and the city of Phoenix have successfully utilized asphalt/rubber to pave miles of our streets and highways. In each instance, the utilization of this material containing recycled rubber has proved exceptionally successful. In addition, the Federal Highway Administration has conducted 28 asphalt/rubber demonstration projects throughout the States-from Florida to Oregon, from Vermont to Wyoming and Washington-and just recently, at a Federal Highway Administration seminar in San Antonio, the Chief of that Agency's Demonstration Projects Division stated that, several years after the initial paving.

All of these projects are in good to excellent condition \* \* \*

Consequently, this Federal Highway Administration official concluded:

Projects involving asphalt/rubber chip seals and interlayers can be constructed without any significant difficulties.

Asphalt/rubber chip seals are more effective e than conventional chip seals in retarding the reflection of fatigue-type cracking in

asphalt pavements.

It is the opinion of this author that asphalt/rubber membranes offer viable alternatives to conventional materials for the rehabilitation of some asphaltic concrete pavements. Whenever an asphalt pavement exhibits moderate to severe fatigue-type cracking, serious consideration should be given to the use of an asphalt/rubber chip seal or interlayer. Under these circumstances, the asphalt/rubber treatment can be expected to control reflective cracking, minimize moisture penetration, and substantially extend the service life of the pavement.

Equally salutary recommendations and conclusions were contained in the "Eleven-Year Pavement Condition History of Asphalt/Rubber Seals" recently published by the city of Phoenix, Ariz. In Phoenix, asphalt/rubber was applied to 57 miles of severely cracked streets and roads during the period from 1971 through 1979. Those applications were periodically evaluated after 1971. The "Eleven-Year Condition History," published as a result of those evaluations, states:

RECOMMENDATIONS AND CONCLUSIONS

Asphalt/rubber has worked successfully in Phoenix....

Asphalt/rubber has virtually stopped maintenance costs, whereas the conventional chip seal only has reduced them. Thus a real value of the asphalt/rubber application with older roads is that it can eliminate maintenance costs...

Asphalt/rubber improves with time, whereas the conventional chip seal coats deteriorate. This has been proven several times where the asphalt/rubber molds itself to the pavement subgrade conditions. Potholes and cracks do not ravel or break, and when movement occurs in the pavement, the asphalt/rubber moves with it, without cracking....

The use of asphalt/rubber... will be continued because of its sound engineering properties, economic advantages and success as a surface for our streets, highways and airports.

In the final analysis, therefore, highway and bridge projects utilizing asphalt/rubber cost less, last longer, and ultimately save both the Federal and State governments large sums of money in maintenance expense.

In addition, the utilization of asphalt/rubber results in vitally important environmental benefits as follows:

#### 1. ENERGY CONSERVATION

Asphalt is manufactured directly from crude oil, so the substitution of rubber from recycled tires operates directly to conserve significant volumes of oil. Moreover, most tires in the United States are manufactured from synthetic rubber, which is also produced from crude oil. The recycling of this tire rubber in our highway surfaces thus serves to reuse the same oil employed in synthetic tire manufacture for two important purposes instead of just one.

## 2. HIGHWAY BEAUTIFICATION

Tires strewn along our highways which are piled high in junkyards near the highways are removed for reuse in highway surfacing materials.

# 3. ALLEVIATION OF SOLID WASTE DISPOSAL PROBLEMS AND COSTS

Roughly 240 million tires are discarded in the United States each year, and until now, only about 5 percent of that staggering volume is recycled. Old tires cannot be incinerated without creating serious air pollution problems, and they are among the most difficult and costly items of solid waste for landfill purposes. Consequently, the utilization of asphalt/rubber in highway construction serves to alleviate and, hopefully, eliminate all of these serious environmental problems.

Finally, of course, the supplemental grant program by provided section 147 of the bill now before the Senate is especially appropriate in the case of asphalt/rubber because, for years, taxes on new tires have contributed hundreds of millions of dollars each year to the highway trust fund. Last year, for example, the tax on tires raised \$685 million for the highway trust fund, and Secretary Drew Lewis of the Department of Transportation recent-

ly estimated that roughly \$715 million will be realized from tire taxes in fiscal year 1983. These same tires which produce these taxes are, sooner or later, discarded and they thereupon create impossible solid waste disposal problems for our highway system and cities and States throughout the Nation. Section 147 deals directly and effectively with this problem by di-recting the Secretary of Transportation to increase Federal payments to States which have the innovative foresight to utilize highway construction and rehabilitation funds derived from this legislation for projects built around significant utilization of asphalt/rubber paving materials.

Accordingly, although I am assured by members of the Senate Public Works Committee and staff members of that committee in charge of this legislation that section 147 was included in the bill by the committee principally for the purpose of authorizing the Secretary of Transportation to increase Federal payments to States that design and submit substantial proposed asphalt/rubber paving projects under this bill, I would like to clarify a few facts with Senator Randolph, the author of section 147 at

this time.

#### SECTION 147

Section 147 of the bill now before the Senate authorizes the Secretary of Transportation to increase the Federal payments by 5 percent for any projects submitted by State highway departments which provide for the use of highway and bridge surfacing, resurfacing or restoration substances produced from recycled materials. Would the author of section 147, my distinguished colleague from West Virginia, Senator RANDOLPH, state whether asphalt/rubber, produced in sub-stantial part from rubber recycled from discarded tires, is a highway and bridge surfacing, resurfacing, or restoration material within the meaning and scope of section 147, and thus, the type of "recycled material" or "asphalt additive" which, when included in a proposed State project, would make that State eligible for the increased Federal payment provided by section 147?

Mr. RANDOLPH. The answer is "yes". If section 147 is enacted, States submitting highway or bridge projects to the Secretary of Transportation which provide for significant utilization of asphalt/rubber would qualify for additional Federal assistance.

Mr. DECONCINI. I would like to be assured that section 147 will be administered by the Secretary of Transportation solely for the purpose of expending additional Federal funds to promote projects based on the utilization of genuine "recycled materials" or "asphalt additives" such as asphalt/rubber and any other similar product the Senator from West Virginia might

have in mind. In this respect, I believe it should be made clear that a State would not qualify for additional Federal assistance under section 147 by merely breaking up an existing road and utilizing part of the resulting debris as a road bed for a new or rehabilitated road. Could my colleague from West Virginia assure me that this is not the purpose of section 147, and that any such project would not qualify for additional Federal assistance under that section?

Mr. RANDOLPH. Clearly, section 147 is not intended to authorize the Secretary of Transportation to grant additional Federal assistance to any State which simply utilizes old highway materials in the manner described by the Senator from Arizona. In order to qualify for additional assistance under section 147, a State must present a project to the Secretary which involves significant utilization of a recycled material such as rubber derived from old tires, or an asphalt additive, such as an innovative mixture or compound which serves to harden asphalt or otherwise make it more durable for highway and bridge resurfacing purposes.

THE PAPAGO FREEWAY

Mr. DECONCINI. Mr. President, the committee, during its consideration of this new highway measure, focused considerable attention on the need to complete our Nation's Interstate System in a timely manner. While the bill before us increases the funds available for interstate construction, it does not, like its counterpart in the House, contain a discretionary section with additional money for uncompleted, high-cost interstate segments. Mr. Chairman, in my State of Arizona, as you well know, we still have a vital link in the interstate which is far from being completed. The I-10 Papago Feeeway, as it is called, will require virtually all of Arizona's Federal Highway apportionments to complete the project by 1990. This, of course, will place a severe burden on the State in terms of delays which will be caused other important highway projects in Arizona.

Mr. President, I would have like to have seen the committee adopt the administration's recommendations on the interstate program. However, I understand the budgetary constraints the committee has been under with all of the competing needs. The House has included a section authorizing discretionary funds for interstate construction. Mr. President, should a discretionary interstate construction program be adopted during the upcoming conference, I wonder if you would support and include language in the conference report assigning priority to the Papago Freeway.

Mr. STAFFORD. Senator you are correct that the House has approved an interstate discretionary program

and I am sure this topic will be one of considerable discussion during the conference between the two Houses. I understand the Senator from Arizona's concerns about the completion of the Papago Freeway and wish to assure him that should we end up with a discretionary program, I will support the inclusion of language in the conference report directing the Federal Highway Administration to give this important interstate project priority when allocating funds under that Section.

Mr. DECONCINI. Thank your very much, Mr. President.

Mr. RANDOLPH. Mr. President, I support the amendment offered by the capable chairman of the Committee on Environment and Public Works. Mr. STAFFORD, to add to H.R. 6211 the text of S. 3043 as reported by the Committee on Environment and Public Works. The amendment provides for a 5-year extension of the Federal-aid highway program. Funding is provided for continuation of the interstate construction program; primary, secondary, and urban roads; bridge replacement and rehabilitation; safety construction; and repair and rehabilitation of the Interstate System. Since its inception in 1956, the Federal-aid highway program as we know it today has been at the backbone of our transportation system. Under this program a substantial portion of the 42,500-mile National System of Interstate and Defense Highways has been completed. Billions of dollars in Federal and State funds have been spent to make this Nation's highways as modern and efficient as possible in moving the products of the farm, factory, and mine as well as provide mobility for the American people.

Without the authorizations contained in the amendment being offered, which is to be treated as original text for the purpose of further amendment, the Federal-aid highway program will be only authorized for fiscal year 1983 at the level of \$5.1 billion as provided in the bill passed prior to the election recess. This is substantially below the \$8.8 billion authorized for fiscal year 1982 and would be an unacceptable situation. States have developed long-range highway construction programs which require the Federal-aid program be reauthorized on a timely basis. This bill with its 5-year extension provides the assurances to the States that are needed to raise revenue to provide for the matching funds and plan highway projects on a long-term basis.

Mr. President, the Federal-Aid Highway Improvement Act of 1982 is legislation which is very important to the future of this Nation. Over the past decade the highway network of this country has begun to deteriorate. Many segments of our primary and

secondary roads are in horrendous condition, and portions of the Interstate System constructed during the early years of its authorization no longer meet serviceability levels for

which they were designed.

The amendment which we are considering today is identical to S. 3043, which was reported by the Environ-ment and Public Works Committee on December 8. This legislation authorizes \$12.2 billion for fiscal year 1983 and nearly \$70 billion over the 5 years of the bill for completion of our Interstate System, rehabilitation and reconstruction of those deteriorated intersegments, substantial and moneys for the primary, secondary, and urban systems to return these important roads to standard. This highway bill also addresses the growing need to upgrade our Nation's bridges.

Mr. President, the committee would not be bringing this important authorization bill to the floor at this time if it were not for two factors: First, the investment in our highway system has not been maintained at a level that is conducive to safe and efficient transportation. Second, a proposal has been made to raise the Federal gasoline tax by 5 cents per gallon. This bill reflects the emphasis which should be placed on our continuing Federal-aid highway program. Rehabilitation and reconstruction are the future and must be addressed in this legislation if our highway program is to continue to support economic viability and growth. In conjunction with expected increases in the highway trust fund, this bill, while providing funds to complete the Interstate System, places a great deal of emphasis on our rehabilitation and reconstruction needs. Substantial increases in investments are made in our existing roads.

Funding is substantially increased for the primary system and for rehabilitation of the Interstate System. In this regard, one important provision of the bill requires that at least 60 percent of those funds apportioned to the States for the primary, secondary, and urban road programs be used on rehabilitation and resurfacing projects, on existing highway facilities. While not strictly tying the hands of State highway departments, this section in the bill indicates the Federal interest in maintaining the serviceability of our

highway network.

Funding levels for the interstate repair and rehabilitation category are increased dramatically over current levels. The bill provides \$1.8 billion in fiscal year 1983, and this increases to \$3.4 billion for fiscal year 1987. A similar increase takes place under the bridge rehabilitation and replacement category.

Mr. President, while this bill is basically within the framework of the existing highway program, it has one provision which I think could be of

great benefit to the Federal highway construction program of this Nation. In recent years several new products have been developed for use in highway construction which could have great benefit. Under section 147 of the bill, States are urged, by providing a 5-percent increase in Federal share, to use innovative pavement materials in resurfacing and rehabilitation work. Many new products have been developed using recycled materials and other U.S. patented techniques to either reduce the cost of road construction or to provide greater life and durability for pavements.

Another provision adopted in committee relates to energy impacted roads. Upon a satisfactory State certification to the Secretary, the Federal share for primary and secondary routes can be increased from 75 to 85 percent if such routes have a substantial energy transportation use. This provision applies to coal and other natural resources as well as energy production equipment which must be

hauled over our roads.

Mr. President, a recent interpretation by the Federal Highway Administration on the application of the Davis-Bacon Act required that the committee amend the Federal-Aid Highway Act to make clear the application of this important statute. Under the bill as reported by the committee, workers who are engaged in the vital rebuilding of our Nation's highways and bridges off the Interstate System will be covered by Davis-Bacon Act provisions. Three-R work on the noninterstate program will no longer be excepted from coverage. We should continue to do everything in our power to insure that work is performed in the most productive and skilled manner possible. The application of Davis-Bacon will assure this result.

Many argue that if you cut wages down to the bare bones you will decrease the costs to the Government of construction such as we are consider-

ing today.

This argument is nonsense. This is not make-work bill; and one of its points is to provide jobs in the construction industry, which is devastated by unemployment. Its effect should not be to take advantage of workers who desperately need employment by offering them the minimum wage. We need to attract skilled, productive workers to these jobs and pay them a fair wage commensurate with these skills. This is exactly what Davis-Bacon accomplishes.

Moreover, paying the minimum wage can easily cost the Government in the long-run. It is clear that well trained, skilled workers will be able to complete a project much more quickly and efficiently than workers with little construction experience. There is no advantage in employing someone at

a few dollars an hour less if they take twice as long to finish the job.

Skilled, experienced workers are also much more likely to do a high-quality job. Using poorly trained workers can and will lead to quality problems. While there might be some small initial savings as a result of paying below the prevailing wage rate, these savings will be quickly wiped out if there is faulty performance of the work in the first place. And we are not dealing with the building of a family driveway in this bill. We are talking about the rebuilding of bridges and interstate highways which is difficult and complicated construction. It must be done correctly. Davis-Bacon insures that reliable contractors who pay the local wage rate will be awarded Government construction projects. For this reason I urge you to continue Davis-Bacon coverage for rebuilding of the Nation's highways and bridges.

Mr. President, possibly the most important aspect of this bill is its job-creation effects. With current unemployment well over acceptable levels, and with construction industry unemployment even higher, the creation of jobs cannot be overlooked. This bill creates 170,000 direct jobs for the construction industry and will provide an additional 150,000 indirect jobs. While these numbers are not substantial with respect to the total number of Americans who are unemployed, it is a beginning and an important step in reducing unemployment.

Mr. President, I urge expeditious action in the Senate on this legislation including the gasoline tax increase. This bill is highly important to the long-term economic well-being of this country. I urge my colleagues to give it careful and favorable consideration.

### NEW CHALLENGES IN INTERNATIONAL TRADE

Mr. PERCY. Mr. President, last month the trade ministers of Western countries met in Switzerland at the first GATT Ministerial in 9 years. This meeting to discuss mutual international trade concerns was promoted by our own Government many, many months ago as a way to move the world economy forward in a new round of trade barrier reductions.

That meeting in Switzerland did not live up to the expectations that we had for it earlier this year. The trade ministers were able to issue a communique that basically held the international trading system as we know it together. Ambassador Brock said at the close of the session that "overall, the results might earn a grade of 'C.' It could stretch to a 'C+', but only time and future action will tell."

The world recession is placing great strains on the international trading system. For the United States, the recession has now lasted a bit longer than the 1974-75 recession, making it the longest downturn since World War II. Not only is the recession severe here at home; it is also hitting our major trading partners and the underdeveloped world. That makes it different from other postwar recessions, too. In the past when our economy was down, Europe and Japan were up and they had a positive effect on our own recovery. Of course the reverse was true, too, when their economies were sluggish.

The hallmarks of this recession have put in question the very fundamentals of the international trading system as it has emerged in the past 30 years. As Ambassador Brock said in Geneva, "in these times it would have been easy to fall back—to regress from prior achievement. We did not make this mistake. There was a strong and obvious desire to move ahead. We have

done so."

Mr. President, moving ahead and not backward is essential to the economic well-being of not only the United States but also the entire Free World. The importance of retaining the basics of our trading system and building anew upon those strengths was forcefully and eloquently outlined this fall by Robert H. Malott, chairman and chief executive officer for FMC Corp.

On October 14, Mr. Malott addressed the American Graduate School of International Management in Phoenix, Ariz. His speech, entitled "New Challenges in International Trade," outlines five major problems that require immediate attention.

Lack of respect for industrial property rights;

Escalation of credit wars; Tax subsidies on export sales; Predatory manipulation of foreign exchange rates; and

Fair market access.

Some of these matters were on the table at the GATT Ministerial meeting; others await discussion in other forums. The solution to all of these is critical to the future prosperity of the United States, our major trading partners and the underdeveloped countries. I commend Bob Malott's address to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

New Challenges in International Trade (By Robert H. Malott, Chairman and Chief Executive Officer, FMC Corp.)

The economic challenges we faced as we entered the 1980's loom increasingly large. Developing countries are struggling to manage foreign debt loads, protectionist pressures are on the increase, and everywhere countries are trying to dispel their economic woes by expanding exports, limiting imports, and passing local content legislation. It is a sobering and disturbing picture.

If there's one overriding issue in world trade today, it seems to me it is the question of the relevance of the general agreement of tariffs and trade. When GATT was established in 1947, the United States was supreme in technology, management skills, and productive capacity. The other major industrialized countries were still recovering from the devastation of World War II, and what we now call the developing countries were primarily struggling for political independence. Since that time, the structure of the World economy has changed dramatically-although the U.S. remains the single largest exporter in the world we have dropped to second place in the critrical area of manufactured goods, and developed and developing countries have become stiff competitors for both our domestic and export

In most of the post-war period, GATT served us well. Through three rounds of trade negotiations, it succeeded in progressively reducing traiffs to a minimum among the industrialized trading nations. But GATT may have been a victim of its own Now that import duties have success. become almost negligible in many cases, we have moved into the more subtle and complex arena of non-tariff barriers-including export subsidies, import licensing requirements, and local content rules—to name just a few. These are the barriers which are responsible for distorting current trade rela-tionships. These are the barriers which today impede the development of economically sound trade patterns. And these are the barriers which create the increasingly vindictive political issues that interfere with normal relations between nations.

The issue we must face squarely is this: can GATT handle the realities of today? Can it handle the tough problems of nontariff barriers? Or do we need new, more comprehensive guidelines on which to base future international trade?

With this issue in mind, I'd like to address five problems in international trade that ur-

gently require solutions.

The first problem concerns the increasing lack of respect for industrial property rights in the international marketplace. In the 1950's, the United States possessed most of the world's technology and controlled the majority of its patents. But since that time, new technology has been transferred out of this country and has become common knowledge throughout the world. Much of this technology transfer has occurred through joint-venture or licensing arrangements, but recently there's been an alarming and expanding disrespect for patent agreements and an increase in surreptitious transfers.

FMC has had to combat this problem with a state-owned enterprise in Hungary that was selling in Brazil a counterfeit version of our pesticide, Furadan. Although we have a valid patent in Brazil for our product, it has taken five years of litigation to stop imports of the Hungarian product into that country.

Many developing countries do not belong to the 1883 Paris Convention on Industrial Property Rights, the convention which binds member countries to respect one another's patents. Many that do belong want to change the rules so they can obtain immediate and cost-free access to developed country technology, in the United Nations, where the Paris codes are being revised, developing country governments have been pressing for agreements which would allow them to seize patented technology and give it to their own domestic firms if multina-

tional patent owners did not exercise their patent rights within a set time period—perhaps as little as 30 months!

Should the developing countries succeed in this effort, they may well impede technology development and transfer throughout the world. For if the industrialized countries have no ability to protect their patents, they will have less incentive to spend money on R&D and, in the long run, will have less technology to transfer.

Recently, FMC has been working with Senator Danforth to amend the U.S. Trade Act of 1974 to give U.S. companies greater recourse against violators of U.S. patent rigths. Under this amendment, the President would have powers to raise tariffs, impose quotas, or even revoke most-favored nation status. We believe this change in legislation would be an important first step in preventing other countries from pirating the technology that U.S. firms have worked so long and hard to develop.

In another, more subtle invasion of property rights, a former common market commissioner by the name of Vredeling has proposed a plan to the European Parliament which would require multinational companies operating in Europe to share their long-term strategic plans with their labor unions. It would be absurd to try to operate a business effectively if all long-range strategies were laid bare to the competition.

Surprisingly, this issue is expected to come to a vote shortly in the EEC Parliament, and only the British have indicated they would veto it. Issues like this are appearing with incrasing frequency in the debates of the EEC, the deliberations of the United Nations and the economic concessions demanded by the less developed countries.

A second major problem is the recent escalation of credit wars, as industrial countries resort to subsidized financing packages to stimulate exports. Over the past decade, trade officials from major exporting countries have admittedly made some effort to curb the problem through negotiations leading to "gentlemen's agreements" on export credits.

But isn't it a bit naive to assume that countries which depend on trade for 20 to 40 percent of their gross national product can avoid domestic political pressures that support aggressive export efforts? Won't these pressures make gentlemen's agreements difficult to enforce?

Let me pose an alternative. We might consider establishing a new international export credit agency to enforce common rules on export financing, much as the IMF, supported by its enormous financial resources, oversees international monetary practices. If all major trading nations agreed to abide by the same export credit rules, export financing would no longer be the determining factor in international buy/sell decisions.

Certainly the status quo is not acceptable—the current export credit war is irrational, costly, and leads to serious misallocation of resources. It must be stopped.

The third major problem concerns tax subsidies on export sales. Like export credits, tax subsidies create enormous distortions to international trade. They are particularly insidious because they are so difficult to identify, measure and verify with accuracy.

The industrial countries are wasting an enormous amount of time, energy, and money just to stalemate each other's export subsidies. Shouldn't we devote our efforts

instead to reaching an understanding on common standards for export tax relief?

A fourth area of concern is the increasingly predatory manipulation of foreign exchange rates. In 1971, when the U.S. went off the gold standard, the world officially switched from fixed to floating exchange rates. But floating rates have turned out to be more an illusion than a reality—most nations have endeavored to manage their floats very carefully. The manipulation is not overt but is often hidden in a maze of capital or financial market controls.

Japan, in my judgment, is a prime example. The Japanese have been able to keep the value of the yen artificially low. At present, the yen is trading at the depressed level of about 265 to the dollar, when most experts agree it should be trading between 180 and 200 to the dollar if, in fact, the rate reflected market conditions. This managed float strongly encourages Japanese exports and discourages imports. Not surprisingly, Japan's trade surplus with the United States is expected to reach \$20 billion this year—or almost half America's projected trade deficit with the entire world in 1982.

One possible solution might be to broaden the scope of the International Monetary Fund to include explicit authority over exchange rate manipulation. The Fund's member countries could give the IMF the power to impose appropriate sanctions on nations which did not allow their currencies to move freely in response to underlying market forces.

The fifth and last item on my agenda, is the exceedingly tough issue of assuring fair market access. It seems that most countries in the world today hope to export their way to economic salvation. It should be obvious that they cannot all succeed as exporters if no one is willing to be an importer.

The U.S. represents the biggest import market in the world and, by and large, we've made this great asset available to our trading partners with relatively few restrictions. But we're at the point now where we can't continue giving foreign producers unfettered access to our markets unless we gain equivalent access to theirs.

The market barriers American producers face overseas come in many guises. For instance, they may be told their products don't meet local specifications or consumer tastes. Or, they may be told their products don't meet domestic safety standards even if they have passed international standards accepted by the importing country. In other cases, they may have to comply with restrictive licensing requirements or agree to manufacture a certain percentage of their product in the importing country. All of these restrictions severely limit the ability of U.S. companies to penetrate foreign markets.

Japan has been particularly effective in restricting access to its markets. Let me recount the experience of FMC and other American companies in marketing soda ash, the principal ingredient in manufacturing glass. Although U.S. producers of soda ash have had a substantial cost advantage over Japanese producers, they've been restricted for the past 10 years to only 5 percent of the Japanese market. If U.S. producers could compete head-to-head with the Japanese manufacturers, it's been estimated that they could capture up to 40 percent of the Japanese soda ash market.

In the case of soda ash, there are no problems with product quality, reliability, or distribution capability—factors which the Japanese have traditionally used to explain the failure of foreign goods to penetrate their

markets. Nor is there a problem in meeting specifications for the home market, a requirement Japan often invokes, since soda ash is a commodity chemical with universal properties. It is a clear case of import restrictions to protect Japanese producers.

We're a country that truly believes in open markets and the free entry of goods, but our trading partners must know that we are no longer willing to tolerate one-way streets. Free access to all markets of the world must be an unending objective as we seek better guidelines for international trade.

In summary:

The protection of industrial property rights

An armistice in export credit wars

The elimination of competition in tax subsidies

The control of exchange rate manipulation

And, above all, the assurance of fair access to world markets

. . . are five international trade challenges we must confront successfully during the 1980's.

I opened my remarks by questioning whether GATT is capable of effectively addressing issues as tough as these. By asking the question, I don't mean to suggest the answer is "no," but it is apparent that changes must be made, either within the structure of the GATT or as a supplement to the agreement, to address the changes that have taken place in international trade over the last 35 years.

A drift away from a free trading system could close off the longest era of prosperity the world has ever known. But free international trade faces its greatest challenge since World War II, as neither we, nor any other nation, have yet eliminated the lure of protectionist responses to increasingly severe problems.

The stakes are enormous. In my judgment, we must develop broader, more comprehensive guidelines to address the complex realities of international trade today and prepare for the challenges of tomorrow. Just as there is no shortage of challenges . . . I am confident there will be no shortage of creative solutions.

FILING THE FINAL REPORT OF THE SELECT COMMITTEE TO STUDY LAW ENFORCEMENT UNDERCOVER ACTIVITIES OF COMPONENTS OF THE DE-PARTMENT OF JUSTICE

Mr. MATHIAS. Mr. President, this being the 15th of December, it is a day which, under Senate Resolution 350, the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice will file a report before the end of this session.

I ask unanimous consent that the full version of the report, including citation to confidential documents, and other sensitive materials, be filed with the Office of National Security Information, simultaneously with the filing with the Secretary of the Senate, and that this full version not be released except to members of the select committee, until further order of the Senate; and

That the chairman and vice chairman of the select committee be authorized to take all actions subsequent to December 15, 1982, which are necessary to complete the mission of the select committee, including but not limited to the following:

First, to arrange for the subsequent printing and distribution of the public version of the select committee's final report:

Second, to approve editorial corrections to the text of the final report; and

Third, to provide for the proper disposition of confidential documents furnished to the select committee by components of the Department of Justice for use in the select committee's investigation.

The PRESIDING OFFICER. Without objection, it is so ordered.

# RETIREMENT OF JOSEPH D. GIORDANO

Mr. KENNEDY. Mr. President, the end of this session of Congress marks the retirement of one of the Senate's most dedicated and conscientious aides, a man who has served us with great loyalty for the past 15 years and who has won the admiration and friendship of all of us in this Chamber, Mr. Joseph D. Giordano.

Actually, I first met Joe in the early sixties, before his Senate years, when he served on the White House staff in the Office of Transportation and Communications. He had worked there since the initial years of the Truman administration, assisting in the arrangements for Presidential travel at home and overseas. Joe's pleasant manner and his genius for detail immediately caught the eye of President Kennedy. They established a close working relationship—and an equally close friendship-that lasted throughout the Kennedy administration. My brother Jack always gave Joe great credit for the success of his meetings with foreign leaders, and Joe himself won wide praise in the White House for his skillful work and loyal service to the President.

The friendship that began between Joe and our family in those years continued strong after President Kennedy's death. Joe worked closely with Evelyn Lincoln at the National Archives in assembling the President's papers for the Kennedy Library. In 1967, Joe moved to the Senate, where he became the office manager for Senator Robert Kennedy. After Bob's death, Joe stayed on in the Senate, working in the office of the Sergeant at Arms, helping all of us here with his same unique brand of skill, good nature, and commitment.

Now, as Joe leaves the Senate, I want to wish him a long and happy retirement with his wife Josephine, and

his sons Richard and Mario. I congratulate Joe for his remarkable career in public service. As much as any person I know, Joe has lived up to the standard that President Kennedy set in his inaugural address, when he said, "Ask not what your country can do for you—ask what you can do for your country." Joe Giordano has served the Senate and his country well, and he has earned the respect and affection of all of us.

## OIL AND GAS LEASING OFF THE CALIFORNIA COAST

Mr. CRANSTON. Mr. President, yesterday, when H.R. 7356, the Interior appropriations bill, was on the floor, I explained why the Senate committee language in section 107 regarding oil and gas leasing off the California coast was so potentially devastating to that area. At that time I pointed out that the Senate language which is similar to that which was included in the Interior appropriations bill last year no longer offers protection to those environmentally sensitive areas of the northern and central California coasts. It does not protect those areas because they are not included in the upcoming lease sale No. 73 proposed by Secretary Watt.

Both my colleague from California (Mr. HAYAKAWA) and I strongly support the amendment adopted by the House of Representatives in this year's Interior appropriations bill which bans oil and gas leasing on a carefully chosen portion of the Outer Continental Shelf off the California coast.

Senator HAYAKAWA and I are not alone in our desire to protect this portion of the California coast. Local officials, fishing interests, tourist representatives, and lovers of wildlife and the outdoors in many areas outside of California are adament in their support of the House position. California citizens who would feel a direct impact are joined in their preference for the House language by others who value an orderly procedure in the development of our Outer Continental Shelf resources with proper attention paid to consistency with the State's federally approved coastal plans.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR, Salem Oreg., December 9, 1982. Re U.S. Department of Interior appropria-

tions bill support for House prohibition on the use of funds for northern and central California OCS leasing activities, section 107 of H.R. 7356.

Hon. James McClure,

U.S. Senate,

Washington, D.C.

DEAR SENATOR MCCLURE: I support the provision which was recently passed by the full U.S. House of Representatives (HR 7356, Section 107) which prohibits federal

offshore oil and gas leasing from Row N808 of the Universal Transverse Mercator Grid System northward to the Oregon border. I urge you to adopt that language in the Joint Conference Committee.

While I favor increased domestic production and development of the nation's needed energy resources, I maintain a serious concern about the pace which offshore leasing might assume. The proposed northern and central California OCS leasing area for Sale 73 is ten times the area covered by the previous OCS Lease Sale 53. I am concerned about the adverse impacts that this leasing may have on Oregon's marine fisheries and tourism industries. It should also be noted that House language in no way affects leasing within the Point Arguello field, and that the area north of Row N808 is already the subject of litigation.

During the tentative tract selection for Sale 73, the U.S. Department of Interior ignored Oregon's good faith participation in the OCS leasing process. The enormous size of the planning area and the statistical methods adopted by the DOI have discounted the legitimate concerns of this state, the commercial fishing industry and other organizations. It was DOI's failure to properly recognize these concerns which required the State of Oregon to challenge this leasing program. Oregon's case will be heard this month before the United States Court of Appeals for the District of Columbia Circuit. The House language is a service to the federal taxpayer because it will prevent the expenditure of funds by the DOI to implement an OCS program which is certain to be overturned by the Circuit Court.

Sincerely, Victor Atiyeh,

Governor.

CALIFORNIA GILLNETTERS ASSOCIATION, San Pedro, Calif., December 9, 1982. Hon. S. I. Hayakawa, Dirksen Senate Office Building, Washinoton. D.C.

Dear Senator Hayakawa: The California Gillnetters Association represents commercial fishermen operating offshore the central and southern California coast. On behalf of our members, we respectfully request your support for the language passed in the House version of the Interior appropriations bill that prohibits Interior from conducting any new lease sales offshore California north of Pismo Beach.

Based on information we have received today from Washington, Senator McClure of Idaho has re-written the Interior appropriations bill without benefit of either subcommittee or full committee mark-up. The revisions made by the Senator from Idaho to the House language pertaining to off-shore California will effectively open up the entire California coastline for drilling should it be adopted. The risks posed to California's fishing industry from oil drilling north of Pismo Beach at this time are simply too great and should be opposed.

We urge your opposition to Senator McClure's revisions and any other effort to modify the House language to permit lease sales north of Pismo Beach. Thank you.

Sincerely,

TONY WEST, Vice President, CGA. Senator Mark O. Hatfield, Chairman, Senate Appropriations Committee, U.S. Capitol,

Representative SIDNEY R. YATES,

Chairman, House Interior Appropriation Subcommittee, U.S. Capitol.

We the undersigned State and private participants in the U.S. Department of the Interior OCS Policy Committee wish to convey to the Congress our support of the OCS leasing restrictions specified in the House version of the Interior appropriations bill. We urge the Senate to concur with the House version. The House version would provide time for the resolution of procedural and policy issues including presale Federal consistency reviews as envisioned by the drafters of the CZMA, to be concluded free from undue pressure of additional OCS

We support the need for the comprehensive OCS leasing program, as defined in the 1978 OCS Lands Acts Amendments, which provides a proper balance of risks and benefits among the various regions. We are also prepared to work cooperatively with the DOI and the industry to develop such a program

We urge the Congress to support us in this effort by adopting an appropriations bill which contains the House passed language regarding central and northern California and Mid-Atlantic offshore lease sales.

Bill Van Dyke, Alabama; Gary D. Midkoff, California; Joseph Belanger,
Connecticut; Morice O. Rinkel, Florida; Charles Colgan, Maine; Katrina
Van Dusen, Massachusetts; Mark Chittum, New Hampshire; David Kensey,
New Jersey; Greg Sovas, New York;
Bob Bailey, Oregon; Arthur Socolow,
Pennsylvania; Patricia L. Jerman,
South Carolina; Joseph R. Williams,
Washington.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

At 2:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7072) making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending Sep-

tember 30, 1983, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 19, 34, 45, 55, 60, and 67 to the bill, and agrees thereto; and it agrees to the amendments of the Senate numbered 14, 37, and 70 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House disagrees to the amendments of the Senate to the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Yates, Mr. Murtha, Mr. DICKS, Mr. AUCOIN, Mr. RATCHFORD, WHITTEN, Mr. McDade, Mr. REGULA, Mr. LOEFFLER, and Mr. CONTE as managers of the conference on the part of the House.

The message further announced that the House agrees to the amendments of the Senate numbered 2 and 3 to the amendment of the House to the bill (S. 625) to revise the boundary of Voyageurs National Park in the State of Minnesota, and for other purposes, and that the House agrees to the amendment of the Senate to the amendment of the House numbered 1. with an emendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 1501. An act entitled the "Educational

Mining Act of 1982"; and S. 1661. An act to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 7154. An act to amend the Federal Rules of Civil Procedure with respect to certain service of process by mail, and for other purposes.

## HOUSE BILLS REFERRED

The following bills, received from the House of Representatives were read twice by unanimous consent, and referred as follows:

H.R. 5906. An act to amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to clarify provisions relating to claims, financial responsibility, and civil penalties, to the Committee on Environment and Public Works.

H.R. 6120. An act to reauthorize the Deep Seabed Hard Mineral Resources Act for fiscal years 1983 and 1984; to the Committee on Energy and Natural Resources.

H.R. 7154. An act to amend the Federal rules of civil procedure with respect to cer-

tain service of process by mail, and for other purposes; to the Committee on the Judici-

## ENROLLED BILLS PRESENTED

The Secretary reported that on today, December 15, 1382, he had presented to the President of the United States the following enrolled bills:

S. 1444. An act to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes:

S. 1681. An act to designate the southern Nevada water project the "Robert B. Griffith Project":

S. 1894. An act to permit Indian tribes to enter into certain agreements for the disposition of tribal mineral resources, and for other purposes:

S. 2034. An act to designate the lock and dam known as the Jones Bluff Lock and Dam, located on the Alabama River, as the "Robert F. Henry Lock and Dam" and

S. 2710. An act to establish the Charles C. Deam Wilderness in the Hoosier National Forest, Indiana.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

> By Mr. PERCY, from the Committee on Foreign Relations, with an amendment in the nature of a substitute:

S. Con. Res. 46. Concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

By Mr. HUDDLESTON:

Final report of the Select Committee to Study Undercover Activities of Components of the Department of Justice (Rept. No. 97-682).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, and the Committee on Rules and Administration, without amendment:

S. Res. 503. Resolution to establish the

U.S. Senate Productivity Award.
By Mr. HATFIELD, from the Committee on Appropriations, with amendments:

H.J. Res. 631. Joint resolution making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

By Mr. COHEN, from the Select Committee on Indian Affairs, with amendments:

S. 2998. A bill to declare that the United States holds certain lands in trust for the Las Vegas Paiute Tribe (Rept. No. 97-683).

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

H.R. 4496. An act to grant Federal recognition to the Texas Band of Kickapoo Indians; to classify the status of the members of the band; to provide trust lands to the band; and for other purposes (Rept. No. 97-684).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Richard Fairbanks, of the District of Co-lumbia, for the rank of Ambassador while serving as Special Adviser to the Secretary

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard Fairbanks.

Post: Ambassador.

Contributions, amount, date, and donee: 1. Self: \$490, 1981, Republican National Committee; \$250, 1980, George Bush.

2. Spouse: None.

3. Children and spouses names: None.

Parents names: Richard M. Fairbanks: \$10,000, 1981, Republican National Committee; \$50, 1981, BIPAC; \$100, 1981, Jesse Helms' Congressional Committee; \$1,000, 1981, Senator Richard Lugar; \$1,000, 1981, Republican Senate Inner Circle; \$500, 1981, Senate/House Dinner (George Bush, speaker); \$200, 1981, Senator Barry Goldwater; \$100, 1981, Black Silent Majority; \$50, 1981, Republican National Committee; \$200, 1981, Senator John Heinz; \$50, 1981, NCPAC; \$50, 1981, Sam Carnen for Congress; \$25, 1981, Jeffrey Bell; \$50, 1981, GOPAC; \$50, 1981, NCPAC; \$50, 1981, Congressman Ron Paul; \$30, 1981, GOP Victory Fund, Indiana; \$100, 1981, Andy Jacobs; \$100, 1981, Congressman John Myers; \$100, 1982, Friends of Richard Lugar; \$200, 1982, Steve Goldsmith Committee; \$800, 1982, Senator Richard Lugar; \$500, 1982, Indiana Republican State Committee; \$200, 1982, People for John Heinz; \$100, 1982, Mike Carroll for Congress Committee; \$50, 1982, GOPAC; \$50, 1982, National Republican Senatorial Comm.; \$50, 1982, Committee to Elect Allison Fahrer; \$50, 1982, Ed Davidson Campaign Fund; \$50, 1982, Van Napta for Congress; \$50, 1982, Congressman Dan Crane; \$45, 1982, Republican National Committee; \$50, 1982, Tom Evans '82; \$200, 1982, Steve Goldsmith Committee; \$100, 1982, Friends of Orin Hatch; \$50, 1982, Comm. to Elect Frank McNamara; \$100, 1982, Indiana Republican State Committee; \$50, 1982, Ray Shamie for Senate; \$50, 1982, Republican National Committee; and \$50, 1982, Friends of Orin Hatch.

5. Grandparents names: None.

6. Brothers and spouses names: Anthony Fairbanks, \$200, May 1980, George Bush.

7. Sisters and spouses names: None. By Mr. PERCY, from the Committee on Foreign Relations:

Paul D. Wolfowitz, of the District of Columbia, to be an Assistant Secretary of State.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' committee to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

George W. Douglas, of Texas, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1982;

Diane Kay Morales, of Texas, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31,

(The above nominations were reported from the Committee on Commerce, Science, and Transportation with the Recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. STEVENS:

S. 3103. A bill to amend section 1304(e) of title 5, United States Code; considered and passed.

By Mr. PERCY (for himself and Mr. DIXON)

S. 3104. A bill entitled "Imported Liquefied Natural Gas Policy Act of 1982"; to the Committee on Energy and Natural Re-

By Mr. ROBERT C. BYRD (for him-

self and Mr. RANDOLPH): S. 3105. A bill to modify the judicial districts of West Virginia, and for other pur-

poses; considered and passed.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

> By Mr. GRASSLEY (for himself, Mr. HUDDLESTON. DOLE. Mr. D'AMATO, Mr. CHILES, Mr. JEPSEN and Mr. DIXON):

S. Res. 516. Resolution expressing the sense of the Senate on urging Presidential action pursuant to section 103 of the Revenue Act of 1971, 26 U.S.C., section 48(a)(7)(D) to disqualify certain Japanesemanufactured, numerically controlled machine tools from the United States investment tax credit; to the Committee on Fi-

By Mr. STEVENS (for Mr. MATHIAS): S. Res. 517. Resolution relating to funding of the Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice: considered and agreed to.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY (for himself and Mr. Dixon):

S. 3104. A bill entitled the "Imported Liquefied Natural Gas Policy Act of 1982"; to the Committee on Energy and Natural Resources.

IMPORTED LIQUEFIED NATURAL GAS POLICY ACT OF 1982

• Mr. PERCY. Mr. President, I rise today on behalf of myself and my able colleague, Senator Alan Dixon, to raise an issue of paramount concern to our Illinois constituents, and to citizens in many of our neighboring States. I have long been a supporter of a free marketplace in energy. Sometimes, this means higher prices. But other times, it means lower prices. That is particularly true here. Rather than have our consumers pay artifically high prices for natural gas, it is time to let market conditions work to their advantage.

As we all know, we are faced with a sluggish economy, and sluggish demand for natural gas. Low-priced domestic gas supplies are not being sold. At the same time, consumers are paying immense prices for new, expensive supplies of natural gas, sometimes from exotic sources. Why? Because Government regulations have discouraged cost-cutting efficiencies, and enabled pipelines and others to simply pass extra costs on to consumers.

In normal economic times, would be foolish enough. But in a time of recession and high unemployment, it is an outrage. And when these unreasonably high energy prices are targeted upon exactly those parts of the United States-like central Illinois and southern Michigan-that are the hardest hit economically, it is a disaster. What do we say to an unemployed factory worker in Decatur or Peoria who sees his natural gas bill rise by 60 percent in less than 1 year? What we say is that we are not going to stand for it.

That is why Senator Dixon and I are introducing the Imported Liquefied Natural Gas Policy Act of 1982. This bill would curb what I consider to be one of the most bizarre elements of our over-regulated energy marketplace. At a time when low-cost American gas goes wanting, American consumers may have to pay truly extraordinery sums for super-high-cost im-

ported liquefied gas.

In the late 1970's, as ever-rising prices for imported energy began pummeling our economy and draining our Nation's wealth, we reached a consensus that it was often worthwhile to pay a premium for domestic fuel if it could help cut back on our imports. But in natural gas, we have turned this argument on its head. We may have to pay a premium for imported fuel and cut back on our domestic production.

It is as though we were asking-no, not asking, forcing-Americans to purchase foreign cars which are no better than American cars, but which cost three times as much. This just doesn't make any sense, from any standpoint.

Let us look at the dollars and cents of the liquefied natural gas (LNG) issue. LNG consumers will have to pay about \$7 per MCF after regasification, and that does not even include the pipeline transmission and local distribution costs. Illinois ratepayers and other consumers could have to pay as much as \$9 per MCF. The most common replacement fuel for gas, No. 6 fuel oil, sells for roughly \$4.50 for the same energy content, according to recent Government figures.

Anything more than this is an unfair price of LNG. Even this price is higher than the \$2 or \$3 per MCF gas now available from many American wells. But it does offer a sensible middle ground, a benchmark around which serious negotiations can begin between buyers and sellers of LNG in the world market

For LNG sales to continue, it may be that imports should be discounted. For year after year, U.S. buyers have had to pay price premiums or escalators for LNG. We have even seen supplies cut off to American purchasers who refused to pay premiums not called for in the original contracts. It is time to put the shoe on the other foot. Now that markets are soft, prices are declining, and domestic supplies are abundant, it is time to negotiate prices of imported energy downward.

The need for renegotiation extends not just to LNG. Continental sources of imported natural gas are also priced way above available domestic gas. It is time for these prices to move down, too. Some of the parties involved in these contracts have raised the need for lowering these prices, but we would like to see some results soon. Our trading partners have to realize that we will not stand idly by if Illinois consumers have to pay more than fair market value for any gas imports. The bill Senator Dixon and I are introducing today does not address continental gas, but we are looking into the matter.

The Imported Liquefied Natural Gas Policy Act of 1982 would limit the maximum lawful price on regasified LNG to the price of its most common replacement fuel, No. 6 fuel oil. Presently, the FERC and the Secretary of Energy have authority to allow only a reasonable rate for LNG-a rate that should reflect prevailing market conditions, not just the proposed cost of bringing LNG to market. The Percy-Dixon bill would strengthen their hand. Any price higher than the 90day average price for No. 6 fuel oilover the most recent period for which data are available-would, by statute, not be reasonable.

In fact, the FERC and the Secretary of Energy may find that the reasonable price for LNG is even less than the price of No. 6 fuel oil. If so, we would support their decision to allow only a lower price to be charged for LNG. What we are looking for, and what our constituents should pay, is nothing more and nothing less than a fair-market-value price for this gas. We have simply identified No. 6 fuel oil as an upper limit for what is a fairmarket value.

We encourage LNG buyers and sellers to use the time before this bill is passed to renegotiate prices to freemarket levels. After enactment of the Percy-Dixon bill, LNG could be sold at above free-market levels only if alternative domestic supplies to the market served are not available at or below the proposed price, only if the source of supply is reasonably secure, and only if the import agreement includes a provision for reducing quantities or prices if market circumstances change. If any part of the United States does not have lower-priced domestic gas available to replace LNG imports, it can continue to receive higher-priced LNG under our bill

I want to make clear to my colleagues that this bill is an effort to move toward, not away from, a free energy marketplace. Senator Dixon and I are simply trying to correct the consequences of costly, uneconomic decisions resulting from an overregulated marketplace for natural gas. In a free market, no one would have ever imported this LNG in the first place—and if anyone had, no one downstream would have bought it.

I also want to make clear that I continue to support efforts to develop new energy supply technologies, including supplemental gas resources, as long as those projects make economic sense or public support for other reasons. We have a long way to go before we solve our long-term energy supply problems, and we cannot turn our backs on promising technologies with high capital costs. But we must go into these projects selectively, with our eyes open. If, for whatever reason, we consider it in the public interest to press on with a risky or uneconomic project, we should not expect a relatively small number of ratepayers to bail it out if it runs into trouble.

I further want to make clear that I am a strong supporter of free trade and the inviolability, except in extreme circumstances, of contracts made between trading partners. From the beginning, all persons involved in the LNG trade knew or should have known that U.S. administrative agencies—and the Congress—will only allow interstate LNG shipments to take place if prices are fair and make reasonable economic sense. The history of the LNG trade-including the history of negotiations surrounding the imports heading into Illinoisshow unmistakably that price has always been open to dicussion. Up to now, prices have always been pushed upward, never downward. All that the Percy-Dixon bill does is make sure that prices can be renegotiated downward as well as upward.

In the context of the Senate's consideration of other natural gas issues, Senator Dixon and I urge our colleagues to give careful review to this matter.

## ADDITIONAL COSPONSORS

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Florida (Mrs. Hawkins) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

5 2585

At the request of Mr. Cranston, the names of the Senator from Virginia (Mr. Warner), the Senator from Missouri (Mr. Eagleton), the Senator from Arkansas (Mr. Pryor), and the Senator from Alabama (Mr. Denton) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2707

At the request of Mr. Percy, the name of the Senator from Michigan (Mr. Riegle) was added as a cosponsor of S. 2707, a bill to amend section 474 of the Internal Revenue Code of 1954 to provide that small businesses with average annual gross receipts not in excess of \$10,000,000 may elect to use one inventory pool.

S. 3017

At the request of Mr. Percy, the name of the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 3017, a bill to provide for the temporary duty-free treatment of certain needlecraft display models, and for other purposes.

S. 3042

At the request of Mr. Exon, the name of the Senator from Kansas (Mrs. Kassebaum) was added as a cosponsor of S. 3042, a bill to establish the annual rate of pay for Members of Congress at the rate of pay paid for Members on September 30, 1982, and for other purposes.

S. 3065

At the request of Mr. Pryor, the names of the Senator from Arkansas (Mr. Bumpers), and the Senator from North Dakota (Mr. Andrews) were added as cosponsors of S. 3065, a bill to establish in the Department of State the position of Under Secretary of State for Agricultural Affairs.

S. 3074

At the request of Mr. Huddleston, the name of the Senator from Arkansas (Mr. Pryor) was added as a cosponsor of S. 3074, a bill entitled the "Agricultural Act of 1982."

SENATE JOINT RESOLUTION 263

At the request of Mr. Thurmond, the name of the Senator from Massachusetts (Mr. Tsongas) was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE JOINT RESOLUTION 265

At the request of Mr. Denton, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor for Senate Joint Resolution 265, a joint

resolution to authorize and request the President to proclaim 1983 as the "National Year of Voluntarism."

SENATE CONCURRENT RESOLUTION 46

At the request of Mr. Percy, his name, and the names of the Senator from California (Mr. Hayakawa), and the Senator from Ohio (Mr. Glenn) were added as cosponsors of Senate Concurrent Resolution 46, a concurrent resolution expressing the sense of the Congress with regard to the mutual security efforts of the United States and Japan.

AMENDMENT NO. 3632

At the request of Mr. Cranston, the name of the Senator from Massachusetts (Mr. Kennedy) was added as a cosponsor of amendment No. 3632 intended to be proposed to H.R. 5203, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

AMENDMENT NO. 5006

At the request of Mr. Sarbanes, the name of the Senator from New York (Mr. Moynihan) was added as a cosponsor of amendment No. 5006 intended to be proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

SENATE RESOLUTON 516—RESO-LUTION RELATING TO JAPA-NESE-MANUFACTURED NU-MERICALLY CONTROLLED MA-CHINE TOOLS

Mr. GRASSLEY (for himself, Mr. Dole, Mr. Huddleston, Mr. D'Amato, Mr. Chiles, Mr. Jepsen, and Mr. Dixon) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 516

Whereas the Government of Japan has selected the United States high-technology industry in numerically controlled machine tools for domination through unfair trade practices; and

Whereas the Petition to the President submitted by Houdaille Industries, Inc., on May 3, 1982, thoroughly documents continuing anticompetitive cartel policies and practices, including the financing of a machine-tool cartel with multi-billion dollar off-budget subsidies earned from bicycle- and motorcyle-race wagering, employed by the Government of Japan to further its industry-targeting goals; and

Whereas as a consequence of the discriminatory acts and policies of the Government of Japan, including its tolerance of an international machine-tool cartel, the Government of Japan has unjustifiably restricted United States commerce in numerically-controlled machining centers and punching machines. Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should exercise immediately his authority under Section 103 of the Revenue Act of 1971, 26 U.S.C. §48(a)(7)(D), to issue an Executive Order disqualifying Japanese-manufactured, numerically-controlled machining centers and punching machines from the United States investment tax credit until the Government of Japan provides persuasive evidence to the President of the United States that these and other unfair and discriminatory acts and policies unjustifiably restricting United States commerce have ceased.

• Mr. GRASSLY. Mr. President, on May 3, 1982, Houdaille Industries, Inc., filed a petition to the President asking that he act under section 103 of the Revenue Act of 1971 to deny the investment tax credit to Japanese-made, numerically controlled, machining centers and punching machines.

The Houdaille petition and subsequent submissions by Houdaille, including original Japanese laws and other Japanese Government papers, document the creation of a cartel among Japanese machine-tool manufacturers by the Japanese Government as well as its continuing support of this cartel. The Japanese Government provides a wide variety of concessionary, low-interest loans, tax abatement devices, and direct subsidies, both on-budget and off-budget, including nearly \$1 billion a year from bicycle- and motorcycle-race wagering. Japan also fails to enforce its own antimonopoly law against the cartel. These actions, taken together, constitute the "discriminatory or other acts (including tolerance of international cartels) or policies unjustifiably re-stricting United States commerce" set forth in seciton 103 as the criterion for Presidential action.

As a result of these unfair practices and because the U.S. machine-tool companies are forced to compete with the Japanese Government rather than with private enterprises, the Japanese share of the United States numerically controlled machining center market rose from 3.7 percent in 1976 to nearly 60 percent today. Japan's share of the numerically controlled punching machine market rose from 4.7 percent in 1976 to 46 percent today. In both cases the Japanese market share is continuing to rise dramatically. During the same period the market shares of other foreign producers changed very little.

If this accelerating Japanese penetration by unfair means of vital U.S. markets is not checked, the Japanese will completely control these high-technology markets and industries within a few years. This will bankrupt U.S. machine-tool companies and throw their skilled employees out of work. Ironically, the investment tax credit was restored in 1971 as a "job development credit" to increase employment in the United States, not the export of United States jobs to Japan.

A Japanese takeover in our hightechnology machine-tool industry will put our defense preparedness and, indeed, our entire industrial economy in Japanese hands because these numerically controlled machine-tools are essential to weapons production and the manufacture of nearly all other industrial machines.

On July 27, 1982, I wrote to the President bringing the Houdaille petition to his attention and urging him to give serious consideration to the use of section 48(a)(7)(D) of the Internal Revenue Code as an effective option to protect our producers and insure our future competitiveness. On an earlier occasion in 1980, I joined with a number of Senators still here, includ-Senators Kassebaum, TOWER, BENTSEN, METZENBAUM, and GLENN, in bringing to the President's attention his authority under section 48(a)(7)(D) "to deny eligibility for investment tax credit to articles manufactured or produced in a country which is unjustifiably restricting United States commerce." The urgent need for such action in response to Japan is clear

My resolution expresses the sense of the Senate that the President immediately exercise his authority to disqualify Japanese-made, numerically controlled, machining centers and punching machines from the investment tax credit. This remedy is appropriate because it will penalize the unfair practices without closing the U.S. market to Japanese machine tools. It will send a clear signal to the Japanese that our patience in tolerating unfair trade practices is not limitless. It will give Japan a chance to take self-corrective action to relieve itself of the sanction. Although the action urged upon the President is deliberately confined to a narrow set of two products, Japan will not fail to perceive that if it persists in broader discrimination restricting U.S. commerce, the President has ample authority to broaden the application of this

Previous resolutions, such as Senate Resolution 462, urging the Japanese to take voluntary action to restore fair and free competition have not produced a satisfactory response. This petition gives the President an opportunity to shift from talk to action by taking one precise, firm step with real teeth to express our Nation's deep concern that free and open competition in international trade must be a two-way street. There is no reason why U.S. taxpayers should be obliged to continue adding their tax dollars to the extraordinarily generous subsidies already provided to its industry by the Government of Japan, especially, when the result is the export of American jobs to Japan.

# AMENDMENTS SUBMITTED FOR PRINTING

## SURFACE TRANSPORTATION ACT OF 1982

AMENDMENTS NOS. 5013 AND 5014

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE (for himself and Mr. Bradley) submitted two amendments intended to be proposed by them to the amendment No. 4998 proposed by Mr. Baker to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENTS NOS. 5015 THROUGH 5017

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted three amendments intended to be proposed by him to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5018

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211 supra.

#### AMENDMENT NO. 5019

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN (for himself, Mr. Ranpolph, and Mr. Riegle) submitted an amendment intended to be proposed by them to the bill H.R. 6211 supra.

## AMENDMENT NO. 5020

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211 supra.

## AMENDMENT NO. 5021

(Ordered to be printed and to lie on the table.)

Mr. SASSER submitted an amendment intended to be proposed by him to the bill H.R. 6211 supra.

AMENDMENTS NOS. 5022 THROUGH 5025

(Ordered to be printed and to lie on the table.)

Mr. DIXON (for himself and Mr. Percy) submitted four amendments intended to be proposed by them to the bill H.R. 6211 supra.

AMENDMENTS NOS. 5026 THROUGH 5029

(Ordered to be printed and to lie on the table.)

Mr. DIXON (for himself, Mr. Percy, Mr. Kennedy, Mr. Moynihan, Mr. Dodd, and Mr. DeConcini) submitted an amendment intended to be proposed by them to the bill H.R. 6211 supra.

AMENDMENTS NOS. 5030 THROUGH 5033

(Ordered to be printed and to lie on the table.)

Mr. PRYOR submitted four amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5034 THROUGH 5040 (Ordered to be printed and to lie on

the table.)

Mr. HUMPHREY submitted seven amendments intended to be proposed by him to amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5041 AND 5042

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NOS. 5043 AND 5044

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted two amendments intended to be proposed by him to amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5045

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD (for himself, Mr. Symms, Mr. Randolph, and Mr. Bentsen submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5046 THROUGH 5049

(Ordered to be printed and to lie on the table.)

Mr. STAFFORD (for himself and Mr. Randolph) submitted four amendments intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5050 AND 5051

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. Specter, Mr. Robert C. Byrd, Mr. Dixon, Mr. Riegle, Mr. Kennedy, Mr. Moynihan, Mr. Cannon, Mr. Heinz, Mr. Proxmire, Mr. Packwood, and Mr. Bradley) submitted two amendments intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5052 AND 5053

(Ordered to be printed and to lie on the table.)

Mr. LEVIN submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5054

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. Heinz, Mr. Durenberger, Mr. Bradley, Mr. Cohen, Mr. Moynihan, Mr. Riegle, Mr. Specter, Mr. Tsongas, Mr. Mitchell, Mr. Roth, Mr. Grassley, Mr. Packwood, Mr. Heflin, Mr. Percy, and Mr. Eagleton) submitted an amendment intended to be proposed by them to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5055

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, subra.

AMENDMENT NO. 5056

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5057 AND 5058

(Ordered to be printed and to lie on the table.)

Mr. SPECTER submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5059

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5060 AND 5061

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted two amendments intended to be proposed by him to the amendment No. 4998 submitted by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5062

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5063 THROUGH 5076 (Ordered to be printed and to lie on

the table.)

Mr. MOYNIHAN submitted 14 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5077 THROUGH 5122 (Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 46 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5123 THROUGH 5146

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 24 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5147 THROUGH 5170 (Ordered to be printed and to lie on

(Ordered to be printed and to lie of the table.)

Mr. NICKLES submitted 24 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5171 THROUGH 5173

(Ordered to be printed and to lie on the table.)

Mr. BOREN submitted 3 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5174

(Ordered to be printed and to lie on the table.)

Mr. BOREN submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5175

(Ordered to be printed and to lie on the table.)

Mr. NICKELS submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5176

(Ordered to be printed and to lie on the table.)

Mr. MITCHELL submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NO. 5177

(Ordered to be printed and to lie on the table.)

Mr. HUMPHREY submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5178

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5179

(Ordered to be printed and to lie on the table.)

Mr. SYMMS submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5180

(Ordered to be printed and to lie on the table.)

Mr. ROBERT C. BYRD submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5181

(Ordered to be printed and to lie on the table.)

Mr. NICKLES submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5182

(Ordered to be printed and to lie on the table.)

amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5183

(Ordered to be printed and to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5184 THROUGH 5187

(Ordered to be printed and to lie on the table.)

TSONGAS submitted four Mr. amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5188 AND 5189 (Ordered to be printed and to lie on

the table.)

Mr. SYMMS submitted two amendments intended to be proposed by him to the amendment No. 4988 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5190 THROUGH 5195

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. BAKER to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5196

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted amendment intended to be proposed by him to the bill H.R. 6211, supra.

## AMENDMENT NO. 5197

(Ordered to be printed and to lie on the table.)

Mr. PRYOR submitted an amendment intended to be proposed by him to the amendment No. 4988 proposed by Mr. Baker to the bill H.R. 6211, supra.

## AMENDMENT NO. 5198

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

## AMENDMENT NO. 5199

(Ordered to be printed and to lie on the table.)

Mr. QUAYLE submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5200 THROUGH 5209

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted 10 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

## AMENDMENTS NOS. 5210 AND 5211

(Ordered to be printed and to lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the amendment No. 4998 proposed

CRANSTON submitted an by Mr. Baker to the bill H.R. 6211,

AMENDMENTS NOS. 5212 THROUGH 5217 (Ordered to be printed and to lie on the table.)

Mr. SPECTER submitted six amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5218 THROUGH 5356 (Ordered to be printed and to lie on

the table.)

Mr. METZENBAUM submitted 139 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. BAKER to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5357

(Ordered to be printed and to lie on

the table.)

Mr. HUDDLESTON (for himself and Mr. Boschwitz) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5358 THROUGH 5372 (Ordered to be printed and to lie on

the table.)

Mr. HUMPHREY submitted amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5373 AND 5374

(Ordered to be printed and to lie on the table.)

Mr. PERCY (for himself and Mr. DIXON) submitted two amendments intended to be proposed by them to the bill H.R. 6211, supra.

## AMENDMENTS NOS. 5375 AND 5376

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

## AMENDMENT NO. 5377

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENTS NOS. 5378 AND 5379

(Ordered to be printed and to lie on the table.)

Mr. MURKOWSKI submitted two amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. BAKER to the bill H.R. 6211, supra.

## AMENDMENT NO. 5380

(Ordered to be printed and to lie on the table.)

Mr. FORD submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

## AMENDMENT NO. 5381

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. Dixon, and Mr. Heinz) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

## AMENDMENT NO. 5382

(Ordered to be printed and to lie on the table.)

Mr. FORD (for himself, Mr. DIXON, and Mr. Heinz) submitted an amendment intended to be proposed by them to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211. supra.

## AMENDMENTS NOS. 5383 THROUGH 5398

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted 16 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5399

(Ordered to be printed and to lie on the table.)

Mr. DECONCINI submitted amendment intended to be proposed by him to the bill H.R. 6211, supra.

## SINGLE FAMILY HOUSING PRODUCTION

• Mr. DECONCINI. Mr. President. Today I am introducing an amendment to the Federal Aid to Highway Improvement Act of 1982, H.R. 6211 which will encourage and support single-family housing production in this country, while at the same time creating jobs in the private sector. My amendment would result in mortgage assistance to more the 140,000 potential homebuyers nationwide at a cost of \$2 billion. This is at a substantially less cost to the Government than similar programs passed by this Congress earlier this year. Passage of my amendment will achieve two desirable goals: First, it will make the American dream of homeownership a reality for tens of thousands of Americans who might otherwise be unable to purchase a home; and second, it will provide new jobs to an industry suffering from high unemployment without simply creating make-work jobs.

Specifically, my amendment would assist homebuyers whose income is below 130 percent of the area median income, and would be graduated into those below 115 percent of the area median income and those with incomes between 116 percent and 130 percent of the area median income. For families with incomes less than 115 percent of the area median income, mortgage assistance would be available to reduce the interest rate by up to 6 percentage points below the market rate for a period of 7 years, but in no case would the interest rate be subsidized below 81/2 percent. Those families with incomes between 116 percent and 130 percent could receive the same assistance for a period of 5 years at a rate as low as 4 percentage points below the market rate, but in no case would the interest rate be subsidized below 9 percent. Furthermore, qualifying families would be required to make a downpayment of at least 3 percent and contribute at least 25 percent of their monthly income toward the mortgage payment. The maximum mortgage amount that would qualify

under my amendment could not exceed the maximum that may be insured under FHA 203(b) programs. This figure ranges from \$67,500 to \$90,000 in some very high cost areas.

Let me give you an example of who it is we are trying to help with this amendment. The typical qualified recipient of this mortgage assistance would be a first time homebuyer with a family income of less than \$23,000 purchasing a home for \$67,500. As anyone who has priced homes recently will recognize, we are not talking about "dream homes" or high-priced condominiums. In the Washington, D.C., area, the highest qualifying mortgage would be \$74,900. That will not buy a lot for a family of four. But it would be a beginning and that is what my amendment attempts to be.

AMENDMENT NOS. 5400 AND 4401

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5402

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5403

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211,

AMENDMENT NOS. 5404 THROUGH 5589

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM submitted 186 amendments intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5590

(Ordered to be printed and to lie on the table.)

Mr. HUDDLESTON submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NOS. 5591 AND 5592

(Ordered to be printed and to lie on the table.)

Mr. MATSUNAGA submitted two amendments intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5593

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5594

(Ordered to be printed and to lie on the table.)

Mr. D'AMATO submitted an amendment intended to be proposed by him

to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5595

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211 supra.

AMENDMENT NO. 5596

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY submitted an amendment intended to be proposed by him to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211, supra.

AMENDMENT NO. 5597

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill H.R. 6211, supra.

AMENDMENT NO. 5598

(Ordered to be printed.)

Mr. DOLE proposed an amendment to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211,

AMENDMENT NO. 5599

(Ordered to be printed.)

Mr. DOLE proposed an amendment to his amendment No. 5598 to the bill H.R. 6211, supra.

AMENDMENT NO. 5600 (Ordered to be printed.)

Mr. BOSCHWITZ (for himself, Mr. Grassley, Mr. Jepsen, Mr. Melcher, Mr. Helms, Mr. Johnston, Mr. Symms, Mr. Huddleston, Mr. Abdnor, Mr. Baucus, Mrs. Hawkins, Mr. D'Amato, Mr. Thurmond, and Mr. McClure) proposed an amendment to the bill H.R. 6211, supra.

## ADDITIONAL STATEMENTS

THE FIRST ANNIVERSARY OF THE IMPOSITION OF MARTIAL LAW IN POLAND

• Mr. HEINZ. Mr. President, Monday marked the first anniversary of the imposition of martial law in Poland. To commemorate this tragic event, a ceremony was held on the Capitol Grounds to show the solidarity between the American people and their Polish brethren who have had to endure the hardships of severe limitations on personal freedoms and economic deprivation.

Today, I want to inform my colleagues that my commitment to help end the plight of our friends and relatives in Poland is as strong as it was when martial law was first imposed. I am sure that I speak for many of my colleagues when I emphasize that our efforts to aid those who seek social progress and democratic change will

not yield until they have achieved their goals. The struggle for freedom is one all Americans support, whenever and wherever it occurs.

Last year at this time, the military regime of Poland, with the best wishes of the Soviet Union, brutally seized the Polish nation and shocked the world by imposing martial law. Subsequent to this heinous act, we have witnessed the incarceration of hundreds, including the leader of the Solidarity trade union movement Lech Walesa. Fortunately, the repression has subsided somewhat and after months of detention, Mr. Walesa and most others have been freed. But this does not mean the struggle has ended. We must continue to make it known that we will not tolerate the actions of the hard liners in the Polish Government who would seek every opportunity to take advantage of personal freedoms and condone the use of repressive government measures to silence its outraged citizens.

The Senate has gone on record a number of times condemning those that would relish the imposition and continuation of strict social controls on press, speech, and all other expressions of freedom. I believe that this is important and that we should keep up the pressure. I am confident that our Polish friends hear of our actions and our prayers. At the very least, our words provide feelings of support and caring which are necessary ingredients for those attempting to obtain difficult goals. Helping to keep the faith and spirit of the Polish people high as they endure the constant harshness of internment, is a moral responsibility that we must not shirk. We must continue to voice our objections.

Poland has been in a state of crisis ever since the iron fist of Soviet domination first gripped Eastern Europe at the end of the Second World War. In their own way, the Soviets have inspired this most recent repression in Poland. And let us not be mistaken, Poland remains in crisis today. The situation is complex: The hope for freedom and economic recovery for its people is clouded by continued limitations on its citizens; the need for effective actions by Western nations seems thwarted by allied disarray.

There is no simple solutions to ending the oppression that our friends and relatives in Poland have had to live with, but I believe that it is through the tireless efforts of groups and organizations like the Polish American Congress, that we can defeat the enemy. The gathering of food, medicine, medical supplies, and clothing, to be sent to the needy in Poland will be a very welcome blessing. Furthermore, the participation of citizens from across this Nation typifies the sensitivity of Americans to the Polish cause and should serve as an inspira-

tion to Poles to keep up the fight. I believe that working together, our hope for democratic reforms in a nation that has known few, will become a reality.

## WESTERN LOANS TO THIRD WORLD NATIONS

• Mr. EAST. Mr President, Howard Ruff's "Financial Survival Report" of December 13, 1982, contains a provocative article on Western loans to Third World nations. I ask that the attached article be printed in the Record.

The article follows:

## DEBT REPUDIATION

The headlines of the last several months, articles in this letter, and general subscriber nervousness have caused one question to pop up over and over again in the War Room. Will Mexico (or someone else) repudiate their debt to the American banks, bringing down the banking system? Will the U.S. repudiate its mountain of national debt?

If so, how will this affect you and me? Can some investments help us ride out the storm?

Given my reputation as a Gloomy Gus, my answer may come as a bit of a surprise, but I can make one unequivocal statement: There is no chance that the U.S. Government will "repudiate" its debt by declaring its inability or unwillingness to repay either interest or principal.

There is also next to no chance that any foreign government or large foreign bank guaranteed by a foreign government will repudiate its debt by refusing to pay back interest and principal.

Before you relax too much, however, wait until you hear what they will do. Let's start with some of the "new math" fundamentals of public debt.

In our last issue we published the "smoking gun" statement by Frank Morris, President of the Federal Reserve Bank of Boston and a member of the Federal Open Market Committee, that the Fed would not permit a financial panic and that its "lender of last resort" role would take precedence over any money supply targets in the event of such crisis.

A new "smoking gun" is found in a statement by Walter Wriston, Chairman of New York City Bank.

"There are few recorded instances in history of government—any government—actually getting out of debt. Certainly in an era of \$100 billion deficits, no one lending money to our government by buying a Treasury bill expects that it will be paid at maturity in any way except by our government's selling a new bill of like amount.

"If we had a truth-in-government act comparable to the truth-in-advertising law, every note issued by the Treasury would be obliged to include a sentence stating: 'This note will be redeemed with the proceeds from an identical note which will be sold to the public when this one comes due.'"

Debts owed by sovereign nations are never paid off in cash. They don't have to be. Interest is paid and they are just "rolled over"... replaced by new loans. Wriston said countries have "problems of liquidity, not insolvency."

The banks know there is no intention to ever repay these loans, and they don't care. All they are interested in is being able to carry them as "good" assets on the balance sheet . . . interest paid current. They don't care whether or not that loan is ultimately "repaid" with money which must be reloaned to go back to work, or by a rescued "good asset" loan on the balance sheet which is earning current interest. It's all the same to them. Cash is just paper representing debt anyway. So is a loan. Cash earns no profits—loans do. As long as the loans pay interest, that's cool.

If a nation is edging toward default on a major loan, there are many relatively simple solutions. The only catch is that they are all inflationary. The ball can be kept in the air for a long, long time, but the ultimate price to be paid is the inflationary destruction of our currency, and I have no doubt that the bankers even have a strategy for profiting from that.

Here are some default avoidance steps.

 Rollover. Renew the notes as they come due. Except during recessions, this is generally done in an orderly way with little notice or panic.

2. The Federal Reserve Buys Up the Debt of Foreign Countries. The Monetary Control Act of 1980 gave the Fed the power to monetize the debt" of foreign companies or of private institutions whose debt is guaranteed by the government of a foreign country. If Brazil or Mexico can't pay their principal and interest when due to the New York banks, the Fed can literally print money or grant credits, using that foreign debt as security, then re-route the money to the lending bank to make current interest and principal payments. The President did this when he offered Brazil \$1.2 billion in "short-term" help.

Those powers which the Fed swore on a stack of Bibles that they would never use when challenged prior to the passage of the 1980 bill, have been used to purchase the debt of 26 countries.

The net effect is that your money is now backed by debt of 26 countries, some of which don't look too sound to me.

Our money, which was once backed by gold, is now mostly backed by U.S. Treasury debt securities. The Fed couldn't print new money unless new bonds, notes or bills are issued. Where I use to long for the good old days of the gold standard, now I long for the good old days when our money was backed by good ol' American notes, bonds, or bills, rather than the debt of deadbeat countries.

3. International lending organizations. The neatest raids on the American Treasury and the purchasing power of the American consumer are the huge loans that are being made to international lending organizations such as the IMF (International Monetary Fund) or the World Bank. Money is appropriated by the U.S. Congress for these institutions at little or no interest. In an age of deficits, every such dollar, of course, has to be printed and is inflationary. This money is then re-loaned to the deadbeat country which then makes payments to the American banks, and those about-to-default loans are now "good" income earning assets.

Because the IMF or World Bank can sometimes be too slow in a fast moving crisis, Donald Regan, Secretary of the Treasury, has proposed the creation of a "faster loan-disbursing agency" to keep a sinking debt ship afloat while IMF loans are being approved.

Our proposed rescue of Yugoslavia is a wonderfully illustrative case in point.

The Administration is proposing a \$1 billion international effort to help Yugoslavia through its "current financial bind."

\$1 billion is a gross understatement of the ultimate need, but, what the hell, it's a start. To show how bottomless that pit might be, one official said, "No firm figure has been set. One of the problems is determining how much is needed."

Secretary of State George Schultz cabled the Yugoslavs saying, "There is an urgent need for some timely U.S. and allied government financial assistance . . . without prejudging the amount or nature of the assistance . . . to help Yugoslavia through the first half of 1983. . . ."

The Yugoslavs will have to refinance \$4.9 billion to \$5.4 billion in 1983.

Yugoslavia's external debt currently totals about \$20 billion.

It sickens me that when we are faced with a \$200 billion deficit at home, we don't even question a bail-out of Yugoslavia, while we are cutting back on food stamps, student loans, pensions, and struggling to keep Social Security afloat.

The knee-jerk excuse is, "to keep Yugoslavia from sliding closer into the Soviet orbit."

That is so much buffalo chips!! The real purpose is to make sure that the banks will be able to carry the Yugoslavian loans on the books as "good loans."

This isn't a Yugoslavian bail-out, it's an American bank bail-out. That's why no nation will be allowed to default on its debts. The word "default" has been erased from the international financial dictionary.

Next week, I'll continue this subject by dealing with the question, will Uncle Sam ever declare bankruptcy?

## DAVID USHER, FOUNDER OF MARINE POLLUTION CONTROL COMPANY

• Mr. RIEGLE. Mr. President, a recent article in the Detroit Free Press profiled a growing worldwide company in Michigan, and its founder, David Usher.

Marine Pollution Control Co. is uniquely the product of the innovative genius of David Usher. Its principal function is to respond to oil and dangerous chemical spills throughout the world. He was one of the first people to concentrate on the problems of major oil tanker disasters, such as the Torrey Canyon, and he is recognized, within the industry, as the preeminent expert on the containment and removal of oil and chemical spills.

We frequently lose sight of the fact that pollution control laws have created many new business opportunities. Marine Pollution Control Co. is a living example that responsible pollution regulations can be good business.

I applaud Dave Usher's genius, energies, and desire to cope effectively and rapidly with the hazards posed by the increasing maritime shipments of oil and chemicals.

I ask that the article be printed in the Record at this point, and I commend it to my colleagues as a true illustration of the adage of where a need exists, someone will come along to fill it.

The article follows:

[From the Detroit Free Press, Dec. 9, 1982] WHEN THE WATERS ARE TROUBLED, HE CLEANS

## (By Tom Walsh)

David Usher calls Southfield home, but he's not there much.

He has an apartment in London and offices in Scotland and Seattle. Most times, he probably can be found at the site of a dangerous oil or chemical spill.

Usher, 52, is a troubleshooter, perhaps the world's foremost authority on prevention and cleanup of oil and chemical spills.

In 1967, he founded Marine Pollution Control in Detroit, the first spill cleanup company on the Great Lakes. Six years later he helped organize the Spill Control Association, which he heads today.

"We're like gypsies," Usher says, "We move our equipment all over the world, wherever the action is."

It's a lifestyle that suits the son of Rusimmigrants, who very nearly devoted his life to producing jazz records instead of cleaning up oil spills.

'My dad started a company (Usher Oil Co.) to reclaim salvaged oil in Detroit and I started working for him when I was 12,' Usher says.

'So I had an early background in oil.

"But my mother was very musical and I got interested in jazz.

'I produced a jazz concert in 1946 (at age 16) and a friend and I decided to go into the record business in 1948. In 1951, I got together with Dizzy Gillespie and we had our own label, called DG Records, for a couple vears

In the 1950s, Usher returned to the family oil business, but then was drawn back to jazz and went to Chicago from 1958-60, where he produced records for Bess Bonier.

Ramsey Lewis and other jazz artists.
"Then my dad got pretty sick and I came

He entered the spill cleanup business in the wake of the 1967 wreck of the Tory Canyon off the east coast of Britain.

That was the first of the very large crude oil carriers to go down and it dramatically brought world attention to the problem of oil spills," Usher says. "As I read about that, I found myself second-guessing how they were going about the cleanup."

Shortly afterward, in August 1967, there was an oil spill on the Rouge River, near the

Ford steel plant.

'I was known around the waterfront as a problem-solving guy and I had a background in oil salvage, so somebody over at Ford called me.

'I went down, told them what I thought they needed, got the resources and we cleaned up that spill in seven days and

eights night, working round the clock.
"Four days later, I got a check for \$18,000 and I said to myself, if I get paid in full four days after the job's done, I've got to get into this business.

Several months later, Usher started Marine Pollution Control.

Since then, Usher has overseen clean-up of dozens of spills on the Great Lakes, in

Mexico, Greece and the Orient.

At first, Usher's company was involved primarily in cleaning spills rather than preventing them.

But that changed in 1973, when the Sidney Smith turned on its side in the St. Clair River.

"She was sitting on her side, with about 45,000 gallons of oil in her tanks. The U.S. Coast Guard had been working for two years to find a good way to pump cargo off stricken vessels so it didn't become a spill.

"Well, the Coast Guard came out there with this new equipment they spent \$5 million to develop. And they didn't have a feel for it. It didn't work.

'I decided at that point to put my attention into building systems to do recovery

from distressed vessels."

Marine Pollution Control now has highcapacity pumping systems and crews stationed in Aberdeen, Scotland, and in Seattle, New Orleans, Tampa and Philadelphia. Usher recently returned from Holland,

where he reached an agreement to merge with an international competitor and thus expand his operations to Singapore and other locations.

The emphasis has changed from the rly days," he says. "It used to be we early days," worked mainly on oil spills. Now about 75 percent of our work is with hazardous chemicals.

'And that's a whole different ball game. Outfitting a guy to clean up oil spills costs maybe \$3,000. For a chemical spill, it's more like \$20,000 to \$25,000, and it takes a different breed of cat to do that work.

This work is so satisfying," he says. "It's a lot better than fighting a war and it gets

the same juices flowing.
"I wouldn't have it any other way," he says of his always-on-the-move lifestyle. "... I dig what I'm doing.".

## CLINCH RIVER-OUT OF FUEL

 Mr. HUMPHREY, Mr. President, on November 30, and December 6 and 7, I entered into the RECORD material concerning the high costs of constructing and operating the Clinch River breeder reactor project. Today I would like to examine a new difficulty with the project-by the Department of Energy's (DOE's) own accounts there is not enough plutonium available to fuel it.

The first indication that there would be difficulty fueling the project came last year in March in testimony Dr. Charles Gilbert, Acting Deputy Assistant Secretary for Nuclear Materials gave before a House Armed Services Committee hearing. At that time Dr. Gilbert stated that DOE probably would run short of fuel-grade plutonium by the late 1980's.

Rather than use all of this lower purity plutonium to fuel Clinch River and other breeder work, DOE is now blending it with very pure super-grade plutonium to produce materials suitable for modernizing our aging nuclear

weapons force.

If Clinch River is to stay on track and stay within current cost estimates, though, DOE must begin fueling the reactor in 1987 with an immense amount of plutonium. Indeed, through 1996 when the reactor is supposed to be sold, the project will require 10,296 kilograms of plutonium. This amount, if blended with super-grade plutonium, could produce from between 2,500 to 5,000 warheads and would go a long way to relieve the current pressure to build a new military production reactor under a crash deadline, as recently reported in the Washington Post.

Clinch River's supporters insist that the plutonium is readily available. In

its latest report on Clinch River, though, the General Accounting Office (GAO) concludes otherwise. The GAO examined four possibilities-taking the plutonium from the military stockpile and trying to return it from material bred in Clinch River, reprocessing light water reactor spent fuel in a commercial facility, reprocessing light water reactor fuel at military facilities, and buying foreign plutonium. None of these options, according to GAO, will be able to provide plutonium early enough to meet DOE's Clinch River fueling schedule. Indeed, Ken Davis, former Deputy Secretary of Energy said as much on September 9, 1982 when he testified before the Senate Subcommittee on Energy, Nuclear Proliferation and Governmental Processes. He emphasized that we do not have enough plutonium stockpiled to run Clinch River if it is built.

DOE's Assistant Secretary for Nuclear Energy and Deputy Assistant Secretary for Breeder Reactor Programs, though, gloss over this point. in their latest breeder publication "National Breeder Reactor Program Rationale and Clinch River Project Facts" they talk about returning plutonium to the military stockpile even though this cannot be done without a breeder reprocessing plant, the completion of which is at least another decade away.

This omission is disturbing. Dr. Gilbert's testimony, the pertinent sections of GAO's latest report on Clinch River and DOE's "National Breeder Reactor Program Rationale Clinch River Project Facts," and the Washington Post article on the need for an additional military production reactor make it clear that a serious fueling problem exists. Mr. President, I ask that the texts of these materials be printed in the RECORD.

The material follows:

Fuel-grade plutonium is required for blending with higher purity plutonium to produce more weapon-grade material, the breeder program including the Clinch River Breeder Reactor (CRBR), and for basic research and development programs, primarily the Fast Flux Test Facility. A potential fuel-grade plutonium shortage may occur in the late 1980s based on the current projected supply and demand situation. As indicated in the chart, even with the PUREX plant processing of plutonium from N Reactor fuel, DOE would not have sufficient supplies of fuel-grade plutonium required to support all these programs. The CRBR requirements shown in the chart are based on startup of the reactor in 1988. If that schedule is to be maintained, it will be necessary either to decrease requirements for the other two noted programs or to attempt to find an alternative source of pluto-

REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

COST AND SOURCE OF PLUTONIUM UNCERTAIN DOE's Office of Nuclear Material Production, which is under the Assistant Secretary for Defense Programs, is responsible for meeting the Government's plutonium requirements. Defense program officials are unable at this time to identify the specific source or cost of plutonium needed to fuel the CRBR's demonstration operations. Instead, these officials believe that, based on the current CRBR schedule with initial criticality in September 1989, a decision on the source of plutonium for the CRBR will not be required until 1986. At that time, they expect to have definitive plutonium cost estimates

DOE's defense programs officials said that the plutonium needed for the CRBR can be provided from a number of different sources, including defense programs activities, reprocessed lightwater reactor spent fuel, and/or foreign sources. According to these officials, the costs associated with each of these sources not only vary widely, but also in some cases, are highly speculative

Currently, the only domestic source of plutonium is from DOE's defense programs activities-either existing plutonium inventories, future production, or a combination of both. Depending on whether the plutonium is taken from existing inventories or from production, the value of the plutonium needed for the 5-year CRBR demonstration could range from \$143 million to \$1.2 bil-

Defense program officials point out, however, that they expect the quantity of plutonium supplied the CRBR will eventually be returned to the defense program. In their view, the only cost to the Government and CRBR would be the cost associated with reprocessing the spent fuel assemblies as the necessary step in recovering the plutonium. Based on defense programs officials' estimates, such reprocessing would cost from \$196 million to \$261 million for the 5-year demonstration period.

This approach does not recognize that a provision in the NRC Authorization Bill for fiscal year 1982 and 1983 (H.R. 2330), now under consideration by the House/Senate Joint Conference Committee might have a substantial impact on the planned transfer of plutonium produced by the CRBR to defense program uses. This bill would prohibit the use of plutonium from NRC-licensed facilities in the manufacture of nuclear explosives. CRBR will be an NRC-licensed facility. Defense program officials feel, however, that this provision will have little impact on the return of defense-supplied plutonium. They believe that if the fuel supplied to CRBR was produced at a defense facility, the fuel returned from CRBR still should considered as plutonium produced at a defense facility. We have not, as part of this review, analyzed the legality of DOE's position concerning the return of CRBR plutonium for defense purposes.

According to defense program officials, the plutonium for CRBR could also be obtained from reprocessed light-water reactor spent fuel assemblies. These officials estithat plutonium obtained this could range in cost from \$15 per gram to \$35 per gram. That cost range, however, is extremely speculative. It is based on DOE's preliminary estimates of prices they think could be negotiated for domestic reprocessing services.

In this regard, a commercial capability to reprocess light-water reactor spent fuel does not now exist in this country. Although several reprocessing facilities are being considered, no decision has been made, and it is unclear whether those facilities could be

available to meet the CRBR project schedule and plutonium requirements. DOE's existing defense program reprocessing facilities cannot recover plutonium from breeder fuel assemblies because of physical and chemical process limitations. DOE has requested \$5.6 million for conceptual design efforts to modify one of its reprocessing facilities to enable it to reprocess spent fuel from light water reactors, the Fast Flux Test Facility 1 and the CRBR. DOE's preliminary estimates indicate the modification could be operational by fiscal year 1989 if the project is authorized by the Congress.

Another option under consideration includes a demonstration size fuel reprocessing facility. DOE's Consolidated Fuel Reprocessing Program is a comprehensive, centrally managed program for all U.S. fuel reprocessing research and development. Accordng to DOE's Director of Nuclear Research and Development, Oak Ridge Operations Office, since 1976, the focal project for reprocessing research and development has been DOE's "Hot Experimental Facility." In June 1981, a conceptual design study for the Hot Experimental Facility was completed. This facility, however, does not have congressional authorization nor has it received construction funding. The Director estimates it would require about 10 years from start of construction to achieve normal operations.

Finally, defense program officials state that needed plutonium could be acquired from foreign sources. They add, however, that this would involve high-level policy decisions and sensitive, direct country-to-country negotiations. DOE officials told us that no negotiations are underway to acquire plutonium for CRBR from foreign sources nor are any related cost estimates currently

DEPARTMENT OF ENERGY: CLINCH RIVER FUEL

The Clinch River fuel is a mixture of the oxides of uranium and plutonium. The uranium and plutonium required for fuel for the Clinch River project is to be supplied by the Department of Energy (DOE).

The uranium will come from the depleted uranium in DOE's stockpiles. This depleted uranium is the waste from the enrichment process: natural uranium contains 0.7 percent uranium-235, which is enriched leaving the depleted uranium. DOE currently has 24,000 cylinders, each containing 10 to 14 tons of depleted uranium, in storage at vari-

ous locations.

DOE's Defense Programs is responsible for meeting the Government plutonium requirements. That office has traditionally provided plutonium at no charge to DOE's breeder program. The CRBRP currently plans to obtain plutonium from DOE's stockpiles. The amount of plutonium that will be used as fuel in Clinch River during the 5-year demonstration period is about 6.2 million grams of plutonium. This plutonium will be drawn from DOE's stockpile between 1987 and 1993. Because there will not be any net loss of plutonium and because DOE will retain possession of the plutonium, it is inappropriate to include plutonium as an element of the cost estimate.

The Clinch River powerplant will produce about 430 kilograms of plutonium more than it uses during the 5-year demonstration period. However, DOE has not elected to take credit for the value of this plutonium in the Clinch River cost estimate.

There are no firm plans at this time with respect to reprocessing Clinch River fuel assemblies. A number of alternative possibilities are being considered including the Demonstration Reprocessing Plant.

[From the Washington Post, Nov. 20, 1982] NEW ATOM PLANT FOR WEAPONS MATERIAL URGED

(By Milton R. Benjamin)

A Department of Energy advisory panel has recommended construction of a \$4 billion nuclear reactor at the Savannah River Plant in South Carolina to produce the tritium needed to increase the nation's stockpile of hydrogen warheads, it was learned yesterday.

The proposed government plant-a larger, higher-powered version of existing reactors at Savannah River that produce all the plutonium and tritium used in America's nuclear weapons-would be the first new reactor built for the U.S. military program in more than two decades.

The advisory panel, which submitted its classified report Monday to Energy Secretary Donald P. Hodel, said that after evaluating the adequacy of future supplies of tritium and plutonium, it agreed with earlier studies that concluded a new production reactor is needed "to assure an adequate supply of strategic nuclear materials in the 1990s and beyond."

The increased need for tritium, a radioactive gas used in thermonuclear weapons, stems in part from U.S. plans to build thousands of new warheads for the MX, Trident and cruise missiles. It also is needed for the neutron warheads that will replace older tactical atomic warheads. In addition, because the isotope decays, the tritium in existing warheads periodically must be replenished

Hodel, whose department is in charge of all of the facilities that produce materials for nuclear weapons, is expected to act on the panel's recommendation by March 1, an Energy Department spokesman said vesterday.

If Hodel approves the recommendation, funds for initial plannning would be added to the Energy Department's fiscal budget request, a source said. If funds are approved, construction of the reactor would begin in 1985.

In recommending construction of the ZEPHWR (zero electric power heavy-water reactor) at the Savarnah River Plant, the special advisory panel headed by former atomic energy commissioner T. Keith Glennan passed over all six reactor types and three alternative sites that had been proposed by the Energy Department.

These included a proposal that the Energy Department take over a partially completed commercial atomic power plant in Washington, where the utility spent \$804 million before terminating construction, and convert this reactor to the production of

plutonium and tritium.

The panel said it decided this proposal involving the Washington Public Power Supply System (WPPSS) reactor was the leas desirable because of "the potential for adverse public perception of converting a plant designed for commercial production of electricity to production of weapons materi-

The advisory group also cited concern "over use of commercial technology to

<sup>1</sup> The Fast Flux Test Facility is the LMFBR test reactor built for testing fuels, materials, and components. It has no capability of generating electricity nor is it intended to demonstrate the breeding of

produce weapons material" in strongly advising against construction of a pressurized light-water reactor that would be virtually identical to many of the atomic power plants operating in this country and overseas.

The panel also rejected the option of constructing the new tritium production reactor at the Nevada nuclear weapons test site, noting that the underground tests conducted there raised "safety questions" involving earthquakes.

Glennan said in a telephone interview yesterday the panel felt constructing a new reactor similar to those that have been operating at the Savannah River Plant since the 1950s was the best way to meet the objective of producing needed materials on a timely basis

"Essentially, you have a reactor that has been proven over many, many years, and the Savannah River Plant is operated by an enormously reliable contractor, Du Pont," Glennan said. "Those factors played a

major part in our decision."

Of the five production reactors built by Du Pont at the Savannah River Plant in the 1950s, three produce plutonium and tritium for the weapons program, and a fourth—which was shut down in 1968—is being refurbished and is scheduled to be put back into operation next September. The fifth was shut down in 1964, and there are no plans to reactivate it.

The panel said if the administration decided it was essential that the new production reactor generate as a byproduct electricity that could be sold to a local utility, it still would recommend that such a slant be built at the Savannah River Plant site and that it be similar to the reactors already operating

there.

The group said if the administration felt it was "essential" that the nation's entire production of tritium for hydrogen warheads not be concentrated at one location, it would recommend that a replacement for the aging N-reactor be built at Hanford, Wash.

The Hanford Reservation was the site of all the plutonium production for America's atomic weapons program during the 1940s. At one point, nine production reactors were operating there. But all have been shut down for over a decade except for the N-reactor, which in recent years has been largely used to produce fuel-grade plutonium for the Energy Department's breeder research program.

# WHERE DOES TAIWAN GO FROM HERE?

(By request of Mr. Baker, the following statement was ordered to be printed in the Record:)

Mr. GOLDWATER. Mr. President, for reasons known only to those who will come forth when we are gone, the United States has been rather consistent in the manufacturing of foreign policy disasters. Probably the most significant of these, and certainly significant in today's world, was the recognition of the People's Republic of China. Here is a country completely dedicated to the destruction of freedom everywhere, a country which has allowed the massacre of some 50 million people. The Red Chinese Government stands for everything that the United States is opposed to and yet, for reasons known only to themselves, a series of Presidents of the United States has seen fit to crawl in bed with this backward, decadent, Communist nation and ignore the one friend we have always had, the Nationalist Government on the island of Taiwan.

Probably the best piece written on this in some months is one written by Ramon Myers, who is a Senior Fellow at the Hoover Institution on War and Peace. He has cogently expressed the feelings of those of us who have bitterly opposed the recognition of the People's Republic of China and has expressed the reasons why we should never have gotten into this foolish position. I think it would be of benefit to my colleagues to read his thoughts, and I, therefore, ask that this article be printed in the Record.

The article follows:

## Where Does Taiwan Go From Here? (By Ramon H. Myers)

Will Taiwan reunify with China? Will it continue to prosper but remain isolated in the international world? Or will Taiwan adopt a different political style and declare itself an independent state without any representation on the Chinese Mainland?

Although the United States recognizes that there is only one China and that the People's Republic of China (PRC) represents China and Taiwan (The Republic of China, ROC), in reality there are two sovereign Chinese states. Since 1949, both of these states have claimed to represent China, and they still compete to determine which state will legitimately represent all the people on both sides of the Taiwan Straits.

It is highly improbable that The Republic of China will negotiate with China in the foreseeable future. Taiwan's leaders remember only too well their previous contacts with the Communists Party. When the Nationalist and Communists conferred in 1937 and again in 1946, they made some agreements. As a consequence of their skillful maneuvers, the Communist Party greatly expanded its area of control, and by 1947 had gained military equivalence with the Nationalists. By 1949 the contest was over, and since then the Nationalists have not trusted the Communists.

Can Taiwan continue to modernize and remain independent of communist rule? The answer is "yes" due to at least five factors

working in her favor.

First, a new international environment has emerged since 1945. This multi-system nations world has legitimized that more than one state may be created from the same country, as exemplified by the two Germanies, the two Koreas, and the two Chinas. Many states have an ambiguous relationship with the ROC, but formally recognize the PRC. This relationship is possible because private or national organizations have been created to conduct relations with the ROC.

Second, the ROC leadership offers an ideology which provides the theoretical basis for its successful economic policies. Their ideology also embraces Neo-Confucian values which are still the cultural beliefs of the Chinese.

Third, more and more Chinese living outside these two Chinese states now look toward Taiwan as the hope for the Chinese people. Recent commentary about both

states has been very favorable about development in the ROC, but cyncial and critical about the recent reforms in China. If Chinese intellectual support for the ROC grows, this powerful voice can help the ROC in its struggle for survival.

Fourth, the institutions and policies on Taiwan over the past thirty years have become routinized through law. Just as economic modernization has been shaped by respect for the law, political change has become regularized. Elections are held regularly. Last November, candidates competed in elections for the provincial assembly, city council, and country offices. The Nationalist Party candidates and the opposition candidates, who call themselves the non-party or Tang-wai, scored enough wins to claim victory for their side. Government leaders are increasingly cosmopolitan in outlook, educated abroad, and most hold Ph.D. degrees. Taiwan's public media provides criticism that is becoming more sophisticated and tol-erant of internal dissent. Government leaders and politicians are criticized if their performance is found lacking.

Finally, the ROC's future might very well be ensured by the inability of China's polity to remain unified. The population of China, numbering over one billion, is poor and demoralized after thirty years of socialist failures. If dissatisfaction spreads in the ranks of the military, party, and bureacuracy, and if new disaffected regional coalition groups emerge to challenge the center, China will

disintegrate into warring states.

Yet, predictions are apt to fail because they ignore the unexpected. What are some unexpected factors which might shape the future of the ROC? Current developments within China itself will certainly be signifi-cant. After their failure to have talks with Taiwan's leaders, Beijing's leaders in late 1981 began to press the United States not to sell any weapons to Taiwan. Taiwan had asked for the advanced F-16s or the less sophisticated F-5Gs, but our administration hoped to strike a deal with Beijing by selling less sophisticated jet aircraft to Taiwan and then asking China to criticize Soviet meddling in Poland. Beijing's response was to castigate Washington for selling Taiwan the weapons and to say nothing about Moscow. Since then, both countries have tried to find a formula which would allow the United States to sell weapons to the ROC as allowed under the U.S.-Taiwan Relations Act and for Beijing to be assured that after a limited time period of about three to five years, such sales would be terminated.

Recently, several parallel developments have taken place. After Soviet Politburo member Tikhonov called for resuming the talks broken off between Moscow and Beijing three years ago, the Chinese received delegates from the French Communist party, sent three economists to Moscow to confer with the chief of the Soviet planning commission, and listened to Brezhnev's announcement to resume talks. The foreign ministry in Beijing also sent notes to the major Western governments demanding they break ties with the ROC. States like Canada, Japan, and West Germany have non-official offices in Taipei and conduct considerable trade with the ROC. The meaning of these new developments becomes apparent when seen in historical perspective.

During the past three years, China's leaders have frequently urged Taipei to hold talks and various contacts such as sending scholars to Beijing, allowing postal commu-

nication between separated family members, and scheduling meetings between representatives of both sides. Beijing's leaders have also proposed that Taiwan can become an autonomous province with it leaders assuming major political positions in the PRC government. All these overtures have been resuffed by the ROC. Late last year, Beijing's leaders finally abandoned this idea and

leaders finally abandoned this idea and adopted a new strategy.

The new strategy is to isolate the ROC and weaken its defenses. If China can succeed in terminating U.S. arms sales to Taiwan and force other countries to sever their relations with Taipei, the ROC would become isolated economically and weakened militarily. Presently, only Saudi Arabia, the Republic of South Korea, and about twenty developing countries diplomatically recognize the ROC. Yet, the ROC still conducts trade and cultural relations with countries without diplomatic relations. Beijing's new strategy is clearly designed to eliminate such relations with Taiwan.

If the United States agrees to Beijing's terms, and other countries sever all ties with the ROC, Taiwan's future prospects will be very bleak indeed. What should the United States do, and what will be the likely response of other countries to Beijing's

recent demands?
Washington should be firm with Beijing, declare its intention to live by the U.S.-Taiwan Relations Act, and have friendly relations with China. If Beijing's leaders do downgrade those relations, no serious consequences will follow, and it's doubtful Beijing will take such drastic steps. Even if that were to happen, the United States certainly could conduct all business with the PRC through a charge d'affaires instead of an ambassador.

While Beijing might succeed in achieving some normalization with the Soviet Union, this step is not going to change the balance of power in northeast Asia. It will involve little more than slightly expanded trade and some exchange of people. In addition, other countries are greatly dependent upon trade with the ROC, and the current depressed international economic market discourages those states from severing trade relations with the ROC. Beijing wants to trade with these same states, so it is unlikely that she will choose to downgrade relations with all states that still trade with Taiwan.

There is, however, another difficulty which might engulf Taiwan and precipitate political instability there: the problem of leadership succession. Chiang Ching-kuo has, at most, only five to eight years to remain in power. If the political institutions in the ROC function properly, a successor will be elected, a cabinet will be named, and Nationalist governance will continue. But if some snag develops, disturbances could be provoked by perceived irregularities in the political process.

political process.

In conclusion, Taiwan's future can be influenced by American foreign policy. If any American administration presses the ROC's leader to confer with Beijing's leaders and terminate arms sales to the ROC, that island state will be placed in great jeopardy. Is China so important to the United States that our leaders should accede to such demands from Beijing? For the U.S. to base its entire Asian policy upon China's interests would be irresponsible for our Asian friends, and not in our own best interests.

There are four major arguments usually given for China's importance to the U.S. All four are actually based on myth.

First myth: China serves as an important counter-weight to block Soviet expansion-

ism. Since 1978, Soviet influence in Afghanistan and Vietnam has increased, and its military buildup in the northeast of Asia has expanded. The Soviets have perceived a budding Sino-American alliance and have responded by trying to extend their influence in Asia.

Second myth: China draws a huge number of Soviet troops and armor to its northern frontier, thus relieving tremendous pressure on NATO's flank. On the contrary, most of that recent buildup came from garrisons deep in the Soviet Union, and any relaxation of Sino-Soviet border tensions would merely mean returning those forces to their former or present data.

former garrison duty.

Third myth: China will become a powerful modern state within several decades.

China's current economic troubles are legion. Her leaders will be fortunate in the next few years if they can keep the country unified and prevent it from disintegrating into a number of warring regions or small

Fourth myth: China can be depended upon to become a firm ally and friend of the United States. We have no assurance that this Marxist-Leninist-Maoist leadership can be trusted because China's leadership has always viewed the world as being divided into three camps: the competing superpowers of the U.S. and U.S.S.R., the developed countries, and the underdeveloped countries. In opting for an alliance with the U.S. against the Soviet Union, China's leaders have merely applied the old united-front strategy and could change that alliance at any time.

If the United States will enforce the U.S.-Taiwan Relations Act while negotiating firmly with China, we should be able to prudently develop friendly ties with China. We could also expand our economic and cultural relations with the ROC. The two Chinese states alone can resolve their differences, so our role should be to provide the environment for a peaceful resolution of their differences.

# LESSONS FROM THE FALKLANDS CAMPAIGN

(By request of Mr. Baker, the following statement was ordered to be printed in the Record:)

Mr. GOLDWATER. Mr. President, it was my extreme pleasure and honor to have had lunch while at the air show in England with the Lord of the Admiralty. I asked him for a paper, when the paper was completed, on the lessons they learned from the Falkland war. I have received a paper, written by Air Vice Marshal Stewart Menaul covering this subject and because it is of such vital importance to our military, the students of military, and because we are in a period of transition now in some of our concepts of different aspects of warfare, I believe my colleagues would enjoy reading this. I ask that it be printed in the RECORD.

The paper follows:

LESSONS FROM THE FALKLANDS CAMPAIGN
(By Air Vice-Marshal Stewart Menaul)

The invasion of the Falkland Islands and South Georgia by Argentine forces on 2 April 1982, took the British Government completely by surprise, despite indications from various sources that such action was

contemplated by the ruling junta in Buenos Aires. When confirmation was received that land, sea and air forces had begun an invasion of the Falkland Islands and South Georgia the reaction of the British Government was swift and decisive. The first ships of a Task Force led by the aircraft carrier HMS Hermes were hastily assembled and set sail for the South Atlantic on 5 April to be joined in succeeding weeks by an armada of upwards of one hundred ships amd involving some 30.000 men.

The course of the successful campaign is too well known to need re-stating here and on 14 June the enemy surrendered. The land battle had lasted just three weeks. The battle at sea never materialized once the cruiser General Belgrano had been sunk by a British submarine. From that moment the Argentine naval command decided not to risk committing their fleet to action and as a result not a single ship of the Argentine navy ventured out of port for the duration of the war. There were no prolonged antisubmarine warfare (ASW) operations such as must be expected in the North Atlantic in any future conflict with the Soviet Union. But the combination of submarines, surface ships and aircraft remains the most effective anti-submarine tactic so far devised.

#### THE BATTLE FOR CONTROL OF THE AIR SPACE

Before attempting to assess the effectiveness of British weapon systems in the battle for control of the air space over and around the Falklands, it is necessary to look briefly at the attack capability the enemy was able to mount against the Task Force. Since no Argentine naval forces were involved, the burden of responsibility fell on the Argentine air force, with some assistance from the naval air arm operating from shore bases and not from the Carrier Vienticinco de Mayo. The total air strike capability available to the Argentines has been variously estimated at between 145 and 150 aircraft including nine Canberra bombers, 68 Skyhawk A-4P/Q, 20 Mirage IIE/IAI Nesher, 45 Pucara, Six Super Etendard supported by maritime and transport aircraft and helicopters. Their armaments consisted mainly of 500 and 1,000 lb iron bombs, 30mm cannon and rockets. The Super Etendards had about six or seven AM-39 Exocet missiles. The Mirages, with supersonic capability, were designed primarily for the interceptor role and on some occasions were employed as escorts to the Skyhawks, though they were also capable of undertaking an attack role.

Many of the aircraft in the Argentine air force inventory were 20 years old and did not have modern target acquisition and attack systems. They did not operate at night and appeared to have a very limited bad weather capability. They carried no electronic countermeasures equipment and their tactics were confined to low-level, freefall bomb and cannon attacks reminiscent of World War II. The Mirages were equipped with air-to-air missiles but they rarely engaged the Harriers in air-to-air combat. The sheer courage of the aircrews rather than the effectiveness of their equipment accounted in large measure for the successes achieved by the Argentinian air force and naval air arm.

## THE EXOCET ATTACKS

At the start of the war, it was estimated that apart from their 6 or 7 AM-39 Exocet missiles, they also had a supply of AM-38 ship-launched missiles but they did not use them. Two Exocets were fired at HMS Shef-

field one of which struck her and she was destroyed. HMS Glamorgan was struck by an Exocet fired from a coastal defence site near Port Stanley and was fortunate to survive. The container ship Atlantic Conveyor was struck by an Exocet fired from a Super Etendard and sank. At least two other Exocets were fired but did not hit their targets either because they were diverted by chaff or they suffered mal-functioning of the guidance system. This represents a high attrition rate in British ships for an economical expenditure of relatively low-cost missiles, especially as none of the launching aircraft were shot down.

#### ARGENTINE BOMB FAILURES

A feature of the air attacks by Argentine aircraft was the number of bombs which failed to explode even though they hit their targets. Others which did explode fell harmlessly into the sea, mainly because of poor aiming by the aircrews who often were more concerned with evading the defences than with accurate bombing. The bombs were 500 and 1,000 lb iron bombs of United States origin, some of them more than 13 years old. Such bombs may be fused nose or tail or both. They can be fitted with instantaneous or time delay fuzes to explode on impact or after penetrating the target, which would make the task of bomb disposal teams more difficult. Normally the fuzing system is so designed that the bomb is not live until after it leaves the aircraft. An arming vane is fitted which rotates as the bomb falls towards its target and activates the fuzing system. If the bomb is released from too low an altitude too close to the target the arming vanes will not have time to activate the fuzing system and the bomb will not explode even though it hits the target.

#### SHIP DEFENCES OF THE BRITISH TASK FORCE

The primary defences of the Task Force were the carrier-based Sea Harrier FRS 1 aircraft. They were modified to undertake a strike role as well as their interceptor and reconnaissance role for which the Blue Fox radar installed in the nose provides for airborne interception and air-to-surface search and strike. Only 20 Sea Harriers were available initially and were deployed on the two carriers HMS Invincible and HMS Hermes. This force was later augmented by eight Sea Harriers and 14 Harrier GR3 ground attack aircraft. The most outstanding deficiency the lack of airborne early warning (AEW) equipment which made the task of winning the battle for control of the air space that much more difficult. The Task Force had to rely almost totally on the ship's radars to give warning of approaching enemy aircraft and as they usually approached at very low level the warning time was reduced to a minimum.

For the air defence role, the Sea Harriers were equipped with AIM-9L Sidewinder heat-seeking air-to-air missiles and 30mm cannon. They were also equipped with chaff dispensers, tail warning radar and flare dispensers against infrared missiles. For the ground attack role, the Sea Harriers had iron free-fall bombs, cluster bombs and 30mm cannon. A number of attacks were carried out against the airfields at Goose Green and Port Stanley, with varying degrees of success, in which five Harriers were lost to ground fire. This represents an attrition rate which could not have been sustained for very long with the limited number of aircraft available. Since such atacks involved overflying the target on each occasion, there can be no doubt that the Ar-

gentine ground forces would have become more proficient in the use of the defence systems available to them and Harrier losses would have escalated.

#### SHIP MISSILES

Ships of the Task Force were armed with a variety of surface-to-air missiles and guns. Destroyers like the T-42 Sheffield had Sea Dart and 4.5 in. guns, frigates like the T-22 Broadsword had Seawolf, the Glamorgan had Seaslug and Seacat, other frigates had Seacat. This means that only two frigates had defences against Exocet missiles or very low-flying aircraft, since Sea Dart is primarily designed for defence against medium level attack but with some capability against low-flying aircraft. Lack of airborne early warning compelled the commander of the Task Force to deploy destroyers on radar picket duty some miles away from the other ships of the Task Force. HMS Sheffield was on such duty when she was hit by an Exocet AM-39 air-launched missile. She did not know what hit her and had no warning of the attack. No electronic counter-measures were used against the missile's radar guidance system nor was chaff dispensed, although it was used on other occasions with varying degrees of success. But it was the iron bombs dropped from very lowflying aircraft that did most of the damage to many ships of the Task Force. Most of the surface-to-air missile defences claimed successes and had all the ships been equipped with effective defences against high and low-flying aircraft and sea-skimming missiles the casualties in ships and men in the Task Force would in all probability have been much lower. Surface ships are vulnerable as the defences with which they are equipped.

#### ISRAELI OPERATIONS IN THE LEBANON

Before examining the lessons from the Falklands operations and the improvements needed in British weapons systems, it is appropriate to examine the Israeli operations which took place at the same time as the battle for the Falklands, with particular emphasis on the air battle.

Before launching their main attack in Lebanon, the Israelis decided to neutralize the Syrian air force which posed a real threat to their advancing forces. This involved the destruction of Syrian SAM-6 missiles deployed in the Bekaa valley, the command and control centres and as much as possible of the Syrian air force and its ground control interception centres. The plan was relatively simple but brilliantly executed. The Israelis first flew remotely piloted vehicles (RPV) over the valley, tempting the Syrians to use their acquisition radars to track the RPVs before launching the SAM-6s to shoot them down. In doing the RPVs monitored the frequencies being used by the SAM sites and transmitted them back to the Israeli air bases where attack aircraft armed with anti-radiation missiles, Shrike and Wolf, were waiting to take off and attack the sites. A Gruman E-2C surveillance and control aircraft operating off the Lebanese coast was able to observe Syrian aircraft taking off from their bases and to alert the Israeli F-15s flying top cover for the attacking F-4 Phantoms and F-16s. The attacks on the SAM sites were highly successful and in the air battles which followed, the Israeli air force claimed to have shot down 49 MIG-21 and MIG-23 Syrian fighters without loss to themselves. In the week that followed, the Syrian losses mounted to 86 for the loss of one Israeli Skyhawk shot down by a SAM-7 missile,

and two helicopters. Electronic countermeasures played a vital role in these operations.

The Israelis were equipped with the most modern weapons including the Maverick stand-off air-to-ground missiles, GBU-15 glide bombs, cluster bombs, AIM-9L Sidewinder missiles and infrared decoy dispensers. They had the most modern aircraft in the F-15 and F-16 and demonstrated impressively that defence suppression is a primary requirement before launching an attack on heavily defended targets. Iron bombs are still useful when the defences have been neutralized, but overflying heavily defended targets at low level, dropping freefall bombs, will in future invite a high attrition rate. Electronic countermeasures used so effectively to jam Syrian GCI communications, and defence suppression weapons must be included in the inventory of all modern air forces.

## MODERNIZATION OF BRITISH SHIP AND AIR DEFENCES

All the ships and aircraft lost in the Falklands campaign are to be replaced. But it is not just a question of replacing destroyers, frigates and Harriers, they must in future have modern, effective defences against modern attack systems which the Task Force did not have. The Sea Harriers performed exceptionally well, accounting for 27 aircraft shot down with no losses to them-selves in air-to-air combat. Each of the ship's SAM missiles also performed well within the limitations imposed on them. Sea Dart claimed eight enemy aircraft de-stroyed, Seawolf five, Sea Cat six. An unknown number of enemy aircraft may well have been hit and damaged. Ground-based Rapiers claimed 13 and Blowpipe eight enemy aircraft. Machine gun and small arms fire may also have accounted for damage to aircraft sufficient to prevent them from reaching their home bases.

The most serious deficiency, lack of airborne early warning, has already been made good by the installation of a Searchwater surveillance radar in a Sea King helicopter and deployed on board HMS Illustrious, the new carrier now off the Falklands to replace the Invincible. Ships engaged in operations anywhere on the oceans of the world must in future have airborne early warning of aircraft or missile attack, especially missiles such as Exocet. Had British ships of the Task Force been equipped with both Sea Dart and Seawolf and more effective passive and active electronic countermeasures, the casualties would have been lighter.

A further improvement in ship defences has been made in HMS Illustrious by fitting American Vulcan/Phalanx multi-bar relled gun system capable of firing 3,000-4,000 rounds of 20mm cannon per minute. The rounds are made of depleted uranium which is very dense and, therefore, more effective in penetrating the skins of aircraft or missiles than lead rounds. More effective countermeasures are needed, involving an integrated ECM system to provide protection against radar-guided missiles, infrared seekers and laser-guided missiles. Essentially such a system must have greater range for passive measures, including chaff, and for active jammers. A system known as Shield currently under development by the Plessey company will help to fill the gap in electronic countermeasures.

The Sea Harriers which performed so well in the interceptor role should have longer range radar and short range AIM-9L Sidewinder missiles supplemented with longer

range missiles such as Skyflash. If the United States navy had been operating in similar conditions to the Falklands cam-paign, they would have had E-2C aircraft on continuous patrol and F-14 interceptors equipped with Phoenix long-range missiles capable of engaging six enemy targets at ranges of 100 miles and with a look-down, shoot-down capability. The F-4 Phantoms soon to be deployed to the Falklands will have a much better capability and Buccaneers deployed in the strike role will eventually have the new British anti-ship missile, Sea Eagle, which will have a stand-off range greater than Exocet, greater reliability and be capable of evading or defeating countermeasures. It will also be fitted to Nimrod maritime aircraft.

Ground attack aircraft must in future have stand-off missiles and rely less on overflying defended targets to deliver free-fall bombs or unguided missiles. The Harrier GR3 and its successor the GR5 employed in the close support role will invite a high attrition rate if they are not equipped with weapons such as Maverick. The BL 755 cluster bomb for use against tanks will be highly vulnerable to Soviet organic air defence including SAM-4, SAM-6, SAM-8, SAM-9 and SAM-10 as well as ZSU-23-4 AA guns which accompany Soviet armoured divisions. There must be some doubt, too, about the efficacy of the JP-233 anti-airfield weapons which require the delivery aircraft to overfly the target. Fitting them to expensive aircraft such as the Tornado may prove to be costly by comparison with stand-off weapons. Cluster bombs and 1,000 lb iron bombs were not effective against the airfield at Port Stanley and served to emphasize that last war weapons and last war tactics will not be good enough in a future war in Europe against the most heavily armed nation in the world.

The land battle was primarily an infantry battle with artillery and mortar support, but the helicopter once more proved its worth as a versatile vehicle in many roles, not least the evacuation of the wounded. The cross-country mobility of British troops was outstanding. The men fit, disciplined, determined and well led. Their vehicles, Scorpion light tanks with 76mm guns, Scimitars with 33mm cannon, Samson recovery vehicles and 105mm light guns, performed well in very difficult terrain. The land battle did not last long enough to provide sufficient opportunity for ground forces to test their NATO role of initial delaying, defensive tactics, but years of training and NATO exercises enabled a force outnumbered nearly 2:1 to carry out an amphibious landing at the end of 8,000 miles of ocean, with inadequate airpower and to defeat an occupying force with minimum losses. The total casualties in dead numbered some 250, less than half the losses suffered by RAF Bomber Command in a single night raid on a German city in 1944.

provide a rapid deployment joint task force (RDJTF) more quickly and more efficiently than was thought possible. It was used well beyond the NATO area of responsibility and without help from any other power in the mobilization of the force or the conduct of operations. At the height of the campaign just before the surrender of the Argentine forces, the British Task Force had at sea 26 warships, 15 fleet auxiliaries, 42 merchant ships, 52 fixed-wing aircraft and 136 helicopters. There were more at Ascension

island, the only intermediate base available

LESSONS FOR NATO

Britain has demonstrated her ability to

to the force in the 8,000 miles from home bases. The strategic importance of Ascension island, the Falklands and South Georgia in the South Atlantic is on a par with Diego Garcia in the Indian Ocean. Other NATO countries should surely be able to form a similar contribution, though perhaps smaller, for use in assisting the United States RDJTF in keeping open the oceans of the world, particularly the oil routes from the Gulf

In a European land battle, NATO land and air forces must make wider use of electronic countermeasures. Defence suppression systems such as the United States Wild Weasel F-4 Phantoms and F-111 aircraft must be increased in number and the need for precision, stand-off weapons in the ground attack role must now be recognized. New anti-tank weapons with semi-automatic seekers such as Wasp and Skeet are needed to replace wire-guided missiles that have given excellent service in many countries for more than a decade and will still be effective for some years to come, but a new generation of anti-tank missiles is available and should be introduced into the NATO inventories as soon as possible.

The Israeli operations in Lebanon demonstrated the superiority of United States equipment over that supplied to client states by the Soviet Union. The West has the technological skills to keep ahead of the Soviet Union in every aspect of the military art. It simply requires the political will to ensure that we do. It will cost money, but looking at the weapons systems used by the Israelis and the tactics adopted by them particularly in the air battle, it could be said that in the Falklands campaign Britain was fighting yesterday's war while in Lebanon the Israelis were fighting tomorrow's.

The Falklands campaign was well planned and brilliantly executed when all the odds seemed to be against a successful operation to re-possess the islands. Firm decisions and unwavering determination at the very top set the pattern for the successes that were to come. It was a race against time and the elements in which sheer professional skill overcame the disadvantages under which the Task Force had to operate. Many lessons have been learned and some have already been put into practice, but more remains to be done. One lesson above all others, however, is applicable to the nations of the Free World. It is that failure to deter aggression invariably exacts a heavy price for the restoration of the status quo.

## KIDNAPPING OF THE DAUGH-TER OF THE PRESIDENT OF HONDURAS

Mr. HELMS. Mr. President, I think Senators may recall the visit to the Senate by Dr. Roberto Suazo Cordova earlier this year during his state visit to Washington. Dr. Suazo, who was elected just a year ago, has quickly earned the esteem and appreciation of freedom-loving people throughout the Americas. Not only is he a fine, Christian gentleman, whose humility and dedication to his people illuminate every facet of his life, he is also a firm supporter of freedom for his people and for the countries of his region, and a strong and faithful ally of the United States.

Mr. President, Honduras is strategically located on the borders of Guate-

mala, El Salvador, and Nicaragua, and has managed to escape the degree of violence which has plagued those countries. But the terrorist left has come to recognize Dr. Suazo as a major obstacle in their plan to destabilize and ultimately take over Central America. He has been firm in his dealings with the Salvadoran revolutionaries who have tried to bring their terror into his country. He has been unswerving in his condemnation of what he calls that cancer that the Sandinistas are trying to spread throughout Central America. And he has been most hospitable and supportive of the policies of the United States, which are based on our hopes for a community of free and democratic nations in Central America.

Mr. President, for a long time, the terrorist left has felt that it could bypass Honduras for the moment; but that time has now passed. Yesterday, in Guatemala City, the daughter of Dr. Suazo Cordova was kidnaped by leftist terrorists. This young lady, named Xiomara, has been studying medicine, the career her father followed before entering politics, in Guatemala City.

Earlier this year, when I represented President Reagan at Dr. Suazo's inauguration in Tegucigalpa, I met this fine young lady. The fact that international terrorists have now made her a pawn in the game of subversion and revolution is reprehensible, and must be condemned by every supporter of the democratic process, by everyone who loves liberty.

The terrorist group who kidnaped Miss Suazo has not yet identified themselves; they have insisted, however, that the media throughout Central America and Mexico be ready to publish their list of propaganda demands later this week. If the media fail to make themselves available, the terrorists threaten to kill their hostage.

Mr. President, later this week, I will have occasion to discuss this matter again. At this moment, however I would like to call on my colleagues to join me in a condemnation of this act of wanton cowardice and criminality, and to let the world community know that no faction, no interest anywhere in the free and civilized world can condone this kind of depravity. I would also like to make a personal request: Dr. Suazo is a good, gentle and dedicated man. This must be a very trying time for him, and he would want to know that he is not alone. Please keep him in your thoughts and prayers, and let us all pray that his daughter will be released without harm, and that the perpetrators of this crime will realize that it is utter folly to think that their cause can be helped by such actions.

## A COMING BOOM FOR AMERICA?

 Mr. SYMMS. Mr. President, on December 7, I placed an article in the RECORD on the issue of limited resources. Inadvertently, portions of the article and the name of the author, Allan Brownfeld, were omitted. I apologize to Mr. Brownfeld and ask that an edited text of his original article be printed in the RECORD today.

The article referred to follows:

## A COMING BOOM FOR AMERICA? (By Allan C. Brownfeld)

The prophets of doom and gloom are many. In widely published studies such as "Limits To Growth" and "Global 2000," dark picture is painted of a future which has exhausted the world's food and resources. Advocates of a "no-growth" philosophy warn that we must lower our sights and prepare for a declining standard of living. They say that Americans and others in the industrialized Western world have been "selfish," and have been using more than "their share" of the world's minerals, energy and food.

Herman Kahn, chairman and director of research at the Hudson Institute, sharply disagrees. In a new book, "The Coming Boom," Simon and Schuster, 1982, he her-Coming alds a new period of American prosperity and predicts, in spite of the present economic recession, a major economic upturn and revitalization which will renew our traditional values, our status and influence, and

our pride in ourselves.

If economic growth has slowed in recent days (Kahn declares) it has not been because of a lack of resources, or over-populabut because of self-imposed "social limits" such as the demands of environmentalists and ecologists and the increasing burden of taxation and government regulation. We have taxed initiative and subsidized indolence-insuring that we would get more of the latter than of the former.

The policies of the Reagan Administration, Kahn believes, are pointing the country in the proper direction for an economic revival. He notes that, "... the president has the opportunity to forge the most important new coalition in fifty years-the free market/free enterprise economic conservatives, the 'strong America' defense/national security/foreign policy conservatives, and the 'traditional values' social conservatives. The potential for a new political coalition has existed since the mid-1960s, but because the process was greatly disrupted by Vietnam and, more significantly, by Watergate, the New Deal/Great Society coalition originally put together by Franklin D. Roosevelt in the early 1930s and sustained by Presidents Truman, Kennedy, and Johnson continued to hold together and to dominate American politics until President Reagan's election. Many of the political forces which kept that coalition going for fifty years are the same ones that make the new conservative coalition possible."

Two out of three Americans polled in recent years believe that their grandchildren will not live as well as they do. If America is to change course, writes Kahn, it is important to "re-establish an ideology of progress. Ideologies are important in themselves. They emphasize values and attitudes; they contain a theory of the past, a theory that both legitimizes the present and inspires a dream for the future. . . They help shape responses to current issues,

often providing the energy and motivation needed to make those responses effective.

There is no reason for there not to be continued economic growth and progress, Kahn states. He argues that there will be a great expansion of non-OPEC sources of gaseous and liquid fuels from conventional and unconventional sources.

A new era of prosperity can be ours, Kahn declares, if we restore the proper incentive structure of the marketplace. He urges, for example, deregulation of the energy industry and of society and industry in general, noting that, ". . . the basic standard for government intervention should be that the burden of proof of need of intervention be on the government. Unless it makes a very good case, it should not become involved."

Over the next 20 years, if we pursue proper economic policies, Kahn believes the national income will double. "Barring some perverse combination of bad luck and bad management," he writes, "the average American's real income will triple by the

year 2033.

This is an optimistic book and should be read carefully by all those who are prepared to accept the idea that "downward mobiliis somehow inevitable. There is a way to reverse current trends-and Herman Kahn points to them in this timely and important book.

## WHAT ABOUT OUR FARMERS?

HELMS. Mr. throughout the lengthy debate on this proposal to raise gas and other excise taxes, I have heard precious little said about how this regressive tax will affect America's farmers. I can assure you, Mr. President, the effects will be severe.

Farmers use more gasoline than any other sector of our economy. If farmers do not have gasoline, Americaindeed, the world-does not eat. If farmers have to pay more for gasoline because of this tax, their incomes will suffer.

We are well aware of the low prices our farmers are receiving in the marketplace. This is due, in part, to their inability to pass through increased costs of production to consumers. The often cited example that a loaf of bread contains only about 4 cents worth of wheat clearly defines the magnitude of this situation.

This tax increase, if enacted, would result in a dramatic rise in the cost of transporting crops to market. Will this increase be passed along to consumers in the form of higher food prices, or back to the farmers in the form of reduced crop prices? Historically, farmers have borne the brunt of such increases.

Tax increases stifle economic growth

in all segments of our economy. If this bill should pass, our farmers would be asked to bear a disproportionate and unfair burden. It would result in lower farm prices, and it will prove disastrous to our already struggling farm economy.

Our farmers have endured hard times for several years. We must not add to the burdens.

Mr. President, the American Farm Bureau Federation on behalf of America's farmers, has expressed strong opposition to the gasoline tax increase. They know what its effects would be. On November 17, in a letter to President Reagan, Mr. Robert Delano, president of the American Farm Bureau Federation, outlined his organization's position in opposition to the proposed tax increase. I urge my colleagues to examine Mr. Delano's suggestions carefully. They are profound. He stresses that our first priority should be to cut domestic spending. And how right he is.

Despite what we have been hearing from the big-city newspaper editors, Federal spending has not been cut. It continues to grow at an amazing rate. So does the deficit. Taxes have already been raised, so our only alternative is

to cut Federal spending.

Yet here we are about to increase the heavy tax burden American citizens already bear. This will not help our economy, Mr. President, and it will be particularly harmful to our farm-

Mr. Delano makes other good suggestions, Mr. President, but I will not take up the Senate's time by discussing each of them. I do, however, urge my colleagues to give them careful consideration, and I ask that Mr. Delano's letter be printed in the RECORD at the conclusion on my remarks.

I would also like to call to the attention of my colleagues an editorial that will appear in the upcoming edition of Farm Bureau News. I recommend it to my colleagues, as well, and I ask that it be printed in the RECORD.

The editorial follows:

AMERICAN FARM BUREAU FEDERATION, Washington, D.C., November 17, 1982. President RONALD REAGAN, The White House,

Washington, D.C.

DEAR MR. PRESIDENT: We note that you are giving serious consideration to the pro-posal put forward by the Secretary of Transportation for a five-cent increase in the federal excise tax on motor fuel and other highway-user taxes.

Farm Bureau favors deeper cuts in federal spending as the first priority. We continue to support the tax reductions already enacted. These measures will restore taxpayer and consumer confidence in long-term eco-

nomic recovery

We agree with you that any kind of pumppriming or make-work program would signal back to business-as-usual in economic policy. thwart long-term economic recovery and ultimately revive the inflationary spiral. We support a three-year freeze on all entitlement cost of living increases and fundamental reform of these programs in order to get control of federal spending.

We have indicated in the past that we would accept a reasonable increase in the federal fuel tax, considering the deteriorating condition of the nation's highways and bridges: but that acceptance would be sub-

ject to the following conditions:

1. No portion of the increase should be diverted to public transit or any other nonhighway purpose. The fuel and other motor vehicle taxes are user fees, paid by highway users. To divert any part of the proceeds away from the Highway Trust Fund would be a breach of the trust and unacceptable to Farm Bureau members.

 States should be asked to continue to participate in the funding at current levels.
 We suggest that an increase of three

cents would be reasonable, representing a 75 percent increase in the user fees paid into

the Highway Trust Fund.

We further suggest that if your Administration and the Congress are looking for other sources of funds to spend on public works, repeal of the Davis-Bacon Act would save up to \$2 billion a year. Those in Congress who are pushing hard for a "jobs program" should be given an opportunity to choose between continuation of this outmoded and costly statute and the funding of a public works program.

Sincerely.

ROBERT B. DELANO, President.

# FARM BUREAU NEWS—GAS TAX ISN'T WHAT IT SEEMS!

That "Gas Tax" increase of 125 percent that is being steamrollered through Congress at the behest of the Reagan Administration and the aid of the Democratic leadership is being produced by the lame ducks

and is strictly for the birds!

When Secretary Drew Lewis last year began his campaign to increase the current four-cent-a-gallon federal motor fuel tax by five cents and to divert one cent of the increase from highways and bridges to subsidies for public transit, Farm Bureau-and others interested in preserving the integrity of the Highway Trust Fund-said nothing doing! And so did Ronald Reagan! Curiously, the Lewis proposal is like one that had been promoted for several years by Representative Jim Howard of New Jersey, chairman of the House Public Works and Transportation Committee. Howard has long advocated the concept of a "surface transpor-tation" act and in effect changing the Highway Trust Fund to a surface transportation trust fund.

Whereas the President speaks about this tax as a "user fee"—which it has been since the days of President Eisenhower—it will no longer be the case if enacted. How can it be a user fee when one fifth of the new proceeds will not be spent to benefit the high-

way users who will be paying the bill?
While this is bad enough, we are really faced with a bill that goes far beyond an unprecedented increase in the fuel tax. This tax bill has been used to rewrite the Highway Act. It provides for numerous changes in a wide range of taxes, including unconscionable increases in excise taxes and use taxes on the larger trucks and the tires and other parts and accessories used on such trucks.

But, the mislabeling of this legislation goes even further. This bill has been sold as a move to ameliorate the nation's serious unemployment situation. There is precious little evidence that the net result will be an increase in employment and absolutely no indication that the increased tax funds can be used quickly enough to have any effect on the current problem.

In fact, the chairman of the President's Council of Economic Advisors indicated that the net result of the many tax increases provided in this legislation could reduce available jobs—not increase them!

available jobs—not increase them!

This legislation will have a devastating impact on truck transportation because of

higher costs. While this situation may bring delight to the railroad companies, it doesn't to agriculture! Agriculture depends heavily on truck transportation—both to and from the farms and ranches. In the end, farmers will pay dearly in lower prices for their commodities due to higher costs of transportation.

There are some in the Administration and on Capitol Hill who have assumed that farmers and ranchers would not be much affected by these tax increases, due to the refund still provided on fuel not used on highways. This is a short-sighted and skewered perception, as only a portion of the fuel farmers buy is eligible for the refund and since farmers are adversely affected by increase truck transportation costs. It also needs to be pointed out that a large number of farmers—at least 25,000—are owners of the larger trucks on which the excise taxes and user taxes are to be greatly increased.

But there's more. Not content with all of the other massive changes that are wrapped up in this so-called 5-cent gas tax increase, the Congress—in its infinite wisdom—is about to broaden the coverage of the Davis-Bacon Act (prevailing wage law) to all of the expenditures in this legislation for highways and bridges. If this is enacted, it will increase costs by at least 20 percent—a lot less bang for the buck! In the House, Representative Stenholm of Texas offered an amendment to waiver Davis-Bacon for purposes of this bill; but was voted down. Representative Howard's substitute included the extension and broadening of Davis-Bacon coverage.

To the handful of steadfast Senate members who blew the whistle on this legislation and opened its contents to full public view, the entire country owes a debt of gratitude.

Yes, Farm Bureau could accept a reasonable increase in the federal fuel tax limited for highway and bridge purposes; but as now written it has no choice but to vigorously oppose this legislation.

### THE UNITED NATIONS RESOLU-TION ON THE FALKLAND IS-LANDS

• Mr. HELMS. Mr. President, on November 4 the United States supported in the United Nations General Assembly a realistic diplomatic initiative intended to put a just end to the conflict in the South Atlantic. The resolution, passed by a vote of 90 to 12, urges Britain and Argentina to resume negotiations in order to find as soon as possible a peaceful solution to the soereignty dispute of the Falkland Islands. One week later, the Organization of American States passed a similar resolution.

The United Nations resolution reaffirmed the priniples of the United Ntions Charter concerning nonuse of force in international relations. So in supporting this measure, we assume a shared responsibility for preventing the use of force in the future.

Mr. President, it is apparent that the United Nations and the international community recognize the right Argentina has to a fair hearing—something at least one member of the United Nations allowed to slip from view recently, provoking the tragic events that

took place in the South Atlantic earlier this year.

I congratulate Ambassador Jeane Kirkpatrick for her sound judgment in pleading for a calm and rational U.S. posture concerning this tragic war that occurred between two of our allies. I am convinced that this war could have been prevented had the United States adhered to the policy which Ambassador Kirkpatrick urged all along.

Mr. President, I believe that the U.S. vote for the negotiations resolution should create a better atmosphere for our relations with all of our Latin American neighbors who have become increasingly alienated from the United States due to our catastrophic policy during the Falkland Islands crisis. A healthier atmosphere is certainly needed. Latin nations lamented the U.S. switch in midconflict from neutrality to outright support of Britain. It confirmed their fears that when in need they could not count on Washington despite all the alliance rhetoric of the Rio treaty.

One by one our South American neighbors are showing signs of alienating themselves from us. Colombia's new President, Belesario Betancur, has been sending Washington a strong message of Latin dismay by calling for a hemispheric summit meeting excluding the United States. Venezuela is sending signals by backing Mexico's demands for peace talks between El Salvador's Government and insurgent forces. Our role in the passage of the U.N. resolution was a constructive effort to overcome this alienation. I believe that President Reagan's trip to Latin America this month may have mended some of these faltering friendships.

Mr. President, I would review some of my statements at the time of the fighting in the South Atlantic. On April 29, I said that the United States should seek to help to resolve peacefully British and Argentine concerns, and that it was imperative for the United States to take an evenhanded role in the controversy. On April 30, Secretary Haig made a crucial statement in support of Britain. And just 12 hours after Secretary Haig's statement British forces opened fire on Argentine positions. It is clear that the tilt" toward Britain lessened chances of a peaceful solution.

Mr. President, on May 3 I warned that it would indeed be a mistake to continue to permit the use of military force by the British fleet in the southern waters of our hemisphere. I would also mention that on May 27 I called on President Reagan to insist on a cease-fire so that we might bring the two nations together to the negotiation table. On June 7, I stood in this Chamber and pointed out that while Secretary Haig failed to forge strong

ties with the anti-Communist Latin American nations, Ambassador Jeane Kirkpatrick had remained firm and acted wisely in her desire that the United States be an impartial mediator.

Mr. President, the American delegation's "yes" vote on November 4 is a move toward healing a rift in Washington's relations with Latin America. I might add that the resolution contains no threat to Britain's vital interests. The U.S. vote was a gesture well received by the Latin nations.

Finally, Mr. President, I would point out that the United Nations resolution does not legally prejudice the position of either Argentina or the United Kingdom and it does, in fact, open the way toward negotiations in good faith

without any preordained result. Had we stayed firm throughout the crisis, and insisted that the dispute be settled by discussion and not by force, I doubt there would have been such a tragic conflict. Mr. President, I believe this should be a lesson to us once and for all, so that we never again alienate ourselves from our friends as we did during the Falkland Islands war. I believe that the United Nations resolution, as well as the Organization of American States resolution, serves as a basis for negotiation to close this unhappy chapter and move forward once again toward peace, understanding, and development in this hemisphere.

Mr. President, I applaud the distinguished U.S. Ambassador to the United Nations and her courage to vote in favor of a resolution that is

most welcome.

I believe that it is worthwhile to look at this resolution. The resolution takes into account the existence of a de facto cessation of hostilities in the South Atlantic and the intention of not resuming them expressed by the parties. Perhaps more importantly, the document reaffirms the need that the parties take duty into account the interests of the population of the islands.

Finally, it should be emphasized that the 90 nations in support of this initiative are calling for the United Kingdom and Argentina to resume negotiations in order to find as soon as possible a peaceful solution to the sovereignty dispute.

Mr. President, I ask that the entire text of the General Assembly resolution be printed in the Record.

The text follows:

# RESOLUTION

(1) Requests the Governments of Argentina and of the United Kingdom of Great Britain and Northern Ireland to resume negotiations in order to find as soon as possible a peaceful solution to the sovereignty dispute relating to the question of the Falkland Islands (Malvinas).

(2) Requests the Secretary General, on the basis of this resolution, to undertake a renewed mission of good offices in order to assist the parties in complying with the request made in paragraph 1 above taking adequate measures with that aim.

(3) Requests the Secretary-General to submit a report to the General Assembly at its thirty-eighth session on the progress made in the implementation of this resolution

(4) Decides to include in the provisional agenda of its thirty-eighth session the item entitled "question of the Falkland Islands (Malvinas)."

Having considered the question of the Falkland Islands (Malvinas).

Realizing that the maintenance of colonial situation is incompatible with the United Nations ideal of universal peace,

Recalling its resolutions 1514(XV) of 14 December 1960, 2065(XX) of 16 December 1965, 3160(XXVIII) of 14 December 1973 and 31/49 of 1 December 1976,

Recalling further Security Council Resolutions 502 (1982) of 3 April 1982 and 505

(1952) of 26 May 1982,

Taking into account the existence of a de facto cessation of hostilities in the South Atlantic and the intention of not resuming them expressed by the parties.

Reaffirming the need that the parties take duly into account the interests of the population of the islands in accordance with resolution 3065(XX) of the General Assembly

Reaffirming the principles of the charter on the nonuse of force or the threat of the use of force in international relations and on the peaceful settlement of international disputes.

# THE HARD TRUTHS OF THE BREZHNEV LEGACY

• Mr. GARN. Mr. President, I would like to take this opportunity to bring to the attention of my colleagues an article by Mr. W. Bruce Weinrod, director of foreign policy and defense studies at the Heritage Foundation. Mr. Weinrod's article, "The Hard Truths of the Brezhnev Legacy," provides us with a sobering and panoramic view of Soviet foreign and defense policies during the rule of Leonid Brezhnev. It is not a very pretty picture, but rather a grim portrayal of international realities.

Before we all become nostalgic about the Brezhnev legacy and begin to set for ourselves false hopes for the program of his successor, we should ponder the views expressed so well by

Mr. Weinrod.

Mr. President, I ask that Mr. Weinrod's article be printed in the RECORD.
The article follows:

THE HARD TRUTHS OF THE BREZHNEV LEGACY
(By W. Bruce Weinrod)

The death of Leonid Brezhnev is already producing an assortment of favorable reminiscences, as well as hopeful expectations for the course of future U.S.-Soviet relations: we hear Jimmy Carter fondly recalling Brezhnev's fervent desire for world peace and Cyrus Vance stating that Brezhnev's greatest legacy is his arms control efforts.

Do these and other similar generally sypathetic comments about the Brezhnev era reflect the actual Soviet record under Brezhnev? This question is critical, for how it is answered will influence the U.S. approach to dealing with the USSR in the immediate post-Brezhnev era. The U.S. will be ill-served by romanticizing and distorting the Brezhnev legacy.

A pluralistic world was completely unacceptable to Brezhnev. The most dramatic demonstration of this is the "Brezhnev Doctrine" of 1968. Brezhnev used this to justify the Soviet invasion of Czechoslovakia in 1968, the invasion of Afghanistan in 1979 and the suppression of Polish liberties in 1981. This is part of the Brezhnev legacy.

Just in the past decade, the Soviets have added 733 nuclear-capable missiles (land, sea and air) and have increased their warhead supply by over 4,000. Since SALT I and the start of the so-called detente era, when the strategic equation was supposed to be stabilized, the Soviets have added, among others: several hundred later model SS-11 rockets, over 800 SS-18s, SS-19s and SS-20s; over 50 nuclear subs with about 2,000 nuclear warheads; and over 150 Backfire intercontinental bombers. Despite the well-publicized "Brezhnev freeze," in which he announced in March 1982 that the Soviets would stop further deployment of SS-20s targeted on Western Europe, deployment has continued.

The Soviets and their Warsaw Pact satellites also have continued to increase what already was conventional weapon superiority over the West. In all, the Soviet Union is spending roughly 40 percent more on military outlays than is the United States. And Moscow is allocating roughly 12 percent to 15 percent of its GNP to military spending; the U.S., even with current spending hikes. is only at about 6 percent of GNP. From 1971 to 1981, the USSR outspent the U.S. militarily by around \$400 billion. During the past decade, Brezhnev added 10,000 new heavy and medium tanks, 8,000 pieces of artillery and 765 combat aircraft. Just since Reagan took office, the Soviets have added 2,000 tanks, 1,350 fighters and fighter-bombers, and 4,500 fighting vehicles. This is an unavoidable hard truth of the Brezhnev legacy.

Not only did Brezhnev snuff budding liberty and pluralism in Eastern Europe, he also provided substantial aid to terrorists trying to disrupt Turkey's pro-democratic and pro-Western government, and has continued attempts to exploit Iran's instability. While Americans were being held hostage, Brezhnev continued to fan anti-American fervor in Iran.

In Asia, the Soviets financed and encouraged the North Vietnamese invasion of the South, in violation of the peace agreement of 1973, and now is financially underwriting the Vietnamese occupation of Cambodia.

In the Middle East, the Soviets encouraged Nasser's blockade of Israel in 1967, which precipitated the Six-Day War, and subsequently supported the Arabs in the 1973 war. A Soviet-supported coup in 1978 in South Yemen has made that nation a protectorate of the Russians, and the Soviets have transferred large amounts of arms to both sides in the Iran-Iraq war, encouraging instability in that region.

In Africa, the Soviets under Brezhnev have aided the most radical and destabilizing groups, including the African National Congress and SWAPO. Moscow is aiding the Polisario guerrillas fighting against America's ally, Morocco. Further south, the Soviets brought the Cubans into Angola. Closer to the U.S., Brezhnev continually sought to violate the understanding ending the Cuban missile crisis by trying to expand the Soviet submarine base at Cienfuegos.

The Brezhnev legacy is pockmarked by Soviet treaty violations. Experts can cite continuing Soviet violations of the SALT I Treaty—supposedly a symbol of Brezhnev's commitment of arms control. Moscow trains and supports terrorists from the PLO to Libya to the attempted assassin of Pope John Paul II. The Brezhnev legacy is filled with unremitting domestic repression as well

What then are the hard truths of the Brezhnev legacy? The answer: unremitting efforts to gain advantage at the expense of the U.S. and the Free World and an unyielding hostility to pluralistic societies.

Can the future bring improvements in U.S.-Soviet relations? Perhaps Moscow's new leadership will seek to relax world tensions. U.S. policy, however, cannot be based upon hopes that have often proved illusory in the past.

The hard truths, learned from painful experience, teach that the U.S. should continue to pressure the Soviets, forcing them to make difficult choices in terms of foreign involvement and the allocation of resources. If Moscow decides to move toward genuine peace, Washington will know it soon

Unless and until the Soviets alter their course in a meaningful way, such as allowing independent trade unions in Poland, or permitting a genuinely independent government in Afghanistan, conciliatory gestures from the United States are inappropriate. The fundamental fact is that it is the realities of the Soviet Union and not the individuals who develop policies which govern U.S. decisions. The burden must be on Moscow's new leaders to prove that they are not the heirs to the Brezhnev legacy.

## TRANSPORTATION INFRASTRUC-TURE NEEDS IN WESTERN CITIES

• Mr. DECONCINI. Mr. President, while this body is debating legislation that makes sweeping changes to Federal highway programs, I believe it is appropriate for the Members to consider the unique transportation problems facing rapid growth cities, particularly those in the West, and the effects this legislation may have on them. A report was recently prepared by the city of Tucson, Ariz., that clearly points to the revenue shortfalls facing growing cities, like Tucson, when it comes to meeting increasing transportation needs. I think my colleagues should have the opportunity to review the text of this report and I request that the attached report be printed in the RECORD.

The report follows:

#### RAPID GROWTH WESTERN CITIES: TRANSPORTATION INFRASTRUCTURE NEEDS

Subject: The costs of transportation in rapid growth western cities and the biases in federal assistance criteria which exclude rapid growth western cities from receiving an equitable share from federal assistance programs.

## OVERVIEW

The problems of certain northern and northeastern cities do not have to be ignored in order to acknowledge the problems of rapid growth western cities.

Rapid growth western cities are confronted with the same financial burdens of pro-

viding a balanced multi-modal transportation system as are faced by northeastern cities; rapid growth western cities are also struggling to obtain monies to finance the high cost of capital improvements needed by a more rapidly growing population.

The magnitude of transportation problems in rapid growth western cities has been systematically underestimated by federal statistics, creating biases in federal funding assistance criteria which tend to favor cities in the north and northeast.

Rapid growth western cities, through annexation, include a much larger proportion of their urban population area than do northeastern cities. The transportation well-being of the larger, metropolitan rapid growth western cities tends to mask or dilute the transportation problems which in many respects are identical to the problems of the northeastern cities.

A comparison of 13 rapid growth western cities (Houston, San Antonio, Phoenix, Tucson, Albuquerque, Denver, Salt Lake City, Portland, Austin, Corpus Christi, Dallas, Fort Worth, El Paso) and 10 cities listed by the U.S. Treasury as "high fiscal strain" cities does not support assumptions that rapid growth western cities have fewer transportation needs or have more resources to cope with transportation problems than other cities.

Federal assistance for transportation system related improvements should be allocated to all urban municipalities in some rational way that reflects their real needs and the magnitude of those needs.

#### SUMMARY

This report has been prepared as background for the rapid growth western cities' participation in the development of new criteria for federal funding of transportation. The report presents two closely related perspectives on the problem. First, it offers sets of comparable statistics on the rates and patterns of growth of operating expenditures and revenues, and an analysis of the enormous capital improvement requirements needed to cope with the rapid population growth in the western cities.

The second part of the report presents analyses of the recent rates of population growth, income growth, transportation growth, and financial problems of a sample of 13 rapid growth western cities; and 10 cities, mostly in the north and northeast, which have been identified by the U.S. Treasury as undergoing "high fiscal strain". The purpose of the comparison is to show the bias embodied in federal eligibility criteria, such as those in the transportation federal aid programs, when they are applied to the rapid growth western cities. The comparison supports the contention that rapid growth western cities are suffering from inadequate funding to solve their growing transportation problems. The stereotypes of the "Rapid Growth Western Cities Pro-sperty" and "North and Northeastern Cities Distress" are simply not relevant to dealing with urban transportation problems.

Using Tucson as a model, the following principal observations or conclusions emerge from the report. Three of these observations and conclusions, with some deviations, also apply to other rapid growth western cities.

1. Tucson's population growth since 1960 has been very erratic, ranging from 2,500 to 26,900 per year. The irregularity and virtual unpredictability of such growth creates severe problems in planning, preparing, and accommodating such growth.

2. The City of Tucson while having considerable growth has grown less rapidly than the unincorporated area of the Tucson metropolitan area (Pima County). As a result, the City has been forced to increase transportation services more rapidly than its own population is growing. The result has been high rates of increase in the per capita expenditures of city government.

3. Although the population of the City of Tucson increased approximately 2.2 percent per year from 1971 to 1978, the compound average increase in "real" total expenditures per capita has been 10.0 percent per year. These figures are in "real" terms, i.e., they represent increases over and above the rate of inflation. These are costs related to the rate and pattern of Tucson's population growth.

4. Present assistance to the City of Tucson from federal sources has been irregular in recent years and has been at a rate which is less than the probable rate of local inflation. The City has been forced to finance growing shares of its transportation expenditures from local revenues. The unstable federal assistance from year to year has not been comparable to the cost of rapid growth.

5. Cities like Tucson are threatened by misconceptions bred by the "Sunbelt-Frostbelt" debate which are fed by statistics which are clearly biased against showing the true magnitude of rapid growth western cities urban transportation problems.

6. Tucson finances a large part of its expenditures from its own local sources (53 percent in 1978) and dedicates a large portion of its expenditures to capital outlays. On the average, the rapid growth western cities raise a significantly greater percentage of their revenues from local sources and devote a much greater portion of their expenditures to capital outlays than the "high strain" cities.

7. The solution to the problem of the costs of population growth will come only when it becomes recognized that the absorption of the population growth causes severe financial problems and is a problem whose cause and whose solution lie beyond the realm of the financial capacity of local government.

THE COSTS OF RAPID GROWTH AND THE BIASES IN FEDERAL ASSISTANCE CRITERIA WHICH EX-CLUDE RAPID GROWTH WESTERN CITIES

The City of Tucson, Arizona, a comparable rapid growth western city, is now being asked by the nation to absorb a rapidly increasing proportion of the nation's population. The current residents of the City of Tucson are being asked to plan for continued rapid growth and to finance much of the capital improvements which that growth will require and to absorb many of the costs of population growth without specific federal assistance.

The problems which that rapid growth is causing for Tucson and other western cities are not very well understood outside of their area. It appears that the lack of understanding reflects, among other things, the myths of "Sunbelt Prosperity". It has been suggested, especially by concerned public officials in the northeastern cities, that investment, jobs, and people are flowing to the rapid growth western areas at rates which are so great that they threaten to undermine the economic foundations of the regions or of the cities from which the exodus is taking place. Recent research by the Department of Commerce suggests that the changes do not reflect large-scale out-

migration of firms,1 but the myth of a growing, prosperous, problem-free "Sunbelt" persists

Even if the notion of renewed prosperity may be accurate for the rapid growth western area as a whole, it clearly does not reflect the financial and transportation picture of rapid growth western cities relative to their sister cities in the north and northeast, the magnitude of transportation problems in rapid growth cities has been systematically underestimated by the federal government statistics used to compare cities in different parts of the country. Federal government attention has tended to focus upon the short-term problems of cities with fi-nancial crises apparently related in recent years to migration to the "Sunbelt". The financial crises of those cities are real, and they warrant federal attention. But the financial burdens on the rapid growth cities are equally real, though different in nature.

In this report we document several of the key issues with respect to the under-estimated costs of rapid growth, the biases in federal assistance criteria, and the basis for some of the misconceptions about "Sunbelt" growth which threaten to create future financial crises in the rapid growth western cities unless the need for continued and expanded federal assistance is recognized for

#### cities such as Tucson.

#### 1. Population growth in Tucson as an example

The population of Pima County, the Tucson Standard Metropolitan Statistical Area (SMSA) which encompasses (according to the Census Bureau) all of the "functional" city, including suburban areas and city-oriented rural areas, has increased by 224,000 people (82 percent) from 1960 through January 1979. That results in an average annual growth of 12,400 persons or a compound average rate of 3.4 percent per year. In reality, the first and, perhaps, most acute problem presented by that growth is its irregularity and unpredictability

Annual growth over the past 18 years has ranged from as little as 2,500 to as much as 26,900! In Figure 1 one can see the great unevenness which has characterized Tucson's growth. Predicting, preparing for, and accommodating such irregular changes in population have presented Tucson with a chal-lenge which we frankly believe has been badly underestimated outside of this area. Tucson only has a limited ability to affect the rate of immigration. Yet every person who arrives in Tucson has a legal right to utilize Tucson's public services, transportation systems, and other infrastructure. As a result, the local government must provide for the greatest feasible future immigration in its planning of capital improvements, otherwise long-time residents will be deprived of adequate services when the population grows rapidly.

The growth of the Tucson SMSA (Pima County) does not necessarily reflect the population growth of the City of Tucson. In fact, the 1970-75 rate of growth for Pima County was 5.0 percent per year, according to the Census Bureau, whereas City of Tucson grew by 2.7 percent per year. And this constitutes the second problem which population growth presents to the City of Tucson. As the hub of the metropolitan area, the City of Tucson must supply public services such as the roads, police services,

differences between growth in the City and population growth in the metropolitan area also present probtends to publicize the growth of the metropolitan area much more than the growth of the City. As a result, the national image of "prosperity" and "boom" depends much more on the experience of the whole county than on the experience of the City proper.

## 2. The recent costs of growth in Tucson

In just the last eight years, the population of the City of Tucson has increased by approximately 51,200 persons, for an average annual compound rate of growth of 2.2 percent. Total operating expenditures of the City have increased by 10.0 percent per year on a constant-dollar per capita basis! Table 1 presents details on these patterns of city government expenditure. The numbers in Table 1 permit us to answer questions such as: Are those increased expenditures primarily based on "welfare" or "community services" programs? Are they primarily related to special problems of Tucson such as water supply? Are they merely a reflection of inflation? Or do "minimum city services" show different patterns? The answer to all those questions is a resounding "No"!

If the rapid growth western cities toward which much of the nation's population is now moving were regions abundant in all the resources needed to support the additional population, it might be appropriate to encourage that migration, as a reflection of the personal preferences and the freedom to move which are protected by the Constitution

The problems of transportation development in rapid growth western cities, the costs of solving the problems, and the immediate financial burden which anticipated population growth is now creating for all residents of rapid growth western cities (long-time residents as well as recent arrivals) offer an excellent example of the local consequences of national population movements which require far more recognition at the federal level than they have received

until now. How much of the increase in transportation costs is attributable to population growth? In the most general sense one could suggest that "most" of it is; for the fundamental problem is that past population and economic growth has pushed the rapid growth western cities area into an imbalance with respect to transportation, and new growth simply worsens that. More realistically, one can note that the per capita revenue required by the transportation system is dominated by the capital improvements component. Capital costs have represented roughly 51 percent of total costs over the past six years, but they will rise to 53 percent by 1985. An increase of \$2.5 million per year is necessary just to finance the extension of the transportation system to new areas of annexation and the expansion of the system as a whole to provide adequate multi-modal transportation system for residents of rapid growth western cities

These costs of population growth constitute a considerable burden upon the present residents of the rapid growth western cities which can be associated most closely with the fact that the rapid growth western cities must provide a mode of transportation to all who choose to live there in the future. They are not costs which the rapid growth western cities can easily pass on to newly-arrived citizens, and they do not represent costs which can be postponed. They are the costs of survival in the face of heavy population growth.

#### 3. Does current Federal assistance provide a solution?

It has often been suggested in discussions of federal assistance to cities that rapidlygrowing cities already receive disproportionate shares of federal assistance through general revenue sharing and other programs supposedly "biased" toward them. The experience of Tucson in recent years suggests that the local tax effort has brought increasing real revenue per capita, but that revenue per capita from federal sources has not even kept pace with inflation over the past six years.

The prospects in Washington these days suggest that unless Congress improves its understanding of the problems facing rapid growth western cities, larger shares of limited federal funds for transportation development will be shifted away from rapidlygrowing cities or away from cities with problems comparable to those of rapid growth western cities and will be given to northern and northeastern cities which are experiencing very real problems of their own. This shift in the allocation of resources seems to reflect misconceptions of the magnitude of the problems of rapid growth western cities and may be based on systematic biases in the statistics available on cities.

Federal government statistics on cities tend to be biased for one, simple, straightforward, but overwhelmingly significant reason: most major northern and northeastern "core" cities include within their administrative boundaries relatively small proportions of their complete urban areas; most of the rapid growth western cities have tended to be able to annex areas of peripheral growth and hence, they include relatively large proportions of their complete urban areas. Comparison of infrastructure conditions or other measures of transportation conditions between the "core" cities of metropolitan areas in the north and northeast and the "core" cities of the rapid growth western cities introduces an enormous "diluting" problem which biases the comparisons against the rapid growth western cities. Specifically, it will take significantly worst transportation conditions in rapid growth western cities to yield a measure of the problem comparable to the measure found in the artificially-limited core-city of a northeastern or northern urban area.

In order to demonstrate the basis for the bias, we have developed a series of statistics on two samples of cities, one representing the northern and northeastern cities which the federal government has recognized as having problems, and one sample representing rapid growth western cities. The first sample consists of ten cities listed by the U.S. Treasury Department as having the highest level of "fiscal strain" among the 48 largest cities of the nation because of population growth, economic growth, changes in tax revenues, etc.2 The second sample con-

public administration, water and sanitation for all of the population which works, shops, or visits Tucson regularly, but the City's ability to tax or to charge for those services is limited with respect to those who live outside the city limits.

<sup>&#</sup>x27;See Carol L. Jusenius and Larry C. Ledebur, "Documenting the 'Decline' of the North," U.S. Department of Commerce, Economic Development Research Report, June 1978.

<sup>&</sup>lt;sup>2</sup> See U.S. Department of the Treasury, Office of State and Local Finance, "Report on the Fiscal Impact of the Economic Stimulus Package on 48 Large Urban Governments," Washington, D.C., January 23, 1978.

sists of the 10 cities in Arizona, New Mexico, and Texas which had over 200,000 population in 1975. The cities in the two samples and their recent population characteristics are given in Table 4.

The rapid growth western cities (Tucson, Albuquerque, Austin, Corpus Christi, Dallas, Fort Worth, El Paso, Houston, Phoenix, San Antonio, Denver, Salt Lake City, Portland) had an average rate of population growth from 1970 to 1975 of only 1.3 percent per year. How could this be? Aren't "Sunbelt" cities booming? "Sunbelt" metropolitan areas were, in fact, booming. The SMSA's of which these 13 cities comprised the "core" cities grew at more than 3 percent per year from 1970 to 1975, but not the cities themselves. And that may create for these cities the worst of many worlds. The population of the metro areas in almost every case grew very rapidly over this period, generating rapid increases in the need for transportation services in the core city. But the rate of growth of the taxpaying core-city population was considerably less than that of the metro area in almost every case. The average difference was 1.6 percent per year or less than half the rate of the metro areas. Three of the ten "core" cities has large population declines, despite the fact that their metropolitan areas were growing rapidly overall.

The ten "high strain" cities (Boston, Buffalo, Chicago, Cleveland, Detroit, New Orleands, New York, Newark, Philadelphia and St. Louis) had an average negative rate of production growth of -1.9 percent per year from 1970 to 1975. Nine of the ten also were classified among the economically "most distressed" in a separate study of 174 cities by the Urban Institute.3 In all ten cases, the metropolitan areas either lost less population or had positive population growth over the same period.

Several further facts become clear from Table 4 which are not consistent with simplified notions of rapid growth western cities boom and which suggest strongly the potential of rapid growth western cities. First, rapid growth western cities encompass nearly twice the proportion of the metropolitan area population found in the "high strain" cities. second, every rapid growth western city was actively annexing peripheral areas between 1970 and 1974, but only one out of the ten "northern" cities annexed territory. Despite the active annex-

ation, significant growth occured outside the cities in rapid growth western cities metro areas, with Tucson showing the greatest difference (3 percent per year) between city growth and metro area growth.

The implications of these relative population trends are clear. Much of the population settling in the rapid growth western cities is locating itself outside of the core cities despite active annexation programs. This implies continued high capital improvements costs which must be borne disproportionately by the residents of the core cities because the users of the facilities reside beyond much of the city's fiscal jurisdiction.

One implication, in fact, which emerges from these data is that core cities in the north and northeast have a common set of problems and a common set of opponents: the wealthy suburbs of the northern and northeastern cities. Rapid growth western cities are ruled illegible for federal assistance programs because their problems have been statistically diluted by annexation. The residents of the wealthier portions of those cities are therefore expected to solve the transportation problems which suburban areas in the north and northeast have avoided by defensive incorporation. To the extent that federal eligibility criteria shift funds toward the core cities which cannot annex and away from core cities which can annex, they are subsidizing the affluent suburbs of northern and northeastern metro areas at the cost of taxpayers in rapid growth western cities. Or, in other words, the federal assistance permits residents of affluent northern suburbs to pay less of the cost of transportation services from which they benefit in the core of their metro area than they would have to pay if they lived in the annexed areas of rapid growth western

### 5. How general are Tucson's problems?

A comparison of the revenue and expenditure pattern across the 23 cities in the sample suggests that Tucson's difficulties in financing the capital improvements and the bias in availability of federal revenues may be quite general among rapid growth western cities. Table 7 presents comparable additional data on the finances of the rapid growth western cities and the ten "high strain" cities, predominately in the north and northeast.

One can see immediately in Table 7 that the rapid growth western cities have been required to spend nearly twice as much (27.2 percent) of their total expenditures on capital improvements than the "high strain" cities (15.1 percent) and that they generate locally more than 10 percent more of their revenue, on the average (68.4 percent), that the "high strain" cities (58.1 percent). One also sees that there is wide enough variation within groups of cities to suggest, once again, that categorical distinctions among groups of cities are of limited usefulness. Tucson is more similar to Philadelphia, New Orleans, or Boston that it is to Dallas or Albuquerque according to these fiscal measures.

More importantly, it is essential to realize that if cities in the areas of the country toward which the population is moving are not provided with federal assistance in coping with the "up-front" capital costs of growth, they will be unable to absorb continued population growth without curtailing present levels of transportation services to their citizens, increasing tax levels and user charges in ways which will inevitably fall most harshly on their citizens, and creating grossly inequitable conditions for those who have long resided in their areas. It is not necessary to deny the problems of the northern and northeastern cities in order to demonstrate the problems of the rapid growth cities. It is necessary, however, to make certain that the majority of the new federal assistance which becomes available to urban government is allocated in ways which recognize the specific problems of the rapid growth western cities and which are allocated on the basis of criteria which are not inherently biased against rapid growth western cities.

The rapid growth western cities recommended that any new gas tax or user fee that is imposed upon the purchase of motor fuel contain a provision in its distribution formula to earmark a certain amount to equal not less than 20 percent (1 cent out of 5 cents) for the rapid growth western cities. The cities have a demonstrated need, increased population, increased land area that must be serviced, increased traffic rates and most important is that in the past 5 years these cities have increased significantly the amount of local share they are spending for transportation.

The time to provide the funds for infrastructure maintenance, preservation, and construction is now, before our current system falls into the state of disrepair that many of the north and northeastern areas have allowed their systems to reach. Also, the time to provide funds for new construction to the rapid growth western cities areas is now, before the areas get completely inundated with the continuing population growth and we arrive at a situation where it will take us the rest of the next century to rectify.

TABLE 1.—PER CAPITA OPERATING EXPENDITURES FOR THE CITY OF TUCSON, 1970-71 TO 1978-79 IN CONSTANT 1972 DOLLARS (ADJUSTED FOR INFLATION)

Fiscal year ending June 30	Police and fire	Other 1	Subtotal	Specialized community services <sup>2</sup>	Self-supporting local services 3	City of Tucson population 4 (000's)	Total operating expenditures
1971 1972 1973 1974 1975 1976 1977 1977	\$46.15 49.43 52.46 54.72 56.68 73.79 79.23 86.80 93.97	\$65.06 73.70 79.78 88.44 94.13 127.31 134.32 140.68 143.18	\$111.21 123.13 132.25 143.16 150.80 201.10 213.55 227.48 237.14	\$49.69 90.04 62.52 88.26 72.36 85.87 90.94 99.05	\$35.68 38.75 35.55 41.69 53.65 56.77 59.69 60.82 72.56	266.3 277.7 286.3 194.1 297.8 300.1 303.4 309.9 317.5	\$196.58 251.92 230.31 273.10 276.82 343.74 364.17 387.35 421.00
Percent Increase, e 1971-79	104 9.3	120 10.4	113 9.9	124 10.6	103 9.3	19 2.2	114 10.0

<sup>3</sup> See Harvey A. Garu and Larry C. Ledebur, "Metropolitan Prospects in the Context of the Changing Distribution of Industry and Jobs," mimeo, November 10, 1978.

Operations, Transportation, Library, Parks/Recreation, and Debt Service for general obligation and highway bonds.
 DHCD/Model Cities, Urban Renewal, Public Housing, Community Center, Staff Services, and Administration.

Budgeted expenditures, not actual, including in "Total" \$1.81 per capita for "contingencies."
 Growth in excess of inflation.

Source: City of Tucson.

# CONGRESSIONAL RECORD—SENATE

## TABLE 3.—RECENT CHANGES IN TUCSON REVENUES BY SOURCES

[Revenues in millions of actual dollars, per capita figures in actual dollars]

		Fis	cal year en	ding June 3	10		Average annual
	1973	1974	1975	1976	1977	1978	com- pound increase 1973- 78 (In percent)
1. LOCAL TAX REVENUE							
Total   Per capita   Proportion (percent)   Proportion (percent)   Proportion (percent)   Proportion (percent)   Per capita   Per capita   Proportion (percent)   Per capita   Proportion (percent)   Proportion   Proportion	\$30.97 \$108 50.3 \$7.20 \$25 11.7 \$20.26 \$71 32.9 \$3.51 \$12 5.7	\$32.50 \$111 50.8 \$7.02 \$24 11.0 \$21.86 \$74 34.1 \$3.62 \$12 5.7	\$34.71 \$117 51.9 \$7.34 \$25 11.0 \$23.26 \$78 34.8 \$4.11 \$14 6.1	\$39.96 \$133 50.7 \$8.62 \$29 10.9 \$26.43 \$88 33.5 \$4.91 \$16 6.2	\$44.54 \$147 54.2 \$9.37 \$31 11.4 \$29.39 \$97 35.8 \$5.78 \$19 7.0	\$50.06 \$162 52.8 \$10.21 \$33 10.8 \$33.38 \$108 35.2 \$6.47 \$21 6.8	10.1 8.4 7.2 5.7 10.5 8.8 13.0 11.8
2. INTERGOVERNMENTAL REVENUE							
Per capita Proprition (percent)	\$30.58 \$107 49.7	\$31.52 \$107 49.2	\$32.12 \$108 48.1	\$38.82 \$129 49.3	\$37.58 \$124 45.8	\$44.82 \$145 47.2	7.9
3. TOTAL REVENUE							
Total Per Capita Proportion (percent) Population (000's) January 1 of year	\$61.55 \$215 100 286.3	\$64.02 \$218 100 294.1	\$66.83 \$224 100 297.8	\$78.78 \$263 100 300.1	\$82.12 \$271 100 303.4	\$94.88 \$306 100 309.9	9.0 7.3

Source: City of Tucson.

TABLE 4.—COMPARISON OF "CITY" AND "METROPOLITAN AREA" POPULATION FOR 10 "HIGH STRAIN" AND 10 SOUTHWESTERN CITIES

	Population, 1980 Cities SMSA's		Perce change,	Percent of change, 1975-80		City
			Cities SMSA's	percent SM of SMSA gro	minus SMSA growth	
Southwestern cities:	332 345 232 904 385 425 1,594	531 454 536 326 2,975 2,975 480 2,905 1,508 1,072	12.0 19.0 15.0 8.0 11.0 8.0 10.0 20.0 15.0 2.0	20.0 18.0 35.0 9.0 18.0 13.0 27.0 24.0 9.0	62.0 73.0 64.0 71.0 43.0 43.0 89.0 55.0 51.0 73.0	-8. 1. -20. -1. 1. 1. -3. -7. -9. -7.
High strain cities:  Boston Buffalo Chicago Cleveland. Detrot. New Ordens New York New York Newards Philadelphia St. Louis Averages	563 358 3,005 574 1,203 557 7,071 329 1,688 453	2,890 1,243 7,102 1,899 4,353 1,187 9,120 1,965 4,717 2,355	-12.0 -12.0 -3.0 -10.0 -10.0 -5.0 -5.0 -7.0 -14.0	-4.0 -6.0 1.0 -3.0 -2.0 -5.0 -2.0 -2.0 -5.5	20.0 29.0 42.0 30.0	-8 -6 -4 -7 -8 -9 0 -1 -5 -13

Note:—Based on weighted average rates of decline for Dallas and Forth Worth.

Reported to the Bureau of the Census that annexations had been made between January 2, 1970, and January 1, 1974.

Source: Population of "cities" from "The Municipal Yearbook, 1978;" SMSA's from "The Statistical Abstract of the United States, 1978."

TABLE 5.—COMPARISON OF INCOME LEVELS PER CAPITA AND RECENT CHANGES IN INCOME LEVELS FOR 10 HIGH STRAIN AND 10 SOUTHWESTERN CITIES AND FOR THEIR CORRESPONDING METROPOLITAN AREAS

HE THE RESERVE AND THE PARTY OF	Ci	ties				SMSA's			
	1977 per capita	Percent change	Per capita income			Percent c	change	National	rank
A CONTRACTOR OF THE PARTY OF THE PARTY OF THE PARTY.	income	1967-77	1980	1979	1969	1979-80	1969-79	1969	1980
Southwestern cities: Tucson Albuquerque Austin Corpus Christi Dallas. Fort Worth	\$5,330 6,095 5,766 5,346 6,846 5,910	85.1 97.2 92.3 102.2 85.6 82.7	\$8,666 8,629 9,150 8,754 11,041	\$7,633 7,870 8,118 7,907 9,769	\$3,363 3,164 3,213 2,899 4,078	13.5 9.6 12.7 10.7 13.0	126.9 148.7 152.6 172.7 139.5	167 199 196 238 35	194 198 144 182 25

TABLE 5.—COMPARISON OF INCOME LEVELS PER CAPITA AND RECENT CHANGES IN INCOME LEVELS FOR 10 HIGH STRAIN AND 10 SOUTHWESTERN CITIES AND FOR THEIR CORRESPONDING METROPOLITAN AREAS—Continued

	Cir	ties				SMSA's			
	1977 per capita	Percent change	Pe	Per capita income Percent change		Percent change		National	rank
	income	Percent change _ 1967-77	1980	1979	1969	1979-80	1969-79	1969	1980
El Paso	6,850 6,101 4,681	81.0 107.3 85.6 93.0	6,677 11,861 9,637 8,445	6,051 10,456 8,661 7,465	2,848 3,804 3,666 3,153	10.3 13.4 11.2 13.1	112.4 174.8 136.2 136.7	244 76 115 204	297 11 109 209
High strain cities: Boston Buffalo Chicago Cieveland Detroit New Orleans New York Newark Philadelphia St. Louis Averages	5,088 4,942 5,797 4,914 5,689 5,165 5,787 4,038 5,335 4,808	64.0 72.0 70.0 74.0 77.0 91.0 57.0 62.0 77.0 85.0	10,803 9,458 11,394 11,236 11,208 9,791 11,087 11,689 10,142 10,300	9,544 8,581 10,429 10,276 10,542 8,657 9,867 10,350 9,131 9,369	4.273 3.872 4,730 4,511 4,416 3,542 4,827 4,817 4,128 3,996	13.1 10.2 9.2 9.3 6.3 13.0 12.3 12.9 11.0 9.9	123.3 121.6 120.4 127.7 138.7 144.4 104.4 114.8 121.1 134.4	25 67 8 12 15 129 6 4 33 48	36 116 16 21 22 89 24 13 64 53

Sources: Survey of Current Buses April 1982 No. 4, and Current Population Reports series P-25 No. 882-886.

1970: 10 SOUTHWESTERN CITIES AND 10 "HIGH STRAIN" CITIES

	Ratio of nonworkers to workers	Percent below census poverty level	Median education attainment (years)
Southwestern cities:			
Tucson	1.63	11.0	12.4
Albuquerque	1.49	11.0	12.6
Austin	1.30	11.0	12.5
Corpus Christi	1.55	16.0	12.1
Dallas	1.16	10.0	12.2
Forth Worth	1.28	10.0	11.9
El Paso	1.80	17.0	12.1
Houston	1.29	11.0	12.1
Phoenix	1.38	9.0	12.3
San Antonio	1.68	18.0	10.8
Averages	1.46	12.4	12.1
"High strain" cities:	400		1 10
Boston	1.27	12.0	12.1
Buffalo	1.51	11.0	10.7
Chicago	1.30	11.0	11.2
Cleveland	1.45	14.0	10.7
Detroit	1.47	11.0	11.0
New Orleans	1.64	22.0	10.8
New York	1.35	12.0	11.5
Newark	1.58	18.0	10.0
Philadelphia	1.40	11.0	10.9
St. Louis	1.49	14.0	9.6
Averages	1.45	13.5	10.9

Source: Special census tabulations published in the 1977 Municipal Yearbook, "Profiles of Individual Cities."

TABLE 7.-COMPARISON OF FINANCES OF 10 SOUTHWEST-ERN CITIES AND 10 "HIGH STRAIN" CITIES: 1976-77 FISCAL YEAR

A STATE OF THE PARTY OF THE PAR		
	Percent of revenue from own source	Percent of expenditure for capital outlay
Southwestern cities: Tucson Albuquerque Austin Corpus Christ Dallas El Paso Forth Worth Houston Phoenix San Antonio	1 63.0 48.0 77.0 69.0 84.0 76.0 68.0 85.0 56.0 63.0	21.0 22.0 39.0 36.0 22.0 17.0 29.0 31.0 29.0 26.0
Total	68.4	27.2
"High strain" cities: Boston Buffalo Chicago Cleveland Detroit New Orleans	65.0 32.0 66.0 57.0 51.0 60.0	16.0 21.0 12.0 22.0 15.0 24.0

TABLE 6.—SELECTED SOCIOECONOMIC INDICATORS FOR TABLE 7.—COMPARISON OF FINANCES OF 10 SOUTHWEST-ERN CITIES AND 10 "HIGH STRAIN" CITIES: 1976-77 FISCAL YEAR—Continued

	Percent of revenue from own source	Percent of expenditure for capital outlay
New York	53.0 40.0 67.0 71.0	5.0 5.0 20.0 11.0
Total	58.1	15.1

¹ Differs from the figure in table 3 because these data include county urces as "own source". Source: Municipal Yearbook, 1980.

### ANDROPOV MAKES OVERTURES TO ALBANIA

• Mr. HELMS. Mr. President, recent news accounts report that the new Soviet leader Yuri Andropov is seeking to end the 22-year rift between the Soviet Union and Albania.

In the short period of time since the succession of the former KGB chief to the leading position in the U.S.S.R., the Soviets have launched political and psychological offensives to undermine the West's will to resist Soviet aggression. Predictably, Andropov is fishing in the troubled areas between NATO and the Warsaw Pact bloc. It is also noteworthy that the Albania initiative is parallel to similar initiatives with the People's Republic of China.

But it is not surprising that Andropov, as one of the few top Soviet officials to have visited Albania and Yugoslavia in the past, has already launched a political and psychological offensive aimed at the reincorporation of Albania into the Soviet Empire.

Mr. President, I would like to invite my colleagues' attention to the current situation in Albania. The Hoxha regime in Albania, the most rigid of all Communist tyrannies, is in a state of internal convulsion, reflecting the total political, economic, and social bankruptcy of the regime.

The Albania nation yearns for freedom and national independence. It is in America's strategic interest to help prevent a Soviet reoccupation of Albania and it is our moral duty to help the Albanian people to rid themselves once and for all of communism in their country. On a per capita basis, Albania has the largest number of political prisoners in the world. It is the only country in the world that has closed every single house of worship within its borders.

It is reassuring, Mr. President, to know that the Albanian people have not given up. The Albanian nationalist resistance, both at home and abroad, have never ceased in their struggle for freedom. Rallied around their King in exile, His Majesty King Leka I of the Albanians, Albanians are united as never before in their determination to end the Communist oppression of their ancient nation. Trusting in God, their nation, and their King, the Albanians know that they can again become a free nation.

All countries in the Free World should stand together with the Albanian freedon fighters during this crucial time. The United States has a special interest in this regard, since the Albanian nation has given many of its sons and daughters to our Nation as immigrants over many years. Further-more, devout Muslim countries in the Free World should also especially support the efforts of the Albanian people to become free, for Albania is the only predominantly Muslim nation Europe.

Mr. President, I would like to take this opportunity to wish the Albanian people at home and abroad the courage and strength to win their just and noble fight against the Godless oppressors of their nation.

Mr. President, I ask that two articles, both published on November 30, one from the New York Times and one from the Washington Post, dealing with the Andropov overtures be printed in the RECORD at the conclusion of my remarks.

The articles follow:

[From the Washington Post, Nov. 30, 1982] ANDROPOV SPEECH CITED: SOVIET OFFER TO ALBANIA SEEKS END TO 22-YEAR RIFT

(By Dusko Doder)

Moscow, November 29.—The Soviet Union made its strongest and most direct appeal to the Communist leaders of Albania today, proposing "honest, equal and mutually ben-eficial", cooperation to end the 22-year old breach between them.

The offer was linked directly to the new Soviet leader, Yuri Andropov by the authoritative Communist Party newspaper Pravda. It said Andropov had Albania in mind when he spoke of his "sincere wish" to develop and improve relations with all socialist

countries.

Although Andropov made no direct reference to Albania in his Nov. 22 speech he said "mutual good will, respect for each other's legitimate interests and common concerns for the interests of socialism and peace should prompt correct solutions also where appropriate trust and mutal understanding are still lacking for various reasons

Relations between the two former allies were broken in November 1960 when Albnian leader Enver Hoxha last visited Moscow. According to an official Albanian account of the visit, Hoxha bitterly quarreled with Nikita Khrushchev, the Soviet leader at the time, and Mikhail Suslov, the Kremlin's chief ideologist.

The Albanians refused to even shake hands with their Soviet hosts and immediately left a Soviet government residence house in Lenin Hills to sleep at their embassy here for fear they would be poisoned according to the account.

The Albanians, according to the account, also refused to fly aboard an airliner to Al-

bania and instead went by train.

The same account mentions that the Albanian leadership prior to meeting Khrushchev and Suslov had a reasonably friendly meeting with Andropov, who at the time served as chief of the Soviet Central Committee's department for relations with other Communist countries. Andropov is one of the few Soviets who have actually visited Albania.

The two countries broke diplomatic relations in early 1961 over ideological differences and what Albanians claimed to be Moscow's interference in their internal affairs. The strongly Stalinist Hoxha them allied his country with China.

China was Albania's only ally from then

until 1978, when the two fell out over Peking's policy toward the United States

tiny, strategically located Balkan country sandwiched between Greece and Yugoslavia has since kept itself isolated from the outside world.

Hoxha, 74, who has ruled Albania's 2.7 million people for 38 years, frequently has made news by bloody purges of the party leadership. Virtually all top leaders over the previous three decades have been executed on charges of having worked for the intelligence services of the United States, the

Soviet Union and Yugoslavia.

Most recently, Defense Minister Kadri
Hasbia disappeared under mysterious circumstances. He was the brother-in-law of Mehmet Shehu, former primer minister and Hoxha's closest associate for more than three decades. Shehu was reported to have

been executed. A number of relatives of Hasbia and Shehu are reported to be in jail on conspiracy charges.

Today's overture to the Albanian leadership made no mention of Hoxha. The Pravda article marking Albania's national day, in contrast to previous such commentaries, refrained from criticizing the leadership and spoke in glowing terms about the struggle of Albanian Communist partisans against Nazi Germany and Italy in World War II.

The only critical reference spoke of the Albanian leadership "at the beginning of the 1960s" as having adopted a policy of "terminating political, economic and cultural relations" with the Soviet Union and other socialist countries.

The present state of relations, Pravda said, is not in the interest of either country and is harming "the work of socialism and the anti-imperialist struggle."

The breach in relations, however, had deprived Moscow of access to Albania's Adriatic ports at Durress and Vlora, something that the Soviet military is eager to regain.

Although Moscow has made periodic overtures to Albania, today's Pravada article is the strongest to date as it links it directly to

Andropov's appeal.

While this is in line with Moscow's current policy, including its gradual rapprochement with China, the Soviets apparently believe that Albania's economic difficulties and political turmoil give hopes for an eventual improvement in relations with the small Balkan country. Given Hoxha's age, the Russians apparently also believe that future Albanian leaders may be more ready to resume ties.

Along with the Pravada article, the Soviet media today blossomed with reports about Albania. The news agency Tass reported that the Albanian-Soviet Friendship Society, a largely dormant body, today held a meeting to commemorate the Albanian national day.

[From the New York Times, Nov. 30, 1982] KREMLIN OVERTURE TO ALBANIANS SEEN

WARM PRAVDA TONE ON NATIONAL DAY IS RELATED TO A RECENT COMMENT BY ANDROPOV (By John F. Burns)

Moscow, November 29.-Pravda, Soviet party newspaper, today marked Albania's national day with an unusually warm article.

Although the paper has printed similar articles in previous years, the commentary today was notable for its emphasis on the importance the Soviet Union attaches to improved ties with Albania, which has lived in diplomatic isolation since it broke with China five years ago, and for the link the paper made between the overture and the

new Soviet leader, Yuri V. Andropov.
Pravda recalled that Mr. Andropov had affirmed the Kremlin's concern for "the further strengthening of the great community of socialist countries" in a speech at Leonid I. Brezhnev's funeral two weeks ago. The paper noted that Mr. Andropov had also of-fered a fresh start in relations with any country that displayed the same desire and was prepared to work on the basis of equity and cooperation.

As in the bid to improve relations with China, although to a lesser degree, the effort to entice Albania reflects strategic as well as political considerations. Mr. Andropov's speeches have implied that the Soviet leaders see new opportunities for ending the schism in the Communist world that has undermined Soviet foreign policy.

STRATEGIC CONSIDERATIONS SEEN

In the case of Albania, with a strategic coastline on the Adriatic Sea and a common border with Greece, a member of the Western alliance, this interest is compounded.

The problem for the Kremlin is that the Albanians, up to now, have shown no sign of responding to the overtures. Only two months ago, a meeting commemorating the 40th aniversary of the founding of the Albanian party was told by Ramiz Alia, a Polit-buro member, that Albanian hostility toward the superpowers, meaning the Soviet Union and the United States, was "clear-cut, unwavering and consistent.

"We do not have, nor will we ever maintain, relations of whatever kind and nature

with them," Mr. Alia said.

Soviet efforts to mend ties have been made periodically since 1964, three years after Albania forced the original rupture for what were stated then to be ideological rea-

The Pravda article today praised Albania's achievements under Communism and, by comparison with a similar article last year, it played down Albanian responsibility for 1961 break. Today's article spoke of meeting here to commemorate the Albanian anniversary and a series of publications by Soviet scholars on Albania's history, linguistics and ethnography.

## REV. ESAIAS F. LEE, SR., RETIRES

Mr. RIEGLE. Mr. President, a distinguished citizen of Inkster, Mich., will soon retire as minister of the Springhill Baptist Church. The Reverend Esaias F. Lee, Sr., has served as minister of this church since 1946, but has been active in the church since his earliest days.

He has been an integral force in the development of Inkster, serving on the board of education as trustee, treasurer, secretary, and a 6-year term as its president. During his tenure on the board, he was a driving force behind the building of five schools, expanding the full range of educational services, and hiring the first black high school principal in the State of Michigan.

Reverend Lee is truly dedicated to the enhancement of his community. He served as the first Boy Scout leader in Inkster in 1934, and has remained active in youth programs throughout his life. He spent 31 successful years with the Ford Motor Co. until his retirement in 1971. He established the first chapter of the NAACP in Inkster in 1936, and remains active in that organization today.

In all ways, Reverend Lee has devoted his life to the people of Inkster, but his central focus has always been his church. He has extended the spirit of his ministry to all facets of life in Inkster, and I truly believe that its citizens know and appreciate all that he has given.

Mr. President, I wish Reverend Lee all the best in his retirement, and know that he will continue to be the community citizen that has been his trademark throughout his career.

CONVERSION OF ABANDONED BUILDINGS INTO EMERGENCY SHELTERS FOR HOMELESS AMERICANS

 Mr. DODD. Mr. President, yesterday I introduced S. 3097, a bill to assist private groups who wish to convert abandoned buildings into emergency shelters for homeless Americans.

This morning, the Subcommittee on Housing and Community Development of the House Committee on Banking, Finance and Urban Affairs held a much-needed hearing on the plight of increasing numbers of our citizens driven to the streets by unemployment and cutbacks in social services. The Honorable Ted L. Wilson, mayor of Salt Lake City, presented eloquent testimony describing the predicament of homeless people in his State.

Mayor Wilson pointed out that 10 percent of the homeless in his city are families, primarily single parents caring for several children. These parents can provide no other shelter from the elements for their children than tents, cars, and railway sidings. The despair of these families, a despair they share with single adults who have no homes, is tremendous.

At the conclusion of his testimony, Mayor Wilson left the subcommittee with a key question: whether we will teach those homeless children in Salt Lake City and in other cities across the Nation that we are a society that cares enough to help them now when they need it most.

Mr. President, surely these younger Americans are not to blame for the high rate of unemployment which has forced their parents to seek jobs in distant cities, leaving them without any place to live. Their parents are not to blame either.

I commend Mayor Wilson for all he is doing in Salt Lake City to aid homeless children and adults and ask that the text of his testimony be printed in the Record. I ask that following this testimony, an article from today's New York Times outlining the tragic circumstances of increasing numbers of homeless in Denver, Phoenix, and New York City, also be printed in the Record.

The material follows:

STATEMENT OF HON. TED L. WILSON, MAYOR, SALT LAKE CITY

Mr. Chairman and members of the subcommittee, I am Ted Wilson, mayor of Salt Lake City. I appear before you today on behalf of the U.S. Conference of mayors and appreciate the opportunity to testify about the problems confronting local communities resulting from the dramatic increase in the number of homeless people in America. The problems are now particularly acute as the national recession and high unemployment continue into the winter. Earlier this year in Salt Lake City, a man who was sleeping in the back of a pickup truck froze to death. Families are now living in cars, and women and children are wandering the streets in below freezing temperatures.

There is no question that there has been a tremendous increase in the number of homeless people in Salt Lake City during the last two to three years. Based on the information reported to my office by local law enforcement and social agencies, the number of homeless people has more than doubled during the past year alone. There are now more than one thousand homeless people in Salt Lake City. This may not sound like many people, but they constitute a tremendous number for a city that traditionally has not had more than two to three hundred homeless people at a given time. There are also many more homeless women and children than we have ever seen before. Approximately eighty percent of the homeless people are single males, ten percent single females, and ten percent families usually consisting of a single parent and several children.

Public, charitable, and religious organizations began reporting last winter that they could no longer provide emergency assistance for anywhere near the number of people who were requesting aid. In response to this crisis, I appointed a task force on homelessness, composed of knowledgeable individuals representing various segments of our community, to analyze the situation and recommend policy initiatives to meet the basic needs of the homeless.

The task force found that the majority of homeless individuals in our area could not be categorized in terms of the conventional notions pertaining to transients and vagrants. Rather, it discovered that the most significant characteristic of the increasing number of homeless people was their recent unemployment. Most of the homeless people we see today were hard working and productive citizens not long ago, and more than anything else they want to work again. They are responsible individuals who have become the victims of harsh and insensitive economic policies over which they have no control.

The task force also found that many of the homeless people in Salt Lake City were coming from the urban areas in the industial heartland of the country where unemployment was most severe. A large number of these people reported that stories about energy development in the overthrust belt induced them to come to the intermountain west looking for jobs. Utah, like other Sun belt States, has also received considerable national publicity as an economically dynamic State with numerous social, cultural, and recreational amenities. Salt Lake City is also the crossroads of the West; it is the major urban and transportation hub between Denver and the west coast. In short, many socially and economically disadvantaged people throughout the country have looked at the intermountain west as good place to find jobs and put their lives back together again. Salt Lake City is the central metropolitan area through which they pass enroute to their desired destinations and to which they return when their hopes and money fade away.

I also want to emphasize that although Utah has a lower level of unemployment than the large industrial States, unemployment in Utah has increased dramatically during the last year; it is now well over eight and one-half percent. Combined with our mall population—less than one and one-half million people in the entire State—this means that there are very few available jobs. It also means that an ever increasing number of our homeless people are residents of our own State. Like the Nation as a

whole, we are also experiencing the consequences of the national recession.

Confronted with these problems, Salt Lake Cty has tried to be responsive in meeting the basic needs of the homeless without encouraging an influx of the destitute which would exacerbate the situation and overwhelm our efforts. Like other municipal governments, our budgetary constraints have tightened considerably over the last four or five years, nevertheless, we have committed \$85,000 of this year's community development block grant funds for emergency housing. We have also doubled the city's appropriation to the rescue mission, a local relief agency, from \$700 to \$1,400 a month. This is in addition to \$40,000 that we contributed to the rescue mission last year to rehabilitate its facility. The Salt Lake City Housing Authority has also made a four unit complex available to traveler's aid for emergency housing. The city has further committed \$19,375 to traveler's aid to rehabilitate the units and \$8,750 for operational expenses. The city has also allocated \$18,800 to the housing outreach rental program and \$21,275 to the housing authority to assist low income and displaced families find affordable housing. These efforts have been made despite the fact that Utah law gives no social service responsibilities to cities.

As a result of the findings of my task force on homelessness and other public and private efforts, the State of Utah has recently made a surplus State building available to be used for housing homeless people this winter. The Salt Lake City redevelopment agency has also made a fourplex available for the same purpose. Both of these facilities, which will be opening their doors this week, will be managed by a coalition of private, charitable and religious organiza-tions in our community. The State, county, and city are also in the process of providing a modest level of funding to supplement the numerous contributions that are now being made by businesses and private individuals throughout our community to operate the facilities. In short, we are doing everything that we can to prevent people from suffering, or even possibly dying on our streets, because they lack adequate shelter or food.

We are working hard to meet our responsibility in Sale Lake City, but I am fearful that we may also be creating what I call a 'blinking light" effect. I am concerned that if only a handful of communities are able to meet the basic needs of the homeless while the vast majority of others are able to do relatively little, those communities that are responsive will become neon lights beckoning the destitute from across the country to come to them for help. There have been numerous documented cases of municipalities from surrounding States which are less able to help and have purchased bus tickets to send the homeless people in their jurisdictions to Salt Lake City. I am sure this is also happening to other communities that have been particularly sensitive to the needs of the homeless.

I believe that unless the Federal Government provides some minimal assistance to assure that basic needs are met across the country, every community will fear becoming part of the blinking light syndrome. I emphasize, however, that the primary responsibility for the care of the homeless should remain with State and local governments in conjunction with the efforts of private, charitable, and religious organizations. I am not asking the Federal Government to establish a new program or to bail out State and local governments. Rather, I am sug-

gesting that the Federal Government exercise its authority and provide sufficient funding to achieve a degree of equity among the States and localities and to assure that the most fundamental needs of homeless people are met. After all, when national economic conditions cause people to be desperate and to leave their homes in search of jobs, then we have a Federal problem and the Federal Government has a responsibilty to provide its fair share of the solution.

The problems we are facing in Salt Lake City exists this winter in cities across the nation. On November 22, 1982, my fellow mayor, Ernest N. Morial of New Orleans, who chairs the Conference's Health, Education, Employment and Human Services Committee, convened an emergency meeting of the committee on emergency service needs in cities. That committee heard from a variety of city health and human services officials and from representatives of the Nation's major service organizations, including the United Way of America, National Council of Churches, U.S. Catholic Conference, and the Volunteers of America. The mayors drafted a five-point plan to help avert a disasterous winter for those in need. The plan calls for:

An increased supply of surplus commodities to soup kitchens and other institutional feeding sites by the U.S. Department of Agriculture.

2. An emergency appropriation during the lame duck session of \$500 million for use this winter in cities. Funds would be available to meet emergency needs such as food, shelter, heat, medical care, or clothing.

3. Immediate congessional consideration of ways to provide health insurance to re-

cently unemployed people.

4. Provision of funds to rehabilitate structures as emergency shelters. An amendment to the housing and community development act could provide new money for a grant program to municipalities and non-profit organizations for the rehabilitation of existing structures into emergency shelters. The use of funds would be restricted to physical repairs and utility costs.

5. Action in the lame duck session to stimulate job creation at the local level through immediate increases in funding of repair of streets, bridges, sewer and water systems.

Just last week Coleman Young, Mayor of

Detroit and President of the Conference of Mayors, declared a state of emergency and a survival program in his city to prevent the starvation and freezing of destitute city residents. Later in the week at a large national meeting of Mayors and business leaders, the vice chairman of Atlantic Richfield, Edward M. Benson, echoed Mayor Young's serious concern. Mr. Benson acknowledged that cities face urgent needs for emergency aid and said that the private sector should share in the responsibility to meet the need. Clearly emergency help is needed from all sections of our society and no one sector of level of government can or should bear the burden of emergency relief alone.

During the cold winter of the recession, we all need to show some care and concern for the less fortunate members of our society who are paying the real price of fighting inflation through unemployment. We need to show compassion for the victims of harsh economic policies aimed at balancing the budget and lowering the Federal deficit on the backs of the working people. There has been no time in the last forty years when the public policies of this country have been more insensitive to the human needs of the less fortunate members of our society. As

Mayor, I will do all that I can to help the homeless people in my city. However, I assure you that there are limits to the resources of State and local governments as well as the efforts of private, charitable, and religious organizations. As a top priority, I believe that we need to do all that we can to assure that there is a job for every person who is willing to work in this country. There is no greater destructive force of the individual, family and social values we cherish as a nation than unemployment.

As we go into the winter of our national discontent and as we approach the Christmas season we must search our hearts and find a place for the homeless. They are uspeople like us searching for basic work, searching for a new lease on life, searching for someone who will care. Unfortunately, their children often go with them and, in the process, learn lessons about the real quality of our society. Will we teach those children we are a people who care? or, will we sit idly by cur own warm hearths casting pity but doing nothing?

HOMELESS CRISSCROSS U.S., UNTIL THEIR CARS AND THEIR DREAMS BREAK DOWN (By Iver Peterson)

Denver. Dec. 14.—Across the country, in church shelters, abandoned buildings, in broken-down cars with license plates from faraway, the tide of homeless Americans is rising.

They are the victims of darkened factories in the industrial Middle West, of cuts in welfare benefits that force them out of tenements in Chicago, of the renovation of old transient hotels on Manhattan's Upper West Side. They are migrant tobacco workers stranded in Springfield, Mass., and idled lumbermen who have lost their houses in the Northwest.

And they make up a swelling tribe of nomads, victims of an often-broken dream that a job, a home in time for Christmas, awaits them at the next city, if only they

could get there.

"The problem is dire and it is getting worse," said Robert M. Hayes, head of the National Coalition for the Homeless in New York. "We've seen estimates that there are between a half million to two million homeless people in the country, but the number is irrelevant because whatever the number is, it is perfectly clear that the need is far greater than the help that is available."

On Wednesday, the first Congressional hearing on homelessness in America since the Depression will be held by the House Subcommittee on Housing and Economic

Development.

Officials say there may be 36,000 homeless men and women and 20,000 homeless children on the streets of New York City alone, where the lack of affordable housing has greatly contributed to the problem. In one case on Long Island, Mr. Hayes says, the father became disabled and lost his income, forcing the family to live in a pickup truck at a shopping mall.

Mr. Hayes's group went to court last month in an attempt to force Nassau County to provide emergency shelter for homeless families, as it succeeded in doing in New York City. The city uses five or six hotels to house families who have lost their homes to fire. Armories, opened two winters ago for families whose homes had no heat, have become part of the shelter system.

The alleys and rail yards of major cities have long harbored destitute men, the hobos and derelicts that have long influenced the public's perception of homeless-

But church and welfare workers are now talking about the "new poor" and the "new homeless." The officials say that while many of the homeless stay put in the communities where they once knew better times, an increasing number are taking to the road.

"These are families who had been fairly stable in their jobs and skills, people who may have been moving up an employee ladder and seemed to be heading somewhere," said Les Jones, head of the Denver

Traveler's Aid office.

"They could be auto assemblers or steel workers or service workers used to fairly good pay who lost their jobs in the recession," he said. "At first they stayed at home, eating into their resources, waiting for the job to come back, and finally, when their money is almost all gone, they pile into the car and head for someplace else, for out here, looking for, hoping for, the \$10-\$12 an hour job they had before."

But, Mr. Jones said, those jobs are not here either, or in Tucson, Oklahoma City, Houston, or any of the other western cities that have lured men and women in boom times. New migrants are met by scarce minimum-wage jobs, hard-to-find and expensive housing, and few government services.

## 'LOOK AT WHERE WE ARE NOW'

"If you can believe it," said James Thom, lately of Ely, Minn., "last August we owned our own house and a service station on the busiest intersection in town. Owned them both, and look at where we are now."

Now the only thing Mr. Thoms owns is the broken-down 1957 Chevrolet school bus parked behind the St. Vincent de Paul church center in Denver's Hispanic neighborhood.

The bus is their home. In it Mr. Thom and his wife, Bonnie Sue, and their children, 18-month-old Nicholas and six-year-old Jessics shiver through the deepening winter nights and while away the pale mountain days trying to find the money to buy the gas and transmission parts that would get them to Tucson and the jobs they believe they can find there.

The Thoms are victims of the industrial recession. Ely lies in the Minne sota Iron Range, and as the economy slowed down, demand for steel faltered. Ely's six iron mines, along with many others on the Range, shut down. A lot of Ely businesses, including Mr. Thom's filling station, were forced to close too. "A laid-off miner isn't driving to work anymore and he sure isn't buying much gas," Mr. Thom said.

## 'WE WANT TO GET MOVING ON'

"We heard all about the jobs there were in Colorado and Arizona," added Mrs. Thom, who had just returned from an unsuccessful attempt to get free government surplus cheese. "But if the jobs are here, we sure can't see them. That's why we want to get moving on, only"—she smiled ruefully—"we can't do that either."

Dan Hancock, who had a factory job in Newark until last year, said: "The way we get by is I go behind the supermarkets where they throw away a lot of good fruit and vegetables, and I can get the stuff right out of the garbage dumpsters. If you get the right spices, I can make potato soup taste like clam chowder."

When he lost his job, he drifted to Texas, looking for work. There was none, but he met and married his wife, Sue. With her daughter Donna they moved to California, then to North Dakota, where a janitor's job lasted until this summer, and then to a car-

nival job in Clackamas County, Ore., outside Portland.

But then the carnival closed for the winter, and the Hancocks live in a Portland hotel that has been made into a shelter for the homeless. They scrounge for food and worry about finding shoes for Donna who, because of their traveling, has not yet started school.

#### THEY'RE CRYING AND FRUSTRATED

"The problem is unbelievable," said Bill Lewis, housing director for Northwest Pilot Project Inc., a community service group. "Not a day goes by that I don't get a call from someone being evicted because of running out of rent.

And in Phoenix, Peggy Gearan, director of the St. Vincent de Paul Transient Aid Program, said: "It's gotten to crisis proportions. These people are going from California to Florida and from Florida to California, and they all pass through here, just like ants, moving all the time.

Ninety-two percent of the calls Mrs. Gearan gets come from stranded families, she said. "We pay for fixing up their cars, put in gas, and get them moving as fast as we can."

Phoenix has taken one of most adamant stances against transients. At one point it closed all its public shelters and only recently, under pressure, allowed one to open.

#### UNWELCOME IN PHOENIX

The city also passed a law making it a misdemeanor to lie down in public. It has declared garbage public property, making it illegal to pick through it, and there have been proposals to spray the dumpsters with kerosene, making the refuse inedible, to discourage foraging.

courage foraging.

The attitude is not unique to Phoenix.
"The Bums Are Back," said a leaflet handed out by merchants near Chicago's People's Church, a shelter for the homeless.

Terry Sharp, of the Good Samaritan Shelter here, defended his homelesss people. "We don't know and we don't ask what they've done in the past," he said. "If you're cold and hungry you get helped, but I suppose might find some guys who started missing on their support payments and are running from that. But not much else."

## CRIMES AND SUFFERING CHILDREN

Indeed, if crimes are committed, they are against the homeless. A young woman sleeping under a bridge here in town was found murdered last summer. Edward Langley, who said he has put 100,000 miles on his 1968 Rambler since he and his family left Michigan a year ago, said, "Getting your car broken into and vandalized is something you get used to when people know you're from out of state and have no place to go. They just figure we're bums anybody can pick on."

And the children suffer and not just from the lack of school or homes, or from the candy and sweetened cereals that seem to be a staple of charity donations at many shelters. They also suffer from the neglect of parents too preoccupied with their plight to care for them properly.

Holly Reed, seven months old, was one of those children. Last Monday she froze to death while sleeping in the car she lived in with her mother and father in the streets of Denver.

# EXPLANATION OF VOTES

Mr. ROBERT C. BYRD. Mr. President, with respect to the amendment

yesterday dealing with natural gas pricing and contractual issues, I voted in favor of tabling a provision which would have had the effect of abrogating many natural gas supply contracts. It seemed evident that the confusion and the flood of litigation that would have followed in the wake of such a proposal made it an unworkable and impractical approach to a problem facing West Virginia's residential and industrial gas customers.

Further, gas producers in West Virginia and other States need the assurance that the legal contracts they hold will not be arbitrarily overturned.

West Virginia gas consumers face rising natural prices despite a decrease in demand for gas. The crippling depression in my region of the country makes it very difficult for gas consumers to keep up with increasing gas

For that reason, I voted against a motion to table a provision that was intended to hold some natural gas prices at current levels for the next 2 years

Consumers in West Virginia deserve to have a chance for some relief from rapidly escalating gas bills. While the effectiveness of the proposal to hold some gas prices steady may be questionable in the short run, a deeper discussion of this proposal is warranted.

I cosponsored the Exon-McClure resolution dealing with natural gas prices, supply contracts, and low-income energy assistance. The resolution clearly expresses the will of the Senate that the Federal Energy Regulatory Commission use its full statutory authority to examine the effects of so-called take-or-pay contracts on gas producers, distributors, and consumers. I have exchanged correspondence with FERC Chairman Butler on this issue. He informs me that FERC is engaged in a detailed study of this complex contractual issue.

The resolution reemphasizes to the FERC that the Senate expects the Agency to take steps to prevent unfair and unreasonable burdens from being loaded onto gas consumers. Our long-term goal should be to encourage an adequate supply of natural gas at prices that are fair to both producers

and consumers.

The resolution also expresses the sense of the Senate that the lowincome energy assistance program should be funded at the highest possible level from available appropriations. People faced with rising gas bills, rising food and shelter prices, and the prospect of a cold winter, need and deserve help. Since food is an absolute necessity, some elderly and lowincome people have been forced into a choice of "heat or eat." This program, which the Congress has defended from several recent attempts at significant funding reduction, is necessary for the fundamental well-being of our most unfortunate citizens.

## RECESS UNTIL 9:45 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 1:43 a.m., recessed until Thursday, December 16, 1982, 9:45 a.m.

#### NOMINATIONS

Executive nominations received by the Senate, December 15, 1982:

#### DEPARTMENT OF DEFENSE

Thomas Edward Cooper, of Virginia, to be an Assistant Secretary of the Air Force, vice Alton Gold Keel, Jr., resigned.

#### IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Robert Charles Kingston, 012-22-3429, U.S. Army.

#### IN THE NAVY

The following-named chief warrant officers, W-3 to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, subject to qualification therefor as provided by law:

The following-named Navy enlisted candi-

Battaglia, Anthony
P.
Fortuna, Leonard J.
Mucheck, Frank D.
Pinto, Daniel A.
Smith, William S.
Tucker, Gary D.

dates to be appointed permanent chief warrant officer, W-3, in the U.S. Navy, subject
to qualification therefor as provided by law:
Blackshear, Roy Keith
Calvert, Arthur Philander
Donnelly, Robert E.
Emmert, James
Eskridge, Carl Edward
Pedersen, William, Jr.

Pope, Ferrell Dee, Jr. Remacle, Frederick V. Sanders, Larry Donald Steele, Joseph W. Walsh, Michael Franc Waters, Michael Edward Wiseman, Gary Lee Wozniak, Joseph Stanley

Pena, Alejandro R.

The following-named Navy enlisted candidates to be appointed permanent chief warrant officer, W-2, in the U.S. Navy, subject to qualification therefor as provided by law:

Aker, John Arthur, III
Alderman, John Danie
Aldridge, Ronald David
Allen, Ronald Lee
Allen, Ronald Ray
Allensworth, Patrick David
Allison, Terry Lynn
Alvarez, Maximo Carlos, Jr.
Alvear, Antonio Tolentino
Arel, Gerard Paul
Arendas, George Charles
Ashak, George Peter
Autrey, John Stephen
Avery, James Dennis

# CONGRESSIONAL RECORD—SENATE

Bachman, Richard Allan Bail, Michael Thomas Bailey, John Henry, Jr. Baker, James Andrew Barker, Michael Dane Barnes, Thomas Prince Baur, Robin Michael Baxley, James Michael Bellock, James Richa Bellomo, Robert Michael Belton, Samuel Wayne Benton, Arthur M. III Berlemann, Charles Harold Berner, Louis, Jr. Bilski, Joseph Frank Black, Norman Kenneth Blas, David Marion Blythe, Darrell Wayne Blythe, Floyd Her, Jr. Boucher, Roger Alexis Brauer, William Joseph, Jr. Brockman, Michael Wayne Brokaw, Dennis Lee Brooks, Norman Ellis Brooks, Robert Lee Brown, Thomas Richard Bruette, Edward William, Jr. Bryant, Robert Alton Buckle, William Lawrence Burnett, Danny Lee Caish, Tony Randolph Caldwell, Jack Eugene Cannon, Larry Edward Canter, Michael Norman Cappa, Ronald Paul Carambas, Alex
Cargill, Larry Dale
Carmadella, Joseph George J.
Carrier, Laurier Regis Casal, Reynaldo Gallardo Casey, Harold Douglas Cates, Clovis Allen Cedo, Rolando Aldave Cerrone, Clarence Michael Chamberlain, Richa A. Chambliss, Robert Lee Chan, Nick Munoz Chapman, Kenneth Linwood, Jr. Cheman, Michael Gerard Childers, Morris Glen Clark, Dennis Milton Clark, Terrence Leo Clavier, Dallas Herbert Cocco, Francis Richard Cole, Michael Stevenson Colt, Lawrence James Combs, Gerald Wayne Conley, Billy Ray Contino, Angelo Cooper, Barry Donald Cornett, James Edward Cotta, Donald Martin Crandall, John Edward Cressey, David Thomas Cserepes, Steven Victor Cupit, Donald Lee Curley, John Francis Dale, James Monroe, Jr. Daniels, James Frederick Darmstadt, Steven James Daschle, Valentine James Davidson, Mickey Earl Davis, Francis Curtis Davis, Robert Lee Dean, Thomas Leslie Delfran, Rickard
Delfran, Rickard
Delgado, Philip Andrew
Delmundo, Reynaldo Geron
Dent, Sam Thomas, Jr. Diokno, Bayani Estoista Dowell, Chester Ralph Dretsch, Jerry Leroy Druck, James Fredric Duering, Wayne Donah

Dye, Ernest Merit Eldridge, James Dean Elias, James Michael Ennis, John Joseph Eusebio, Johnny Musngi Evans, James Edward Faxon, Henry William Ferguson, Garry Jackson Fisher, Gregory Donnell Fisk, Thomas Paul Fogarty, James William, Jr. Fork, Dennis Lee Foust, John Brooks Franklin, Eddie Lawrence Freed, Jack Lee Fretwell, Don Stanley Funkhouser, Billy Joe Gagne, Steven John Ganiere, Steven F. Garcia, Dale Francis Gardner, Clayton Dua Genton, Terry Lee Gibson, Mark Gimlin, Stanley William Gordon, Robert, III Gorman, Ronald Paul Gosselin, Paul Eugene, Jr. Graham Wilbur Sherm Gray, Gary Lee Gray, Philip James Green, Richard Lee Gunter, Lonnie James Gyrion, Virgil Lee Hall, Dwight Wayne Happney, John Herber Harms, Kerry Lee Harris, David Nathaniel Hart, Gary Ray Hart, Marvin Bruce Harvey, Mike Elwood Harvill, Dan Monroe Harwick, Randy Lee Hastings, Gerald Edward Heagy, Leeroy Franklin Healy, Gregory Christensen Heidenreich, George Michael Heider, Gary Timothy Henson, Harold Kenneth Holifield, Paul Edward Hollembeak, Chester David J. Holley, Kenneth Lee Hopper, James Milton Huffine, Thomas Gene, I Hulsey, Robert Edward Hurt, Thomas Elbert Iliff, Larry D. Jackson, Carl Henry Jackson, Daniel Ray Jacobsen, Merle Francis James, Delbert Hays Jensen, Kim Arthur Jiao, Reynaldo Candilario Johnson, Deane Walter Johnson, Matthew William Johnson, Richard John Johnson, Richard Lynn Jones, Richard Lee Jones, Tommy Paul Jorgensen, Jorgen Christian Joslyn, Walter Bruce Kaake, Charles Robert Kelleher, Daniel Kevin Keller, James George Kelly, Charles Mitchell Kelly, Michael Lee Kennedy, James Frederick Kidd, Robert Canova Killman, Lace L. King, Jimmie Lee Kingsbury, Joseph Alden Knight, Paul Wayne Knoop, Walter Knight Knott, Rex Forrest, II Kohr, William Hall

Kratz, John Allen Krueger, William Otto Labrecque, Robert George Lamar, Charles Luther Larranaga, Jesus Ernest Lauderdale, Carlos Dwight Ledsome, Johnny Graham Lester, Johnny J. Lewis, David Michael Lindsay, Jon T. Lister, Steven Allan Lloyd, Frank Allen Long, James Ellis Long, Simon Lee Loughrey, Daniel Arthur Lovato, Henry Anthony
Lynn, Ralph William, Jr.
Madden, Michael Thomas
Maddox, Jimmy Ray
Mahaffey, Ronald Howard, Jr.
Mangini, Gary Lee
Mann, John Thomas Mans, David Jackson, II Manuma, Lene Sueuca, Jr. Marcelo, Nestor Malaluan Mardirosian, Ronald Henry Marino, Michael Marshall, Thomas Roland, Jr. Martens, Daniel Cobus Martinez, Joe Mason, Victor Joseph, Jr. Masseau, Gregoire Jean Maus, William Ronald Maves, Kenneth Armand McClure, Dennis McGee, Richard Wardell McKendry, Richard Dean McKenzie, Paul Noel McKeough, Lawrence Robert McKeown, Grady H., Jr. McKlveen, Carl Roy Medeiros, Julio Cabral Mello, Larry Franklin, I Michael, Johnny Ivan Milan, Gerald Thomas Milan, Gerald Thomas Millan, Teofilo Misa Miller, Albert Clinton Millican, William Craig Minnich, William Daniel Misenar, Wayne Charles Mitchell, Douglas Michael Mitchell, James Floyd Modlin, Lawrence Carrol Moe, Alfredo Hilbero Monroe, Francis Moore, Gerald William Moore, Paul Terry Moss, Stephen Michael Mozo, Reynaldo Alfaro Murphy, Terry Eugene Myers, Michael Grant Nading, Adrian Dean Nafarrete, Romeo N Neubert, Kenneth George, Jr. Newton, Herbert Lloyd Nickerson, Brian Robert Nicklas, Wayne Edward Nunley, Leo Thomas O'Brien, Joseph Sylvester O'Hara, Dennis Richard Oldfield, Donald Starling O'Neal, Michael Anthony Ooten, William Hoogh Orton, Leland G., Jr. Ostrander, David Paul Oubre, Edwin Gerard Paea, Antonio Frank Page, Roger Ivan Palag, Antonio Z. Pangel, Inan Roque Camacho Paquin, William Patrick Park, Donald William Perdue, Earl Randell

Koontz, Dean Perry

Perkins, Ovel Petersen, Franklin Delano Petersen, Thomas Carl Petmecky, Howell J. Phillips, Dorsey Edward Pigford, Michael Allen Pine, Marion Gail, Jr. Piper, Roy Alton Pitman, Robert Plummer Powers, Jerry Gale Presley, James Henry Pytlak, Joseph Lincoln Ranck, James Leroy Ravenkamp, Roberta Lee Ravenkamp, Stephen Alan Raymond, Darrell H. Redd, Kenneth Raymon Redding, Robert Ray Reedy, Herbert Sepherenis Reel, Robert Amos, Jr. Reidel, Douglas Joseph Remington, Donald Sheldon J. Richardson, Neal Walter, Jr. Ringrose, George Francis Robertson, Michael Warren Robertson, Ronald James Robison, Wallace Wade Rohbock, Robert Howard Rookey, Arthur Louis Ross, Lawrence Michael Roth, James Robert Rouse, David Lee Ruby, Paul Joseph Ruffino, Johnny Joe Rundle, David William Saffell, Gary Dean Salvatierra, Lope Balmeo Sanders, Wallace Eugene Sandoval, Richard Alonzo Sass, Stephen John Satterfield, Jerry Don Saville, Dwight Frank Saxton, James Francis Sayre, Gene Carrol, Jr. Schimizzi, Joseph Frank, Jr. Scott, David Eugene Scott, Howard Moorman Scruggs, George West, Jr. Shaw, Robert William Sherfield, Otis Leon

Shy, Julius Theodore, Jr. Simpson, David Kenneth Simpson, Dennis Richard Simpson, Walter Hensey, III Sindelir, Franklin Doyle Slater, Donald Lee Slocomb, James Patrick Small, Larry Wayne Smallacombe, Edward Smith, Charles Joseph Smith, Revenia Jackson Smith, William Bethel Smoot, Charles Louis Sojourner, David Allen Soles, James Bruce Sorenson, Duane Leroy Spence, Conrad Rankine Spohnholtz, Thomas Charles Stanfield, Leonard Wynfred States, Steve Merle Stephens, John Franklin Stephenson, Donald E. Sterling, William Jay Stevens, Vincent Emmanuel Stewart, Darryl Sadek Stewart, David William Story, Clayton Truett, Jr Strack, Lawrence John, Jr. Straight, William David Straub, Walter William, III Street, Claude Cyrus, III Strothman, Gary Allen Suter, Robert Eugene Sutherlin, Stephen Robert Talbert, Montie, III Teller, Robert Ray Tezak, Patricia Ann Therriault, John Richard Thomas, Tommie Edwin Thomas, William Donald Thompson, William Dale Tijerina, Alexandro Tyler J. Todd, John Andrew, Jr. Tozer, Douglas Glenn Travis, Dennis Wayne Treat, Homer Olaf, Jr. Trice, Robert Eugene Uecker, Thomas James Vahey, Eugene John Valde, Arthur Louis, Jr.

Valentine, John Nicholas, Jr. Valero, Virgilio A. Vallebo, Salvador Dugena Vandyke, Floyd Christopher Vaneeckhoute, Francis David Vansach, Stanley William Wagers, Steven A. Waits, James Andrew Waldon, Peter John Walker, Wayne Clifton Wallace, Theodore Robert Wallentine, James Leland Walsh, Patrick Jay Walston, Jo Dean Walters, Franklin A. Walts, Larry Lynn Ware, Donald Leroy Watkins, Kenneth Byron Weatherby, Steve E. Weaver, Rayburn J. Webber, James Wiley West, John Lenton, Jr. Wiley, John Edward, IV Williams, Gary Thomas Williamson, Charles Joseph Wilson, Dennis Lee Wilson, Robert John Winston, Douglas Lee Wise, Larry D. Wolber, Eric Keith Wood, Nicky Spencer Woodruff, Richard Alan Woodward, Dennis Lavon Woodward, Stuart Hughes Young, Richard Lee Young, William Henry, Jr. Zaleski, Henryk Bronislaw

### THE JUDICIARY

Sherman E. Unger, of Ohio, to be U.S. circuit judge for the Federal circuit vice Robert L. Kunzig, deceased.

## In the Coast Guard

The following officers of the U.S. Coast Guard for promotion to the next higher grade (to paygrade O-7): Capt. Theodore J. Wojnar, USCG. Capt. Joseph A. McDonough, Jr., USCG. Capt. Arnold M. Danielsen, USCG.

# EXTENSIONS OF REMARKS

AIR FORCE ASSOCIATION SPEAKS OUT ON AMERICA'S DEFENSE NEEDS

# HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. KEMP. Mr. Speaker, recently the delegates to the Air Force Association national convention unanimously adopted a strong statement on the threat, the need to rebuild our deterrent posture, and the misguided campaign to "freeze" all development, testing, and production of nuclear weapons. In its new statement of policy, AFA states:

The central factor that would keep the U.S.S.R. from provoking nuclear war is the prospect of losing. Thus, there is no more commanding peace-keeping task than to develop the forces and capabilities to convince the Soviets that they cannot win.

The statement of policy of the 180,000-member Air Force Association is designed to give voice to the objectives of the association and to support armed strength, adequate to maintain the security and peace of the United States and the free world.

Mr. Speaker, I ask that the AFA statement of policy be printed in its entirety and I commend this thoughtful paper to my colleagues.

THE FANTASY OF SIMPLISTIC SOLUTIONS

The Soviet threat is real. It is not a fantasy contrived by fearmongers or arms merchants. It results from the most awesome war machine in history. The Soviet war machine is the product of a single-minded ideology spawned by force, committed to force, and brandishing force domestically and externally to perpetuate an insecure, morally hollow system of imperial power. And the war machine is growing.

Military power remains the principal instrument available to the Soviet dictatorship for extending the system's frontiers and to save it from internal dissension and disintegration. An ever-increasing share of the Soviet Union's gross national product—estimated to reach about twenty percent in this decade—is being lavished on military expansion while the standard of living of the Soviet people stagnates, and its economy foundate.

The evidence that the Soviet Union and its Warsaw Pact outmans, outguns, and, in the military sector, outproduces the United States and its allies is incontrovertible. There is a tendency to dismiss this fact with the claim that military superiority in the nuclear age is meaningless. Such a contention is a dangerous delusion and is contrary to logic and history. It disregards, to this nation's peril, the words and deeds of the

to logic and history. It disregards, to this nation's peril, the words and deeds of the Soviet leadership that spell out a doctrine geared to winning whatever type of wars the USSR gets into—be they conventional,

chemical, or nuclear—and to use military superiority in a politically coercive fashion. The dismissal of the importance of the growing Soviet military power only serves those who hold that defense investments should be determined by economic conditions and scaled to social spending rather than be determined by the character and size of the threat.

Soviet military power continues to grow in all fields. In the past, this growth has not been affected by variations in the pace of the US defense effort. Since the mid-1960s, the Soviets have nearly doubled real defense spending and more than doubled military research and development. In short, when we built, they built; when we stopped, they built.

They have increased their intercontinental nuclear delivery vehicles nearly sixfold; that, coupled with improved accuracy, makes those weapons a major threat to US and allied security. The number of nuclear warheads carried by the Soviet ICBM force is now more than twice the US total, and some of the Soviet warheads are more accurate than the best in the US inventory.

They have more than tripled the number of their theater and battlefield nuclear weapons. They outproduce the US in tactical fighters by a ratio of better than two and a half to one. The Soviet Navy, in a remarkably short time, has become a huge, heavily armed, powerful fleet encompassing nuclear-powered surface ships, the world's largest submarine force, and, now, aircraft carriers. The Soviet ground forces also have significant advantages in armored vehicles, tactical defenses, and active military manower.

The Soviet force modernization program combines the historic emphasis of producing large quantities of military equipment with comprehensive qualitative improvements. The US and its allies, therefore, cannot count on offsetting these increasing quantitative deficiencies with greater technological sophistication. The Soviet boast that the military balance has shifted in their favor "once and for all and irrevocably" is about to become a reality unless America and the free world make a sustained commitment to rebuild their defenses. The fragile advantage of the US and its allies in tactics, training, and technology must be exploited to the utmost.

Nowhere is revitalization more urgent than in nuclear deterrence capabilities. The Soviets are designing their strategic nuclear forces so they can win a nuclear war. The central factor that would keep the USSR from provoking nuclear war is the prospect of losing. Thus, there is no more commanding peacekeeping task than to develop the forces and capabilities to convince the Soviets that they cannot win. Further, the American people must not lose sight of the fact that what constitutes—or does not constitute—a credible US deterrent is determined by the perceptions of the Soviet leadership and not by ideals expressed by many American and international groups.

Americans should be concerned that domestic and international groups promoting simplistically an immediate nuclear freeze are achieving ends diametrically opposed to their own professed goals of nuclear stabili-

ty and arms reduction. The rhetoric of the campaign to stop immediately the modernization of nuclear weapons—and against their "first use"—is based on twisted arguments, and feeds the public's fear of nuclear war in order to capitalize on it. The campaign's propagandists, at home and abroad, have shifted the focus of the discussion from deterrence of all forms of war and military aggression to the horrors only of nuclear war, and are hiding the burgeoning growth in Soviet nuclear weapons behind misrepresentations of US responses to that growth.

The Air Force Association believes a nuclear freeze today is simply not in the national or the free world's best interest. It would leave us with a permanently weakened deterrent posture. It would perpetuate the very vulnerabilities and inadequacies we are making great efforts to overcome. It would decrease strategic stability and grant the Soviets, without incentive to reciprocate, their major objectives in the START (Strategic Arms Reduction Talks) and Intermediate-Range Nuclear Force negotiations. The US properly seeks a long-term, mutual, and verifiable nuclear freeze at equal and sharply reduced levels of forces.

It is important for the American people to understand clearly that no negotiations can change the fact, or disregard, that this country and the USSR—by the latter's choice—are ideological and geopolitical adversaries. We negoiate from vastily different premises of morality, political philosophy, and standards of right and wrong. Therfore, the US can no more negotiate from a position of weakness than it can deter through inferiority. There is a clear-cut need to modernize aging and increasingly vulnerable nuclear strategic systems. The nuclear freeze movement disregards the fact that the current strategic nuclear force balance is destabilizing and will, if not corrected, increase the likelihood of nuclear war. This Association believes there is a right way to achieve equal and sharply reduced levels of forces, to curb the so-called "arms race," enhance deterrence and stability, and lower the destructive potential between the superpowers. The Administration has found the right way.

The Administration's five-pronged strategic force modernization program provides fundamental leverage for equitable arms reduction; it does not move the world toward nuclear war but away from it. The MX ICBM, the B-1B, the Trident D-5 SLBM (sea-launched ballistic missile), an improved, survivable command and control system and revitalized strategic defenses are needed not only to counter current Soviet force levels but also at the reduced levels envisioned with the US START proposal. With reduced numbers of warheads, survivability and effectiveness become even more critical than with a larger force. The nation must not forget that deterrence is a product of capability and credibility. If either is low, so is deterrence.

The combined effect of the strategic force modernization program will be that this nation's nuclear forces could survive Soviet first strikes and retaliate. Such a condition will reduce sharply Soviet temptation to use their nuclear weapons for blackmail and lift from the US National Command Authorities the terrible burden of either using the strategic nuclear forces at once or surrendering. The present hair-trigger posture that encourages Soviet nuclear adventurism is incompatible with effective deterrence.

Modernization of the strategic nuclear forces alone is not enough. In the view of this Association, strategic modernization must be coupled with other long-standing needs of our armed forces that are essential for proper balance. These include continued improvements in the readiness and staying power as well as modernization of the general-purpose forces, enhancement of the mobility and airlift capabilities, and expansion and modernization of tactical forces. The strong common denominator of all these programs must be improved warfighting capability. This requires strengthened readiness and sustainability, intensified realistic training, refined tactics, increased flying hours, and improved pay and benefits of men and women serving in the Armed Forces. In this context, the nation must safeguard the centrally decisive element of continuity and advantage in its defense posture-well-trained and dedicated people serving in the Air Force and the other ser-

The Air Force Association applauds increasing recognition of the total, joint character of national defense and concerted efforts to avoid separate and parochial approaches that waste scarce resources and do not produce the defensive strengths this nation requires. The individual services exist to provide national security through harmonious, streamlined interaction and mutual reinforcement. No service fights alone. They must plan and exercise together, just as they would fight—jointly and shoulder-to-shoulder with our allies.

The overriding requirement of our times is to retain the consensus on building a strong national defense, forged by a recognition of the mounting Soviet threat, and to maintain the momentum of the programs that are essential to this goal. The Defense budgets, as drafted by the Administration for this and subsequent years, represent an essential step toward achieving this longterm objective. They must be supported. To enhance public understanding of the importance of national defense to our nation's freedom and survival, AFA advocates a deliberate program of education in military history and science in American schools and colleges.

If we as a nation—in concert with cur allies—remain steadfast in the pursuit of a prudent national security policy, we might, one day, convince the leadership of the Soviet Union to abandon imperialism, and instead seek the legitimacy that only comes from the consent of the governed. Until then, we must not forget that war comes not when the forces of freedom are strong but when they are weak. It is at these times that tyrants are tempted. We must not tempt them.

SOVIET WATCH: SURVEYING THE BREZHNEV LEGACY

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

 Mr. FIELDS. Mr. Speaker, I enter the following material into the RECORD for the benefit of our colleagues.

[From the Washington Times]
SURVEYING THE BREZHNEV LEGACY
(By W. Bruce Weinrod)

The death of Leonid Brezhnev is already producing an assortment of favorable reminiscences, as well as hopeful expectations for the course of future U.S.-Soviet relations: we hear Jimmy Carter fondly recalling Brezhnev's fervent desire for world peace and Cyrus Vance stating that Brezhnev's greatest legacy is his arms control efforts.

Do these and other similar generally sympathetic comments about the Brezhnev era reflect the actual Soviet record under Brezhnev? This question is critical, for how it is answered will influence the U.S. approach to dealing with the U.S.S.R. in the immediate post-Brezhnev era. The U.S. will be ill-served by romanticizing and distorting the Brezhnev legacy.

A pluralistic world was completely unacceptable to Brezhnev. The most dramatic demonstration of this is the "Brezhnev Doctrine" of 1968. Brezhnev used this to justify the Soviet invasion of Czechoslovakia in 1968, the invasion of Afghanistan in 1979 and the suppression of Polish liberties in 1981. This is part of the Brezhnev legacy.

Just in the past decade, the Soviets have added 733 nuclear-capable missiles (land, sea and air) and have increased their warhead supply by over 4,000. Since SALT I and the start of the so-called detente era, when the strategic equation was supposed to be stabilized, the Soviets have added, among others: several hundred later model SS-11 rockets, over 800 SS-18s, SS-19s and SS-20s; over 50 nuclear subs with about 2,000 nuclear warheads; and over 150 Backfire intercontinental bombers. Despite the well-publi-"Brezhnev freeze," which he announced in March 1982 that the Soviets would stop further deployment of SS-20s targeted on Western Europe, deployment has continued.

The Soviets and their Warsaw Pact satellites also have continued to increase what already was conventional weapon superiority over the West. In all, the Soviet union is spending roughly 40 percent more on military outlays than is the United States. And Moscow is allocating roughly 12 to 15 percent of its GNP to military spending; the U.S., even with current spending hikes, is only at about 6 percent of GNP.

only at about 6 percent of GNP.
From 1971 to 1981, the U.S.S.R. outspent the U.S. militarily by around \$400 billion. During the past decade, Brezhnev added 10,000 new heavy and medium tanks, 8,000 pieces of artillery and 765 combat aircraft. Just since Reagan took office, the Soviets have added 2,000 tanks, 1,350 fighters and fighterbombers, and 4,500 fighting vehicles. This is an unavoidable hard truth of the Brezhnev legacy.

Not only did Brezhnev snuff budding liberty and pluralism in Eastern Europe, he also provided substantial aid to terrorists trying to disrupt Turkey's pro-democratic and pro-Western government, and has con-

tinued attempts to exploit Iran's instability. While Americans were being held hostage, Brezhnev continued to fan anti-American fervor in Iran.

In Asia, the Soviets financed and encouraged the North Vietnamese invasion of the Sout, in violation of the peace agreement of 1973h, and now is financially inderwriting the Vietnamese occupation of Cambodia.

In the Middle East, the Soviets encouraged Nasser's blockade of Israel in 1967, which precipitated the Six-Day War, and subsequently supported the Arabs in the 1973 war. A Soviet-supported coup in 1978 in South Yemen has made that nation a protectorate of the Russians, and the Soviets have transferred large amounts of arms to both sides in the Iran-Iraq war, encouraging instability in that region.

In Africa, the Soviets under Brezhnev have aided the most radical and destabilizing groups, including the African National Congress and SWAPO. Moscow is aiding the Polisario guerrillas fighting against America's ally, Morocco. Further south, the Soviets brought the Cubans into Angola. Closer to the U.S., Brezhnev continually sought to violate the understanding ending the Cuban missile crisis by trying to expand the Soviet submarine base at Clenfuegos.

The Brezhnev legacy is pockmarked by Soviet treaty violations. Experts can cite continuing Soviet violations of the SALT I Treaty—supposedly a symbol of Brezhnev's commitment to arms control. Moscow trains and supports terrorists from the PLO to Libya to the attempted assassin of Pope John Paul II. The Brezhnev legacy is filled with unremitting domestic repression as well.

What then are the hard truths of the Brezhnev legacy? The answer: unremitting efforts to gain advantage at the expense of the U.S. and the Free World and an unyielding hostility to pluralistic societies.

Can the future bring improvements in U.S.-Soviet relations? Perhaps Moscow's new leadership will seek to relax world tensions. U.S. policy, however, cannot be based upon hopes that have often proved illusory in the past.

The hard truths, learned from painful experience, teach that the U.S. should continue to pressure the Soviets, forcing them to make difficult choices in terms of foreign involvement and the allocation of resources. If Moscow decides to move toward genuine peace, Washington will know it soon enough.

Unless and until the Soviets alter their course in a meaningful way, such as allowing independent trade unions in Poland, or permitting a genuinely independent government in Afghanistan, conciliatory gestures from the United States are inappropriate. The fundamental fact is that it is the realities of the Soviet Union and not the individuals who develop policies which govern U.S. decisions. The burden must be on Moscow's new leaders to prove that they are not the heirs to the Brezhnev legacy.

## TOBY MOFFETT

# HON. ROMANO MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

 Mr. MAZZOLI. Mr. Speaker, I would like to pay tribute to a respectavenues of interest.

SHIRLEY CHISHOLM

# HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

• Mr. BIAGGI. Mr. Speaker, as many of us know all too well, when this session of Congress concludes we will be saying farewell to a number of our colleagues. In my judgment there are none who have served with more distinction than the retiring Member from the 12th Congressional District of Brooklyn. N.Y.. SHIRLEY CHISHOLM.

SHIRLEY CHISHOLM and I were elected to Congress the exact same year—1968—so I, therefore, have more knowledge and appreciation of her than do some of my other colleagues. Shirley Chisholm, is a lifelong native of Brooklyn, which is the largest borough of New York City. She was a product of Brooklyn public schools, of Brooklyn College and received her masters degree at Columbia University. She is also the proud holder of 15 honorary degrees.

Shirley and I did serve together on the House Education and Labor Committee and I was constantly in respect of her commitment to the cause of improving the quality of education for the children of this Nation—especially those from our home city of New York. Even after she left the committee to become a member of the Rules Committee, Shirley continued to be active in the affairs of the committee through testifying at hearings and developing amendments to various bills which were introduced either in committee or on the House floor.

Shirley did shine in the national limelight on many occasions during her career in the Congress but no time any brighter than when she ran for President of the United States in the year 1972. Her candidacy may not have succeeded in the electoral sense—but it made a positive impact on many people in this Nation who saw the gentlewoman from Brooklyn as a champion for the poor and needy of our Nation and brought their plight to national attention.

While it is true that SHIRLEY CHISHOLM is retiring from the House of Representatives, few of us who know her believe it to be anything more than a transitional retirement. A woman of her dynamism and energy simply must find a new forum to channel and project her talents. I know either she will find the new forum or it will find her.

one finds it difficult to effectively measure an individual Member's contribution to the House. Yet we all know those who have impacted on the House—Shirley Chisholm clearly was a Member who impacted on the House and the Nation as well. She was a woman of compassion, commitment,

and above all—competency. On many occasions she functioned as the conscience of this House.

I will miss my dear friend Shirley, but of course wish her well in any and all future endeavors she may have planned. I express warm regards to her husband Arthur and I am sure he looks forward to having more time to spend with his remarkable wife.

# PHOTOVOLTAICS: LOSING OUR GOLDEN OPPORTUNITY

# HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

Mr. HARKIN. Mr. Speaker, through incredible shortsightedness, our Nation is losing an opportunity to be the world leader in an important and growing industry that will mean jobs and increased energy independence.

Until recently, our Nation led the world in photovoltaic energy, the process of directly turning sunlight into electric energy. However, under pressure from this administration which wants to completely stop all funding for solar energy research, the Congress has sharply reduced the funding of many valuable projects.

At the same time, Japan, France, Germany, and many other countries have been rapidly increasing their efforts. In those countries, businesses are getting a great deal of help from their governments. In the United States, there is less help, and the tax benefits that they now enjoy are under attack.

We have just started to see the building of photovoltaic facilities designed to be a real part of the electric grid in California. This is an industry that we can expect to expand by more than 50-fold by the end of this century. The market will develop. The question is, how much of the market will be based in the United States? Is this going to be another area like video recorders where all of the parts are made in Japan and imported, or will it be an industry which will provide jobs in the United States?

I believe this is an area where we must change our course. We must provide the photovoltaic industry with the backing it needs.

As a member of the Energy Development and Applications Subcommittee of the House Science and Technology Committee which authorizes the research funds in this area, I have always been a strong proponent of solar energy. I plan to increase my efforts to make a strong and vibrant solar industry a reality in the United States. I would like to place an article into the Record from the December 12 Washington Post concerning a hearing

# TRIBUTE TO LOWELL THOMAS

ed Member of the House who has been

a dedicated Congressman and colleague—Toby Moffett. Toby has

always taken a strong stand on envi-

ronmental and consumer issues. He

has been an active Member of the

House as well as an able Congressman

for his constituents in Connecticut.

Toby has served the House well and I

wish him the best as he pursues other

# HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. PEPPER. Mr. Speaker, we all know how moving it can be to see a painting, or read a poem, or hear a song that catches our mood and touches our hearts. It is a rare gift of the woman or man who possesses the talent to evoke from within us our hidden emotions by their art. I consider myself to be fortunate in counting such creative people among the friends I have in Frank and Pete Loconto of my district in Miami. The Loconto brothers have written and performed some songs which I shall never forget. One of them was a beautiful melody honoring my late beloved wife, Mildred, and me. Such a thoughtful contribution to her memory is invaluable to me and there are many other folks whose lives have been enriched by the artistic talents of the Locontos.

This past August, I was fortunate to be in attendance at the 1982 Convention of the International Platform Association at which my friend Frank performed a tribute to that great American writer, Lowell Thomas. The lyrics to that song were written by another man possessed of great talent, Mr. Robert Thompson of Boca Raton, Fla. The music was composed by Frank Loconto himself. So that my colleagues can better appreciate the artistic genius of these talented men, I include here the words of their song:

## TRIBUTE TO LOWELL THOMAS

There was a man we all once knew
As close as any friend
We knew him through the radio
And by the books he penned
With Lawrence of Arabia
He rode the golden sands
And gave us memories to keep
Of far and distant lands.
From Timbuktu to the frozen north
He travelled far and wide
He brought his adventure to our lives
He was our special guide
So long—his voice we still can hear
It was his special phrase

We say it now to you, dear Lowell

We'll miss you all these days.

chaired by Congressman BERKLEY BEDELL on this subject.

CUTBACKS IN INVESTMENT SEEN THREATENING LEAD U.S. HOLDS IN SOLAR CELLS

(By Martha M. Hamilton)

The United States is in danger of blowing its early lead in the emerging worldwide market for solar cell production, according to a study by the Worldwatch Institute, a nonprofit research organization that analyzes global problems.

Oil companies have been the largest source of new capital for the industry in recent years, according to Christopher Flavin, author of the report on the photovoltaics industry. Three solar cell firms that are wholly or partly owned by oil companies (Solarex, Arco Solar and Solar Power Corp.) had 80 percent of the worldwide market for

photovoltaics in 1981.

But while "U.S. firms still have the most advanced solar cell technology, their share

of the market fell from 80 percent in 1980 to 55 percent in 1982," said Flavin. "Competition is intensifying, and the number of companies continues to grow rapidly, particularly in the Third World via joint ventures with European and American companies," he wrote. "Obviously, early leadership will not necessarily translate into lasting strength in this rapidly evolving industry.

The report predicts that solar photovoltaics, or solar cells that directly convert sunlight into electricity, may become "one of the most rapidly expanding energy sources-and one of the biggest growth industries-of the late 20th century.'

Flavin notes that production has grown at a rate of more than 50 percent annually for the last five years and that the price of production has dropped while the efficiency of solar cells have increased. Although they are "still not economic for widespread use, continuing reductions in price will make photovoltaics cost-effective for an increasing range of markets, he said.

Solar cells are now used to power satellites and to provide electricity in remote areas not connected to standard power grids, he

noted.

"Clearly, there are large profits to be made in this industry," Flavin said at a press conference last week. He said that France, Italy, West Germany and Japan have aggressive photovoltaic industries. Japan has even begun to produce solar-powered calculators, toys and watches, he noted.
"I am afraid America may lose out in the

competition for this vast market," said Rep. Berkley Bedell (D-Iowa), chairman of a House Small Business subcommittee that held hearings on the industry last week.

"I am afraid that other nations are going to run us out of the international market using our own technology . . . that U.S. jobs and U.S. exports will be transferred overseas to our competitors because of this administration's failure to recognize and foster the tremendous potential of our photovoltaic energy industry," Bedell said. am afraid that our foreign competitors will eventually beat out our own domestic industry for the lion's share of the market right here in the U.S."

The Worldwatch Institute report also faulted the Reagan administration. "The United States has traditionally had the largest government program in photovoltaics, but the tide has turned, with the Reagan administration slashing the photovoltaics budget from \$150 million in 1980 to about \$50 million in 1983," the report said.

Meanwhile, it noted, the European Economic Community and Japan have been increasing support for the budding industry. Japan's photovoltaics budget has risen more than 140 percent in two years to more than \$30 million, the report said. "Including indirect government support, it is only slightly smaller than that of the U.S. program."

## A TRIBUTE TO CONGRESSMAN GARY LEE

# HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

• Mr. COURTER. Mr. Speaker, in my 4 years in Congress, I have had the fortune of working with many able statesmen and some truly exceptional individuals.

My colleague from New York, GARY LEE, is one such person. His warm and friendly manner reveals a caring person genuinely concerned about the welfare of his constituents and his

fellow man.

He began his career as a schoolteacher, and later became director of scholarships and financial aid at Cornell University. GARY LEE spent many years in local politics in Tompkins County handling the grassroots, everyday responsibilities that keep communities across America running smoothly and functioning efficiently. As an assemblyman, GARY worked to promote the interests of his fellow New Yorkers on the State level. These years of hard, productive, and I am sure rewarding work laid the foundation for Gary's career in Congress.

In the day-to-day workings of this body, GARY's patience for legislative detail made him an invaluable asset in committee assignments. For instance, his legislation on the Transportation Subcommittee helped save the Nation's short-line railroads from impossible competition against the larger railroad industry. He has consistently maintained a low-key profile without a lot of fanfare and notoriety; but GARY was always there when the situation called for direction and a sense of commitment.

GARY LEE epitomizes the ideal of a fine statesman and a true American. I, for one, have been very fortunate to know and work with him. On behalf of his many friends and colleagues, we wish him the best of luck in his new endeavor, and we will sorely miss him in this Chamber.

## THE PEOPLE'S PARADISE

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its highminded idealism. They religiously close up their eyes to the reality that the socialist promise of instant utopia brings only the tyranny of a real dys-

It is for them that the following glimpse of reality is provided.

[From the Lincoln Review, Summer 1982]

THE XEROX MACHINE (By Ilya Suslov)

One of the first items that intrigued me when I came to America was the Xerox machine. I was at the post office and saw the machine there for the first time. A man put in a printed sheet of paper, deposited five cents, and the machine produced a perfect copy. I was dumbfounded! What is this anyway? In this way anyone can make a copy of anything! Print anything one likes!

Leaflets, for example!
"So what?" said Jack, "Let them copy whatever they like."

"But they could be leaflets calling for the overthrow of the United States government!" I protested.

"Big deal!" replied Jack. "It's a free country. You can do all the overthrowing you like."

"But how could that be?" I replied, still failing to comprehend. "What if people read the leaflet and rush to overthrow the government? What would we do then?"

'Who would rush to overthrow the government?" asked jack "I wouldn't."

'Maybe not you. But others might."

"Some actually have. But, as you can see, nothing happened."

Suddenly, I imagine myself back in Moscow. Oh, to have a machine like that in Russia! How many problems it would have solved! For example, Samizdat. The way it is now, manuscripts rejected by the censor are reproduced on typewriters using as many as thirteen carbons. Or they are copied by hand and lent out for two hours at a time with the words, "Read it and pass it on." Just imagine writing something indecent or unprintable, making as many copies

as you need, and distributing them to anyone wishing to read them! I can see it now. The scene is KGB Headquarters in Moscow. A nearly printed Xerox copy of an article (a novel, poem, study, or expose) is lying on the desk of Col. Krasnov. Sitting in a chair in front of the desk is a somewhat embarrassed Samizdat author,

Ivan Petrovich.

"So how is it, my dear Ivan Petrovich," asks the colonel kindly, "that you've taken again to writing objectionable material about our country? What have we done to displease you this time?"

"I'll tell you what you've done!" replies our author. "You made a god-awful mess with your Lenin and Stalin, and now you don't have the guts to admit all your mistakes and crimes. Nor are you willing to begin a bright new lift."

<sup>&</sup>lt;sup>1</sup> Underground publications in Russia

"I've read what you wrote, my friend," replies Krasnov. "It's clear you're quite passionate about it. I really like this line here in your article. Sounds pretty passionate. But, tell me, what happens after that? Suppose you drive us from power-this welloiled patient and customary regime-you'll have chaos all over again! The people, if you don't mind my telling you, Ivan Petrovich, will tear you from limb to limb! We take care not just of ourselves, but you as well, my dear man. The people's wrath is always sacred. You see what happened in Cambodia when things got out of hand? And Iran? So give some thought about what might happen here before you go wasting any more Xerox paper."

"No, no, a thousand times no!" exclaims our author. "Russia is a prison! You don't allow us to think, write, or breathe!"

"Oh come on, now, my dear man! We are just protecting our state system from people like you. You know, I'm surprised at our intelligentsia. Why are they always against everything? And I think I've found the answer."

The colonel walks over to the bookshelf

and reaches for the dictionary.

"See here! 'The intelligentsia are intellectuals in opposition to their government!" Extremely well put. And can we afford the luxury of permitting an opposition? You know the answer, of course-no. So wouldn't it be better if you were to give vent to your opposition, shall we say, abroad? You don't like it here? So, go my good man! You don't like it-goodbye!"

The wily colonel knows very well what he is talking about. He is not interested when the intellectuals scream about a brain drain from the country. He believes in the Marxist principle of transition from quantity to quality: what one Einstein could do, 150 Ivanovs will also do. And all these Ivanovs will not allow themselves to be distracted by melancholy thoughts about the nature of the Russian state. They go by a good rule: "It must be done?—Aye, aye, sir!" Without

any beating around the bush.

And the colonel also knows that when our modest author, (the one who printed that dangerous essay on the Xerox machine,) leaves his homeland, he will be in opposition to a foreign government, losing in the process, losing the right to be called a member of the intelligentsia. Really, when one lives in Russia could you be considered members of the intelligentsia if you kept denouncing democracy? Or America? Or Great Britain? On the contrary, if someone appeared in our society and bitterly attacked "American imperialists and their Zionist underlings," would we have listened to him? would have mentally torn him to bits, at the same time mentally calling him all kinds of ugly names which could not be printed on this page!

Colonel Krasnov knows that the formula for a member of the intelligentsia applies in America too. He must denounce his own government and extol foreign ones.

But our author does not know this yet. He believes that freedom-loving people everywhere in the world will understand him, this sufferer from inside Mother Russia. At the very least he will never have to see the likes of Colonel Krasnov again. . . . So using the Israeli route, Ivan Petrovich emigrates to the United States.

Intellectuals welcome him with open arms. He is invited to people's homes. He gives speeches at universities. Articles about him appear in the newspapers. For the first time in his life he can speak the truth

aloud, without fear of punishment. He exposes the Soviets, he issues warnings, he pleads, he makes appeals!

But one evening he is guest in the home of Mr. Smith. Smith is a lawyer interested in foreign policy. He has also invited the black activist Joe Brown, well known for his "progressive" views. Joe Brown is a liberal who bitterly denounces his own U.S. government. He is a great admirer of Mao, Fidel. and Arafat. He believes that true democracy exists only in Cuba, China, Libya, etc. He is genuinely pained by the efforts of American capitalism to defend itself from the inevitable people's revolution, which will lead to a happy new life.

Ivan Petrovich listens in horror and tries in vain to explain to him the naiveté of his views. He talks about repressions, about the lack of freedom, and about the Xerox ma-

The host, Mr. Smith, takes Ivan Petrovich aside and says, "Look it's getting awkward. Joe Brown is so famous, so progressive and intellectual . . . What will he think of my wife and myself? That we are right-wing conservatives, even reactionaries. In this country, my friend, criticizing left-wing governments is just not the thing to do. A true intellectual concentrates his fire on his

I felt someone shake my shoulder and was brought back to the surroundings of the post office.

"What were you thinking about all that time?" asks Jack. "Just admiring the Xerox machine? Look, right now I'll yell 'Down with the President,' and nothing will happen. That's what we call freedom.

We walk out of the post office onto the street and Jack shouts "Down with the President!'

I look at him and also shout, "Down with the President."

Because for me it is very important to stay in the ranks of the intelligentsia.

## FTC AUTHORIZATION

# HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. DINGELL. Mr. Speaker, the members of the Energy and Commerce Committee have received a communication which I insert in the RECORD at this point from former chairmen of the section of antitrust law of the American Bar Association.

I believe it important that our colleagues review the correspondence which points out their opposition to the provision in the Federal Trade Commission Authorization Act of 1982 which "eliminates the Federal Trade Commission's jurisdiction over professionals."

**DECEMBER 13, 1982.** 

Hon. John D. Dingell,

Chairman, Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As members of the private bar, the undersigned former chairman of the Section of Antitrust Law of the

American Bar Association 1 urge the Congress not to do damage to the integrity of the law by passing the FTC Authorization Act of 1982 (H.R. 6995) with a provision that eliminates the Federal Trade Commission's jurisdiction over professionals. We are concerned that passage of such legislation will improperly dilute the FTC's authority. to the detriment of the economy, consumers, and the public interest.

In our view, legislative proposals to curtail the substantive authority of the FTC raise important and interrelated issues going to the heart of the Commission's enforcement role, and it is not sound public policy to consider such fundamental issues on a piecemeal basis. Instead, proposals of this nature should be considered only after a carefully planned and comprehensive Congressional study of the interrelationship of the FTC's powers, structure, and procedures.

For these reasons, we urge the Congress to reject efforts to immunize professionals from the FTC's jurisdiction. While this issue deserves to be part of a thorough review of the FTC's structure, power, and procedures, it should certainly not be resolved in the context of a reauthorization bill or other piecemeal legislation.

Respectfully submitted,

Harvey M. Applebaum, Washington, D.C.; E. William Barnett, Houston, Texas; Richard K. Decker, Chicago, Illinois; C. Brien Dillon, Houston, Texas; Allen C. Holmes, Cleveland, Ohio; John Izard, Atlanta, Georgia; Miles W. Kirkpatrick, Washington, D.C.; Ira M. Millstein, New York, New York; Earl E. Pollock, Chicago, Illi-nois; Edwin S. Rockefeller, Washington, D.C.; Frederick M. Rowe, Washington, D.C.; Julian O. von Kalinowski, Los Angeles, California.

COMMENTS BY OAS SECRETARY GENERAL ON PRESIDE PRESIDENT'S

# HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

Mr. ZABLOCKI. Mr. Speaker, although reservations have been expressed about certain aspects of President's Reagan's recent trip to Latin America, I believe that on balance, it was widely perceived as a welcome and opportune gesture to our neighbors to the South. The focus of the initiative was essentially bilateral and should help improve U.S. ties with the nations visited.

In addition, however, there are specific regional, multilateral questions which must be addressed by the United States and Latin America in the future. These are succinctly spelled out in the attached statement issued by the Secretary General of the Organization of American States, Alejandro Orfila, on the occasion of Mr.

<sup>&</sup>lt;sup>1</sup> This letter is not being written on behalf of the American Bar Association or any of its component

# **EXTENSIONS OF REMARKS**

Reagan's visit to our friends and neighbors in this Hemisphere.

For the general information and guidance of the Congress I include Secretary General Orfila's statement in the Record at this time:

Mr. Reagan's Hemispheric Visit: Another View

As President Ronald Reagan sets off this week for Latin America, various U.S. critics are charging that this diverts him from the main issues disturbing U.S. foreign policy.

Last week, however, Ministers of 31 OAS countries including U.S. Secretary of State George Shultz, met in their Annual General Assembly and reflected another opinion. Following this meeting how does Latin America perceive this presidential mission?

Reservations have been heard—and properly so—about expecting too much from a visit of this nature. Yet the consensus is that this trip is not a welcome gesture of hemispheric solidarity but a necessary bridge-building venture at precisely this moment in regional history.

One feature of the recently-concluded OAS Assembly was the open yet civil tone which characterized its deliberations. This was noticeably so in the off-the-record dialogue. Eight months ago when the protracted but then suddenly violent dispute between Argentina and Great Britain over the future of the Malvinas Islands first broke into world consciousnes, the situation was completely different. Then, the views expressed within the OAS had a harsh ring to them, and were especially negative against the U.S. decision to side with Great Britain.

However, with Mr. Reagan's mission at hand, several conclusions can now be drawn from the regional debates:

The results of the recent Assembly were good—but hardly exceptional. They constitute a solid beginning on which to restore mutual trust and confidence within the regional system. But the OAS members are not at the beginning of the end of their efforts to heal their relationship which has long been in disarray. They are on the contrary, merely at the end of the beginning of a long healing process.

The Malvinas trauma itself was and is neither the only nor the primary cause of the crisis long evident in the hemispheric system. Rather, this dispute dramatized the more basic crises affecting the OAS: the protracted inability of its member states to address the modern development agenda before the Americas.

This current development agenda is no longer simply that which brought the Alliance for Progress into being two decades ago: widespread deficiencies in health, education, social well-being and basic income. Today, in fact, the major challenges are to assure adequate energy supplies, tap the region's vast food potential, broaden international markets for Latin American products, reduce the region's excessive debt burden and step up job creation opportunities. The goal is to assure integral human development: political, economic, cultural, social and moral, of all hemispheric people and societies while promoting individual freedom and distributive justice.

The United States has latterly made some impressive attempts to respond to the urgent concerns of its neighbors. Does not the peaceful resolution of the Panama Canal dispute—a tribute to President Jimmy Carter and to the late General Omar Torrijos—serve as a model for mankind of conflict resolution between a superpower and a small but sovereign nation?

With the Reagan Administration another positive door opened up in the regional association as among the President's first acts were his discussions with the heads of government of Mexico and Jamaica; support for free elections in El Salvador—a process endorsed by the 1981 OAS Assembly; and, the highly creative stroke of the Caribbean Basin Initiative. The trade and investment features of this Initiative are genuinely appealing to the OAS members affected. Latin American favors rapid U.S. action on these proposals.

The OAS has served and can continue to serve highly useful purposes for its members. Its record of peacekeeping since 1945 has few parallels on a strife-torn planet, a point attested last week by OAS foreign ministers. It serves as a bulwark for the cause of human rights and democracy which all citizens of this hemisphere accept as their birthright. During various stages of its history, it has been the fulcrum for achieving regional economic cooperation (the Inter-American Development Bank, e.g., was created in its forum). And since the last meeting of OAS presidents in 1967, it pioneered in the fields of education, science and culture.

Yet its existing weaknesses are also apparent, especially in the field of economic cooperation. A Special OAS Committee on Trade and Negotiation (CECON), set up in 1970 at U.S. insistence, has been more a locale for the United States to announce trade decisions already taken, e.g., to raise sugar tariffs, rather than to negotiate about them. The formerly distinguished CIES (the Inter-American Economic and Social Council) is limping along, even though some of its technical programs remain the most constructive instruments propelling the course of hemispheric development. And inaction on the current development agenda since 1976 can only be described as massive.

As Mr. Regan ventures forth, then, the U.S. faces the following regional challenges: The need to respond constructively to both the bilateral and the multilateral development agenda of Latin America, notably so in the field of trade expansion.

A Latin America which—with important exceptions—was transformed economically and socially during the past two decades into the middle ranks of the world economy. But it is also an area badly hit by the world-wide recession over the past two years—and one with an immense development potential still before it, provided the U.S. and the industrial world respond to its concerns.

An OAS whose future course remains uncertain but which has been strengthened over the past decade by the addition of nine new member states from the English-speaking Caribbean and by inclusion in its forum of 19 Observer Countries from Europe, the Middle East and Asia.

A regional association—mankind's oldest regional body—now stretching towards its centennary anniversary—which is waiting for a fresh infusion of ideas, creative imagination and renewed leadership from regional OAS members and, as pointed out by the presidents of Colombia, Venezuela and Uruguay, from OAS heads-of-state. The objective of all should be to modernize and update the regional system so that it is restored and renewed as a vibrant symbol of peace and friendship for every citizen in the Americas.

Time alone will tell whether Mr. Reagan's mission will contribute to this objective. But it is clearly undertaken in the right spirit, at the right moment and in the right way.

PERSONAL EXPLANATION

# HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. ATKINSON. Mr. Speaker, on Monday, December 13, I was unfortunately absent from the House, delayed in returning to Washington due to the inclement weather. Therefore, I would like to take this opportunity to indicate my position on the eight recorded votes that were considered under suspension.

On rollcall 441, H.R. 3191, Modification of North American Convention Tax Rules, I would have voted "yes."

On rollcall 436, House Joint Resolution 429, State Commissions on Teacher Excellence, I would have voted "no."

On rollcall 437, H.R. 4281, Critical Materials Act of 1982, I would have voted "no."

On rollcall 438, H.R. 7044, Mail Order Consumer Fraud Protection, I would have voted "yes."

On rollcall 439, S. 2059, Special Prosecutor Appointments Amendments, I would have voted "yes."

On rollcall 440, S. 1621, Authorizing Replacement of Existing Pump Casings in South Nevada Water Projects, I would have voted "no."

On rollcall 442, House Joint Resolution 553, Authorizing Indians to Bring Action on Certain Legal Claims, I would have voted "no."

On rollcall 435, S. 2355, Telecommunications for the Disabled Act of 1982, I would have voted "yes."●

RETAIN REGULATIONS FOR THE BENEFIT OF OUR HANDI-CAPPED CHILDREN

# HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. HUBBARD. Mr. Speaker, I received an excellent letter from a fellow Kentuckian, Margaret L. Adams, of Louisville, Ky. Margaret has written to me concerning her opposition to the proposed regulation changes under Public Law 94-142, the Education for All Handicapped Children Act, that have been proposed by the U.S. Department of Education. I believe my colleagues will be interested in her comments. Indeed, I am certain that the Members of Congress are as concerned as I with regard to the education of our handicapped children. Her letter follows:

OCTOBER 18, 1982.

Hon. CARROLL HUBBARD. U.S. Representative, Washington, D.C.

DEAR MR. HUBBARD: I sometimes find it hard to imagine what it would be like to be a legislator in our country responsible for making decisions for milions of people knowing that by your vote on certain issues some people will suffer but hopefully the majority will benefit. But I will try to imagine what it is like to be a legislator if you will just for a moment try to imagine what it is like to be a handicapped child or the parent of a handicapped child, as I am. Neither of us will have an easy job.

I know I am just one of thousands of your constituents who are clamoring for your attention for their "cause," but I feel strongly that you should become aware of the changes proposed by the present adminis-tration concerning Public Law 94-142, the Education for All Handicapped Children Act. Please do not allow the changes in the regulations to be passed. I cannot overemphasize the detrimental effect it would have on hundreds of thousands of children all

across our country

Even now, with the Law (and it is a good law) it is sometimes a struggle to get the services our children need and must have if they are to become successful and independent adults. With this law behind us we can look errant school officials in the eye and say, "But my government and my country guarantees this for my child." Without it, we have virtually nothing to rely on except good intentions and that, unfortunately, won't get us very much, I'm afraid.

I never expected to become the parent of a handicapped child and sometimes I mourn the child that might have been, but partly because of PL 94-142 I can face the future without so much fear for my child because I know that she is getting the educational services that will help her do and become the best that she can. I can rejoice in the child that can be and will be because of that help. Please don't take that away from her or from her father and me or from all the hundreds of handicapped children and parents that we have met in the last seven years or from all the hundreds of thousands out there we will never meet but know if only in spirit. Handicapped children are a part of our country's future and with your continued support they can become one of the best parts.

Thank you for your time.

Sincerely,

MARGARET L. ADAMS. Louisville, Ky.

THE JOURNAL OF COMMUNITY ACTION

## HON. JOHN CONYERS. JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

· Mr. CONYERS. Mr. Speaker, in a few years time the Journal of Community Action has emerged as an indispensable forum on the issues of urban economic development, local service delivery, public finance, and intergovernmental relations.

The recent issue focuses on the idea and implementation of community partnerships. Public-private partnerships are collaborative efforts by Government, business, and voluntary associations, to meet a particular collective need such as job creation and innercity revitalization. The partners share in the planning of projects and their financing. Community partnerships under the right conditions have

proved enormously successful.

The Journal of Community Action has performed a major service in publishing an entire issue on the partnership approach. A variety of articles examine the history of such partner-ships, analyze the conditions that make them work, and provide detailed case-studies of the most successful examples. The following excerpts illustrate the range and quality of the coverage. I recommend that my leagues review the articles and the issue of the Journal of Community Action (vol.1, no. 4, 1982), from which they are drawn.

The articles follow:

#### COMMUNITY PARTNERSHIPS

Political fads wax and wane with benumbing regularity in American life. After a brief swirl in the news media and a series of foundation-funded studies, most disappear without a trace. There is thus a distinct possibility that the current concept of "community partnerships" may go the way of other political fashions that have long since departed. This would be a great loss. In contrast to other contemporary nostrums that will deservedly vanish without a backward glance. the idea of forming partnerships between government, business, voluntary organizations, and other private entities to fulfill social needs deserves a prominent role in the grammar of American politics. This is because the idea is based upon a powerful historical premise: American government cannot fulfill the collective needs for which it has assumed responsibility solely through its own bureaucratic instrumentalities and taxing powers. This premise is rejected by many who call for the continued growth and bureaucratization of the state. It is also rejected by those who indulge in a romantic rejection of government responsibilities.

As with most other political ideas that have any lasting value, one need not look very far to find precedents and precursors. Political platforms of both parties have made reference to the desirability of partnership efforts in various policy spheres over the last two decades. Much of the growth in domestic social programs that oc-curred in the 1960s and 1970s was carried out through more-or-less structured partnerships between government and private. voluntary, non-profit organizations that already provided a variety of social services to society. Beginning in the late 1960s, successive Administrations promoted partnerships in foreign aid between the U.S. government and American private organizations operating abroad. During the Carter Administration of the late 1970s, a central theme of urban policy was the need for public/private partnerships between business and local government in the economic development of

central cities.

What is important about the current political climate is that the idea of partnerships has finally achieved explicit recognition by a national administration as a central policy theme. Yet, as explicated by the President's Task Force on Private Sector

Initiatives, the theme is still vague and inchoate. Opportunistic advocates of particular policies are rushing to bring their proposals under the friendly umbrella of the community partnership concept without so much as a basic understanding of the idea. If the concept is not to be discarded after the termination of the Task Force in December, it is essential that the meaning of partnership be clearly delineated and that certain realities of organizing and operating partnerships derived from previous experience be acknowledged.

A community partnership, simply defined, is a sustained collaborative effort of two or more institutions in which each of the partners shares in the planning of projects and programs designed to meet a collective need and contributes a portion of the resources needed to implement those projects and programs. This definition focuses attention on the key aspects of a partnership endeav--collaborative planning and investment of independent resources-and excludes efforts which are primarily based on discrete business relationships. For example, the "privatization" of city services to private corporations is often included in discussions of community partnerships. Yet, if the privatization agreement merely entails the award of a performance contract vendor for a service designed and paid for by the city, such a simple business relationship should not be confused with a community partnership. Only in cases where the city and the private corporation jointly plan an activity and in which both the city and the corporation independently invest resources in implementing the activity, do privatization agreements fall within the partnership framework.

Similarly, the cooperation of business and government in promoting downtown economic development is often discussed within the partnership framework without careful examination of the crucial differences in the nature of the public/private relation-ship from city to city. In some cities, economic development projects involve meaningful collaborative planning between government and business and a sharing of investment, risk, and benefit. These are true community partnerships. In many other cases, however, so-called partnerships involve little more than passive city acceptance of privately planned and privately fi-nanced proposals, with minor public interest planning adjustments. It does not contribute to the impact of the community partnership concept in public policy debate to indulge in such conceptual confusion.

Perhaps the central issue in policy debate about community partnerships is the relative role which government, business, and voluntary organizations should play in initiating and sustaining partnership endeavors. Some pronouncements from the Reagan Administration emphasizing private initiatives and volunteerism leave relatively little role for government in community partnerships, apparently envisioning collaborative efforts of business and voluntary institutions as substitutes for government efforts to meet social needs. Other pronouncements place more emphasis upon the role of state and local government. A healthy dose of realism is needed to ground this debate on a more productive level.

American society is distinguished by its prominent tradition of voluntary service to society by non-profit organizations and by the contemporary emergence of corporate social responsibility. These attributes must be appreciated, encouraged, and engaged in

our collective efforts to meet social needs. However, when the magnitude of the collective needs facing American society is realistically acknowledged, there is little question that government usually must play the prime role in organizing modes of action at the appropriate scale. As indicated by the Notes from the Field and other examples of community partnerships discussed in this issue, government is almost always centrally involved in partnership endeavors, assuming the role not only because of its ability to contribute more resources than other sectors, but also because of its fundamental responsibility for collective needs. Neither business nor the voluntary sector can arrogate to itself the legitimacy of government's mandate to act in the interests of society as a whole. Nor can government, unlike business, expediently absolve itself of responsibility for social needs when profits fall.

#### NEIGHBORHOOD REVITALIZATION PARTNERSHIPS

The neighborhood revitalization efforts discussed in this section present different approaches to the construction of community partnerships. The Roanoke Neighborhood Partnership was initiated by government and reached out to the private sector for support and representation. The Kansas City Neighborhood Alliance, on the other hand, was initiated by private corporations and is organized around business-neighborhood collaboration. The Alliance relates closely, but independently, to the public agency for housing and community development in Kansas City.

Both cases are based on the premise that neighborhood revitalization requires an integrated commitment of dollars, energy, and interest between neighborhood organizations, government agencies, and private business. Each has an important stake in the stability and security of the nation's older neighborhoods. Today, the premise seems obvious. It was not so obvious a decade ago during an era of confrontation and adversarial relations between all par-

### ROANOKE

The Roanoke Neighborhood Partnership is a city-wide neighborhood development program that has brought three new sources of support into the community development process—the business community, neighborhood organizations, and voluntary agencies. Until the inauguration of the Partnership in 1980, the development process was primarily a direct operation of the city government's Office of Community Planning.

By 1978, local officials in charge of community development realized that they could not engineer private investment by themselves. They had already involved neighborhood organizations in the development process through a citizen participation system. The real problem was that the cooperation of government and neighborhoods could not convince banks and developers to put dollars and construction commitments into the older neighborhoods. The financial community lacked a political role in the community development process. If business could be brought into the planning process, then it might enter the spending process.

In 1978, the Carter Administration announced its urban policy, which was based on the partnership approach to urban revitalization. Federal, state, and local government; the business community; neighborhoods; and voluntary institutions were asked to work together. This policy gave Ro-

anoke officials the opportunity to offer business a role in neighborhood planning, without arousing antagonism from the neighborhood sector. Business responded with commitments of support from the Roanoke Valley Chamber of Commerce, the banking community, the Roanoke Valley Board of Realtors, and the Homebuilders Association.

A plan worked out under the leadership of Earl Reynolds, Director of the Office of Community Planning, for the City Council to establish a new entity, initated the Roanoke Neighborhood Partnership. This plan was influenced by models of neighborhood development in Atlanta and Baltimore. Atlanta has previously reorganized its planning process on the basis of neighborhood plans and assigned planning staff to work with neighborhood organizations. Baltimore had organized the staff of its community development department around neighborhood strategies.

The Partnership is organized around a Steering Committee, which is appointed by the City Council to oversee neighborhood development work. The Steering Committee enjoys official review and approval powers, similar to the role of the Architectural Review Board, which oversees historic preservation activities in Roanoke, or the Planning Commission, which approves planning decisions. The Partnership operates directly out of the Office of Community Planning and is staffed by an employee of that office, selected by the Partnership. It has a budget

There are two unique features of the Partnership Steering Committee which help to insure its successful operation. First, it is the official Community Development Board of the City of Roanoke. While many cities have a citizen participation unit in the community development process, that unit is generally appointed by the community development department as an advisory unit. Community development officials report directly to the Council or Mayor, without passing through an intervening official committee. In Roanoke, however, the community development agency has subordinated itself to the Steering Committee in exchange for the active involvement of different sectors which are viewed as essential to a successful community development proc-

Second, the private sector was brought into the community development process not just in reaction to federal cutbacks but as a positive force in building a better community. Thus, business does not feel put upon to fill the "gap".

Once the Steering Committee was formed, the Partnership reached out to involve a broad spectrum of individuals and groups in Roanoke. The basic premise of this outreach approach was that neighborhood residents, if organized and backed by the resources of business, voluntary organizations and the public sector, could define and solve many of the problems affecting the quality of life in their neighborhoods.

In early 1981, a city-wide Neighborhood

In early 1981, a city-wide Neighborhood Forum was held for the purpose of identifying priority needs. The Forum included workshops to: (1) define issues—positive and negative; (2) identify and connect with needed resources; and (3) develop an action plan for neighborhood projects. The workshops were open to all neighborhood residents. As many as 150-200 people attended each workshop, which were conducted by volunteer facilitators who were trained in group process.

The workshop format used participatory small groups, each with a defined work agenda. Members of the neighborhood organizations were also assigned tasks to be accomplished between meetings. All around town, neighborhood residents were preparing issue summaries, neighborhood histories, maps and surveys; then identifying, contacting and meeting new resources; and finally working closely to negotiate and refine action plans.

At the conclusion of the workshop process, city staff, consultant, and volunteer assistance was available to help groups work on priority projects. A small matching grant fund was established to help neighborhood groups reach out to the private sector and learn the mechanics of fundraising and financial management. Four neighborhoods were selected for major demonstration efforts. These neighborhoods represent the full range of social, economic, and geographic characteristics of the city.

#### KANSAS CITY

The Kansas City Neighborhood Alliance is a city-wide neighborhood development partnership of corporations and neighborhood associations. The Alliance was organized in 1980 as an initiative of the Kansas City Civic Council—an organization consisting of 100 large corporations in Kansas City.

The Council has initiated four major projects in recent years. It spawned the Council on Education, which links the business community to the local school system. It created the Kansas City Corporation for Industrial Development, which works closely with city government to retain large-scale employers in the downtown and industrial areas of the city. It founded Kansas City Tomorrow, which trains young business, community and government leaders for future responsibilities in the public and private sectors of the city. Finally, it originated the Neighborhood Alliance after several prominent business leaders like Don Hall (Hallmark Corporation), Charles Curry (Home Savings Association), and Jake Mascotte (Mutual Benefit Life) were able to convince their peers about the importance of neighborhood revitalization.

The Civic Council formed a Task Force on Neighborhood Revitalization which recommended establishing a citywide organization of community and business leaders to support neighborhood revitalization projects. The Task Force identified neighborhood-based leaders for the board, along with business members of the Council who were interested in revitalization. Finally, it recommended a support budget of \$450,000 for three years. These recommendations were adopted, and the Kansas City Alliance was formed.

The Alliance board consists of eleven members representing both business and community interests. Its Executive Director is Tony Salazar, and its program officer is Jim White. Its principal funding comes from the Civic Council which has just approved a renewal grant for another three years at a reduced funding level. The Alliance also receives substantial financial support from Hallmark Cards, the Kansas City Association of Trade, and the Ford Foundation. A new LISC target city fund of \$1,000,000 will substitute in the future for the decreasing support of the Kansas City Civic Council, and represents a strong path of growth for the Alliance.

## ACTIVITIES

Alliance activities encompass five major goals. The first major goal is to strengthen

the capacity of organizations involved in revitalizing the inner city. This involves supporting housing rehabilitation organizations in four neighborhoods; providing direct administrative assistance to East Community Team, Inc.; and forming a development organization for the Palestine neighborhood. The Alliance is also publishing a city-wide survey of neighborhood organizations.

Its second objective is to bring greater investment capital to Kansas City's older neighborhoods. The Alliance has leveraged a \$500,000 grant from LISC-a national private investment fund for neighborhood development-on a dollar for dollar matching basis; and will serve as the allocation vehicle for the resulting million dollar loan fund. The Alliance also prepares funding applications for neighborhood organizations, and identifies resourceful private sector individuals to volunteer their time to neighborhoods. It acquires materials and equipment from the private sector, operates a \$200,000 revolving Weatherization loan fund; and complies and distributes energy kits. It implements an effective loan packaging procedure among different neighborhood organizations and develops a considerable number of actual loans.

The third goal of the Alliance is to establish and nurture small-scale working partnerships between the public, private, and neighborhood sectors. Currently, for example, this involves cooperating with the Lutheran community to capitalize a \$100,000 mortgage pool to finance the rehabilitation of abandoned houses by the Westside Housing Organization (WHO). The Alliance will also assist WHO in acquiring and rehabilitating the West Penway Housing Project.

Fourth, the Alliance seeks to market older neighborhoods to residents and new buyers. This involves media coverage of neighborhood news, slide presentations on neighborhoods, mapping older neighborhoods, and

general promotional activity.

The final goal is to foster the acquisition of vacant property by neighborhood organizations so that they can better control their This means researching environment. vacant land ownership, planning strategies of acquisition, holding workshops on vacant land development, maintaining both a revolving loan fund for acquisition and a bulk buying program, and providing \$35,000 in interest free loans for vacant house acquisition by six neighborhood organizations.

## THE HORRORS OF YELLOW RAIN

# HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. HOYER. Mr. Speaker, recently two articles from Time magazine on the use of biochemical warfare by the Soviets were brought to my attention by Mr. Harvey M. Meyerhoff of Baltimore. The articles discuss allegations that the Soviets are using such warfare in Cambodia, Laos, and Afghanistan.

As you know, Secretary of State George Shultz recently released a 10page report that accuses the Soviets and Vietnam of using biochemical weapons in flagrant violation of two major international accords. The gov-

ernments of the United Kingdom and France have joined this country in calling for a complete investigation by the United Nations into these allegations. While a recent investigation by U.N. officials cited "circumstantial evidence" indicating "possible" use of biochemical weapons, this body has yet to take any substantive action or complete studies that involve entering the real combat zone in Laos, Cambodia, or Afghanistan. Meanwhile, it is estimated that 10,000 people have been killed by acid rain in these coun-

Like Mr. Meyerhoff, I am shocked and dismayed by these charges. We must mount a systematic and determined campaign to expose these vellow rain incidents and bring international attention to this shocking situation. We must not permit the smugness of a few Soviet officials at the United Nations in New York to undermine our efforts.

I urge all my colleagues to read the following articles and to begin the public dialog we need to force change in Soviet policy on this issue.

The articles are as follows:

[From Time Magazine, Nov. 8, 1982] DEADLY SHOWERS-WEAK RESPONSE TO YELLOW RAIN

seven-man United Nations team flew into Bangkok last week to investigate one of the more controversial issues to come before the international organization; accusations that the Soviet Union, through its ally Viet Nam, has for the past six years been waging chemical warfare in Cambodia and Laos.

Indeed, the team's visit itself is controversial. Just one year ago, a similar U.N. group looked into the same accusations, only to report that the evidence appeared to be inconclusive. But subsequent American and Canadian studies giving detailed evidence of deadly "yellow rain" attacks have forced the launching of a new inquiry, and the hope is that this time the U.N. will find some real

Scores of eyewitness accounts by refugees fleeing into Thailand tell the same story. Attacks in remote mountain jungles of Indochina have, according to a State Department estimate, killed at least 7,000 people. Typically, a plane sweeps in low over an isolated village, spraying a yellowish cloud or dropping bombs that burst in a shower of sticky beads. The rain, says the survivor of an April attack, feels "wet like rain and hot like chilies." The lethal ingredient of yellow rain is a poorly understood class of mycotoxins, or fungal poisons, known as trichothecenes, that apparently kill by rupturing blood vessels and inhibiting the blood's clotting ability. Within minutes of a yellow rain attack, villagers' eyes start to burn; soon after that, their skin erupts in blisters, and as internal bleeding begins, they vomit blood.

Despite mounting evidence that Viet Nam is using Soviet chemicals in its battle against anti-Communist insurgents in Laos and Cambodia, there has been little international outcry. A chief culprit, U.S. State Department officials complain, is the U.N., which had been conspicuously reluctant to investigate the U.S. charges vigorously. In a speech in West Berlin last year, then Secretary of State Alexander Haig charged the Soviets and their allies with violating the 1925 Geneva Protocol on chemical warfare and the 1972 Biological and Toxin Weapons Convention. One month after Haig's charge in West Berlin, the first U.N. team went to Thailand, but it visited only a handful of refugee camps during a brief eleven-day investigation.

While conceding that chemical warfare agents had perhaps been used, the U.N. investigators cited problems in verifying the sources of yellow rain samples, as well as questionable diagnoses of alleged yellow rain victims, concluding that the evidence was insufficient to "prove or disprove the allegations." Critics charge that the findings were no coincidence, since the head of the department sponsoring the investigation was a Soviet. Says a U.S. diplomat: "The performance was lackluster at best."

In the U.N.'s defense, officials argue that the international organization is "caught in a political vortex," needing incontrovertible evidence before being able to condemn a superpower. Meanwhile, for the victims of the deadly yellow showers, the raindrops keep

### [From Time Magazine, Dec. 13, 1982] DEADLY DOSE-NEW CHARGES ABOUT YELLOW RAIN

"The world cannot be silent in the face of such human suffering and such cynical disregard for international law and agree-ments." So declared Secretary of State George Shultz last week as he presented a new ten-page report that, for the second year, accused the Soviet Union time this and its ally Viet Nam of using biochemical weapons against native rebel forces in Afghanistan, Laos and Cambodia in flagrant violation of two major international ac-cords. Since 1975, U.S. officials charge, nearly 10,000 people have died as the result of "yellow rain," a distinctive yellowish mist that is sprayed from planes or that bursts from shells and bombs, and then falls to the ground in sticky drops. It causes an agonizing death through blistering, vomiting and internal bleeding.

Former Secretary of State Alexander Haig had previously made the accusation last year in West Berlin. According to last week's report, the U.S. has obtained from yellow-rain victims numerous blood, urine and tissue samples that are contaminated with rare fungal poisons known as mycotoxins, the key lethal ingredient in yellow rain. At a press conference that followed Shultz's statement. State Department officials showed one of two Soviet gas masks that they said had been captured in Afghanistan. One taken from the head of a dead Soviet soldier the other obtained clandestinely in Kabul, each apparently carried traces of mycotoxins, which had presumably been used in attacks against Afghan rebels. The State Department also released photo-graphs showing the skin lesions that afflict yellow-rain victims.

Vladimir Shustov, a disarmament expert at the Soviet mission to the U.N. denied the U.S. charges, describing them as "sheer invention from the beginning to the end." As proof, he cited a U.N. report due to be re-leased ths week. The result of trips to Thailand and Pakistan by a seven-man team, the U.N. investigation was undertaken when the U.S. expressed dissatisfaction with a previous U.N. probe that yielded inconclusive results last year. The latest report concludes lamely that the investigators "could not disregard the circumstantial evidence" indicating "possible" use of biochemical weapons. But the team lead by Egyptian Military Physician Esmat Ezz included "political officers" from Bulgaria and Iran. It did not enter combat zones in Laos, Cambodia and Afghanistan to collect evidence, relying instead on samples and accounts from refugees.

Canada and Thailand are the only countries that have pursued the investigation with as much intensity as the U.S. In a statement to the House of Commons last week, British Minister of State Douglas Hurd declared that his country fully supports the U.S. charges. Said he: "The continued use of [biochemical] weapons calls for a vigorous condemnation by the civilized world and further demonstrates the need for early agreement to ban possession of these weapons." France has led the way in pushing through approval of a new U.N. committee to investigate chemical-warfare incidents. The latest U.S. findings, said a French official, "can only reinforce our contiction that a rapid and effective monitoring system must be set up."

The mounting evidence is beginning to convince skeptical scientists. H. Bruno Schiefer, a once critical Canadian veterinary pathologist who studied the problem in Indochina earlier this year, agrees that the only logical explanation for the symptoms he found among victims was that they had been attacked with biochemical weapons.

U.S. officials remain disappointed by the generally muted world reaction to their accusations. One explanation, according to some experts, may be that the U.S., unfortunately, has not persuasively demonstrated that it is doing its best to document the charges. Noting that the State Department has only two part-time non-specialists collecting evidence in Thailand, a Western European diplomat says: "With all the resources the U.S. has to call on, you'd think it would have at least one qualified person working full time on chemical warfare." Still, the more other governments speak out, the more effective the campaign against chemical warfare will be.

TRIBUTE TO TED STEPIEN

# HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. MOTTL. Mr. Speaker, I would like to relate to you one of the great success stories in our Nation. Theodore J. Stepien was born on June 9, 1925, one of six children of a railroad inspector. His parents, John and Julia Stepien, immigrated to the United States from Poland, eventually settling in Pittsburgh as teenagers.

Stepien entered Schenley High in Pittsburgh and proceeded to establish himself as one of the premier athletes in the school's history, winning all-city honors in football and top accolades in basketball as the area's leading scorer. Upon graudation from Schenley High, Stepien entered the Air Force in June 1943 and later went on to combat duty in Europe as a lieutenant bombardiernavigator. He received an honorable discharge in 1945.

Mr. Stepien returned home and 2 years later, at the age of 22, founded his own advertising agency, specializing in recruitment advertising. Today, Nationwide Advertising Service is the No. 1 recruitment advertising agency in the world, ranking among the top 30 of all advertising agencies internationally. The company has a total of 35 offices in the United States, Canada, and London, England.

While developing Nationwide Advertising in Cleveland, Ted earned his bachelor's and master's degrees from Western Reserve University and in 1953 he met and married Ann Bowerman. While their life together brought him his greatest joy, her passing in 1979 brought him his greatest sorrow. Nonetheless, six daughters have become the legacy of the marriage of Ted and Ann Stepien.

Most persons would have been satisfied with the accomplishments of a Ted Stepien up to this point—but, always on the move, the colorful millionaire added another chapter to his life with his purchase of a majority interest in the Cleveland Cavaliers in June 1980.

Ted Stepien is truly an American success story.

## KIRKLAND CONDEMNS SOLIDARITY BAN

# HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. DERWINSKI. Mr. Speaker, the president of the AFL-CIO, Lane Kirkland, the outspoken champion of the Solidarity movement and of free labor unions throughout the world, continued his strong voice against the suppression of Solidarity by the Polish Communist Government. His statement was carried in the AFL-CIO bulletin, and I would like to insert it at this point.

The article follows:

KIRKLAND CONDEMNS SOLIDARITY BAN

In response to the Polish parliament action against Solidarnosc, AFL-CIO President Kirkland issued the following statement in the name of the AFL-CIO.

In outlawing Solidarnosc, the Polish government has broken its solemn compact

with the Polish people.

The AFL-CIO rejects, as a matter of principle, the right of any government to decree the structure, composition, and function of a trade union movement. That is the exclusive and inalienable right of workers. Any trade union movement that is created by a government, without the participation or consent of workers, cannot by its very nature represent the interests of workers. It can only represent the interests of the state.

By replacing Solidarnosc with a fragmented local structure, with no national center, the Polish government has laid bare its intention of depriving Poland's workers of any voice in the nation's economic and political

life. It has thus taken Poland another step down the road to social misery and chaos.

Since the imposition of martial law ten months ago, the Polish authorities had been promising to restore Solidarnosc in a modified form. These promises now stand exposed as cynical lies, designed in part to forestall a halt of Western credits.

The banning of Solidarnosc explodes the myth that the Jaruzelski junta is a force for moderation which merits the patient understanding of the Western democracies. It is an illegitimate government maintained in power only by its Soviet masters.

A government which breaks its solemn commitment to its own population cannot be trusted to honor its commitments to its foreign creditors. The AFI-CIO renews its demand that the United States government declare Poland in default of its debts and halt the flow of credits to the Soviet Union and its satellites.

The dissolution of Solidarnosc is a blatant violation of the International Labor Organization's Convention #87, guaranteeing freedom of association. The denial of employment to Solidarnosc activists—including Anna Walentinowicz, who sparked the Gdansk strike and now is kept in a psychiatric clinic—is a violation of ILO Convention #111 dealing with discrimination in employment. The Jaruzelski regime is compounding Poland's violations of ILO conventions.

The AFL-CIO, in cooperation with the International Confederation of Free Trade Unions, will demand an accounting by the Polish government at the ILO and in every international labor forum in which we participate the second of the cooperation with the International Cooperation with the International Cooperation of the Cooperation of th

For 300 days, Lech Walesa has been held in captivity and thousands of Solidarnosc members have been detained in squalid concentration camps. They, and not the Jaruzelski junta, represent the aspirations of the Polish people, and we demand their immediate release.

We shall not waver in our support for Solidarnosc—the only legitimate voice of Poland's workers.

# WAITING IN HOPE AND DESPAIR

# HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. SIMON. Mr. Speaker, if there is any one nation that should feel a special responsibility for the problems of the refugees of Vietnam it is the United States.

For that reason, it was disturbing to read the story I am inserting in the RECORD at this point which appeared in Time Magazine titled, "Waiting in Hope and Despair".

I am not sure what should be done, but I urge the administration and my colleagues in Congress to see if we cannot be of assistance to these unfortunate people.

The article follows:

### WAITING IN HOPE AND DESPAIR

The exodus of refugees from Indochina is a story of broken lives, broken dreams and broken promises. Since the fall of Saigon seven years ago, almost 500,000 boat people have passed through Southeast Asia to find new homes, mostly in the U.S., Western Europe and Australia. But an additional 175,000 refugees still languish in camps in Thailand. Because so many of them lack the skills deemed essential for resettlement elsewhere, they have come to be known in official jargon as "residuals," or people with "no guarantee of movement onward." The worst of these refugee camps is NW 82, a tropical purgatory 16 miles north of Aranyaprathet, a town on the Thai-Cambodian border. United Nations officials are not allowed to have a permanent presence in the heavily guarded enclosure. Time Bangkok Bureau Chief David DeVoss was the first foreign correspondent permitted by Thai authorities to look inside NW 82. His report:

NW 82 looks more like a concentration camp than a refugee sanctuary. A barren mud flat smaller than a football field, it was originally designed to hold 800 people. Today it is home to more than 1,900 listless Vietnamese "land people," who singly or in family groups bribed their way across Cambodia, which is still occupied by 160,000 Vietnamese troops. Jumbled together inside 27 tents, the refugees each have a coffin-size sliver of space, 6 ft. by 3 ft., in which to rest and sleep. Living conditions for new arrivals are even more crowded; they are housed in a series of bamboo tiers reminiscent of a 19th century slave ship.

Several months ago, the entire population came down with scabies. More recently, respiratory infections have been a problem, especially for the camp's 400 children. But the most serious malady is malaria. Nearly everyone has it, and some have suffered six or seven attacks. Says Tran Long, 27, a former mathematics teacher from Saigon: "Inadequate food and sanitation are our biggest problems. There are not enough latrines. The rainy season turns the camp into a cesspool."

Though it is surrounded by hostile anti-Vietnamese Khmer guerrillas and is within range of Vietnamese artillery inside Cambodia, NW 82 is not guarded by the Thai army. That task falls to the local militia, a sparsely equipped organization composed of former peasants, who are ill-disposed toward their Vietnamese charges. Several refugee women claim to have been raped, and men say that beatings are common. What is certain is that refugees who "misbehave" wind up spending the night in a red bamboo "tiger cage" 3 yds. long, 2 yds. wide and 1 yd. high.

Who is responsible for living conditions at NW 82? Thailand's supreme command insists, somewhat disingenuously, that it is the Geneva-based International Committee of the Red Cross (I.C.R.C.). The Red Cross vehemently denies any responsibility, other than medical, for the camp. Nearly a dozen Western embassies in Bangkok have joined the I.C.R.C. in asking the Thai government to move NW 82 away from the dangerous malaria-infested border. But all the legations began to backpedal when the Thais said they would comply if the countries represented by the embassies agreed to resettle all 1,900 refugees within 45 days.

Thailand's great fear is that it may be stuck with thousands like the residents of NW 82. During the first ten months of this year, 38,968 refugees were resettled, compared with 91,154 during the same period in 1981. Appearing before the executive board of the U.N. High Commissioner for Refugees in Geneva last month, Prasong Soonsiri, secretary-general of Thailand's National Security Council, blasted Western nations that have not honored their commitments

to resettle Indochinese refugees. Said Prasong; "The lesson we learn is that being too merciful could lead us to bear an endless burden, and it cannot be forecast how much longer the Thai people would want to live with the problem."

Prasong is particularly angry at the U.S., which cut its quota for Indochinese refugees from 168,000 in 1980 to 100,000 in 1981. In the end the U.S. took in 73,000. What has happened is that the U.S. Immigration and Naturalization Service (INS) has new qualifications for refugees. Says a Bangkok-based U.S. official: "Someone who was a refugee in 1976 might not qualify as a refugee in 1982. A person must be able to show he has good reason to fear prosecution. Conjecture is not enough."

During a five-day visit to Southeast Asia last month, U.S. Attorney General William French Smith discussed the problem with Thai officials. Smith said that Washington was not going to increase this year's quota of 64,000 refugees from Indochina, though he did promise that the U.S. would do its best to accept as many refugees as possible,

up to the maximum quota.

Thailand has contributed to the problem through its policy of "human deterrence." In an effort to make the country unattractive as a sanctuary, the Bangkok government has decreed that no refugee arriving after August 1981 can leave for resettlement until every refugee who arrived previously has been moved out. The policy has proved a perverse punishment for many Laotians and Vietnamese who would neet American immigration requirements because they worked for the U.S. during the war years or have relatives in the U.S.

Despite the harsh conditions, most Vietnamese say they prefer living in NW 82 to returning to Viet Nam. Indeed, more than 600 land people cluster around hospitals in three border camps, hoping to get into NW 82. Says Nguyen Quoc Khanh, 41, a former lieutenant in the South Vietnamese army, whom the Communists sent to a jungle work camp for three years: "If we can get into NW 82, perhaps we can eventually get on a resettlement list. If you lived in South Viet Nam, you would understand why people have to flee. If it takes three years, I will wait."

## LESTER WOLFE'S BOOK ON THE TAIWAN RELATIONS ACT

# HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

Mr. WON PAT. Mr. Speaker, on March 7, 1979, I was privileged to speak on the floor in support of H.R. 2479, the Taiwan Relations Act. As the Delegate from America's most westerly territory in the Pacific, and with some oriental blood in my veins, I could not help but feel strongly about his measure. I paid tribute to the honorable chairman of the Foreign Affairs Committee, CLEMENT ZABLOCKI, and all our colleagues who supported this measure, because it was deemed in the best long range interests of the United States that it and Taiwan enjoy close commercial and cultural ties. I also supported and will continue

to support the belief that any armed attack or boycott against Taiwan would be an implicit threat against the prevailing peace in the western Pacific.

I recall pointing out the large numbers of Taiwanese living on Guam and their fears for the future of their former homeland. I was happy to insert in the Record on open letter from the Guam Chinese community addressing these fears.

Now, nearly 4 years later, those fears have been greatly minimized; trade and cultural relations between the United States and Taiwan has never been better; and it appears that the Peoples' Republic of China has moved a little closer to recognizing the independence of Taiwan. So, I am happy today to welcome the emergence of a book by the distinguished former chairman of the Asian-Pacific Affairs Subcommittee, our former colleague and one who was in the forefront of this very important legislation, Lester Wolfe. I am proud to have played but little part in his documentation.

But if I may inject one disconcerting note about this act. We wrote the legislation to authorize Taiwan to have up to 15 international offices—the exact number of consulates they had before. Now they have nine and Guam is not among. I have been unable to find out just what is the holdup. All I know is that Taiwan used to have a very busy office in Guam, the gateway to America in the far western Pacific. There is still need for such an office, especially with the unsettled situation Hong Kong as the exchange place of the Far East.

### CALIFORNIA DELEGATION

# HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 8, 1982

• Mr. ROUSSELOT. Mr. Speaker, let me take this opportunity to thank my colleagues, Mr. Moorhead and Mr. DREIER, for their kind words and actions in taking out this special order tonight. Seldom in our hectic schedules are we permitted the time to reminisce over past actions, or do we take the time to thank the people who mean so much to us here. It is unfortunate that we were not able to come together during a time when more Members might participate in this special order, or under slightly more favorable circumstances. This being the case, however, I guess that I should first thank the gentleman from San Francisco for providing the reason for us all to be here tonight. Thank's PHIL-we really needed that.

It has been a great honor for me to serve with the California Republican delegation. There have been many

changes since I first arrived in 1961. In fact, it is an entirely new group of people. I guess that the delegation will be losing about 85 years of tenure with the seven of us. But the quality will remain as high as ever. It has been pointed out that we are a diverse group leaving this month. Don comes from the north, and CLAIR from the south. Pete is from the left while I am from the right. WAYNE is a relative newcomer while Bob and BARRY have been around awhile. We have all worked well together, and especially in the last 2 years, we have been able to claim a few victories with our man in the White House. It is reassuring to know that the rest of the delegation will be able to carry on with the work we have begun.

There is not much left that can be said about my friends that has not already been said this evening.

I have known Don Clausen, the dean of our delegation, for a long time. He came to Congress in a special election-like a lot of us here tonightback in 1963. He has been our voice on the Public Works Committee and one of the only Californian Republicans with enough seniority to be a ranking minority member on a committee-Interior during the last Congress and Public Works during this Congress. Despite this responsibility not many of us have ever seen him without a smile on his face. Don is effective, thoughtful, and jovial. Thank you Don for serving your country and district in such a constructive way.

CLAIR BURGENER and I met long before he came to Washington, D.C. He started out in both the assembly and State senate up in Sacramento. CLAIR is the only one of us who is leaving completely by his own design. In fact, the last 2 years must have been very satisfying for CLAIR. He was reelected in 1980 with an election that all of us dream about. He was even endorsed by the Democratic party. He has had the honor of representing probably more people within his district than anyone in the history of our democracy. He is, of course, secretary of the Republican Conference, CLAIR can best be described as a quiet, but strong and firm public servant. I am reminded of a funny reoccurring situation. CLAIR is always receiving mail addressed to Miss Clair Burgener. If his mail is anything like mine, these are the same people who usually claim to be "good and close friends" of the Member. That is OK CLAIR. With 1 million constituents you cannot possibly meet all of them, and we all know that you are a real tough guy-particularly on the issues.

What can anyone say about Bob DORNAN? I do not think I know of anyone in the House who was as sure of his positions as Bob. He is also the only person to ever invite me to go to El Salvador. He has provided conserv-

atives of all parts of the country with inspiration and direction. He has amazed us with his detailed knowledge of various issues-particularly in defense related issues. It has been a running legend within the delegation about the "Dornan Hour," otherwise known as a special California Republican delegation weekly meeting. There is no doubt that whatever BoB goes on to do now he will do it with untiring effort and dedication. The other day I ran across an old newsletter of mine that had a picture of the two of us. It was a few years back when I was a guest on his Los Angeles television show. It is amazing Bos-neither of us looks a day older, just a lot wiser.

BARRY GOLDWATER, JR. is a man who has had to fight two political battles all his adult life. The first has been as a Member of Congress. The second has been as a member of the Goldwater family. Both are very high honors and it is not a secret that he has been very successful at both. Barry has become the House expert on concepts of guaranteed privacy for the individual. He has fought very hard over the years for their success. BARRY and I came to Congress relatively close together at the end of the 1960's, early 1970's. He and I have worked together for the free market, limited Government positions we both hold. I will miss working with you BARRY.

I said earlier that the delegation was losing a lot of seniority this year. WAYNE GRISHAM is the newest Member to be leaving this year. I first met Wayne when he was running for election back in 1978. I was eager to help him out in his district-much of which I had represented back in the early 1960's-to make sure that he came to Congress. There were seven Republicans running for the nomination but none of them was more qualified than WAYNE. He has been a very successful businessman and mayor of his hometown, La Mirada. WAYNE has had a very exciting life with a wonderful family-from his early days in the war to the halls of Congress.

Last, but certainly not least in my book is PETE McCloskey. To say that I have known Pere for a long time would probably be the biggest understatement of the evening. We organized street basketball games in grammer school, playing at the Southwestern Military Academy gym. In high school we formed the South Pasadena Amalgamated Federation of Virgins. I do not think that either one of us ever expected that to be written up in the Almanac of American Politics. Pete and I sometimes do not agree on issues. He has, however, always been a big opponent of the large bloated bureaucracy. I will never forget the time back in 1977 when, as ranking minority member on Merchant Marine, he took on the Carter administrationjust like a true marine-on that domestic transportation of imported oil bill. And he won. Pete has always been a Republican and it is his maverick stands on issues that give our party the diversity and depth that it needs. We have come a long way from those early days Pete—It will be interesting to see where we both end up. Maybe working on the same issue in our perspective new jobs?

I also want to say a few words about the two friends who took the time today to take this special order. CARLOS MOORHEAD will become the new dean next year. You mentioned the time Carlos when I came to your house in 1972. I remember that very well. There were several of our colleagues on the other side of the aisle who were looking forward to us battling it out last spring. Well-we disappointed them. They figured one way or another one of us would be gone. I do not think that this will be the last time we surprise them either. You will do fine Carlos. Any time you need help, just give me a call.

David Dreier is the youngest member of our delegation. We have a very close personal relationship that I value very highly. I think that in a very short time David will have made a deserved name for himself. And I will be very quick to take my share of the early credit. In fact, there are a number of young, highly motivated members of the California delegation. It is into their hands that the responsibility now falls. I said earlier that I am confident that they will do a good job and be around for years to come.

I joked earlier about Phil Burton's role in bringing us together tonight. In an ironic sort of way I guess that this is the highest compliment that has been paid to us as a group. They could not fight us on our own ground, here in the Halls of Congress or in our districts, so they changed the lines in a controlled legislature. Some victory. The great thing about conservatives is that the more times you put us down, the higher we bounce back the next time.

Somebody once said that "You won't have me to kick around anymore."—but the seven of us say "You ain't seen the last of us." This Chamber holds many memories for me. I want to thank you ladies and gentlemen for your support and assistance throughout the years. It has been a genuine honor for me to have served here with the other six I have just mentioned, and a very high honor for me to serve in this, the people's body.

## PREVENTING OIL THEFT

## HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. CHENEY. Mr. Speaker, in passing the Federal Oil and Gas Royalty Management Act, the House of Representatives has taken an important step toward reducing the more than \$2 billion lost annually by oil and gas producers to theft. This bill requires the Secretary of the Interior to initiate new inspection and accounting procedures to insure that theft losses are brought under control. These losses

are estimated by the Department of the Interior to affect significant amounts of daily production in the

United States.

American industry has already responded to the challenge offered by this new legislation. Cypher Systems has developed a technological solution to the problem of monitoring inventories at remote sites in the oil and gas industry. This system, using microcomputer technology, allows the petroleum industry for the first time to measure accurately oil and other tankstored fluids on even the most remote and widespread facilities operating from a central location-for example, company headquarters. A petroleum inventory manager using this system can instantly determine if an unau-thorized removal of tank fluids is taking place. Access codes in the Cypher System allow operators to perform only those functions assigned to

By requiring inventory security systems on public oil leases, the Federal Oil and Gas Management Act of 1982 will set a standard for the petroleum industry which in time will insure that the U.S. Government, Indian tribes, and other oil and gas owners receive the full measure of royalties and other payments due them on their leases.

# AN ASSET TO THE COMMUNITY

# HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. HOYER. Mr. Speaker, I am fortunate to represent a county that has a tremendous wealth of talent and enterprise among its citizens. One such man—an outstanding businessman, civic activist and father—is Walter Manning Meinhardt, of Brandywine, Md.

Born in Brandywine some 47 years ago, Walter has spent his life devoted to supporting his community. He attended elementary school, junior high and high school in Prince Georges County, and after serving 2 years in

the U.S. Army, he returned to begin his career in the place of his birth.

In the interim 20 years, Walter Meinhardt has expanded a thriving concern into 20 auto parts businesses located throughout Prince Georges County. He is part owner and operator of Brandywine Auto Parts, Inc., Brandywine Auto Sales, Inc., Brandywine Sales and Services, Inc., A.D.B. Auction Systems, Campbell Brothers Auto Parts, Save More Auto Parks, Foreign Car Parts, and Bowie Used Truck and Van.

Walter Meinhardt's efforts have greatly aided the quality of life in Prince Georges. Recognizing that a cohesive program of economic development is critical to the success of a community, Meinhardt has worked to insure that businesses throughout Maryland and across the Nation actively participate in providing consumers with the best service possible.

He is the past chairman of the Prince Georges Chamber of Commerce, a member of the better business bureau and the U.S. Chamber of Commerce. He is also the 1982 president of the Prince Georges County Board of Trade. This organization is deeply committed to strengthening and enhancing the relationship between representatives of business and the residents of Prince Georges County. As board of trade president, Meinhardt has greatly expanded the influence of this able body.

Walter Meinhardt is also extremely active in charitable organizations. He has kindly devoted his time to the Red Cross, the Heart Fund, and the United Cerebral Palsy drives of recent years.

This active business and civic life is rounded out by his involvement in the political life of his community. In 1980 he was appointed to the electoral college for the State of Maryland in the national elections. He is past president of the Nottingham and Brandywine Democratic Clubs. He is also past vice president and director of the Baden Volunteer Fire Department and is a member of the Ploughman and Fisherman Club, Isaac Walton League, Ducks Unlimited, and the Southern Prince Georges Optimist Clubs.

Meinhardt the businessman, the entrepreneur, the community leader, is also a devoted family man. He is the father of eight children, and as one close friend remarked, "one seldom sees Walter without his children." Just as Walter was widowed several years ago, but he had the good fortune to remarry recently. His lovely new wife Kay has learned to cope with her recently adopted family and together they take pride in rearing their children.

Fortunately for the citizens of Prince Georges County, Walter Meinhardt is involved in nearly every aspect of life in the county. He can truly serve as a colorful advertisement

for the prosperity, growth, and ingenuity of its residents, and I am truly honored to count him as one of my dear friends.

Mr. Speaker, Walter Meinhardt will soon be turning over the reins of leadership of the Prince Georges Board of Trade to Shirley Harrer, another extremely competent and able professional in my community.

It is with great pride that I can bring to the attention of this body the fine accomplishments of Walter Meinhardt. He has provided tremendous contributions to the residents of Prince Georges County and to the State of Maryland. In recognition of that service, I offer this tribute.

## ARTHUR J. FINKELSTEIN

# HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. CARMAN. Mr. Speaker, I rise in praise of Arthur J. Finkelstein, president and founder of Arthur J. Finkelstein & Associates, a survey and political consulting firm. For more than 12 years Mr. Finkelstein has been involved with candidates and political campaigns at all levels of the electoral process. He has worked with many of my colleagues in this body. Scores of officials at State and local governments have received his counsel. He has been heavily involved in the last three presidential campaigns.

His commitment to the political process has been substantial. His intelligence, wit and good humor have been welcome additions to every campaign in which he has worked.

At a time when many think of those involved in politics as incompetent and uncaring, it is important to point to those who are capable and Arthur Finkelstein is an example of a person of outstanding ability and determined dedication. I am happy to have him as a friend and pleased to have this opportunity to bring his service to the attention of the House.

## TIME FOR A SOLUTION TO SOCIAL SECURITY DILEMMA

# HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. BEREUTER. Mr. Speaker, This Member urges my colleagues to read the following editorial from the Washington Post of December 15, 1982. Further it is urged that the Speaker and the majority party leadership act upon the recommendation of the editorial.

SOCIAL SECURITY TRUCE

It's time for some energetic white flag waving in the Great War-to-End-All-Wars over Social Security. The partisans on both sides-loosely organized under the banners of Democrats and Republicans-have inflicted and suffered their share of political casualties. The leadership is demoralized. The trust funds keep dwindling. As National Social Security Commission Chairman Alan Greenspan warned this past weekend, only a prompt and enduring truce can prevent everyone-including current Social Security beneficiaries-from ending up losers.

The difficulty now is that no one wants to take the first step toward a compromise for fear of being riddled by bullets from both sides. Mr. Greenspan, Sens. Robert Dole and John Heinz and other key members of commission are urging President Reagan and House Speaker O'Neill to help the commission agree on a compromise. But the president feels that's the commission's job. After all, as the president reminded reporters yesterday, the reason he set up the commission in the first place was to defuse the political debate over Social Security.

The commission has done its work to the extent of defining the size of the shortfall faced by Social Security, outlining a series of options and making it clear that both tax hikes and benefit restraints are necessary to solve the problem. But the members of the commission, which includes both Republican and Democratic senators and congressmen, have stopped short of selecting a recomended set of options lest they become sitting ducks for attacks by their colleagues in both parties.

That's a reasonable concern. No matter what the commission agrees to, it won't please those on the one side, who insist that no current or promised benefit shall be compromised, and those on the other, who insist that not a penny more in taxes shall be raised. Because the options are all unattractive, there is no political gain to be had in supporting a solution to Social Security's ills-real as they are.

On the mere chance, however, that our political leaders might be interested in some statesmanlike behavior, we'll suggest the terms for a possible truce. The Democrats, for their part, could promise never again to mention the Reagan administration's 1981 proposals for sharp reductions in Social Security benefits. These were ill-timed and illconceived, to be sure, but they drew attention to an urgent problem. The Republicans, in turn, could swear to forget the political hay made by the Democrats over Social Security in the last election. The Republicans deserved some criticism for loose talk about dismantling the system, but the Democrats misled their constituents by suggesting that no changes were necessary.

Then administration officals and the speaker's men could sit down with the commission members and decide on a balanced set of tax increases and benefit restraints to put Social Security on a safe course for the foreseeable future. No plan can cover every contingency, but the plan should include enought options to offer a reasonable margin of safety. All sides would then agree to push the package to early passage in the next Congress and quit attacking each other.

S. 1661—EFFIGY MOUNDS NATIONAL MONUMENT

# HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. TAUKE. Mr. Speaker, I want to extend my thanks for your support of S. 1661, a bill which authorizes the exchange of certain lands at Effigy Mounds National Monument in my district.

This exchange more clearly defines the boundary, simplifies the administration, and improves the resource protection at Effigy Mounds. According to the Department of the Interior, which supports this measure, there is no indication of any cultural or archaelogical material on either parcel of land described in the bill.

Effigy Mounds National Monument was established by Presidential proclamation on October 25, 1949, to protect a series of unique prehistoric Indian mounds overlooking the Mississippi River near McGregor, Iowa. Within the monument's 1,475 acres are 200 known mounds, 29 in the form of bear or bird effigies. Among the most outstanding is the Great Bear Mound, which is 70 feet across the shoulders and forelegs, 137 feet long, and 31/2 feet high.

Legislation similar to S. 1661 passed the House of Representatives on December 11, 1980, as an amendment to a miniparks omnibus bill, S. 924, but unfortunately, Congress adjourned before the Senate could consider the amendment.

This bill was of a noncontroversial nature, and I hope it will soon be signed into law.

# LAW OF THE SEA TREATY

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. FIELDS. Mr. Speaker, I enter the following material into the RECORD for the benefit of our colleagues:

[From Reason Magazine, October 1982] SINK THE FLOATING OPEC (By Doug Bandow)

On April 30, the United States concluded its participation in what had become a supreme act of masochism: the United Nations Conference on the Law of the Sea (UNCLOS). Though the leaders of the developing countries, and their acolytes, are now signing hosannahs to the proposed 175page treaty (or convention), with its 439 articles, President Reagan has done the world's peoples a favor by announcing that the United States will not sign it.

The treaty increased territorial sea limits from 3 to 12 miles, establishes 200-mile exclusive economic zones, promulgates rules on ocean marine research and pollution control, and provides international navigation rules. It also creates an international regulatory system governing deep seabed mining.

Unfortunately, the treaty, approved by a Conference vote of 130 to 4, with 17 abstentions, is a fatally flawed document. It is inconsistent with this country's economic and security interests and is inimical to the principles of liberty upon which our country was founded.

The treaty's most egregious flaws involve the Orwellian deep seabed mining regime that it would create; an "International Seabed Authority," rule by an Assembly and a Council, to regulate deep seabed mining and redistribute income to developing countries, and a subsidiary "Enterprise" to mine the seabed for the Authority. This interna-tional Leviathan would severely restrict the potential world supply of minerals, and in particular US access to important strategic minerals. It also would pose pernicious political precedents for future international diplomatic and economic relations.

Access to the deep seabed is important because the seabed is covered with billions of polymetallic nodules, containing cobalt, manganese, nickel, and copper. Significant sulphide deposits have also recently been

discovered.

Increasing the world supply of these resources would be of economic benefit not only to the United States but to the rest of the world. It would be of particular value to developing countries that are seeking to industrialize. Increased supplies of seabed minerals also would enhance our national security by reducing our overseas dependence on potentially unstable land-based suppliers of critical minerals, such as cobalt.

The treaty adopted in April, if accepted by the industrialized countries, would discourage any access to seabed resources. Virtually any regulatory system, however limited, tends to limit experimentation, depress productivity, and increase costs, creating inefficiencies and misallocations in the marketplace. But the byzantine regime created by this treaty is almost unique in its perversity, threatening development of deep seabed minerals in several ways.

First, the incomprehensible regulatory system is specifically designed to restrict private-sector development of the seabed. A company must survey two sites and turn one over gratis to the Enterprise before even applying for a production authorization. To then receive permission to mine its remaining site, a company must potentially compete with the Enterprise, developing nations, and other private companies. A production authorization also could be denied if the company was found to violate either the antimonopoly or antidensity provisions, which restrict the number of mine sites available to any one country-a restriction aimed at the United States.

Permission to mine would be finally subject to votes by the Legal and Technical Commission, the membership of which could be stacked, and the 36-member Council, which is dominated by developing countries. The US government has no effective blocking power, even in conjunction with other Western industrialized countries, despite their disproportionate political and economic interests in seabed mining. Hence, access by US firms would be dependent upon the whims of economic competitors. political adversaries, and nations that want no seabed mining.

Finally, the so-called pioneer investorsthose active before ratification of the treaty-would be protected by grandfather-

ing them into (not out of) the Authority's regulatory miasma. Although the four existing private seabed mining consortia and four specified companies controlled by foreign governments would each be guaranteed access to one site, other potential miners from the private sector could be frozen out by Council votes.

Second, many of the treaty's objectives are openly antimining, including "orderly and safe development," "rational manage-"just and stable prices," and "the protection of developing countries." This special-interest protectionism is also embodied in the article limiting deep seabed mining production and authorizing commodity agreements and in an article (added late in the negotiations) governing subsidies to land-based producers.

In addition, a moratorium has been placed on the development of minerals other than manganese nodules, such as sulphides, until rules and regulations are adopted by the Authority. Of course, any nation opposing further resource development could, and probably would, block any new rules and

regulations indefinitely. Third, the convention mandates the transfer of mining and processing technology from private miners to the Authority and developing countries. Technology could be interpreted to include engineering and technical skills as well as actual equipment, and there is no effective compensation system

for the unauthorized disclosure of any transferred technology.

Fourth, the treaty imposes significant fi-nancial burdens both on private miners and industrialized countries. The Authority and the Enterprise would be bureaucratic horrors, with initial start-up costs in the hundreds of millions, or billions, of dollars, and annual operating costs in the tens of millions. To fund them, miners would be subject to an application fee (\$500,000), a fixed annual fee (\$1 million), and a production, or royalty, charge, Developed countries would be required to provide subsidies in the form of interest-free loans and loan guarantees. The US share would be 25 percent. Moreover, the final session added the requirement that the sponsoring country miner be liable for the miner's obligations if the company were unable to perform.

Fifth, the seabed articles create a system of monopolistic advantages for the Enterprise that discriminates against private miners. The Enterprise gains a donated mine site for each and every site for which a developer seeks production authorization. It gains transferred technology directly from its competitors. And it receives from the Authority and from signatory nations subsidized financing and exemptions from taxes and Authority payments.

These competitive disadvantages for pri-

vate miners include specific consideration granted to 125 developing countries and some 105 "land-locked and geographically disadvantaged" countries. United

States is neither, of course.

Sixth, even the severely resticted access for private miners could be swept away by a three-fourths vote of the member nations after the Review Conference meets 15 years after the commencement of commercial production. Thus, amendments to end private mining approved by the Third World and Soviet block could take effect without the consent of the United States and the other Western industrialized nations, irrespective of the seabed investments that had been made in the intervening time. Meanwhile, prejudicial changes in customary interna-

tional law might preclude a return to open ocean access

Overall, the treaty creates an environment enormously hostile to private investment. Yet it poses a far more serious danger to this country than simply hindering deep seabed development: ratifying it would legitimize the New International Economic Order (NIEO), a form of international hemlock being served by the developing states. The Law of the Sea conference was but one of the many forums through which the developing countries have been waging economic warfare on the developed nations.

The core of the developing countries' ideology is that economic relations are a zerosum game, with rich countries having grown wealthy at the expense of poor ones. Third World poverty is seen as a legacy of colonialism, for which the industrialized coun-

tries owe reparations.

To enforce this obligation, the developing countries want to create a system of international organizations controlled by them redistribute the wealth of developed countries' peoples. Such wealth includes not only money but also resources and technology. Demands for preferential insurance and transportation rates and subsidized technologies and claims of expropriation rights all are part of this international socialist nightmare. Related to the NIEO are other totalitarian dreams, such as the New Internation-Information Order, with Third World control of the international press.

In fact, the Law of the Sea treaty is crucial for NIEO proponents, because it would radically restructure international relations. forging new, redistributionist and collectivist legal relationships between developing and developed nations. Among other things, the treaty would establish a legal duty for economically successful countries to tribute to unsuccessful ones, Third World control over previously unowned resources and proprietary private technology, and a system of international governance that does not fairly reflect America's political and economic stake in the issues involved.

US acceptance of the treaty, in the words of former Maltan UN Ambassador Arvid Pardo, "however qualified, reluctant, or defective, would validate the global democratic approach to decision making." This would greatly accelerate the campaign to instill NIEO principles in other international organizations and institutions and over other global problems and unowned resources. such as the Antarctic and outer space.

The treaty is fundamentally flawed in its philosophical conception, as well. Though neither commentators nor industrialized country negotiators have paid much attention to philosophy, preferring, instead, to focus on practical economic effects, ideology may have been the deciding factor in these negotiations: it drove and controlled the

entire process.

Indeed, the negotiations over the seabed articles were almost entirely an ideological struggle to define the meaning of "common heritage of mankind." The developing countries-the so-called Group of 77-seized the philosophical high ground, effectively setting the agenda for the entire conference. Their ideological aggressiveness essentially guaranteed, from the very beginning, that the West would lose on both the philosophical and practical issues.

The industrialized countries, instead of accepting the redistributionist "common heritage of mankind" principles supported by the Third World, should have stood firm for the fundamental notion, drawn from John

Locke, that property ownership of previously unowned resources devolves on those who identify them and mix their labor and capital with them. So vesting ownership in producers-those who take the risks and who have the greatest connection with the resources-is both moral and just. It also has historical and international precedents; the development of the American West is one example.

The treaty embodies the bizarre idea that nations are equal owners of ocean re-sources—that they are, in essence, as Robert Goldwin put it recently, "stockholders, each with an equal share of stock and the equal voting right that goes with it." This philosophy of international corporate ownership, by restricting access and confiscating earned wealth, goes far beyond the traditional principle of commons, with communal owner-ship and access. Granting ownership inter-ests to countries that don't even have contact with the resources fundamentally perverts property ownership rights.

Indeed, such self-indulgent claims of ownership are prompted by the naked avarice of some of the leaders of developing states. An oligarchy of international lawyers and diplomats would appropriate and rule in the interests of themselves and their ruling establishments back home; the fundamental rights of all individuals, including most of the citizens of the developing countries, would be venally sacrificed in the guise of international justice, fairness, and coopera-

The seabed articles offend other deeply held American values, as well. For instance, restricting entry into seabed mining, setting production limitations, limiting the number of sites for mining, and mandating the transfer of private technology all abridge miners' and consumers' economic liberties.

Such economic freedom arises from the natural right of self-ownership and the necessary corollary right to transfer and trade the fruits of one's own labor. It also arises as a necessary adjunct—indeed, prerequi-site—to political freedom, by restricting the general authority of government over individuals and by preserving private counterforces to concentrated government power. The protection of these economic freedoms was one of the prime motivations for founding our democratic system, and the reasons for their protection remain just as compelling today.

Further, creating the Enterprise, with its monopolistic advantages of subsidized funding, donated mine sites, exemption from taxes and Authority payments, and transferred technology, violates the fundamental American antipathy toward government monopolies. Such cartels possess political power as well as economic power and are able to use their political power to aggregate additional economic power. This danger is even greater with the supranational, autonomous, and supremely political Au-

What conceivable justification could there be for signing a treaty that discourages seabed development, sets dangerous political precedents for future international negotiation, and conflicts with fundamental American philosophical tenets? Some argue that the advantages of the other treaty provisions outweigh the disadvantages of the eabed articles. Others suggest that the lack of a universally accepted treaty could lead to anarchy, chaos, and maybe even war.

Both claims are nonsense. All too often we are asked to sacrifice very real philosophical and economic interests for amorphous and ephemeral foreign and defense policy objectives. The supposed advantages of the latter soon disappear; the disadvantages of the former persist.

For instance, the treaty would require eventual sharing of revenue from petroleum production from the outer margin of the continental shelf, discouraging energy development. The boundary provisions may be unsound. Marine science research would be severely restricted. And the pollution arti-

cles are at best marginally beneficial.

More important, the articles governing international navigation are not a major advantage to the United States. The location and depths of the world's straits, and the current state of military technology, suggest that America's military need for the treaty is limited. Further, economic and commercial interest make it likely that international navigation routes would remain open to commercial navigation without a treaty, even where belligerents with no respect for international law, such as Iran and Iraq, are involved.

The articles also offer little improvement over current customary international law. They retreat from free navigation in some instances and are dangerously ambiguous in others

Indeed, even if the articles were clearly advantageous, such an idealized regime of international law cannot overcome reality. Any navigational guarantees are likely to be commonly supported only so long as it is in both parties' interests to do so. History is replete with examples of countries breaking treaties when they have considered it to be in their national interest. Thus, meaningful navigation protection will come from the ability and willingness of the U.S. government to assure compliance and from the state of the bilateral or regional relations involved. Having no treaty might be marginally less efficient, but that disadvantage would not warrent accepting the costs of the other sections of the treaty.

The anguished cries of the internationalistic Cassandras about anarchy and war should not be taken seriously either. One need only look at the conduct of nations during the past two decades to see that most have behaved rationally. Simply signing international agreements in no way guarantees order; even if it did, the order resulting from this treaty would not be desira-

But rejecting this treaty will encourage reliance on a different kind of order—the spontaneous order that arises from reliance on voluntary cooperation and the market-place. Such order, based on freedom of choice and flexibility, is preferable to the totalitarian order embraced by the Third World.

The Reagan administration's decision to reject the treaty was not made simply to satisfy the commercial interests of a few mining companies. Rather, the aim was to attempt to ensure that fundamental philosophical, economic, and national security interests of the United States are adequately protected in the years ahead.

Of course, rejecting the treaty means the failure of a process nearly two decades in the making. But, the question of the kind of global structure being created is paramount, for as former Delegation Deputy Chairman Richard Darman wrote:

"... the notion of conceding [the negative international precedents set by the proposed treaty] to avoid the precedent of Conference "failure" (meaning "lack of agreement") seems absurd. It would be to trade

long-term, substantive failure for avoidance of temporary procedural failure. Trading these objectionable elements for marginal gains in the system of environmental protection and dispute settlement seems out of proportion. Trading them for questionable interests in treaty protection of distantwater military mobility seems a tie to the past at the expense of the future. And trading them to protect interests that might just as well be protected without a comprehensive treaty seems no trade at all."

Rejecting the treaty also means risking the early death of the US deep seabed mining industry, for without a universally accepted treaty, there may be no US-flag seabed mining operations. If some foreignflag seabed mining occurred under a treaty without our participation, however, the increased mineral production would still yield economic benefits to us. Moreover, if the return on seabed mining is high enough, some US seabed mining outside of the treaty is possible, since the geographical and technological characteristics of seabed mining create de facto property rights and discourage poachers, and economic or military retaliation by treaty signatories seems unlikely.

Still, in rejecting the treaty, the U.S. government should begin building an alternative ocean resource regime based on current customary international law, which provides open access to seabed resources and allows miners to mine. Such an alternative mining system would be rooted in the traditional principles of freedom of the high seas and would be intended simply to create an international mechanism to vest and protect the resource property rights of those who seek to explore and develop the seabed and to resolve conflicts between them.

The Deep Seabed Hard Mineral Resources Act, passed in 1980 to provide an interim framework until the treaty came into force, should be amended to eliminate the prohibition on actual mining before 1988. Then the government must attempt to reach an agreement with other potential seabed mining nations for mutual recognition of claims and settlement of disputes over contested claims. Though the major industrialized countries now appear to be unwilling to sign the previously negotiated "Reciprocating States Agreement." after the administration's decision not to sign the Conference treaty, they may be amenable to less-formal arrangement, including even simple parallelism, that would have the same effect.

Such arrangements would recognize that free-market seabed mining and voluntary commercial exchange exploit no one. It also would define the "common heritage of mankind" as a common heritage of unimpeded and equal access to previously unowned resources and freedom to use individual initiative to develop those resources. And it would build an international system intended to benefit all the peoples of the world, not just an elite class of international bureaucrats, lawyers, and political leaders.

In building such a system, the United States would be creating a truly just international structure, which would promote free trade and economic prosperity. In doing so, our country would be enhancing the prospects for international cooperation and world peace.

TRIBUTE TO MILLICENT FEN-WICK AND "CAPPY" HOLLEN-BECK

# HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. SHUMWAY. Mr. Speaker, it is with great pleasure that I participate in this special order honoring our departing colleagues, MILLICENT FENWICK and "CAPPY" HOLLENBECK, and I appreciate having this opportunity to pay tribute to two outstanding legislators.

Both MILLICENT and CAPPY will be sorely missed by all their colleagues here in the House, and by me in particular. They have served with distinction, and have each left a mark to be remembered. I extend every best wish to them as they prepare to return to private life, where I know they will continue to serve and to offer leadership through whatever endeavors they choose to undertake.

In particular, I would like to express my appreciation for the privilege of serving with MILLICENT FENWICK. She has set an admirable example by being not only a first-rate legislator and an outspoken champion of that in which she believes, but also a great lady. Her contributions to congressional action have been considerable, and the memories with which she leaves us are especially warm and wonderful.

My best wishes to you both, as well as my regret that you are going.

## PASSAGE OF INTERNATIONAL FISHERIES AGREEMENT

# HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. UDALL. Mr. Speaker, I was pleased to see passage last week of the United States-Japan Governing International Fisheries Agreement (GIFA) by both the Senate and the House of Representatives. The GIFA provides an orderly mechanism for managing our fisheries resources with the cooperation of our friend and ally, Japan, while substantially benefiting U.S. fishing industry.

Unfortunately, approval of this important bilateral agreement was overshadowed by a serious disagreement between our two governments concerning commercial whaling. The United States has advocated an end to commercial whaling for over a decade. At its July 1982 meeting, the International Whaling Commission (IWC), after considering the current biological status of the great whale populations, voted by an overwhelming ma-

jority of its member nations to stop commercial whaling beginning with the great whales. the 1985-86 coastal season. On November 2, 1982, the Japanese Government

responded by formally announcing that it may well continue whaling past the deadline, defying the international agreement. Norway, Peru, and the U.S.S.R. also have filed objections. Unless these objections are withdrawn and the cessation on commercial whaling honored, international cooperation in protecting the whales will be seriously undermined and the future of the great whales will be in doubt.

This development would be unacceptable to millions of people worldwide who are deeply concerned about the continued existence of these magnificent creatures. While many national governments have adopted policies similar to our own on this issue, the United States has a particular responsibility to insure that international conservation measures are enforced. We alone have the domestic legislation and the economic strength that can be used to persuade the nations favoring continued commercial whaling to change their policies.

Principal among the legislative tools available is the Packwood-Magnuson and Pelly amendments to the Magnuson Fisheries Conservation and Management Act of 1976. Upon certification by the Secretary of Commerce that a nation has diminished the effectiveness of international efforts to protect the whales, the administration is obligated under these amendments to severely limit that nation's fishery allocations in U.S. waters and to embargo the importation of its fish prod-

Short of imposing such severe economic penalties, the United States can take other punitive actions. A primary concern during congressional consideration of the GIFA renewal was whether the administration would raise the commercial whaling issue in fishery allocation negotiations scheduled for this spring.

That concern was addressed by Acting Secretary of State, Kenneth W. Dam, in a December 4 letter to Senators Bob Packwood and Charles H. PERCY. In that letter, Mr. Dam noted that the administration was prepared to undertake every diplomatic means open to it and "to use available laws and regulations, beginning this spring, to prevent Japan from thwarting the IWC cessation decision." I am pleased to see the U.S. policy on this issue affirmed in such a clear and strong manner, and I am hopeful that through the means available to the administration that it can persuade the whaling nations to abide by the IWC decision

Nevertheless, in the event that the whaling nations do not find the administration's arguments persuasive, we must be prepared to take legislative

action to insure the future survival of BRANDEIS

HON. BILLY LEE EVANS

# HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

• Mr. STENHOLM. Mr. Speaker, as the 97th Congress draws to a close. I think it is important to pause and express our appreciation to those Members who have worked so diligently in the Halls of Congress, and who will not be returning to the 98th Congress. One such individual is my esteemed colleague, BILLY LEE EVANS.

Elected in 1976 to represent the Eighth District of Georgia in the 95th Congress, BILLY has distinguished his district, his own State of Georgia, and the Nation by his dedication, hard work, and sincerity. He has done an outstanding job while serving on the Public Works and Transportation, Judiciary, and Small Business Committees. In addition, he was an effective member of the House Select Committee on Narcotics Abuse and Control.

BILLy's work and efforts have demonstrated a keen understanding of agriculture, and the need for a thoughtful and pragmatic approach in reconciling the differences of thought which exist between rural and urban constituencies. As a leading expert on bankruptcy law, he recognized the need for reform of current bankruptcy law and introduced H.R. 4786, the Bankruptcy Improvements Act of 1981; this legislation was cosponsored by over half of the House Members of the 97th Congress. His work on the House Select Committee on Narcotics Abuse and Control was outstanding, and demonstrated even further the seriousness of the drug problem in our Nation, along with measures which must be taken to combat this problem. As coordinator of the Conservative Democratic Forum (CDF), I appreciated Billy's support for attempting to bring fiscal responsibility to the House of Representatives and to the United States.

On a more personal level, I would simply like to say that I will miss BILLY's able counsel, his youthful enthusiasm, his sincere dedication, and his ready smile. I know that he will excel in any future endeavors, and I look forward to our continued association and friendship.

IMMIGRATION SCHOLAR, URGES ENACTMENT OF IMMIGRATION REFORM BILL

# HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. Solarz. Mr. Speaker, the House soon scheduled to consider H.R. 7357, a major immigration reform bill that has been carefully crafted by our distinguised colleagues, Congressman RODINO and Congressman Mazzoli.

One of the chief proponents of this legislation is Dr. Lawrence Fuchs, one of the outstanding experts on American immigration policy, and a close personal friend. Dr. Fuchs now serves as the Meyer and Walter Jaffee Professor of American Civilization and Politics at Brandeis University, my alma mater. As a member of the board of trustees of Brandeis, I am particularly proud of the contributions that Dr. Fuchs has made, not only to the academic community through his scholarship and teaching at Brandeis, but for the tremendous role he played as the staff director of the Select Commission on Immigration and Refugee Policy. Our Nation owes an enormous debt of gratitude to men like Dr. Fuchs, and to the illustrous members of that Select Commission, particularly its chair, Rev. Theodore Hesburg, who spent almost 2 years carefully studying and analyzing the ramifications of our immigration law and policies. Many of the recommendations of that Commission are contained in the legislation which Simpson-Mazzoli Immigration Reform Act now are pending in the House.

Today's New York Times contains an excellent article by Dr. Fuchs which I would like to call to the attention of my colleagues since it contains cogent arguments in favor of the legalization proposal contained in H.R. 7357 and makes a strong case for immediate enactment of this needed legislation. Mr. Speaker, I ask that this article be reprinted in today's RECORD. [From the New York Times, Dec. 15, 1982]

PROPER IMMIGRANT REFORM

(By Lawrence H. Fuchs)

WALTHAM, MASS.-The Simpson-Mazzoli bill, now before the House, is a major effort to reform immigration policy. It would do so by both affirming the importance of lawful immigration and making possible firm steps to prevent illegal immigration in the future—an approach that is often called keeping the front door open while closing the back door.

Of the major provisions in this complicated measure, the most vulnerable calls for the legalization of a substantial number of aliens who entered the United States illegally or who ceased to have legal status before Jan. 1, 1980.

The bill includes a provision to levy fines and prison terms on employers who hire illegal aliens. Opposition to this employer sanctions provision has made some proponents of legalization, notably leaders of Hispanic groups, turn against the bill as a whole. They fear, exaggeratedly I think, that employers will discriminate against foreign-looking and foreign-sounding citizens and resident aliens. Many employer groups oppose not only the sanctions but also a comprehensive legalization program that would give labor-law protection to easily exploited workers.

Certain officials in the Office of Management and Budget, partly because of sympathy with the employers' viewpoint, have peppered Congressmen with greatly exaggerated projections about benefits newly legalized aliens would claim, using numbers that vary sharply from those de veloped by the more objective evaluations of the Select Commission on Immigration and Refugee Policy and the Congressional Budget Office. Some Congressmen are understandably nervous that the public would see legalization mainly as a reward for illegality. In addition, the Administration may be losing interest in fighting for the Simpson-Mazzoli approach to legalization—named for Alan K. Simpson, Wyoming Republician, sponsor of the Senate version, and Romano L. Mazzoli, Kentucky Democrat, sponsor in the House-just to get some kind of bill passed.

What is legalization about? Why was it proposed by Presidents Jimmy Carter and Ronald Reagan and recommended unanimously by the bipartisan Select Commission after studying the question for two years?

Legalization would substantially reduce the number of people living and working in an underclass situation—people who are easily abused by employers, afraid to report health problems and even to complain to the police when preyed upon by criminals. Further, it would help develop an effective approach to future enforcement.

The illegal-alien population, estimated by the commission to be no fewer than 3.5 million or more than 6 million at any one time, many of whom shuttle between the United States and their countries of origin, is small compared to the potential for illegal migration in the future. As a result of legalizing aliens, it would be possible to interview a representative sample of them and obtain crucial information on smugglers, migration routes, immigrant origins and employment histories; this would enable our authorities to do a much better job of finding smugglers and unscrupulous employers, and to improve trade and aid strategies in order to inhibit migration pressures at the source. People concerned with enforcement as well as the benefits of immigration should do everything possible to make certain that if the Simpson-Mazzoli bill is enacted, aliens who qualify will show up.

Some critics argue that legalization would prevent Americans from filling jobs now held by illegal aliens. The fact is that employer sanctions would not be fully effective for at least seven years. Even without a legalization program, few illegal aliens would leave their jobs, many of which are for growers, ranchers and sweatshop operators, who would have no incentive to upgrade wages and working conditions to make those jobs more attractive unless forced to by a legalization program and effective sanctions.

Legalization might actually result in a net return of migrants to their own countries, partly because some would feel free to move back and forth and partly because the jobs they now hold would become more attractive to Americans. Many who remain would invest their energies in ways that profited the nation: They would upgrade their skills, pay more in taxes and generate economic activity.

The Simpson-Mazzoli bill, as first drafted, represented an affirmation of lawful immigration and an equally powerful determination to deter future flows of illegal migrants. The elimination of a strong legalization program would strike a blow at both aims. It would provide symbolic satisfaction for those who want to crack down on aliens while actually perpetuating an illegal underclass and making enforcement more difficult instead of easier.

# MILLICENT FENWICK

# HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. GOODLING. Mr. Speaker, at this time I feel privileged to pay tribute to my colleague, MILLICENT FENWICK. The House of Representatives will be less in stature without this Member.

I have shared assignments on the Education and Labor Committee, as well as the Foreign Affairs Committee. MILLICENT served with fervor, eloquence, and knowledge. I will miss her wit and her sparkle. There is a special quality surrounding MILLICENT, and that is a feeling of life. The halls of this great institution became alive whenever MILLICENT decided to take on an issue, whether it was defending the aged or attacking the wasteful expenditures by the Congress itself.

Her popularity with consitutents was obvious and justified. MILLICENT always won her congressional races with at least 70 percent of their vote.

I am sure that her retirement from the House will be followed by yet another phase in her glorious career. I wish Mrs. Fenwick well and hope that she will continue serving our country in a capacity worthy of her great abili-

IN SUPPORT OF A HOUSE SELECT COMMITTEE ON HUNGER

# HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. GILMAN. Mr. Speaker, earlier this session, my distinguished colleague, the gentleman from Texas, Mr. Leland, and I introduced House Resolution 424, legislation to establish in the House a Select Committee on Hunger. We intend to reintroduce this measure early in the 98th Congress, and we urge our colleagues to cosponsor what we believe is vitally impor-

tant legislation to assist us in according to hunger a significantly higher priority on our Nation's policymaking agenda.

The following 67 members have cosponsored this resolution: Mr. Aspin, Mr. AuCoin, Mr. Barnard, Mr. Barnes, Mr. Bedell, Mr. Bonior, Mr. BONKER, Mrs. BOUQUARD, Mr. BROD-HEAD, Mr. BROWN of California, Mr. PHILLIP BURTON, Mrs. CHISHOLM, Mrs. COLLINS, Mr. CONTE, Mr. CONYERS, Mr. CORRADA, Mr. CROCKETT, Mr. DASCHLE, Mr. Dornan, Mr. Dougherty, Mr. DOWNEY, Mr. DWYER, Mr. EDGAR, Mr. ERDAHL, Mr. ERTEL, Mr. EVANS of Delaware, Mr. Fauntroy, Mr. Findley, Mr. FORD of Tennessee, Mr. Frank, Mr. GILMAN, Mr. HARKIN, Mrs. HECKLER, Mr. HERTEL, Mr. HOWARD, Mr. HUB-BARD, Mr. HUCKABY, Mr. KASTENMEIER, Mr. KILDEE, Mr. LEACH, Mr. LELAND, Mr. Lowry, Mr. McHugh, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Mr. MINISH, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. NELLIGAN, Mr. OBERSTAR, Mr. OTTINGER, Mr. PEASE, Mr. PEYSER, Mr. PRITCHARD, Mr. ROSENTHAL, Mr. SIMON, Mrs. SNOWE, Mr. Solarz, Mr. Stokes, Mr. Traxler, Mr. Washington, Mr. Weaver, Mr. WEISS, Mr. WOLPE, Mr. WYDEN, and Mr. YATES.

Currently, those organizations supporting House Resolution 424 include: Bread for the World, World Hunger Year, Save the Children, the Hunger Project, Oxfam America, the Interreligious Task Force on U.S. Food Policy, the Community Nutrition Institute, U.S. Committee for UNICEF. INFACT, NETWORK, a Catholic social justice lobby, Clergy and Leity Concerned, Center for Science in the Public Interest, United Church of Christ, World Hunger Education Service, Center for Concern, Society for Nutrition Education, Overseas Development Council, Friends Committee on National Legislation, Church World Service, Meals for Millions, Christian Children's Fund.

We are confident that a Select Committee on Hunger will better enable our Nation to launch a comprehensive program to resolve the increasingly critical problem of hunger and chronic malnutrition.

For a discussion of the Committee objectives and the need for such a committee, I refer my colleagues to my statement in the Record of April 26, 1982 p. 7708 and Mr. Leland's statement in the Record of April 27, 1982, p. 7915.

TRIBUTE TO THE HONORABLE SHIRLEY CHISHOLM

# HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 9, 1982

• Mr. SHUSTER. Mr. Speaker, I am pleased to join with my colleagues in paying tribute to the Honorable Shirley Chisholm, who with be retiring at the end of the 97th Congress. She has courageously and effectively served the people of the 12th District of New York for the past 14 years.

I have always admired the dignity and determination with which Shirley Chisholm fought for what she believed. She has gained the respect of her peers, regardless of ideological position, for her articulate, informed, and compassionate leadership on behalf of women, minorities, and the disadvantaged.

SHIRLEY CHISHOLM'S constituency was wider than just her congressional district alone. She was looked to by many Americans as the spokeswoman for their concerns in Washington, and I am sure that she will continue to be an effective advocate of those causes outside of Congress.

This House and this Nation have benefited from the service of Shirley Chisholm, and her voice here will be missed. I wish her the best of success and happiness in her future endeavors

EXPRESSING THE SENSE OF CONGRESS ON SITUATION IN POLAND

## HON, EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES Friday, December 10, 1982

• Mr. DERWINSKI. Mr. Speaker, at the close of business Friday, House Concurrent Resolution 432 was passed by the House. Having had a hand in drafting and processing this resolution, I am naturally pleased that it was approved by unanimous consent.

The President has maintained a firm policy, recognizing that the Soviet Union directed the imposition of martial law and that top Polish military officials are Moscow trained.

Today is the first anniversary of the imposition of martial law in Poland and the imprisonment of leaders of the Solidarity Union movement. The situation in Poland is another tragic example of the suffering imposed on the peoples of Eastern Europe since the Iron Curtain was drepped by the Soviet Union.

However, the spirit of nationalism and the pride of the Polish people cannot be crushed. This resolution properly reaffirms the determined support of the American people for the people of Poland in their rightful aspirations for freedom, dignity, and economic security.

U.S. policy toward Poland is to apply whatever pressure we can until the regime there eases its crushing grip on the Polish people.

## ANTIABORTION STATEMENT

# HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. MOFFETT. Mr. Speaker, I participated in a forum on the effects of the New Federalism on the children of Connecticut, back in September. At that time, I received testimony, both oral and written, from a wide range of persons concerned about the future of our children. One statement which I received dwelled, inevitably, on the issue of abortion, surely one of the most emotional and controversial issues of our time.

I am pro-choice and will remain prochoice, whether in public or private service. I strongly believe that the Government has no right to intrude in the highly personal decision of abortion. This is a matter that must be left to individual conscience.

However, I did promise the author of the antiabortion statement that I would alert my colleagues to his concerns, which follow.

STATEMENT OF ROBERT G. MORRISON, EXECU-TIVE DIRECTOR, CONNECTICUT CITIZENS CONCERNED FOR LIFE

No subject is currently being viewed with greater concern than child abuse. And deservedly so. Many of us believe that the need to combat child abuse is so urgent that it cannot be questioned. Many see child abuse as a problem which is discrete and which can be dealt with separately by federal, state, and local authorities, and by conferences such as this one.

I believe the problem of child abuse is not discrete, but inextricably bound together with other social problems that the federal government has said are none of our business. These other problems fall into a judicially protected sphere of privacy.

Infanticide is one of these other problems. Recently, a child was born in Bloomington, Indiana. with Down's Syndrome. Infant Doe, as he was called, was mentally retarded and incapable of taking nourishment by mouth. He needed corrective surgery that was "serious but feasible." His parents refused the doctors permission to operate. They were sustained by Indiana's highest court. The so-called treatment prescribed was no food and no water. The "therapy" was death by starvation. Infant Doe died in six days. Was this child abuse? "It depends. wrote Washington Post columnist Richard Cohen, in defense of Mr. and Mrs. Doe's decision to starve their son to death. "The killing will not stop," warned another Washington Post columnist, George Will.

The uproar surrounding that court-approved homicide has now died down. The lawyer for the Does has made a very sympa-

thetic case for his clients on the CBS Morning News. Phil Donohue has administered extreme unction. The Connecticut General Assembly has declined to pass an act to protect handicapped newborn babies. Infanticide at Yale-New Haven hospital is not discussed in polite company.

So we now have a new de facto infanticide rule it will be tolerated so long as it is done in a hospital by doctors and parents using a "quality of life" or "meaningful life" standard to judge the so-called hard cases.

America's response to the Infant Doe case says more about our nation than it does about that little boy. He was, under the fifth and fourteenth amendments to our constitution, undeniably a citizen of the United States and of Indiana. Yet he was condemned to death without a trial for the crime of being a burden to his parents and society.

Richard John Neuhaus, a Lutheran clergyman long active in the civil rights and world peace movements, said it this way:

"If we say a life is without meaning, we are not are saying something about that life; we saying something about ourselves. Meaning is not ours to give or withhold: meaning is there for us to acknowledge and revere. Likewise, if we say a child is unloved, we are not saying something about that child; we are saying something about our failure to love."

No one of us here, charged with defending the meaning of our own lives—on pain of death—not even such distinguished persons as the members of Congress presiding could rationally do so. We are no more logically capable of arguing for the meaning of our lives than Infant Doe was.

Philosopher Bertrand Russell provides this challenge to all who think they can judge the meaning of their own or others' lives:

"That man is the product of causes which had no prevision of the end they were achieving; that his origin, his growth, his hopes and fears, his loves and his beliefs, are but the outcome of accidental collocations of atoms; that no fire, no heroism, no intensity of thought and feeling can preserve an individual life beyond the grave; that all the labors of all the ages, all the devotion, all the inspiration, all the noonday brightness of human genius are destined to extinction in the vast death of the solar system, and that the whole temple of man's achievement must inevitably be buried beneath the debris of a universe in ruins-all these things, if not quite beyond dispute, are yet so nearly certain that no philosophy which rejects can hope to stand.'

Child abuse has often been linked to "unwantedness." The case is commonly made, as it was in a letter to the Hartford Courant this week, that children unwanted before they are born are likely victims of later parental mistreatment. Dr. Philip Ney, the chief of psychiatry at a Vancouver hospital, disputes this. He noted that those Canadian provinces with the highest abortion rates also had the highest rates of child abuse. Dr. Ney writes:

"Having an abortion can interfere with a mother's ability to restrain her anger toward those depending on her care. Abortion might also weaken a social taboo against harming those who are defenseless. With wholesale abortions discarding nondefective unborn children, the value of children might diminish, resulting in less care and less protection. . . An aborting person, having already repressed her instinctive caring for her unborn young, might be less

inhibited in giving vent to rage at a whimpering child. . . .

Only two decades ago, parents were willing to suffer major deprivation to have and raise children. It seemed like a sacred obligation or a great privilege. Now, people balance having children with wanting a country house, another car, better vacations and early retirement. This might be observed by children in such families. As a result, they might feel less confidence in their parents' true concern for their welfare. They might then become so importunate in their demands for care and attention that their parents feel threatened. Not infrequently, the parental response to those attention-demanding children will be physical violence. . .

"Society is beginning to believe that a child has no right to exist and is therefore valued only when it is wanted. If it is permissible to kill an unwanted unborn child, then one can defend the killing of children already born when they are no longer considered valuable.

"Recent evidence indicates that many women harbor strong guilt feelings long after their abortions. Guilt is one important cause of child battering and infanticide. Abortion also lowers women's self-esteem, and there are studies reporting a major loss of self-esteem in battering parents . . . .

"Some women resent their male partners impregnating them and then coercing them to have abortions. Fathers, on the other hand, might feel hostility toward women because they have no rights in the decisions about which infants get aborted and when. The 'battle of the sexes' aggravated by elective abortion can all too easily be turned violently against children . . . .

"There is increasing evidence that previously aborted women become depressed during a subsequent pregnancy. Depression interferes with a mother's early bonding with her infant, and the children who are not bonded to their mothers are at a higher risk of being battered."

Doctor Ney's views are disturbing enough. But even more distressing is the rigidly enforced consensus of this and hundreds of similar conferences that the relationship of abortion on demand to infanticide and child abuse may not be discussed. It may well be the "wanted" child-one who is wanted by his parents as the fulfillment of some parent-defined need-who stands in greater danger of abuse. But this idea cannot be seriously examined because it is heretical, and social service "providers" are schooled in a strict orthodoxy. They will not consider the simple thought that there may be a direct correlation between what one person may "choose" to do to another before his birth and what one does to that same child later.

Connecticut Citizens Concerned for Life believes that none of these seemingly intractable problems will be ameliorated until our nation and our state re-affirm the sanctity of all human life. We must re-dedicate ourselves to the proposition that all men-regardless of age or sex—are created equal-not merely born—and regardless of handicap or wantedness. When that day comes, as surely it must, this nation and this state will enjoy a new birth of freedom.

TRAGEDY IN EAST TIMOR.

# HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

 Mr. McHUGH. Mr. Speaker, I have been concerned for some time about conditions in the former Portuguese colony of East Timor, a largely Roman Catholic territory that was invaded and occupied by Indonesia in late 1975.

In June, 1980, the Foreign Operations Subcommittee, on which I serve, held hearings on the situation in East Timor. The subcommittee focused on the serious food problems that resulted from warfare in the territory, the question of family reunification for those who wish to emigrate and rejoin family members abroad, and the broader issue of human rights violations.

These issues are still with us today, Mr. Speaker. As in 1980, there are conflicting reports regarding what is happening in East Timor, and thus many important questions remain unanswered. These issues deserve our serious consideration.

For the benefit of those of our colleagues who may not be familiar with recent developments in East Timor, I am inserting into the Record a number of items that have appeared in the press recently.

(From the New York Times, Oct. 7, 1982) Indonesia Accused of Abuses in Timor (By Bernard Weinraub)

Washington, October 6.—A bipartisan group of senators and representatives, citing reports of widespread hunger and human rights abuses in East Timor, has urged the Indonesian Government to allow international relief agencies into the area.

At the same time, the lawmakers called for a Senate inquiry into the impact of the Indonesian takeover of East Timor seven years ago and the famine and violence that have beset the island, a former Portugese colony, since then.

The Congressional move came in advance of a scheduled visit to Washington next week by President Suharto of Indonesia.

"In the past there has been very little attention paid to this tragedy, partly because no one ever heard of East Timor, and partly because access has been limited," said Senator David Durenberger, Republican of Minnesota. "The more news that comes out, the more that Congress is going to start asking some hard questions about U.S. policy, particularly arms sales and human rights policies."

### 100,000 DIE IN FAMINE

At least 100,000 people in a famine in East Timor, a predominantly Roman Catholic territory, after the Indonesian annexation.

Representative Tony P. Hall, Democrat of Ohio, said recently that the 1975 famine was comparable to the ones in Biafra and Cambodia. He said that "serious food shortages resulting from Indonesian military operations" continued but were largely unnoticed because of restrictions by Indonesia on foreign journalists and other visitors.

In recent years, an insurgency against Indonesia has added to the disruption, resulting in the loss of civil rights for the people of East Timor, according to Congressional critics of Indonesia.

"We recognize the importance of Indonesia to United States foreign policy and to stability within the region," a group of senators said in a letter to Secretary of State George P. Shultz. "We applaud as well the apparent improvements made during 1981. But we are deeply concerned that the situation may deteriorate, and we are deeply disturbed at the reports of famine."

#### U.S. IS ASKED TO MEDIATE

The senators, including Daniel Patrick Moynihan, Democrat of New York, and Alfonse D'Amato, Republican of New York, urged the Indonesians to permit "humanitarian contributions of food and medical supplies for the Timorese," as well as a "complete survey of the actual situation in East Timor by appropriate international relief and humanitarian agencies."

The senators also called on the Reagan Administration to "mediate with the Indonesians" to allow the reunification of families in East Timor and Portugal.

Among the signers of the letter to Mr. Shultz were Senators Henry M. Jackson, Democrat of Washington; Nancy Landon Kassebaum, Republican of Kansas; Richard G. Lugar, Republican of Indiana; John Heinz and Arlen Specter, Republicans of Pennsylvania; Carl Levin, Democrat of Michigan, and Mark O. Hatfield, Republican of Oregon.

Senator Charles H. Percy, Republican of Illinois, chairman of the Foreign Relations Committee, was urged to hold hearings to "determine as accurately as possible the actual situation in East Timor."

The senators said the Indonesian takeover, which followed the collapse of the Portuguese colonial system, "resulted in the forcible annexation of East Timor."

"United States policy has been to accept this unilateral annexation as a fact of life without recognizing that an act of selfdetermination by the Timorese people has taken place." they said.

[From the New York Times, Oct. 9, 1982] FORGOTTEN SORROWS IN TIMOR

Aggression forgotten is aggression rewarded. Because Britain could send a fleet to the Falklands, Argentina paid in bitter coin for its seizure of the islands. Indonesia had better luck seven years ago: it grabbed East Timor, a former Portuguese colony, and heard only token protest. The principle was the same but Indonesia's crime is nearly forgotten.

Yet not wholly forgotten. On the eve of President Reagan's meeting with Indonesia's President Suharto, a bipartisan group in Congress has asked America not to avert its eyes.

East Timor was indifferently governed from Lisbon for 400 years. Its half-million people, predominantly Catholic, were unprepared when independence was thrust upon them. But at worst, it was a slum; now it is a wasting prison. As many as 200,000 people may have perished under Indonesia's occupation. And the denials of ill treatment remain implausible as long as Jakarta refuses both free exit to Timorese and Portuguese nationals and unimpeded entry to relief organizations.

At the very least, Indonesia's rulers have to be persuaded to open the doors to East Timor. But there is nothing persuasive about a United Nations that regularly threatens Israel for much lesser transgressions while gently chiding Indonesia for the abduction of a whole people. And it does not help for the United States to mute its protest in gratitude for Indonesia's anti-Communism.

Protesting the situation in East Timor is not just a matter of arraigning a new nation for what the old colonial powers used to do with impunity. It is a way to help the United Nations and world opinion elevate standards of conduct. What other help is available to a remote and vulnerable people when their cause dwindles to a footnote?

Creditably, though tardily, Portugal is not shrugging. Prime Minister Pinto Balsemao reminded the General Assembly last week that he still cared. He appealed for using all mechanisms of the U.N. to find a remedy. Maybe the effort would fail. So far, it hasn't really been made.

[From the New York Times, Oct. 11, 1982]

# A SMALL, FAR-OFF PLACE (By Anthony Lewis)

President Reagan is host in Washington this week to President Suharto of Indonesia. The visit is inevitably going to be, in large part, an occasion to compliment an Asian leader important to the United States. But there is one uncomfortable issue that Mr. Reagan must raise if he is fairly to represent American concerns.

The issue is East Timor. It is a small place, one of the most remote and obscure on earth. But in recent years more and more people in the world, including U.S. Senators and Representatives, have become aware of terrible things happening in East Timor and have spoken out. The issue nags at the considerate.

science.
East Timor is a former Portuguese colony, the eastern half of an island north of Australia. The western half of the island was part of Indonesia. When Portugal abandoned the colony in 1975, Indonesian troops marched in, crushed an independence movement, occupied the territory and declared it a province of Indonesia.

Famine followed the invasion. At least 100,000 people died—nearly a fifth of the population. The human misery may have been comparable to what happened in Cambodia, but few outsiders knew about it at the time.

Indonesia has kept the territory largely cut off from the outside world. Until recently no foreign journalists or government representatives were allowed to visit East Timor. The Timorese are not allowed to leave, with few exceptions.

In response to foreign pressure, in part from the United States, the Indonesian Government has permitted some visitors recently. It signed an agreement with UNICEF for a primary health care project, though UNICEF was not permitted to have a representative stationed regularly in East Timor. The International Committee of the Red Cross was allowed for the first time to visit a detention camp for Timorese suspected of political unreliability.

ed of political unreliability.

Last spring a Philadelphia Inquirer reporter, Rod Nordland, spent 11 days touring East Timor. He found signs of continuing hunger and of represssion by the authorities. People who talked with him were later summoned to military intelligence head-quarters and interrogated. He said no one may leave his village without permission. He reported that many people have been taken from their homes and put in resettlement

The few available sources do not all agree with Nordland's dark picture of life in East Timor. Barry Wain of The Asian Wall Street Journal reported pockets of hunger but not major famine. But those in Washington who collect what information there is on the territory feel there are at least renewed reasons for concern.

Last winter the Red Cross, after its people visited the territory, said the 1982 crop had failed and there would be no significant harvest. Assistant Secretary of State John D. Holdridge, in testimony last month that tried to put the best light possible on everything Indonesia was doing, said the harvest was merely bad.

The worst threat of renewed disaster would be another big Indonesian military operation against pro-independence guerrillas in the mountains. There was a massive sweep last year that all the experts agree had devastating effects on planting and the whole agricultural system. Nordland reported that the Indonesian Army forced every male Timorese 13 and older to join in trying to flush the guerrillas out of the mountains.

That is what we know as President Suharto comes to Washington. The situation in East Timor is obsecure but worrying. The United States has little direct leverage—no big aid program for Indonesia, for example. But expressions of concern from our government, and others, have had some effect on Indonesian practices: opening the territory to a certain extent, allowing relief efforts.

On the eve of the Suharto visit an unusually broad group of Senators and Representatives expressed new concern about East Timor. Republicans and Democrats along a wide spectrum wrote Secretary of State Shultz of concern at reports of famine. Others called for Senate hearings on the "forcible annexation of East Timor." Members cited reports of human rights abuses and asked specifically that international relief agencies be allowed to operate freely in the area.

President Reagan's responsibility in these circumstances is clear. It is to bring home to President Suharto that what happens in East Timor matters to the United States.

He can do that without trespassing on the friendly atmosphere he wants for the visit. We are glad, Mr. Reagan can say, at recent steps on East Timor—the visits by relief agencies and journalists, for example. But we are anxious about reports of hunger and crop failure. Can the United States help? May our aid people have a look? And we hope you will take further humanitarian steps to let people leave East Timor to rejoin families abroad.

The important thing is simply to raise the

The important thing is simply to raise the question of East Timor. Not to do so would be wrongly understood as a signal that there is no real American concern. Many people engaged in the issue believe the Indonesians should be pressed to leave the tertiory altogether, allowing the Timorese to choose freely what government they want. But humanity requires at least a signal that

[From the Daily News, Oct. 13, 1982] REAGAN, SUHARTO HUDDLE (By Bruce Drake)

Washington.—President Reagan yesterday met with Indonesian President Suharto, but administration officials refused to say whether they discussed the sensitive issue of alleged human rights abuses by the Suharto government in East Timor.

A bipartisan group of senators and congressmen last week had told Secretary of

State Shultz of their concern over reports of widespread hunger and violence on East Timor, a predominantly Catholic former Portugese colony annexed by Moslem Indonesia seven years ago. It is estimated that about 100,000 people have died of famine on the island.

An administration official who delivered the press briefing after the 90 minute White House meeting grew irritated when pressed about the subject. He repeatedly refused to say anything other than "our policy is to rely on quiet diplomacy—this is an issue we do not bring up in public."

Reagan has frequently condemned the human rights policy of former President Jimmy Carter, who publicly attacked human rights abuses in other nations.

"Sixteen questions and no answers," a reporter shouted at the senior administration official after the briefing. The official responded. "That's what I'm paid for."

In the White House meeting and in public remarks, Reagan assured Suharto, on his first visit in 12 years, that the United States considered the anti-Communist alliance to which Indonesia belongs—the Association of Southeast Asian Nations—as the keystone of its policies in that part of the world.

Reagan also assured Suharto that the U.S. would not let its efforts to maintain good relations with China interfere with its support for allies in Southeast Asia.

Indonesia and China have been on bad terms since the 1960s, when Indonesia broke off diplomatic relations in part because of reports that China had encouraged Indonesian leftists in a coup attempt.

## [From the New York Times, Oct. 17, 1982] FILLING THE VOID IN JAKARTA

The name of the American Ambassador to Jakarta was missing from the White House guest list last week when Indonesian President Suharto came to call. The embassy has been vacant for months, a vacuum filled by hurt feelings in Jakarta, the State Department and Congress and exacerbated by international character assassination and gossip about Mr. Suharto's friendships at the Central Intelligence Agency.

President Reagan cleared the air by giving the ambassadorship to Assistant Secretary of State John H. Holdridge, an old Asia hand. "Very good," the Indonesian leader commented, "a great honor." All was not sweetness and light, however. As requested by 84 members of Congress, "the tragic situation" in East Timor was discussed.

There have been reports of continuing fighting and widespread hunger and human rights abuses in the Portuguese colony seized by Indonesia in 1975 and unconfirmed estimates of the tens of thousands of deaths. Many inhabitants have been forced into coastal areas with little arable land. Amnesty International recently reported 4,000 prisoners were being held on Atauro island offshore.

American officials declined to comment on the Timor talks, saying they were pursuing "quiet diplomacy." Foreign Minister Mochtar Kusumaatmadja said alarming reports about the island were untrue; reporters had been largely barred from Timor, he said, because roads were bad and helicopter travel was "very costly."

While they were in town, the Indonesians sought and received reassurance that Washington was not planning to give Japan "some policeman role" in the Pacific. The Japanese military is remembered in Jakarta as World War II oppressors. "We prefer to

defend ourselves," Mr. Kusumaatmadja said.

[From the New York Times, Nov. 8, 1982]
"EXTRAORDINARY BRUTALITY" IN EAST TIMOR
To the Editor:

In an Oct. 14 news article, "Indonesia Defends Role in East Timor," Foreign Minister Kusumaatmadja is cited as saying that reports of human-rights abuses against residents of East Timor are "untrue."

Amnesty International has followed the human-rights situation in East Timor since the territory was invaded by Indonesian forces in December 1975, and we find the Foreign Minister's comment disturbing.

It has been evident to Amnesty International in investigating the situation in East Timor that human-rights violations occur there within the context of an occupation of extraordinary brutality in which a whole range of fundamental human rights have

been denied the population.

We believe that the population of East
Timor has been systematically denied the
rights to freedom of expression, association,
assembly and movement. Persons exercising
their right to petition the government for
redress of grievances have been arbitrarily
detained. Movement and communication
within and beyond East Timor has been
tightly controlled.

We are also disturbed by the Indonesians' failure to investigate a number of cases of human-rights violations in East Timor.

human-rights violations in East Timor.

One case involved "Operation Fence of Legs." Undertaken by Indonesian forces from July to September of 1981 with the aim of eliminating Fretilin forces (the movement for an independent East Timor which resisted the Indonesian invasion), its strategy was to deploy tens of thousands of Timorese to form human fences that converged on and flushed out remaining Fretilin forces.

Reports indicated that civilians enlisted for this operation were required to advance in front of Indonesian forces and were unarmed or armed only with primitive weapons. While it is not possible to gauge the number killed in the operation, it is clear that many did not return to their homes.

We also received extensive reports of torture of detainees during interrogation. Forms of torture described in those accounts include burning with red-hot irons and cigarettes, electric shocks to the genitals and other parts of the body, extraction of finger and toenails with pliers and slashing with knives.

We have raised these concerns with the Indonesian Government. So far there has been no response.—LARRY Cox, Deputy Director, Communications, Amnesty International, New York, Oct. 22, 1982.

[From the New York Times, Nov. 21, 1982] Indonesia Squeezing Guerrillas in East Timor

## (By Colin Campbell)

JAKARTA, INDONESIA, November 16.—Western diplomats here say the leftwing guerrila movement that has warred since 1975 against Indonesia's occupation of the former Portuguese colony of East Timor has been reduced to a force of several hundred.

It is still capable of conducting raids, the informants say. But they describe its prospects of entering into any kind of powersharing arrangement with the Indonesians as minuscule.

For a few months at the end of 1975, the guerrilla movement, known as Fretilin, con-

trolled the provincial capital of Dili and large parts of the interior. The Portuguese had abandoned the colony, and the guerrilla movement, whose name stands for the Revolutionary Front for an Independent East Timor, had vanquished its Timorese enemies with the help of arms acquired from the Portuguese Army garrison.

#### CIVILIANS HERDED INTO CAMPS

But then tens of thousands of Indonesian troops forced the group to retreat into the island's rugged uplands. It reportedly took thousands of its followers with it.

Many of the guerrillas' civilian supporters, however, are now said to have been herded by the Indonesian Army into new settlements or detained. The local popularity of the guerrillas has waned, according to diplomats who recently visited the island.

Although the Indonesian Government has restricted all access to the guerrillas' areas of operation for years, several Western embassies here place the rebels' strength at between 200 and 400 armed men. Other recent estimates have placed the figure as high as 600

The hard core can sometimes call on supporters to help it fight, all sources agree. But its total strength is said to be shrinking, and most Western estimates of the organization's military strength are little higher than the estimates offered by the Indonesian Government.

Western diplomats say they do not think that the guerrillas have received any weapons from abroad. How much remains of their Portuguese ammunition is unknown, but they are said to have managed to seize some American-supplied weapons from Indonesian troops.

The guerrillas are thought to be suffering from food shortages as the Indonesian Army has extended control over civilian settlements that might have once supplied them. Hunger has caused some guerrillas to surrender; others are said to depend on armed foraging.

"Whoever's up in the mountains, they're starving," said Patrick C. Johns, director in Indonesia for Catholic Relief Services, which supervises an agricultural development project west of Dili. "They come down to steal cows, to steal food."

Mr. Johns said he believed the Government was consolidating its control. For example, he said, there were formerly 13 military checkpoints along the 50-mile main road between Dili and Baukau on the northern coast. "Now I don't think there are any," he said.

### TIMORESE INDUCTED

Despite the gains made by the Indonesian Government, fighting broke out again last August, and several guerrilla raids apparently were well organized.

Government efforts to extend control included the launching in July 1981 of a large drive against the guerrillas in which thousands of Timorese were inducted to precede army troops and sweep across large areas on foot. Amnesty International, the Londonbased human rights organization, and several diplomats here say that the operation resulted in civilian deaths and that it kept farmers from harvesting their crops.

Two of the four Government battalions in East Timor, the 744th and the 745th, are identified as Timorese, and some reports have said they have been responsible for some civilian deaths.

[From the New York Times, Nov. 28, 1982]
EAST TIMOR'S FOOD SITUATION IS REPORTED
IMPROVING

#### (By Colin Campbell)

JAKARTA, INDONESIA.—Western diplomats and international aid workers here who have traveled in East Timor over the last few months say that food supplies there are gradually increasing.

They said that fears that famine might be imminent in the area, which Indonesia annexed in 1976, were exaggerated. Most visitors also said reports charging that Indonesian authorities had violated human rights in East Timor through dentions and other actions had been difficult to investigate.

Western correspondents have been denied permission to do reporting in East Timor. One reporter's requests were turned down on the ground that there were too few helicopters to transport a visitor across its roadless mountain terrain, and that the province's newly appointed Governor, Mario Carrascolao, needed "time to breathe."

East Timor, a former Portuguese colony on the eastern half of an island about 350 miles north of Australia, was invaded from the Indonesian western half late in 1975 and declared Indonesia's 27th province in 1976. The United Nations General Assembly has refused to accept the annexation, although its votes on the issue have narrowed.

#### 100,000 MAY HAVE DIED SINCE 1975

More than 100,000 of the province's original 650,000 people are believed to have died between 1975 and 1980 as a result of civil war, invasion, the resistance of Timorese Fretilin guerrillas and famine. The famine, in the late 1970's, has been attributed to the dislocation of farmers.

It was reportedly brought under control by early 1981 with the aid of international food shipments, mostly from the Untied States. But renewed concern had been raised by warnings late last year by the head of the province's Roman Catholic Church and by a report of malnutrition published last spring in The Philadelphia Inquirer after an 11-day tour of East Timor.

A point of wide concern is that several Timorese settlements have been cut off from their fields by the Indonesian Army for security reasons. According to Pierre Guberon, the delegate here of the International Committee of the Red Cross, imports of food are needed in four such settlements—Iliomar, Luro, Turiscai and Laclubar.

The heads of the Indonesian offices of the United Nations Children's Fund and the American-based Catholic Relief Services, both of which run aid programs in East Timor, said that their own travels and reports from field workers provided no evidence of impending famine.

"We're flip-flopping all over the place in our helicopter," said Victor Soler-Sala, the Unicef representative. "If there was the slightest sign of famine—not even famine, just severe hunger—it would be dealt with immediately."

He said food stocks and the general level of nutrition in East Timor appeared to him no worse than on other backward islands at the eastern end of Indonesia, and that over the course of a year he had seen nutrition improve.

He said the Indonesian Government was spending more per capita on East Timor than almost anywhere else in the country. He attributed this in part to what he described as the diplomatic trouble that reports of famine in East Timor had caused.

Unicef supplies food, health care, clean water and Indonesian-language instruction to mothers and children in seven settlements of eastern and central East Timor.

Patrick C. Johns, director of Catholic Relief Services, said that from his more limited observations along the north coast, people were not starving. His organization, which was the primary relief agency in heavily Catholic East Timor during the famine, is now supporting an agricultural development project in the Loes River valley west of Dili, the provincial capital.

Aid officials and diplomats who have visited the island have noted that East Timor is still poorly fed by world standards, that its agricultural future is precarious and that a drought affecting most of Indonesia also

affects Timor.

## HON. BOB SHAMANSKY

# HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

• Mr. UDALL. Mr. Speaker, it was with regret that I learned that Bos Shamansky of Ohio will be retiring from the House at the end of this term.

Bob is not afraid to put his conscience first, and he acquired a reputation here for defending the defenseless. He always fought hard to turn the energies of Government to the aid of disadvantaged Americans. That speaks of a special commitment.

All the while, Bob Shamansky was fair and decent and a credit to this Chamber and to the people of Ohio

who sent him to Congress.

I wish Bob and his family well and hope their future wil be bright and rewarding.

### THE MX MISSILE

# HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

 Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, December 15, 1982, into the Congressional Record:

THE MX MISSILE

President Reagan has decided to base 100 MX missiles in super-hardened shelters in a closely spaced field, called "dense pack" by the press. The 100 MX silos would be 1,800 feet apart in a column 14 miles long. In theory, the MX missiles would be close enough together that attacking missiles would destroy each other, but far enough apart that any warhead could destroy only one MX.

one MX.

The President's proposal responds to a real problem. The United States has maintained strategic deterrence by means of a triad of land-based missiles, manned bombers, and submarine-launched missiles. The legs of the triad act in concert to complicate Soviet attack planning and to hedge against

a possible technological breakthrough threatening any single leg. The Soviet Union has now deployed missiles of such quality and quantity as to jeopardize our land-based missiles. It is this weakness in our strategic forces that the MX attempts to correct. It is designed to put Soviet forces under the same sort of threat our own forces are presently under.

There are two central questions on the MX. The first focuses on the need for the missile itself; the second focuses on "dense

Proponents argue that the MX will allow the United States to reduce, if not eliminate, our relative inferiority to Soviet missiles. It is also a good "bargaining chip" in talks with Moscow on reducing strategic nuclear forces. It could be scrapped in return for reductions in large Soviet missiles. It is time to modernize the present Minuteman missile force in any case, and the MX would be more reliable. It would be relatively cheap. Killing the MX missile outright would not be wise at a time when we are trying hard to keep our nervous Western European allies from reneging on the commitment to keep intermediate-range nuclear missiles on their soil.

The arguments against the MX are that it is not needed to pose a serious threat to Soviet missile silos. By improving the size and quality of our warheads, Minuteman missiles could also threaten those targets. Without a survivable basing mode the MX undermines American security because it adds nothing to our ability to retaliate after attack, but it creates the perception among the Russians that America is moving toward a first-strike capability. Faced with that purpose, the Russians might adopt a launch-on-warning policy and fire first in a crisis. As seen from this perspective, the MX raises the risk of war.

My own view is that the MX remains an essential ingredient in American nuclear strategy—as long as a secure base is found. It provides a better mix of accuracy and control than do submarine-launched missles, and it permits us to offset the Soviet advantage in the number of warheads carried by their missiles. It is a potent "bargaining chip" in talks on arms control.

The second major question with regard to the MX is how to deploy it in a way which would insure its survival against increasingly accurate Soviet missiles. More than 30 basing techniques have been considered by several administrations, all including variations on three basic approaches: The MX could be deployed in underground silos, carried on a moving platform, or moved randomly among a large number of covered launch sites. President Reagan has at least twice announced and then renounced basing plans for the missiles.

The President's choice of "dense pack" is founded on the theory that if American missiles are close together they would not be wiped out in a single attack—incoming Soviet warheads would be so close that the first few to explode would disable the others. This phenomenon is referred to by the experts as "fratricide."

Critics of the President's proposal argued that "dense pack" does not solve the problem of vulnerability. They have suggested several things which the Russians could do to avoid fratricide. Some of them would depend on the near simultaneous explosion of incoming warheads. Others would depend on pinning the American missiles in their shelters by detonating weapons in the air above the missile field. Some critics deny

that silos could be hardened to the degree necessary to withstand the destruction of neighboring silos. The arguments are extremely techical, and there are few Americans qualified to make the calculations involved. But it is significant that no expert outside the government has declared unambiguously in favor of "dense pack," and many have declared against it. Even the Joint Chiefs of Staff recommended against it. If the United States deploys the MX in "dense pack," however, it could very well in-crease strategic instability. Rather than waiting to retaliate, each side would have an incentive to shoot first. Accurate missiles which have little chance of surviving attack represent the most dangerous combination possible.

My conclusion is that very little is really known about fratricide. There is no demonstration of the feasibility of basing our strategic defenses upon in. Consequently, I do not have high confidence that "dense pack" will deal with the problem of vulnerability. The administration has given the cost of the missiles in the dense pack basing mode as \$26 billion; this would be a gigantic waste if the MX is not survivable in this mode. I also believe that the Soviets have available to them measures to counter "dense pack" within a few years of initial development. Therefore, I think that the value of MX as a deterrent will diminish rapidly.

I doubt if the dispute over the fate of the MX will be quickly resolved. Congress began debating the issue in 1974; it started considering methods of basing the missile in 1977. There is, in any case, no rush in funding the production of MX, for it will be at least three years before a basing mode can be completed. Congress should continue funding the development of the MX missile, but we should send "defense pack" back to the Pentagon for further analysis.

CHILD WELFARE

# HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. MOFFETT. Mr. Speaker, the lameduck session is quickly drawing to an end, but before it concludes I want to insert in the RECORD a view on child welfare from a constituent in my home State of Connecticut.

The House narrowly approved last night a new continuing resolution to fund various programs during fiscal year 1983. The administration is now at work preparing its budget request for fiscal year 1984. From reports leaking from this endeavor, we can expect more grim and outrageous proposals to cut funds for children's services.

When the budget request is submitted to Congress, I hope that Members of the 98th Congress will remember the words on child welfare of the constituent to follow. And, please keep in mind that while children are one-third of our population, they are our entire future.

Statement of Mary LaForge of New Canaan, Conn., speaking for the Coalition for Basic Human Rights, which consists of representatives from social, civic, and religious organizations in Stamford, Darien, New Canaan, and Greenwich, Conn.:

The "New Federalism" is the next step in the abandonment of Federal responsibility for seeing that essential human services are provided. It ignores differences between States with regard to economic resources, and political unwillingness to care for the needy.

Even under the present system of 50% or more Federal funding, a rich State such as Texas has welfare allowances which are almost as low as those in Mississippi, the poorest State in the U.S. Even a State such as our own Connecticut, which is among the very wealthiest in the country, provided allowances for families with dependent children which are well below what is needed for basic necessities—even when supplemented by food stamps and energy assistance

Actually, the "New Federalism" has been underway for almost a year now. The block grants, deregulation, funding cuts, and program changes which were instituted in fiscal year 1982 were the first steps in the abdication of Federal responsibility. This set the stage for reduced services, diminished accountability for the use of Federal dollars, and political competition among needy constituents for pieces of the smaller pie.

In its latest proposals, the Administration aims at further application of the block grant principal until there is a wholesale, no-strings-attached system, while Federal funding is cut back more and more. The ultimate aim was stated by the President in March of 1981, when he said: "I have a

dream.

I think block grants are only the intermediate steps. I dream of the day when the federal government can substitute for those the turning back to local and state governments of the tax sources we ourselves prempted here at the federal level so that you (the states) would have those tax sources.

Here in Connecticut where we have many wealthy people and highly paid executives, we already have rich tax sources, but most legislators have been unwilling to tax those sources with a comprehensive income taxeven with the present federal income tax cuts. Instead, services have in general been reduced to conform to reductions in federal funding and tightening of eligibility. I am not hopeful that, under the "New Federalism", the state would retune its tax structure and raise enough revenue to provide adequate support and services for the poor, as federal funding diminishes or disappears, even if more tax resources are returned to the state and Medicaid is largely taken over by the federal government.

Essential assistance to poor families with children was inadequate before this Administration took office. It became more inadequate and unfair in FY 82, and will be further eroded under the FY 83 federal budget.

What will happen to children of the poor here in Connecticut and elsewhere if in addition the federal government now moves AFDC over to the states with little or no federal funding, while at the same time cutting back on Medicaid—for example, by eliminating so-called "option" services such as eyeglasses and dental care and medical care for non-welfare poor families, services provided now by Connecticut and some other states?

What will happen to these children if all those other programs are turned back to the states with reduced and eventually no feder-

al funding, with states ultimately free to do what they want—services such as child welfare, child health care, preventive health services, child nutrition, social services, including day care and protective services, education, etc.?

The latest Census Report says that one in every five children in the U.S. is in a family with an income below the unrealistically official poverty level—that's 20% of the children in this country—and the number has been increasing as unemployment rises. Even in Connecticut, there were as of 1980-81 around 100,000 children on the welfare rolls, with many others in poor families which do not qualify for assistance—more of them now that so many of the working poor have become ineligible for cash assistance, or free medical or day care under last year's budget act.

It is nonsense to say in effect that it is not a matter of national concern whether over 20% of the Nation's children are enabled to grow up healthy and equipped to be self-supporting and productive. One of the main reasons the national school lunch program was launched was that there were so many unhealthy, malnourished young men from poor families who were no use as draftees for the Army. So even from a narrow military point of view, the developing "New Federalism" is jeopardizing the future of this country.

If the Nation neglects this large segment of its precious human resources, we will have increased numbers of unhealthy, uneducated, unemployed, and alienated people who will become burdens instead of resources—not only for our local communities and states, but for the Nation as a whole.

## FIORELLO LA GUARDIA'S MEMORY LIVES ON

# HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. BIAGGI. Mr. Speaker, last night the National Italian American Foundation used the occasion of Fiorerllo H. La Guardia's centennial birthday to present its first annual Fiorello H. La Guardia Public Service Award to my good friend and distinguished colleague from New Jersey, Peter W. Rodino, Jr.

The award, which honors the public servant who best exemplifies the traditions and high standards established by Fiorello La Guardia, was certainly well deserved. Like La Guardia, PETER RODINO has served this body and the Nation with great distinction.

Earlier this year, I authorized a resolution that was unanimously adopted by the Congress honoring the centennial birthday of Fiorello La Guardia. In that resolution, I stated:

His public service career serves as a benchmark from which others are judged—his many accomplishments and the honesty and fairness which characterized his work continue to serve as an inspiration to all Americans, particularly those who share his Italian heritage.

These same words can certainly be applied to the life and work of Peter

Rodino. How fortunate this Nation was to have such an able and respected man leading the House Judiciary Committee during the difficult days of Watergate. How fortunate his Newark constituents are to have such a committed and effective Representative in the Congress. How fortunate we are to have such a wise and diligent colleague to help us deal with the tough problems our Nation faces.

Mr. Speaker, I am particularly pleased that the National Italian American Foundation has—through this award—established a constant reminder to all Americans of the tremendous contributions Fiorello La Guardia made to the betterment of our Nation. I feel strongly that his life and work can and should continue to inspire others. That is why I authored my resolution commemorating his centennial birthday, and that is why I applaud the National Italian American Foundation for establishing this award.

It should be noted, though, that this award is only a part of the foundation's outstanding work on behalf of all Americans, but particularly those of Italian heritage. During its 8-year history, the foundation has grown to become a major, and influential, voice for the Italo-American community.

A brief review of their work shows that they have established a valuable undergraduate college scholarship program and a highly commendable legislative intern program for graduate students. They serve as an effective and much-needed liason with Italian-American Members of Congress. They have been a driving force behind efforts to eliminate antidiscrimination activity against Italo-Americans. Especially noteworthy has been their most successful efforts to collect funds for Italian earthquake relief.

Congressional founders of the foundation 8 years ago were myself, Joe Minish, Johnny Dent, Dominic Daniels, Frank Annunzio, who presented the La Guardia Award last night, and Peter Rodino. Key officers of the foundation include Jeno F. Paulucci, chairman; Frank Stella, president; and Fred Rotondaro, executive director. Simply put, this group of outstanding leaders from both the public and private sector have succeeded in establishing for the first time a major Italian-American presence in Washington and around the country.

Last night I was especially honored to serve as an honorary cochairman of the La Guardia Centennial Reception with my good friend and fellow New Yorker, Alfonse D'Amato. It was Senator D'Amato who steered the resolution (H.J. Res. 595) honoring La Guardia's centennial birthday through the Senate and onto the White House for signature into law.

Also honored at last night's reception were two very distinguished Americans, Ernest Cuneo and Leon H. Keyserling. Ernest Cuneo was recognized by the foundation for his tireless efforts on behalf of the La Guardia Centennial Committee. Having served as La Guardia's secretary and law clerk, Ernest Cuneo is recognized as the most knowledgeable scholar on La Guardia. His book, entitled "Life with Fiorello," is renowned as the most comprehensive on "The Little Flower's" life.

Leon H. Keyserling is an internationally respected economist who has served Mayor La Guardia, as well as a number of U.S. Presidents, with equal distinction. He is recognized as the author and architect of the National Industrial Recovery Act under Franklin D. Roosevelt, and he worked very closely with Mayor La Guardia in developing major labor and social legislation.

Mr. Speaker, in closing, let me once again pay tribute to the first threeterm mayor of New York City, and sixterm Congressman, Fiorello H. La Guardia. On December 11, 1982, we celebrated his centennial birthday. Thanks to the work of the National Italian American Foundation, the La Guardia Centennial Committee, Ernest Cuneo, Morris Novik, and Peter Rodino, the greatness of Fiorello La Guardia will not be forgotten. Rather, it will continue to inspire others.

TIME FOR THE DEMOCRATS TO TAKE A STAND ON SOCIAL SE-CURITY

## HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. NELLIGAN. Mr. Speaker, many Republicans were the victims of Democrat scare tactics centering on the issue of social security this election year. These attacks were made despite the fact that many Republicans, myself included, are opposed to any cuts in social security benefits to the elderly. Unfortunately, the Democrats chose to utilize scare tactics rather than to present any real alternatives to Republican proposals on social security, the economy, or many other areas.

I would like, therefore, to set the record straight on the issue of social security and the changes which are presently taking place in the program, changes which were mandated by the 1977 amendments to the Social Security Act.

In 1977, when Jimmy Carter was President, and both the House of Representatives and the Senate were controlled by the Democrats, changes

were made in basic social security retirement benefits with the implementation of amendments to the Social Security Act. Some of these 1977 changes were mandated to begin within a 5-year period, and went into effect in 1982.

Therefore, it was the Democrats who reduced benefits to a dependent spouse by the amount of any Federal, State, or local civil service pension received by that spouse.

It was the Democrats who froze the initial level of the minimum benefit at the 1978 level of \$122 per month.

It was the Democrats who adopted a critical change in the method of calculating social security benefits for future retirees, resulting in further reductions in social security benefits.

For the average beneficiary retiring on 1982 at age 65, cuts in the Democrat-passed bill meant a \$130-permonth reduction in benefits, and a loss of more than \$5,000 over the next 3 years. It was not the Republicans who did this. It was the Democrats who did this and then blamed the Republicans for it.

The 1977 amendments also provided for the largest tax increases in the history of social security. For the average taxpayer, the 3-year added social security tax will total \$685.

The tax increases mandated by the

1977 amendments:

Raised the social security wage base from \$17,700 to \$22,900 in 1979, and in stages to \$32,400 in 1982. After that, it will increase automatically with inflation to a projected level of \$42,600. Over that period of time, the wage base will increase by almost 160 percent. It has already increased by 82 percent since 1977.

Payroll tax rates were also increased in stages from 5.85 percent in 1977 to 6.70 percent in 1982, and will eventual-

ly reach 7.65 percent in 1990.

So that there can be no misunderstanding as to who inspired the changes in social security which were mandated by the 1977 amendments, we must recall President Carter's statement upon signing this legislation into law on December 20, 1977. He predicted that this bill would "assure today's workers that the hard-earned taxes they are paying into the system today will be available upon their retirement." Earlier, he asserted that: "Taken together, the actions I am recommending today will eliminate the social security deficit for the remainder of the century."

So what the Democrats gave us as the solution to the security tragedy was the largest tax increase in the history of the United States and a broken promise.

Four years later, the social security trust funds are losing \$18,000 a minute, and for the first time, the Government has had to borrow to pay social security benefits.

It is interesting to note at this point that in October 1981, Congressman J. J. Pickle, chairman of the House Ways and Means Subcommittee on Social Security, scheduled hearings on a comprehensive reform bill. According to Time magazine, May 24, 1982:

House Speaker Tip O'Neill ordered Pickle to go no further. The reason: O'Neill saw an opportunity for Democrats to assail Reagan as an enemy of social security, and he did not want the issue clouded by anything that could be interpreted as a Democratic plan to reduce benefits for anybody.

With respect to the cost-of-living increase which was just implemented, it is necessary to review the 1981 budget, and the changes which were recommended to the House of Representatives by the Democratically controlled Ways and Means Committee, chaired by Congressman Rostenkowski. They included:

Delaying half of the 1982 cost-ofliving adjustment from July 1982 to October 1982. If the Democrat reconciliation package had passed, social security recipients would have received one-half of the cost-of-living adjustment they actually received on July 1, 1982.

Eliminating the lump-sum death benefits paid to recipients with no surviving spouses.

Terminating benefits paid to the parents of children who receive social security benefits when a child reaches age 16 rather than 18.

Eliminating the minimum benefit for newly entitled beneficiaries as of January 1, 1982.

Phasing out social security benefits for postsecondary students over a 4-vear period.

Rounding benefit increases to the lowest dime and benefit increases to the lowest dollar.

In addition to these proposals, Senator Ernest Hollings, ranking Democrat on the Senate Budget Committee, proposed a budget alternative this year that would have canceled the 1982 and 1983 social security cost-of-living adjustments.

In fairness, I must point out that the Republican-controlled Senate Budget Committee was ready to go along with Senator Hollings' proposal for the 2-year freeze on social security cost-of-living benefits. However, the President dismissed this proposal to freeze social security benefits as a part of a package of measures to cut the deficit.

President Reagan was one of the few people in Washington who didn't want to change this year's cost-of-living adjustment,

According to Social Security Commissioner John Svahn.

President Reagan is correct in taking the credit for providing the 7.4-percent cost-of-living adjustment in social security benefits. He stood firm in his commitment to the elderly to provide the full increase in fiscal year 1982. and he should receive proper credit for his stand on this issue.

TIP O'NEILL, Speaker of the House in 1977 and now, thundered during the debate on the 1977 amendments to the Social Security Act,

If I've ever seen an issue that's a Democratic issue, it's this.

I agree with the Speaker-this is it. Now that the great social security lie of 1982 has been perpetrated on the American public, and the scare tactics on our senior citizens used by Congressman CLAUDE PEPPER and the Democrats succeeded in defeating many who were strong supporters of our senior citizens, such as myself, I call on the Speaker and the Democrat Party to take the lead in proposing solutions to the critical social security problem and to demonstrate the courage and conviction needed to legislate those changes. This would be an honest and courageous approach to the so-called "Democratic issue" and not the cowardly, passive approach taken by the Democrats thus far; that is, to sit back, criticize and dishonestly politicize the issue.

Mr. Speaker, now is the time for you and your party to step forward and show America what you and your party are made of.

HON. RON MOTTL

## HON, MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. UDALL. Mr. Speaker, Row MOTTL will be retiring from this House at the end of the year, and I am sorry to see him go.

I appreciated the opportunity to get to know Ron. He leaves with a national reputation for his efforts on behalf of American veterans, through his work on the House Veterans' Affairs Committee. Among many other things, Ron led the difficult fight to see that the Veterans' Administration granted free medical care to servicemen who may have been exposed to agent orange.

Throughout his years in the House, Ron Mottl has kept a special vigor in reserve to work on behalf of the people in his Ohio district who sent him to Washington. It is exhausting to think about his schedule, but it is true that he has not spent a weekend in the capital since he was first elected.

RON MOTTL has been a devoted, conscientious, and dedicated Member of Congress, and one of which the people of his district and State can be proud.

I wish Row and his family all the best of what they seek in the future.

THE RETIREMENT OF EARL H. MOSER, JR.

## HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

 Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the retirement of Mr. Earl H. Moser Jr., from the Federal civil service after more than 48 years of continuous duty.

Earl began his distinguished career with the Federal Government in July 1934, as a soil conservation trainee for the Department of Agriculture. In May 1942, after advancing to an assistant civil engineer, he transferred to the U.S. Army Engineers.

In August of 1943, Earl accepted a commission as an ensign in the U.S. Navy Civil Engineer Corps, and was assigned to the Construction Battalion Detachment 1029 in Espiritu Santo, New Hebrides Islands. He was appointed operation officer of the spare parts depot, and as a lieutenant (junior grade) he supervised 200 enlisted men and 3 other LTJG's.

Following this discharge from active duty in July 1946, Earl began his civilian career with the naval facilities engineering command in Port Hueneme, Calif., enventually becoming the acting head of the structural division.

In January 1952, Mr. Moser, a Reserve CEC officer, was recalled to active duty to head up a 10-man polar research expedition. During their 3-month expedition to Greenland, the team successfully prepared a snow runway suitable for C-47 wheeled operations and collected valuable information on logistical and operational requirements of small independent airborne functional components. For his outstanding service and leadership, Earl received a commendation from the Secretary of the Navy.

Returning to his civilian job at the Naval Civil Engineering Research Laboratory, he continued in polar research and soon made his mark in the Antarctic, being commended by the U.S.S. Atka for assistance provided during the U.S. Navy Antarctic expedition of 1954-55. In 1957 he was selected as Director of the Polar Division, a position that he held for the next 14 years. During this period he received the Navy Superior Civilian Service Award, two quality step increases, two letters of appreciation for clearly superior performance, a \$300 cash award for superior accomplishment, and a letter of commendation from the consulting engineering for the California Olympics Commission Organizing Committee.

With the advent of stricter pollution control laws in 1970, the Naval Civil Engineering Laboratory was tasked to develop a Navy environmental protection data base. Under Earl's leadership, plans for the \$7 million program were developed and accepted essentially unchanged. Under great pressure to implement the plans quickly, he developed an organizational structure, hired personnel, and set up procedures for what has become the Naval Environmental Protection Support Service (NEPSS).

Despite the transition to another technical area, Earl proved time and again to be a topnotch Government executive. Since moving to the environmental field in 1971, he has received two outstanding performance ratings, a superior achievement cash award, and a letter of appreciation from his commanding officer. In addition, work performed under his direction has resulted in laudatory correspondence from numerous other commands, including CNO, CMC, CNET, CHNAVMAT, NAVSUP. NAVFAC.

During much of his civilian career, Earl also served in the Naval Reserve, eventually becoming the commanding officer of Construction Battalion Company 11-16. Starting with a unit ranked 113 of 114 units, his unit became one of the top 10 units in the Nation within 3 years. In November 1969, he retired as a commander in the Naval Reserve.

Mr. Moser's many hours of overtime without compensation, his 3,200 hours of unused sick leave and his regular forfeiture of unused annual leave further attest to his tireless and selfless dedication to duty. This executive's contributions and accomplishments during his 48-year Federal career and his 39-year Navy career have truly made a significant positive impact on the Naval Facilities Engineering Command, the Navy, and the Federal Government. I ask my colleagues to join me in congratulating him on his accomplishments to date and on best wishes in the future.

## REDUCING THE DANGER OF NUCLEAR ARMS

## HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. RITTER. Mr. Speaker, I believe with all my heart and soul that we must reduce the danger of nuclear arms. There are far too many and the danger is already unacceptably high. I also believe that the danger is only partly related to the number of such weapons. A greater danger, perhaps, is conflict arising out of one side feeling they have the upper hand and threatening or blackmailing the other.

To achieve real peace, reducing the danger of nuclear weapons must always mean mutual reductions of weapons. That means the U.S.S.R. as well as the United States. Even the nuclear freeze resolutions use the term "mutual" when they discuss freezing at present levels. In that sense, the House of Representatives, by voting down MX production on December 7. 1982, violated the intent of the nuclear freeze resolutions by not requiring that the cutoff on MX be linked to limiting further production and deployment of counterpart Soviet SS-18

The House, by itself-without any counterpart assurances of mutual freezing by the Soviets-voted to freeze U.S. land-based missiles to the early 1960's Minuteman.

#### FUROR OVER BASING MODE

It must be stressed that the appropriations bill of December 7 did not seek to approve the controversial Dense Pack or any other basing mode for the MX. It sought only to approve initial production.

I share many of the reservations expressed about Dense Pack, but the legislation before us put off any expenditure of funds for a basing mode, allowing for more careful scrutiny by the Congress. Everyone should know that whatever way MX is based, in Dense Pack, or even in existing Minuteman silos, it is still far superior to what we have. A commitment to build it gives us a chance to mutually reduce those kinds of late-generation land-based missiles which are most threatening and which the Soviets already have deployed.

INCENTIVES FOR NUCLEAR MISSILE REDUCTION

In the absence of a modern U.S. land-based missile, why would the U.S.S.R. feel the need to reduce any of its own land-based intercontinental missiles? Many of their new and highly capable SS-18's and SS-19's already have MX power and accuracy, and they are already deployed. Without some U.S. bargaining position, where would the incentives be for the Soviets to cut back and contribute to a reduction in the danger of nuclear arms?

I personally believe that at least for the time being, we have handed the Soviets a victory by default in our negotiations in Geneva and this increases the danger from nuclear arms. Why? Because with highly accurate, superpowerful SS-18's and SS-19's deployed across the Soviet Union and pointed mostly at American targets, they have gotten away scot-free from having even to discuss their reduction of MX-type weapons.

## THE LESSONS OF HISTORY

When the Carter administration unilaterally turned down the B-1 bomber in 1976, many applauded because it saved money. But we need to ask ourselves now, did such unilateral action promote reduced danger from advanced nuclear weaponry? Unfortunately not, and now their Backfire is deployed in substantial numbers and Soviet B-1's are rolling off the production lines. Our B-52 bomber dates from the early 1950's. Would not it have been more effective to commit to build B-1 back in 1976 and then mutually negotiate away production of such weapons with the Soviets?

Now the Soviets refuse to discuss manned bombers such as Backfire and B-1 because we have nothing to bargain with. It is ironic that many B-1 foes are opting for a more powerful. more capable manned bomber, called Stealth, in order to make up for letting the Soviets off the hook in the early and mid-1970's. Stealth will be expensive and certainly will not curtail the arms race regarding manned

The one time we did engage in mutual limitations, the antiballistic missile (ABM), we did get a real reduction in the momentum for new weapons. The Soviets' initial reaction was to go ahead and build their own ABM system when they felt Congress would not allow the American version. They agreed on a mutual curtailment only after we decided to do an American ABM system.

#### ARMS REDUCTION TALKS IN GENEVA

Our strategy in Geneva is to cut deployed nuclear missiles by one-half and total warheads, of both the United States and the U.S.S.R., by one-third. However, without some-thing comparable to their already deployed SS-18, they will stonewall us on any reductions in those most dangerous land-based missiles.

After the United States unilaterally did away with B-1 in 1976, a U.S. Senator asked a Soviet general what their response would be. His reply: "Senator, we are neither pacifists nor phi-lanthropists."

SAFETY AND COST

There are two basic considerations to my position. First and foremost, mutual reduction of weapons systems offers greater safety for us, our children, and our grandchildren. Second, the cost of the arms race is lessened when both sides agree to cut back or not to go ahead with a particular weapons system.

We have been successful in avoiding major war with a powerful adversary for 37 years. Much is owed to our strategy of deterrence.

It has worked in the past. Opting out of the land-based missile competition now, without the Soviets followig suit, gives them a free ride to overwhelming advantage in the most powerful and accurate of weapons.

Voting to go ahead with limited production of MX at this time is not popular. But I ask the people of the Lehigh Valley to take a longer view of safety and cost. In considering my vote I was mindful that December 7 was a black day in American history, and a symbol of how we got ourselves into trouble in the 1930's. At that time, prior to World War II, well-meaning people brought great pressure against rearmament at a time of economic difficulty. Those pressures, combined with the complacency of the rest of the American people, worked to undermine our safety as a nation. The ultimate cost of closing our eyes in the 1930's went far beyond what anyone would have imagined at the time. Learning from history, we need not repeat the past. Not wanting to repeat past mistakes and recognizing the current state of our negotiations with the Soviets in Geneva, I cast my vote for initial MX production. I believe it was a vote for peace.

U.S. Representative Don RITTER and his wife, Edie, lived for a year in the U.S.S.R. in the late 1960's. He speaks fluent Russian and serves on the Commission on Security and Cooperation in Europe, also known as the Helsinki Commission.

#### TOBY MOFFETT

## HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

• Mr. OTTINGER. Mr. Speaker, I rise this evening to add my own words to the tribute being paid to our distinguished colleague from Connecticut TOBY MOFFETT. TOBY is a true friend and will be missed by all-not only by his colleagues in Congress, but by the people of his home State, Connecticut, and of this great Nation.

Toby has served the people of this country with enthusiasm and distinction. Whether it was as the young champion of consumer rights, as the founder of the Connecticut Citizens Action Group, or as chairman of his Subcommittee on the Environment, Energy, and Natural Resources, working to hold the administration's feet to the fire on our commitment to a safe environment and a sane energy policy. In all aspects of his political career, Toby has proven himself an able legislator and a fighter for what he believes in.

Toby's decision to relinquish his seat leaves a void that will not easily be filled. I know, however, that wherever future years will lead him, that Toby will continue to exhibit the leadership and enthusiasm that he has shown here in the House.

Toby, you will be greatly missed, and I wish you the best of luck in future years.

#### SES AWARD WINNERS COMMENDED

## HON, FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. WOLF. Mr. Speaker, I would like to take this opportunity to bring to my colleagues' attention the President's 1982 Senior Executive Award winners. President Reagan praised the Nation's top members of its elite managerial corps, the SES, in a White House ceremony Monday, November 22, and I believe it is appropriate that Congress should recognize these individuals' achievements as well.

Thirty-eight senior executives were honored with "Distinguished Senior Executive" awards. All were selected on the basis of sustained exceptional performance during the past year. Ten of these award winners live in my congressional district and I would like to cite the individual accomplishments of

these senior executives:
Sally H. Christensen is the director of Budget Services at the Department of Education. Mrs. Christensen has served with distinction in the Department and has developed several major legislative initiatives of the administration including proposals on student aid, education for the handicapped, impact aid, and block grants.

Robert L. Fairman is the senior ranking career/civil servant as Assistant Secretary for Administration in the Office of the Secretary of Transportation. Through his work in drafting the Department's cost avoidance reduction efficiency program, Mr. Fairman was able to effect savings of \$60 million in reduced and avoided costs in 1981 for the Department of Transportation.

Richard R. Hite is the Deputy Assistant Secretary for Policy, Budget and Administration at the Department of the Interior. During his tenure, he planned and directed numerous, complex reorganizations in response to rapidly evolving energy and environmental policies. The Department's ability to meet the challenge of the energy crises of 1974 was largely due to his leadership in organizing and structuring new energy functions and coordinating these with related efforts of other Federal agencies. He has played a vital role in this agency's role during the past decade.

Henry L. Longest II serves as the Director of Office of Water Program Operations at the Environmental Protection Agency. Mr. Longest has proposed reforms to the Clean Water Act which effectively reduced the overall Federal share of costs for the construction grants program from \$90 billion to \$36 billion.

James H. Michel, the Principal Deputy Legal Adviser at the Depart-

## EXTENSIONS OF REMARKS

ment of State, is the highest ranking career attorney in the Department of State and has advised Secretaries of State and successive Presidents on the critical legal issues of war and peace for 17 years.

Jerome A. Miles is the Deputy Chief for Administration of the Forest Service at the Department of Agriculture. Mr. Miles has successfully increased productivity, reduced costs, and improved the quality of administrative operations in the Department. As Director of Finance, he established a national finance center which saves over 600 staff years annually.

Richard S. Nicholson is the Acting Deputy Assistant Director for Mathematical and Physical Science and Director of the Chemistry Division of the National Science Foundation. He directs the National Science Foundation program in chemistry, which provides resources for more than 800 research groups.

James I. Owens is the Deputy Commissioner of the Internal Revenue Service at the Department of the Treasury. Mr. Owens was recently responsible for the implementation of the most significant reorganization of the IRS since 1952. He has made outstanding contributions in every position he has held.

Stuart E. Schiffer, Deputy Assistant Attorney General of the Department of Justice's Civil Division, has been recognized as an outstanding manager and authority in the civil litigation field. He has personally handled the most complex and sensitive ligitation in the Civil Division. Examples of such cases are the litigation of the Iranian suits, the Patco strike, and challenges to the Presidential hiring freeze.

Charles O. Starrett, Jr., is the Director of Defense Contract Audit Agency. Under Mr. Starrett's leadership in disclosing incidences of fraud, waste, and mismanagement, the Agency has contributed significantly to reductions in Federal expenditures for procurement of defense material. Recovery of up to \$810,000 has been realized in recent months.

Some 161 "Meritorious Senior Executive" award recipients were named as well. Those awarded as distinguished or meritorious senior executives receive a cash bonus and a Presidential citation.

These career civil servants exemplify the very highest levels of the Federal Government. To these Americans we owe a debt of gratitude for their contribution toward effective and efficient government.

## ANTHONY MOFFETT

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Ms. FERRARO. Mr. Speaker, one of the truly positive developments in the 1970's was the growth of a strong consumer rights movement. Toby Mor-FETT has been a great leader and friend of that movement.

Particularly in the area of energy pricing, Toby has worked to protect consumers against unreasonable and excessive price increases. As chairman of the Government Operations Subcommittee on Energy, Environment, and Natural Resources, and as a hardworking member of the Energy and Commerce Committee, he has opposed the special interests on behalf of the public interest.

He has emerged as a strong defender of the environment, insisting on stringent safeguards in the development of our natural resources. Many of the protections which have been written into our laws are the result of Toby's leadership and commitment to a clean environment.

The problem of acid rain destroying lakes and killing fish and plant life, especially in the Northeast, has become a special concern of Toby's in recent years. His legislation to require reductions in sulfur emissions from powerplants is a far-reaching proposal for dealing with this serious problem.

Since his first election to Congress in 1974, Toby Moffett has established a reputation for hard work and commitment to his principles. His presence will be missed, but his influence will still be felt in this House. The good news is that his presence may only be missed for 2 years. But whatever his future holds, I know his voice will continue to be heard on important issues in the years to come.

## DR. GEORGE B. KISTIAKOWSKY

## HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. BOLAND. Mr. Speaker, on December 7, with the death of Dr. George B. Kistiakowsky, the United States lost one of its most distinguished citizens.

Dr. Kistiakowsky was an internationally known scientist, academician, and scholar. Perhaps best known for his work in connection with the development of the atomic bomb, Dr. Kistiakowsky became an outspoken and effective critic of the nuclear weapons race and the world's burgeoning nuclear weapons stockpile. When he sit-

nessed the first atomic explosion in the New Mexico desert in 1945, he believed that he had seen a vision of how the world would end. "I am sure that at the end of the world—in the last millisecond of the Earth's existence," he said "the last human will see what we saw."

George Kistiakowsky, who knew better than most the awesome destructive capacity of even one nuclear device, was appalled by the proliferation of these weapons, and the tensions and uncertainties that proliferation has produced. As chairman of the Council for a Liveable World, Dr. Kistiakowsky spoke around the world on the need to control nuclear arms. While he was pessimistic about the ability of the world's leaders to end the arms race, he never slackened his efforts to achieve that result. His death removes from the nuclear arms debate one of its most knowledgeable and respected participants.

Mr. Speaker, Dr. Kistiakowsky's life was one of high achievement. Born in Russia, he became a naturalized U.S. citizen in 1933.

He served his adopted country with distinction noted by three Presidents. President Truman awarded him the Medal of Merit, President Eisenhower presented him with the Medal of Freedom, the Nations' highest civilian award, and President Johnson awarded him the National Medal of Science. He served in the Eisenhower administration as special assistant for science and technology and chaired the Science Advisory Committee. His service in these posts came at a time when the U.S. space program was in its infancy and concern about the need to restrict atmospheric nuclear tests was increasing. Later, Dr. Kistiakowsky served as a delegate to talks in Geneva aimed at lessening the danger of surprise nuclear attack and as an adviser to the Defense Department.

Perhaps the affiliation that Dr. Kistiakowsky most treasured was the one he enjoyed with Harvard University. A member of Harvard's faculty for 41 years, he rose from assistant professor to professor emeritus of chemistry. The Kistiakowsky lectureship in the chemistry department at Harvard will serve as a lasting memorial to the impact that he had on the institution, its students, and the world of science.

George Kistiakowsky was a truly remarkable man. His talents gave him the ability to see the potential for good and for harm that can come from technological advances. A skilled scientist whose mind never ceases to be challenged by the seemingly impenetrable problems with which it was confronted, he recognized the scientist's special duty to consider all of the ramifications of scientific advancement. The people of the United States were indeed fortunate that he chose to

devote so much of his life to public service.

NATURAL GAS PRICE INCREASES: TIME FOR CONGRESS TO ACT

## HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. BEREUTER. Mr. Speaker, today I presented testimony to the House Subcommittee on Fossil and Synthetic Fuels on the disturbing circumstances facing our country because of rapidly increasing natural gas prices. I would like to have the text of my statement printed in the Congressional Record.

TESTIMONY OF HON. DOUG BEREUTER BEFORE THE SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS

Mr. Chairman and Members of the Subcommittee: I appreciate having the opportunity to appear before this panel to briefly address the impact of natural gas price increases upon my constituents and upon the American economy in general. I know the members have received the testimony of many of our colleagues and that this has been a long day, so I will keep my remarks brief

We have all heard the horrible facts surrounding natural gas price increases in the past few months. Frankly, as one of the first members to cosponsor legislation in this area, I am somewhat disappointed in the failure of the Subcommittee to hold hearings on this issue at an earlier date. when it was clear that significant problems would occur this winter and while there was still sufficient time to address the matter in the 97th Congress. Clearly, in these closing days of the Congress, there is insufficient time to fully consider the many complex facets of the natural gas issue, and it appears that our constituents must suffer through the next few months of high gas prices as a result. The least we can hope to accomplish would be a freeze on natural gas prices until such time as the 98th Congress can comprehensively address the matter. At any rate, I am relieved that the Subcommittee is making this effort to examine the situation, even at this late date.

Mr. Chairman, natural gas prices have risen an average of 17 percent over last year, and an astounding 5 percent in November alone. Reliable estimates indicate that natural gas consumers will be overcharged by \$5 billion this year as a result of last enforcement by the Federal Energy Regulatory Commission and supply decisions made by natural gas producers.

Of course, the single greatest factor in the meteoric rise in gas prices has been the "take or pay" clauses which have been the inevitable result of the NGPA. Many of the proposals before the Subcommittee would address the take or pay issue and would encourage pipelines to purchase the cheapest gas available. This is the approach which I believe we should be pursuing. We simply must take action to alleviate the disastrous results of supply contacts which are not in effect.

Of particular concern to me, as the representative of one of the major agricultural regions in the nation, is the impact of these

exorbitant natural gas prices upon the agricultural sector of the economy. As you know, the farm sector is a major consumer of natural gas, and any increase in the cost of gas will be reflected in higher production costs for a section which is already on the ropes. In addition, of course, the consumers in our area rely to a great extent on natural gas during our particularly hard winters.

Mr. Chairman, I'm not certain what can be done at this late date, but I do want to express my deep concern, and urge the Subcommittee to make a commitment to take up this issue in the very earliest days of the 98th Congress. We owe nothing less to our constituents.

## CONGRESSIONAL SALARIES

## HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. COURTER. Mr. Speaker, there is a great deal of confusion surrounding the legislative procedures which resulted yesterday in a change in the salaries of Members of Congress. Therefore, I would like to clarify these procedures and also explain my reasons for voting as I did. In order to understand what occurred in the House Chamber one must first recognize that, as a result of action taken by the Appropriations Committee to remove the existing pay cap on Members' salaries from the continuing resolution, Members would automatically receive a pay raise of over 27 percent upon passage of the continuing appropriations bill.

Two amendments were introduced to address this action. The first amendment offered, the Fazio amendment, reduced the amount of the increase from 27 percent to 15 percent, essentially cutting the raise in half. I voted yes in favor of the Fazio proposal, because a no vote would have resulted in a greater pay increase than a yes vote. I also voted in favor of the second amendment which would have prohibited any pay raise at all and would have reinstated the pay cap, but this amendment was unsuccessful.

Regardless of whether or not one chooses to support a pay raise, we must certainly be opposed to the confusing way that this pay raise has been proposed to the Chamber. I was outspoken against previous attempts in 1980 and 1981 to increase Members' salaries specifically because of the manner in which these raises were presented. In addition, I was one of a number of Members who sponsored legislation to repeal the increased benefits we gave ourselves last year. I am, in fact, amazed that, after the public uproar surrounding last year's controversial and back door approach to raising our salaries, Congress would again attempt to increase our earnings in the same fashion.

I am not opposed to a pay raise per se. Our salary increases fall well below the rise in the CPI, and this alone is reasonable justification for additional income. However, the experience of last year's pay raise fiasco should have taught us, once and for all, that this is an issue of importance to our constituents. While it is true that any attempt to raise our salaries will be unpopular with some sector of the population, we can never hope to win public approval of such measures until we are willing to argue straightforwardly as to why we feel warranted in requesting more of the taxpayers' money. It would have been far more appropriate to vote on this issue prior to the elections. We then would have demonstrated that we truly believe in the need for a pay raise by showing our willingness to go to the polls on this issue. But by waiting until after the elections, when everyone can feel secure in his position for the next 2 years, we are sending the signal that we ourselves are not convinced of the fairness of this raise.

Members of Congress are given the jurisdiction to determine their own salaries. This is an unusual, some might say enviable, situation. However, with this position comes a great responsibility not to betray the public trust. I believe it is possible for us to provide ourselves with the salaries that this demanding job warrants and still maintain the respect and support of the individuals we represent. But this can be achieved only if we are forthright and straightforward in debating this issue, and only if we are willing to take responsibility for our actions through the democratic proc-

## HENRY REUSS

ess.

## HON, DANIEL K. AKAKA

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. AKAKA. Mr. Speaker, it is unusual for a Member to win election to five terms in the House. It is even rarer for a Member to win election to 10 terms. I rise today to pay tribute to a man who has won election to this body a total of 14 times, which is an altogether incredible performance. Mr. Henry Reuss, the gentleman from Wisconsin, has quite obviously been doing something right.

Mr. Reuss has represented his constituents in this House since 1955, and has, since that time, been considered by his colleagues one of the most intelligent people on Capitol Hill.

Henry Reuss has always been an achiever. Few know this, but at one time Henry was the youngest Eagle Scout in America. Entering the military service in 1943, he won the

Bronze Star for action at the crossing of the Rhine. After the war he returned to Wisconsin where he held successively responsible posts, and helped to build that State's modern Democratic Party. But all this is merely prolog.

Since entering this body in 1955, HENRY's career has been one of leadership, in many diverse areas. A few of his more noteworthy achievements will serve as examples. It was Henry REUSS who rediscovered a forgotten statute, the Rivers and Harbors Act of 1899, which prohibits dumping of pollutants in navigable waterways, and in applying it began the clean air and water movement which culminated in the Clean Air and Clean Water Acts. It was Henry Reuss whose doggedness and determination led to halting the construction of the SST. It was HENRY REUSS in a Joint Economic Committee report which he authored, who encouraged the Nixon administration to move to a system of floating exchange rates. It was HENRY REUSS whose ideas led to the formation of the Peace Corps. It was HENRY REUSS whose ideas led to and who was a cofounder of the Democratic Study Group. I could go on and on with a remarkable list of his accomplishments.

Any one of the items that I have mentioned could be the capstone of a successful and productive congressional career. Yet, they can all be attributed to one man, Henry Reuss. For years he has been the Democrat's leading expert on international finance. He has been the chairman of several House committees and subcommittees. In fact, as chairman of the Banking Committee, he was one of the leading figures in loan guarantees for such diverse entities as New York City and the Chrysler Corp.

HENRY REUSS is not an ordinary politician. He is a man of extraordinary vision and breadth of interest, whose ideas were iterated and reiterated until others saw their wisdom. This body and the Nation as a whole are in his debt. His retirement leaves a hole in this body which will not easily or quickly be filled, if at all.

## GERM TESTS: MANCHURIAN MASK LIFTED

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. DORNAN of California. Mr. Speaker, while discussions of nuclear war and nuclear freeze are important and are extensively covered in the news, at this very moment, biological and chemical warfare are being brutally waged by the Soviet Union and the Soviet supplied Communist conquerors of Vietnam against innocent non-

combatants in Laos, Cambodia, and Afghanistan. While America discusses the horrors of nuclear war, the Soviets are practicing the horrors of biological and chemical warfare. The limited coverage of this type of abomination has occurred throughout our recent history as Michael Parks, Los Angeles Times article, "Germ Tests: Manchuri-an Mask Lifted," shows. I am submitting this article to inform Members of Congress of thses dreaded war crimes in the not too distant past. It is absolutely incomprehensible that these ugliest of all war crimes went virtually unpunished. Actually some of these Japanese War Lord servants from hell were rewarded and still live in respectable Japanese society. Incredible. May God protect the loved ones of these World War II POW's who suffered an agony and lonely death worse than the mind can comprehend.

The article follows:

[From the Los Angeles Times, Dec. 9, 1982]

Japanese Experiments—Germ Tests: Manchurian Mask Lifted

(By Michael Parks)

PINGFANG, CHINA.—Men were tied to stakes, and canisters of bubonic plague, gangrene and anthrox bacteria were exploded nearby. Soldiers in gas masks and protective clothing used stopwatches to measure how long it took them to die.

Women were infected with syphilis, impregnated and, after giving birth, were vivisected along with their children to assess

the effects of the disease.

Naked men, usually doused with ice water, were kept out of doors in 40-below-zero weather in experiments to learn more about frostbite. Their limbs froze solid and sounded like wood when struck with a club.

The blood was drained from human subjects and replaced with the blood of horses or monkeys in experiments aimed at creating artificial blood. The subjects were sometimes cut open while alive to determine how the artificial blood was being absorbed.

#### "FULL HORROR" REALIZED

These are documented accounts of experiments conducted by the Japanese army in Manchuria during World War II.

"People are only beginning to realize the full horror of what went on here," said Wang Xueqing, vice chariman of the government of Pingfang District 18 miles south of Harbin. The largest of the Japanese germ warfare centers was built here.

At least 3,000 people were killed here in the 5½ years that the 731st Anti-Epidemic and Water Supply Unit was in full operation at Pingfang, but recent Chinese research indicates the the number of victims is likely to be three or four times that number.

"Every Saturday afternoon from 1939 to the end of the war in 1945, at least 20 and usually 30 or 40 prisoners were brought to Pingfang by train," Han Xiao, a local official researching the activities of Unit 731 recounted, "and nobody left alive.

#### DESTROYED AT END OF WAR

"At the end of the war, in early August, 1945, as the Japanese were destroying their facilities, they gassed the 400 or 500 prisoners they still held and then burned the bodies in a large pit with gasoline... Over the years, construction workers have found

three large pits of bones. From the smallest, we took three big truckloads of bones.

Until recently, the activities of Unit 731 under Lt. Gen. Shiro Ishii were shrouded in secrecy. Only about 20 of the unit's officers, none higher than a department head, were ever tried for war crimes. Ishii and other senior officers were granted immunity from prosecution by the United States in return for the records of their research, which Washington wanted to keep from the Soviet

Union.
The Japanese government acknowledged only last spring that 1,472 civilians and 1,285 military people had worked at the bacteriological warfare research center here.

China over the years compiled a fairly full picture of Unit 731's activities, along with those of two similar but smaller units, but

had not publicized them.

We had accounts from some of the several thousand Chinese who worked as coolies and from peasants who lived nearby," Han said. "We also had some of the records, laboratory reports, photos and other documents not destroyed when the Japanese left. But only recently have we been able to confirm everything and fill in some of the missing details."

Han credited two new best-selling books by a Japanese author, Seiichi Morimura, along with an earlier Japanese television documentary, with bringing the activities of Unit 731 to light.

He noted that the United States played a role in covering up the atrocities here and that this role has been disclosed to some extent by the Pentagon's release of secret cables and reports under the Freedom of Information Act.

#### CRIMES AGAINST HUMANITY

"The guilt is not just that of Ishii and his men or the Japanese government at that time," Wang said. "These were crimes against humanity, and the responsibility for them, and for ensuring that they do not happen again is wider.'

Small plaques recounting in general terms the activities of Unit 731 have been placed on the unit's old headquarters building, a yellow, two-story structure that now is Harbin's Secondary School No. 25, and on the only remaining wall of the facility's power

"When the Japanese heard that the Soviet Union had entered the war and the Red Army had crossed the border, they began the demolition of the laboratories, workshops, prison and barracks," Han recounted. "For two days, the explosions continued, and then a sapper unit was brought up to finish the job. They wanted to leave no evidence behind."

Ishii and other commanders fled south and were captured five weeks later in Nanjing (Nanking), the old Chinese capital.

## LABORATORY ANIMALS RELEASED

Before they fled, the researcher released all the laboratory animals. "Suddenly, one day we saw dozens of horses, camels, monkeys, dogs, and cats in the area and hundreds of thousands rats and mice," Qing Fuhe, then an 11-year-old boy, recalled recently. "Some time later, many, many people became very sick and died. In my family alone, 12 persons out of 19 died in less than two weeks."

The mice, which Japanese troops had forced local peasants to collect for laboratory use, had been infected with bubonic plague, and it swept through several nearby

villages.

In Qing's village of Houerdaogou alone, 40 persons died, and the total death toll was

more than 100 before medical personnel from Harbin brought the epidemic under control

"Pingfang had not suffered from plague for several centuries," Wang said, "and its reappearance in this way led us to suspect what was going on in Unit 731."

#### UNIT SET UP IN 1931

The unit was established in 1931 when Japan secured its hold on Manchuria and Ishii's first headquarters was at the Harbin Military Hospital. Construction of the Pingfang complex, a base of 21/2 square miles surrounded by a prohibited-entry zone of 12½ square miles, was started in 1936 and was finished in 1939, according to officials here.

Japanese researchers here cultured the bacteria that cause plague, typhoid, typhus, dysentery, anthrax, gaseous gangrene, cholera, salmonella, smallpox, tuberculosis, tick encephalitis, and botulism, according to Han's studies of laboratory reports and other comments

They also experimented with gases and liquids to spread the bacteria, using explosive shells, bombs, food, clothing, paper and

even feathers

To test the bacteria and new weapons, prisoners were brought from various parts of China. Most were Chinese, but later they included Koreans, Mongols, Russians, and according to some reports, a few Americans.

#### RESEARCHERS "VERY METHODICAL"

"The researchers were very methodical and wanted to see how their weapons would work on other races." Han said, "They even brought Chinese from southern China for their frostbite experiments to see whether they would freeze faster than northerners.'

At Anda, about 90 miles northwest of Harbin, Unit 731 had a test range where canisters of toxic gases could be exploded in the open air to check their effectiveness. Usually 10 to 20 human subjects plus some horses. cattle, and other amimals were

brought from Pingfang for the tests.

The Japanese army had two similar but smaller bacteriological warfare centers—one of them, Unit 100 at Changchun in neighboring Jilin province and the other, the socalled Tama Unit, at Nanjing-but activities at these have been only partially documented. In Changchun, however, according to local officials, there was an epidemic of bubonic plague when the laboratory rats were released with the destruction of the facility in August, 1945.

Some of the research done at Pingfang dealt with ceramic pods meant to carry plague-infected rats by balloon and prevailing winds at an altitude of 30,000 feet across the Pacific Ocean to the U.S. West Coast. This sort of thing was done with incendiary bombs, which caused a few forest fires but not much other damage.

"For technical reasons, this plan was apparently not executed before the war a Chinese historian noted in a ended,"

U.S. officials apparently decided to take no notice of these plans or of the use of American prisoners of war as test subjects when they granted Ishii immunity.

"Since any war crimes trial would completely reveal such data to all nations," Defense Department officials wrote in a memo after interviewing Ishii, "it is felt that such publicity must be avoided in the interests of defense and national security of the U.S."

Later, two biologists from Ft. Detrick, Md., the principal U.S. bacteriological warfare center, concluded that the material that Ishii and 20 other Unit 731 officials provided was of considerable value and "could not be obtained in our laboratories because of scruples attached to human experimentation."

"It is hoped that individuals who voluntarily contributed this information (during interviews in Tokyo) will be spared embarrassment because of it and that every effort will be taken to prevent this information from falling into other hands," the two American researchers wrote.

These documents were first unearthed last year by an American, John William Powell, who quoted from them in an article he wrote for the Bulletin of the Atomic Scientists.

There is some Chinese anger over the failure to prosecute Ishii and other top officials of Unit 731 and over the continued coverup of Japan's bacteriological warfare activities.

"Certainly there would have been prosecutions were their victims Europeans or Americans," a Chinese Foreign Ministry official in Peking remarked, speaking privately. "To me, there seems to be an obviously racist element—that Chinese lives do not matter but that Polish or Russian or American or Jewish lives do."

The Chinese press has noted pointedly that Ishii's deputy, Maj. Gen. Masaii Kitano, lives quietly in retirement in central Tokyo, a revered man in his 90s after serving as president and chairman of Green Cross, a Japanese pharmaceutical firm developing artificial blood. His successor at Green Cross was the late Ryoichi Naito, who is described in the Morimura book as the leader in research on the use of poison from blowfish.

The head of the "frostbite team," Hisato Yoshimura, is a professor emeritus of Hyogo Medical University and was honored by the Japan Physiological Society last year for a lifetime of research, including that carried out by Unit 731. The head of the vivisection team is reportedly teaching at another Japanese university.

At the annual meeting of the U.S. Commission on Human Rights last August in Geneva, a British delegate, Ben Whitaker, called for an investigation of what he called this "major violation of human rights" and asked how it could have been covered up for so long.

"We occasionally get a Japanese soldier who served here who returns in his old age as a tourist," Wang said. "They confess their roles. Most were only guards, quite ordinary soldiers-but they are very remorseful at even this."

## EMERGENCY JOBS LEGISLATION

## HON, EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

Mr. ROYBAL. Mr. Speaker, we are obviously faced with a crisis in this country. Unemployment has risen to 10.8 percent-over 12 million people. And all indications are that this number will continue to rise. Our productive plant capacity has reached a postwar low. Businesses are filing for bankruptcy at an incredible pace, and thousands of our people are without the most basic necessities of life.

Let us try to comprehend, just for the moment, the depth of frustration felt by the jobless. According to the National Institute of Mental Health, a series of studies underway since 1977 have found that declines in the work force are significantly related to reported child abuse. Other studies have demonstrated that increases in unemployment are usually followed by increases in the rates of suicide and other health problems. It is not difficult to figure out how a loss of income and self-esteem, coupled with related events, can lead to violence, alcoholism, drug abuse, and a host of other physical and mental problems. These problems will exist even after our economy begins to recover, and at a terrible price to society. We must act

The emergency jobs bill we are considering here today will not be a panacea for all these ills, but it will at least be a start. We will be putting about 900,000 people back to work, in one way or another, if we pass this measure. These will not be simply makework jobs, but rather productive jobs that will contribute to the strength of our Nation, both now and in the future.

We have already heard a great deal of discussion about the decay of our infrastructure. A large portion of the jobs created by this bill would be dedicated to repairing and improving our Nation's public buildings, roads, bridges, and railways. Funds would be provided for such worthwhile but long-delayed projects as modernization of our public housing, developing and improving parks and recreational fa-cilities, maintaining our national forest system, improving our fish and wildlife services, and repairing and modernizing our prisons. Communities, which have gotten the short shrift from this administration so far. would get much needed funds for vital community development projects such as water and sewer improvements and housing rehabilitation. All of these activities fill an important void in existing funding priorities, while providing thousands of jobs in the very occupations that have been hardest hit by the recession.

In addition to providing jobs to many thousands of Americans, this bill also considers the special needs of those who are out of work and unable to provide for themselves or their families. Employment offices in the States will be beefed up, as will day care and health care services, thus removing some stumbling blocks from the paths of many who want to work. To meet immediate needs, volunteer organizations will receive extra funds for food distribution and emergency shelter.

All of these projects can be started almost as soon as this bill is passed, because the framework is in place; most have already been authorized. If we pass this legislation, we will provide thousands of Americans with fresh hope, both for themselves and for the future of this country. I urge you to join me in adopting this measure.

#### PROTECTIONIST FOLLY

## HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. FRENZEL. Mr. Speaker, below is a December 13, 1982, editorial in the Journal of Commerce which reminds Members of Congress that there is a price to pay for protectionist legislation, that of retaliation in the form of fewer U.S. exports. Saving jobs in one sector at the expense of another while forcing our trading partners to make similar adjustments is not smart public policy—it is just plain folly. I recommend the article to my colleagues:

#### A BARRIER BY ANY OTHER NAME

Leave it to the protectionists in Congress. Not satisfied with broaching such ill-advised legislative plans as the domestic-content bill, they are striking on another front.

They have taken a basically good proposal, the nickel-a-gallon increase in the federal gasoline tax, and coupled it with a foolish one: a so-called Buy American amendment.

The measure, passed 54-46 by the House of Representatives and facing Senate action, would require all "steel, cement and manufactured products" that are used in the highway-rebuilding and mass-transit programs the tax will finance to be made in the United States, along with 50 percent of the components of mass-transit buses and rolling stock.

The amendment is a trade barrier, pure and simple. It is protectionism at its most gratuitous. And amendment backers, when pressed, admit it.

Their arguments give a compelling picture of the human problems that are culminating in the increasingly stronger drive for protectionism. But the arguments also have a side that illustrates why the success of such a drive would be counterproductive in the extreme.

"You can call it protectionist, stingy, whatever. You're probably right," says a spokesman for Rep. Douglas Applegate, the Ohio Democrat who introduced the amendment. "But we're trying to save our (constituents') necks."

Rep. Appleton is from Steubenville, Ohio. The area is dominate by the steel industry, a producing sector hit hard by the recession and competition from abroad. The local unemployment rate is 16 to 17 percent.

Each day, the congressman's office gets from five to 10 phone calls—and an equal number of letters—from constituents who have been laid off, who cannot find work, whose unemployment benefits are running out, the spokesman says.

Typical, he says, is a note from a married factory worker who was laid off after 35 years on the job and whose benefits expire Dec. 31: "We don't want charity. I want a job."

People, the spokesman says, have become increasingly angry at foreign exporters, Japan in particular. They feel those nations

are exporting their own unemployment; the United States keeps its market open but other nations do not, and residents of Ohio and the rest of America are clamoring for justice.

"All we've been asking for is 'Just treat us the same,'" the spokesman says of U.S. trading partners. "If we're going to open our market to you, open yours to us."

The picture is both grim and touching. It is impossible not to empathize with the unemployed workers of recession-wracked America, whose ranks are swelling every day.

But the people of the United State are not alone in their plight. The recession is a global phenomenon; its chilling effects touch every country. Even Japan, which admittedly is less than fair when it comes to trade policies, is hurting.

Heavy industry is in decline and unemployment a big problem in virtually all industrialized nations. Joblessness among Europeans 25 and younger is estimated at 40 percent.

Indeed, the European Community minister responsible for employment issues, Ivor Richard, is said to give thanks each morning that one of his own children has found a job—as a low-paid, part-time lecturer.

Needless to say, many politicians in Europe see a solution to the dilemma in the same type of action the protectionists in Congress favor: restricting foreign competition.

The trouble is that this sort of shortsighted thinking—no matter how justified or well-intentioned—can lead to a worldwide cycle of protectionism that could strangle development and cost more jobs than it was meant to save.

That's the bottom line the protectionists seem to forget: cost. The sponsor of the House "buy American" amendment admits that no cost analysis accompanied the measure. But a serious look has been taken at a similar proposal, the domestic-content bill that would require a high percentage of the parts of imported cars to be made in the United States.

That analysis was undertaken by the Congressional Budget Office. Its results are revealing.

The agency noted that the General Agreement on Tariffs and Trade allows the use of retaliatory trade sanctions when justified. It concluded that it is reasonable to assume U.S. trading partners will take such action if the content bill goes through. The result would be that retaliatory sanctions would halt U.S. exports to roughly the same degree the content bill would halt U.S. imports of autos and auto parts.

In technical terms, that would bring by 1990 a rise of two-tenths of a percent in the U.S. Consumer Price Index; a drop in real American gross national product of three-tenths of a percent; and a tenth of a percent increase in unemployment.

In starker terms, the budget office said, it would mean the content bill would save 70,000 jobs in the auto industry by 1990. But it would eliminate 220,000 jobs in the other U.S. export-related industries—a net loss of 150,000 jobs.

No one can deny the seriousness of the problems in the United States and the world. No one has a quick solution. But neither should anyone be fooled into thinking that erecting big trade barriers of any type will bring real relief.

HAZARDOUS WASTE

## HON. HAROLD E. FORD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. FORD of Tennessee. Mr. Speaker, the issue of hazardous waste can no longer be put off. We are only starting to feel the repercussions of past inaction. Unfortunately, it seems future Love Canals and Valley of the Drums are the only way to insure the hazardous waste issue not be ignored. Surely, if this country can spend billions of dollars putting men in space, we can certainly figure out what to do with hazardous waste material for a fraction of the cost.

Mr. Speaker, I learned last week that our distinguished colleagues in the Senate Environmental and Public Works Committee decided that they lacked the time to consider H.R. 6307, the Resource Conservation and Recovery Act Reauthorization of 1982, sponsored by Representative Florio. It seems that members of that committee are following the lead of the administration in believing that the Environmental Protection Agency can control the health and environmental threats of waste dumping under current regulations. However, the residents of my district in Memphis know full well that this is not true. Memphians have the dubious honor of having the EPA's top priority hazardous waste site in Tennessee, better known as the north Hollywood dump. In addition, residents of Rayburn Street in south Memphis have to contend with the effects of cyanide residue and other toxic chemical wastes being stored in metal drums at an aban-

doned drum company on a daily basis. It has always seemed that no matter what is done with hazardous waste, there is some sort of potential danger. Minimizing that danger is no longer a sufficient response; eliminating the risk has to become the objective. Granted, this body has come a long way over the past 6 years in defining the problem and starting to develop answers for that problem. However, what about the citizen who becomes ill because he has the misfortune of drinking contaminated water, or living near an abandoned dump that EPA has yet to clean up. What price can any legislative body put on the health of an individual? Congress has to go one step further than it ordinarily might in hopes of eliminating the risk of contamination and disease.

It is for this reason that the Environmental Protection Agency has to change its attitude toward hazardous waste. The Agency has to start thinking not only about the clean up of waste sites, but begin developing real policy initiatives that prevent these sites from becoming a reality. We, as a

nation, have to commit ourselves to take the hazardous out of hazardous waste. However, it has been delayed by those in the Senate, and we in the House find ourselves back at step one. Mr. Speaker, I feel it the responsibility of this Chamber to return a comparable, if not stronger piece of legislation to the other body; it is only at that time that the Members of this body can believe thay have done everything possible to make certain today's situation does not get further out of hand.

A TRIBUTE TO THE NATIONAL ITALIAN-AMERICAN FOUNDATION

## HON, FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. GUARINI. Mr. Speaker, last night the National Italian-American Foundation, the principal voice in Washington for Americans of Italian heritage, held a reception to commemorate the centennial observation of the birth of Fiorello H. La Guardia, the renowned "Little Flower" who served as a U.S. Congressman and as the first three-term mayor of one of the most famous cities in the world, New York City. Mayor La Guardia made his mark as a dynamic leader and an untiring humanitarian during the depths of the Great Depression. At the reception, the National Italian-American Foundation presented its first annual Fiorello H. La Guardia award to my good friend and neighbor from New Jersey, Chairman Peter RODINO. The Fiorello H. La Guardia award is made in recognition of distinctive excellence in public service. I can think of no better example of conscientious devotion to duty than Chairman Rodino, the dean of the New Jersey delegation.

Founded in 1976, by a coalition of Italian-Americans representing the corporate, labor, scientific, artistic, and political worlds, the National Italian-American Foundation is making its mark as a cultural and educational force in promoting interethnic understanding. The foundation has as its chairman of the board Jeno F. Paulucci, of Minnesota, Frank D. Stella, of Michigan, is the foundation's president. The board of directors is comprised of 60 of the most prominent Italian Americans in America, including 7 of our colleagues here in Congress. The board boasts of having the chief executive officers of some of America's most prestigious corporations, labor leaders, and directors of major Italian American organizations.

The National Italian-American Foundation seeks as one of its primary goals to raise the awareness of all Americans of the contributions Italian Americans have made to make America the great Nation it is. Through conferences, dinners, and workshops, this effort is succeeding. The foundation has an active national scholarship program, and has recently initiated an intern program for graduate students here on Capitol Hill. It has worked with the Italian Embassy to establish a travel-study program for Italian students who come to America in the effort to promote intercultural understanding. By all accounts, the foundation's programs are a rousing success. In January, the foundation will coordinate with the National Gallery of Art and exhibit of the works of Raphael to mark the 500th anniversary of his birth. Many are eagerly anticipating this gala showing.

More events are being planned for 1983. Besides an interethnic workshop, the foundation will be staging an international conference on banking and finance, to be named after A. P. Giannini, the founder of the Bank of America and the father of the branch-

banking concept.

The National Italian-American Foundation's biannual dinners are establishing themselves as one of the premier social events in Washington. In 1976, when the foundation was founded, more than 2,000 friends gathered, including President Jimmy Carter. Last year, another 2,000 came to toast Lee Iacocca, of the Chrysler Corp., A. Bartlett Giamatti, the president of Yale University, and Sophia Loren, the talented and beautiful actress. We are all looking forward to the next events.

In closing, Mr. Speaker, I would like to commend the National Italian American Foundation on the remarkable work it has done and plans to do in the future. The celebration of the La Guardia Centennial focused our attention on the accomplishments of one of the United States most prominent legends; Mayor La Guardia lives on as a symbol of the American dream and as a model of honesty and good leadership for us all. Congratulations are certainly in order to Chairman RODINO, who has given his constituents, and his Nation, only the best of public service. His record of diligence. honesty, and compassion deserves applause from us all.

## TRIBUTE TO TOBY MOFFETT AND JOHN BURTON

## HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. COELHO. Mr. Speaker, I would like to take this opportunity to pay a very special tribute to a good friend

and colleague, Toby Moffett. The de-

EXTENSIONS OF REMARKS

parture of this thoughtful, compassionate, and dedicated Member will be a great loss not only for those in Connecticut's Sixth District, but for the Nation as a whole.

When Toby Moffett first come to Congress in 1974, he brought with him some courageous goals: He was a champion of peace, advocate of consumer protection, a leading environmentalist, and a strong believer in a sane energy policy. Throughout his 8 years in Congress, Toby has tirelessly pursued the attainment of these goals. Throughout his tenure, his accomplishments have been many, although I would especially like to commend the fine job he had done with his work on the Energy and Commerce Committee and as the chariman of the Energy and Natural Resources Subcommittee of the Government Operations Committee. His efforts on both committees

TOBY MOFFETT is an intelligent, thoughtful man, and the paths by which he seeks to better the quality of life for all Americans are to be commended. He is a man of conscience and he stands by his beliefs. I will miss the man and I will miss the legislator-I certainly wish Toby all the best in the vears ahead.

have brought many legislative achieve-

ments and reforms.

Mr. Speaker, It is with great pleasure that I join my colleagues today in paying a special and well deserved tribute to our colleague and friend. JOHN BURTON. Many of my colleagues will miss the dynamism and intellect that John brought to the Halls of Congress during his tenure here. His constitutents will miss the dedicated and compassionate man that represented them.

For many years, John was able to walk into this Chamber and in his own colorful way, brighten up the debate. It has been a pleasure for me to watch John operate and I will certainly miss him when the 98th Congress convenes in January. I would also like to take this opportunity to commend the fine job John has done in his role on the House Administration and Government Operations Committees. He has worked hard at Federal aviation reform as chairman of the Government Activities and Transportation Subcommittee.

JOHN is one of the most refreshingly candid and articulate Members of Congress, and his presence will be sorely missed. I certainly wish him all the best in the years ahead.

## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4. agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest-designated by the Rules Committee-of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 16, 1982, may be found in the Daily Digest of today's RECORD.

#### MEETINGS SCHEDULED

## DECEMBER 17

9:00 a.m.

Commerce, Science, and Transportation To continue hearings on S. 2300, to establish domestic content requirements for motor vehicles sold in the United States.

235 Russell Building 10:00 a.m.

#### **JANUARY 10**

10:00 a.m.

Foreign Relations International Economic Policy Subcommittee

To hold hearings on the effects of current economic problems on international affairs.

4221 Dirksen Building

2:00 p.m.

Foreign Relations

International Economic Policy Subcom-

To continue hearings on the effects of current economic problems on international affairs.

4221 Dirksen Building

#### **JANUARY 12**

9:30 a.m.

Labor and Human Resources

Employment and Productivity Subcommittee

To hold hearings to review Federal programs which create certain job opportunities.

4232 Dirksen Building

## **JANUARY 19**

10:00 a.m.

Foreign Relations

International Economic Policy Subcom-

To hold hearings on the current international debt situation

4221 Dirksen Building

#### JANUARY 25

9:30 a.m.

Finance

To hold hearings on the administra-tion's assessment of the meeting of Ministers to the General Agreement on Tariffs and Trade (GATT).

2221 Dirksen Building

#### FEBRUARY 1

10:00 a.m.

Foreign Relations

International Economic Policy Subcommittee

To hold hearings on proposed solutions to global economic problems.

4221 Dirksen Building

## FEBRUARY 27

Foreign Relations

To hold hearings on the prospective nomination of Edward J. Derwinski, of Illinois, to be Counselor, Department of State.

4221 Dirksen Building

## SENATE—Thursday, December 16, 1982

(Legislative day of Tuesday, November 30, 1982)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the President protempore (Mr. Thurmond).

#### PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Our Father in Heaven, Hanukkah and Christmas bestow profound significance upon these days. We pray for the peace of Jerusalem as we remember the rebuilding of the temple which represented God's presence among the people in Zion. We pray for peace in the Middle East and throughout the whole Earth as we remember the birth of God's Son, Saviour of the World and Prince of Peace.

Gracious Father, these times are especially important to family and home. Grant that the pressures under which the Senators have been placed these past days will not interfere with the excitement of Christmas, which is of greatest meaning for the children. Let there be peace and joy in our homes. Help the Senate to finish its business so that it will not distract from family pleasure or interfere with family plans.

We know, our Father, that loved ones who have died this past year will be deeply missed at family gatherings. May Thy love and grace enhance precious memories with tenderness and gratitude. Be near to each family and fill hearts and homes with rich joy and blessings. We pray in the name of God's gift to the world, the Lord Jesus. Amen

#### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## ORDER OF PROCEDURE

SURFACE TRANSPORTATION ACT OF 1982

Mr. BAKER. Mr President, under the provisions of rule XXII, a live quorum will commence 1 hour after the Senate convenes to be followed by a vote on cloture pursuant to the motion filed against further debate on the Baker substitute to the pending bill

Mr. President, there are a number of amendments yet to be disposed of. Some of them perhaps need to be done before that cloture vote. Some of them

The Senate met at 9:45 a.m., on the I expect can wait until after that cloexpiration of the recess, and was ture vote if cloture is invoked.

The distinguished Senator from Kansas will manage as will the distinguished Senator from Vermont (Mr. Stafford) and the Senators from Utah and Oregon their respective titles of this measure.

Mr. President, a special order in favor of the Senator from Iowa (Mr. Grassley) has been vitiated. If he has any need for time today, I will make an effort to provide that later in the day

It is also the intention of the leadership to provide a time for the transaction of routine morning business later in the day.

Mr. President, when the Senate ended its business early this morning and went into recess, it is my understanding that the Boschwitz amendment No. 1472 regarding truck threshold weights was the pending question.

Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield a minute to the Senator from Wisconsin on my time under the standing order.

Mr. PROXMIRE. Mr. President, I thank the majority leader.

### THE GENOCIDE CONVENTION: 34 YEARS IN LIMBO

Mr. PROXMIRE. Mr. President, for 15 years I have come before this body daily to solicit your support for the ratification of the Genocide Convention, a document that has awaited the Senate's "advise and consent" since 1948.

This is a long time indeed considering the initial enthusiasm and determination that our country showed in sponsoring the convention at the United Nations and in persuading our allies to join with us in signing the document in New York. It seemed then that the world was unified in its resolution to work collectively against genocide and its attendant afflictions. The pain of the Nazi Holocaust was replaced by an almost universal desire to see its crime addressed and combated through the combined efforts of the world community. This Nation rose to

the occasion and led its neighbors in the writing of this historic document and, after helping to engineer its passage in the General Assembly, the United States became one of the first nations to affix its signet to the convention's charter.

It is ironic that a nation that was so responsible for the convention's development and passage should, some 34 years later, still withhold its final approval of the treaty. Our reluctance to participate in this agreement that we helped inspire leaves us internationally isolated from our allies on this issue, and almost singularly opposed to a basic human rights measure. Politically our hesitation to take part in the pact is devastating as our detractors around the world portray our failure to do so as evidence of our insincerity on human rights. Morally our failure to ratify the convention is an indictment of everything we stand for as a republic founded in the Judeo-Christian traditions.

The Convention on the Prevention and Punishment of the Crime of Genocide represents more for our country than a general denunciation of genocide and its practitioners. It serves as a reaffirmation of this country's allegiance to the ideals that we profess and tests our fidelity by forcing us to make a long-term commitment. As Prof. Richard Gardner of Columbia University testified in 1970, "our ratification of this convention will dissipate the embarrassing contradiction between our failure to act and our traditional leadership in support of basic human rights."

Both our historical experience and philosophical foundations should prompt us to ratify the Genocide Convention without further delay or amendment. The misconception that our abstention from this document costs us nothing underestimates the moral and political tax that our isolationism on this issue extracts from our country. Our 34-year review must be brought to a conclusion if our 206 years of at times revolutionary action in human rights will remain unsullied.

WHEN THE BOMB GOES OFF— ARE YOU ON THE SURVIVAL LIST?

Mr. PROXMIRE. Mr. President, who will survive in Washington, D.C. after the bomb goes off? Will the distinguished occupant of the Chair be a survivor or the Senate or our families?

Well, according to author Howard Rosenberg, there is a plan, drafted in secret by Federal bureaucrats, that spells out who will survive. It is a plan designed to evacuate 4,000 to 5,000 bureaucrats and governmental leaders to so-called safe locations where they can carry out the functions of our Government in the aftermath of a nuclear attack.

So, who gets saved in the plan? The answer, of course, is a national secret. There are 33 Federal departments and agencies which are declared "essential and uninterruptible." From these agencies, select individuals are chosen for survival.

You might be interested in knowing, Mr. President, that among these essential and uninterruptible agencies that we must provide for after the bomb are the Railroad Retirement Board, the Eximbank, and the Consumer Product Safety Commission. Are they critical to our well-being as a nation in the post-nuclear-attack period?

Each agency is asked to draw up a list of three teams. Team A gets the enviable job of staying around town while everyone else is being evacuated. Apparently they work right up to the moment when the bomb hits ground zero. I wonder if these are volunteers.

Team B members survive by finding their way to Mount Weather near Berryville, Va. And Team C members go to other relocation areas.

Families get left behind, of course. Except for the First Lady. Spouses of Members of Congress, Justices of the Supreme Court and other top officials must stay at home or go to low-risk areas outside of Washington.

Perhaps it is comforting for the American public to know that after an initial attack on Washington, D.C., two members of the National Mediation Board will have passes to get inside Mount Weather and that 12 employees of the Ex-Im Bank will be saved along with 7 from NASA; a handful at the Farm Credit Administration and a few from the Federal Highway Administration. It should come as no great surprise that in each case the head of the agency or department is on the survival list. And, of course, the Post Office must have people surviving to direct change of address mailings for anyone else who survives countrywide.

Now let me return to my original question, Mr. President. When the bomb goes off—will you be on the survival list? Well, if someone has not spoken to you about it by now, then the answer is no—as it is for this Senator. Maybe we will just have to take our chances like everyone else.

Mr. President, I ask unanimous consent that an article by Howard Rosenberg in the Washingtonian magazine be printed in the Record.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washingtonian, November 1982] Who Gets Saved?

(By Howard L. Rosenberg)

By Washington standards, Fritz Oelrich is not an extraordinary man. A 44-year-old government worker, he buys his clothes off the rack, spit-shines his wingtips, and drives to work in a 1981 Chevette. He has never dined with Kay Graham or danced at the White House. But Fritz Oelrich's name is on one social register that someday may really count. He is a member of the elite group of Washingtonians chosen to be saved in a nuclear war.

If a nuclear conflict appears imminent, Oelrich will report to a hardened underground bunker outside Washington. There, as the acting emergency coordinator of the Selective Service System, he will start drafting millions of young American men. The Selective Service System emergency planwhich Oelrich recently helped update—provides for a draft following the onset of nuclear war. Amid the sirens, mailgrams theoretically could go out to registrants at a moment's notice; according to System officials, "We can deliver the first inductees on the thirteenth day."

Preparations for a post-holocaust draft are a small part of a complex blueprint designed to make sure that the U.S. government—represented by 4,000 to 5,000 loyal bureaucrats, most of them middleaged white males—will survive a nuclear war even if most of the nation does not.

These chosen few work for 33 federal departments and agencies designated as "essential and uninterruptible." It's a surprisingly broad list. Federal agencies rising from the ashes will include the Railroad Retirement Board, the Export-Import Bank, and the Consumer Product Safety Commission.

These agencies have been ordered to draw up lists of three teams, each capable of independently directing government operations in an emergency. Even the biggest and most important departments are limited to a few dozen bureaucrats per team.

Team A members aren't among the chosen few; quite the contrary. They're supposed to remain at headquarters and carry on while Washington is evacuated.

The B and C teams are the designated surviors. Members of the B Team head for Mount Weather, an enormous bunker a few miles from Berryville, Virginia, near the Shenandoah River. Team C members report to one of nineteen emergency-operating centers "located in a 300-mile radius of the nation's capital called the Federal Arc." There, in underground bunkers, food, water, and file cabinets await. (The quotation, and much of the other information in this article, is from a secret report on civil defense prepared by the State Department's Arms Control and Disarmament Agency, or ACDA.)

In these command bunkers, the chosen few will sit out a nuclear war. They could be the only Washingtonians who will survive to reconstitute constitutional government in the United States. Conceivable, they could also provide the seeds of a post-nuclear America cloned in the image of the loyal bureaucrat. New mates would be needed; in most cases, spouses and children are not among the chosen few, but secretaries are.

A year ago, President Reagan placed a renewed emphasis on civil defense. The underlying premise is simple: If we can protect our leaders, vital industries, and key workers better than the Soviets can protect theirs, we will "win" a nuclear war. That belief is embodied in the "continuity of government" program, or COG, and the plan to save "the chosen few."

All civil-defense plans are predicated on the assumption that a "crisis expectant period" will precede the outbreak of hostilities. During this time of rising tensions, an attack warning signal will be quietly passed through the bureaucracy, and federal emergency team members will disappear to their assigned posts. Simultaneously, US industry will gear up for a "surge" wartime production schedule.

The Pentagon has plans for protecting top military leaders during a nuclear war. At least 96 military command centers are buried around the world. A "war room" lies deep beneath the Pentagon itself. Another military command post is dug into Raven Rock Mountain near Fort Ritchie, Maryland, and an Alternate National Warning Center bristling with antennas occupies 65,000 square feet under a cow pasture off Riggs Road near Olney, Maryland.

What happens to the rest of us? The Reagan civil-defense plan calls for the mass evacuation of 80 percent of the American public from some 400 high risk areas to the rural countryside. Yet even if an evacuation can be successfully mounted—and many critics say it can't—the ACDA report estimates that only "35 to 65 percent of the US population might survive the immediate effects of a large-scale nuclear attack." Millions more would perish within months from injury, radiation sickness, starvation, and disease.

The government, however, plans to live on regardless of who is left to be governed. The Internal Revenue Service will tax the survivors, the Postal Service will bring them their mail, and the Social Security Administration will make sure that pensioners among them get their monthly checks—which could, at least in theory, be cashed for some of the billions in fresh new currency that has been stockpiled by the Federal Reserve Board.

"We don't plan to have postmen walking through a hail of missiles," says the Federal Emergency Management Agency's Jim Holton, but the US Postal Service has prepared change-of-address forms for evacuated citizens. Absurd? No, say officials, humanitarian. Families will need a way to locate missing relatives and find out who is

"I'm the only person in the whole Postal Service," says Ralph Jusell, "whose fulltime job is wartime or civil defense planning. In the case of nuclear war, certain classes of mail are embargoed and others are redirected. If New York City gets wiped the postal worker asks, "where do you send their mail? "It's a what-if situation and depends on what gets bombed." Each of the "essential and uninterruptible" federal departments and agencies has an emergency coordinator with a similar task. They have been supplemented in the past year by a new group of top-level officials assigned to an Emergency Mobilization Preparedness Board chaired by National Security Adviser William P. Clark. The Board's members all have the rank of deputy secretary or undersecretary and represent all the major federal departments and the White House staff.

Emergency coordinators and mobilization planners are supposed to help identify employees so essential that they should be saved. Those who make the C Team are for-

tunate enough, but in prestige they rank a notch below their colleagues on the B Team, who go to Mount Weather, the new seat of government.

Known as the "Special Facility," Mount Weather is dug into solid granite. Inside are streets, sidewalks, a fleet of electric cars, a small underground lake, and dormitories with about 2,000 beds. The Special Facility was designed with the "communications and logistical support to function as the center of administrative and decision-making authority in wartime," according to the ACDA report. It would be the home of an evacuated Congress, Supreme Court, and all members of the B Team.

In effect, these bureaucrats function today as a de facto government-in-waiting, a "shadow" government trained and capable of running these United States. They are unelected and, for the most part, unknown. Not even most members of Congress know with these guarante officials are respected.

who these surrogate officials are.

Each B Team member carries a special pass with his or her photo, blood type, and a message asking that "full assistance and unrestricted movement be afforded the person to whom this card is issued." To get into Mount Weather, you must have this pass.

Robert Merchant has one. He is the emergency coordinator for the Treasury Department. If nuclear war appears imminent, Merchant will drive to Mount Weather and present his pass. Another Treasury employee, who works full-time at the bunker, will be there to greet him and make certain he is the real Robert Merchant. "Our man at the site should know everyone on our team," Merchant says. It's a precaution against impostors.

Mount Weather was also once the official evacuation site for the President and his family. But the plan to whisk the Chief Executive to a shelter by helicopter was abandoned during the Carter administration. An impromptu test, with Zbigniew Brzezinski as the President, revealed that a helicopter might get knocked down by incoming Soviet missiles, which could reach Washington within twelve minutes if fired from submarines near the coast. Now the plan is for the President and key aides to take the much shorter helicopter trip to Andrews Air Force Base and immediately take off aboard "Kneecap," a specially modified jumbo jet officially designated as the National Emergency Airborne Command Post (NEACP, thus the name Kneecap). Besides being safer, Kneecap's communications equipment would fare better than Mount Weather's, which might be disturbed by the electromagnetic repercussions of nuclear explo-

For most of the top officials of government, Mount Weather—or a similar facility—is still the primary evacuation site. Just who is on the lists to be saved is among the most closely held of government secrets. The First Lady has a pass, but other spouses do not. When the late Chief Justice Earl Warren learned his wife was not included, he is supposed to have said: "If she's not important enough to save neither am I." And he gave up his pass.

The problem of arranging wartime accommodations for the families of federal emergency-team members is a thorny issue. Fritz Celrich wishes "they'd save my wife and kids." But they won't; civil-defense budgets are tightly strained, and the command bunkers simply don't have room for dependents.

"I don't know how much difference it makes where they will be," says Richard

Shullaw philosophically. Shullaw, emergency coordinator for the Interstate Commerce Commission, thinks the question would be rendered moot by the first missile to hit the capital. "I've talked with my wife about this, and we've made no provisions."

Other bureaucrats assigned to emergency teams think their critical duties should take precedence. "My first obligation is to do my job," explains the Civil Aeronautics Board's emergency coordinator, Joseph Laufer. "Then I have to make secondary considerations. It's like having a life-insurance policy. You hope you never have to take advantage of it, but it's nice to know it's there."

Under a voluntary program recently instituted, facilities are set aside in low-risk areas for families of team members. They must arrange their own transportation to the spartan facilities, and pay for food and housing. Robert Merchant inspected the housing units, and he's confident his family will emerge safely after the bombs stop falling. "I'm a believer," he says, "that there'll be islands of survival."

Bill Alcorn has his own plan. The emergency coordinator of the National Labor Relations Board, Alcorn doesn't like the idea of leaving his family in an emergency. He's made certain they "all know what to do."

"I'm a realist." Alcorn explains in careful, measured tones, "and I know the roads are going to be crowded and you won't be able to get out of the city by car, but I think you could get out on a motorcycle. So I've got a Harley-Davidson and a Honda 350 in the garage and an Airstream trailer parked on a beautiful campsite 85 miles from Washington. Even before an evacuation is ordered, my son knows enough to put his mother on the back of the Harley, and along with my daughter they should all head for the camp."

Alcorn himself will try to make his way to Mount Weather. Most emergency-team members must arrange their own transportation to command posts, though some high officials will be flown there by helicopter. Still, "we kind of keep our fingers crossed that local authorities and the police recognize us,"says Ed Cain, emergency coordinator of the National Communications System.

That could be a sticking point. Out of curiosity, Cain once showed his special pass to a Virginia state trooper and asked what the officer's response would be if presented the pass during an emergency. "His reply," Cain notes with a chuckle, "was not too reassuring." The pass meant nothing to the cop.

The A Team members who remain in Washington while the city is evacuated will face their own problems. There will be "stay-behinds" in the city who choose not to evacuate. One Defense Department report speculated that voluntary stay-behinds would include "addicts and alcoholics, antiwar idealists, pet lovers, and individuals—perhaps those from minority communities—who might not be willing to tolerate the cultural shock of a relocation."

Some federal buildings are supposedly equipped with well-stocked shelters, but many are in disrepair. At the Export-Import Bank, emergency coordinator Adrian Wainwright says the building's shelter "is not a place where any number of people would be able to survive for any length of time whether you had a nuclear bomb drop or not. If you wanted to spend a weekend down there, you'd have a hell of a time."

Bill Alcorn optimistically figures he could survive in the basement of the National Labor Relations Board building, across 17th Street from the White House, if he was unable to reach his post at Mount Weather. "We have some stale water and some cookies in the basement. This building, from an engineering standpoint, would probably withstand a nuclear attack if it wasn't a direct hit. I think we could withstand a Pentagon hit in this building."

At another regulatory agency, however, the emergency coordinator was not so confident. "Our plan is to go down to parkinglevel two and pray for a few minutes until the bombs hit."

In contrast to that pessimistic view, most emergency coordinators and many members of the emergency teams are true believers imbued with a "can do" spirit and a dedication to civil defense. Many have been closely involved with the program since the Cuban Missile Crisis. "This type of assignment you carry with you wherever you go," says the FBI's 37-year-old emergency coordinator, Special Agent William Kardash Jr. "We're privy to certain types of information and it's a burden, but it's also an important responsibility."

The complexity of emergency plans and the number of people destined to be saved vary widely among government agencies. At the National Mediation Board, only chairman Robert O. Harris and an alternate have bunker passes. Twelve or fewer of the 360 employees at the Export-Import Bank will be saved. Only seven from NASA headquarters will go to Mount Weather, and a like number to the Olney facility. At the Farm Credit Administration, the chosen few include the governor, Donald Wilkinson; his secretary, his senior deputy, and three other deputy governors; general counsel Frederick Medero; the chief financial officer; and the chief budget officer. The rest of FCA's employees are supposed to meet in South Carolina. All federal agencies have similar gathering spots, but few employees know where they are supposed to go-or have thought to ask.

At the National Communications System, Ed Cain says all of the supersecret agency's 40-some employees are considered "essential" in a nuclear war. "One of our primary missions," he explains, "is emergency management of all telecommunications. Everybody's been tagged to do a job and practices that job."

Everyone at the Federal Bureau of Investigation is also considered essential, but that doesn't mean they all get saved. As with more prosaic agencies, the Bureau's agents are divided into emergency teams. "It is workable," assures Special Agent Kardash. We put together three teams, all of which represent the minimal essential operating functions of the FBI."

How emergency-team members are chosen is a matter of some speculation. President Ford authorized the program through an executive order in 1976. The Federal Preparedness Agency—predecessor to the Federal Emergency Management Agency (FEMA)—then devised the team system. Like all civil defense programs, selection of the teams is at once the most important and least pressing chore on an agency head's agenda. Some haven't gotten around to it yet.

Most officials say that the teams that do exist were picked in a rational, methodical way. "It's position versus expertise," points out Bernard Weiss of the Nuclear Regulatory Commission. "The question is, should we choose individuals for the teams on the basis of rank or on the basis of particular

skills needed? At the NRC we picked people basically, although not solely, by position. In most cases we went right to the top of a department or office and picked the head and his deputy. . . . In the case of nuclear attack we would need high level management people capable of dealing with broad management questions—not experts in heat transfer."

At the Federal Highway Administration, emergency coordinator Clarence Friesen reflected a more egalitarian attitude. He identified the essential people as ranging from "secretarial support to engineers all the way up to the executives—from GS-6 to the top. We'll need workers as well as leaders." That sentiment was echoed by a number of emergency coordinators, but the FBI's, Kardash summed it up best: "If you do it Ichoose team members] predicated on politics," he noted wryly, "then when you need them, no one shows up."

The Selective Service System—charged with mounting a post-nuclear draft—has a plan for wartime emergencies that is typical of many. It specifies: "Until central control has been reestablished, each element of the System must be prepared to continue operations with little or no direction from national or regional levels. . . . The Basic Principle of this plan is that authority and responsibility are never vacated."

To that end, a line of succession to the director of the System was established with the proviso that "successors are delegated sufficient authority to carry out emergency functions, but will not, because of this procedure, formally succeed to the office or the title." The A Team will stay at headquarters in Georgetown "for as long as possible" while director Thomas Turnage is flown to the safety of Mount Weather. There he will be joined by the B Team.

The C Team, headed by chief of staff James Delk, will report to the Selective Service System's regional headquarters in Atlanta. Turnage will theoretically take refuge there if Mount Weather is destroyed. The System even has an emergency plan to safeguard the rosters of potential draftees. Millions of names are stored at the Joint Computer Center at the U.S. Naval Training Center in Great Lakes, Illinois, near Chicago, and a duplicate roster is entered in the W. R. Church Computer Center at the Naval Postgraduate School in Monterey, California. Whatever happens, the draft will go on.

Fritz Oelrich, who updated the System's emergency draft plan, is by no means a cold, calculating elitist. The onetime dean of Bee County Community College in Beeville, Texas, he's a dedicated father of three who goes to church on Sunday and good-naturedly offered to help a neighbor cut down some menacing tree limbs a few months ago. When he slipped and fell, Oelrich broke his back, both arms, and a leg. Still, he missed only two weeks of work. "I admit that there's a certain irony in the idea of a post-nuclear-attack draft, but I think we'll be able to do it," he says. "It all depends on how many they shoot at us and where they hit."

That's not all it depends on. Following a nuclear war, restoration of a working government would be a formidable task. According to a classified draft circulated by the Federal Emergency Management Agency (FEMA), "the strategy for reconstitution of the Executive Branch of the Federal Government after a nuclear attack relies on the Federal Regional Offices to be de facto regional governments.... Regional

offices of Federal Agencies will join with the FEMA regional infrastructure to form a comprehensive Federal Government for each region. . . . Because of the uncertainties surrounding a nuclear attack, one of the regional governments may be the national government."

Conceivably, if the President is incommunicado or killed by the first wave of missiles, an unelected bureaucrat working for FEMA, or some other federal agency, could become the new national leader by default. Though the constitution line of succession is clear, a nuclear attack could kill all possible successors, or cut off their communications. As a practical matter, someone who controls the means of communicating with far-flung US armed forces would have to serve as commander-in-chief.

Although federal officials deny it, many observers believe that a true national emergency would mean martial law and a suspension of constitutional guarantees. FEMA chief Louis Guiffrida is trying to figure a way to determine who would really have the power to push the button to start a nuclear war—or to stop one.

Many civil-defense proponents believe that blast shelters should be built for everyone in the United States. But that would cost \$100 billion or so, according to Defense Department analysts. There's no political pressure to revive the fallout-shelter craze of twenty years ago.

So, if a nuclear war comes, the vast majority of us will have to fend for ourselves in the rural countryside, if we are lucky enough to get there. Theoretically, a few bureaucrats will emerge from bunkers to direct the rebuilding of America.

But the chosen few might not survive, either. Mount Weather and the other bunkers are well known to the Soviets. In fact, Russian agents once tried to buy a piece of property adjacent to the Mount Weather facility so they could keep a close eye on things. According to the secret report by ACDA, "like other facilities of its kind," Mount Weather "would be vulnerable to direct attack by nuclear weapons."

"There's probably a very big bull's-eye painted on that thing," concludes the ICC's Dick Shullaw

nck Shullaw.

## THE MILITARY NEEDS MORE INDIANS AND LESS CHIEFS

Mr. PROXMIRE. Mr. President, one of the problems with our military is that there are too many desk sitters giving orders and not enough men and women taking those orders.

The President of the United States desires that our military be stronger. But buying expensive weapons is not the only way to accomplish that goal. The military might consider looking within itself, and do some restructuring, to gain strength.

According to a recent article in the National Taxpayers Union newspaper Dollars and Sense, our military is top heavy. Some examples: There are less than five enlisted men for each officer, one rear admiral for every ship in the Navy, and more four-star generals

in this peacetime than during World War II.

Do we need all those chiefs? Chiefs are expensive. We have "officer bloat" in the military and it is costing money.

High-ranking personnel cost more and when they retire, their pension and benefits continue to drain the taxpayer.

But the big worry here is quality. The worker bees in a hive keep it going. Without them everything dies. The strength of our military is determined by the strength of the soldiers who must be battle ready. But the United States is lacking in this area.

A U.S. combat division and all its support personnel includes roughly 48,000 troops. To generate comparable firepower, the Israelis and West Europeans use only 30,000 to 35,000 soldiers and the Soviet Union only 22,000—half the amount of troops that the United States needs in order to deliver the same firepower.

Having too many people in the chain of command makes the Armed Forces unwieldy. If we insisted that less people give orders and more people be in positions to receive those orders, our military would be more efficient.

We need to examine a military structure that siphons the top talent from the field and places them behind desks. Some solutions exist to this dilemma and we might do well to consider a few.

First, the military must be streamlined. Layers of bureaucracy could be cut to limit the number of desk sitters and increase the number of combat troops.

Second, the "up or out" attitude that prevails in the military must be reversed. The "up or out" philosophy states that you either advance in rank or stagnate in your present position. We need incentives to keep our soldiers happy in their jobs. By reducing the number of top-level commanders we could fuel the saved money into higher salaries and benefits for our soldiers.

It is time the military look within itself for strength. It may be surprised to find a great source of power there.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

Defense Spending: Are We Getting Our Money's Worth?

(By Eric Meltzer)

("The Reagan defense policy has been to throw money at the Pentagon, relying on the generals and admirals to compile the shopping lists."—Editorial Page, The Wall Street Journal)

Item: In Washington, D.C. alone there is more than one rear admiral for every ship in the entire Navy. That's just in Washington, D.C.

Item: At the Army War College in Carleton Barracks, Pennsylvania there are more full colonels or officers about to become full colonels than could command all the combat regiments in the Army. And this is just at one war college.

Item: There are over one hundred Air Force generals in Washington. That's one third of all Air Force generals.

Item: The Pentagon has more lieutenant colonels assigned as historical officers than it does as tactical reconnaissance wing com-

Burgeoning bureaucracy is not unique to one branch of the military; it pervades all branches. Congressman Les Aspin, himself a former Pentagon official, noted that, "Since WWII the armed services have increased the number of generals and admirals relative to fighting units by a factor of 7.5 in the Navy, 6.6 in the Air Force, and 2.1 in the Army."

How many officers is this? In the Navy there are over 65,000 officers. That's one officer for every 7.3 enlisted men. In the Army, there are more than 100,000 officers. There are fewer than 7 men under each officer. But in the Air Force, there are again more than 100,000 officers. That means there are less than five enlisted men for each officer.

Aspects which we think of as being typical in bureaucracy are found in the Defense department. Among these characteristics is a top-heavy organization manned by lots of chiefs and comparatively few Indians; a system in which tenure is more highly valued than output; and an organization in which output is very difficult to measure.

which output is very difficult to measure.

The military has a time honored rule: "Up or out." This rule means that an officer either advances in the ranks or is shunted off into some position where he quits or gathers dust until retirement. The result of "up and out" is that the officer corps has expanded to the point where the taxpayer spends dearly to keep many more personnel than we need.

But what do these figures mean? What is so bad about a bloated officer corps?

First of all, there is the simple and unambiguous increase in costs, that unnecessary, highly paid personnel create.

Second, not only must we pay for the salary and retirement benefits of each officer, but every officer has to have support personnel, also paid for by the taxpayers.

But monetary concerns are, in a very real way, only one of our worries.

## CHAIN OF CONFUSION

Another worry is the quality of our defense. Having too many people in the chain of command can make the armed forces unwieldy, possibly harming battlefield readiness

A U.S. combat division and all its support personnel includes roughly 48,000 troops. To generate comparable firepower, the Israelis and West Europeans use only 30,000 to 35,000 soldiers and the Soviet Union only 22,000. Even our main adversary, the Soviet Union, whom we think of as being so inefficient, requires less than half the amount of troops that the United States needs in order to deliver the same firepower. Something is wrong, We have tens of thousands of men performing tasks that may be unnecessary. The cost to the American taxpayers both in terms of salaries and future pension benefits is in the billions.

Why is it that things seems so messed up? Why does all defense activity seem as though it is an endless morass of taxpayer waste and an endangerment of human life—the life of the American soldier?

Again, the story we see is one of bad incentives. Rational people trying to get ahead in a system that promotes undesirable outcomes.

Gordon Tullock, a professor at Virginia Polytechnic Institute and State University in Blacksburg, Virginia, has studied these problems for a long time. The problem, ac-cording to Tullock, is that no one wants to risk his life. This seems like a reasonable assertion but risk is undeniably a necessary part of Army life. It seems almost paradox ical that the Army, which most folks would consider to be a high-risk occupation, is, in fact, structured to attract safety-minded people. Military personnel are offered extremely generous pensions-even as much as 80 percent of their pay-upon retirement. It takes only 20 years of service to receive a pension at 50 percent of pay. Furthermore, it is generally the case that military personnel—especially officers—rarely see military action. For example, at the height of U.S. involvement in the Vietnam war, approximately 550,000 troops were stationed in Vietnam. Yet at any one time only 80,000 to 85,000 of those troops actually saw military action. The rest were involved in all sorts of support activities, leadership roles, and civilian-type support services. According to Tullock, the United States military should have been able to get by on 30,000 support personnel, less than one-tenth the number actually used.

This sort of needless overstaffing is rampant in the military.

Consider the case of the U.S. base at Long Binh, Vietnam, In 1972, Long Binh was a 17,000-acre base with 14,000 military personnel stationed on it. Of those 14,000, a mere 122 were actually combat soldiers. The rest were "support" personnel. The base had 60 bars. It had 11 swimming pools. There were 100 movies being shown on the base at once, with one theater alone costing \$445,000. There was a huge bowling alley, a skeet shooting range, and a lapidary shop. And that wasn't all. There were massage parlors and male beauty salons complete with every beautifying technique. Of course, this all belongs to the Communists now, along with the \$5 billion in weapons left behind when the South Vietnamese Army melted away.

Sadly, such well stocked bases became a logistical trap for the United States military in Vietnam. This is precisely the point made by General Woolwine whose thoughts on this subject appeared in the official magazine of U.S. Army Logistics, the Army Logistician. General Woolwine wrote that the sheer glut of equipment and supplies hauled in to American bases in Vietnam made American forces immobile.

"Consider the question of mobility," wrote General Woolwine. "At the battalion level certainly our troops were more mobile than ever before. Companies moved swiftly by helicopter. . . . But the brigade bases, to say the least, were semi-fixed, and the divisions, with the exception of the 1st Cavalry, stayed in essentially the same areas throughout the war."

"The statistics of our support infrastructure in Vietnam almost overwhelm you. Seven deep-water ports with 27 berths. Twelve runways at 8 major air bases with 200 small airfields and the same number of heliports. Eleven million square feet of covered storage. About 2,000,000 square feet of refrigerated storage. Ice cream delivered by air. A dry-lce plant to keep the ice cream refrigerated."

General Woolwine concludes: "Our division headquarters and the base area support facilities tended to be equally plush. We could not have moved even if we had wanted to."

## MORE NOW THAN EVER

Today, in a time of peace, the United States has more four-star generals than we did during World War II. In World War II we had one officer for every ten serving in the military. In recent years, this ratio has fallen to one officer for every seven enlisted men. Ironically, the increase in the size of the officer corps has had the effect of draining off the bulk of the most highly qualified field personnel. Out of every 40 men in field positions, three of the best four are siphoned off into desk jobs or other behind-the-scene chores. The result is a field capability which is weaker than it would otherwise be if the incentives did not result in the removal of the most capable field soldiers from field positions.

According to Tullock, one of the main reasons the United States ends up with so many chiefs and so few Indians is because it's simply the easiest way. It is convenient to everybody involved, except for the tax-payer.

This situation is so bad that we now have three commanders for every combat unit in the Army.

It seems rational that high-ranking officers would desire an ever greater number of officers. This gives them more authority over a greater number of like-minded individuals who are virtually certain to support their decisions. In this regard, military officers are no different from the officers of any other bureaucracy who desire greater support and staff to promote their bureaucratic goals.

How can we resolve this dilemma? How can we make the military bureaucracy more inclined to behave in the interests of the taxpayers? The answer lies in rearranging the incentives to produce a strong national defense without costly frills.

## WHAT REFORMS ARE CALLED FOR?

First, the military should consider replacing military personnel with civilians in tasks which do not require military personnel. Private firms could just as easily provide the necessary goods and services.

Second, the military compensation package should be overhauled. The American taxpayer can no longer afford soaring military payroll costs and pension benefits. We should reduce the support staff allocated for officers.

A strong defense requires a streamlined military. Excessive layers of bureaucracy do nothing to promote the defense of this country. If we are truly to secure a strong defense at the most cost effective price to the taxpayers, we must sharply limit the number of uniformed bureaucrats who sit behind desks in Washington.

I thank the majority leader and I yield the floor.

Mr. BAKER. Mr. President, does the distinguished acting minority leader have any need for time at this point? If not, I once again suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Cochran). Without objection, it is so ordered

#### ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if there is any time remaining to me on leader time under the standing order, I yield it to the control of the distinguished Senator from Kansas (Mr. Dole) so that we can utilize it in pursuance of the debate on the pending legislation.

The PRESIDING OFFICER. The majority leader's time has expired. The minority leader has 10 minutes re-

maining.

Mr. BAKER. Mr. President, I ask unanimous consent that the remaining time between now and 10:45 a.m., before the quorum required under the provisions of rule XXII commences, be under the control of the Senator from Kansas and the distinguished minority manager—I withdraw the request.

# RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

### EMPLOYMENT FOR DISADVAN-TAGED ELDERLY AMERICANS

Mr. ROBERT C. BYRD. Mr. President, the title V senior community service employment program provides employment and work training opportunities for elderly Americans living at or below the proverty level, who want to work but lack sophisticated job skills. Two-thirds of the program participants are older women, the most vulnerable segment of the aging population with the highest percentage of poverty. About half of title V's beneficiaries are age 65 or older. About half have less than a high school education. Many have found that they cannot live on their social security retirement and, rather than apply for welfare or seek financial aid from family members, these senior citizens search for productive employment.

Today, the program provides minimum wage, part-time jobs for 54,000 elderly Americans throughout the Nation. It is a modest jobs program and many participants can just make ends meet with their additional employment income. In my own State of West Virginia, there are about 690 senior citizens employed in such jobs. These workers provide needed community services in hospitals, day care centers and libraries. Many serve less able-bodied elderly Americans at senior centers, in nutrition programs, or by providing other Outreach services.

vices.

We are just ending the first year of a 3-year reauthorization of the Older Americans Act which provides that the scope of the community service employment program should not be limited and that funding should be expanded to preserve the program's operations. This legislation overwhelmingly passed the Congress before na-

tional unemployment began soaring to postwar records. Yet, we have just pulled through a difficult battle to save the special jobs program for the

aged from extinction.

This fight began when the administration proposed dismantling the community service employment program as part of its 1983 budget. I introduced a "Sense of the Senate Resolution." Senate Resolution 340, that no action be taken to terminate or otherwise weaken the program. OMB's proposal was cruel and foolish because eliminating the senior jobs program would force elderly citizens onto the welfare rolls, and savings assumed from its elim ination would be borne there. The job losses would have also impaired the ability of local agencies to provide other specific services authorized under the Older Americans Act, with funding already cut back for such services.

The resolution to preserve the senior community service employment program enjoyed bipartisan support; 33 Senators cosponsored it, the Labor and Human Resources Committee unanimously reported it, and the Senate passed it 89 to 6. A similar measure passed the House overwhelmingly. Despite this show of strong congressional support, administration support for continued funding of the jobs program remained such a clouded issue during the appropriations process that some elderly workers were told that their jobs were being terminated.

Two appropriations bills containing money for the jobs program were vetoed. When the President vetoed the third appropriations measure, which was \$1.8 billion less than the administration's budget request, Congress voted to override it. The community service employment program was an important factor in the vote to over-

Now that the finishing touches are being added to the administration's 1984 budget plans, we are already hearing of still another OMB proposal that would lead to a weakened and less effective jobs program for the aged. OMB wants to move the community service employment program from the Department of Labor to the Department of Health and Human Services. Such a move does not make any sense and could fatally undermine the program's record of cost-effective success.

Congress carefully investigated which agency should administer the special jobs program when legislation to create it was first introduced. In fact, the original bill would have placed it within HEW. After reviewing the proposal in congressional hearings, an almost unanimous consensus was reached that the plan should be administered by the Department of Labor because jobs programs should be run by the cabinet agency with re-

sponsibility for, and expertise in, employment and training services.

The goals of the senior community service employment program are: employment, job training, and placement in nonsubsidized work. These objectives are currently being met with significant success. Despite the dismal job market of the past year, title V program participants have experienced a 17-percent placement rate in nonsubsidized employment. The training and work experience provides a solid stepping stone to self-sufficiency.

The Department of Labor's small staff administering the program is skilled, administrative overhead is low. and fraud and abuse is almost nonexistent. The Congress exceptionally strong support for the program is testimony to its success. If it were transferred to the Administration on Aging (AOA) in the Department of Health and Human Services, significant dis-ruption could occur. AOA has no experience in running a jobs program. Unlike the Department of Labor, the Department of Health and Human Services has no network of jobs placement or jobs training services in place, on which to build.

Transferring a program from one cabinet department to another does not produce budget savings by itself. I cannot help but question the tactical reasons behind the OMB proposal. Why would OMB want to break up a winning program at this time? The Administration on Aging staff is barely able to meet its current duties under the Older Americans Act. It cannot assume a significant new responsibility. Moreover, the appropriate time to look at substantive administrative changes is when a program comes up for reauthorization, not soon after it has been reauthorized.

The community service employment program has proved itself in its capacity to recruit and employ older workers as valuable community resources. It cannot afford any disruptions in program operations. Unemployment among older workers has increased by almost 65 percent during the past 15 months, from 526,000 in August 1981 to 867,000 in November 1982—an all-time record number. November marks the second consecutive month that unemployment has hit record highs for older workers.

Traditionally, unemployment among this segment of the labor force is comparatively low since seniority helps many of these workers retain their jobs. While retirement allows others to leave the work force when their jobs are threatened. However, when these older workers become unemployed, they tend to remain jobless for longer periods of time than younger workers.

Regrettably, the Democratic job package I offered as an amendment to

the gasoline tax bill was defeated on a party line vote. Included in that package was \$100 million to provide 20,000 additional direct jobs under the title V community service employment program for older Americans. Jobless elderly citizens need this assistance, and communities financially hard-pressed by Federal budget cuts would benefit from such aid.

I would prefer to see appropriations increased for the community service program. I will fight against any proposal to cut money for the jobs program or to otherwise weaken its operations. I believe a number of col-leagues share my thoughts and would oppose any OMB plan to transfer the title V senior community service employment program from the Department of Labor to the Department of Health and Human Services as part of any fiscal 1984 budget plan.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my

time.

## RULE XXII QUORUM CALL TO BEGIN AT 11 A.M.

Mr. BAKER. Mr. President, could I inquire of the minority leader if there would be a disposition on his side to change the time for the commencement of the rule XXII quorum from 10:45 until 11 a.m.? The reason for that is we advanced the convening hour from 10 to 9:45 a.m. to accommodate a Senator who made a request for a special order. He has now vitiated that and I think all Senators would be best served by sticking with the original announcement, which was that the quorum would start at 11 a.m.

Mr. ROBERT C. BYRD. Mr. President, the majority leader earlier ordered that the Senate come in at 10 a.m. with the understanding that the quorum would begin at 11 a.m. After some Senators may have gone, the majority leader did bring forward the opening time to accommodate a Senator. I think we should proceed as the majority leader has indicated.

Mr. BAKER. Mr. President, I thank

the minority leader.

Mr. President, I ask unanimous consent that the quorum call required by the provisions of rule XXII begin at 11 a.m. today instead of 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SURFACE TRANSPORTATION ACT OF 1982-H.R. 6211

Mr. DOLE. Mr. President, if Senator LEVIN is going to offer his amendment. I suggest that he get over here. We have only 1 hour remaining.

Mr. STEVENS. Mr. President, the Boschwitz amendment is pending.

Mr. DOLE. I understant that. The Dole amendment is also pending. We would like to dispose of the Dole

amendment, too. We are so busy disposing of all of the other amendments and I want to dispose of my own.

Mr. MELCHER. Will the chairman vield?

Mr. DOLE. Yes.

Mr. MELCHER. Mr. President, I spoke last night or early this morning on a proposal modifying my amendment, which the chairman is familiar with, to make it acceptable to the managers of the bill. The modification would be in the form of taking the amendment as a study proposal to be reported back by IRS to the Finance Committee within a time period.

Mr. LONG. Mr. President, I believe I need a further explanation of the proposal. I heard some of it explained last night, but I must admit that about after 1 o'clock in the morning my intellect was not as good as it would be

at 9 o'clock in the morning.

Would the Senator tell me briefly

what this is about?

Mr. MELCHER. Mr. President, the amendment deals with the inequity that construction workers receive or how they are treated by the Internal Revenue Service in the deduction for their expenses away from home. It is admittedly a problem that IRS recognizes, the Treasury Department recognizes, and needs some attention.

Mr. LONG. Is the Senator asking for a study at this point, not a change of

substantive law?

Mr. MELCHER. That is correct. Mr. LONG. I would be willing to go along with that, Mr. President.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendments, including the Boschwitz amendment, be temporarily laid aside so that we might consider the amendment of the distinguished Senator from Montana, Senator Melcher, and that there be no amendment to his amendment.

The PRESIDING OFFICER. Is there objection?

METZENBAUM. Objection, Mr. unless there is a time limit of 5 minutes in connection with that amendment.

Mr. DOLE. Or less.

Mr. METZENBAUM. Or less.

The PRESIDING OFFICER. Is there objection to the request, as modified? Without objection, it is so ordered.

Mr. DOLE. Mr. President, as I understand it, this is only a study. It does not change substantive law, as indicated by the distinguished Senator from Louisiana and the distinguished Senator from Montana. On that basis, I have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate?

Is the amendment at the desk?

Mr. DOLE. Mr. President, as I understand it, they are in the process of modifying the amendment.

Mr. HUDDLESTON. Will the Senator yield?

Mr. DOLE. Yes.

Mr. HUDDLESTON. Would it be possible at this time to offer the amendment that we discussed relating to U.S. trade relations with Japan?

Mr. DOLE. Will it take long to modify the Melcher amendment? Perhaps, because we do have a rather tight time constraint, we can temporarily set aside the Melcher amendment, the Boschwitz amendment, and the Dole amendments and take up the amendment of the distinguished Senator from Kentucky.

Mr. LEVIN. Mr. President, I was

here last night.

Mr. DOLE. This one we are going to accept.

Mr. HUDDLESTON. It will just take 1 minute.

The PRESIDING OFFICER. Is there objection to the request that the pending amendment be set aside? Without objection, it is so ordered.

The Senator from Kentucky.

#### UP AMENDMENT NO. 1476

(Purpose: To undertake a concerted effort to restore balance in the trade between the United States and Japan)

Mr. HUDDLESTON. Mr. President, I call up my amendment relating to the sense of the Senate resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLE-STON), for himself, Mr. METZENBAUM, Mr. GRASSLEY, Mr. Boschwitz, Mr. Dole, and Mr. Melcher, proposes an unprinted amendment numbered 1476.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC.

At the appropriate place in the bill insert the following new sections:

#### UNITED STATES-JAPAN TRADE

. (a) The Congress finds that-(1) the United States has incurred a cumulative trade deficit with Japan of \$56,000,000,000 from 1979-1981 and the trade deficit is expected \$20,000,000,000 in 1982; to reach

(2) the United States has given Japan open access to our large domestic market and has worked to open the world trading system through all available channels in-cluding the General Agreement on Tariffs and Trade:

(3) Japan has devised and utilized a com-plicated system of quotas, tariffs, and non-tariff trade barriers which have unfairly restricted the importation of United States agricultural commodities and manufactured goods, including plywood, beef, tobacco, baseball bats, fruits and vegetables, proc-essed foods, pharmaceuticals, cosmetics, sporting goods, automobiles, high technology products, and numerous chemical substances;

(4) this restrictive trade policy has prevented United States agricultural producers and businesses from gaining reasonable access to the Japanese markets;

(5) protracted negotiations and discussions between the United States and Japan have falled to produce significant liberalization of the protectionist Japanese trade policies; and

(6) severe political and economic tensions now exist as a result of the imbalance of trade which persists between the United

States and Japan.

(b) It is the policy of the Congress that the United States undertake a concerted effort utilizing all reasonable and effective means available to open the Japanese market to United States agricultural producers and businesses by removal of restrictive and unfair trade practices, and that in the event significant progress is not made within a reasonable period of time, the President submit to Congress a plan for assuring that trade between Japan and the United States is brought into greater balance beginning in 1983.

UNITED STATES-JAPAN TRADE

Mr. BOSCHWITZ. Mr. President, I am pleased to join the Senator from Kentucky (Mr. Huddleston) in offering this resolution to impress upon the Japanese the need for them to open their markets to U.S. products-and, to do so quickly. The Senator from Kentucky and I share this common goal and a common interest-promoting exports of U.S. agricultural commodities and U.S. manufactured goods. We both serve on the Agriculture Committee where he is the ranking minority member and I am chairman of the Foreign Agricultural Policy Subcommittee. He is also the ranking minority member of the Small Business Committee Subcommittee on Export Promotion and Market Development which I chair. We have worked together in the past and will continue to do so in the future.

Mr. President, we all know that our trade relations with Japan are at an all-time low: Our 1981 trade deficit with Japan was \$15.9 billion, with a cumulative deficit of about \$56 billion. I am convinced that this enormous deficit substantially results from the barriers Japan erects to prevent U.S. goods from entering that country. Japan keeps U.S. products out of their country by import policies of formal and informal quotas, regulatory policies of discriminatory product standards, testing, certification, and other requirements and industrial policies of industry targeting and government procurement, among other barriers.

The U.S. Trade Representative has identified numerous U.S. products on which Japan maintains quotas, which the United States believes violate the tariff provisions of the GATT. These include: Leather, beef, beef products, fruit and vegetables, grains, and others.

The United States and Japan have a very interesting agricultural trading

relationship. On the one hand, Japan is our largest customer for farm products, buying over 15 percent of all our agricultural exports. Feed grains, soybeans, and wheat are the principal items making up their \$6.7 billion of purchases in 1981.

On the other hand, Japan maintains quotas on 22 agricultural items. These quotas put an absolute limit on the amount of the product that can be imported and clearly violate the GATT. The most important products which are restricted by quota are beef and citrus. While we have no citrus orchards in my home State of Minnesota, we have a large beef cattle industry.

The case for beef is particularly instructive. Despite the strong demand for American grain-fed beef in Japan, only 30,800 metric tons are permitted to be imported annually from all sources. To obtain this quality beef, for which the American consumer pays about \$3.50 per pound, the Japanese consumer must pay over \$13 per pound.

With that price, it is not surprising that the per capita beef consumption in Japan is only 11 pounds per year. Japan could be a major user of our beef. But under their present import policies only 7 percent of the meat consumed in Japan comes from the United States. Japan could use a lot of our products if it were not for their protectionist philosophy.

I am advised that lifting the quotas would bring about several hundred million dollars in additional agricultural exports. This could provide a needed boost to the depressed cattle market.

But, Mr. President, beef is only one example. The overall unwillingness of Japan to open its markets to U.S. exports is illustrated by the futility of our negotiations. As recently as October 20, 1982, our negotiations on beef and citrus quotas proved futile. Last May, the Japanese announced, with much fanfare, trade liberalization initiatives addressing both tariff and nontariff barriers—but we are still waiting for the details. Last year, the Japanese Government agreed to open its Government procurement process for U.S. telecommunications products, but the results have been negligible to date. Even the current negotiations for a high-technology trade agreement, of great importance to businesses in Minnesota, have met with Japanese reluctance.

Mr. President, our markets are the most open in the world, and I would like them to remain open. But, open trade must be a two-way street and Japan must take concrete steps to open its markets. This resolution should impress on the Japanese the need to act swiftly and decisively. Congress stands firmly behind concerted

efforts by our Government to secure access to Japanese markets.

I urge my colleagues to adopt this resolution and work with the President next year to bring trade between Japan and the United States into greater balance.

Mr. HUDDLESTON. Mr. President, as the ranking minority member of the Small Business Committee's Export Promotion Subcommittee and the ranking minority member of the Agriculture Committee, I have become increasingly aware of the importance of exports to the U.S. economy.

During the 1950's and 1960's, American companies dominated the world market. The U.S. economy set the pace in international trade and many believed that we could never be surpassed in our economic leadership in the world.

However, times have changed and in a relatively short span of time we have seen our leadership role slowly erode. This erosion has become so bad that the Secretary of Commerce has stated that: "If current trends continue, we may lose our position as the world's premier industrial power by the end of the century."

Unfortunately, the statistics support his statement. In 1962, 22 percent of the world's manufacturing export sales came from the United States, but this has now dwindled to about 16 percent. During the same period of time our huge domestic market also came under attack and the amount of manufactured imports escalated from about \$7 billion to more than \$140 billion.

One of the primary causes of this changing trade picture has been the extremely aggressive foreign trade policy of Japan. Much of their success in the world market can be attributed to the fact that they have effectively protected their own domestic markets while pushing into foreign markets. One of the largest foreign markets available to them has been the United States.

Unfortunately, the open markets which they have access to in the United States do not exist in Japan in regard to foreign markets. This combination of policies has produced a situation whereby the United States is experiencing growing trade deficits with Japan.

During the period 1979 through 1981, the trade deficit was \$56 billion and some experts are predicting that the deficit in 1982 alone may be as much as 20 billion.

Mr. President, I do not believe that this huge deficit represents an inability of American business persons to compete with Japanese business. I believe that on the whole, U.S. business know-how is still superior and that on an even playing field we can hold our own with any other country. However, we have not been playing on an even

field. The Japanese have erected a complex and highly effective system of trade barriers that makes it extremely difficult and sometimes impossible for foreign firms to enter the Japanese market.

A recent report by the office of the U.S. Trade Representative issued just last month has identified and cataloged these direct and indirect barriers. In essence they fall into two types. First there are those deriving from Government policy which include import policy, regulatory policy, and industrial policy. Second, there are those deriving from the private sector, which include industrial structure, distribution systems, and "buy national" attitudes.

Even though the intent of some of these policies may not be to deny entry to foreign goods, the end result is exactly that. The conclusion of the report is that:

The Japanese market remains relatively less open to foreign suppliers when compared to access for Japanese goods and services in their markets.

For 15 years the United States has been negotiating with Japan to open their economy to foreign goods and services. While we have had some success, the overall conclusion as of last month is that "barriers to imported goods, services, and foreign investment still remain."

Mr. President, relations with the Japanese now stand at crossroads and I believe that we must send some very strong signals to the Japanese Government in regard to this issue. This amendment would accomplish this.

In essence it would demonstrate that the U.S. Congress is endorsing the use of all reasonable diplomatic and economic means to secure a reduction in the restrictive trade barriers in Japan.

Further, it would encourage the President to sumbit to Congress a comprehensive plan for bringing United States-Japanese trade back into greater balance if our efforts at voluntary cooperation are not successful.

Mr. DOLE. Mr. President, we have no objection to the amendment.

Mr. HUDDLESTON. Mr. President, Senator Metzenbaum, Senator Grassley, and Senator Boschwitz join me in presenting this sense-of-the-Senate amendment, along with the distinguished manager of the bill, Senator Dole, and Senator Melcher. It has been checked on both sides. I move its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment of the Senator from Kentucky (Mr. Huddleston).

The amendment (UP No. 1476) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, if we could just take a minute, I say to the Senator from Michigan, we are about ready to complete the modification of the amendment of the distinguished Senator from Montana.

Mr. President, I might say while we are completing the modification, that, as I understand it, the live quorum will begin at 11 a.m. We still need to dispose of the amendment of the distinguished Senator from Michigan. We are working with the Senator from Alabama, Senator Heflin. There may be some others. As I understand it, there is a possibility to dispose of an amendment of the Senator from Missouri. And there are still the Dole amendments pending at the desk which I hope we can dispose of before we proceed on cloture.

Mr. LEVIN. Will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. LEVIN. While the amendment of the Senator from Montana is being modified, could we get my amendment taken up so we may save some time?

Mr. DOLE. Mr. President, let us temporarily set aside the amendment of the distinguished Senator from Montana, the distinguished Senator from Minnesota, and the Dole amendments, and proceed to debate the amendment of the Senator from Michigan on the condition that there would be no amendment to the amendment.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. Is there objection to that request?

Mr. BOSCHWITZ. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LEVIN. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1477

(Purpose: To define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable income for purposes of Federal income tax)

Mr. DOLE. Mr. President, as I understand, the amendment of the Senator from Montana has now been modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Melcher), for himself and Mr. DeConcini, proposes an unprinted amendment numbered 1477.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the amendment add the following new sections:

(a) STUDY OF TRAVEL AND TRANSPORTATION EXPENSES OF CONSTRUCTION WORKERS.—The Secretary of the Treasury shall by July 1, 1983, submit to the House Committee on Ways and Means and the Senate Committee of Finance a study of the tax treatment of travel and transportation expenses of construction workers at job sites away from home.

Mr. MELCHER. Mr. President, the amendment we are introducing today seeks to clarify the tax law concerning the deductibility of travel expenses to and from temporary job sites. I believe that construction workers should be deemed to be temporarily away from home for their first 2 years of employment at any job site more than 40 miles from their home, and thus will be eligible for travel expense tax deductions. Thereafter, the deductibility of their travel expenses should be determined, case by case, on the basis of whether the expenses were incurred because of business necessity rather than personal convenience.

Last year, I introduced S. 1342, a bill to correct IRS practices that prevent construction workers from deducting their legitimate away-from-home business expenses just like you and I or business people throughout the country. I had intended to offer the substance of S. 1342 to the debt limitation bill. However, because of procedural problems, it was impossible to bring up the amendment. We believe that modification of tax law to correct the present circumstances should become part of this tax bill to help ease problems workers are facing in dealing with IRS's 1-year ruling and the hindsight test that they apply to construction workers' expenses.

Under the 1-year rule, as enforced through IRS rulings 59-371 and other similar rulings, the IRS automatically disallows deductions for away-fromhome travel expenses for construction workers if they are on the temporary jobsite for longer than 1 year. Under the 1-year rule, not only does the IRS disallow current deductions for away-from-home expenses, but also using the hindsight test, the IRS disallows deductions claimed during the previous year.

This arbitrary test is totally unfair to the taxpayer and, in fact, has been struck down in court cases in the eighth and ninth districts. S. 1342 is aimed at eliminating these unfair IRS rulings, and replacing them with a simple and fair method to determine the deductibility of away-from-home expenses.

The need for changing the Internal Revenue Service rules on this problem is best illustrated by an actual case history. In 1970, Mr. Louis Frederick, a carpenter, lived in Belcourt, N. Dak., his hometown, with his wife and five children. He had practiced his trade in the Belcourt area, close to his home, for more than 18 years.

In the summer of 1970, however, there was no work available for carpenters in the Belcourt area. Mr. Frederick's union referred him to an antiballistic missile project in Nekoma, N. Dak., 81 miles from his home. There was no work at Belcourt but work available 80 miles away at Nekoma. The choice was obvious. Sign on at Nekoma was Mr. Frederick's choice.

When he took the job, Mr. Frederick knew that his tenure at Nekoma was highly uncertain. Work at the project was seasonal, owing to the harsh North Dakota winters. Layoffs were routine occurrences because of the 17,000 change orders made on the project. A laid-off worker would be placed at the bottom of the referral list, and a subsequent referral would be to the first available job, which might or might not be the Nekoma project. The project was part of the Safeguard antiballistic missile system. whose construction depended on the progress of the SALT talks. Once the missile site was completed, no more carpentry work would be available in the Nekoma area.

In order to take the job at Nekoma, Mr. Frederick had only two choices for where he lived while working on the job. Either he had to drive 81 miles to and from Nekoma each day, or he had to move closer to the project. Moving closer to the project was not a realistic option, since he could be laid off at any time, and if he were laid off there would be no other available work in the Nekoma area. In any event, there was no housing available in Nekoma or the surrounding communities. limited housing in the area had long been spoken for, and the Government and the contractor had refused to build housing because of the uncertainty of the project. Mr. Frederick tried to find a room near the project, but none was available, and on several occasions he had to sleep in his car. In light of these circumstances, Mr. Frederick made the only reasonable decision: He decided to drive back and forth each day.

Mr. Frederick deducted the costs he incurred in driving to the project each day as ordinary and necessary business expenses. The IRS disallowed the deductions, on the theory that Mr. Frederick's travel expenses were personal expenditures, indistinguishable, in the IRS' view, from the commuting expenses of typical suburbanites.

Both the U.S. District Court for North Dakota and the Eighth Circuit Court of Appeals rejected the IRS position and held the expenses to be fully deductible. Mr. Frederick thus finally prevailed, although he was forced to incur substantial legal expense to do so.

The problems encountered by Mr. Frederick are not unusal in the construction industry. At almost every construction site similar cases are found. There are hundreds of workers employed in construction of the Colstrip three and four electric generating plants in Montana who travel from 60 to 350 miles from their homes in Miles City, Hardin, Billings, Great Falls, Lewistown, Roundup, Missoula, Butte Anaconda, Kalispell, Polson, or other communities.

Construction workers typically maintain their homes in areas where work is generally available, and move from job to job within those areas. Because construction work is erratic and uncertain, however, most workers eventually experience times when no work is available in their home areas. When this happens, the worker must look for a job elsewhere until work opens up nearer home.

Workers forced to look for work elsewhere face a variety of problems of the kind experienced by Mr. Frederick. The job outside the home area will often be in a remote or unpopulated area in which local housing is scarce or nonexistent. There typically will be few prospects for further employment once the worker's project is completed. And, of course, the progress of the distant job, and the worker's continued employment, like all construction work, will always be subject to interruption because of supply, regulatory, environmental, and economic problems.

A worker in this situation has no choice but to incur substantial travel costs in order to practice his trade. It is not unusual for workers to drive 100 miles or more each day to and from these temporary jobs, often spending almost all their waking hours either working or traveling. The travel is difficult and expensive, but it is necessary if the worker is to continue earning money.

The IRS, however, generally takes the position that these travel expenses are not necessary to the worker's trade but are incurred for personal reasons, and are therefore not deductible. The IRS has announced that it will refuse to follow the Frederick decision. The Service bases this position on its conclusion that the decision "conflicts in principle with a long line of judicial authority." In fact, Frederick is fully consistent with existing law, which allows deductions for all necessary business travel expenses. The expenses incurred by Mr. Frederick were unavoidable if Mr. Frederick was to practice his trade. They were thus ordinary and necessary business expenses and properly deductible.

In determining whether construction workers may deduct the travel expenses they incur in traveling to and from distant jobsites, the IRS, apparently for reasons of administrative convenience, applies a hindsight approach in deciding whether a worker's travel expenses resulted from personal convenience rather than business necessity. Thus, in auditing a construction worker's tax return, the IRS ordinarily asks only how long the job actually lasted, disdaining any inquiry into whether there was any reasonable possibility of predicting the job's duration at any previous time.

The hindsight approach is often used in tandem with a rule of thumb known as the 1-year rule. This informal administrative rule, followed in the field by IRS examining agents, provides that a job that lasts more than 1 year is presumed not to be temporary—whether or not the worker could have determined its length in advance—in the absence of special circumstances. If under this rule the job is not temporary, travel expenses incurred in connection with it are held to be nondeductible.

The IRS frequently explains its reasons for denying these deductions by stating that the construction worker's job is not temporary, but is indefinite. These terms are often used in judicial decisions in elucidating whether the expenses are necessary; if the distant job is temporary, the travel expenses are necessary, but if it may be expected to last indefinitely, the taxpayer should move nearer the job rather than incur the expenses. The IRS unjustifiably interprets this test in construction worker cases to mean that any uncertainty over the expected length of the job precludes deductibility. This interpretation, however, is inconsistent with the reasons underlying the test; a taxpayer can reasonably be expected to avoid travel expenses by moving closer to the job only if he is assured of some minimum length of employment. It makes no sense to move closer to a job that may terminate at any time. The proper test is job are nondeductible only if the job if expected to last for an indefinite and substantially long period of time.

The approach taken by the IRS has resulted in discrimination against construction workers by denying them the right to deduct expenses that unquestionably would be deductible if incurred by persons in other professions. An attorney with a Chicago law firm who travels to Los Angeles for a complex antitrust trial that may be settled promptly but may last 2 years if it has to be tried is entitled to deduct his travel expenses. This type of taxpayer is not subjected to a hindsight test if he or she eventually has to conduct a protracted trial, nor are the expenses denied simply because the case in fact lasted longer than 1 year. Similarly, the deductions are not denied because the length of the case is indefinite; indeed, his uncertainly over its length is a strong factor supporting deductibility. Construction workers such as Mr. Frederick are in no different situation, and they should not be subjected to different treatment.

There are indications that the Service may be preparing to advance to an even more extreme position. In the recently decided case of Paolini against Commissioner, T.C.M. 1982-69 (February 11, 1982), the Service departed from a longstanding policy and contended that travel each day between a personal residence and any place where business is done, even if the taxpayer works at the alternate site for only a single day, is commuting unless the trip requires sleep or rest, and that expenses incurred in such travel are therefore nondeductible. The Tax Court, in a highly questionable decision, accepted the Service's position. The Service had attempted to adopt this position previously by publishing Revenue Ruling 76-453, 1976-2 C.B. 86, but Congress forbade the IRS from implementing the policy by passing Public Law 95-427 and Public Law 96-167. Although the congressional prohibition has not expired, it was allowed to do so with the understanding that no similar ruling would issue until Congress has had a chance to act. The IRS is apparently nevertheless asserting the rationale of the forbidden ruling in its litigating positions.

The problems caused by the IRS' position are widespread. The Service often conducts, mass audits at large construction projects, disallowing travel expense deductions for long lists of workers. These and other audits. and the controversy they often generate, consume audit resources of time and money that are disproportionately large when compared with the amount of additional revenue collected. Congressional action is necessary to eliminate the waste of audit resources and the unfairness of treatment resulting from the IRS administrative practices.

that travel expenses to an indefinite It is time for a definitive explanation of needed correction for this tax dilemma for construction workers.

This need for corrective action is clear and I hope that my colleagues will join me in approving this amendment to require by next July 1 for a report from the IRS on corrections and necessary modifications in their rules to assure that correction.

Mr. DOLE. Mr. President, amendment has been discussed. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amend-

The amendment (UP No. 1477) was agreed to.

BOSCHWITZ AND DOLE AMENDMENTS LAID ASIDE Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendments, the Boschwitz amendment and the Dole amendments, be temporarily set aside so that we may consider the amendment to be offered the distinguished Senator from Michigan, Senator Levin, for a period not to exceed 10 minutes, and that following that we proceed to a vote on the Boschwitz amendment.

Mr. LEVIN. Mr. President, will there be a vote on my amendment prior to the cloture vote?

Mr. DOLE. There will be either a tabling motion or an up-or-down vote. OFFICER. Is

The PRESIDING there objection?

Mr. STEVENS. Reserving the right to object, Mr. President, and I do not know whether I will object or not, some of us have been working for 2 years trying to get to this artist question. It is an amendment in the second degree to the Dole amendment. That was the only way we could get the amendment offered last night.

Now I am told that unless we agree that the Senator from Michigan can have a vote on his amendment, there will not be a vote on the Boschwitz amendment. So we have to stand aside once again and not even have any consideration given to this very important amendment.

Mr. LONG. Mr. President, the way I construe the parliamentary situation at the moment, any single Senator can prevent any amendment from being voted on between now and the time cloture is voted. The Senator from Ohio is standing in the way of an amendment that he thinks would be bad tax law; he thinks it would cost the Treasury a lot of money, and he is opposed to it. The Senator from Louisiana is standing in the way of an amendment he thinks would add just one more big tax loophole in the tax laws, that is, the artist's amendment.

I may as well put the Senate on notice that the Senator from Louisiana is not going to agree to that amendment, and I would like other Senators to protect my rights if I should walk off the floor. This Sena-

tor is not going to agree to vote on an amendment to add the artist's tax loophole between now and the time we vote on cloture, just as the Senator from Ohio is not going to agree to a vote on the amendment he is against between now and the time we vote on cloture. I am for the tax amendment the Senator from Ohio opposes. But if the Senator from Ohio should drift off the floor, I would protect his rights not to have a vote on that amendment between now and the time we vote on cloture, just as I would expect him to protect my rights.

Mr. President, I think we under-stand each other. We ought to, by this time. Anybody with reasonable intelligence, if he has been around here more than a week, knows that any single Senator can keep us from voting on an amendment between now and the vote on cloture. It does not take any talent. All it takes is the ability to stand here and make noise.

Mr. STEVENS. I still object. I was getting hassled around here last night. People said if I can just offer this amendment, we would get a vote on it in terms of the amendment dealing with artists' deductions. I want to demonstrate that is not so, but at the same time those of us who have the burden of trying to move this bill through the Senate are put in the position where the Senator from Ohio objects or the Senator from Michigan objects and we cannot get a vote. We are told, "Come on, now, you have to let the Senator from Michigan have his vote or you are not going to have any vote at all." It sounds like a bunch of kids playing marbles in Alaska.

Mr. LEVIN. If I may make a personal comment, Mr. President, I did not object to the artist's amendment. I am a cosponsor of the artists amendment.

Mr. STEVENS. Then let us agree and we will have a vote on the Dole amendment and the Senator's amendment too.

Mr. LEVIN. That is fine with me. I am not objecting to that.

Mr. STEVENS. Who is? Mr. LONG. I object.

Mr. METZENBAUM. If the Senator will agree to offer it independently, I think it is a good amendment.

Mr. STEVENS. How can we when they object to our taking up the Dole amendment?

Mr. METZENBAUM. It can be taken up independently.

Mr. STEVENS. There are other people around here besides the Senator from Ohio and the Senator from Louisiana. There are some people who demand rights that others do not have in order to get to a vote here. I think it is an extremely unfair situation.

The PRESIDING OFFICER. there objection to the request?

Mr. LONG. Reserving the right to object, Mr. President, let me make it clear that I have been opposed to the artist's amendment for years, in one fashion or another. In my view, it would provide one more tax loophole. I thought we were trying to get rid of tax loopholes rather than trying to put more in the Tax Code.

Mr. STEVENS. What do you call the amendment of the Senator from

Michigan?

Mr. LONG. I am not calling it anything. I am just talking about the

amendment I am opposed to.

Mr. President, the Senator from Alaska might have been told by somebody that there would be no objection to that amendment. He might have been told by 50 Senators that there would be no objection. But he was not told that by the Senator from Louisiana. I object to the amendment. On an appropriate occasion, if the majority wants it, they can roll the Senator from Louisiana and pass it over his objection, but they are not going to do it between now and the middle of the day.

Mr. STEVENS. I withdraw my re-

quest.

Mr. DOLE. Mr. President, I see the majority leader here. There is no way we are going to accommodate all those who want to be accommodated between now and 11 o'clock. If we permit 10 minutes on the Levin amendment and 15 minutes on the tabling motion

Mr. LEVIN. I shall only need 5 minutes.

Mr. DOLE. We have the Boschwitz amendment anf other nongermane amendments. We never should have brought up the nongermane amendments in the first place.

The PRESIDING OFFICER. Is

there objection?

Mr. RIEGLE. Reserving the right to object, Mr. President, I want to ask the Sentor from Kansas, we have discussed before the question of a tax credit giving an offset to the gas tax for people who earn less than \$10,000 a year. I have been waiting in thequeue like everybody else. I think that is fundamentally a germane amend-ment. I am willing to postpone the vote, put the vote later after the cloture vote or what have you. I would very much not like to be shut out in offering this because it seems to

Mr. DOLE. Mr. President, I would like to vote on my amendment, but I hve been shut out by one Senator for the last 30 days. My amendment passed the Senate by a vote of 77 to 17, but one Senator who knows he can block without any merit at all has been blocking it. I am supposed to accommodate every Senator in this Chamber except myself and I am not going to do it.

Mr. RIEGLE. As the Senator from Kansas knows, I voted with him on the issue he speaks about. What we are talking about here is whether people who earn \$10,000 a year or less are going to be able to afford to pay the gas tax. That is several million people. We ought to have a chance to vote on it yes or no.

Mr. DOLE. I have not had a chance

to vote on my amendment yet.

Mr. RIEGLE. I was prepared to vote on it at 2 a.m.

Mr. DOLE. I have been prepared to vote on it all along. One Senator does not want me to have a vote. One Senator wants to run the Senate. He will have an amendment up here some day and we will vote on it.

Mr. RIEGLE. Mr. President, my amendment goes directly to the heart of the gas tax issue. This is not an extraneous amendment. It is germane in the full senseof the word. All I want to know is that we shall be able to offer it. I do not care if we have a 5-minute limitation.

Mr. DOLE. I do not care if we have a 1-minute limitation. I want to proceed to the Levin amendment. If the Senator wants to object to his colleague, he

Mr. RIEGLE. I am just wondering if there will be a provision for the rest of us who have been waiting to address these issues.

Mr. DOLE. If the Senator wants to help me work out my problem, I will help him work out his problem. I suggest he talk to the Senator from Arkansas. I am trying to accommodate one Senator from Michigan. I cannot accommodate the other Senator from Michigan.

The PRESIDING OFFICER. Is

there objection?

Mr. BOSCHWITZ. Reserving the right to object, Mr. President, what is the situation? That the Senator from Michigan have 5 minutes and then the rollcall vote proceed on the Boschwitz amendment?

Mr. DOLE. There is a motion to table the amendment of the Senator from Michigan, followed by a vote on the Boschwitz amendment.

Mr. BOSCHWITZ. Will we be able to achieve that prior to the cloture vote proceedings?

Mr. DOLE. We could have achieved it about a half-hour ago, but we have been talking. The answer is yes.

The PRESIDING OFFICER. there objection to the request? Without objection, it is so ordered.

The Senator from Michigan.

UP AMENDMENT NO. 1478

(Purpose: To provide for additional weeks of Federal supplemental compensation)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state it.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) for himself and Mr. Specter, Mr. Robert C.

BYRD, Mr. DIXON, Mr. RIEGLE, Mr. KENNEDY, Mr. Moynihan, Mr. Cannon, Mr. Heinz, Mr. Proxmire, Mr. Packwood, Mr. Bradley, Mr. BIDEN, Mr. HEFLIN, and Mr. METZENBAUM proposes an unprinted amendment numbered 1478.

At the end of the amendment add the following new section:

ADDITIONAL WEEKS OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. (a) Section 602(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended-

(1) in paragraph (2)(a)(i), by striking out '50" and inserting in lieu thereof "60" (2) in paragraph (2)(A)(ii), by striking out

"6" and inserting in lieu thereof "8"; and (3) by striking out subparagraphs (B) and

(C) of paragraph (2) and inserting in lieu thereof the following:

"(B) In the case of any State, subparagraph (A) shall be applied-

"(i) with respect to weeks during a higher

unemployment period, by substituting '15' for '8' in clause (ii) thereof: and "(ii) with respect to weeks during a high

unemployment period, by substituting '13' for '8' in clause (ii) thereof.

"(C) For purposes of subparagraph (B), the term 'higher unemployment period' means, with respect to any State, the period-

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.0 percent:

except that no higher unemployment period shall last for a period of less than 4 weeks.

"(D) For purposes of subparagraph (B), the term 'high unemployment period' means, with respect to any State, the period-

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent but is less than 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent or equals or exceeds 4.0 percent;

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a period of higher unemployment.

(E) Notwithstanding the provisions of subparagraph (D), any State in which an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week which began on or after June 1, 1982, and prior to the date of the enactment of this subparagraph, shall be deemed for any week thereafter, for purposes of subparagraph (B), to be in a period of high unemployment, unless such State is actually in a period of higher unemployment.

"(F) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970. "(3) The amount of Federal supplemental

"(3) The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual's account established under this subsection."

(b) The amendments made by subsection (a) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental compensation account) prior to the first week beginning on or after such date of enactment, such individual's eligibility for additional weeks of compensation by reason of the amendments made by this section shall be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following and end of his benefit year for purposes of section 602 (b) of the Tax Equity and Fiscal Responsibility Act of 1982).

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Tax Equity and Fiscal Responsibility Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding only other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreeement effective with the end of the last week which ends on or before such three-week period.

Mr. LEVIN. Mr. President, this amendment is offered in behalf of Senators Specter, Robert C. Byrd. DIXON, RIEGLE, HEINZ, KENNEDY, MOY-NIHAN, CANNON, HEFLIN, PACKWOOD, PROXMIRE, BRADLEY, BIDEN, and METZ-ENBAUM. This amendment is a bipartisan amendment. It seeks to extend unemployment compensation benefits for an additional 2 to 5 weeks. It is exactly a part of the Byrd amendment, a more comprehensive amendment that was defeated here before by a few votes. This is just one part of the Byrd amendment. It is verbatim that part of the Byrd amendment which relates to the extension of unemployment benefits.

I do not think I have to tell anybody in this Chamber about unemployment in the United States. On two prior occasions of depressions in the early seventies, we extended unemployment benefits with a supplemental program similar to this. We are late in doing it.

The unemployment rate is much greater now than it was on those two occasions in the seventies. We have people who are exhausting benefits in Michigan, who are selling their blood in record numbers in order to put food on the table. Blood plasma firms are reporting that in record numbers, unemployed people in my State are selling their blood up to two times a week to put food on their tables.

We are exhausting unemployment benefits in this country in record numbers. The Congressional Budget Office has estimated that over 2 million Americans will exhaust their benefits under the current Federal supplemental benefits program.

Further, nearly a million Americans have already exhausted their extended benefits between January and October of this year.

This amendment is a bipartisan amendment. It is desperately needed. We did something very similar, indeed more extensive, in the early seventies.

I urge than we adopt it.

I call on my friend and cosponsor from Pennsylvania at this time. I yield to him for 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, will the Senator add me as a cosponsor to his amendment?

Mr. LEVIN. The Senator is already a cosponsor. I thank him for that.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, in my judgment, this is a matter of great urgency. I say that based upon the conclusive national statistics on unemployment and with particular emphasis upon a 12.1 percent unemployment rate in the Commonwealth of Pennsylvania.

During the course of the past several months, I, like other Senators, have been traveling in my State extensively, and there is real agony in a State like Pennsylvania with tremendous unemployment, plant closings, especially in steel, but also in textiles, leather goods, and many other industries.

On votes in the Senate, there is frequently an analysis by each of us as to how the matter affects our own State, and as a general matter I raise no objection to that consideration. But the issue of unemployment today, even though some States may not be so acutely affected, is really a national tragedy and a national emergency.

This very modest extension ought to be adopted at this time. I thank my distinguished colleague from Michigan. I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I rise in opposition to the Levin amendment to extend unemployment benefits under the FSC program.

The new Federal supplemental unemployment compensation (FSC) benefit was a much needed, compassionate, and significant addition to existing unemployment compensation programs.

The (FSC) program, established in the 1982 tax bill, provides additional unemployment benefits to an estimated 2 million workers who have exhausted their benefits under existing unemployment compensation programs. The first payments became available on September 12. Every State is eligible to participate in the supplemental benefit program.

With this program in effect, unemployed workers in 38 States can receive benefits for a total of 49 weeks. Unemployed workers in the remaining States can receive anywhere from 32 to 34 weeks of benefits.

Frankly, this program is not the only way to provide additional unemployment relief. We explored a number of other proposals during extended discussions with House Members, representatives of organized labor, and the Labor Department. On balance, all parties concerned felt the program agreed upon would be the most effective and equitable.

The program now in place will cost about \$2.2 billion in fiscal year 1983 for 6½ months of additional benefits. This is obviously an expensive program. We have to realize there are fiscal restraints on any good program and I believe we reached those limits with this substantial supplemental benefit program.

In my view, this was the only major change in unemployment compensation desirable this year. We will, of course, want to review the effectiveness of the program next year. At that time, we can consider the continued need for the program, as well as other options.

The Levin amendment, however, would immediately increase the duration of benefits available under the program. Individuals receiving benefits in the 6 week States would become eligible for 2 additional weeks of benefits. Individuals in the 8 and 10 week States would receive an additional 5 weeks of payments.

The Congressional Budget Office estimates that the Levin amendment would have a cost of \$700 million. The Department of Labor estimates a cost of \$980 million. I remind my coleagues that this is an add-on to the \$2.2 billion price tag of the original FSC plan.

The Finance Committee will take a look at the Federal supplemental compensation program next year. In fact, we will be forced by the impending bankruptcy of the entire unemployment insurance system to consider reform of the Federal-State program. At that time, we can closely examine

the FSC program and data which will be available by that time on the operation and effectiveness of the pro-

If we do decide to extend the FSC program, we will want to insure that the benefits are targeted to those most in need. We will also want to find a way to pay for the benefits as we did with the original plan. Adding to the Federal deficit does not help the unemployed; more likely, it would just prolong the recession which may have deprived them of their jobs in the first place.

I urge my colleagues to reject the Levin amendment. I ask unanimous consent to insert the text of a letter from Labor Secretary Donovan regarding a similar House proposal in the Record at this point.

There being no objection, the letter was ordered to be printed in the

RECORD, as follows: U.S. DEPARTMENT OF LABOR,

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, D.C., December 8, 1982.
Hon. Harold E. Ford.

Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Unemployment is clearly the most important problem currently facing large numbers of American workers and their families. The economic hardships of unemployment are not shared evenly, but fall severely and disproportionately on workers in particular industries and regions, as well as on particular demograph-

ic groups in the labor force.

We are grateful for the opportunity to comment on behalf of the Administration on H.R. 7327. We share your deep concern over the economic hardship caused by high unemployment which was the primary reason you introduced the bill and are holding hearings today. However, we urge your committee to defer any decision on the bill until the 98th Congress convenes in January. My Department has found that the Federal Supplemental Compensation Program, enacted last August was implemented in some haste. As a result, it provides no information on whether the program benefits are reaching those individuals most in need of assistance. It also provides no recent information on how many individuals have exhausted their FSC program benefits.

Realizing this deficiency, I have had a special study underway since September, which will survey about 200,000 FSC recipients in as many as 17 states. The study to be completed in January in time for the new Congress, will provide critically needed information on the financial resources and family characteristics of benefit recipients. The survey will be supplemented with information on the number of people exhausting

their benefits.

This information will enable us to determine not only the extent to which benefits are truly reaching those in financial distress, but will also give us a better picture on how many individuals have actually exhausted their benefits.

In addition, by January we will also have a clearer picture of how the FSC program operates in conjunction with the Extended Benefit Program. As you are no doubt aware, 15 states are currently paying extended benefits. We project that by February the number of states paying extended benefits will more than double. Many individuals in these states whose benefits were terminated earlier this year will resume receipt of payments under the Extended Benefit Program. In addition, new exhaustees of benefits under the regular state unemployment insurance program will begin receiving benefits.

The Administration is deeply concerned about the hardship caused by unemployment and is committed to ensuring that programs designed to alleviate this hardship achieve their objective. However, without knowledge of who is receiving benefits and who isn't, and without knowledge of the number of individuals exhausting benefits, any decision on extending benefits at this time could be a mistake.

I, therefore, urge the committee to defer any decision on H.R. 7327 until our study is completed in January. At that time, the Labor Department will be pleased to present its findings and recommendations to your committee. The Administration and your committee can then work together to address the economy's number one problem.

Sincerely.

RAYMOND J. DONOVAN.

Mr. KENNEDY. I am pleased to be a cosponsor of the Senator of Michigan's amendment. Last August this Congress passed the Federal supplemental compensation program in response to the alarming rise in unemployment. In early September, jobless workers in every State who had exhausted all other State and Federal unemployment assistance began receiving additional weeks of benefits.

This is a temporary program that expires March 31. However, for 750,000 individuals who began receiving benefits in September this emergency assistance has already run out. Another 1.5 million workers face this gloomy prospect unless we act now. These benefits have meant a reprieve from financial disaster and the humiliation of welfare. They have meant payments for food and fuel and warm clothes. They have kept hope alive.

As we are all painfully aware, there are no signs of the promised recovery and there are no jobs. Instead, these decent, proud Americans who were the first victims of this recession and now the first to test the safety net have been joined by hundreds of thousands more who are desperately looking for work. Unemployment stands at 10.8 percent-a full percentage point above the August rate which prompted the passage of the FSC program. One million more Americans have lost their jobs since we first provided for these benfits. We are told that we can expect unemployment to rise above 11 percent in the coming months and stay above 9 percent through 1984.

Just in time for Thanksgiving, we heard what the administration was considering as an answer for these unemployed Americans—a callous plan to tax their remaining benefits in an effort to make them pay a second time for the President's failed economic

policies. It is time for this administration to stop shifting the blame and resposibility to those who are most in need. These individuals face the holidays with no income, no savings, and now no unemployment benefits. There is very little for them to be thankful for this Christmas.

The amendment we are proposing would extend the original Federal benefits program by another 5 weeks in 38 States and 2 weeks in the remaining States. A similar proposal is being considered in the House. The additional cost of the extension is estimated to be \$980 million. It is a cost that is necessary and just. It is a responsibility that we must accept and a hand we must extend to 2 million hard-working Americans who would receive this help. It is by no means an answer to the 12 million who are unemployed. But it does mean that many of these deserving men and women will be able to hold on a little longer until we can act to change the disastrous course of this administration's economic pro-

I urge my colleagues to support this amendment.

## EXTENSION OF FEDERAL SUPPLEMENTAL BENEFITS

Mr. DIXON. Mr. President, I join Senator Levin and others in cosponsoring this amendment, which was debated rather extensively Tuesday, December 14. I have no intention of belaboring the matter.

The amendment addresses the urgent problem of people who have exhausted the Federal supplemental benefits or FSB which were enacted last fall.

In my State and many others, 10 weeks of FSC benefits were available beginning September 12. Those who first entered that phase of benefits, exhausted those 10 weeks on November 21. In other States, benefits ended even earlier.

What we are proposing is to add 5 weeks of benefits to States with insured unemployment rates over 4 percent; 5 weeks of benefits for States with insured unemployment rates between 3.5 percent and 3.99 percent; and 2 more weeks of benefits to States with insured unemployment rates under 3.5 percent.

It seems to me that we have a responsibility to these people, particularly as the Christmas season approaches. This amendment would give additional benefits to every State. The cost is \$700 million.

It is a proposal that is moderate by comparison with the maximum of 65 weeks of benefits which the Congress approved, under a Republican administration, in 1975, when unemployment in this country was only 8.8 percent.

We now suffer the highest rate of unemployment since the 1930's. My State of Illinois is enduring 13.2 per-

How this body and this administration can deny a basic lifeline to 13 million people in this country is inconceivable to me.

The suffering is real. We can close our eyes and our hearts, or we can pass this amendment and offer a hand to people who have worked their whole lives and now face the brutal reality that is before them-no job, families to support, health care being denied, and a government that does not care.

I am gratified by the bipartisan support for this amendment. It is in keeping with the concern shown by both parties when the FSC program was

first adopted last fall.

I want to go back to Illinois for the holidays and be able to look into the eyes of 733,000 people who desperately need this assistance. I am sure that we all understand the severity of the situation. It will not go away. The unemployed will not go away. And we must not turn away from our responsibility.

I urge my colleagues to oppose this tabling motion and vote for the amendment.

Mr. DOLE. Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.
The PRESIDING OFFICER. The

clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona. (Mr. Gold-WATER), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 47, navs 50, as follows:

### [Rollcall Vote, No. 415 Leg.]

#### YEAS-47

Abdnor	East	McClure
Andrews	Exon	Murkowski
Armstrong	Garn	Nickles
Baker	Gorton	Pressler
Boschwitz	Grassley	Roth
Brady	Hatch	Rudman
Byrd.	Hatfield	Schmitt
Harry F., Jr.	Hawkins	Simpson
Cochran	Hayakawa	Stafford
Cohen	Helms	Stevens
D'Amato	Humphrey	Symms
Danforth	Jepsen	Thurmond
Denton	Kassebaum	Tower
Dole	Kasten	Wallop
Domenici	Laxalt	Warner
Durenberger	Mattingly	Zorinsky

#### NAVS-50

Baucus	Bumpers	Chiles	
Bentsen	Burdick	Cranston	
Biden	Byrd, Robert C.	DeConcin	
Boren	Cannon	Dixon	
Bradley	Chafee	Dodd	

Eagleton	Levin	Proxmire
Ford	Long	Pryor
Hart	Lugar	Quayle
Heflin	Mathias	Randolp
Heinz	Melcher	Riegle
Hollings	Metzenbaum	Sarbanes
Huddleston	Mitchell	Sasser
Inouye	Moynihan	Specter
Jackson	Nunn	Stennis
Johnston	Packwood	Tsongas
Kennedy	Pell	Weicker
Leahy	Percy	

#### NOT VOTING-3

Goldwater

So the motion to lay on the table Mr. Levin's amendment (UP No. 1478) was rejected.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan.

Mr. DOLE. As I understand it, if cloture is invoked then the amendment falls; is that correct?

The PRESIDING OFFICER. The Parliamentarian advises that the amendment has not been examined for that purpose at this point. All time for debate on the amendment has expired.

#### CALL OF THE ROLL

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SARBANES. Could I have the attention of the managers of the bill?
The PRESIDING OFFICER. A

quorum call is in progress.

Mr. SARBANES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Mr. SARBANES. I want to make an

inquiry.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The legislative clerk continued the call of the roll.

Mr. RANDOLPH. Mr. President, I make the point of order that this body is not in order. If Members could work from their desks we could all know exactly what was taking place. There is constant movement in the well. I do not want to go on and on, but I think Members should, and I know they do want to, cooperate, and I call to the attention of the Presiding Officer that the Senate is not in order.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order. The Senate will please be in order.

The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. HUMPHREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. LONG. Madam President, I object.

The PRESIDING OFFICER (Mrs. Kassebaum). Objection is heard.

The legislative clerk resumed the call of the roll.

The following Senators answered the call of the roll:

#### [Quorum No. 50 Leg.]

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Percy
Bradley	Hayakawa	Pressler
Brady	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Helms	Quayle
Byrd.	Hollings	Randolph
Harry F., Jr.	Huddleston	Riegle
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Weicker
East	Melcher	Zorinsky
Lico	and to the t	and Minks

The PRESIDING OFFICER. quorum, is present.

#### CLOTURE MOTION ON BAKER SUBSTITUTE AMENDMENT NO. 4998

The PRESIDING OFFICER. Pursuant to rule XXII, 1 hour having passed since the Senate convened, the clerk will report the motion to invoked clo-

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on an amendment in the nature of a substitute, to be proposed by the Senator from Tennessee (Mr. Baker), to H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

#### CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The bill clerk called the roll, and the following Senators answered to their names:

#### [Quorum No. 51 Leg.]

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nickles
Bentsen	Hart	Nunn
Biden	Hatch	Packwood
Boren	Hatfield	Pell
Boschwitz	Hawkins	Percy
Bradley	Hayakawa	Pressler
Brady	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Helms	Quayle
Byrd,	Hollings	Randolph
Harry F., Jr.	Huddleston	Riegle
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Weicker
East	Melcher	Zorinsky

The PRESIDING OFFICER. A quorum is present.

#### VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that the debate on an amendment in the nature of a substitute, proposed by the Senator from Tennessee (Mr. Baker), to H.R. 6211, the Surface Transportation Assistance Act of 1982, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.
Mr. STEVENS. I announce that the
Senator from Arizona (Mr. Gold-

WATER) is necessarily absent.

Mr. CRANSTON. I announce that
the Senator from Ohio (Mr. Glenn) is
necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 48, nays 50, as follows:

[Rollcall Vote No. 416 Leg.]

#### YEAS-48

Abdnor Bentsen Byrd, Baker Brady Harry F., Jr.

Chafee	Heinz	Randolph
Chiles	Jepsen	Roth
Cochran	Kassebaum	Rudman
Cohen	Kasten	Sasser
D'Amato	Laxalt	Schmitt
Danforth	Lugar	Simpson
DeConcini	Mathias	Stafford
Dole	Mattingly	Stevens
Domenici	McClure	Symms
Durenberger	Murkowski	Thurmond
Garn	Packwood	Tower
Gorton	Pell	Wallop
Hatfield	Percy	Warner
Hawkins	Pressler	
Havakawa	Quavle	

#### NAYS-5

	111110 00	
Andrews	Exon	Matsunaga
Armstrong	Ford	Melcher
Baucus	Grassley	Metzenbaum
Biden	Hart	Mitchell
Boren	Hatch	Moynihan
Boschwitz	Heflin	Nickles
Bradley	Helms	Nunn
Bumpers	Hollings	Proxmire
Burdick	Huddleston	Pryor
Byrd, Robert C.	Humphrey	Riegle
Cannon	Inouye	Sarbanes
Cranston	Jackson	Specter
Denton	Johnston	Stennis
Dixon	Kennedy	Tsongas
Dodd	Leahy	Weicker
Eagleton	Levin	Zorinsky
East	Long	O'CONTROL OF THE OWNER OWNER OF THE OWNER O

#### NOT VOTING-2

Glenn Goldwater

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BAKER. Madam President, I ask unanimous consent that the vote on the second cloture motion be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Madam President, reserving the right to object, I object and I will object only until we have a chance to confer with the majority leader.

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

## CLOTURE MOTION ON H.R. 6211

The PRESIDING OFFICER. Under rule XXII, 1 hour having passed since the Senate convened, the clerk will state the motion to invoke cloture.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on H.R. 6211, the Surface Transportation Assistance Act of 1982.

Howard H. Baker, Jr., Rudy Boschwitz, Strom Thurmond, Ted Stevens, Warren Rudman, Arlen Specter, Robert Dole, Slade Gorton, John H. Chafee, Bob Packwood, Robert T. Stafford, S. I. Hayakawa, Richard G. Lugar, James A. McClure, Dan Quayle, Frank H. Murkowski, David Durenberger, and Jennings Randolph.

#### VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on H.R. 6211, the Surface Transportation Assistance Act of 1982, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 5, nays 93, as follows:

#### [Rollcall Vote No. 417 Leg.]

#### YEAS-5

DeConcini	Pell	Sasser
Gorton	Randolph	- Section Sect
	NAYS-93	
Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Grasslev	Murkowski
Baucus	Hart	Nickles
Bentsen	Hatch	Nunn
Biden	Hatfield	Packwood
Boren	Hawkins	Percy
Boschwitz	Hayakawa	Pressler
Bradley	Heflin	Proxmire
Brady	Heinz	Pryor
Bumpers	Helms	Quayle
Burdick	Hollings	Riegle
Byrd.	Huddleston	Roth
Harry F., Jr.	Humphrey	Rudman
Byrd, Robert C.	Inouve	Sarbanes
Cannon	Jackson	Schmitt
Chafee	Jepsen	Simpson
Chiles	Johnston	Specter
Cochran	Kassebaum	Stafford
Cohen	Kasten	Stennis
Cranston	Kennedy	Stevens
D'Amato	Laxalt	
Danforth	Leahy	Symms Thurmond
Denton	Levin	Tower
Dixon		
Dodd	Long	Tsongas
Dole	Lugar Mathias	Wallop
Domenici		Warner
	Matsunaga	Weicker
Durenberger	Mattingly	Zorinsky
Eagleton	McClure	
East	Melcher	

### NOT VOTING-2

Glenn Goldwater

The PRESIDING OFFICER. On this vote, the yeas are 5, the nays are 93. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

#### ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are a number of items that have been cleared for action on both sides for action by unanimous consent. I ask unanimous consent now that there be a brief period for the transaction of routine morning business to extend not past the hour of 1:15 p.m., in which Senators may speak for not more than 10 minutes each.

Before the Chair rules, am I not correct in saying that, at the expiration of that time or the closing of morning business, the Senate will automatically resume consideration of the highway bill, at which time the Levin amendment will be pending and nothing contained in this request will affect the status of any Senator's rights.

The PRESIDING OFFICER. The

Senator is correct.

Mr. RANDOLPH. Mr. President, at the proper time, will the leader yield to me?

Mr. BAKER. Yes, Mr. President, but first, may I ask the Chair to put the request.

The PRESIDING OFFICER. Is

there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, did I understand the majority leader to say he will move to some noncontroversial calendar items in this period?
Mr. BAKER. Yes, Mr. President, the

Senator did.

Mr. HUMPHREY. That will occur

Mr. BAKER. Right now, Mr. President.

Mr. HUMPHREY. We are going back into morning business for that

purpose, is that correct?

Mr. BAKER. What I asked is that between now and 1:15 p.m., we can wrap up routine matters that have been cleared on both sides for action by unanimous consent, and that at 1:15 p.m. or sooner, if there is no further requirement for the time for morning business, the Senate will resume consideration of the highway bill and no Senator's rights, positions, or options will be affected by this request.

Mr. HUMPHREY. Mr. President, reserving the right to object, and I shall not object, I would like to take just a brief moment to point out with respect to the highway bill, the gas tax, that this tarbaby is becoming stickier and stickier. Continued deliberation on this bill is delaying us from taking up the continuing resolution which is on the calendar and which must be passed by Friday night at the latest, unless we are to subject the Nation to disruption of its finances.

Mr. President, this Senator cannot see much point in going on further with this gasoline tax bill. Senators have family plans; they have looked forward to Christmas and Hanukkah for months. They have plans, have worked hard. I hope that the leadership on both sides, as well as the White House, will reassess the situation and permit Senators, at the end of the year, to be with their families in an orderly and traditional way and that we shall not continue to tie the Senate up on this measure which, after all, has not been adequately presented. There were no hearings to speak of, there are no reports available to Senators to help them in their deliberations on this bill. It is very complex, it has elements that Senators do not even know about.

We always make mistakes when we get into a rush. Surely, a lameduck session is no time to continue with this bill. I hope the leadership will reassess the situation and go forward.

The PRESIDING OFFICER, Is

there objection?

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, will the majority leader just clarify that until 1:15, there will be no legislative matters taken up by unanimous consent and we need not concern ourselves about being on the floor.

Mr. BAKER. That is correct, Mr. President. It might be before 1:15, because we shall use so much of that time as is desirable for this purpose and for general morning business purposes by the Senators.

The wrap-up contains legislative material, but all of it has been cleared on both sides.

Mr. METZENBAUM. I understand

Mr. BAKER. That is through the regular clearance process. I believe the Senator need not be concerned that any other item that has not been cleared on both sides will be taken up. That is not my intention. I do not plan to do that, even if I could.

Mr. METZENBAUM. If the time is accelerated before 1:15, adequate notice will be given those of us who are concerned?

Mr. BAKER. If morning business is closed before 1:15, I am sure both

cloakrooms will advise Senators. Mr. METZENBAUM. I do not object,

Mr. President. The PRESIDING OFFICER. Is

there objection?

Mr. RANDOLPH. Mr. President, reserving the right to object, but I shall not object. I wish to have a colloquy with the able majority leader.

Mr. President, I heard what our good colleague from New Hampshire said about the highway bill, which is pending in this body. Perhaps he forgets that the other body has passed the highway bill, and that the Environment and Public Works Committee gave very serious consideration to drafting a highway measure. I remind

him that the bill came from the committee by a vote of 16 to nothing.

This is not a spliced-up bill which we have brought to the floor from the Environment and Public Works Committee, regardless of the attempts being made to so characterize it, but I understand the prerogatives of individual Members.

What we need, I say to the majority leader, is a chance to vote on this bill. Does he have any encouragement to offer to me and others in the body who remember why we came to the floor a few days ago in reference to this measure?

Mr. BAKER. Mr. President, I think the Senator from West Virginia knows how committed I am to the passage of this bill. I assure him that nothing in this request will diminish my commit-

ment to that purpose.

Mr. President, I understand the remarks of the Senator from New Hampshire, and I know his position. He has made it known eloquently and often. I am sure he also understands the need to do the work of the Senate as it has been cleared, so I appreciate his statement that he will not object to this.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Mr. President, reserving the right to object, and I shall not object, the Chair interrupted the Senator from New Hampshire in his opinion in violation of the rules, and so I wish to finish.

I do urge the leadership to proceed to other work and I shall not object. I hope that we will have unanimous

The PRESIDING OFFICER. The unanimous-consent request is not debatable.

Mr. HUMPHREY. I have no objection.

Mr. BAKER. I thank the Senator. I ask that the Chair put the request.

The PRESIDING OFFICER. there objection?

The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, I ought to remark that I disagree with a good bit of what the Senator from New Hampshire said, but I do not disagree that we have consumed considerable time. We have not only a sticky issue but we have sticky Senators, and I understand that: everybody is working hard and they are tired, they are committed and dedicated. But I ought to say that we are going to work our way through this. We will just do it as best we can.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, first on my list of items that appear to be cleared for action by unanimous consent is S. 1908, which I would like to

pass at this time, if the minority leader is agreeable.

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order so all can hear.

Mr. ROBERT C. BYRD. Mr. President, can the distinguished majority leader give me assurance that nothing dealing with Radio Marti will be offered as an amendment to any of these measures?

Mr. BAKER. Mr. President, I can give the Senator that assurance.

Mr. ROBERT C. BYRD. Then I have no objection to proceeding as the leader requests.

REINSTATEMENT AND VALIDATION OF AN OIL AND GAS LEASE

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 959, S. 1908.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1908) to provide for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma).

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Energy and Natural Resources with amendments, as follows:

On page 2, strike line 6, through and including line 12, and insert the following:

That the recordholder of oil and gas lease numbered NM-A26947 (Oklahoma) shall, within thirty days of receipt of notice from the Secretary as provided by section 2 of this Act, tender payment of the amount of rental, royalties, and interest due. Sec. 2. Within ninety days of enactment of

SEC. 2. Within ninety days of enactment of this Act the Secretary of the Interior shall notify the recordholder of oil and gas lease numbered NM-A26947 (Oklahoma) of the amount of rental and royalties, together with interest thereon, due the United States as determined by the Secretary of the Interior. The interest to be charged shall be determined in consultation with the Secretary of the Treasury and shall reflect the prevailing interest rates over the period of time during which royalties were due the United States but were not paid.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law or regulation, United States oil and gas lease NM-A26947 (Oklahoma) shall be held not to have terminated by operation of law or otherwise on January 1, 1981, but shall be deemed to be in full force and effect and the terms of said lease extended for a period equal to the unexpired portion of the lease remaining on January 1, 1981, and so long thereafter as oll or gas is produced in paying quantities: Provided, That the recordholder of oil and gas lease numbered NM-A26947 (Oklahoma) shall, within thirty days of re ceipt of notice from the Secretary as provided by section 2 of this Act, tender payment of the amount of rental, royalties, and interest due.

SEC. 2. Within ninety days of enactment of this Act the Secretary of the Interior shall notify the recordholder of oil and gas lease numbered NM-A26947 (Oklahoma) of the amount of rental and royalties, together with interest thereon, due the United States as determined by the Secretary of the Interior. The interest to be charged shall be determined in consultation with the Secretary of the Treasury and shall reflect the prevailing interest rates over the period of time during which royalties were due the United States but were not paid.11Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, my question to the majority leader about Radio Marti amendments was made on behalf of another Senator and does not necessarily indicate any viewpoint of my own on that.

Mr. EXON. Will the minority leader yield before the majority leader leaves the floor for clarification? I came in just as the leadership was talking about that.

What was the statement that the majority leader made with regard to Radio Marti?

Mr. BAKER. Mr. President, the distinguished minority leader asked me if any amendment to any measure contained in the wrapup file related to Radio Marti. I assured him that it did not.

Mr. EXON. May I inquire of the majority leader if it would be possible for him to expand that to indicate that Radic Marti would not come up on any of the amendments during the lameduck session?

Mr. BAKER. No, I cannot do that, Mr. President. I can assure the Senator that is not going to come up between now and 1:15 which the Senate has provided as the time to do routine morning business. But I really cannot go beyond that.

Mr. EXON. I thank the Senator. I just wish to cooperate wherever I can.

Mr. BAKER. The Senator thought he would take a shot.

I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill (S. 1908) was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

Mr. STEVENS. Mr. President, I now ask the Chair to lay before the Senate a message from the House on S. 1986, a bill dealing with the Fort Belknap Indian community.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1986) entitled "An Act to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the United States Court of Claims, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert: That, notwithstanding any other provision of law, the funds appropriated in accordance with section 1302 of the Supplemental Appropriation Act (31 U.S.C. 724a), on January 23, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community in dockets numbered 250-A and 279-C of the United States Court of Claims; on July 16, 1981, in satisfaction of a judgment awarded to the Gros Ventre Tribe of Fort Belknap Indian Community in docket numbered 309-74 of the United States Court of Claims; and 26.8 per centum of the funds appropriated on June 30, 1981, in satisfaction of a judgment awarded to the Blackfeet and Gros Ventre Tribes in docket numbered 649-80L of the United States Court of Claims, less attorney fees and litigation expenses, but including all accrued interest and investment income, shall be distributed and used as herein provided.

SEC. 2. The funds appropriated to the Blackfeet Tribe of the Blackfeet Reservation, Montana, in docket numbered 279-C, in an original amount of \$400,000, shall be held in trust and invested by the Secretary of the Interior (hereinafter "Secretary") for the benefit of the members of the Blackfeet Tribe. The governing body of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for governmental operations and social and economic programs.

SEC. 3. The funds appropriated to the Assiniboine Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 250-A, in the original amount of \$2,170,013 shall be used and distributed as follows: Provided, That no person shall be eligible to share in more than one award in his own

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons duly enrolled as Assiniboine members of the Fort Belknap Indian Community and born on or prior to, and living on, the date of enactment of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Assiniboine Tribe of the Fort Belknap Indian Community. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and eco-

nomic programs. Such programs may include, but are not limited to, land acquisitions and the development of local reservation projects.

SEC. 4. The funds appropriated to the Gros Ventre Tribe of the Fort Belknap Indian Community, Montana, in docket numbered 279-C, in the original amount of \$2,094,987; in docket numbered 309-74, in the original amount of \$77,780.13; and in docket numbered 649-80L, in the initial amount of 26.8 per centum of \$29,404,951.94, shall be used and distributed as follows: Provided, That no person shall be eligible to share in more than one award in his own right:

(a) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all persons born on or prior to, and living on, the date of enactment of this Act who are (1) duly enrolled members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation who possess at least one-quarter degree Gros Ventre blood or (2) who are enrolled in the Fort Belknap Indian Community and who are at least one-fourth degree Gros Ventre and Assiniboine blood, but not less than one-eighth degree Gros Ventre blood, and are not eligible to share under section 3 of this Act.

(b) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Gros Ventre Tribe of the Fort Belknap Indian Reservation. The treaty committee of such tribe is authorized to utilize such funds on a budgetary basis, subject to approval of the Secretary, for social and economic programs. Such programs may include, but are not limited to, land acquisition and the development of local reservation projects.

(c) Nothing in this section is deemed in anyway to increase, diminish, or in anyway affect the right of the Gros Ventre Tribe to determine its membership.

SEC. 5. The per capita shares of living competent adults shall be paid directly to them. Per capita shares of decreased individual beneficiaries shall be determined and distributed pursuant to regulations prescribed by the Secretary. Per capita shares of individuals under eighteen shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary determines to be necessary to protect and preserve the interests of such individuals.

SEC. 6. None of the funds distributed per capita or held in trust under provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

SEC. 7. The Secretary is authorized to prescribe rules and regulations to carry out the provisions of this Act, including the establishment of deadlines for filing applications for enrollment.

SEC. 8. (a) Notwithstanding any other law, the funds appropriated by the Act of September 30, 1976 (90 Stat. 1416), in satisfaction of a judgment awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, less attorney fees and litigation expenses, but including all accrued interest or investment income, shall be used and distributed as provided in this Act.

(b) Fifty per centum of such funds shall be held in trust by the Secretary for the

benefit of the Papago Tribe and shall be administered or invested by the Secretary for the best interest of the tribe under existing law. Such funds shall be held and used as follows:

(1) All interest or investment income accruing to said funds shall be available, at the request of the tribe on a quarterly basis, for use by the Papago Tribal Council on an annual budgetary basis for expenditures of the tribal government, and for health, education, and social services, capital improvements and economic development programs of the tribe and of the district and communities of the tribe's reservation. Any interest or investment income accrued during the year and remaining available at the end of the tribe's fiscal year shall, at the request of the tribe, be added to the principal amount.

(2) A portion of such funds, principal and accrued interest or investment income, but not in the aggregate a sum in excess of 20 per centum of the initial principal amount, shall be available upon the request to the tribe for capital improvement or major economic development activities of benefit to the tribe as a whole pursuant to a plan or plans developed by the Papago Tribal Council and approved by the Secretary.

(3) Sufficient funds from the principal amount of such funds shall be available to the Secretary to insure that the per capita distribution of \$1,000 to each enrollee is completed as provided in subsection (c) to the extent that there are not sufficient funds in the amount set aside for per capita distribution to make such payment.

(c) Fifty per centum of such funds shall be held and administered by the Secretary for per capita distribution and such sums, together with any accrued interest or investment income, shall be distributed and used as follows:

(1) The membership roll of the tribe shall be brought current to the date of enactment of this Act pursuant to the criteria specified in the tribal constitution and the provisions of the Papago Enrollment Ordinance, numbered 5-81, and the Papago Enrollment Manual, or other ordinances and regulations adopted by the Papago Tribal Council and approved by the Secretary: Provided, That no application for membership on the roll may be filed or received by the tribe for purposes of per capita payments under this section one hundred and eighty days after the date of enactment of this Act.

(2) Sufficient funds shall be made available to the tribe on an annual budgetary basis from interest and investment income accruing to such funds to assist the tribe to bring the membership roll current as provided in paragraph (1) of the subsection.

(3) Per capita distributions shall be made, in shares as equal as possible, to all members of the Papago Tribe who were born on or prior to, and living on, the date of enactment of this Act, as follows:

(i) Persons whose applications for membership on the roll have been approved on the date of enactment of this Act shall be paid the sum of \$1,000 within ninety days after such date.

(ii) Persons whose applications for membership on the roll have not been approved on the date of enactment of this Act shall be paid the sum of \$1,000 within ninety days after their membership has been approved.

(iii) Upon completion of the membership roll and of all appeals from adverse determinations on applications for membership, and upon the expiration of the time allowed for such appeals, any remaining amount, after the payments provided in paragraph (2) of this subsection and in subparagraphs (i) and (ii) of this paragraph, shall be distributed, in sums as equal as possible, to all enrolled members of the Pagago Tribe.

(iv) The per capita shares of living competent adults shall be paid directly to them. Per capita shares of deceased beneficiaries, legal incompetents, and minors shall be determined and distributed pursuant to regulations prescribed by the Secretary.

(v) Any amount remaining after the per capita distributions to enrollees provided in subparagraph (iii) of this paragraph shall revert to the tribe and shall be added to the principal fund held and administered by the Secretary pursuant to subsection (b) of this section.

(d) None of the funds distributed per capita or held in trust under the provisions of this section shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or other Federal assistance programs.

Amend the title so as to read: "An Act to provide for the use and distribution of funds awarded to the Blackfeet and Gros Ventre Tribe of Indians and the Assiniboine Tribe of Fort Belknap Indian Community, in certain dockets of the United States Court of Claims and of funds awarded to the Papago Tribe of Arizona in dockets numbered 345 and 102 of the Indian Claims Commission, and for other purposes."

Mr. STEVENS. Mr. President, I move that the Senate concur in the amendment of the House with a further amendment which I send to the desk on behalf of the Senator from Montana (Mr. Melcher).

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

## UP AMENDMENT NO. 1479

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), on behalf of Mr. Melcher, proposes an unprinted amendment numbered 1479.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike Section 8(c)(3)(i) and 8(c)(3)(ii) and insert the following in lieu thereof:

"(i) Persons whose applications for membership on the roll have been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within 45 days after the date of certification by the Secretary of their eligibility to share in funds under this subsection."

"(ii) Persons whose applications for membership on the roll have not been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within ninety days after their membership has been approved by the Papago Tribal Council and their eligibility to share in funds under this subsection has been certified by the Secretary."

The motion to concur in the House amendment with the Senate amendment (UP No. 1479) was agreed to.

move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### GRATUITY TO DAPHNE CHAP-MAN AND VALERIE C. QUICK

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar Order 991, Senate Resolution 509.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 509) to pay a gratuity to Daphne Chapman and Valerie C. Quick.

The PRESIDING OFFICER. there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution

The resolution (S. Res. 509) was agreed to as follows:

#### S. RES. 509

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Daphne Chapman and Valerie C. Quick, daughters of Georgia M. Chapman, an employee of the Senate at the time of death, a sum to each equal to one-half of one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. STEVENS. Mr. President, move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## GRATUITY TO ALPHA B. PERRY

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 992, Senate Resolution

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 510) to pay a gratuity to Alpha B. Perry.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 510) was agreed to as follows:

Resolved, That the Secretary of the Senate is authorized and directed to pay,

Mr. STEVENS. Mr. President, I from the contingent fund of the Senate, to Alpha B. Perry, widow of Leslie S. Perry, an employee of the Architect of the Capitol assigned to duty in the United States Capitol Building (Senate wing) at the time of his death, a sum equal to six months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

> Mr. STEVENS. Mr. President, move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### GRATUITY TO CHRISTINE GOOD

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 993, Senate Resolution 511.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 511) to pay a gratuity to Christine Good.

The PRESIDING OFFICER. there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolu-

The resolution (S. Res. 511) was agreed to as follows:

### S. RES. 511

Resolved, That the Secretary of the Senate is authorized and directed to pay, from the contingent fund of the Senate, to Christine Good, daughter of Barbara D. Lewis, an employee of the Senate at the time of her death, a sum equal to one year's compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. STEVENS. Mr. President, move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### EXTENSION OF INDIAN EDUCATION LEGISLATION

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 999, S. 2623.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the follow-

Section 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

#### "DEFINITIONS

"Sec. 2. (a) For purposes of this Act, the term-

(2) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(3) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.". tion of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program."

SEC. 2. Section 101 of the Act is amended by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physical resources of such institutions'

SEC. 3. (a) Section 102 of the Act is amended-

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and mainte-

nance of the college"

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs conducted with such funds."

SEC. 4. (a) The Act is amended-

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the fol-

lowing new section:

#### "PLANNING GRANTS

"SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such colleges

(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this

section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than \$15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.".

(b) The Act is further amended-

(1) by striking out "section 106" in section 105 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107"

(2) by striking out "section 105" in section 106 (as so redesignated) and inserting in lieu

thereof "section 106";
(3) by striking out "section 110" in section 107 (as so redesignated) and inserting in lieu thereof "section 111";
(4) by striking out "section 106" in section

109 (as so redesignated) and inserting in lieu

thereof "section 107";
(5) by striking out "section 104" in section 109 (as so redesignated) and inserting in lieu

thereof "section 105"; and
(6) by striking out "section 106(a)" in section 110 (as so redesignated) and inserting in lieu thereof "section 107(a)"

SEC. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended-

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

SEC. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY"

(2) by striking out "feasibility" each place it appears in such section and inserting in

lieu thereof "eligibility";
(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education";

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and (5) by striking out "10 per centum" in sub-

section (c)(2) and inserting in lieu thereof "5 per centum"

(b) Section 107(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligi-', and

(2) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education".

SEC. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is

amended to read as follows:

"SEC. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of-

'(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with

section 2(a)(7) of this Act; and

'(2)(A) \$4,000 for fiscal year 1983, "(B) \$4,000 for fiscal year 1984, "(C) \$5,025 for fiscal year 1985,

"(D) \$5,415 for fiscal year 1986, and "(E) \$5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.

SEC. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is

amended-

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the fol-

lowing new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under said Act of November 2, 1921, because of the funds it receives under this Act.

(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act."

SEC. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is

amended to read as follows:

## "APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, \$3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized to be appropriated for carrying out section \$30,000,000 for each of such fiscal years.

"(3) There is authorized to be appropriated such sums as may be necessary to carry out sections 112(b) and 113 for each of such fiscal years.

"(b) For the purpose of affording adequate notice of funding available under this Act, appropriations for grants provided in section 107 of the Act are authorized to be included in an appropriations Act for the fiscal year immediately preceding the academic year for which grants are to be pro-

vided. Amounts appropriated for the academic year succeeding the current fiscal year shall become available for obligation on July 1 of the year in which they are appropriated and shall remain available until September 30 of the succeeding fiscal year. In order to effect a transition to the forward funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding academic year."

SEC. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the follow-

ing:

"(a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year-

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year, or which was an eligible but unfunded applicant during the preceding year, an amount equal to the product of—

"(i) the per capita payment for the preceding fiscal year, and

'(ii) such applicant's Indian student count

for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who do not receive funds under subparagraph (A) in the order in which such applicants have qualified for assistance in accordance with section 107.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to controlled community tribally colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay it full the total amounts for which applicant are eligible under section 107 shall be allocated by ratably increasing such total

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to

section 106 as in effect at the beginning of For the purpose of providing its required such fiscal year.'

SEC. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

#### "REPORT ON FACILITIES

"SEC. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruc-tion necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).".

Sec. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

## "CONSTRUCTION OF NEW FACILITIES

"SEC. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

"(b) In order to be eligible for a grant under this section, a tribally controlled community college (1) must be a current recipient of grants under section 105 or 107, and (2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

'(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than \$400,000 in fulfillment of the remaining 20 per centum.

portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

"(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal

"(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section-

'(1) the applicant ceases or fails to be a public or nonprofit institution.

"(2) the facility ceases to be used by the applicant as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this

obligation, or

"(3) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government, the United States shall be entitled to recover from such applicant (or its successor in title or possession) an amount which bears to the value of the facility at the time the same ratio as the amount of the grant under this section bore to the cost of the facility constructed with the aid of such grant. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a

school or department of divinity.

"(f) For the purposes of this section, the Secretary shall have the authority granted to the Secretary of Education pursuant to section 732(b) of the Higher Education Act of 1965 (20 U.S.C. 1132d-1) with respect to construction under title VII of such Act.

'(g) For the purposes of this section-

"(1) the term 'construction' includes re-construction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))); and

"(2) the term 'academic facilities' has the meaning provided such term under section 742(1) of the Higher Education Act of 1965

(20 U.S.C. 1132e-l(1)).

SEC. 13. The Act is further amended by adding at the end thereof the following new

"TITLE III-TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

#### 'PURPOSE

"SEC. 301. It is the purpose of this title to provide grants for the encouragement of en-dowment funds for the operation and improvement of tribally controlled community colleges.

#### "ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

"SEC. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endownment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year.

(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with

the Secretary which-

"(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

"(2) provides for the deposit in such trust fund of-

"(A) any Federal capital contributions made from funds appropriated under section 306;

"(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

"(C) any earnings of the funds so deposit-

"(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time:

"(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

'(5) provides that no part of the net earnings of such trust fund will inure to the ben-

efit of any private person; and

"(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

## "USE OF FUNDS

"SEC. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

## "COMPLIANCE WITH MATCHING REQUIREMENT

"Sec. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

## "ALLOCATION OF FUNDS

"SEC. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed \$350,000.

(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall

be ratably reduced.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 306. (a) There is authorized to be appropriated \$5,000,000 for each of the fiscal years 1985, 1986, and 1987 to carry out this

"(b) Any funds appropriated pursuant to subsection (a) are authorized to remain

available until expended."

SEC. 14. In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community col-

Mr. STEVENS. Mr. President, I ask for immediate consideration of the committee substitute.

The amendment was agreed to. Mr. ANDREWS. Mr. President, I rise in support of S. 2623, a bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978. It was my pleasure to chair the Senate Select Committee on Indian Affair's hearing on this bill, a bill which I cosponsored. During course of that hearing, witnesses from the colleges and from the tribes explained the purpose of the colleges and the success this program has had among the young American Indian men and women.

In my State of North Dakota, there are four tribally controlled community colleges. These schools are doing a fine job preparing their students to enter the job market with employable skills. Many of the graduates go directly into the job market, while others continue their education at the university level. These schools enjoy the support of their students, the tribal leaders and the eductional communities.

The Senate Select Committee on Indian Affairs has worked long and hard to insure that S. 2623 adequately addresses the needs of the college program. The college presidents have met time and again with our staff, and they support this bill. When the bill was first introduced, it met with strong opposition from the administration. However, over the course of our meetings with the administration, the administration has removed its previous strong opposition to S. 2623.

I believe that S. 2623, as amended, is a good piece of legislation, and a necessary one. I urge my colleagues to

join me in voting for passage of this bill.

Mr. ABDNOR. Mr. President, I am pleased that the Senate has taken action to consider this important measure. As one of the cosponsors of S. 2623. I look forward to quick action. to extend one of the most valuable Indian education acts ever to be passed by Congress.

In my State of South Dakota, there are three tribally controlled colleges administered under this program; Cheyenne River Community College, Oglala Sioux Community College, and Gleska College. In addition South Dakotans attend the many Standing Rock Community College located in North Dakota.

Each of these colleges are tribally chartered, serve predominately Indian populations and are governed by native Americans.

These colleges serve a special world known only to those that reside on the Indian reservations. Being located in often remote areas and serving the special needs of these communities all these colleges provide a valuable service to our native American population.

They provide a up-to-date curricula which enables every student, young and old alike, to pursue a complete or partial course of study to improve their knowledge and their job skills.

More importantly, however, these schools provide hope. Education is the key to one's future and these colleges provide our native Americans with the only opportunity they might have to pursue this goal.

I have received letters and personal visits from many of these students and, young and old alike, they believe this opportunity to receive an education has made a special difference in their lives.

Learning invites more learning. The perspectives widen and the goals enlarge. This is a program that works, and it deserves support. For these reasons and many more I encourage my colleagues to support this measure for what it has already accomplished and for what it can do in the future.

Mr. COHEN. Mr. President, I bring before this body today, S. 2623 a bill which reauthorizes Public Law 95-471, the Tribally Controlled Community College Act, through fiscal year 1987. Passed in 1978, this legislation originally sought to reaffirm the Federal Government's commitment and responsibility toward meeting the educational needs of the Native American by providing direct funding assistance to community colleges which are tribally controlled and tribally chartered. Unlike the public community colleges found throughout this country, there is no tax base by which to find the operation of these institutions. S. 2623 and its companion bill in the House, would once again reaffirm that Feder-Government's commitment Native American higher education.

Since the early 1970's the tribally controlled community college movement has grown from one community college on the Navajo Reservation to 18 tribally controlled community colleges spread throughout Indian country. Their existence has made higher education accessible to sizable numbers of Indian individuals and has provided those individuals with previously unobtainable opportunities to enhance their employability and in many cases. to pursue higher education 4-year degrees. S. 2623 continues to provide operational funds through fiscal year

Mr. President, S. 2623 contains certain new provisions to the existing Tribally Controlled Community College Act which should significantly enhance the operational capabilities of these schools and facilitate their gaining accreditation. One of the more severe tests these schools have faced in past years is the problem of financial stability. S. 2623 provides for "forward funding" of these schools. This will enable these colleges to be funded on the same basis as all other postsecondary institutions which receive funding under the Higher Education Act.

S. 2623 addresses another cause of past financial inconsistency for these colleges by providing that funds granted to these schools under Public Law 95-471 shall not be reduced by virtue of the fact the tribe with which the college is affiliated has allocated some of its Snyder Act funds to the operation of the college, nor shall Snyder Act funds be reduced because of the Public Law 95-471 grants.

Provision is made for the establishment of an endowment fund, to be funded over a 3-year period beginning in fiscal year 1985. Funds for these endowments are to be provided on a dollar-for-dollar matching basis, thus encouraging the use of tribal funds or of private funding development sources.

Finally, S. 2623 authorizes, commencing in fiscal year 1985, funding for construction of new facilities or renovation of existing facilities for use as college facilities. Funds for con-struction or renovation of facilities have not previously been made available for tribally controlled community college facilities and this separate authorizing provision appears necessary.

Mr. President, many of these col-leges are located in very remote locations. I believe they are serving an extremely important purpose and I urge that my colleagues join me in support for this bill.

Mr. President, the Congressional Budget Office has estimated that the Services General Administration would require approximately \$100,000 over the fiscal year 1983-84 period to conduct a study of facilities available

to the tribally controlled community colleges system and their need for repair and reconstruction. I would note, however, that no provision in the bill authorizes the appropriation of new budget authority to cover these costs. The committee intends that the costs of the mandated study will be absorbed by GSA, S. 2623 is not intended to "drive up" the agency's budget requests.

Mr. STEVENS. Mr. President, I yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I rise in support of S. 2623 and wish to associate myself with the remarks just made by the distinguished chairman of the Select Committee on Indian Affairs, Senator Cohen. He has done a truly excellent job in tailoring this bill to meet the administration's original objections and I wish to congratulate him on that effort.

Mr. President, there are a number of these colleges in my own State of Montana. Mr. President, these community colleges are succeeding in broadening educational opportunity for In-

dians young and old.

Reauthorizing the act is necessary to continue to help these institutions secure a stable funding source. The importance of a stable funding source cannot be overstated. This one item, more than any other, will make or break these institutions before their respective higher education accreditation bodies.

One of the institutions in Montana, Salish-Kootenai located on the Flathead Reservation, has just gone through an accreditation evaluation. They came out with flying colors, but the concern over funding stability was one item of concern raised by the accreditation team. S. 2623 would help alleviate much of this by reauthorizing the program through fiscal year 1987 and by the inclusion of provisions which can help these colleges develop more and more on their own in the future. Mr. President, I urge the passage of this legislation.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### ORDER INDEFINITELY POSTPON-ING BUDGET WAIVER-SENATE RESOLUTION 426

Mr. STEVENS. Mr. President, I ask unanimous consent that Calendar No. 729, the budget waiver for Senate Resolution 426, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### AMENDMENT OF PEACE CORPS ACT

Mr. STEVENS. Mr. President, I ask the Chair to lay before the Senate Calendar No. 972, S. 2611.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2611) to amend the Peace Corps

Mr. STEVENS. Mr. President, I ask for immediate consideration of this

There being no objection, the Senate proceeded to consider the bill.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows: S 2611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6 of the Peace Corps Act is amended by striking out "not to exceed" in the first proviso and by inserting in lieu thereof "not less than"

(b) This amendment shall be effective as of December 29, 1981.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President. I move to lay that motion on the table

The motion to lay on the table was agreed to.

# FEDERAL OIL AND GAS ROYAL-TY MANAGEMENT ACT OF 1982

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5121.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved. That the House agree to the amendment of the Senate to the text of the bill (H.R. 5121) entitled "An Act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes", with the following amendment: In lieu of the matter inserted by said amendment, insert:

## SHORT TITLE AND TABLE OF CONTENTS

Section 1. This Act may be cited as the "Federal Oil and Gas Royalty Management Act of 1982".

## TABLE OF CONTENTS

Sec. 1. Short title and table of contents. Sec. 2. Findings and purposes.

Sec. 3. Definitions.

#### TITLE I-FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

Sec. 101. Duties of the Secretary. Sec. 102. Duties of lessees, operators, and motor vehicle transporters.

Sec. 103. Required recordkeeping.

Sec. 104. Prompt disbursement of royalties.

Sec. 105. Explanation of payments.

Sec. 106. Liabilities and bonding.

Sec. 107. Hearings and investigations.

Sec. 108. Inspections. Sec. 109. Civil penalties.

Sec. 110. Criminal penalties.

Sec. 111. Royalty interest, penalties and payments.

Sec. 112. Injunction and specific enforcement authority.

Sec. 113. Rewards.

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## TITLE II-STATES AND INDIAN TRIBES

Sec. 201. Application of title.

Sec. 202. Cooperative agreements.

Sec. 203. Information.

Sec. 204. State suits under Federal law.

Sec. 205. Delegation to States.

Sec. 206. Shared civil penalties.

#### TITLE III-GENERAL PROVISIONS

Sec. 301. Secretarial authority.

Sec. 302. Reports.

Sec. 303. Study of other minerals.

Sec. 304. Relation to other laws.

Sec. 305. Effective date.

Sec. 306. Funding.

Sec. 307. Statute of limitations.

Sec. 308. Expanded royalty obligations.

Sec. 309. Severability.

#### TITLE IV-REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

Sec. 401. Amendment of Mineral Lands Leasing Act of 1920.

#### FINDINGS AND PURPOSES

SEC. 2. (a) Congress finds that—

(1) the Secretary of the Interior should enforce effectively and uniformly existing regulations under the mineral leasing laws providing for the inspection of production activities on lease sites on Federal and Indian lands:

(2) the system of accounting with respect to royalties and other payments due and owing on oil and gas produced from such lease sites is archaic and inadequate;

(3) it is essential that the Secretary initiate procedures to improve methods of accounting for such royalties and payments and to provide for routine inspection of activities related to the production of oil and gas on such lease sites; and

(4) the Secretary should aggressively carry out his trust responsibility in the administration of Indian oil and gas.

(b) It is the purpose of this Act-

(1) to clarify, reaffirm, expand, and define the responsibilities and obligations of lessees, operators, and other persons involved in transportation or sale of oil and gas from the Federal and Indian lands and the Outer Continental Shelf;

(2) to clarify, reaffirm, expand and define the authorities and responsibilities of the Secretary of the Interior to implement and maintain a royalty management system for oil and gas leases on Federal lands, Indian lands, and the Outer Continental Shelf:

(3) to require the development of enforcement practices that ensure the prompt and proper collection and disbursement of oil and gas revenues owed to the United States and Indian lessors and those inuring to the benefit of States;

(4) to fulfill the trust responsibility of the United States for the administration of

Indian oil and gas resources; and

(5) to effectively utilize the capabilities of the States and Indian tribes in developing Federal royalty management system.

#### DEFINITIONS

SEC. 3. For the purposes of this Act, the

term—
(1) "Federal land" means all land and interests in land owned by the United States which are subject to the mineral leasing laws, including mineral resources or mineral estates reserved to the United States in the conveyance of a surface or nonmineral

estate;
(2) "Indian allottee" means any Indian for whom land or an interest in land is held in trust by the United States or who holds title subject to Federal restriction against

alienation:

(3) "Indian lands" means any lands or interest in lands of an Indian tribe or an Indian allottee held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian tribe or an Indian allottee in the conveyance of a surface or nonmineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539):

(4) "Indian tribe" means any Indian tribe, band, nation, pueblo, community, rancheria, colony, or other group of Indians, including the Metlakatla Indian Community of Annette Island Reserve, for which any land or interest in land is held by the United States in trust or which is subject to Federal restriction against alienation;
(5) 'lease' means any contract, profit-

share arrangement, joint venture, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or re-

moval of oil or gas;
(6) 'lease site' means any lands or submerged lands, including the surface of a severed mineral estate, on which exploration for, or extraction or removal of, oil or gas is

authorized pursuant to a lease;

(7) 'lessee' means any person to whom the United States, an Indian tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the

lease;
(8) "mineral leasing law" means any Federal law administered by the Secretary authorizing the disposition under lease of oil

(9) "oil or gas" means any oil or gas originating from, or allocated to, the Outer Con-

tinental Shelf, Federal, or Indian lands; (10) "Outer Continental Shelf" has the same meaning as provided in the Outer Continental Shelf Lands Act (Public Law

(11) "operator" means any person, including a lessee, who has control of, or who manages operations on, an oil and gas lease site on Federal or Indian lands or on the Outer Continental Shelf;
(12) "person" means any individual, firm,

corporation, association, partnership, con-

sortium, or joint venture;

(13) "production" means those activities which take place for the removal of oil or gas, including such removal, field operations, transfer of oil or gas off the lease site, operation monitoring, maintenance, and workover drilling;

(14) "royalty" means any payment based on the value or volume of production which is due to the United States or an Indian tribe or an Indian allottee on production of oil or gas from the Outer Continental Shelf,

and maintaining an efficient and effective Federal, or Indian lands, or any minimum royalty owed to the United States or an Indian tribe or an Indian allottee under any

provision of a lease;
(15) "Secretary" means the Secretary of

the Interior or his designee; and
(16) "State" means the several States of the Union, the District of Columbia, Puerto Rico, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

#### TITLE I-FEDERAL ROYALTY MANAGEMENT AND ENFORCEMENT

DUTIES OF THE SECRETARY

SEC. 101. (a) The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.

(b) The Secretary shall-

(1) establish procedures to ensure that authorized and properly identified representatives of the Secretary will inspect at least once annually each lease site producing or expected to produce significant quantities of oil or gas in any year or which has a history of noncompliance with applicable provisions of law or regulations; and

(2) establish and maintain adequate programs providing for the training of all such authorized representatives in methods and techniques of inspection and accounting that will be used in the implementation of

(c)(1) The Secretary shall audit and reconcile, to the extent practicable, all current and past lease accounts for leases of oil or gas and take appropriate actions to make additional collections or refunds as warranted. The Secretary shall conduct audits and reconciliations of lease accounts in conformity with the business practices and recordkeeping systems which were required of the lessee by the Secretary for the period covered by the audit. The Secretary shall give priority to auditing those lease accounts identified by a State or Indian tribe as having significant potential for underpay-ment. The Secretary may also audit ac-counts and records of selected lessees and operators.

(2) The Secretary may enter into contracts or other appropriate arrangements with independent certified public accountants to undertake audits of accounts and records of any lessee or operator relating to the lease of oil or gas. Selection of such independent certified public accountants shall be by competitive bidding in accordance with the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252), except that the Secretary may not enter into a contract or other arrangement with any independent certified public accountant to audit any lessee or operator where such lessee or operator is a primary audit client of such certified public accountant.

(3) All books, accounts, financial records, reports, files, and other papers of the Secretary, or used by the Secretary, which are reasonably necessary to facilitate the audits reauired under this section shall be made available to any person or governmental entity conducting audits under this Act.

#### DUTIES OF LESSEES, OPERATORS, AND MOTOR VEHICLE TRANSPORTERS

SEC. 102. (a) A lessee-

(1) who is required to make any royalty or other payment under a lease or under the mineral leasing laws, shall make such pay-

ments in the time and manner as may be specified by the Secretary; and

(2) shall notify the Secretary, in the time and manner as may be specified by the Secretary, of any assignment the lessee may have made of the obligation to make any royalty or other payment under a lease or under the mineral leasing laws.

(b) An operator shall-

(1) develop and comply with a site security plan designed to protect the oil or gas produced or stored on an onshore lease site from theft, which plan shall conform with such minimum standards as the Secretary may prescribe by rule, taking into account the variety of circumstances at lease sites;

(2) develop and comply with such minimum site security measures as the Secretary deems appropriate to protect oil or gas produced or stored on a lease site or on the Outer Continental Shelf from theft; and

(3) not later than the 5th business day after any well begins production anywhere on a lease site or allocated to a lease site, or resumes production in the case of a well which has been off of production for more than 90 days, notify the Secretary, in the manner prescribed by the Secretary, of the date on which such production has begun or resumed.

(c)(1) Any person engaged in transporting by motor vehicle any oil from any lease site, or allocated to any such lease site, shall carry, on his person, in his vehicle, or in his immediate control, documentation showing, at a minimum, the amount, origin, and in-

tended first destination of the oil.

(2) Any person engaged in transporting any oil or gas by pipeline from any lease site, or allocated to any lease site, on Federal or Indian lands shall maintain documentation showing, at a minimum, amount, origin, and intended first destination of such oil or gas.

## REQUIRED RECORDKEEPING

SEC. 103. (a) A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act or determining compliance with rules or orders under this Act. Upon the request of any officer or employee duly designated by the Secretary or any State or Indian tribe conducting an audit or investigation pursuant to this Act, the appropriate records, reports, or information which may be required by this section shall be made available for inspection and duplication by such officer or employee, State, or Indian tribe.

(b) Records required by the Secretary with respect to oil and gas leases from Federal or Indian lands or the Outer Continental Shelf shall be maintained for 6 years after the records are generated unless the Secretary notifies the record holder that he has initiated an audit or investigation involving such records and that such records must be maintained for a longer period. In any case when an audit or investigation is underway, records shall be maintained until the Secretary releases the record holder of the obligation

to maintain such records.

### PROMPT DISBURSEMENT OF ROYALTIES

SEC. 104. (a) Section 35 of the Mineral Lands Leasing Act of 1920 (approved February 25, 1920; 41 Stat. 437; 30 U.S.C. 191) is amended by deleting "as soon as practicable after March 31 and September 30 of each year" and by adding at the end thereof "Payments to States under this section with respect to any moneys received by the United States, shall be made not later than the last business day of the month in which such moneys are warranted by the United States Treasury to the Secretary as having been received, except for any portion of such moneys which is under challenge and placed in a suspense account pending resolution of a dispute. Such warrants shall be issued by the United States Treasury not later than 10 days after receipt of such moneys by the Treasury. Moneys placed in a suspense account which are determined to be payable to a State shall be made not later than the last business day of the month in which such dispute is resolved. Any such amount placed in a suspense account pending resolution shall bear interest until the dispute is resolved."

(b) Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.

(c) The provisions of this section shall apply with respect to payments received by the Secretary after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

#### EXPLANATION OF PAYMENTS

SEC. 105. (a) When any payment (including amounts due from receipt of any royalty, bonus, interest charge, fine, or rental) is made by the United States to a State with respect to any oil or gas lease on Federal lands or is deposited in the appropriate Indian account on behalf of an Indian tribe or Indian allottee with respect to any oil and gas lease on Indian lands, there shall be provided, together with such payment, a description of the type of payment being made, the period covered by such payment, the source of such payment, production amounts, the royalty rate, unit value and such other information as may be agreed upon by the Secretary and the recipient State, Indian tribe, or Indian allottee

(b) This section shall take effect with respect to payments made after October 1, 1983, unless the Secretary, by rule, prescribes an earlier effective date.

### LIABILITIES AND BONDING

SEC. 106. A person (including any agent or employee of the United States and any independent contractor) authorized to collect, receive, account for, or otherwise handle any moneys payable to, or received by, the Department of the Interior which are derived from the sale, lease, or other disposal

of any oil or gas shall be—
(1) liable to the United States for any losses caused by any intentional or reckless action or inaction of such individual with respect to such moneys; and

(2) in the case of an independent contractor, required as the Secretary deems necessary to maintain a bond commensurate with the amount of money for which such individual could be liable to the United States.

## HEARINGS AND INVESTIGATIONS

SEC. 107. (a) In carrying out his duties under this Act the Secretary may conduct any investigation or other inquiry necessary and appropriate and may conduct, after notice, any hearing or audit, necessary and appropriate to carrying out his duties under this Act. In connection with any such hearings, inquiry, investigation, or audit, the Secretary is also authorized where reasonably necessary

(1) to require by special or general order, any person to submit in writing such affidavits and answers to questions as the Secretary may reasonably prescribe, which submission shall be made within such reasonable period and under oath or otherwise, as may be necessary;

(2) to administer oaths;

(3) to require by subpena the attendance and testimony of witnesses and the production of all books, papers, production and financial records, documents, matter, and materials, as the Secretary may request;

(4) to order testimony to be taken by deposition before any person who is designated by the Secretary and who has the power to administer oaths, and to compel testimony and the production of evidence in the same manner as authorized under paragraph (3) of this subsection; and

(5) to pay witnesses the same fees and mileage as are paid in like circumstances in

the courts of the United States.

(b) In case of refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found, resides, or transacts business, upon applica-tion by the Attorney General at the request of the Secretary and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary. Any failure to obey such order of the court may be punished by such court as contempt thereof and subject to a penalty of up to \$10,000 a day.

#### INSPECTIONS

SEC. 108. (a)(1) On any lease site on Federal or Indian lands, any authorized and properly identified representative of the Secretary may stop and inspect any motor vehicle that he has probable cause to believe is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site, for the purpose of determining whether the driver of such vehicle has documentation related to such oil as required by law.

(2) Any authorized and properly identified representative of the Secretary, accompanied by any appropriate law enforcement officer, or an appropriate law enforcement officer alone, may stop and inspect any motor vehicle which is not on a lease site if he has probable cause to believe the vehicle is carrying oil from a lease site on Federal or Indian lands or allocated to such a lease site. Such inspection shall be for the purpose of determining whether the driver of such vehicle has the documentation required by

(b) Authorized and properly identified representatives of the Secreatary may without advance notice, enter upon, travel across and inspect lease sites on Federal or Indian lands and may obtain from the operator immediate access to secured facilities on such lease sites, for the purpose of making any inspection or investigation for determining whether there is compliance with the requirements of the mineral leasing laws and this Act. The Secretary shall develop guidelines setting forth the coverage and the frequency of such inspections.

(c) For the purpose of making any inspection or investigation under this Act, the Secretary shall have the same right to enter upon or travel across any lease site as the lessee or operator has acquired by purchase,

condemnation, or otherwise.

CIVIL PENALTIES

SEC. 109. (a) Any person who-(1) after due notice of violation or after such violation has been reported under subparagraph (A), fails or refuses to comply

with any requirements of this Act or any mineral leasing law, any rule or regulation thereunder, or the terms of any lease or permit issued thereunder; or

(2) fails to permit inspection authorized in section 108 or fails to notify the Secretary of any assignment under section 102(a)(2) shall be liable for a penalty of up to \$500 per violation for each day such violation continues, dating from the date of such notice

or report. A penalty under this subsection may not be applied to any person who is otherwise liable for a violation of paragraph

ported to the Secretary or his authorized representative by the liable person and corrected within 20 days after such report or such longer time as the Secretary may agree

(A) the violation was discovered and re-

to: or

(B) after the due notice of violation required in paragraph (1) has been given to such person by the Secretary or his authorized representative, such person has corrected the violation within 20 days of such notification or such longer time as the Secretary may agree to.

(b) If corrective action is not taken within 40 days or a longer period as the Secretary may agree to, after due notice or the report referred to in subsection (a)(1), such person shall be liable for a civil penalty of not more than \$5,000 per violation for each day such violation continues, dating from the date of

such notice or report.

(c) Any person who-(1) knowingly or willfully fails to make any royalty payment by the date as specified by statute, regulation, order or terms of the

(2) fails or refuses to permit lawful entry, inspection, or audit; or

(3) knowingly or willfully fails or refuses to comply with subsection 102(b)(3),

shall be liable for a penalty of up to \$10,000 per violation for each day such violation continues.

(d) Any person who-

(1) knowingly or willfully prepares, maintains, or submits false, inaccurate, or misleading reports, notices, affidavits, records, data, or other written information;

(2) knowingly or willfully takes or removes, transports, uses or diverts any oil or gas from any lease site without having valid

legal authority to do so; or

(3) purchases, accepts, sells, transports, or conveys to another, any oil or gas knowing or having reason to know that such oil or gas was stolen or unlawfully removed or diverted.

shall be liable for a penalty of up to \$25,000 per violation for each day such violation continues.

(e) No penalty under this section shall be assessed until the person charged with a violation has been given the opportunity for a hearing on the record.

(f) The amount of any penalty under this section, as finally determined may be deducted from any sums owing by the United States to the person charged.

(g) On a case-by-case basis the Secretary may compromise or reduce civil penalties under this section.

(h) Notice under this subsection (a) shall be by personal service by an authorized representative of the Secretary or by registered mail. Any person may, in the manner prescribed by the Secretary, designate a representative to receive any notice under this subsection.

(i) In determining the amount of such penalty, or whether it should be remitted or reduced, and in what amount, the Secretary shall state on the record the reasons for his determinations.

(j) Any person who has requested a hearing in accordance with subsection (e) within the time the Secretary has prescribed for such a hearing and who is aggrieved by a final order of the Secretary under this section may seek review of such order in the United States district court for the judicial district in which the violation allegedly took place. Review by the district court shall be only on the administrative record and not de novo. Such an action shall be barred unless filed within 90 days after the Secretary's final order.

(k) If any person fails to pay an assessment of a civil penalty under this Act—

(1) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with subsection (j), or

(2) after a court in an action brought under subsection (j) has entered a final judgment in favor of the Secretary,

the court shall have jurisdiction to award the amount assessed plus interest from the date of the expiration of the 90-day period referred to in subsection (j). Judgment by the court shall include an order to pay.

(1) No person shall be liable for a civil penalty under subsection (a) or (b) for failure to pay any rental for any lease automatically terminated pursuant to section 31 of the Mineral Leasing Act of 1920.

### CRIMINAL PENALTIES

SEC. 110. Any person who commits an act for which a civil penalty is provided in section 109(d) shall, upon conviction, be punished by a fine of not more than \$50,000, or by imprisonment for not more than 2 years, or both.

### ROYALTY INTEREST, PENALTIES AND PAYMENTS

SEC. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be deposited to the same account as the royalty with respect to which such interest is paid.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State. the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment

is late.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

# INJUNCTION AND SPECIFIC ENFORCEMENT

SEC. 112. (a) In addition to any other remedy under this Act or any mineral leasing law, the Attorney General of the United States or his designee may bring a civil action in a district court of the United States, which shall have jurisdiction over such actions—

(1) to restrain any violation of this Act; or (2) to compel the taking of any action required by or under this Act or any mineral

leasing law of the United States.

(b) A civil action described in subsection (a) may be brought only in the United States district court for the judicial district wherein the act, omission, or transaction constituting a violation under this Act or any other mineral leasing law occurred, or wherein the defendant is found or transacts business.

### REWARDS

SEC. 113. Where amounts representing royalty or other payments owed to the United States with respect to any oil and gas lease on Federal lands or the Outer Continental Shelf are recovered pursuant to any action taken by the Secretary under this Act as a result of information provided to the Secretary by any person, the Secretary is authorized to pay to such person an amount equal to not more than 10 percent of such recovered amounts. The preceding sentence shall not apply to information provided by an officer or employee of the United States, an officer or employee of a State or Indian tribe acting pursuant to a cooperative agreement or delegation under this Act, or any person acting pursuant to a contract authorized by

# NONCOMPETITIVE OIL AND GAS LEASE ROYALTY RATES

SEC. 114. (a) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended by inserting the words "not less than" after the words "payment by the lessee of a royalty of" and by inserting the words "nor more than 16% per centum" after the word "per centum".

(b) Subsection 17(c) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(c)) is amended

by changing the period to a colon and adding the following: "Provided, That the royalty rate shall be not more than 12½ per centum unless the Secretary finds that an increase in the royalty rate will not adversely affect the exploration, development or production of oil or gas or the overall revenue to the Federal Government generated by such activity."

(c) The amendments made by subsections (a) and (b) shall take effect on the date six months after completion and submission to Congress by the Secretary of a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 (1) on the exploration, development, or production of oil or gas and (2) on the overall revenues generated by such change. Such study shall be completed and submitted to Congress on the date one year after the date of enactment of this Act.

### TITLE II—STATES AND INDIAN TRIBES

#### APPLICATION OF TITLE

SEC. 201. This title shall apply only with respect to oil and gas leases on Federal lands or Indian lands. Nothing in this title shall be construed to apply to any lease on the Outer Continental Shelf.

#### COOPERATIVE AGREEMENTS

SEC. 202. (a) The Secretary is authorized to enter into a cooperative agreement or agreements with any State or Indian tribe to share oil or gas royalty management information, to carry out inspection, auditing, investigation or enforcement (not including the collection of royalties, civil or criminal penalties or other payments) activities under this Act in cooperation with the Secretary, and to carry out any other activity described in section 108 of this Act. The Secretary shall not enter into any such cooperative agreement with a State with respect to any such activities on Indian lands, except with the permission of the Indian tribe involved.

(b) Except as provided in section 203, and pursuant to a cooperative agreement—

(1) each State shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Federal lands within the State; and

(2) each Indian tribe shall, upon request, have access to all royalty accounting information in the possession of the Secretary respecting the production, removal, or sale of oil or gas from leases on Indian lands under the jurisdiction of such tribe.

Information shall be made available under paragraphs (1) and (2) as soon as practicable after it comes into the possession of the Secretary. Effective October 1, 1983, such information shall be made available under paragraphs (1) and (2) not later than 30 days after such information comes into the possession of the Secretary.

(c) Any cooperative agreement entered into pursuant to this section shall be in accordance with the provisions of the Federal Grant and Cooperative Agreement Act of 1977, and shall contain such terms and conditions as the Secretary deems appropriate and consistent with the purposes of this Act, including, but not limited to, a limitation on the use of Federal assistance to those costs which are directly required to carry out the agreed upon activities.

### INFORMATION

SEC. 203. (a) Trade secrets, proprietary and other confidential information shall be made available by the Secretary, pursuant

to a cooperative agreement, to a State or Indian tribe upon request only if-

(1) such State or Indian tribe consents in writing to restrict the dissemination of the information to those who are directly involved in an audit or investigation under this Act and who have a need to know;

(2) such State or tribe accepts liability for

wrongful disclosure;
(3) in the case of a State, such State demonstrates that such information is essential to the conduct of an audit or investigation or to litigation under section 204; and

(4) in the case of an Indian tribe, such tribe demonstrates that such information is essential to the conduct of an audit or investigation and waives sovereign immunity by express consent for wrongful disclosure by such tribe.

(b) The United States shall not be liable for the wrongful disclosure by any individual, State, or Indian tribe of any information provided to such individual, State, or Indian tribe pursuant to any cooperative agreement or a delegation, authorized by

this Act.

(c) Whenever any individual, State, or Indian tribe has obtained possession of information pursuant to a cooperative agreement authorized by this section, or any individual or State has obtained possession of information pursuant to a delegation under section 205, the individual shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to an officer or employee of the United States or of any department or agency thereof and the State or Indian tribe shall be subject to the same provisions of law with respect to the disclosure of such information as would apply to the United States or any department or agency thereof. No State or State officer or employee who receives trade secrets, proprietary information, or other confidential information under this Act may be required to disclose such information under State law.

### STATE SUITS UNDER FEDERAL LAW

SEC. 204. (a)(1) A State may commence a civil action under this section against any person to recover any royalty, interest, or civil penalty which the State believes is due, based upon credible evidence, with respect to any oil and gas lease on Federal lands located within the State.

(2)(A) No action may be commenced under paragraph (1) prior to 90 days after the State has given notice in writing to the Secretary of the payment required. Such 90-day limitation may be waived by the Secretary

on a case-by-case basis.

(B) If, within the 90-day period specified in subparagraph (A), the Secretary issues a demand for the payment concerned, no action may be commenced under paragraph (1) with respect to such payment during a 45-day period after issuance of such demand. If, during such 45-day period, the Secretary receives payment in full, no action may be commenced under paragraph (1).

(C) If the Secretary refers the case to the Attorney General of the United States within the 45-day period referred to in subparagraph (B) or within 10 business days after the expiration of such 45-day period, no action may be commenced under paragraph (1) if the Attorney General, within 45 days after the date of such referral, com-mences, and thereafter diligently prosecutes, a civil action in a court of the United States with respect to the payment concerned.

(3) The State shall notify the Secretary

and the Attorney General of the United

States of any suit filed by the State under this section.

(4) A court in issuing any final order in any action brought under paragraph (1) may award costs of litigation including reasonable attorney and expert witness fees, to any party in such action if the court determines such an award is appropriate.

(b) An action brought under subsection (a) of this section may be brought only in a United States district court for the judicial district in which the lease site or the leasing activity complained of is located. Such district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to require compliance or order payment in any such action.

(c)(1) Notwithstanding any other provision of law, any civil penalty recovered by a State under subsection (a) shall be retained by the State and may be expended in such manner and for such purposes as the State

deems appropriate.

(2) Any rent, royalty, or interest recovered by a State under subsection (a) shall be deposited in the Treasury of the United States in the same manner, and subject to the same requirements, as are applicable in the case of any rent, royalty, or interest collected by an officer or employee of the United States. except that such amounts shall be deposited in the Treasury not later than 10 days after receipt by the State.

#### DELEGATION TO STATES

SEC. 205. (a) Upon written request of any State, the Secretary is authorized to delegate, in accordance with the provisions of this section, all or part of the authorities and responsibilities of the Secretary under this Act to conduct inspections, audits, and investigations to any State with respect to all Federal lands or Indian lands within the State; except that the Secretary may not undertake such a delegation with respect to any Indian lands, except with the permission of the Indian tribe allottee involved.

(b) After notice and opportunity for a hearing, the Secretary is authorized to delegate such authorities and responsibilities granted under this section as the State has requested, if the Secretary finds that

(1) it is likely that the State will provide adequate resources to achieve the purposes

of this Act;

(2) the State has demonstrated that it will effectively and faithfully administer the rules and regulations of the Secretary under this Act in accordance with the require-ments of subsections (c) and (d) of this section; and

(3) such delegation will not create an unreasonable burden on any lessee,

with respect to the Federal lands and Indian lands within the State.

(c) The Secretary shall promulgate regulations which define those functions, if any, which must be carried out jointly in order to avoid duplication of effort, and any delegation to any State must be made in accordance with those requirements.

(d) The Secretary shall by rule promulgate standards and regulations, pertaining to the authorities and responsibilities under subsection (a), including standards and regula-

tions pertaining to: (1) audits performed;

(2) records and accounts to be main-

(3) reporting procedures to be required by States under this section.

Such standards and regulations shall be designed to provide reasonable assurance that a uniform and effective royalty management system will prevail among the States. The records and accounts under paragraph (2) shall be sufficient to allow the Secretary to monitor the performance of any State under this section.

(e) If, after notice and opportunity for a hearing, the Secretary finds that any State to which any authority or responsibility of the Secretary has been delegated under this section is in violation of any requirement of this section or any rule thereunder, or that an affirmative finding by the Secretary under subsection (b) can no longer be made. the Secretary may revoke such delegation.

(f) The Secretary shall compensate any State for those costs which may be necessary to carry out the delegated activities under this section. Payment shall be made no less than every quarter during the fiscal year.

### SHARED CIVIL PENALTIES

SEC. 206. An amount equal to 50 per centum of any civil penalty collected by the Federal Government under this Act resulting from activities conducted by a State or Indian tribe pursuant to a cooperative agreement under section 202 or a State under a delegation under section 205, shall be payable to such State or tribe. Such amount shall be deducted from any compensation due such State or Indian tribe under section 202 or such State under section 205.

### TITLE III-GENERAL PROVISIONS

#### SECRETARIAL AUTHORITY

SEC. 301. (a) The Secretary shall prescribe such rules and regulations as he deems reasonably necessary to carry out this Act.

(b) Rules and regulations issued to implement this Act shall be issued in conformity with section 553 of title 5 of the United Code, notwithstanding section

553(a)(2) of that title.

(c) In addition to entering into cooperative agreements or delegation of authority authorized under this Act, the Secretary may contract with such non-Federal Government inspectors, auditors, and other persons as he deems necessary to aid in carrying out his functions under this Act and its implementation. With respect to his auditing and enforcement functions under this Act, the Secretary shall coordinate such functions so as to avoid to the maximum extent practicable, subjecting lessees, operators, or other persons to audits or investigations of the same subject matter by more than one auditing or investigating entity at the same time.

SEC. 302. (a) The Secretary shall submit to the Congress an annual report on the implementation of this Act. The information to be included in the report and the format of the report shall be developed by the Secretary after consulting with the Committees on Interior and Insular Affairs of the House of Representatives and on Energy and Natural Resources of the Senate. The Secretary shall also report on the progress of the Department in reconciling account balances.

(b) Commencing with fiscal year 1984, the Inspector General of the Department of the Interior shall conduct a biennial audit of the Federal royalty management system. The Inspector General shall submit the results of such audit to the Secretary and to the Congress.

### STUDY OF OTHER MINERALS

SEC. 303. (a) The Secretary shall study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals on Federal and Indian lands. The study shall include proposed legislation if the Secretary determines that such legislation is necessary to ensure prompt and proper collection of revenues owed to the United States, the States and Indian tribes or Indian allottees from the sale, lease or other disposal of such minerals.

(b) The study required by subsection (a) of this section shall be submitted to Congress not later than one year from the date of the enactment of this Act.

#### RELATION TO OTHER LAWS

SEC. 304. (a) The penalties and authorities provided in this Act are supplemental to, and not in derogation of, any penalties or authorities contained in any other provision of law.

(b) Nothing in this Act shall be construed to reduce the responsibilities of the Secretary to ensure prompt and proper collection of revenues from coal, uranium and other energy and nonenergy minerals on Federal and Indian lands, or to restrain the Secretary from entering into cooperative agreements or other appropriate arrangements with States and Indian tribes to share royalty management responsibilities and activities for such minerals under existing authorities.

(c) Except as expressly provided in subsection 302(b), nothing in this Act shall be construed to enlarge, diminish, or otherwise affect the authority or responsibility of the Inspector General of the Department of the Interior or of the Comptroller General of the United States.

(d) No provision of this Act impairs or affects lands and interests in land entrusted to the Tennessee Valley Authority.

#### EFFECTIVE DATE

SEC. 305. The provisions of this Act shall apply to oil and gas leases issued before, on, or after the date of the enactment of this Act, except that in the case of a lease issued before such date, no provision of this Act or any rule or regulation prescribed under this Act shall alter the express and specific provisions of such a lease.

### FUNDING

SEC. 306. Effective October 1, 1983, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, including such sums as may be necessary for the cooperative agreements, contracts, and delegations authorized by this Act: Provided, That nothing in this Act shall be construed to affect or impair any authority to enter into contracts or make payments under any other provision of law.

### STATUTE OF LIMITATIONS

SEC. 307. Except in the case of fraud, any action to recover penalties under this Act shall be barred unless the action is commenced within 6 years after the date of the act or omission which is the basis for the action.

### EXPANDED ROYALTY OBLIGATIONS

SEC. 308. Any lessee is liable for royalty payments on oil or gas lost or wasted from a lease site when such loss or waste is due to negligence on the part of the operator of the lease, or due to the failure to comply with any rule or regulation, order or citation issued under this Act or any mineral leasing law.

### SEVERABILITY

SEC. 309. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provi-

sion to other persons or circumstances shall not be affected thereby.

TITLE IV—REINSTATEMENT OF LEASES AND CONVERSION OF UNPATENTED OIL PLACER CLAIMS

AMENDMENT OF MINERAL LANDS LEASING ACT OF 1920

SEC. 401. Section 31 of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188) is amended by redesignating subsection (d) as subsection (j) and by inserting after subsection (c) the following new subsections:

'(d)(1) Where any oil and gas lease issued pursuant to section 17(b) or section 17(c) of this Act or the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 et seq.) has been, or is hereafter, terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of the rental due, and such rental is not paid or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was justifiable or not due to lack of reasonable diligence on the part of the lessee, or, no matter when the rental is paid after termination, it is shown to the satisfaction of the Secretary that such failure was inadvertent, the Secretary may reinstate the lease as of the date of termination for the unexpired portion of the pri-mary term of the original lease or any extension thereof remaining at the date of termination, and so long thereafter as oil or gas is produced in paying quantities. In any case where a lease is reinstated under this subsection and the Secretary finds that the reinstatement of such lease (A) occurs after the expiration of the primary term or any extension thereof, or (B) will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable, but in no event for more than two years from the date the Secretary authorizes the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

"(2) No lease shall be reinstated under paragraph (1) of this subsection unless—

"(A) with respect to any lease that terminated under subsection (b) of this section prior to enactment of the Federal Oil and Gas Royalty Management Act of 1982:

"(i) the lessee tendered rental prior to enactment of such Act and the final determination that the lease terminated was made by the Secretary or a court less than three years before enactment of such Act. and

"(ii) a petition for reinstatement together with the required back rental and royalty accruing from the date of termination, is filed with the Secretary on or before the one hundred and twentieth day after enactment

of such Act, or

"(B) with respect to any lease that terminated under subsection (b) of this section on after enactment of the Federal Oil and Gas Royalty Management Act of 1982, a petition for reinstatement together with the required back rental and royalty accruing from the date of termination is filed on or before the earlier of—

"(i) sixty days after the lessee receives from the Secretary notice of termination, whether by return of check or by any other form of actual notice, or

"(ii) fifteen months after termination of the lease.

"(e) Any reinstatement under subsection (d) of this section shall be made only if these conditions are met:

"(1) no valid lease, whether still in existence or not, shall have been issued affecting any of the lands covered by the terminated lease prior to the filing of such petition: Provided, however, That after receipt of a petition for reinstatement, the Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him;

"(2) payment of back rentals and either the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future rentals at a rate of not less than \$10 per acre per year, or the inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement that future rentals shall be at a rate not less than \$5 per acre per year, all as determined by the Secretary;

"(3)(A) payment of back royalties and the inclusion in a reinstated lease issued pursuant to the provisions of section 17(b) of this Act of a requirement for future royalties at a rate of not less than 16% percent computed on a sliding scale based upon the average production per well per day, at a rate which shall be not less than 4 percentage points greater than the competitive royalty schedule then in force and used for royalty determination for competitive leases issued pursuant to such section as determined by the Secretary: Provided, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the termination of the original lease;

"(B) payment of back royalties and inclusion in a reinstated lease issued pursuant to the provisions of section 17(c) of this Act of a requirement for future royalties at a rate not less than 16% percent: Provided, That royalty on such reinstated lease shall be paid on all production removed or sold from such lease subsequent to the cancellation or termination of the original lease; and

"(4) notice of the proposed reinstatement of a terminated lease, including the terms and conditions of reinstatement, shall be published in the Federal Register at least thirty days in advance of the reinstatement. A copy of said notice, together with information concerning rental results, volume of

A copy of said notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the Secretary deemed significant in making this determination to reinstate, shall be furnished to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate at least thirty days in advance of the reinstatement. The lessee of a reinstated lease shall reimburse the Secretary for the administrative costs of reinstating the lease, but not to exceed \$500. In addition the lessee shall reimburse the Secretary for the cost of publication in the Federal Register of the notice of proposed reinstatement.

"(f) Where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the Secretary that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the Secretary may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive

oil and gas lease, consistent with the provisions of section 17(e) of this Act, to be effective from the statutory date the claim was deemed conclusively abandoned. Issuance of such a lease shall be conditioned upon:

"(1) a petition for issuance of a noncompetitive oil and gas lease, together with the required rental and royalty, including back rental and royalty accruing from the statutory date of abandonment of the oil placer mining claim, being filed with the Secretary—

"(A) with respect to any claim deemed conclusively abandoned on or before the date of enactment of the Federal Oil and Gas Royalty Management Act of 1982, on or before the one hundred and twentieth day

after such date of enactment, or

"(B) with respect to any claim deemed conclusively abandoned after such date of enactment, on or before the one hundred and twentieth day after final notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim;

"(2) a valid lease not having been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of such petition: Provided, however, That after the filing of a petition for issuance of a lease under this subsection, the Secretary shall not issue any new lease affecting any of the lands covered by such abandoned oil placer mining claim for a reasonable period, as determined in accordance with regulations issued by him;

"(3) a requirement in the lease for payment of rental, including back rentals accruing from the statutory date of abandonment of the oil placer mining claim, of

not less than \$5 per acre per year;

"(4) a requirement in the lease for payment of royalty on production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the statutory date the claim was deemed conclusively abandoned, of not less than 12½ percent; and

"(5) compliance with the notice and reimbursement of costs provisions of paragraph (4) of subsection (e) but addressed to the petition covering the conversion of an abandoned unpatented oil placer mining claim to a noncompetitive oil and gas lease.

"(g)(1) Except as otherwise provided in this section, a reinstated lease shall be treated as a competitive or a noncompetitive oil and gas lease in the same manner as the original lease issued pursuant to section

17(b) or 17(c) of this Act.
"(2) Except as otherwise provided in this section, the issuance of a lease in lieu of an abandoned patented oil placer mining claim shall be treated as a noncompetitive oil and gas lease issued pursuant to section 17(c) of

this Act.

"(h) The minimum royalty provisions of section 17(d) and the provisions of section 39 of this Act shall be applicable to leases issued pursuant to subsections (d) and (f) of this section.

"(i)(1) In acting on a petition to issue a noncompetitive oil and gas lease, under subsection (f) of this section or in response to a request filed after issuance of such a lease, or both, the Secretary is authorized to reduce the royalty on such lease if in his judgment it is equitable to do so or the circumstances warrant such relief due to uneconomic or other circumstances which could cause undue hardship or premature termination of production.

"(2) In acting on a petition for reinstatement pursuant to subsection (d) of this

section or in response to a request filed after reinstatement, or both, the Secretary is authorized to reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes if, in his judgment, there are uneconomic or other circumstances which could cause undue hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the property under the lease after the rent had become due and had not been paid; or if in the judgment of the Secretary it is equitable to do so for any reason.".

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment to the Senate amendments with a further amendment which I send to the desk on behalf of the chairman of the Energy Committee, Senator McClure.

UP AMENDMENT NO. 1480

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. McClure, proposes an unprinted amendment numbered 1480.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment follows:

Strike section 114 in its entirety and insert in lieu thereof the following:

"Sec. 114. The Secretary is directed to conduct a thorough study of the effects of a change in the royalty rate under section 17(c) of the Mineral Leasing Act of 1920 on:

(a) the exploration development, or production of oil or gas; and (b) the overall revenues generated by such change. Such study shall be completed and submitted to Congress within one year after the date of enactment of this Act."

• Mr. MELCHER. Mr. President, I support the amendment proposed by Senator McClure to the version of H.R. 5121 that the House sent back to us on Monday. The basic bill we have worked out with the House to establish a modern Federal royalty management program with real teeth and adequate inspections is not at issue with the House. The McClure amendment would send that basic bill back to the House intact.

The royalty management part of the bill is the result of careful consideration and substantial amendment of the original administration proposal. The process has produced a complex bill, and one that addresses an important problem. I am sure it is not the best bill we could write, but it is the best bill we can get in this Congress. It would be a shame if we had to start over next year, and the Department continued to operate the Nation's program for the collection of revenues from the sale of the public's own oil and natural gas in the slipshod

manner that has prevailed for the last two decades.

The provisions of the bill which address the issues of royalty management have been negotiated with the principal authors of the House bill. They have accepted that compromise, and it is not controversial in the Senate. What is at issue is the provision added to the bill in the House that amends the Mineral Leasing Act of 1920 to permit the Secretary of the Interior to increase the royalty rate for noncompetitive Federal leases. This issue was not discussed in the Committee on Energy and Natural Resources or on the floor of the Senate when the royalty management issue was under consideration. We do not have an up-to-date hearing record upon which to base a decision about the change in the law that the House proposes. Of course, the Senate does not always wait until all the hearings have been held and all the information is in before legislating. But that is the way we try to do it.

The House amendment has a particularly awkward approach to the problem of the Senate's deficient record on this issue. The amendment provides that the Secretary of the Interior with discretionary authority to raise the royalty rate for these leases if the Secretary makes certain findings. The effective date of this authority is delayed until 6 months after the date the Congress receives a study conducted by the Secretary of the probable impact of the change. The study is supposed to be submitted to Congress a year after the date of the enactment of the act.

What this really means is that we legislate first and study the impact later. I do not think this is such a good idea.

Therefore what we are proposing to offer back to the House is simply the study to be completed within 6 months. Let the Secretary provide us with a thorough analysis of the effects of a change in the royalty rate for these leases. With this study as a starting point, the normal process can take over in the next Congress. If a change in the Federal royalty rate for noncompetitive leases should be authorized, it will be—in the normal way, by normal legislative means.

If the term "rider" has any utility in our language it has utility in this instance. The amendment that the House is proposing to the Mineral Leasing Act is a rider on the legislation to reform our royalty management practices.

The study of the issue we are offering to the House is a good compromise on the issue raised by this rider. I hope the House can accept it, so that the Secretary of the Interior can get on with the job he's supposed to do to reform our royalty management

system. The main bill is needed to complete that job. We need to pass

that bill now.

Mr. McCLURE. Mr. President, the amendment which I offer, I believe has been cleared by both sides of the aisle. The amendment strikes the provision of the House amendment dealing with noncompetitive oil and gas royalties and instead directs the Secretary of the Interior to conduct a study of the effect of a royalty change on exploration, development or production of oil or gas, and on revenues to the Treasury. In all other respects, the provisions of the House amendment would be accepted. They are virtually identical to the Senate provisions passed by this body on December 6 by unanimous consent. Mr. President, with the adoption of my amendment, it is my hope that the other body will accept this bill and send it to the President. The legislation is strongly supported by the administration as part of an effort to update the system for collecting royalties due on Federal oil and gas and to curtail identified opportunities for fraud and abuse with the existing system. Both the Federal Government and the States stand to benefit greatly from this bill which has been the product of many long hours of effort by the Members and staff of both Houses. I earnestly hope that the other body will not let this effort go to waste.

Mr. STEVENS. Mr. President, I ask for immediate consideration of the

amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1480) was

agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

table.

The motion to lay on the table was

agreed to

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion was agreed to.
Mr. STEVENS. Mr. President, move to reconsider the vote by which that motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

table.

The motion to lay on the table was agreed to.

COMMITTEE ON ARMED SER-VICES EXPENDITURE AUTHOR-IZATION

Mr. STEVENS. Mr. President, I send to the desk on behalf of Senator Tower a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 518) authorizing expenditures by the Committee on Armed Services for the training of professional staff.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

TOWER. Mr. President, report favorably from the Committee on Armed Services the following resolution and ask unanimous consent for its immediate consideration.

President, this amends section 5 of Senate Resolution 333, agreed to March 11, 1982, to provide authorization for the expenditure of funds by the Committee on Armed Services for the training of professional staff. The resolution does not authorize any additional funding for the committee. It simiply permits the committee to use a portion of the funds already authorized for the purpose of training professional staff.

The PRESIDING OFFICER. The question is on agreeing to the resolu-

tion.

The resolution (S. Res. 518) was agreed to, as follows:

Resolved, That section 5(b) of Senate Resolution 333, Ninety-seventh Congress, agreed to March 11, 1982, is amended by inserting before the period a comma and the following: "and not to exceed \$2,700 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of such

### CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 1952.

The PRESIDING OFFICER. The Chair lays before the Senate a mes-

sage from the House.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, this is a privileged motion, but I think with all due respect the Chair should give an opportunity for objection, whereupon, the leader could then move and that would be not debatable. But I think we are slipping into some ways that are rather careless.

I would hope that we would at least ask if there is objection. If there is, then the leader can move. That is not debatable. At least that will give us an opportunity for a Member to object before the clerk states the message.

Does the acting majority leader agree with me?

Mr. STEVENS. The Senator is correct, and I probably should have phrased the request in a different manner.

Mr. ROBERT C. BYRD. No. The Senator made the request perfectly proper.

The PRESIDING OFFICER. The Chair apologizes.

Is there objection to the request of the Senator from Alaska?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved. That the House agree to the amendments of the Senate numbered 1, 2, 3, and the amendment to the title of the bill (H.R. 1952) entitled "An Act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 4 to the aforesaid bill with the following amend-

In lieu of the matter inserted by said amendment, insert:

SEC. 7. Section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 7421) is amended by adding at the end thereof the following new subsection:

"(k) LAW ENFORCEMENT OPERATIONS .-With respect to any undercover or other enforcement operation which is necessary for the detection and prosecution of violations of any laws administered by the United States Fish and Wildlife Service relating to fish, wildlife, or plants, the Secretary of the Interior may, notwithstanding any other provision of law-

"(1) direct the advance of funds which may be deposited in commercial banks or other financial institutions;

"(2) use appropriations for payment for information, rewards, or evidence concerning violations, without reference to any rewards to which such persons may otherwise be entitled by law, and any moneys subsequently recovered shall be reimbursed to the current appropriation; and

"(3) use appropriations to establish or acquire proprietary corporations or business entities as part of an undercover operation. operate such corporations or business entities on a commercial basis, lease space and make other necessary expenditures, and use the proceeds from such undercover operations to offset necessary and reasonable expenses incurred in such operations: Provided. That at the conclusion of each such operation the proceeds shall be deposited in the Treasury of the United States as miscellaneous receipts."

Mr. STEVENS. Mr. President, move that the Senate concur in the House amendment with two further Senate amendments which I send to the desk on behalf of Senator CHAFEE and ask that they be considered en bloc.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

Mr. ROBERT C. BYRD. There is no objection.

UP AMENDMENT NO. 1481 (Purpose: Technical amendments to H.R. 1952)

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), on behalf of Mr. Chafee, proposes an unprinted amendment numbered 1481 en bloc.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Amend section 7 by inserting "or the National Marine Fisheries Service" immediately after "the United States Fish and Wildlife Service" and by inserting "or the Secretary of Commerce" immediately after "the Secretary of the Interior".

"SEC. 8. Section 4(a) of the Coastal Barrier Resources Act (P.L. 97-348) is amended by inserting '(but excluding maps T02 and T03)' immediately after A01 through T12' and by inserting 'and the maps designated T02A and T03A, dated December 8, 1982' immediately after 'and dated September 30, 1982'."

• Mr. CHAFEE. Mr. President, H.R. 1952, which would reauthorize the Sikes Act, was originally passed by the House of Representatives on September 21, 1981. On June 9, 1982, the Senate passed H.R. 1952 with a series of four amendments, plus an amendment to the title of the bill. On September 30, 1982, the House agreed to Senate amendments 1, 2, and 3 as well as the amendment to the title of the bill. Amendment No. 4 was agreed to with a House amendment to clarify the authority of the Fish and Wildlife Service to carry out certain procedures as part of their sting-type undercover operations

In recent years the Fish and Wildlife Service has been quite successful in detecting major wildlife crime by use of sting-type undercover operations. They have been using the authority contained in the administrative provision of the Appropriations Act each year to make expenditures for undercover operations. While this authority is probably adequate, there are three areas where there is some doubt and specific legislative authority would be helpful to clarify these issues. The first part of the House amendment will provide the necessary legislative authority. It is important to note that, through the appropriations process, Congress retains control over the amount allotted each year to under-cover operations. Also, funds recovered from such operations will continue to come back to the Treasury.

The three areas addressed are:

First, authority to deposit advance of funds in commercial banks or other financial institutions. When the Service does this now they feel they must make complete disclosure to the bank. In small communities this can create security problems for undercover

agents. Specific authority will allow them to keep their identity confidential.

Second, authority to use proceeds of undercover operations to offset necessary and reasonable expenses incurred in such operations. For example, when running an undercover business you cannot just buy illegal wildlife, you must also purchase legal animals or products. When these are later sold, the proceeds are used to purchase additional animals or products. This, in effect, keeps you in business. The Comptroller General has ruled that money received in the course of an ongoing undercover operation need not be deposited in the Treasury until the operation is concluded. Nevertheless, specific legislative authority will help clarify these procedures.

Third, authority to reimburse to current appropriations money expended to purchase evidence and later recovered. This occurs in what is called a buy-bust operation. For example, an undercover agent purchases illegal wildlife with cash and received the merchandise. The violation is complete, the violator is arrested and the money is seized as evidence. The money recovered for evidence is not a miscellaneous receipt, however, specific authority again will be helpful.

The first amendment I am offering today would make a minor change in the House amendment to insure that the clarification of Fish and Wildlife Service authority applies to the National Marine Fisheries Service as well.

The second amendment makes technical and conforming changes to Public Law 97-348, the Coastal Barrier Resources Act.

When Congress adopted that conference report on the Coastal Barrier Resources Act on October 1 there was some question as to whether several areas in Texas were developed or undeveloped. In a colloquy between Congressman Jack Brooks in whose district the affected areas are located and the bill's floor manager, Congressman John Breaux, agreement was reached to reexamine the areas to ascertain their true status. During the October-November recess, information was brought forward to justify minor changes on two maps, TO2 and TO3.

The first map, TO2, includes an area that did not meet the delineation criteria of an undeveloped coastal barrier set forth by the Department of the Interior pursuant to Public Law 97-35. My amendment modifies map TO2 to conform with the delineation criteria.

The second map, TO3, had two small subunits erroneously identified as undeveloped when they were actually developed according to definitions set forth in Public Law 97-348. The amendment deletes these two small areas from the Coastal Barrier Resources System.

These amendments have been cleared on both sides of the aisle and I move their adoption.

• The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1481) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMERICANS MISSING AND UNAC-COUNTED FOR IN SOUTHEAST ASIA

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 977, Senate Concurrent Resolution 131.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. ROBERT C. BYRD. No objec-

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 131) to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia.

There being no objection, the Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Foreign Relations, with amendments, as follows:

On page 2, line 12, strike "the President to respond", and insert "both governments to move"; and

On page 2, beginning on line 13, strike "to the indicated willingness of the Lao Government.

• Mr. PELL. Mr. President, I rise in support of Senate Concurrent Resolution 131. I am pleased and proud to be cosponsor of this resolution which reaffirms our commitment to locate and bring home Americans missing and unaccounted for in Southeast Asia, expresses our sincere appreciation to the Laotian Government for recent indications of its willingness to assist the United States in this regard, and urges the Governments of the United States and Laos to move "with all dispatch to cooperate in this humanitarian effort."

Last month, on Veterans Day, the Nation dedicated the first national memorial to those courageous Americans who fought and died in the Vietnam war. This memorial-a sleek, smooth black granite monument-bears the names of some 57,939 Americans who did not return from this tragic war. Of these, approximately 2,500 are unaccounted for in Southeast Asia. For the families and friends of these 2,500 Americans, the agony of the Vietnam war has yet to end. The passage of time has not healed their wounds or soothed their heartache because questions remain about the fate of their loved ones. Until these questions are answered, until the truth is learned and the Americans are returned home, the fear, the emptiness, and the pain of their families will continue, and the last dark chapter of the American involvement in Southeast Asia will not be finished.

The Governments of Vietnam and Laos have a humanitarian obligation to provide the fullest possible accounting of Americans missing in their countries and to return the remains of Americans killed in action. Regrettably, neither of these governments has moved rapidly to fulfill this obligation. As of April 1982, the Vietnamese Government returned only 75 sets of remains, and the Laotian Government returned 4 sets, only 2 of which belonged to Americans. Together, these represent less than 10-percent of the 1,150 Americans who are known to have been killed in action and whose remains have not been recovered. While both governments have continually asserted that no Americans are being held captive within their territories, they have failed to substantiate this assertion by providing information on missing Americans, including a number who are known to have been captured alive.

Despite this poor record, recent development suggest that more cooperation on this important issue may be forthcoming from the Governments of Vietnam and Laos. In September, a delegation from the National League of Families of American Prisoners and Missing in Southeast Asia was allowed to visit both Vietnam and Laos. In October, the Government of Vietnam fulfilled a pledge given to the delegation to return five sets of remains and provide material evidence about three other Americans who are not accounted for.

The delegation received an unprecedented amount of cooperation from the Government of Laos. Laotian officials scheduled meetings, made travel arrangements, and, for the first time, allowed Americans to visit two sites where U.S. military planes had crashed and collect the human remains for identification. I am encouraged by the treatment that this delegation received because it appears to

reflect a new willingness on the part of the Laotian Government to fulfill its humanitarian obligation to assist the United States in locating and returning the estimated 558 Americans who are unaccounted for in Laos. I appreciate this new spirit of cooperation on the part of the Laotian Government, and I hope it will continue.

Since 1975 there have been over 700 reports of sightings of live Americans in Southeast Asia. Despite persistent efforts and careful research, the U.S. Government has, as yet, been unable to prove any reports that Americans are being held against their will in Vietnam and Laos. Although I, myself, am skeptical that there are any Americans still alive in Southeast Asia, I firmly believe that we must continue to investigate these reports and to make every effort to verify them.

Senate Concurrent Resolution 131 was unanimously approved by the Foreign Relations Committee and is now before us for consideration. I urge my colleagues to vote for this resolution. It is our duty, as well as our moral responsibility, to do all that we can to recover the remains of those Americans who died in Southeast Asia and to learn the truth about those who remain missing and unaccounted for. By so doing, we not only close the book on this tragic war but also pay tribute to the many brave American men and women who served the United States in Southeast Asia.

Mr. STEVENS. Mr. President, I ask unanimous consent that the committee amendments be adopted en bloc.

The PRESIDING OFFICER. Without objection, the committee amendments are agreed to en bloc.

The question is on agreeing to the concurrent resolution.

The concurrent resolution, as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution and the preamble are as follows:

## S. Con. 131

Whereas locating Americans missing and unaccounted for in Southeast Asia and their return to the United States is, and should be, of primary concern to the Government of the United States and all humane nations and peoples;

Whereas there are currently two thousand four hundred and ninety-three Americans missing and unaccounted for in Southeast Asia, five hundred and fifty-eight of whom are presumed to be located in Laos;

Whereas the Government of Laos has recently indicated, by its reception of a visiting delegation of Americans from the National League of Families of American Prisoners and Missing in Southeast Asia, that the Government of Laos would assist in the humanitarian effort to locate and return Americans missing and unaccounted for in Laos; and

Whereas the United States Government is encouraged by this recent indication of cooperation on the part of the Government of Laos: Now, therefore, be it Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) reaffirms its commitment to locating Americans missing and unaccounted for in Southeast Asia and returning them to the United States;

(2) expresses its appreciation to the Government of Laos for its expressed willingness to cooperate in locating and returning those Americans:

(3) supports the President's actions to locate and return Americans missing and unaccounted for in Southeast Asia; and

(4) urges both governments to move, with all dispatch, to cooperate in this humanitarian effort.11Mr. STEVENS. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### COMMENDING THE GOVERNMENT OF ZIMBABWE

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar 976, Senate Resolution 500.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 500) commending the Government of Zimbabwe.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 500) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 500

Whereas two Americans, two Australians, and two British citizens were kidnapped in Zimbabwe on July 23, 1982:

Whereas the Governments of the United States, Great Britain, and Australia have indicated daily their willingness to provide appropriate assistance to the Government of Zimbabwe to secure the return of the captives:

Whereas the primary responsibility in this matter lies with the Government of Zimbabwe;

Whereas the Government of Zimbabwe, together with ZAPU leader Joshua Nkomo, has urged moderation on the part of the kidnappers and sought to win the assistance of local villagers in locating the kidnappers;

Whereas the Government of Zimbabwe has demonstrated its sincerity by offering a substantial reward for information; and

Whereas these actions are important for ensuring the continued safety and eventual release of all the hostages: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the Government of Zimbabwe is to be commended for its ongoing efforts to protect the lives of the captives and to bring this incident to a positive conclusion; and

(2) the President of the United States should continue to be supportive of the efforts of the Government of Zimbabwe in

this matter.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President with the request that he further transmit such copy to the Government of

Mr. STEVENS. Mr. President. move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table

The motion to lay on the table was agreed to.

### DISTRIBUTION OF A U.S. INFORMATION AGENCY FILM

Mr. STEVENS. Mr. President, I now ask that the Chair lay before the Senate Calendar Order No. 975, S. 3073.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3073) to provide for the distribution within the United States Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson".

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, 3073 is a very short and simple bill to allow domestic release of a videotape produced by the U.S. Information Agency entitled "Dumas Malone: A Journey With Mr. Jefferson.'

This bill meets the Senate Foreign Relations criteria that it be educationally, culturally, or historically significant, and the bill was reported out of committee unanimously last week.

I have requested your attention to this bill during our short session, Mr. President, because both the Smithsonian and Monticello will be holding exhibitions on our great third President, who founded my alma mater, the University of Virginia. These exhibitions are scheduled for early spring, 1983, Mr. President, and thus I ask that we pass this bill in order that this excellent tape may be shown.

I submit for the RECORD my remarks of December 3, 1982, when I introduced the bill.

The remarks follow:

DISTRIBUTION OF U.S. INFORMATION AGENCY FILM

Mr. WARNER. Mr. President, today I am introducing legislation allowing domestic re-lease of the USIA-produced video tape recording, "Dumas Malone: A Journey With Mr. Jefferson."

This recording is an interview with Dumas Malone, the renowned biographer of our second President, Thomas Jefferson,

The purpose for seeking congressional consideration on this matter is twofold:

One, the Smithsonian Institution and the Thomas Jefferson Memorial Foundation are planning exhibits of Gilbert Stuart's "Edgeportrait of Jefferson both here in Washington, at the National Portrait Gallery, and at Monticello in Charlottesville early this spring. In conjunction with these exhibits, the Institution and the foundation wish to show the USIA program. Delay or postponement of this legislation until the start of the 98th Congress would surely preclude showing this program with the Stuart exhibition.

Two. The law establishing the U.S. Information Agency prohibits the distribution within the United States of materials the Agency produces. However, from time to time legislation has been enacted exempting specific works and titles from the prohibition. I believe that the bill is in keeping with the history of exemptions and the new procedures for exemptions adopted by the Committee on Foreign Relations and published in the Congressional Record on March 31, 1982.

In "Dumas Malone: A Journey With Mr. Jefferson," Professor Malone of the University of Virginia is interviewed by Marc Pachter, Chief Historian of the National Portrait Gallery of the Smithsonian Institution. The 89-year-old Malone, who was the recipient of the Pulitzer Prize for history in 1975 and a Presidential citation in 1979, completed his monumental six-volume work "Jefferson and His Times" in 1981.

Filmed on location at the University of Virginia and Monticello in November 1981, the program concentrates on Jefferson's personality and career. Malone and Pachter discuss Jefferson's life from the Declaration of Independence through his 5 years in France, his two-term Presidency, to his retirement at Monticello.

Malone comments on Jefferson's political philosophy; his relationships with John Adams, Madison, Franklin and Washington; the Louisiana Purchase; the Lewis and Clark expedition; and the French Revolution. In addition, Malone reflects on his own role as biographer.

The film was issued for international showing in February 1982.

Release of this work in the United States would enable people all across the country, and especially those viewing the Edgehill exhibit at the Smithsonian and Monticello this spring, to gain richer insights into our second President by the man who knows him best.

As Professor Malone points out in his conversation with Mr. Pachter, the work of more than 50 years and the privilege of reading all of Jefferson's extant correspondence with his family and his contemporaries have created a special understanding of and unique relationship with his subject.

Mr. President, my Virginia colleague in the House of Representatives, J. Kenneth ROBINSON, is introducing an identical bill in an effort to expedite congressional approval. I am joined in sponsoring this measure by Virginia's senior Senator HARRY F. BYRD, Jr., and the three Senate Regents on the Smithsonian's Board: Mr. Goldwater, Mr. Jackson, and Mr. Garn. We urge our colleagues to give early and favorable consideration to this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as fol-

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)-

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Dumas Malone: A Journey with Mr. Jefferson", and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Dumas Malone: A Journey with Mr. Jefferson", and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Mr. STEVENS. Mr. President, move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

The motion to lay on the table was agreed to.

USE AND DISTRIBUTION OF CERTAIN INDIAN JUDGMENT FUNDS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1735.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved. That the bill from the Senate (S. 1735) entitled "An Act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims", do pass with the following amend-

Strike out all after the enacting clause and insert: That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, any funds appropriated in satisfaction of a judgment awarded to the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims shall be used and distributed as provided in this Act.

Sec. 2. All of the funds appropriated with respect to the judgment awarded the Pembina Chippewa Indians in dockets 113, 191, 221, and 246 (less attorney fees and litigation expenses), including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") among the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of the Chippewa Indians of Montana, and the nonmember Pembina descendants (as group) so that each is allocated an amount which bears the same relationship to such funds as the number of members of such band, tribe, or group who are described under section 3(1), 4(1), 5(1), or 6(1), or 7(a) bears to the sum of-

- (1) the number of members of the Turtle Mountain Band of Chippewa Indians described in section 3(1),
- (2) the number of members of the Chippewa Cree Tribe of Rocky Boy's Reservation described in section 4(1).
- (3) the number of members of the Minnesota Chippewa Tribe described in section 5(1).
- (4) the number of members of the Little Shell Band of the Chippewa Indians of Montana as described in section 6(1) plus
- (5) the number of nonmember Pembina Chippewas enrolled by the Secretary under section 7(a).
- SEC. 3. The funds allocated by section 2 to the Turtle Mountain Band of Chippewa Indians shall be used and distributed as follows:
- (1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Turtle Mountain Band of Chippewa Indians who are living on the date of the enactment of this Act.
- (2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Turtle Mountain Band of Chippewa Indians. The governing body of such band is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for
  - (A) the administration of such band, or (B) social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita pay-

Sec. 4. The funds allocated by section 2 to the Chippewa Cree Tribe of Rocky Boy's

Reservation shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Chippewa Cree Tribe of Rocky Boy's Reservation who-

(A) establish Pembina Chippewa ancestry to the satisfaction of the Secretary, and
(B) are living on the date of the enact-

ment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Chippewa Cree Tribe of Rocky Boy's Reservation. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for-

(A) economic programs,

(B) recreation, or

(C) tribal administration.

Such 20 per centum portion of the principal shall not be available for per capita pay-

SEC. 5. The funds allocated by section 2 to the Minnesota Chippewa Tribe shall be used and distributed as follows:

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Minnesota Chippewa Tribe who-

(A) are designated as Pembina Band Chippewas on the basis of tribal procedures which are approved by the Secretary, and

(B) are living on the date of the enactment of this Act.

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Minnesota Chippewa Tribe. The White Earth Reservation Business Committee is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis sub-

ject to the approval of the Secretary, for-(A) a joint investment and use program for the bands affiliated with the reservation, or

(B) reservation social and economic programs.

Such 20 per centum portion of the principal shall not be available for per capita pay-

SEC. 6. The funds allocated by section 2 to the Little Shell Tribe of Chippewa Indians of Montana shall be used and distributed as follows

(1) Eighty per centum of such funds shall be distributed in the form of per capita payments (in sums as equal as possible) to all enrolled members of the Little Shell Tribe of Chippewa Indians of Montana who are living on the date of the enactment of this Act and who would meet the enrollment criteria under section 7(a) of this Act if they were not enrolled members of the Little Shell Tribe of Chippewa Indians of Mon-

(2) Twenty per centum of such funds shall be held in trust and invested by the Secretary for the benefit of the members of the Little Shell Tribe of Chippewa Indians of Montana. The governing body of such tribe is authorized to use the interest and investment income accrued on such 20 per centum portion, on an annual budgetary basis subject to the approval of the Secretary, for-

(A) the administration of such tribe, or (B) social and economic programs:

Provided, That the Secretary shall act on the tribe's petition for Federal recognition prior to September 30, 1985. In the event

that recognition is not approved, the 20 per centum portion shall be distributed in the form of per capita payments (in sums as equal as possible) to those persons who qualify for per capita payments under section 6(1): Provided further, That if the Secretary fails to act on the recognition petition by September 30, 1985, the Secretary shall make a report to Congress on that date outlining the reasons for his failure to act and shall make no per capita payments under this subsection until action on the pe-

SEC. 7. (a) In order to establish eligibility to participate in the distribution of the funds allocated to the non-member Pembina Chippewa descendants under section 2, the Secretary shall develop a roll of all individuals who-

(1) are of at least one-quarter Pembina Chippewa blood.

(2) are citizens of the United States,

(3) are living on the date of the enactment

(4) are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe, or the Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana, and

(5) are-

(A) enrolled, or the descendants of a lineal ancestor enrolled-

(i) as Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(ii) on the McCumber roll of Turtle Mountain Indians of 1892, or

(iii) on the Davis roll of Turtle Mountain Indians of 1904, or

(iv) as Chippewa on-

(I) the tentative roll of the Rocky Boy Indians of May 30, 1917, or

(II) the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or

(III) the Roe Cloud Roll of Landles Indians of Montana, or

(B) able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(b) The Secreatry shall promulgate regulations regarding nonmember Pembina enrollment procedures and shall utilize any documents acceptable to the Secretay in establishing eligibility of an individual to receive funds under this section.

(c) Funds allocated to the nonmember Pembina descendants under section 2 shall be distributed on a per capita basis to the individuals enrolled under subsection (a).

SEC. 8. (a) Any payment of a per capita share of funds to which a living, competent adult is entitled under this Act shall be paid directly to such adult.

(b) Any per capita share of funds to which a deceased individual is entitled under this Act shall be paid, and the beneficiaries thereof determined under regulations prescribed by the Secretary.

(c) Any per capita share of funds to which a legally incompetent individual or an individual under eighteen years of age is entitled under this Act shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of such individual.

SEC. 9. None of the funds distributed per capita or made available under this Act for programs shall be subject to Federal, State, or local income taxes or be considered income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or benefits to any person or household participating in any Federal, State, or local programs.

Mr. STEVENS. Mr. President, move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

table.

The motion to lay on the table was agreed to.

### NATIONAL HIGH SCHOOL ACTIVITIES WEEK

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on Senate Joint Resolution 101.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the resolution from the Senate (S.J. Res. 101) entitled "Joint resolu-tion designating 'National High School Activities Week'", do pass with the following amendment:

Page 2, lines 3 and 4, strike out (October 19 through October 25, 1981), and insert: 'October 17 through October 23, 1982"

Mr. STEVENS. Mr. President, move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

The motion to lay on the table was agreed to.

#### 3106-NORTH ATLANTIC SALMON TREATY HELD AT THE DESK

Mr. STEVENS. Mr. President, I send to the desk a bill on behalf of the Senator from Oregon (Mr. Packwoop) and ask unanimous consent that this bill be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so order.

### THE EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, if I have the consent of my good friend from West Virginia, the distinguished Democratic leader, I ask if it would be agreeable with him if the Senate now went into executive session to consider nominations on the Executive calendar beginning with Calendar No. 1098, National Institute of Handicapped Research, on page 3, all nominees on page 4, page 5, page 6, page 7, page 8, page 9, page 10, page 11, page 12, page 13, and page 14, nominations on the Secretary's desk.

Mr. ROBERT C. BYRD. There is no objection to proceeding.

### **EXECUTIVE SESSION**

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations on the Executive Calender beginning with Calendar No. 1098 and including all nominations thereafter, including the nominations placed on the Secretary's desk in the Air Force and Navy

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that those nominees be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominees considered and confirmed en bloc are as follows:

#### NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

Douglas A. Fenderson, of Minnesota, to be Director of the National Institute of Handicapped Research, vice Margaret Joan Gian-

#### THE JUDICIARY

Geoffrey M. Alprin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years, vice Margaret A. Haywood, retired.

Virginia L. Riley, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of years prescribed by Public Law 91-358, as amended, vice Samuel B. Block, re-

### VETERANS' ADMINISTRATION

Harry N. Walters, of Virginia, to be Administrator of Veterans' Affairs, vice Robert P. Nimmo, resigned.

### DEPARTMENT OF DEFENSE

W. Paul Thayer, of Texas, to be Deputy Secretary of Defense, vice Frank C. Carlucci, resigned.

### Uniformed Services University of the HEALTH SCIENCES

Francis Carter Coleman, of Florida, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for the term expiring May 1, 1983, vice Philip O'Bryan Montgomery, Jr., term expired.

Perry Albert Lambird, of Oklahoma, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987, vice Lt. Gen. Leonard D. Heaton, U.S. Army, retired, term expired.

David I. Olch, of California, to be Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987,

vice David Packard, term expired.

James F. X O'Rourke, of New York, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987, vice Francis D. Moore, term expired.

#### AIR FORCE

The following officers for appointment in the Reserve of the air Force to the grade indicated, under the provisions of chapters 34, 831, and 837, title 10, United States Code:

#### To be major general

Brig. Gen. Dan C. Mills, xxx-xx-xxxx FG, Air National Guard of the United States. Brig. Gen. John A. Wilson, III, xxx-xx-xxxx States.

Brig. Gen. Charles J. Young, Jr., xxx-xx-x... G, Air National Guard of the United States.

### To be brigadier general

Col. Edward R. Aguiar, xxx-xx-xxxx FG, Air National Guard of the United States Col. Clifton N. Bishop, xxx-xx-xxxx FG, Air National Guard of the United States. Col. Carl T. Butterworth. xxx-xx-xxxx FG. Air National Guard of the United States. Col. Andrew Cali, III, xxx-xx-xxxx FG, Air

National Guard of the United States Col. Russell C. Davis, xxx-xx-xxxx FG, Air National Guard of the United States

Col. Donne C. Harned, xxx-xx-xxxx FG, Air National Guard of the United States. Col. Richard S. Johnson, xxx-xxxxx FG,

Air National Guard of the United States Col. William S. Mahler, xxx-xx-xxxx Air National Guard of the United States.

Col. Dominick C. Marchesiello, xxx-xxx...
FG, Air National Guard of the United States.

Col. John L. Matthews, xxx-xx-xxxx FG, Air National Guard of the United States. Col. Alvah S. Mattox, Jr., xxx-xx-xxxx Air National Guard of the United States

Col. Robert D. McFrye, xxx-xx-xxxx FG, Air National Guard of the United States. Col. James R. Mercer, xxx-xxxxx FG, Air National Guard of the United States. Col. Fred L. Michel, xxx-xx-xxxx FG, Air National Guard of the United States.

Col. Edward V. Richardson, xxx-xx-xxxx xxx-...FG, Air National Guard of the United

Col. James E. Womack, xxx-xx-xxxx FG, Air National Guard of the United States

The following officers for appointment in the U.S. Air Force under the provisions of chapter 36, title 10, United States Code:

### To be major general

Brig. Gen. Clarence R. Autery, xxx-xx-xxxx xxx-... FR, Regular Air Force. Brig. Gen. Carl N. Beer, xxx-xx-xxxx FR, Regular Air Force. Brig. Gen. Schuyler Bissell, xxx-xx-xxxx xxx-...FR, Regular Air Force. Brig. Gen. William P. Bowden, xxx-xx-xx... xxx-...FR, Regular Air Force.

Brig. Gen. William J. Breckner, Jr., xxx-... xxx-xx-x... FR, Regular Air Force. Brig. Gen. Donald D. Brown, xxx-xx-xxxx

xxx-...FR, Regular Air Force. Brig. Gen. Thomas L. Craig, xxx-xx-xxxx xxx-...FR, Regular Air Force.

Brig. Gen. William H. Greendyke, xxx-xx-x... xxx-...FR, Regular Air Force. Brig. Gen. Alfred G. Hansen, xxx-xx-xxxx

xxx-... FR, Regular Air Force. Brig. Gen. Thomas J. Hickey, xxx-xx-xx...

xxx-...FR, Regular Air Force. Brig. Gen. Harley A. Hughes, xxx-xx-xx...

xxx-...FR, Regular Air Force. Brig. Gen. Ralph H. Jacobson, xxx-xx-xxxx FR, Regular Air Force.

Gen. James G. Jones, xxx-xx-xxxx xxx-...FR, Regular Air Force.

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Brig. Gen. Donald P. Litke, xxx-xx-xxxx	Brig. Gen. Bobby B. Porter, xxx-xx-xxxx
xxxFR, Regular Air Force.	U.S. Army.
Brig. Gen. James P. McCarthy, xxx-xx-xx	Brig. Gen. David W. Stallings, xxx-xx-xxxx
xxxFR, Regular Air Force.	xxx U.S. Army.
Brig. Gen. Thomas G. McInerney, xxx-xx-x	Brig. Gen. Thomas W. Kelly, xxx-xx-xxxx
xxxFR, Regular Air Force.	U.S. Army.
Brig. Gen. Merrill A. McPeak, xxx-xx-xxxx	Brig. Gen. James E. Thompson, Jr., xxx
xxxFR, Regular Air Force.	xxx-xx-x U.S. Army.
Brig. Gen. George L. Monahan, Jr., xxx	Brig. Gen. Dave R. Palmer, xxx-xx-xxxx
xxx-xx-x FR, Regular Air Force.	U.S. Army.
Brig. Gen. Joe P. Morgan, xxx-xx-xxxx FR,	Brig. Gen. Kenneth C. Leuer, xxx-xx-xxxx
Regular Air Force.	U.S. Army.
Brig. Gen. Robert C. Oaks, xxx-xx-xxxx	Brig. Gen. Leonard P. Wishart, III, xxx
FR, Regular Air Force.	
Brig. Gen. William E. Overacker, xxx-xx-x	xx-xx-x U.S. Army.
xxxFR, Regular Air Force.	Brig. Gen. Colin L. Powell, xxx-xx-xxxx
Brig. Gen. Maurice C. Padden, xxx-xx-xxxx	U.S. Army.
	Brig. Gen. Jack O. Bradshaw, xxx-xx-xxxx
xxxFR, Regular Air Force.	U.S. Army.
Brig. Gen. Richard W. Phillips, Jr., xxx	Brig. Gen. George R. Stotser, xxx-xxxxx,
FR, Regular Air Force.	U.S. Army.
Brig. Gen. Craven C. Rogers, Jr., xxx-xx-x	Brig. Gen. James E. Drummond, xxx-xx-x
FR, Regular Air Force.	xxx U.S. Army.
Brig. Gen. Thomas W. Sawyer, xxx-xx-xx	Brig. Gen. Gerald T. Bartlett, xxx-xx-xxxx
FR, Regular Air Force.	xxx U.S. Army.
Brig. Gen. John A. Shaud, xxx-xx-xxxx FR,	Brig. Gen. James R. DeMoss, xxx-xx-xxxx,
Regular Air Force.	U.S. Army.
Brig. Gen. Monroe T. Smith, xxx-xx-xxxx	Brig. Gen. Robert J. Sunell xxx-xx-xxxx
FR, Regular Air Force.	U.S. Army.
Brig. Gen. John H. Storrie, xxx-xxxxx	Brig. Gen. Donald R. Morelli, xxx-xx-xxxx
FR, Regular Air Force.	U.S. Army.
Brig. Gen. William T. Twinting, xxx-xx-x	Brig. Gen. Peter G. Burbules, xxx-xx-xxxx
FR, Regular Air Force.	U.S. Army.
Brig. Gen. Russell L. Violett, xxx-xx-xxxx	Brig. Gen. Kenneth E. Lewi, xxx-xx-xxxx
FR, Regular Air Force.	U.S. Army.
Brig. Gen. Harold J. M. Williams, xxx-xx-x	Brig. Gen. Richard G. Graves, xxx-xx-xxxx
xxx	xxx U.S. Army.
The following named officers for appoint-	
ment in the U.S. Air Force under the provi-	Brig. Gen. Hugh J. Quinn xxx-xx-xxxx,
sions of chapter 36, title 10 of the United	U.S. Army.
States Code:	Brig. Gen. James F. McCall, xxx-xx-xxxx
To be regular major general	U.S. Army.
	Brig. Gen. Robert B. Adams, xxx-xx-xxx
Lt. Gen. James E. Dalton, xxx-xx-xxxx Fr,	U.S. Army.
Regular Air Force.	Brig. Gen. Charles W. Brown, xxx-xx-xx
Lt. Gen. Robert T. Herres, xxx-xx-xxxx FR,	xxx U.S. Army.
Regular Air Force.	Brig. Gen. Harold M. Davis, Jr., xxx-xx-xx
Lt. Gen. John S. Pustay xxx-xx-xxxx FR,	xxx U.S. Army.
Regular Air Force.	Brig. Gen. Bobby J. Maddox, xxx-xx-xxxx,
ARMY	U.S. Army.
Gen. Frederick J. Kroesen xxx-xx-xxxx	Brig. Gen. Llyle J. Baker, Jr., xxx-xx-xxxx,
(age 59), U.S. Army, to be placed on the re-	U.S. Army.
	Brig. Gen. Julius Parker, Jr. xxx-xx-xxxx
tired list in the grade of general under the	U.S. Army.
provisions of title 10, United States Code,	Brig. Gen. Charles F. Drenz, xxx-xx-xxxx
section 1370.	U.S. Army.
Gen. Glenn K. Otis xxx-xx-xxxx U.S.	The following-named officer under the
Army, under the provisions of title 10,	
United States Code, section 601, to be reas-	provisions of title 10, United States Code,
signed in his current grade of general to a	Section 601, to be assigned to a position of
position of importance and responsibility	importance and responsibility designated by

designated by the President under title 10, United States Code, section 601.

The following-named officers for appointment in the Regular Army of the United States to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

### To be permanent major general

Brig. Gen. Archie S. Cannon, Jr., xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Kenneth A. Jolemore, xxx-xx-x... xxx-... U.S. Army.

Brig. Gen. Eugene S. Korpal, xxx-xx-xxxx U.S. Army.
Brig. Gen. John P. Prillamam, xxx-xx-xxxx

xxx-... U.S. Army. Brig. Gen. Maurice O. Edmonds, xxx-xx-x...

xxx-... U.S. Army. Brig. Gen. Ronald L. Watts. xxx-xx-xxxx

U.S. Army. Brig. Gen. Joseph P. Franklin, xxx-xx-xx... xxx-... U.S. Army

Brig. Gen. Henry J. Hatch xxx-xx-xxx U.S. Army.

Brig. Gen. William E. Klein, xxx-xx-xxxx U.S. Army.

the President under title 10, United States Code, section 601:

### To be general

Lt. Gen. William R. Richardson, xxx-xx-x... xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility by the President under title 10, United States Code, section 601:

### To be lieutenant general

Maj. Gen. Fred K. Mahaffey, xxx-xx-xxxx U.S. Army

The following-named officer for appointment to the position indicated under the provison of title 10, United States Code, section 711:

To be senior Army member of the Military Staff Committee of the United Nations

Maj. Gen. Fred K. Mahaffey, xxx-xx-xxxx

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President in grade as follows:

#### To be lieutenant general

Maj. Gen. Bennett L. Lewis, xxx-xx-xxxx U.S. Army.

The following-named Army Medical Department officers for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

### To be permanent brigadier general

Col. John E. Major, xxx-xx-xxx , Medical Corps, U.S. Army.

Col. Billy Johnson, xxx-xx-xxxx Dental Corps, U.S. Army.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10. United States Code. Section 601:

### To be vice admiral

Rear Adm. Crawford A. Easterling, xxx-.../1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under Title 10, United States Code, section 601:

### To be vice admiral

Rear Adm. Henry C. Schrader, Jr., xxx-xx-x... xxx-.../1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

### To be vice admiral

Rear Adm. Thomas R. Kinnebrew, xxx-xx-... xxx-.../1110, U.S. Navy.

### DEPARTMENT OF EDUCATION

Edward M. Elmendorf, of Vermont, to be Assistant Secretary for Postscondary Education, Department of Education, vice Thomas Patrick Melady, resigned.

### DEPARTMENT OF STATE

Paul D. Wolfowitz, of the District of Columbia, to be an Assistant Secretary of State, vice John H. Holdridge.

Richard Fairbanks, of the District of Columbia, for the rank of Ambassador while serving as Special Adviser to the Secretary of State.

### FEDERAL TRADE COMMISSION

George W. Douglas, of Texas, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1982, vice Robert Pitofsky, resigned.

### CIVIL AFRONAUTICS BOARD

Diane Kay Morales, of Texas, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1988, vice George A. Dalley, term expiring.

### NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE AIR FORCE, NAVY

Air Force nominations beginning Robert R. Thunker, and ending Philip C. Amrhein, Jr., which nonimations were received by the Senate on October 20, 1982, and appeared in the Congressional Record of November 29,

Air Force nominations beginning Bruce C. Bechtel, and ending Carl L, Alden, which nonimations were received by the Senate on

October 20, 1982, and appeared in the Con-GRESSIONAL RECORD of November 29, 1982.

Air Force nominations beginning Lary D. Abney, and ending James A. Zimmerman, which nonimations were received by the Senate on November 5, 1982, and appeared in the Congressional Record of November

Air Force nominations beginning Glenn E. Adams, and ending Jon E. Zampedro, which nonimations were received by the Senate on November 5, 1982, and appeared in the Con-GRESSIONAL RECORD of November 29, 1982

Air Force nominations beginning Ralph W. Applegate, and ending Harold N. Walgren, which nonimations were received by the Senate on November 15, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Marion J. Hardy, and ending Anthony H. Wheeler, which nonimations were received by the Senate and appeared in the Congressional RECORD of December 7, 1982.

Air Force nominations beginning Thomas F. Astaldi, and ending James R. Pope, which nonimations were received by the Senate and appeared in the Congressional Record of December 7, 1982.

Navy nominations beginning Gary A. Avery, and ending Paul I. Liu, which nonimations were received by the Senate on October 20, 1982, and appeared in the Con-GRESSIONAL RECORD of November 29, 1982.

Navy nominations beginning Ernst P. Frage, and ending Ives C. Thillet, which nonimations were received by the Senate on October 22, 1982, and appeared in the Con-GRESSIONAL RECORD of November 29, 1982.

Navy nominations beginning Tracy A. Adams, and ending John H. Hughes, which nonimations were received by the Senate on November 5, 1982, and appeared in the Con-GRESSIONAL RECORD of November 29, 1982.

Navy nominations beginning Mark Achenbach, and ending Jalal A. Najafi, which nonimations were received by the Senate on November 15, 1982, and appeared in the Congressional Record of November 29, 1982,

Navy nominations beginning Stanford P. Sadick, and ending Kevin J. McKeown, which nonimations were received by the Senate on November 22, 1982, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Michael A. Fox, and ending Saul Monge, which nonimations were received by the Senate and appeared in the Congressional Record of December 7, 1982.

Navy nominations beginning Richard Mills Dunbar, and ending John Mulliss Fiery, Jr., which nonimations were received by the Senate and appeared in the Congres-SIONAL RECORD of December 7, 1982.

Mr. STEVENS. Mr. President, move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President. I ask unanimous consent that the President be immediately notified of the confirmation of these nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATION OF HARRY N. WALTERS TO BE ADMINISTRATOR OF VETERANS' AFFAIRS

Mr. SIMPSON. Mr. President, I am very pleased to report that the Committee on Veterans' Affairs has now completed its consideration of the qualifications of Harry N. Walters, the President's nominee to be Administrator of Veterans' Affairs. The committee, by unanimous vote, recommends that the nomination be confirmed.

The position of Administrator of Veteran's Affairs is an extremely important one and the individual who fills it must be ready to accept some awesome challenges and responsibilities. I am convinced that Harry N. Walters has the abilities and the experience to meet these challenges and re-

sponsibilities.

Since June 8, 1981, Mr. Walters has served as Assistant Secretary of the Army for Manpower and Reserve Affairs. In that position, he has been responsible for the supervision of all Army policy pertaining to manpower and personnel management, mobilizamanpower, equal opportunity, quality of life areas, force structure requirements and operational readiness, and management of reserve affairs.

Let me share with you some of his background. In 1977, Mr. Walters purchased and became president and chief executive officer of the Potsdam Paper Corp., Potsdam, N.Y. From 1977 until 1981, he transformed this company from idleness to prosperity in an area of the country plagued by high

unemployment.

Mr. Walters served as a consultant for Howard Paper Mills, from 1976 through 1977 and as executive vice president at the Standard Paper Manufacturing Co., in Richmond, Va., from 1973 to 1976. Prior to that time, he was associated with Plainwell Paper Co., Plainwell, Mich., as their national sales and marketing manager; Kimberly Clark Corp., in Neenah, Wis., as their projects manager for new business development; Kimberly Clark Corp., in New York City as their accounts manager for publication papers; and Pure Oil Co., Miami, Fla., in various sales and marketing assignments.

In 1959, Mr. Walters graduated from the U.S. Military Academy at West Point, N.Y., where he was a standout fullback on Army's last undefeated football team. After graduation, he was commissioned in the infantry and attended the Army Airborne and Ranger Schools at Fort Benning, Ga. He served with the 25th Infantry Division in Hawaii, Laos, and Thailand. He completed his active military service in 1963, but continued active in the Army Reserves until 1965, serving as a commander of a Special Forces "A" team.

Mr. President, the Administrator of Veterans' Affairs is charged with insuring the continued effectiveness and efficiency of the many important programs which serve our Nation's 30 million veterans. In doing so, he must oversee the day-to-day operation of an agency of enormous size and complex-

The VA currently employs more than 220,000 people and has an annual operating budget of nearly \$25 billion. It operates the most comprehensive system of benefits for veterans existing in any nation in the world.

I have a "hands on" knowledge of the difficulties and pressures which face the Administrator of the Veterans' Administration for I came to know both Max Cleland and Bob Nimmo and watched them operate in this very tough task. It takes an awesome amount of courage and dedication. I certainly wish the next Administrator all possible success and pledge to him my earnest cooperation and that of the staff of the Senate Committee on Veterans' Affairs-both majority and minority members-toward meeting the problems and needs of our veterans who have contributed so much to our Nation.

Mr. President, I emphasize my strong support of the nomination of Harry N. Walters to be Administrator of Veterans' Affairs, and I urge my colleagues to support the unanimous vote of the Senate Committee on Veterans' Affairs in confirming his nomination.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Committee on Veterans' Affairs, I am very pleased to support the nomination of Harry N. Walters to be the Administrator of Veterans' Affairs. I had the opportunity to meet with Mr. Walters in advance of his confirmation hearing and, of course, was present during Mr. Walters' very forthcoming testimony at that hearing on December 8, 1982.

At the confirmation hearing, I made reference to the urgent need for the vacancy in the Administrator's office to be filled in the interest of providing stability in Veterans' Administration top management. Shortly after Mr. Robert Nimmo's October 4, 1982, announcement of his resignation as VA Administrator, I had written to the President in this regard to urge that a nomination be made promptly for that purpose and for the purpose of insuring that a new Administrator is in office during the final stages of development of the President's fiscal year 1984 budget for the VA.

Mr. President, I ask unanimous consent that copies of my opening statement at the confirmation hearing and my letter to the President be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, so ordered.

(See exhibit 1.)

Mr. CRANSTON. Mr. President, Mr. Walters' background includes private and public sector management experience that is much needed by the VA. In addition, he was very impressive in his appearance before the committee. He expressed in a forceful and forthright manner his view that the VA must do its very best to provide benefits and services in a way that is compassionate as well as efficient, and his firm commitment to be the veterans' advocate within the executive branch.

I also found most welcome his determination to take charge of the management of the Veterans' Administration and its \$25 billion budget free of Office of Management and Budget domination and to challenge OMB efforts to control the administration's position on VA budget issues.

Mr. President, I questioned Mr. Walters extensively during the confirmation process-through written prehearing questions, oral questions at his confirmation hearing, and written followup questions. Mr. Walters responded in a most timely fashion to my written questions. Because of the complexity of the issues I had raised on a number of topics and the short period of time that he had to learn about and reflect on those issues, he preferred not to provide definitive responses in some instances. I respect his prudence in this regard. We have agreed that by February 1, 1983, he will provide responses to each of the questions to which he has not as of now provided specific and full answers. With respect to any questions to which he cannot provide such answers by February 1, he has agreed at that point to provide a status report on the subject and target dates for the answers.

This arrangement is fully satisfactory to me. It permits me to support—and indeed to urge—the prompt confirmation of Mr. Walters as Administrator while insuring that the questions I have raised will be answered in a thoughtful, complete, and timely fashion. Once Mr. Walters submits all of the requested answers, the distinguished chairman of the Veterans' Affairs Committee (Mr. Simpson) has agreed that they will be printed as an appendix to a future committee hearing.

Mr. President, on the basis of all the information now available, I believe that Mr. Walters is well qualified for the position of Administrator of Veterans' Affairs. I urge my colleagues to give him their unanimous support, and I look forward to working closely with him upon his installation in office.

### Ехнівіт 1

# OPENING STATEMENT OF SENATOR ALAN CRANSTON

I am delighted to join you, Al, and the other members of the committee this afternoon in welcoming Harry Walters and others to this hearing on his nomination to be Administrator of Veterans' Affairs. Al, I want to thank you for coordinating with me so closely in scheduling this time for the hearing.

I note that Mr. Walters has a fine record of achievement in business and has experience in high public office—this being the second time that he has come before the Senate for confirmation. Thus, his background indicates a capability to undertake major managerial responsibilities, and he'll need that capability at the V.A.

It is important for the effectiveness of the V.A. and the well-being of our nation's veterans that we proceed promptly, as the chairman is doing, with consideration of this nomination. There has been a most regrettable lack of stability in the top-level management of the V.A. Today is the 240th day since January 20, 1981, that the V.A. has been without a fully-functioning administrator—that is, one appointed by this President and who has not announced his resignation.

Today is also the 461st day during this administration—more than two-thirds of its duration—that there has not been both a fully-functioning Administrator and Deputy Administrator at the V.A.

With this lack of stability in mind, along with the very high turnover that has occurred in other top-management positions in the V.A. over the past 23 months, it is my hope that we are now beginning a period of strong, effective, and stable V.A. leadership.

Mr. Walters, in his prepared remarks, very clearly articulates his understanding of the special responsibilities he will have as Administrator to carry out our Nation's commitments to its veterans, and his promise to be an advocate for America's veterans. I am ready to support the new Administrator in his efforts to perform these tasks.

As a new Administrator takes office, he will be facing a number of very important challenges. I would like to comment on three that I believe must be of the highest priority during the early weeks and months. Last week, I submitted to Mr. Walters written questions relating to each of these three matters. I'll be following up on them this afternoon.

First is the administration's F.Y. 1984 budget, which is now in the final, critical stages of development. This is a matter of great importance to all veterans. I am encouraged by Mr. Walters' stated intentions—as reported in the press and in response to a question I submitted in advance of today's hearing—to represent the V.A. vigorously in the final budget negotiations.

Second, with respect to the agent orange issue, it is vitally important that the V.A. move ahead expeditiously-consistent with the rigorous demands of scientific and medical validity-in its efforts to find the badly needed answers to the questions regarding the long-term health effects of exposure to agent orange. As the Senate author of laws mandating the major agent orange study and providing special health-care eligibility for those exposed in Vietnam, I believe that the swift transfer of responsibility for the conduct of that study to the centers for disease control must be placed at the top of this priority list-along with efforts to ensure that all of the V.A.'s activities relating to agent orange are managed effectively.

Third, I believe that it is also extremely important for the new administrator to provide strong leadership with respect to the development of automated data processing capabilities in V.A. medical facilities. The V.A. health-care system is years behind the private sector in gaining the benefits of computerization, which can be a marvelous tool in the provision of health-care services. Unfortunately, as a result of stop-and-go management and bureaucratic infighting, the V.A.'s efforts in this regard have recently been hampered and are now virtually par-

alyzed. These obstacles must be overcome. I believe that the new administrator must ensure that the controversies are resolved, that a firm, consistent direction is established, and that long-overdue progress is made promptly.

made promptly.

Harry, I very much appreciate your efforts in providing answers to my written questions in advance of today's hearing. I realize that you did not have a great deal of time to answer them and am grateful for your cooperation in responding in a timely fashion. Let me also note that I appreciate your not wanting to provide firm, definitive answers at this point regarding all of the issues that I raised. I respect your wanting to have the opportunity to study some of the issues more thoroughly and look forward to receiving your detailed responses in the near future.

In closing, I want to re-emphasize my view that repaying the debts we owe to those who gave of themselves in military service is a continuing cost of our Nation's defense and a fundamental national obligation. The needs of all veterans—and particularly the needs of those who bear the scars of battle and those Vietnam veterans who are still facing difficulties in readjusting to civilian life—are needs to which we must devote our special attention and all needed resources.

The challenge is great and the answers will not be easy, but I pledge to do my best, Harry, to work with you as we carry out our mutual responsibilities.

Thank you.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., October 5, 1982.
Hon. Ronald W. Reagan,

The White House,

Washington, D.C.

DEAR MR. PRESIDENT, Yesterday, you accepted the resignation of Robert P. Nimmo. Today is thus the 176th day on which your Administration has not included a fully functioning Administrator of Veterans' Affairs.

In light of this situation, I am writing to express concerns regarding the selection of a successor to Mr. Nimmo and the development of the fiscal year 1984 budget for the Veterans' Administration.

In March of last year, your Administration submitted extensive revisions of the fiscal year 1982 budget for the VA and other departments and agencies. At the time, the VA was uniquely disadvantaged among the major Executive departments of agencies in not having an agency head appointed by you who could effectively represent it in negotiations with the Office of Management and Budget and White House regarding the FY 1982 budget. As I noted then, that situation left the VA defenseless against numerous unwise proposals to cut VA programs that were incorporated in your FY 1982 budget revisions.

Hence, your FY 1982 budget revisions included cuts of \$406 million and 5,612 full-time-equivalent employees (FTEE's) in VA health-care programs (not including a \$103 million/61 FTEE cut in VA medical construction programs). Under these revisions, funding for the VA's readjustment counseling (Vet Center) program for Vietnam-era veterans would have been terminated on September 30, 1981; two million fewer VA outpatient visits would have been funded; and 1,800 VA hospital beds would have been closed down. Your FY 1982 revisions also included cuts of \$66 million and 2,022 FTEE's in the VA's general operating expenses

(GOE) account—including reductions of 17 percent (115 FTEE's) in the staffing for VA vocational rehabilitation programs for service-connected disabled veterans and of more than a thousand VA regional office employees responsible for counseling and assisting veterans with respect to their benefit claims and for processing and adjudicating those claims.

Fortunately, 85 percent of those cuts was

restored by the Congress.

At Mr. Nimmo's July 9, 1981, confirmation hearing, he acknowledged that these OMB-initiated cuts were "drastic" and "done very quickly". He also noted that he had been asured by OMB that it would allow the VA to make its "own recommendations and not be subjected to arbitrary proposals." He also stated he would challenge major OMB decisions affecting VA programs and, if need be, use his access to the White House and to you to do so.

Mr. Nimmo's resignation leaves the VA in virtually the same situation regarding the development of its FY 1984 budget at this crucial stage in the process as existed in the first two months of your Administration with respect to the FY 1982 budget revi-Thus, I believe that the interests of sions. the Nation's veterans and their survivors and the maintenance of effective VA programs to meet their needs require prompt action to ensure that the priority that VA programs deserve is fully recognized and respected in the context of your FY 1984 budget. I believe that you should take one of two actions: first and far preferably, swiftly nominate a capable, experienced individual as Administrator; or, second, in the absence of such a prompt nomination, provide for full White House involvement in the development of the VA budget, including your close personal scrutiny of that budget.

Regarding the selection of a new Administrator, I believe that the disruptive experiences of the past 21 months as well as immediate budgetary considerations make it imperative that a new leader be promptly selected. You will recall that your first Administrator was not sworn in until six months after your inauguration; the first individual you selected as Deputy Administrator left the VA before taking office; a new Deputy was not sworn in until December 17. 1981; and after the latter's June 25, 1982, resignation, the incumbent Deputy Administrator did not take office until August 30. In addition, eight top-level management officials appointed by the Administrator left their positions within a year. Clearly, these circumstances call for an appointment now that will provide badly needed stability and continuity for VA management.

Accordingly, I strongly urge that you immediately proceed with the selection of an individual with substantial experience in working with VA programs and a demonstrated understanding of and sensitivity to the needs of all veterans, particularly service-connected disabled veterans and Viet-

nam-era veterans.

In the event that you are unable to make such an appointment within the next few weeks, I respectfully urge that you direct White House staff to participate in the preparation of the FY 1984 budget request and that you personally approve it. In my view, your Administration has not to date consistently given appropriate recognition to the high priority that veteran's programs warrant. For example, in May of this year you joined with the Chairman of the Senate Budget Committee in proposing a most in-

adequate, unfair FY 1983 budget for the VA. Under that proposal, no cost-of-living increase would have been provided in compensation rates for service-connected disabled veterans and their survivors or in need-based VA pension benefits for certain wartime veterans and their survivors; and VA health-care, construction, and GOB appropriations would have been frozen at levels substantially below FY 1982 appropriations. I respectfully urge that you ensure that those who were responsible for advising you to support that kind of VA budget not be permitted to shape any similar proposals for FY 1984.

Mr. President, I respectfully submit that events have brought us to so critical a juncture for our Nation's veterans that only your personal attention to their needs will suffice. I stand ready to assist you in any way you may consider appropriate in connection with these matters and assure you that I will cooperate fully in giving prompt consideration to your nomination for a new Administrator of Veterans' Affairs.

With best personal regards,

Cordially.

ALAN CRANSTON, Ranking Minority Member.

The PRESIDING OFFICER. The question is on agreeing to the confirmation of the nomination of Harry N. Walters to be Administrator of Veterans' Affairs.

The nomination was confirmed.

### LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Does the distinguished Democratic leader have anything further at this time? Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.
The PRESIDING OFFICER. The
Senator from Delaware.

THE RELEASE BY THE PENTA-GON OF CLASSIFIED INFORMA-TION TO THE PRESS

Mr. BIDEN. Mr. President, I notice the presence of the Democratic leader on the floor at this time, and while he is here I would like to ask him if he had occasion to read the stories 2 days ago in the newspapers about a briefing which took place on Tuesday for members of the press at the Pentagon?

Mr. ROBERT C. BYRD. Yes, Mr. President, I did. According to those stories, highly sensitive, classified information was apparently disclosed to members of the press as part of an effort by the administration to, I suppose, persuade the public and, perhaps, Members of Congress to support certain aspects of the defense program.

I find it to be highly unusual, to say the least. I know the Senator from Delaware has done a great deal of work on the subject of classified information, and especially on the subject of leaks, both authorized and unauthorized, and I would like to ask him a question as to whether or not in his view the situation which occurred may have involved any violation of any of the laws of the United States which were designed to protect classified information.

Mr. BIDEN. I am glad the Senator from West Virginia has raised this issue. A number of years ago I had the privilege of chairing the special Subcommittee of the Senate Intelligence Committee which looked into that very question and, in fact, we issued a very extensive report which discussed the subject. The Federal law, as it is presently written, prohibits "willfully" communicating "information relating to the national defense" to "any person not entitled to receive it," the person doing the disclosure "has reason to believe" the information 'could be used to the injury of the United States or to the advantage of any foreign nation." Now let me read you, Mr. Leader, what we concluded in our report:

Under current law, it is not at all clear whether most leaks of information to the media are criminal. To the legal neophyte in this field, it appears that (the law I just read) do(es) address the problem . . . Superficially then, (the) statute seems to punish leaks to journalists as well as spying. However, these statutes are not normally used in cases unless transmittal to foreign agents is involved. Whether they could be used in cases where information is passed to a journalist is unclear from a careful reading of the legislative record.

That is a quote from our subcommittee's report which dealt with unauthorized leaks. Of course the problem which the minority leader has properly raised, which may have involved an authorized leak, complicates the legal question even further. I imagine some would contend that the newsmen, having apparently been selected by high administration officials, may be now considered to have been "entitled" to the information, although I think that's debatable.

At any rate, Mr. President, I would reply to the distinguished minority leader, that it appears doubtful that anyone could actually be prosecuted under existing laws for what transpired at the briefing, and I should note here parenthetically I am really talking about the Pentagon officials more than I am reporters who showed up at this briefing. But I think he would agree with me that what transpired was absolutely outrageous. The administration can apparently engage in "selective leaking" of informationinformation which would probably be extremely helpful to our adversaries in the world. And we in the Congress have to sit here, constrained by these same laws, and not be able to say anything with respect to the merits of what the administration's "leakers" have been saying to the press. I wonder if that problem bothers the leader as much as it does me?

Mr. ROBERT C. BYRD. I was somewhat nonplussed when I read the stories in the press. I was distressed, and I thank the Senator for raising that question. I think he is correct in having raised the question.

I wonder if the Senator feels there should be any need for any investigation on the subject of who authorized the leaks, exactly what information was given out, and what the assessment of potential damage may be to our national security which might

have resulted? understand that this briefing, which was so cavalierly made as a briefing to the newspapers, was similar to the sensitive briefing which was conducted here in the Chamber by the full Senate in closed session some months ago, I recall that on that occasion, and on similar occasions, we took seriously the restrictions which are imposed upon us by the Senate Rules with respect to secrecy. The doors were shut, the galleries were closed, and virtually all of our staff experts were excluded. Admonitions were read to Members of the body. When I was the majority leader I read the admonition in each such instance from the book of rules to the body, and I think the majority leader, who is now of the other party, has done the same with respect to such sessions, and I daresay, so far as I have been able to determine, no word from that Senate secret briefing was ever disclosed to anyone outside the Chamber.

Now we pick up the morning papers and read that much of that same information apparently was given to the

In order that the record may be complete on this subject, Mr. President, I ask unanimous consent that the newspaper articles to which I referred, one from the Washington Post under date of December 5, 1982, titled "Reporters Balk Over Briefing Pact," and another from the New York Times under date of December 15, 1982, titled "Reporters Balk at Secrecy Pledge, Pentagon, in Unusual Move, Asked Journalists To Sign Agreement on Briefing" be printed in the Record.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 1982] REPORTERS BALK OVER BRIEFING PACT

Thirteen reporters were given an off-therecord Pentagon briefing yesterday that contained sensitive information on Soviet military developments, even though the journalists refused to sign an unprecedented "secrecy agreement" requested beforehand by defense officials.

Pentagon spokesman Henry Catto said the briefing was offered "to inform senior defense correspondents as to the extent and trends of the growing Soviet threat insofar as national security would permit." Catto said the strict secrecy sought by the Defense Department was dictated by the need to "protect intelligence sources and methods of collection."

The briefing dealt with Soviet advances in strategic nuclear weapons and conventional forces.

It was set up after reporters had complained to Defense Secretary Caspar W. Weinberger that the defense establishment was not providing military affairs reporters with the kind of information that would enable them to judge the validity of Reagan administration claims of ominous Soviet military advances.

When the reporters arrived at a meeting room before the briefing, they were asked to sign a one-page statement titled "Department of Defense Secrety Agreement."

ment of Defense Secrecy Agreement."

Catto and other officials said that intelligence authorities were insistent on obtaining such a formal agreement from reporters before divulging highly sensitive information to them.

After the reporters unanimously refused to sign, officials reconsidered and agreed to go ahead with the briefing on the understanding that the material would be off the record and usable only as background matter for future articles.

[From the New York Times, Dec. 15, 1982] REPORTERS BALK AT SECRECY PLEDGE: PENTA-GON, IN UNUSUAL MOVE, ASKED JOURNAL-ISTS TO SIGN AGREEMENT ON BRIEFING

### (By Philip Taubman)

Washington, Dec. 14.—The Defense Department today took the unusual step of asking reporters to sign a secrecy agreement before attending a briefing about Soviet military capabilities.

The secrecy agreement stipulated that the reporters never disclose "in writing, broadcast or any verbal discourse" the information they would hear. It also required the journalists to report to the Pentagon any effort made by others to obtain the sensitive information.

When the reporters balked at signing the agreement, senior officials in the department settled for their verbal word of honor.

The New York Times declined to send a correspondent to the briefing because of the restrictive conditions. Richard Gross, a correspondent for United Press International, left the session after the discussion about the secrecy agreement.

## A "CONFLICTING ASSIGNMENT"

According to one reporter who was there, among those who attended it were representatives from the three commercial television networks, The Wall Street Journal, The Los Angeles Times, The Baltimore Sun, The Associated Press and Newsweek.

George Wilson, Pentagon correspondent for The Washington Post, said he did not know about the restrictive rules but had not attended the session because he had a "conflicting assignment."

flicting assignment."
Seymour Topping, managing editor of The New York Times, issued this statement:
"The Times does not enter into agreements that bar a reporter from sharing information with readers or responsible editors. The extraordinary agreement proposed by the Defense Department does not serve national security but simply tends to confuse the issues and consequently the public."

One reporter who was present, Fred Hoffman of The Associated Press, said that he rarely accepted information off the record but thought in this case that it would be educational

### 45-MINUTE ARGUMENT ENSUES

In a scene that some participants later said seemed to be drawn from the pages of "Alice in the Wonderland," the reporters and department officials spent the first 45 minutes arguing over the conditions for handling information that could not be told to the public.

The sequence of events that produced today's briefing began several weeks ago, when Defense Secretary Caspar W. Weinberger invited correspondents who regularly cover the Pentagon to come to his office for a background briefing on military matters.

In the meeting, which was attended by about 15 reporters, Mr. Weinberger said that the Soviet Union posed a serious and omninous military threat to the United States, according to several reporters who attended the session. When Mr. Weinberger was pressed to support the contention, he said he would try to arrange an intelligence briefing on the subject for reporters.

However, officials from the Defense Intelligence Agency and the Central Intelligence Agency, according to Pentagon sources, were reluctant to provide reporters with highly classified information, even on the understanding that the material would not be published or broadcast.

### AGREEMENT PROVES UNACCEPTABLE

The problem was resolved, according to intelligence officials, when the Defense Department then offered to make reporters sign a secrecy agreement that would underscore the off-the-record ground rules of the briefing.

But the agreement drafted by Pentagon attorneys and public relations officials proved unacceptable to the reporters when it was announced today.

When the reporters were admitted to a Pentagon briefing room across the hall from Mr. Weinberger's office, officials handled them a one-page form entitled "Department of Defense Secrecy Agreement." After noting that the reporters would re-

After noting that the reporters would receive "highly sensitive intelligence information which concerns the security of the United States and belongs to the United States Government," the agreement stipulated that the journalists would never disclose the information to anyone, including their editors, in any form. In addition, it called on the reporters to notify the department immediately if anyone attempted to solicit the information from them.

### MODIFICATIONS ALSO REJECTED

When the correspondents refused to sign the agreement, Defense Department officials left the room for 10 minutes, then returned with a proposed modification in some of the language, according to one of the reporters who was present.

The journalists also rejected the modifications, prompting the officials to huddle for another private discussion. After the second break, the officials said they would accept a verbal pledge to abide by the agreement.

Gen. Richard G. Stilwell, Deputy Under Secretary of Defense for Policy, then read a roll-call of the reporters present, asking each if he agreed to give his word of honor not to disclose any of the information, several of the correspondents said. All the reporters present responded affirmatively.

"I've been to a lot of off-the-record briefings but never one where they asked reporters to sign a secrecy agreement," said one veteran Pentagon correspondent who attended today's session. Pentagon officials said they could not recall any previous

effort to gain the approval of reporters for a secrecy agreement.

Mr. ROBERT C. BYRD. Mr. President, I would like to thank the Senator from Delaware for his legal assessment of the issues involved. He has done a lot of good work on this subject in the past. I know that his feelings

are highly respected.

I wonder if the Senator from Delaware would comment on another facet of the situation which bothers me, and that is the apparent politicization by the Pentagon of the intelligence process. I recall how often we have heard the stories about selected leaking during the Vietnam years and how the whole intelligence process was abused at that time. I have complained about such leaks to the press with respect to the Stealth aircraft and upon one occasion wrote to President Reagan to express my deep concern about the apparent leaks in that regard, and asked that the administration conduct an investigation of those leaks, and nothing ever came of the investigation in that instance.

If we are witnessing selected briefing of the media in an effort to "sell" our Nation's defense programs and we are seeing efforts to have the media sign off on secrecy requests, I think that the media has acted properly in balking at that request. I wonder if we have learned anything at all from the

lessons of the past.

Mr. BIDEN. As usual, the Democratic leader goes to the heart of the matter. I think he has raised the most fundamental and serious issue of all. We simply cannot have slanted information, or selected bits and pieces of information, presented to the American people. That is what is so wrong about the business that went on at the briefing. Our Government cannot be in the business of propagandizing to

its own people.

One of the things I would like to point out here is that just prior to that briefing that reporters received at the Pentagon, I, as a member of the Intelligence Committee and the leader, as an ex officio member of that committee, sat in a room, sequestered upstairs under the dome of the Capitol, going through electronic devices as you walked in and being monitored by people inside the room and outside the room, sequestered from the press, and told things that, in fact, were not only what the press was apparently told but more that would least raise questions about the administration's policy, and here the administration comes along through the Pentagon and gives the one side of the issue. making it look like they have, in fact, total justification for what they are going forward with without the benefit of people like myself and the leader and many others, Republicans included, on that committee who have serious doubts about the wisdom of what they presented to us in that closed briefing.

So what we are confronted with is that we on the Intelligence Committee who have access to information-in fact, given the whole picture, in my view, those who doubt the administration's policy are required to remain mute while the Pentagon leaks selective secret information to the press in order to make its case.

I, for one, believe that there should be a full investigation conducted by the Intelligence Committee to get to

the bottom of this affair.

I should note, Mr. President, that I have been on that committee since its inception. The minority leader's predecessor, Senator Mansfield, appointed me to it and the Senator from West Virginia in successive years asked me to stay on that committee. Out there in the hinterlands, whether you are talking to the Veterans of Foreign Wars or whomever, there was the assumption that the people who leak around this body are the Congresspersons and the Senators. We were told, when this administration began its tenure in office, that they wanted to tighten up the rules because leaking was taking place, and leaking was taking place, although they were never able to show one instance of it. from the Intelligence Committee, And here we are back in the process not unlike the one the Senator raised in the Vietnam days of selectively leaking classified information that, in fact, makes the administration's case, but I should note only makes that case partially known.

I trust that the President had no knowledge of this and I would like to assume that he would undertake an in-

quiry, as well.
Mr. ROBERT C. BYRD. Mr. President, I thank the Senator. I, too, would like to hope he had no previous knowledge of it and I would hope that he would make an inquiry on his own. I would be happy to join with the Senator in writing to the President urging him to proceed with an investigation of this matter on his own. I should think he would be disturbed; he should be concerned.

I suggest that the distinguished Senator draft a letter, and I will be glad to join in it, if he wishes, asking the President to proceed to inquire about the matter and conduct an investigation of his own as to how these things happened. They should not happen.

Mr. BIDEN. Mr. President, I will be delighted to do that and I will do that. Mr. ROBERT C. BYRD. I thank the

Senator.

Mr. BIDEN. I thank the distinguished majority leader.

Mr. STEVENS. Mr. President, I sug-

gest the absence of a quorum.

The PRESIDING OFFICER (Mr. ARMSTRONG). The clerk will call the

The legislative clerk called the roll. Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

### EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I am advised that negotiations are still underway. They may or may not well lead to a resolution of at least some of the problems before us.

I ask unanimous consent, Mr. President, in order to create more time for that, that the time for the transaction of routine morning business be extended under the same terms and conditions until not later than 1:45.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

### TRIBUTE TO TENNESSEE HEROINE-RUTH ANN LOWERY

Mr. SASSER. Mr. President, I rise to pay tribute to Ruth Ann Lowery, of Erin, Tenn. This valiant young woman is being honored on December 18 at a banquet sponsored by the Houston County Rescue Squad. The American Red Cross is presenting her with their certificate of merit on that evening.

Due to the quick action by Ms. Lowery, William Lee Hughes of Erin is alive today. Last August 2, Ruth Ann Lowery was quietly doing her job at an Erin restaurant. Then someone sounded the alarm that a man had fallen 35 feet off a highway bridge nearby into the Erin Creek.

Ms. Lowery, trained as a cardiopulmonary resuscitation instructor by the American Red Cross knew just what to do. She sped to the creek and pulled William Lee Hughes to dry land.

He had ceased breathing and his heart was not functioning. The CPR procedures undertaken by Ruth Ann Lowery successfully revived Mr. Hughes. Her timely action literally saved his life.

So, I want to add my tribute to those being paid to Ruth Ann Lowery by the Houston County Rescue Squad, the American Red Cross, the people of Erin, Tenn., and, I am sure, Mr. Hughes himself. She is a brave and gallant young lady who well deserves this recognition.

# TRIBUTE TO SENATOR NICK BRADY

Mr. PROXMIRE. Mr. President, in the 25 years plus I have served on the Senate Banking Committee we have never had a member as clearly well qualified for the job as Senator Nick BRADY. Senator BRADY served in the Senate for only 8 months. As a new Senator and as a new member of our Banking Committee he has been understandably reluctant to move in and "take over," although he certainly has the ability, the intelligence, and the experience to do exactly that. But as a quiet, thoughtful member he has provided the kind of behind-the-scenes advice and understanding of the complications of business and finance that are so essential to this committee that has such a central economic role to play in our country.

Today, the Wall Street Journal carries a short article about Senator Brady, and his evaluation of the strengths and weaknesses of this body. Senator Brady observes that although many Members of this Senate have outstanding ability and intelligence, the place operates very badly in some respects, is sadly wasting time and

energy.

The article by Albert Hunt provides the kind of insights about the Senate all of us can learn from, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

An Executive's Inside Look at U.S. Senate (By Albert R. Hunt)

Washington.—When Wall Street pals of businessman Nick Brady ask about his experience as a U.S. senator, they may be surprised by some of his answers.

"the people here are of a higher caliber than I imagined in my fondest dreams," says Sen. Brady, a New Jersey Republican. "But the place doesn't work very well. It is

very frustrating.

Nicholas Brady's expertise, as he is quick to concede, is limited; he only arrived here in April to fill the eight months left in the term of Sen. Harrison Williams, who was forced to resign over his involvement in the Abscam scandal. Still, Sen. Brady notes that his non-political future has been "liberating" in helping him serve in and evaluate the Senate.

Moreover, Mr. Brady's background—he was a managing director of the securities firm of Dillon, Read & Co. and chairman of Purolator Inc. before coming to the Senate—offers an unusual opportunity for a major business leader to participate first-hand in the legislative process.

In a leisurely hour-long conversation, Sen. Brady seems surprised at the intelligence and competence of some of his fellow law-makers. "Many of these senators are as bright, perhaps brighter, than anyone I've known on Wall Street," says Mr. Brady, who expects to return next month to Dillon, Read.

He cites Senate Majority Leader Howard Baker (R., Tenn.) as "one of the most capable leaders" he has encountered in any field. Of the Senate Finance Committee chairman, Robert Dole (R., Kan.), he says, "Watching Bob Dole manage legislation, it's hard to think of any job he couldn't handle." And the Senate Budget Committee chairman, Pete Domenici (R., N.M.), impresses Mr. Brady as a man of "enormous capability" and prodigious work habits.

He also has been highly impressed with several Democrats. He says he often seeks advice from Louisiana Democratic Sen. Russell Long, "who is so knowledgeable about the (legislative) process." On military matters—Sen. Brady serves on the Armed Services Committee—he admits to sometimes being dazzled by the complexities and says he often looks to Sen. Nunn (D., Ga.) for guidance. And he speaks well of the senior New Jersey senator, Democrat Bill Bradley: "I think we've really worked very well together."

### MISUSE OF TIME CITED

Probably more out of politeness than politics, Sen. Brady is reluctant to criticize his colleagues by name. But he has little use for the tactics of the New Right, hard-core conservatives. He recalls with dismay the weeks spent debating abortion and school prayer as part of the debt-limit bill. "As important as those issues are, that was time we could have used on the economy," he declares.

But misuse of time and an inability to focus on significant matters is commonplace in the Senate, Mr. Brady believes. "I have voted over 300 times since April," he notes. "You shouldn't vote on more than 20 or 30 things in a whole year. We waste a lot of time."

The New Jersey Republican concedes that the process is so hectic that he hasn't been able to think carefully about necessary changes. But he has formed some tentative conclusions.

First, he thinks both House members and senators should be limited to 12 years of service. "I know that would lose the valuable experience of the Scoop Jacksons."—Democratic Sen. Henry Jackson, the 30-year veteran from Washington state—"but the reelection business is such a problem here."

### FINANCING CAMPAIGNS

He thinks a panel ought to be named to study Senate processes, including committees and workloads and allocation of time. He says Majority Leader Baker has told him that some former senators already are preparing to undertake this task.

Sen. Brady, a mainstream Republican, also thinks the system of campaign financing needs overhaul. "It's incredible how costly and time-consuming it is to finance a campaign today," he says. He would support requiring federally licensed TV stations to make time available for campaign messages and allowing the use of some public money for congressional campaigns.

Not surprisingly, the Wall Street executive is horrified by the pay here—members of Congress earn \$60,662.50 a year—and thinks salaries ought to be "significantly" increased. "We pay corporate executives and baseball and basketball players and rock stars \$1 million and don't worry about it. But we hold our national legislators to \$60,662.50. That's very shortsighted, and if it continues we'll end up with either only millionaires or people who can't get any other job."

Sen. Brady is amazed at how little the business and political worlds seem to understand one another. "Senators will come up to me and ask, 'Why doesn't Wall Street lower interest rates,'" he says. "And people on Wall Street ask, 'Why doesn't the Senate balance the budget.'" He doesn't offer any solution to these misunderstandings, but he wishes that financial and political leaders would spend more time learning about each other.

On economic matters, he continues to support the basics of Reaganomics, though he favors more emphasis on reducing the budget-deficit than on cutting taxes. And he supports Washington's favorite new whipping boy, Federal Reserve Board Chairman Paul Volcker. "I've told anyone at the White House who will listen that Paul Volcker ought to be reappointed next year," he says. "I don't agree with everything he has done, but overall he has done a great job and his reappointment would be a good signal." Mr. Volcker's term as Fed chairman expires Aug. 1.

While his Senate stint has had its share of frustrations, Sen. Brady will return to Wall Street with very favorable memories of Washington. "I'm not looking to stay," he notes, "but I wouldn't trade my eight months here for any other experience I've had in my life."

AGRICULTURE APPROPRIA-TIONS, 1983—CONFERENCE RE-PORT

#### STATEMENT OF CLARIFICATION

Mr. ANDREWS. Mr. President, I want to clear up a misimpression that was given to this body last night in comments made by the Senator from Missouri, Senator EAGLETON, in reference to language contained in the statement of managers on the conference agreement on H.R. 7072, the fiscal year 1983 Agricultural Appropriations Act.

Senator Eagleron led this body to believe that the language does not affect regulations which were issued by the Department of Agriculture in November of 1980 which imposed a limit on sugar contained in cereals of 6 grams per ounce.

The amendment that I offered and the discussion in conference with the House centered upon these regulations because there is no real scientific basis for imposing such a limit.

The record of the floor debate on this conference report in the other body yesterday clearly demonstrates that the intent of the language—"any modification in the WIC food package not yet implemented"—shows that the understanding we achieved with the House was to delay implementation of those 1980 regulations pending a demonstration that the standards are based on comprehensive scientific evidence.

Mr. President, it makes absolutely no sense for us to say that the standard agreed to by the conferees applies to any prospective changes and not those which are on this day not officially required.

The Department of Agriculture cannot pick and choose which view it wants to follow. It must delay the 1980 regulations in accordance with the

conference report.

Mr. President, following is an explanation of the action taken by the conference committee regarding the WIC food package because there seems to be a lot of confusion and misunderstanding about what our action means. The fact is that USDA took action on the basis of unproven assertions and, in our view, USDA must be more careful and set a higher standard when its actions will adversely affect agricultural markets.

Let me give a bit of perspective.

WIC was created by Congress in 1972 to prevent iron deficiency anemia-which is particularly prevalent in low income women and children because of their high physiological need for iron during years of growth and development.

It is a fact that WIC has improved the iron status of participants, preventing development of anemia or mitigating its dangerous impacts.

The surveys which show that WIC is a success were made during times when there was no restriction of the amount of sucrose and other sugars in the breakfast cereals.

The fortified breakfast cereals provide the only major source of such iron in the WIC food package.

So we must wonder why, on November 12, 1980, USDA issued final food package regulations that imposed such a limit on maximum sucrose content?

The explanatory material which was published with the final rule makes it clear that certain unqualified lay persons had evloved a consensus that breakfast cereals should have no more than 4 to 6 grams of sucrose per serving.

Presweetened cereals were said to cause obesity, diabetes, heart disease, and dental caries. But WIC participants need additional calories, and USDA did not rest its rule on the obesity allegation. Then, since there is no evidence linking current levels of sugar consumption with diabetes or heart disease-or with health conditions of WIC participants-USDA declined to rest its rule on the second and third allegations. This left, as a rationale, the association of sugar with dental caries, although the preamble acknowledges that limiting sucrose content of breakfast cereals will not solve the problem of dental caries.

That is an understatement.

Research on dental caries shows that the absolute amount of sugar consumed is not directly related to the incidence of caries, rather the form and frequency of consumption are much more important. Therefore, a rule which limits amounts, starts off on the wrong foot.

It is also well recognized that dental caries results from dissolution of tooth enamel by acid produced by oral bacteria which act upon any fermentable

demonstrated understanding or our carbohydrate which is consumed and which is retained in the mouth or sticks to the teeth or between the teeth. What, then, is the good of limiting only one substance?

Furthermore, the only research on the incidence of dental caries under conditions that are identical to the patterns of consumption of cereals in the WIC program does not show any association between consumption of presweetened cereals and increased dental caries.

Finally, U.S. Government research shows that the incidence of dental caries in school age children has decreased 25 to 36 percent-depending on age-within the past decade. The problem of dental caries is being solved without Federal Government pronouncements and involvements.

On a more general health level, responsible scientists do not believe that it is possible to impose a limit on a single constituent of a food in order to improve or enhance a total diet, including Dr. Mark Hegsted, who at the time was the head of the USDA's Human Nutrition Center.

USDA, without any scientific data in support of any limit at any particular level, selected the 6 gram level because it would allow a greater variety of cereal choices than the 4 gram limit.

We are led to the inescapable conclusion that the Department's 6 gram per serving limit has no rational basis in scientific research.

Publication of a Government sanctioned restriction on sucrose adversely affects markets for food products and for commodities. Such a restriction, therefore, ought not to be published without good cause and firm support from science

Now sucrose and other sugars have been recognized as safe for human consumption as food for as many years as the FDA has had authority to regulate the safety of the U.S. food supply. Sucrose and other natural sugars are GRAS.

Within the past month, this safe status has been reaffirmed.

Total consumption of sugar has remained approximately the same for 60 years, FDA figures show no increased trends.

Sugar is also a food for the bacteria that causes dental caries, but the amount of sugar is not directly related to the incidence of caries.

Presweetened breakfast cereals as they are typically consumed have not been shown to be associated with an increased incidence of dental caries.

Overall, the incidence of dental caries in school age children has been declining, probably due to the public

health measures of water fluoridation.
The recipients of WIC foods are a special subgroup of the population whose nutritional requirements differ from those of the rest of the population, because, among other things,

they need calories and they need iron. Therefore the dietary prescriptions that might make sense for a middle class, sedentary, affluent group of persons, have little relevance to WIC mothers and young growing children.

While USDA never precisely identified the nutrition education principles it alleges will be violated by consumption of presweetened cereal, the only possible notion is one that says that if a child eats these cereals, then as an adult, he or she will over indulge in other sweets-pies, cakes, cookies, doughnuts. It may be conceded that as an adult, these pies, cakes, cookies, and so forth, should be consumed in moderation, because many adults cannot metabolize extra calories whether from fat, protein or carbohydrates. However, this concession does not supply the missing link in the logic of the assertion-there are no facts to show that childhood consumption patterns-specifically eating presweetened cereals-determine adult consumption patterns. Science has found that human preferences for sweet substances is innate—it is not an acquired or learned preference.

The breakfast cereals are provided by WIC because they supply more than energy. The breakfast cereals supply the only significant source of dietary iron in the food package. Cereal grains are recognized as the preferred carrier of nutrients in our long-standing public health programs of fortification to prevent diseases which have dietary causes.

Fortified presweetened cereals provide the same nutrients as fortified unsweetened cereals and for many children and teenage mothers can assure that cereals-and the iron they contain-will be consumed each day or several times per week.

The prices of cereals cannot justify a limit either. Fortified cereals are generally more expensive, but that is not necessarily related to sucrose content. WIC allows only fortified cereals so that comparing costs of unfortified cereals is misleading.

The argument over cost also presumes that no sugar is added from the sugar bowl. In fact, breakast cereals are consumed with sugar added one way or the other.

We all recognize that admonitions in an appropriations bill have no binding effect on the Department, but we in the Congress have indicated our dissatisfaction with a prescription for WIC foods that on a national basis are not supported by comprehensive scientific evidence. Therefore, should USDA seek to finally implement its 1980 rules, it would be in disregard of the wishes of Congress.

Nonetheless, since the 1980 regulations are final, they cannot be changed except through the rulemaking process of the Administrative Proty to comment and to consider the scientific evidence.

The process requires that the Department publish proposed regula-tions, allow a period for comment, and then publish new final regulations. The difference in this rulemaking as compared to the last round, is that USDA will be required to clearly utilize standards based on comprehensive scientific evidence concerning the food as a whole and not just with regard to a single component.

During the period in which USDA is formulating new food package regulations. States may follow either the prior regulations-with no limit-or the 1980 regulations—with the 6 gram limit. They have this option and will continue to have it until the pending rule is implemented or a new rule is formulated. A new rule will stipulate whether the cap on sugar content will be removed, raised, or lowered.

By its general phrasing, the lan-guage will assure that any future attempts to limit other commodities will be scientifically justified prior to being implemented. This result is not unfair. It is not a capitulation to pressure from any group. But it does assure Government by reason and not by whim.

### SENATOR LEAHY ON THE NUCLEAR FREEZE

Mr. KENNEDY. Mr. President, the greatest peril facing America and the world today is the threat of nuclear war. The already deteriorating stability of the nuclear balance is being further undermined by a new spiral in the nuclear arms race.

On Veterans Day, at Bucknell University, my good friend and colleague from Vermont, Senator PATRICK J. LEAHY, delivered a thoughtful and eloquent speech which addresses this challenge in a straightforward manner. Senator LEAHY calls for a mutual and verifiable nuclear weapons freeze, as a first step toward major reductions. He highlights the vital role that the grassroots campaign for a freeze has played in turning the United States Government's attention toward arms control:

Further shaken by the lurid pronouncements of the Reagan Administration on nuclear war, people began to talk, to exchange ideas and finally, in the local freeze referendums, to act. The movement snowballed until it has gained not only national, but international attention.

As the massive vote on November 2 for a nuclear freeze demonstrates, in the coming months there is going to be an intense debate in the country over how to halt the nuclear arms race. I am convinced that the surprising strength of the movement has already played a positive role in influencing the President to begin the START talks.

Senator Leany is an original cosponsor of the joint resolution for a nucle-

cedure Act, which gives an opportuni- ar weapons freeze and reductions which Senator HATFIELD and I have introduced during this session of Congress. His address merits the attention of all Americans concerned about the fate of their country and the world. I commend this outstanding speech to my colleagues, and ask that it be printed in full at this point in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY SENATOR PATRICK J. LEAHY

November 11 is a particuarly apt day for Americans to gather for a discussion of nuclear weapons and the future of mankind.

This was once called "Armistice Day" in memory of those who perished in World War I-the war to end all wars. Now, after a second global conflict and some smaller "limited" wars we call it "Veterans Day." But whatever the name, it is a time to think about those who have died in man's endless struggles . . . and to consider whether we, poised on the edge of the nuclear abyss, can find a way to avoid the final catastrophe of human history.

As devastating as it was, the death and de-struction of World Wars One and Two was nothing compared to what the world might experience in a nuclear exchange. I am not going to dwell on the ghastly statistics of nuclear "megadeath." Others are doing a fine job in bringing home to the American people what the effects of a nuclear war would be. Instead, today, I want to talk about what might be done to lessen the chances of a holocaust that will deprive our children and grandchildren of their future.

For far too long, the weapons, strategy and arms control policies of the nuclear age have been the province of political and military leaders, bureaucrats and strategic "experts," while ordinary citizens remained apathetic or overawed by the complexity of the subject.

We simply cannot afford that attitude anymore. In the years after Hiroshima and Nagasaki, many people thought mankind would at least reshape its ideas about war and international relations. Echoing this hope, President Harry Truman once said, "The release of atomic energy constitutes a new force too revolutionary to consider in the framework of old ideas.

But that change of mentality has not happened. Thirty seven years after scientists and soldiers stared awestruck at the first Titanic nuclear blast, we find ourselves instead in the dilemma foreseen by Albert Einstein: "The unleashed power of the atom has changed everything save our modes of thinking, and thus we drift toward unparal-leled catastrophe."

Secretary of Defense Weinberger plans for "protracted" nuclear war in which the United States will prevail (his euphemism for "win") over the Soviet Union-a "win" at a cost of one hundred forty million Americans lives. President Reagan speaks of "limited nuclear exchanges," while his Administration develops "crisis relocation plans" to hold down casualties. The Administration asserts the Soviet Union has a strategic edge in nuclear weapons which has opened a "window of vulnerability." To redress this imbalance, it argues, the United States must introduce a new generation of nuclear weapons to restore a "margin of safety.

Since the late 1940's, we and the Soviet Union have continued to develop, test, produce and deploy more strategic warheads

(now approaching ten thousand for each side) on increasingly accurate missiles and better bombers. The military establishments of both countries continue to reshape strategies and forces away from the deter-rent doctrines of the past. The point is we are captives of weapons technology that is rapidly leading us toward a future in which forces will be on hair trigger alert to wage limited and prolonged war.

Einstein was correct. Our modes of think-

ing have not changed.

Sensing the futility of piling on weapons, American Presidents have struggled consistently since the dawn of the atomic era to gain control of the nuclear competition. Yet, the Limited Test Ban Treaty, the Anti Ballistic Missile Treaty, the SALT I Interim Agreement, and the SALT II Treaty, although important, have not led to a halt or even much of a slowing of the nuclear treadmill. The value of arms control itself has been questioned by many senior officials of the present Administration. In fact, President Reagan has opposed every nuclear arms control agreement ever negotiated by the United States.

What has gone wrong? Can we who believe a nuclear balance exists and that additional deadly weapons will not increase our security do anything to revive hope? I think we can.

Before elaborating on that assertion, let me briefly review the current arms control situation so that we can understand the dimensions of the challenge.

In 1979, the U.S. and the Soviet Union concluded the SALT II Treaty. I strongly supported that agreement, although like many proponents I was disappointed that so little in the way of reductions and limitations had been achieved after seven long years of negotiations. Linking ratification of the Treaty to Soviet actions in Cuba and Afghanistan killed it. That was foolish, because SALT II was in our security interests, and sacrificing it did not moderate Soviet

As you may remember, Ronald Reagan attacked the SALT Treaty as "fatally flawed," but today he has chosen to abide by it informally. His objections were that it apparently gave the Soviet Union too many advantages, especially in land-based missiles with multiple warheads.

He rejects the position of his predecessors that a condition of strategic parity exists. Instead, he claims the Soviet Union has a lead which can be rectified only by a major American buildup, or by a combination of buildup and very substantial reductions in the Soviet ICBM arsenal.

In June of this year, after nearly eighteen months of delay, the Administration finally initiated the START talks with the Soviet Union. Although information is scanty, newspaper reports indicate the positions of the two sides are poles apart. The U.S. has proposed that the sides accept a ceiling of 850 strategic missiles and a reduction to 5,000 ballistic missile warheads, of which no more than 2,500 can be carried on ICBMs. The proposal evidently makes no mention of limits on bombers and cruise missiles in the first phase of negotiations.

The Soviets reportedly are prepared to reduce the SALT II ceiling on missiles and bombers combined from 2,250 to 1,800. But they also want limits on bombers and cruise missiles, and some allowance to compensate

for Chinese nuclear forces.

There is a second set of negotiations as well. These deal with the Intermediate Range Forces deployed in Europe. There,

the United States has proposed to cancel its plans to deploy 464 ground-launched cruise missiles and 108 Pershing II ballistic missiles in Western Europe beginning next year. The condition is that the Soviets totally dismantle their older SS-4s and SS-5s and more modern SS-20s, totaling about 600 or so missiles.

For their part, the Soviets are said to favor a mutual ceiling of 300 missiles on each side, except that the U.S. would have to count its nuclear bombers in Europe and British and French strategic missiles. This would mean no deployment of Pershings and ground-launched cruise missiles. The Soviet argument is that there is a rough INF balance now, and they are prepared to reduce from that base.

I am of course pleased that President Reagan has finally abandoned his belief in linkage and has begun negotiations. It is vitally important that the two superpowers are again talking together about nuclear weapons.

Nevertheless, I am skeptical about prospects for early progress in the START and INF negotiations. Each side seems to be trying to use the negotiations to gain some supposed military advantage. In START, for example, the U.S. proposal would require the Soviet Union to dismantle some 65 percent of its ICBMs and more than 50 percent of its land-based missile warheads. ICBMs constitute more than two-thirds of the entire strategic force of the Soviet Union. There is virtually no chance Moscow will agree to such a reduction, especially since the U.S. could actually increase its present level of ICBM warheads under the 2,500 ceiling. Moreover, the U.S. currently plans to deploy 3,000 Air-Launched Cruise missiles on B-52s and the B-1. The U.S. proposal is clearly tailored not to interfere with the B-1 bomber, cruise missile, M-X and Trident II programs.

The Soviet proposal offers not much more reason for optimism. It would lower the SALT II ceiling modestly in exchange for significant limits on new American ballistic and cruise missiles, which will be technologically superior to anything the Russians have. The Soviet aim clearly is to hold onto their numerical lead in ICBMs while constraining our new programs which will pose a serious threat to Soviet land-based missiles in the 1990s. Interestingly, however, the Soviets have evidently offered an overall limit on the number of deliverable warheads—a warhead freeze, if you will.

Similar criticisms apply to the INF talks. The U.S. "zero deployments" proposal has all the earmarks of a propaganda device to undercut the momentum of the anti-nuclear groups in Europe. I suspect the Administration would be amazed if the Soviets actually accepted. What then would happen to our Pershing and ground-launched cruise missile programs which are nearing deployment? However, the programs are safe, because the Soviet Union is extremely unlikely to dismantle all its new SS-20s, leaving it with no balance to the French and British deterrent forces.

So, the prospect in those talks, also, is prolonged negotiations and stalemate while both sides proceed with deployment plans—that is, if European publics do not force their governments to back out of the NATO modernization program. If that happens as the result of unilateral decisions by the allies and not as the outcome of an arms control agreement, it could be an unprecedented blow to NATO. "Fortress America" tendencies here could be stimulated.

Having painted this grim picture, how do I justify my statement that there is something positive that can be done? It is because of my growing conviction that within the nuclear freeze movement germinates an idea that can recapture the support of the American people for nuclear arms control.

The nuclear freeze effort represents an awakening of ordinary citizens from the passivity and deference of the past on matters of nuclear weapons and arms control. The breakup of the national consensus in support of the SALT process clearly surprised and dismayed a great many people. Further shaken by the lurid pronouncements of the Reagan Administration on nuclear war, people began to talk, to exchange ideas and finally, in the local freeze referendums, to act. The movement snowballed until it has gained not only national, but international attention.

As the massive vote on November 2 for a nuclear freeze demonstrates, in the coming months there is going to be an intense debate in this country over how to halt the nuclear arms race. I am convinced that the surprising strength of the movement has already played a positive role by influencing the President to begin the START talks. Its continued growth represents the best chance of pressuring this Administration to make a genuine effort to conclude a START agreement before the 1984 elections. So, its effect has already been major.

I recognize that President Reagan has set his course against the SALT II Treaty. But, when faced with strong pressures, such as opposition to the grain embargo, he has changed his position. Now is the time for the President to heed the American people. The outpouring of support for a nuclear freeze over the last year in votes ranging from town meetings in Vermont to statewide ballots in Wisconsin and California indicates an intense desire for a halt to the arms race. An important and logical step would be for the President to seek immediate Senate approval of the SALT II Treaty. Ratification of SALT would reassure the American people and our allies, set an interim ceiling on the nuclear competition, and codify restraints and definitions that will be important in shortening the negotiations needed for a mutual, verifiable nuclear freeze.

The most critical question now is whether the freeze idea can be shaped into a negotiating proposal that can be a pragmatic, viable alternative to START. Arms control experts have raised legitimate and difficult questions about aspects of the freeze concept: Is it verifiable? Is it negotiable in any reasonable timeframe? How long would it last? What would come afterwards? Some are striving to analyze these issues and to suggest possible answers.

I believe acceptable solutions can be found to define the scope of a verifiable freeze and to work out how it could set the stage for deep reductions. Much can be drawn from existing arms control agreements. I have seen excellent work, and more articles, seminars and studies are planned.

If you accept that the Soviet Union has some meaningful superiority and that additional nuclear weapons will make the United States safer, I will never persuade you a freeze can make sense. On the other hand, if you think that the mutual overkill capability is so redundant that more does not matter, if you agree that neither side will allow the other to seize any decisive advantage, then I urge you to join in stopping the next escalation of the arms race. Unless

halted, it promises to be the most destabilizing and costly ever. Once taken, it may be impossible to devise verifiable ways to control these new weapons. That is why the breathing space a freeze can give to negotiators is so urgent.

I want to conclude with several observations about a freeze which respond to criticisms I have been hearing:

First, a nuclear freeze is not the trendy new idea some of its detractors seem to believe. The Johnson Administration proposed in 1964 that "The U.S., the Soviet Union and their allies should agree to explore a verified freeze of the number and characteristics of strategic nuclear offensive and de-fensive vehicles." In 1970, the Senate overwhelmingly passed a resolution calling on President Nixon to propose an "immediate suspension by the United States and by the Union of Soviet Socialist Republics of the further deployment of all offensive and defensive nuclear strategic weapons systems, subject to national verification or such other measures of observation and inspec-tion as may be appropriate." What is the ABM Treaty but a freeze on anti-ballistic missiles? The SALT I Interim Agreement was a freeze on the numbers of strategic missile launchers. SALT II froze the numbers of warheads permitted on each type of ICBM, froze the deployment of new types of ICBMs with one exemption on each side, froze the production rate of the BACK-FIRE bomber, froze the production of the SS-16 ICBM or any of its components, froze the construction of SS-18 silos-and this is only a partial listing. The comprehensive test ban negotiation was for a freeze on all nuclear weapons testing.

Second, to commit oneself to a basic arms control objective before having worked out the details of a specific proposal is hardly unusual in the arms negotiation process. In SALT I the U.S. spent six months simply discussing the concept of strategic arms control before serious negotiations even began. The Reagan Administration entered office committed to the idea of deep reductions in Soviet ICBMs and took nearly a year and a half to develop the START proposal. My suggestion therefore is much more radical: Let's use the next year or two to move from the basic idea of freezing the arms race to the shape of a concrete proposal. In that way a realistic alternative will be ready should the START process fail.

Third, I have already made clear my doubts about President Reagan's true feelings on arms control. I do not oppose START, I just do not have any faith in it. I hope I am wrong and that he means to halt and reverse the arms race all in a single step. But, I do not believe he does. So, I reject the argument that my support for a freeze undermines the President. All I have to judge his intentions by is his record—and it speaks for itself.

I challenge all of you to participate in the national debate and contribute your thinking to what can go into a freeze proposal. Political leaders must see a consensus for a freeze so that they will take the idea seriously. Arms control experts and the national security bureaucracy have to grasp that the American public is willing to go far in bilateral elimination of weapons and technology. They must see that it will support an agreement in the face of right wing assaults.

Read arms control literature. The jargon takes some getting used to, but at bottom the main issues are not beyond the comprehension of laymen such as ourselves.

Engage in seminars and study groups on the issues. Support reputable and serious arms control organizations. And above all, keep up the pressure on Washington. Interest in Congress is high because interest in America is high. Do what you can to keep it that way.

Over the coming months, I intend to continue speaking out as I have here today, urging everyone to come forward and engage in this debate. Out of it can emerge the tools this country will need to initiate a genuine disarmament negotiation with the Soviet Union. This is a prerequisite for the survival of our planet.

### RELEASE OF KIM DAE-JUNG

Mr. KENNEDY. Mr. President, I welcome the announcement by the South Korean Government that imprisoned political opposition leader Kim Dae-Jung will be released and that other political prisoners are also being considered for early release. I am heartened that Mr. Kim is being transferred from prison to Seoul National University Hospital for medical treatment, and by indications that he and his family will soon come to the United States.

The imminent release of Kim Dae-Jung, and hopefully other political leaders imprisoned with him in connection with the 1980 Kwangju incident, is a true victory for the cause of freedom and human rights in Korea and in other parts of the world, where a person's crime may be nothing more than the expression of his or her legitimate political beliefs. All of us who have worked so long for this result take heart from this renewed evidence that international public opinion can be effective in saving lives and winning freedom for innocent victims in all parts of the world as long as we persevere together. It is my hope, and the hope of all who care about freedom and democracy in the world, that this action represents only the beginning of decisive movement down the road toward true liberalization in Korea.

Until such liberalization becomes reality, however, we must continue actively to express our concern on behalf of all those who remain imprisoned in Korea on political charges. While we strongly support the security of the Republic of Korea and recognize the close nature of our relationship with that nation, we must continue to offer our constant encouragement to those who pursue freedom in that land. I welcome President Chun's decision, and I hope that he and his government will now follow their own example and release all other political prisoners; permit freedom of expression and participation in the political process; and take such steps as will make sustained progress toward democracy, with the full involvement and support of all the people of South Korea.

### COMPREHENSIVE TEST BAN

Mr. KENNEDY. Mr. President, on July 30 of this year, Senator Mathias and I introduced, together with Congressmen Markey, Bedell, and Leach, a joint resolution to prevent nuclear testing. By calling on the President to resume negotiations for a Comprehensive Test Ban Treaty and to submit the already negotiated Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty, this resolution seeks to cool down the arms race, curtail nuclear proliferation and prevent the senseless increases and upgrading of nuclear warheads which are bringing the world to the brink of nuclear catastrophe.

These treaties on nuclear testing offer the opportunity not only to reduce the dangers of nuclear war, but to strengthen the security of our Nation. We welcome the support of almost one-third of this Senate in the present Congress; we intend to reintroduce this resolution early next year and will do all we can to achieve its adoption by the next Congress.

Unfortunately, the Reagan administration has disregarded the strong bipartisan expression of support for a complete end to nuclear testing. In fact, this administration cast the only opposing vote to a recent resolution against nuclear testing overwhelmingly passed by the United Nations General Assembly.

In two extremely thoughtful articles for the New York Times, Tom Wicker has made an eloquent and compelling case for passage of the joint resolution to prevent nuclear testing and for the urgent resumption of negotiations for a Comprehensive Test Ban Treaty. I commend these lucid articles to the attention of my colleagues and ask that they be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 10, 1982] AFTER MX, WHY NOT CTB?

### (By Tom Wicker)

If only he would recognize it, President Reagan's defeat on production funds for the first five MX missiles gives him an opportunity to stop pursuing a strategic arms race and seek, instead, serious limits on the nuclear arsenals of both superpowers.

Unfortunately, Mr. Reagan reacted angrily and Secretary Weinberger even charged that the House vote was "telling the world we are disarming unilaterally." They made it clear that the President would continue to spend his political capital pushing for a nuclear buildup and the chimera of nuclear superiority.

His ability to keep the MX alive, even to get it built, should not be underestimated, despite the large margin of his defeat. But that margin suggests that Congress, and the public to which it apparently listened, might seize the opportunity to swing the nation to a more promising strategic arms policy.

The first step would be passage of resolutions now before the House and the Senate that call for ratification of the Threshold Test Ban and Peaceful Nuclear Explosions treaties already negotiated with the Soviet Union, and—more important—renewed negotiations with Moscow for a comprehensive test ban treaty (known in arms control jarron as CTB).

Mr. Reagan announced last summer that he would not pursue CTB negotiations. But Congress doesn't have to accept that as the final word—not after the 1982 election returns, the House revolt against the MX and its dubious basing scheme, and the President's demonstrable closed mind on such matters. That he recommended dense pack, for example, despite the opposition of a majority of the Joint Chiefs of Staff and Chairman Townes of his own scientific evaluation group, hardly comments the objectivity of his judgment.

Ironically, the opposition of the Joint Chiefs also was a prime reason—together with the Soviet invasion of Afghanistan—why the Carter Administration pulled back from exceptionally promising CTB negotiations in 1980. When the talks lapsed (they were never formally canceled), Moscow had gone further than before or since in agreeing to significant verification steps:

Seismic monitoring stations on Soviet territory and the international exchange of seismic and other testing data.

The principle of on-site inspections within the Soviet Union to remove any doubts left by technological monitoring.

Moscow had also agreed to suspend its program of peaceful nuclear explosions. A draft CTB treaty actually was drawn up, although some issues remained outstanding. But within the Carter Administration, the Joint Chiefs, the national nuclear weapons laboratories and the Department of Energy, aided by influential members of Congress, put up strong resistance; and the deterioration of Soviet-American relations after Afghanistan temporarily destroyed the opportunity for a treaty.

The Reagan Administration clearly does not want that opportunity revived, since it is committed to a nuclear weapons buildup centered on the MX and designed to overcome what President Reagan keeps insisting (again without the support of the Joint Chiefs of Staff) is Soviet nuclear superiority. The Reagan buildup under which an estimated 17,000 new warheads are to be built, would be impossible if a comprehensive test ban were to be agreed upon.

But Mr. Reagan could not ignore Congressional resolutions to revive the threshold and peaceful explosions treaties, and resume CTB negotiations. The first of those treaties would ban the explosion underground of nuclear weapons in excess of 150 kilotons; the second would outlaw the explosion of any nuclear device of more than 150 kilotons, whether or not for peaceful purposes.

Ratifying these treaties, which are not in themselves vital, would tend to ease Soviet-American tensions, and would be a useful step toward completing the comprehensive test ban, on which such significant agreement already has been reached. On-site inspections, after all, would have represented an unprecedented opening of the Soviet system; and such important Soviet concessions signaled Moscow's willingness to limit strategic confrontation with the United States and nuclear weapons competition. (So had its quick accession to the Limited

Test Ban Treaty after President Kennedy proposed it in 1963.)

A comprehensive test ban, in fact, would put a qualitative cap over the nuclear arms race, since it would effectively prevent either side from developing new weapons or improving old ones. That cap would produce a more stable strategic balance between the superpowers and help clear the way for quantitative limits on nuclear weapons, achieved either through the Start talks in Geneva or a negotiated freeze on production and deployment.

Opposition to CTB nevertheless persists, and not just among those who share Ronald Reagan's belief that the Soviet Union has military superiority, but that he can regain it for the U.S. Details of the argument will be developed in another article.

[From the New York Times, Dec. 12, 1982]

## SMALL RISK FOR BIG GAINS

### (By Tom Wicker)

The United Nations resolved last week, by a vote of 111 to 1 with 35 abstentions, that all nuclear tests should be outlawed. The opposing vote was that of the United States, with Deputy Representative Kenneth L. Adelman repeating the ritual position of the Reagan Administration:

"While a prohibition on all nuclear explosions remains, a long-term United States objective, the United States does not believe that, under present circumstances, a comprehensive nuclear test ban would reduce the threat implicit in the existing stockpile of nuclear weapons."

Translation from Reaganese: the Administration does not want a test ban to interfere with its projected nuclear buildup, which will include thousands of new warheads and is designed to overcome what Mr. Reagan insists against the evidence is Soviet nuclear superiority.

But that "long-term objective" Mr. Adelman so casually dismissed is in fact a 20-year, binding American commitment to achieve a comprehensive nuclear test ban. In the Limited Test Ban Treaty of 1963, both Washington and Moscow pledged themselves "to achieve the discontinuance of all test explosions of nuclear weapons for all time." The Nuclear Non-Proliferation Treaty includes a similar pledge. In the U.N. last week, the Soviet Union voted to honor those commitments; "under present circumstances," the U.S. did not.

It was this country, moreover, that in 1980 backed away from a comprehensive test ban (CTB) treaty with the Soviet Union and Britain, after it had been largely agreed to. That treaty included unprecedented Soviet concessions, including seismic monitors on Soviet territory and the principle of on-site inspections.

But opposition from the Joint Chiefs of Staff and the nuclear weapons establishment was fierce; and the Soviet invasion of Afghanistan then prevented completion of the treaty. Last summer, President Reagan said the U.S. would not resume negotiations for a CTB—hence Mr. Adelman's U.N. vote against a solemn U.S. commitment.

He cited as one reason the supposed problems of verification. But verifying a test ban is much easier than verifying an arms control agreement; seismic techniques are constantly being improved; and any low-yield testing that might go undetected would be of little weapons development value. Moscow's opening of its territory to on-site inspection seems well worth this small risk.

Another objection is the diminution in reliability of existing nuclear weapons that might result from lack of testing; critics fear this could mean a decline in the deterrent power of U.S. forces. But a loss of weapons reliability would equally impair any other nation's confidence in its ability to launch a successful nuclear attack. Besides, in the maintenance of reliability, if not in development, new scientific techniques might partially compensate for the lack of tests.

The deepest fear of CTB opponents is that the U.S. cannot compete with the Soviets in conventional forces, and therefore must rely on nuclear weapons and the threat of nuclear retaliation to maintain American security. But a test ban would reduce Soviet-American tensions and put a cap on the growing size and sophistication of superpower nuclear arsenals, reducing the likelihood of their eventual use. And reliance on nuclear forces is not a useful answer to regional but vital security problems in, say, the Persian Gulf area.

The spread of nuclear weapons to other nations is another profound threat to American security: a CTB treaty would be of overriding importance in stopping such proliferation. Near-nuclear powers like Brazil India, Israel and South Africa have refused to sign the non-proliferation treaty but are committed by their ratification of the Limited Test Ban Treaty to accept a comprehensive test ban. Without CTB, one or more of them is all too likely to move on soon to full membership in the nuclear club.

A different kind of problem would be presented by France and China, if they refused to observe a CTB; the Soviets, in particular, could hardly be expected to discontinue testing if the Chinese did not. Barry Blechman, a former official of the Arms Control and Disarmament Agency, has suggested that this problem could be met by a CTB limited to a specified period during which, if any nations continued to test, treaty signatories could reevaluate their positions.

Besides, as the Center for Defense Information pointed out in its November news letter, no nation agreeing to a test ban could be expected to continue observing it if others refused or violated treaty terms; and determining such violations would be a matter of each nation's judgment.

A CTB treaty—so nearly within reach already—therefore offers only small risks for large potential gains. Mr. Reagan won't pursue them voluntarily, but Congress by joint resolution could put severe pressure on him to do so. That would be a sensible sequel to the House vote against the MX.

### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Time for morning business has expired. Morning business is closed.

### SURFACE TRANSPORTATION ACT OF 1982

The Senate continued with the consideration of the bill (H.R. 6211).

### UP AMENDMENT NO. 1478

The PRESIDING OFFICER. The clerk will state the pending business.

The assistant legislative clerk read as follows:

Unprinted amendment No. 1478 offered by the Senator from Michigan (Mr. Levin).

Mr. BAKER. Mr. President, I am aware that all time for debate has ex-

pired on this amendment, but I am advised that a compromise arrangement has been worked out.

I ask unanimous consent that there may be 5 minutes of further debate so that the compromise may be explained by the Senator from Michigan and the Senator from Kansas.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Senator from Kansas.

### UP AMENDMENT NO. 1482

(Purpose: To provide for additional weeks of Federal supplemental compensation)

Mr. DOLE. Mr. President, I send an amendment to the desk in the nature of a substitute for myself, the distinguished Senator from Michigan (Mr. Levin), the distinguished Senator from Pennsylvania (Mr. Specter), and the distinguished Senator from New Mexico (Mr. Domenici).

The PRESIDING OFFICER. The 5 minutes will have to be used or yielded back before an amendment would be in order.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order at this time to offer an amendment, notwithstanding that rule.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole), for himself and others, proposes an unprinted amendment numbered 1482.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following:

# ADDITIONAL WEEKS OF FEDERAL SUPPLEMENTAL COMPENSATION

SEc. . (a) Section 672(e) of the Tax Equity and Fiscal Responsibility Act of 1982 is amended—

(1) in paragraph (2)(A)(i), by striking out "50" and inserting in lieu thereof "60";

(2) in paragraph (2)(A)(ii), by striking out "6" and inserting in lieu thereof "8"; and

(3) by striking out subparagraphs (B) and (C) of paragraph (2), and inserting in lieu thereof the following:

"(B) In the case of any State, subparagraph (A) shall be applied—

"(i) with respect to weeks during a higher unemployment period, by substituting '15' for '8' in clause (ii) thereof; and

"(ii) with respect to weeks during a high unemployment period, by substituting '13' for '8' in clause (ii) thereof.

"(C) For purposes of Subparagraph (P), the term 'higher unemployment period' means, with respect to any State, the period"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 4.0 per-

cent;

except that no higher unemployment period shall last for a period of less than 4 weeks. "(D) For purposes of subparagraph (B),

the term 'high unemployment period' means, with respect to any State, the

period-

"(i) which begins with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks equals or exceeds 3.5 percent, but is less than 4.0 percent, and

"(ii) which ends with the third week after the first week in which the rate of insured unemployment in the State for the period consisting of such week and the immediately preceding 12 weeks is less than 3.5 percent; or equals or exceeds 6.0 percent;

except that no high unemployment period shall last for a period of less than 4 weeks unless such State enters a period of higher

unemployment.

"(E) Notwithstanding the provisions of subparagraph (D), any State in which an extended benefit period was in effect under the Federal-State Extended Unemployment Compensation Act of 1970 for any week which began on or after June 1, 1982, and before the week for which the compensation is paid, shall be deemed for any week thereafter, for purposes of subparagraph (E), to be in a period of high unemployment, unless such State is actually in a period of higher unemployment and, if such extended benefit period began prior to the week in which this subparagraph is enacted, clause (ii) of subparagraph (B) shall be applied by substituting '14' for '8'.
"(F) In the case of any State which would.

"(F) In the case of any State which would, for a week, be in a period of high unemployment as that term was defined for purposes of this section as in effect on December 15, 1982, but is not in a period of high unemployment or higher unemployment as those terms are defined in subparagraphs (C) and (D), (and as not a State described in subparagraph (E)) subparagraph (A) shall be applied with respect to those weeks by substituting '10' for '8' in clause (ii) thereof.

"(G) For purposes of this subsection, the rate of insured unemployment for any period shall be determined in the same manner as determined for purposes of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

"(H) The amount of Federal supplemental compensation payable to an eligible individual shall not exceed the amount in such individual's account established under this

subsection."

(b) The amendments made by subsection
(a) shall apply to Federal supplemental compensation payable for weeks beginning on or after the date of the enactment of this Act. In the case of any eligible individual to whom any Federal supplemental compensation was payable for any week beginning prior to such date of enactment and who exhausted his rights to such compensation (by reason of the payment of all the amount in his Federal supplemental com-

pensation account) prior to the first week beginning on or after such date of enactment, such individual's eligibility for additional weeks of compensation by reason of the amendments made by this section shall not be limited or terminated by reason of any event, or failure to meet any requirement of law relating to eligibility for unemployment compensation, occurring after the date of such exhaustion of rights and prior to the date of the enactment of this Act (and such weeks shall not be counted for purposes of determining the expiration of the two years following the end of his benefit year for purposes of section 602(b) of the Tax Equity and Fiscal Responsibility Act of 1982) eligible for any such additional weeks of compensation if he is engaged in employment for any week after such exhaustion of rights which would have disqualified him for Federal supplemental compensation for such week.

(c) The Secretary of Labor shall, at the earliest practicable date after the date of the enactment of this Act, propose to each State with which he has in effect an agreement under section 602 of the Tax Equity and Fiscal Responsibility Act of 1982 a modification of such agreement designed to provide for the payment of Federal supplemental compensation under such Act in accordance with the amendments made by this Act. Notwithstanding any other provision of law, if any State fails or refuses, within the three-week period beginning on the date the Secretary of Labor proposes such a modification to such State, to enter into such a modification of such agreement, the Secretary of Labor shall terminate such agreement effective with the end of the last week which ends on or before such threeweek period.

Mr. DOLE. Mr. President, as I understand, there will be a number of additional Members, including Senator METZENBAUM, who would like to be cosponsors. I would suggest that I may submit a list to the desk at the appropriate time with cosponsors from both sides of the aisle.

The cosponsors of Up Amendment No. 1482 are:

Senators Dole, Levin, Specter, Domenici, Byrd, R., Packwood, Dixon, Durenberger, Riegle, Heinz, Kennedy, Danforth, Moynihan, Chafee, Cannon, Percy, Proxmire, Thurmond, Bradley, Boschwitz, Biden, Grassley, Heflin, Jepsen, Bentsen, Sasser, Sarbanes, Quayle, Lugar, and D'Amato.

Mr. President, let me explain what this amendment does.

The substitue I am offering with my colleague, the Senator from New Mexico, (Mr. Domenici) will provide additional weeks of Federal Supplemental Compensation (FSC) benefits in every State. The substitute differs from the Levin amendment in several important ways.

First, the substitute provides 6 additional weeks of FSC to jobless workers in the States hardest hit by unemployment: States with insured unemployment rates at 6 percent or above. The Department of Labor actuaries estimate that some 28 States will fall into this category. Actually, 29 States . I think Maryland will dip into that category.

Second, for States with insured unemployment rates of 4.5 percent to 6 percent, or those that have been on the Federal/State extended benefit program at any time on or after June 1, 1982: Four additional weeks of FSC. There are approximately 11 States in this category.

Third, all other States (11) will have available 2 additional weeks of FSC.

Finally, the Dole/Domenici amendment has a cost of between \$540 million to \$600 million as opposed to the \$980 million cost associated with the Levin amendment. This is an add-on cost to the original \$2.2 billion price tag for the FSC program. The program will still expire on March 31, 1983.

The Dole/Domenici substitute is superior to the Levin amendment in that it more efficiently targets the extra weeks of benefits to those individuals in the States hardest hit by unemployment. The tiered effect of the original plan is retained and enhanced by the substitute. In fact, the State of Michigan will get 1 more week under our proposal than under the previous proposal. I think that has been agreed to by those who have offered the original proposal.

The substitute also provides these additional benefits to jobless workers who have—or will have—exhausted the current FSC duration. Potentially, jobless workers in many States could receive 16 weeks of FSC benefits. The benefits for other jobless workers will range from 14 to 8 weeks as opposed to the current 8 to 6 weeks.

I urge my colleagues to support the substitute.

Mr. President, I will also include in the Record at this point a list of the 28 States that will get 6 additional weeks, 13 States which will get 4 additional weeks, and the 12 States which will receive 2 additional weeks. We are including the Virgin Islands, Puerto Rico, and the District of Columbia. That adds up to 53 rather than 50.

I ask unanimous consent that that list be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

### ADDITIONAL WEEKS

### 6 WEEKS (28)

Alabama, Alaska, Arkansas, California, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Michigan, Mississippi, Montana, Nevada, New Jersey, North Carolina, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Utah, Vermont, Washington, West Virginia, and Wisconsin.

### 4 WEEKS (13)

Delaware, Georgia, Hawaii, Kansas, Louisiana, Maryland, Massachusetts, Minneso-

<sup>&</sup>lt;sup>1</sup> Maryland is likely to trigger into the 6-week list by Jan. 1, 1983.

ta, Missouri, New Mexico, New York, North Dakota, and Virgin Islands.

2 WEEKS (12)

Arizona, Colorado, Connecticut, District of Columbia, Florida, Nebraska, New Hampshire, Oklahoma, South Dakota, Texas, Virginia, and Wyoming.

Mr. DOLE. Mr. President, I am happy to yield to the Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator for yielding. I ask unanimous consent that the cosponsors of the Levin-Specter amendment be added as cosponsors to this amendment. I also ask unanimous consent that the senior Senator from West Virginia (Mr. Randolph) be added to that list of cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. LEVIN. I am happy to yield.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. STAFFORD). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, this amendment does what the earlier amendment did. It adds from 2 to 6 weeks of additional Federal supplemental benefits to the existing unemployment compensation. The number of States benefited in each of the categories has already been put into the RECORD by my friend from Kansas. I want to thank him and the Senator from New Mexico (Mr. Domenici) for their cooperation in this matter. I also thank my friend from Pennsylvania (Mr. Specter) who cosponsored this amendment. Without his help, it could not have been achieved.

Mr. DOMENICI addressed the

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I was pleased to work with the distinguished Senator from Kansas and the other concerned Senators in helping to arrive at a solution. I think it is a good compromise. It helps solve the problem in a very responsible manner from the standpoint of fiscal policy. Instead of costing about \$980 million, this amendment will probably cost about \$540 million.

When you look at the end product, it directs the attention where it is needed most.

My own home State is not a State in the highest tier, we are in the middle tier of this amendment. Thousands of unemployed workers will receive 4 more weeks of unemployment compensation instead of going off the rolls between now and March because of this action.

There are other States, such as Michigan, which will get 6 additional weeks of federally funded benefits.

The reason is because of the very, very high unemployment in the State of Michigan.

Mr. President, I am pleased to be an original cosponsor. I think this is the right thing to do. While we are busy trying to produce a highway bill that would cause some significant increase in jobs, while our major effort in fiscal matters is to stimulate the economy, there can be no question that this approach, until we have something better, is a must. I hope we will pass this amendment. It will contribute greatly to the expeditious passing of the highway bill, which will also produce significant new jobs.

As the Senators here know well, the unemployment rate is now 10.8 percent and about 12 million Americans are unemployed. Many thousands of workers are exhausting their unemployment benefits. The amendment before us addresses this acute problem.

When Congress enacted supplemental employment benefits, it was expected that new employment opportunities would emerge during the program's 6-month duration. This has not yet happened; in fact, unemployment has increased

In many States, the insured unemployment rate is so low—despite high total unemployment—that the State has triggered off the 13-week extended benefit program. This includes my own State of New Mexico. The Labor Department expects many States to trigger back on during the first months of the new year, but that help may be too late for many of our citizens.

There is plenty of time in the next Congress to debate whether or not this program should run beyond March 31, 1983. But it would be particularly heartless during this holiday season to let large numbers of workers exhaust their third and last set of unemployment benefits without Congress acting.

The Dole/Domenici substitute targets additional unemployment benefits to all States, but it gives the most weeks to those States which are hit hardest by unemployment.

Those States with the highest levels of unemployment will receive 6 weeks of supplemental benefits in addition to all of their current benefits. States with middle levels of unemployment will receive 4 additional weeks, and the balance of the States will receive 2 additional weeks.

The benefits provided by this amendment are all in addition to the current three tiers of benefits.

In my own State of New Mexico, 5,000 unemployment recipients will receive 4 more weeks of benefits, instead of going off the benefit rolls between now and March 31, 1983.

This amendment provides the assistance our many unemployed citizens

need, it targets the extra benefits where unemployment is highest, and it does all of this in a fiscally responsible manner.

The PRESIDING OFFICER. All time has expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be recognized for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Kansas, the distinguished Senator from Michigan, and other Senators for their work in reaching this compromise. I think it is a good compromise. I support it. I think it is a compromise that this Senate ought to accept.

Mr. BAKER. Mr. President, will the Senator yield me 5 seconds?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, I wish to join in extending my congratulations to the Senator from Kansas and the Senator from Michigan, I support this compromise.

Mr. HUMPHREY. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. Mr. President, it is clear that the pending amendment will result in greater expenditures. Inasmuch as no budget waiver has been produced, I make the point of order that the amendment is out of order and in violation of section 311 of the Budget Act.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HUMPHREY. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk resumed the call of the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Specter). Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield to the distinguished chairman of the Committee on the Budget.

MOTION TO WAIVE SECTION 311

Mr. DOMENICI. Mr. President, I move, in accordance with section 1804 of the Budget Act, to waive section 311 with respect to the pending amendment of the Senator from Kansas.

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The question is on the motion. The clerk will call the roll to ascertain the presence of a quorum.

The bill clerk proceeded to call the

roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it

is so ordered.

The question is on the motion to waive.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. Debate is not in order at this point.

Mr. HARRY F. BYRD, JR. Mr. President.

Mr. HUMPHREY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HUMPHREY. What is the parliamentary situation?

The PRESIDING OFFICER. A motion to waive the Budget Act is pending and all time has expired.

Mr. BAKER. Mr. President, I ask unanimous consent that there be 5 minutes of debate on this motion.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Reserving the right to object, Mr. President—

Mr. BAKER. I was doing it for you. Mr. HUMPHREY. Mr. President, is not the matter debatable without limit?

Mr. ROBERT C. BYRD. Will the majority leader include in his motion that the time is to be divided?

that the time is to be divided?
Mr. BAKER. Mr. President, I ask
unanimous consent that the control of
time be in the usual form and I assign
control of the time to the Senator
from Kansas.

Mr. HUMPHREY. Reserving the right to object, Mr. President, if the majority leader will yield, will the Chair restate the parliamentary situation?

The PRESIDING OFFICER. When a motion is made which is subsidiary to a nondebatable motion, the motion is not debatable. All time had expired on the underlying Levin-Specter amendment, so no time remained. Now we have a unanimous-consent request for 5 minutes' debate equally divided. That is the pending status.

Is there objection?

Mr. HART. Mr. President, reserving the right to object, would it be in order to make a parliamentary inquiry?

The PRESIDING OFFICER. A parliamentary inquiry is in order.

Mr. HART. Was there not a point of order made by the Senator from New Hampshire upon which the Chair had not ruled?

The PRESIDING OFFICER. There is a point of order pending, but there was a motion to suspend for the budget waiver.

Mr. HART. Would it not be in order for the Chair to rule on the point of order?

The PRESIDING OFFICER. The Chair cannot rule until the motion to waive has been acted upon.

Mr. HART. I thank the Chair.

Mr. BAKER. Now, Mr. President, I shall restate my request, that there be 5 minutes equally divided, with control in the usual form.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I designate the Seantor from Kansas (Mr. Dole) to control the time on this side.

Mr. DOLE. Mr. President, I recognize the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. HUMPHREY. Mr. President, I wonder if the floor managers will explain the grounds on which the Budget Act waiver can be sought? Can we explain to constituents why we are proposing to breach the budget resolution?

Mr. BAKER. Mr. President, will the Senator use his microphone so we may hear his question?

Mr. HUMPHREY. I apologize, Mr. President. Will the floor manager explain to us the grounds for seeking the waiver of the Budget Act and on what

grounds we are proposing to breach the budget?

Mr. DOLE. Mr. President, if I may yield to the distinguished Senator from New Mexico, my grounds were getting on with the bill. His grounds will be technical.

Mr. DOMENICI. Mr. President, my reasons are more than technical, I say to my good friend from New Hamp-shire. The way the Budget Act is drawn, this has been seldom used, but clearly, it was intended for emergency situations. I cannot imagine more of an emergency from the standpoint of unemployment compensation running out and our not yet having in place any jobs bill, our not yet having in place any other fiscal policy, waiting for the next few months to develop it while those kinds of benefits will run out. The Senate does not have to agree with the Senator from New Mexico, who has moved that it be waived. It seems to me to be the clear prerogative of any Member of the Senate that in situations like this, they seek it. That is what I have done.

Mr. HUMPHREY. I thank the distinguished chairman of the Budget Committee.

Mr. President, it is true that there is an economic emergency in this country, but I suggest to my colleagues that we are not going to make it any better by worsening the deficit and increasing the Federal presence in the money market, thus increasing pressure upward on rates.

There has been a lot of pious talk in these last few weeks about unemployment and what we should do about it. If we are really sincere and want to do something about it, let us cut spending and stop spending money we do not have. If this budget waiver is approved and we go further into deficit, that is not going to help the unemployment situation, it is going to make it worse. Any elemental understanding of economics will bear that out, I believe.

I urge my colleagues, if they are sincere about unemployment and sincere about hastening economic recovery, to vote against this budget waiver, to vote against worsening the deficit, and vote against a heavier presence of the Federal Government in the credit markets, against sustaining high interest rates or driving them up once again. We have ample opportunity and justification for cutting spending in many places, but none, in the opinion of this Senator, for worsening the deficit.

The PRESIDING OFFICER. Will the Senator suspend? The 2½ minutes allotted to the Senator from Kansas has expired. The minority leader now has 2½ minutes.

Mr. ROBERT C. BYRD. Mr. President, I yield the control on my side to Senator Long.

Mr. LONG. Mr. President, I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I wanted to make a parliamentary inquiry. It may not be necessary for me to have the time.

The PRESIDING OFFICER. The Senator from Virginia is recognized for a parliamentary inquiry.

Mr. HARRY F. BYRD, JR. May I say to the Chair, on December 7, in the Congressional Record, page S. 13988, the chairman of the Committee on Appropriations (Mr. HATFIELD) in a speech in the Senate said this:

Were I so disposed, I, or any other Member of the Senate, could make a point of order against the consideration of this bill or any other measure or amendment which provided any increased spending for fiscal year 1983. This is the so-called non-waivable point of order under section 311 of the Congressional Budget Act of 1974 which is intended to prevent any additional spending if the binding limits on budget authority or outlays of the second budget resolution have been breached.

Then he goes on to say that the Senate accepted a provision by the House which automatically converted the first budget resolution into the binding second resolution on October 1.

My parliamentary inquiry is, is the Senator from Oregon correct in his assertion that the point of order is non-waivable?

The PRESIDING OFFICER. If a point of order is raised by section III of the Budget Act, which is part of title III, section 904(b) provides that the provisions of titles III and IV may be waived or suspended by a majority vote of the Senate.

Mr. HARRY F. BYRD, JR. The Senator from Virginia cannot hear or understand the ruling of the Chair.

The PRESIDING OFFICER. The ruling of the Chair referring to the text is that it may be waived by a majority vote of the Senate.

Mr. HARRY F. BYRD, JR. Even though it is a second budget resolution?

The PRESIDING OFFICER. Yes, It may be waived under section 904(b) as it appears on page 434 and 435 of the Senate Procedure Manual.

Mr. HARRY F. BYRD, JR. Then the assertion made on December 7 by the chairman of the Appropriations Committee, I ask the Chair, is an incorrect assertion when he says that it is a nonwaivable point of order under section 311 because it is a part of a second budget resolution?

The PRESIDING OFFICER. To the extent that the comments made by the Senator from Oregon differ from what the Chair just ruled under the language cited, then the Senator from Oregon is incorrect. The Chair is reluctant to make any blanket categorization of what the Senator from Oregon said, but as to the pending provision it is waivable under the language just cited.

Mr. HARRY F. BYRD, JR. Parliamentary inquiry. Then is the Senator from Virginia to understand that under the Budget Act any point of order is waivable at any point?

The PRESIDING OFFICER. Any point of order raised under items 3 and 4 would be waivable by majority vote of the Senate under section 904 (a) and (b).

Mr. HARRY F. BYRD, JR. Is the motion to waive debatable?

The PRESIDING OFFICER. Normally, the motion to waive is debatable, but not to a subsidiary motion, to a motion to an amendment on which the time has expired, so there is no time for debate.

Mr. HARRY F. BYRD, JR. Parliamentary inquiry. The Senate then finds itself in a position where there is \$500 million involved and no time to debate?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. Another parliamentary inquiry. Had the Senate not agreed to a time limitation on another matter, then this \$500 million amendment would be debatable; is that correct?

The PRESIDING OFFICER. The Senator is correct. Had there been no

time limitation on the Levin-Specter amendment, there would now be no time limitation on debate on the budget waiver issue.

Mr. HARRY F. BYRD, JR. I want to assert then for the future that I will have to object to time limitations if the Senate is going to take up matters dealing with \$500 million of tax funds without a moment of debate on it. I think it is an outrageous way to proceed.

Mr. HUMPHREY. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. All time for debate has expired.

Mr. HUMPHREY. Mr. President, I appeal the ruling of the Chair.

Mr. BAKER. Mr. President, I move to table the appeal and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Is an appeal in order? A motion is before the Senate?

The PRESIDING OFFICER. The Chair has made no ruling at the moment.

Mr. ROBERT C. BYRD, I ask for regular order.

The PRESIDING OFFICER. And there is a motion pending for a waiver.

Mr. ROBERT C. BYRD. I ask for regular order.

Mr. HUMPHREY. Mr. President, I move to table the motion and ask for the year and nave.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona Mr. Goldwater, and the Senator from Pennsylvania Mr. Heinz are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio Mr. GLENN is necessarily absent.

The PRESIDING OFFICER (Mr. DURENBERGER). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 5, nays 92, as follows:

### [Rollcall Vote No. 418 Leg.]

### YEAS-5

Nickles

East

Harry F., Jr. Helms

	NAYS-92	
Abdnor	Chafee	Exon
Andrews	Chiles	Ford
Armstrong	Cochran	Garn
Baker	Cohen	Gorton
Baucus	Cranston	Grassley
Bentsen	D'Amato	Hart
Biden	Danforth	Hatch
Boren	DeConcini	Hatfield
Boschwitz	Denton	Hawkins
Bradley	Dixon	Hayakawa
Brady	Dodd	Heflin
Bumpers	Dole	Hollings
Burdick	Domenici	Huddleston
Byrd, Robert C.	Durenberger	Humphrey
Cannon	Eagleton	Inouye

Metzenbaum	Sarbanes
Mitchell	Sasser
Moynihan	Schmitt
Murkowski	Simpson
Nunn	Specter
Packwood	Stafford
Pell	Stennis
Percy	Stevens
Pressler	Symms
Proxmire	Thurmond
Pryor	Tower
Quayle	Tsongas
Randolph	Wallop
Riegle	Warner
Roth	Weicker
Rudman	
	Mitchell Moynihan Murkowski Nunn Packwood Pell Percy Pressler Proxmire Pryor Quayle Randolph Riegle Roth

#### NOT VOTING-3

Heinz Goldwater Heinz

So the motion to table the motion to waive was rejected.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BOSCHWITZ. I move to lay that motion on the table.

Mr. HUMPHREY. Mr. President, I ask for the yeas on the tabling motion.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

#### CALL OF THE ROLL

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. HUMPHREY. Objection.

The PRESIDING OFFICER. Objection is heard. The clerk will resume the call of the roll.

The legislative clerk resumed and concluded the call of the roll, and the following Senators entered the Chamber and answered to their names:

### [Quorum No. 52 Leg.]

r of	dor min avo. on	
Abdnor	Exon	Mitchell
Andrews	Ford	Moynihan
Armstrong	Garn	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Helms	Quayle
Burdick	Hollings	Randolph
Byrd,	Huddleston	Riegle
Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Rudman
Cannon	Jackson	Sarbanes
Chafee	Jepsen	Sasser
Chiles	Johnston	Schmitt
Cochran	Kassebaum	Simpson
Cohen	Kasten	Specter
Cranston	Kennedy	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Denton	Long	Thurmond
Dixon	Lugar	Tower
Dodd	Mathias	Tsongas
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
Eagleton	Melcher	Zorinsky
East.	Metzenbaum	

The PRESIDING OFFICER. A quorum is present.

The question is on the motion to table the motion to reconsider.

Mr. HUMPHREY. Mr. President, a point of order. The yeas and nays have been ordered.

The PRESIDING OFFICER. The

yeas and nays were denied.

Mr. HUMPHREY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on the motion to table the motion to reconsider.

Mr. HUMPHREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

#### CALL OF THE ROLL

Mr. HUMPHREY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. LONG. A point of order, Mr. President. No business has transpired since the last quorum.

The PRESIDING OFFICER. The denial of the yeas and nays is business for the purpose of calling a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

### [Quorum No. 53 Leg.]

Abdnor	Exon	Mitchell
Andrews	Ford	Moynihan
Armstrong	Garn	Murkowski
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Helms	Quayle
Burdick	Hollings	Randolph
Byrd,	Huddleston	Riegle
Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Rudman
Cannon	Jackson	Sarbanes
Chafee	Jepsen	Sasser
Chiles	Johnston	Schmitt
Cochran	Kassebaum	Simpson
Cohen	Kasten	Specter
Cranston	Kennedy	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Denton	Long	Thurmond
Dixon	Lugar	Tower
Dodd	Mathias	Tsongas
Dole	Matsunaga	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Weicker
Eagleton	Melcher	Zorinsky
East	Metzenbaum	

The PRESIDING OFFICER. A quorum is present. The question is on agreeing to the motion to table.

Mr. BAKER. Mr. President—
The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I withdraw the request for recognition.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

The motion was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is on agreeing to the motion to waive section 311 of the Budget Act.

Mr. BAKER. Have the yeas and nays been ordered on the motion?

The PRESIDING OFFICER. They have not.

Mr. BAKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that there be 3 minutes of debate on this motion at this time. I designate the Senator from Kansas to handle the time on this side.

Mr. DOLE. Mr. President, I yield my minute and a half to the Senator from

New Hampshire.

Mr. HUMPHREY. Mr. President, I wanted to point out that the continuing resolution is on the calendar and can be taken up at any time, assuming unanimous consent can be obtained. I want to make sure that my colleagues know that I am not holding up that business or any other important business. I hope the leadership will move to the continuing resolution. We have consumed a great amount of time already and the continuing resolution will certainly consume time.

Mr. President, I yield back the re-

mainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, a very agreeable resolution has been reached on the amendment. I would hope when we vote on that amendment, the Senate will approve it. Now I hope we can get on about our business. Senators have the right to vote for the amendment or against the amendment. I think we ought to go ahead with our business and get the continuing resolution up and get out of here. I want to make clear that the Members on my side are ready to vote, We may have a few amendments, but we are ready to vote.

Mr. President, we are ready to vote on this amendment, ready to enter into some kind of an agreement that will see final action on this bill as far as we are concerned, and get on with the continuing resolution, which will expire tomorrow night at midnight.

May I say to the majority leader I am going to have a little meeting in a few minutes to get the consensus on

this side of the aisle.

Mr. BAKER. Mr. President, I will wait with bated breath.

Mr. President, if the Senator will yield, I genuinely thank the minority leader for that information. I share with him the desire that we get on with the business at hand.

Let me say what I hope the situation will be. I hope we can finish the highway bill today. There should be no misunderstanding. If we do not, we will do it tomorrow. If we do not do it then, we will continue with it, as far as I am concerned.

It is important that we do the continuing resolution. As much as I admire and respect the Senator from New Hampshire—and he knows I value his advice—I am not going to take that advice. Mr. President, we are not going to take this measure down to go to the CR. We are going to finish this bill if it is humanly possible to do so, and I think we can do that this afternoon or this evening.

Members should be on notice that when we finish this bill we will go to the CR.

I expect now that we will be in session all night trying to deal with the continuing resolution so that Senators can go to conference tomorrow, on Friday, on both the highway bill and the continuing resolution. I hope that we can get out on Friday night or during the day on Saturday.

Mr. ROBERT C. BYRD. Mr. President, if I have a couple of seconds left, I want to make it preeminently clear that there is no disposition on this

side to filibuster this bill.

Mr. RANDOLPH. Mr. President, who has the floor? Senator Dole? Will the able Senator yield?

Mr. DOLE. I will be glad to yield if I have any time.

Mr. RANDOLPH. Mr. President, I am grateful to the Senator.

Mr. President, I hope every Member of the Senate is grateful for the conduct in this rather turbulent time, in this Chamber, exhibited by the everpatient majority leader. We can vote for or against the highway tax bill. I thank the majority leader for what he has been doing. I also thank the able minority leader for what he has been doing. They are asking Members to vote for or against a highly important highway bill. And Senators Dole and Long are advocating that action. I plead with our diligent colleague from New Hampshire to permit all Senators to vote either for or against the measure. Is there any valid reason why my colleague will not allow that to occur?

Mr. HUMPHREY. Mr. President, if the Senator will yield, is he suggesting that he has never used the rules to delay debate?

Mr. RANDOLPH. No, I never have have always voted for cloture. I was one of the five Members who voted for cloture earlier today. I have never believed in filibustering. In my 24 years in this body I have never used that ap-

proach. The Senator is addressing a colleague who disagrees with the use of filibuster. I believe in debating an issue and then voting up or down. Such a procedure is what the membership wants to do at this time.

I cannot tell the Senator how I feel about the tactics being advanced at the moment. I do not feel unkindly toward anyone, especially in this

Christmas season.

The PRESIDING OFFICER. Time has expired.

Mr. DOLE. Mr. President, I ask unanimous consent that I may proceed for 30 seconds.

The PRESIDING OFFICER. With-

out objection, it is so ordered. Mr. DOLE. Mr. President, I thank

the Senator from West Virginia for his kind words.

Mr. President, we have been advised by legislative counsel that there are purely technical changes in amendment which should be made. I ask unanimous consent that those technical changes may be made in the amendment.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

The question is on agreeing to the motion to waive section 311 of the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll. Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), the Senator from Pennsylvania (Mr. Heinz), and the Senator from Maryland (Mr. Mathias) are necessary absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessary absent.

The PRESIDING OFFICER. there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 87, nays 9, as follows:

### [Rollcall Vote No. 419 Leg.]

### YEAS-87

	12120 01	
Abdnor	Exon	Mitchell
Andrews	Ford	Moynihan
Baker	Garn	Murkowski
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Brady	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Roth
Chafee	Jackson	Rudman
Chiles	Jepsen	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kassebaum	Schmitt
Cranston	Kasten	Simpson
D'Amato	Kennedy	Specter
Danforth	Laxalt	Stafford
DeConcini	Leahy	Stennis
Denton	Levin	Stevens
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Matsunaga	Tsongas
Domenici	Mattingly	Wallop
Durenberger	Melcher	Warner
Eagleton	Metzenbaum	Weicker

### NAYS-9

Armstrong Helms Symms Byrd Humphrey Zorinsky Harry F., Jr. McClure Nickles

### NOT VOTING-

Heinz Glenn Mathias Goldwater

So the motion to waive section 311 of the Budget Act was agreed to.

### UP AMENDMENT NO. 1482

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the Dole amendment.

Mr. DOLE. The yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

Mr. CRANSTON: I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced-yeas 93. nays 4, as follows:

### [Rollcall Vote No. 420 Leg.]

Mitchell

### YEAS-93

Abdnor

Abuitoi	roid	MITOCITCII
Andrews	Garn	Moynihan
Baker	Gorton	Murkowski
Baucus	Grassley	Nunn
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Heinz	Quayle
Burdick	Helms	Randolph
Byrd, Robert C.	Hollings	Riegle
Cannon	Huddleston	Roth
Chafee	Inouye	Rudman
Chiles	Jackson	Sarbanes
Cochran	Jepsen	Sasser
Cohen	Johnston	Schmitt
Cranston	Kassebaum	Simpson
D'Amato	Kasten	Specter
Danforth	Kennedy	Stafford
DeConcini	Laxalt	Stennis
Denton	Leahy	Stevens
Dixon	Levin	Symms
Dodd	Long	Thurmond
Dole	Lugar	Tower
Domenici	Matsunaga	Tsongas
Durenberger	Mattingly	Wallop
Eagleton	McClure	Warner
East	Melcher	Weicker
Exon	Metzenbaum	Zorinsky

### NAYS-4

Humphrey Armstrong Byrd. Nickles Harry F., Jr.

### NOT VOTING-3

Goldwater Mathias

So Mr. Dole's amendment (UP No. 1482), as modified, was agreed to.

UP AMENDMENT NO. 1478 AS AMENDED

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. What is the pending business, Mr. President?

The PRESIDING OFFICER. The question is on the Levin amendment, as amended.

Mr. LEVIN. Mr. President, I understand the vote is now on the Levin-Specter amendment, as amended.

America's unemployed are increasingly desperate. This amendment will help a bit. Until jobs are available this is the least we can do.

Conscience requires this extension and the adoption of the Levin-Specter. et al. amendment, as amended by the Dole-Levin amendment.

Every State will now receive from 2 to 6 weeks of additional supplemental benefits.

We need a jobs bill. But until we have the jobs, this is the only decent thing we can do.

My thanks to Senator Specter, Senator ROBERT C. BYRD, Senator Dole, Senator Dixon, Senator Long, Senator DOMENICI, Senator METZENBAUM, and all our bipartisan group of cosponsors, and to Chuck Cutolo of my staff for his extraordinary effort.

Mr. DOLE. Mr. President, I yield briefly to the Senator from Pennsylvania (Mr. SPECTER).

Mr. SPECTER. Mr. President, thank the Senator from Kansas for yielding. I compliment the distinguished Senator from Michigan (Mr. LEVIN) for his leadership on this very important extension of unemployment compensation benefits and for including me as a prime cosponsor under the Levin-Specter amendment.

I compliment the distinguished Senator from Kansas (Mr. Dole) and the distinguished Senator from New Mexico (Mr. Domenici) for their leadership in working out-

The PRESIDING OFFICER. Debate is not in order.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator may proceed for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. I compliment Senator Dole and Senator Domenici on their leadership in working out this compromise which gives to a State like Pennsylvania and a State like Michigan 6 additional weeks of unemployment compensation. With the tremendous problem that exists in this country, and especially as reflected in the States with high unemployment which have the maximum benefit, this is a very good bill to be passed. I commend all those who had a part in it.

Mr. HEINZ. Mr. President, will the Senator from Kansas yield for 60 seconds.

Mr. JOHNSTON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The

Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I just want to commend the Senators on the amendment, Senator Levin, Senator Dole, and Senator Domenici, for having worked out the differences that will allow this amendment to become law.

The PRESIDING OFFICER. Debate

is not in order.

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania might proceed for 15 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it

is so ordered.

Mr. HEINZ. Mr. President, I simply wanted to say that we debated this at length and, frankly, the consideration at length resulted in this continuation. This strikes me, frankly, as the least we can do.

The PRESIDING OFFICER. The question is on agreeing to the Levin-Specter amendment.

The amendment (UP No. 1478 as

amended) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was

agreed to. The PRESIDING OFFICER. The

next act of business is the Boschwitz amendment.

Mr. DOLE. Mr. President, before we proceed to the vote on the Boschwitz amendment, I ask unanimous consent that the distinguished Senator from Alabama and the distinguished Senator from New Hampshire be recognized so they may proceed for 2 minutes on an amendment we have agreed

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. ROBERT C. BYRD. Mr. President, am I correct in saying that there is no time remaining for debate on the Boschwitz amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. So, immediately upon the disposition of the amendment by Mr. HEFLIN, the Senate will vote by rollcall on the Boschwitz amendment?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the Heflin amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, in the unanimous-consent request for the Senator from Oklahoma, is it understood no amendments may be offered?

Mr. DOLE. Yes; he is going to have a

brief exchange with me.

Mr. METZENBAUM. I thought he was offering an amendment. Is the Senator from Oklahoma offering an amendment?

Mr. BOREN. No, I am not. I simply wanted to address a question to the Senator from Kansas prior to the vote on the Boschwitz amendment.

UP AMENDMENT NO. 1483

(Purpose: To postpone for 6 months the effective date for expanded information reporting)

Mr. HEFLIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama (Mr. HEFLIN), for himself, Mr. Humphrey, Mr. DeConcini, Mr. Jepsen, Mr. Huddleston, Mr. Nunn, Mr. PROXMIRE, Mr. PRYOR, Mr. RANDOLPH, Mr. SASSER, Mr. ZORINSKY, Mr. DOMENICI, Mr. Dole, Mr. Boschwitz, Mr. Exon, and Mr. LEAHY, proposes an unprinted amendment numbered 1483.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section. SIX MONTH POSTPONEMENT OF CERTAIN COMPLIANCE PROVISIONS

Subsection (c) of section 309 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, no return shall be required under section 6049 of the Internal Revenue Code of 1954 with respect to any amount paid (or treated as paid) before July 1. 1983, other than-

(1) an amount for which a return was required under section 6049 of such Code as it was in effect on September 2, 1982, or

(2) an amount paid (or treated as paid) on obligations issued by the person making the payment with respect to which such return is required."

Mr. HEFLIN. Mr. President, this amendment basically would postpone the reporting of informational returns that are required under the law to take place on January 1 pertaining to withholdings by banks, savings and loans, and credit unions. This amendment would postpone that to give them time to read the regulations and know what is in the regulations and be able to comply with them.

Senator HUMPHREY and I had other approaches on this, but we worked this out with Senator Dole.

Mr. President, an entire title of the Tax Equity and Fiscal Responsibility Act of 1982 is devoted to the improvement of taxpayer compliance with our internal revenue laws. In large measure, the provisions of title III of TEFRA represent a sound response to the growing concern over apparently increasing levels of noncompliance.

In the debate over whether we should impose a withholding tax on interest and dividend payments, many of these other compliance measures were either overlooked or given entirely too little attention. One aspect of these proposals that seems to have escaped notice entirely is the speed with which regulations could be issued and the speed with which the new requirements could be implemented. My amendment does not go to the merits of these provisions. Rather, my amendment would simply postpone for 6 months the effective date for implementation of the expanded reporting of interest payments scheduled to go into effect January 1, 1983.

Whatever the merits of this provision, it clearly is not in the best interest of the United States nor of its taxpayers to have this provision take effect before the businesses that must implement it-make it work-can comply with the new requirements. The Internal Revenue Service has done a commendable job of expediting the regulation writing process in this area, but there has been insufficient time for the business community to analyze and comment on the more than 217 pages of regulations issued on November 9. These regulations were printed in the Federal Register for November 15, and many affected businesses and taxpayers have just begun to read and analyze them for application within their own operations.

The expanded reporting of interest, probably the most significant improvement in taxpayer compliance measures, is supposed to go into effect on January 1. I am told that compliance on that date is virtually impossible for almost all financial institutions. The regulations were just published in the Federal Register for November 15. As is the case with many proposed regulations, these raise a number of questions. For example, they require institutions to report interest paid at maturity, or upon redemption, of obligations that were originally sold at a discount. Unfortunately, there is not at present any authoritative source for identifying these obligations. If I deposit a note issued by the Last National Bank of Anytown here in my account at the Senate Credit Union, there is no way for the credit union to know whether that bond or note was originally sold at a discount. Further, if I purchased it on the open market. through a bank or a securities dealer, I will not know whether it was originally sold at a discount. Nonetheless, under TEFRA, the Senate Credit Union-and banks, savings and loans, securities dealers, and credit unions all across the country-are supposed to determine whether it was sold at a discount, compute the amount of interest and discount, and make a record of that amount so it can be reported at the end of the year on my 1099 form. I am not against having this information reported. I think the IRS is entitled to have this kind of information. Unfortunately, financial institutions are simply not in a position to find it out or determine it under present systems. It will take some time to develop some sort of national clearinghouse or system for this information. It strikes me as bad tax policy and bad public policy to have on the books a law that takes effect before anyone can reasonably be expected to comply with it. I am told that many financial institutions will not be able to comply before much later next year, at the earliest. Most institutions, I suspect, are not even aware of this new requirement. According to informal estimates from the Joint Tax Committee, a 6-month deferral of this provision will cost about \$200 million. That revenue figure, assuming that it is accurate, must be based on the notion that all those banks, savings and loan associations, credit unions, and securities dealers will be able to comply on New Year's Day. It just is not going to happen. Why not at least give them a chance to develop their information reporting systems before penalizing them for failure to comply. The penalty is \$5 for each 1099 not furnished, up to a maximum of \$50,000.

I urge my colleagues to support the

adoption of the amendment.

Mr. HUMPHREY. Mr. President, I have an amendment at the desk calling for outright repeal of the withholding of taxes on dividends and interest. I will not be calling that up. I have agreed to forgo that for the time being in order to gain the acquiescence of the chairman of the Finance Committee to the compromise which Senator Heflin has just addressed. I am glad to cosponsor the compromise.

This amendment will at least stave off a problem in the financial institutions with respect to their paperwork.

Mr. KASTEN. Mr. President, will

the Senator yield?

Mr. President, I rise in support of the amendment of the Senator from Alabama. Withholding on interest and dividends has been a bad idea right from the start, and this amendment is a step in the right direction. It would solve one problem financial institutions now face by delaying for 6 months certain January 1 paperwork reporting requirements.

Yet despite this amendment, on July 1, 1983, millions of Americans will still

see their interest and dividend income withheld. Savers across the country are just beginning to realize the heavy impact this new provision of law will have.

Mr. President, Congress still has a chance to prevent the public outcry that will occur next July when withholding on interest and dividends goes into effect.

I have introduced legislation to repeal withholding, and I hope my colleagues will join with me next year in voting to repeal this new regulatory burden.

Withholding is one of the worst things you can do when you are trying to get the economy moving again. Savings and investment are key to economic growth, and the American people now save less than any other people in the Western World. Yet, instead of providing additional incentives to save, Congress voted last summer to literally rob the saver of the benefits of interest compounding and automatic dividend reinvestment by removing 10 percent of the funds in the U.S. savings pool each year. As a result, \$3 billion will be taken out of the private capital market. This is money that would otherwise go to home mortgage loans, job creation, and capital formation.

Withholding will also hurt the elderly and the poor. The Treasury Department has attempted to get around this problem by proposing regulations that exempt older Americans and others who expect to have little tax liability. But it will be up to the individual to get hold of the exemption certificates, and every time he or she opens a savings account, buys a piece of stock or puts money into a money market fund, an additional form will be required. The exemption process will also force many of these people into the taxpaying system who have not been required to file for years.

It is no accident that the American Association of Retired Persons worked to defeat the withholding provision last summer. "We fear the exemption process will frequently fail to operate properly," they argued, "and a serious overwithholding problem will result."

In an attempt to get at the small percentage of taxpayers who fail to report their interest and dividend income, Congress has enacted legislation which will penalize the nearly 90 percent of American taxpayers who have honestly paid their taxes all along. A recent IRS study shows that improved information reporting alone would increase compliance to 97 percent. A simple requirement that the IRS improve the information reporting system would go far in improving compliance without the mess of withholding.

The public outcry is growing. Congress should act now to eliminate the costly and burdensome withholding

system we enacted earlier this year. The amendment before us today will only be the first step in our crusade to remove this new barrier to savings and investment. I look forward to working with senior citizens, savers, investors, and financial institutions across the country as we attempt to repeal withholding on interest and dividends early next year.

Mr. DOLE. Mr. President, I want to thank the Senator from Alabama for his excellent work on this amendment. The conference on this year's Tax Act delayed the effective date for withholding for 6 months. A similar change was not made in the interest reporting requirements. These requirements are closely related to the withholding provisions. Since enactment of the Tax Act, we have learned that many of the same startup problems exist in reporting.

The pending amendment provides the necessary time to work out these problems in an orderly fashion.

Mr. President, I yield 15 seconds to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I have just come to the floor. May I ask the Chair to explain the time situation? Is there a time limitation on this amendment?

Mr. DOLE. Yes.

Mr. ARMSTRONG. I thank the Senator from Kansas. My thought is that it will take a little longer than 15 seconds, so I will state my thoughts after the adoption of the amendment in an after-the-fact fashion.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1483) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. Mr. President, I move to lay that motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

Mr. ARMSTRONG. Mr. President, reserving the right to object, I believe this might perhaps be the opportunity, on a reservation to object to a motion to reconsider, to state my opposition to this, if agreeable to the manager of the bill.

Mr. ROBERT C. BYRD. Mr. President, there is no time for debate on a reservation. How long would it take him?

Mr. ARMSTRONG. I would think no more than 1 minute.

Mr. ROBERT C. BYRD. I have no

The PRESIDING OFFICER. The Senator from Colorado.

reluctantly supported the effort to support withholding on dividends. I did so because it was part of a package of approximately \$100 billion in revenue measures which were the reconciliation instruction presented to the Senate Finance Committee. The committee was required to meet this reconciliation instruction in order to leverage approximately three times as many dollars in spending savings as we were agreeing to meet in revenue

Mr. President, I agreed to that package because I thought the overriding national priority was to bring the deficit down, and it seemed a reasonable compromise. But as I stated at that time, I thought it was an ill-advised action to include the dividend withholding.

May we have order, Mr. President? The PRESIDING OFFICER. The

Senate will be in order.

Mr. ARMSTRONG. My own belief at the time, which has grown stronger in the days since then, is that it really does not make sense to impose this dividend-withholding requirement on the savers and financial institutions of the country. In that sense, I support the amendment which has been agreed to.

I think as we get deeper into it, we are going to find it would be a good idea for us to do away with it altogether, and I hope that would be the consensus when we come back to this issue sometime early next year.

I thank the manager and I withdraw my objection.

Mr. DOLE. Mr. President, has the motion to table been agreed to?

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to reconsider.

The motion was agreed to.

Mr. DOLE. Mr. President, do I understand that in the order of business the yeas and nays have been ordered on the Boschwitz amendment?

The PRESIDING OFFICER. Yes. Mr. DOLE. Mr. President, I ask unanimous consent that prior to the vote I may yield to the Senator from Oklahoma for 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, it

is so ordered.

Mr. BOREN. Mr. President, I would like to ask the Senator from Kansas with regard to the pending measure about a very favorable reduction in the taxes on large trucks, but I am concerned about the taxes being imposed on truck parts and the burden that might be placed on dealers which sell these truck parts.

Is this a matter that will be looked at in conference, the tax burden on truck parts? We will not necessarily be locking ourselves into this particular

figure; is that correct?

Mr. DOLE. That is a good question. We are not locked in. There is a lot of

Mr. ARMSTRONG. Mr. President, I latitude in the conference. I am certainly aware of the Senator's concerns and will keep them in mind.

Mr. BOREN. I thank the Senator.

BOSCHWITZ AMENDMENT NO. 5600 (Formerly numbered UP No. 1472.) . Mr. GRASSLEY, Mr. President, I rise in support of Senator Boschwitz's package as modified by my amendment. Senator Boschwitz's bill reduces the use fee for the heaviest trucks from \$1,600 to \$1,200. He also increases the classes of trucks to which the parts tax applies. The Finance Committee version taxed all truck parts for trucks weighing over 33,000 pounds at 12 percent. Senator Boschwitz revises this weight limitation downward to apply to all trucks weighing over 10,000 pounds. The Grassley amendment to the Boschwitz amendment provides independent owner operators with a 4-year phasein of this reduced use fee. The definition of independent owner operator is contained within the Motor Carriers Act of 1980, and includes those individuals who own three or fewer power unitstractors-who contracts with shippers to haul goods.

This is an issue of great concern to me and to other Senators from rural States. Independent owner operators haul much of the corn, soybeans, livestock, and other agricultural commodities to market. They serve many of the remote corners of my State. As independent small businessmen and businesswomen, they are struggling to stay in business in a recessed economy. With many trucker's operating at 40 percent of capacity, the imposition of this tax on the smallest segment of the industry, even with the 3-year phasein, would be devastating. For that reason, I worked with Senator Dole and his able staff to devise an amendment to provide some relief for the independent owner operators. Since this amendment was adopted last night on a voice vote as an amendment to Senator Boschwitz's package, I urge your support for the entire measure. This amendment is important to the American manufacturing and farm community because it enables them to efficiently distribute their products and to the American consumer who benefits from lower prices on the items they purchase if we have a healthy and competative trucking industry. Your support of this provision will enable us to achieve these goals.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor the amendment offered by the Senator from Minnesota. The alarm sounded with truckers across the Nation when Secretary Lewis appeared before the Senate Finance Committee to outline the administration proposal for heavy use

and excise taxes.

I think everyone agrees that if we are going to finance the repair of the deteriorating highway system, trucks should pay their fair share. However, when you start discussing a several hundred percent increase on a vital segment of our national transportation system, there is legitimate cause for concern.

The total profit of the trucking industry last year was \$210 million-on \$44 billion worth of business. This represents a return of one-half of 1 per-

Under the current version of the bill, new taxes would result in the collection of \$1.6 billion from the trucking industry. This is 71/2 times the industry's 1981 profits. And the small operators are the hardest hit.

This amendment-to phase in the fee increases over 4 years instead of the 2 now in the bill-is designed to benefit truckers who own one or two

The truck industry, like the rest of our economy, is in a deep recession. With a sizable increase in operating costs, which are represented in these tax increases, truck freight rates have no where to go but up. The other segments of our economy which rely on the trucking industry cannot absorb increased transportation costs.

We cannot afford to increase our already unacceptable unemployment numbers. Many truck operators are already on thin economic ice. We cannot afford to put them out of business and lose the vital service that they provide.

I am sure that all of my colleagues have heard from a large number of truck operators in their States. I believe this amendment goes a long way toward addressing the concerns raised by the trucking industry.

Mr. JEPSEN. Mr. President, I rise as a cosponsor of this change in the user fee structure as proposed by my colleague, the distinguished Senator from Minnesota.

I am sure that all of us have heard from our constituents in the trucking industry about their particular prob-lems at this time, and I need not repeat them here. Because of these problems, I am again sure that all of us share the industry's concern that any changes made in the tax and fee system be fair and equitable.

This amendment, in my opinion, further advances the fairness and equitability of the proposed changes.

It is my understanding that the revenue collected as a result of these changes is not significantly different from that which would be collected as a result of the Senate Finance Committee proposal. This amendment spreads the burden more equitably.

Also, importantly, this amendment recognizes the unique plight of the small owner-operator and gives that person appropriate and proper recog-

In short, this amendment more clearly defines the situation at hand and presents a more equitable solution to the problems which we are address-

Mr. THURMOND, Mr. President, a number of my colleagues and I are pleased to cosponsor this amendment and believe it will achieve a reasonable compromise between the need for increased highway revenues and the concerns expressed by the trucking industry.

Mr. President, this amendment would amend sections 112 and 113 of the bill so as to retain the current rate of tax on truck parts, and phase in substantially reduced heavy vehicle highway use taxes over a 3-year period beginning January 1, 1984.

Mr. President, when this bill was first introduced in Congress, I had grave concern over its potential impact on the trucking industry. The combined effect of deregulation and the current recession has left much of this industry operating at the margin. As originally introduced, this measure would have increased the highway use tax for heavy vehicles by almost tenfold. Such an increased burden at this time could very well have put many trucking companies and independent operators out of business.

With this concern in mind, I had written to the distinguished chairman of the Senate Finance Committee, the Senator from Kansas, requesting that he consider phasing in any increase in the heavy vehicle highway use tax over a 5-year period. This amendment goes one step further, phasing in substantially reduced highway use taxes over a 4-year period.

Mr. President, this amendment should permit ample time for a full economic recovery before the proposed increases become effective. I call upon my colleagues to give this amendment their most careful consideration and support.

Mr. BOSCHWITZ. I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators Durenberger, Pres-SLER, GARN, QUAYLE, and NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABDNOR. Mr. President, I am pleased to cosponsor the amendment of my colleague from Minnesota (Senator Boschwitz).

Briefly, the amendment reduces by \$400 the annual highway user tax which will be paid by heavy trucks. Under the amendment the maximum annual fee for the heaviest trucks will be \$1,200, instead of \$1,600 as provided in the committee bill. This is a vast improvement over the \$2,700 tax proposed by the Administration and the \$2,000 called for by the House.

In addition to reducing significantly the size of the tax itself, perhaps just

as importantly, the amendment provides for a 5-year phase-in period.

It would be highly unfair to expect truckers to begin immediately to pay the full tax. It is only proper to allow truckers a reasonable period to prepare for and adjust to this new assessment.

Mr. President, even if the Boschwitz amendment is adopted, and I strongly urge that my colleagues support its adoption, the bill will be far from perfect. Indeed, the increased taxes will still be burdensome on truckers, and I am very concerned about the impact of these charges, particularly upon farmers who must have trucks to operate but who may not use the highways in proportion to the fees they will pay.

Farmers are losing money as it is and increased truck fees can only increase their losses. They simply don't have any net income out of which to pay these fees, nor can they pass on the fees in the price of their commod-

Again, Mr. President, it is unfortunate that our highways are in such sad shape and that we have no free and easily tapped source of revenue to repair them. Adoption of the Boschwitz amendment will not eliminate the hardship on truckers, but it is a large improvement over the committee bill.

If the Boschwitz amendment is adopted and I can be assured that the Senate allocation formulas will be preserved in conference, Mr. President, I will support enactment of the bill.

I strongly urge passage of the Boschwitz amendment to reduce the highway use tax and to phase in the reduced tax over a period of 5 years.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota, as amended. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 96, nays 1, as follows:

### [Rollcall Vote No. 421 Leg.]

	YEAS-96	
Abdnor	Burdick	Danforth
Andrews	Byrd,	DeConcini
Armstrong	Harry F., Jr.	Denton
Baker	Byrd, Robert C.	Dixon
Baucus	Cannon	Dodd
Bentsen	Chafee	Dole
Biden	Chiles	Domenici
Boren	Cochran	Durenberger
Boschwitz	Cohen	Eagleton
Bradley	Cranston	East
Bumpers	D'Amato	Exon

Leahy Randolph Riegle Garn Levin Long Roth Gorton Grassley Lugar Rudman Mathias Sarbanes Hatch Matsunaga Sasser Hatfield Mattingly Schmitt Hawkins McClure Simpson Heflin Melcher Specter Heinz Metzenbaum Mitchell Stafford Stennis Helms Hollings Movnihan Stevens Huddleston Murkowski Symms Humphrey Nickles Thurmond Inouve Nunn Tower Packwood Tsongas Jackson Jepsen Pell Wallop Johnston Percy Pressler Weicker Kassebaum Kasten Proxmire Zorinsky Kennedy Prvor Quayle

### NAYS-1 Hayakawa

NOT VOTING-3

Goldwater

So the amendment (No. 5600) (UP No. 1472), as amended, was agreed to. Mr. BOSCHWITZ. I move to recon-

sider the vote by which the amendment was agreed to. Mr. DOLE. I move to lay that

motion on the table. The motion to lay on the table was

agreed to.

Mr. BOSCHWITZ. Mr. President, I hope that the distinguished chairman of the Finance Committee and the other conferees will note the near unanimity of this vote and that it will serve to give them some direction during the conference.

### RETIREMENT RECEPTION

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I call the attention of our colleagues to the fact that at this moment, from about 4 until 5:30, there will be a reception here in the Capitol for two of our retiring colleagues, Senator HAYAKAWA and Senator SCHMITT, in the Sergeant at Arms office, which is room 321. All Members are invited to that.

Mr. DOLE addressed the Chair. The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. What is pending?

The PRESIDING OFFICER. The second degree amendment of the Senator from Kansas to the first degree amendment of the Senator from Kansas to the Baker substitute.

Mr. DOLE. Mr. President, I want to commend the distinguished Senator from Minnesota, the Senator from Iowa (Mr. GRASSLEY), and other principal sponsors of the amendment that has just been passed by an overwhelming vote, 96 to 1. I think it is an indication of the support this amendment has and should be an indication to the conferees on both sides that we feel very strongly that we should do equity in the conference, as we customarily dc. But in any event, the record vote, I believe, will indicate to the House conferees that the Senate feels very strongly about its position. There are broad differences between the House and Senate versions. Obviously, there will be some changes made in the conference, but it is my hope as a conferee that we will understand that this has been a strong message from the Senate.

Mr. President, we have a couple of amendments that are noncontroversial. They are puppy amendments. They are little dogs. We would like to take care of those at this time. There are two or three of those.

I ask unanimous consent that we might set aside temporarily the pending amendments to consider the amendment of the distinguished Senator from Missouri and that no amendments be offered to the amendment.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

#### UP AMENDMENT NO. 1484

(Purpose: To amend the Employee Retirement Income Security Act of 1974, to defer the requirement of payment of withdrawal liabilities arising as a result of certain withdrawals)

Mr. DANFORTH addressed the

The PRESIDING OFFICER. The

Senator from Missouri.

Mr. DANFORTH. Mr. President, I send an unprinted amendment to the desk on behalf of myself and Mr. Dole and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Danforth), for himself and Mr. Dole, proposes an unprinted amendment numbered 1484.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(a) Section 4219(c)(2) of the Employee Retirement Income Security Act of 1974, is amended by adding at the end thereof the following new sentence: "With respect to withdrawal liability incurred as a result of the complete or partial withdrawal of an employer from a multiemployer plan, if, on July 30, 1980, the employer announced its intent to cease operations as of August 8, 1980, and, if the employer, by August 8, 1980, began the winding down of business, and completely terminated business by August 31, 1980, no payment shall be required by this paragraph prior to December 31, 1983."

(b) Effective Date.—The amendment shall be effective on the date of enactment.

Mr. DANFORTH. Mr. President, as Senator Dole has pointed out, this amendment has been cleared with Senator Long and Senator Metzenbaum. I believe that it is totally non-controversial. The situation it deals with is as follows. In 1980, Congress

passed the Multiemployer Pension Plan Amendments Act.

The act was passed on September 26, 1980, and generally the effective date was September 26, 1980.

However, the act imposed withdrawal liability for employers who withdrew from multiemployer plans, and that withdrawal liability was imposed retroactively to withdrawals which occurred on and after April 29, 1980, 5 months prior to date of enactment.

This retroactive penalty provision had a disastrous or potentially disastrous effect on a trucking company in Missouri. The situation was as follows: The trucking company was forced by economic conditions to liquidate a subsidiary, which was also in the trucking business, in August of 1980, that is, prior to the enactment of the law but during the time in which the retroactivity was later put into effect.

Six months after the liquidation of the subsidiary, the company was notified by the Central States Pension Fund that it owed almost \$17 million in withdrawal liability to the fund

under the 1980 act.

This amount of liability was nearly three times the total assets of the subsidiary before liquidation, and more than the subsidiary's total earnings in

its 35 years of existence.

Recognizing the inequity of this situation as well as the probable unconstitutionality of this provision, the Committee on Finance unanimously reported out H.R. 4577, and a section in that bill provided for the repeal of the retroactive effective date for early withdrawals which was found in the 1980 act.

I believe it is fair to say there is very close to a unanimous belief in the Senate that the retroactivity feature is not fair, is probably unconstitutional, and that it should be abolished. However, the trucking company in Kansas City in question is now under a plan in which payments of this very substantial \$17 million liability have been arranged, and the result of making such payments would be financial ruin for this company.

We cannot under the unanimousconsent arrangement under which we are operating in the Senate get unanimous consent for the sort of reform and change which we anticipated when we reported out H.R. 4577 from

the Committee on Finance.

However, it is hoped there will be little problem in getting this reform agreed to in the next Congress. However, rather than just do nothing in this Congress, and leave the company in question to a fate of ruin, what this amendment does is to provide that no payment of a penalty will be required until December 31, 1983. Thus, it provides for a 1-year moratorium on the payment. During that period of time interest would accrue to any liability which would subsequently be payable.

This amendment does not in any way prejudge what Congress will do next year. It simply provides Congress with a 1-year period of time in which to address the various issues of economics, constitutional considerations and equity that arise under the 1980 act.

Mr. DOLE. Mr. President, the Senator from Missouri has explained the amendment and the necessity for the amendment. It is an amendment which, I am not certain whether the Senator from Missouri noted, had been addressed by our committee. It is pending on the calendar in another bill, but it is not being taken up because, frankly, we have some Members who object to certain portions of the total amendment. But this is an extremely important amendment, and as the Senator pointed out there was certainly no opposition to the amend-ment. It is an amendment that must be dealt with and should be dealt with this year, and we are prepared to accept the amendment. It has been cleared on both sides.

Mr. WARNER. Mr. President, I rise today and ask unanimous consent that my name be added as a cosponsor to Senator Danforth's unprinted amendment number 1484 to H.R. 6211.

Mr. President, I ask unanimous consent that the remainder of my remarks be inserted as if read at an appropriate place in the Record, just prior to the vote on this amendment.

Mr. President, the amendment offered today by my distinguished colleague from Missouri is one that I whole-heartedly endorse. This amendment makes a technical but significant improvement in Public Law 96-364, the Multiemployers Pension Amendments Act of 1980.

When this bill was enacted into law on September 26, 1980, a retroactivity clause was incorporated which authorizes that an employer that withdraws from a multiemployer pension plan covered under title IV of ERISA is liable to the plan for the portion of the plan's unfunded vested benefits if the withdrawals occur anytime after April 28, 1980.

As a result of this retroactivity clause, certain corporations that ceased their business operations after April 28, 1980 but before the enactment of the law are forced to pay a withdrawal liability, often of significant amounts.

Mr. President, I do not believe it was the intent of Congress to require coproations to make withdrawal liability payments when—at the time they closed their businesses—they acted in good faith in compliance with thencurrent law.

Senator Danforth's amendment merely forestalls any payments due until December 31, 1983. This allows Congress the necessary time to pass corrective legislation on this noncontroversial issue.

This amendment is an important first step in correcting this situation, and I am pleased to be a cosponsor.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1484) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have another noncontroversial amendment which has been cleared on all sides, including "deputy commissioner" METZ-ENBAUM. This is an amendment by the distinguished Senator from South Carolina (Mr. Thurmond).

Let me say while we are waiting for Senator Thurmond to come to the floor for those who are concerned that perhaps not obtaining cloture might be fatal, let me say that by the time we got around to cloture most of the nongermane amendments had been dealt with-not quite but most of them. But I would say that as far as this Senator knows-and we are not encouraging additional amendments, in fact we are discouraging any additional amendments, and we understand the Democrats are caucusing to discourage additional amendmentsthere are only six amendments to the tax title. Five of those, I think, have been cleared. One may require a rollcall vote.

I want to suggest, even though it may not appear that we know what we are doing—and that may be accurate—we have at least worked our way down to only about a half dozen amendments. So I would encourage all those who do not need to offer amendments not to offer them.

Mr. President, I ask unanimous consent that the pending amendments, the Dole amendments, be temporarily set aside so that we may consider an amendment to be offered by the distinguished Senator from South Carolina (Mr. Thurmond), and that there be no amendment to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

### UP AMENDMENT 1485

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Kansas (Mr. DOLE).

I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an unprinted amendment numbered 1485:

On page 198, line 12, strike the following: "The Secretary, or, on" and insert in lieu thereof: "At".

Mr. THURMOND. Mr. President, I have a letter from the Assistant Attorney General Robert A. McConnell which reads this way:

Washington, D.C., December 16, 1982.

Hon. STROM THURMOND,

Chairman, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pending before the Senate is the Surface Transportation Act of 1982. Section 426 of Amendment No. 1440, set forth at S14630, Congressional Record of December 14, 1982, would divest the Attorney General of some of his authority to conduct the litigation of the United States.

While the Department has no objection to the enforcement authority of section 426. we believe that such must be conducted by the Attorney General. The most effective and efficient means of representing the United States in the courts is to maintain the central authority of the Attorney General. The litigation of the United States is unique from that involving solely private parties. Its impact extends beyond those individuals connected with a particular lawsuit. Its precedential value is significant. To insure that the law is enforced equally and fairly in the courts, the government's litigation must be conducted with uniformity and consistency. This is the policy behind the principle that a single Cabinet officer, the Attorney General, should have responsibility over the conduct of the government's representation in the courts. To detract from this principle raises the potential that individuals will be subject to differing standards.

Accordingly, on behalf of the Attorney General, I urge that section 426 be amended to clarify that any litigation is to be conducted by the Department of Justice.

ed by the Department of Justice. Sincerely,

### ROBERT A. McConnell, Assistant Attorney General.

Mr. President, the only thing the amendment does is on page 198, line 12, strikes the words "The Secretary, or, on" and inserts in lieu thereof "at".

Mr. President section 426 now

Mr. President, section 426 now begins:

The Secretary, or, on request of the Secretary, the Attorney General of the United States is authorized and directed to institute civil action—

And so forth.

All this does would have it read, after we strike out the words "The Secretary, or, on" and we insert "At,"—"At request of the Secretary the Attorney General of the United States is authorized \* \* \*."

It is a very simple amendment, and it accomplishes what the Attorney General wants.

There is no object

There is no objection on the part of anyone I know of.

Mr. DOLE. Mr. President, I share the views expressed by the Senator from South Carolina. This amendment has been cleared, and there is no objection. It is a technical, minor amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of the Senator from South Carolina.

The amendment (UP No. 1485) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the Senator from Delaware, Senator Roth, has an amendment which is noncontroversial. He has yet to clear that with the distinguished Senator from Louisiana and he is in the process of doing that. There is an amendment by the distinguished Senator from Pennylvania, Senator Specter, that I have been advised has been cleared with Senator Garn and Senator Riegle which would be taken up at this time. I understand that the Senator from Michigan, Senator Riegle, will have an amendment which we cannot accept on earned income tax credits.

Then there are two foundation amendments, one by Senator Percy and Senator Dixon, and one by Senator Armstrong. I understand there may be negotiations going on with those Senators.

Beyond that, there are no further amendments to this title. I know the Senator from Vermont is waiting patiently and eagerly and with enthusiasm to address title II. There are probably 5 to 10 amendments in that area and some may be accepted.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. PERCY. The manager of the bill just stated that there were negotiations going on. I did talk with Senator Armstrong. The MacArthur Foundation amendment has been cleared on both sides. It is a mere extension for 2 years and has been agreed to by the Treasury Department as being a very equitable situation.

The foundation would be in dire distress if we did not act. It has no relationship to any other foundation. I hope the manager of the bill can accept this amendment, and I understand he does support it. It has no relationship to any other amendment that I know of.

Mr. DOLE. Mr. President, if the Senator will yield, the Senator is correct. His amendment has been cleared all around, except the Senator from Kansas was notified by the Senator from Colorado that when that amendment came up he wanted to be notified.

I am just suggesting, as far as this Senator is concerned, that we are prepared to accept the MacArthur Foundation amendment, as modified, as agreed to by Treasury, and as explained by the Senator from Illinois.

But I would indicate that I would have

to give prior notice.

Mr. PERCY. I will ask the cloakroom to notify Senator Armstrong. Just as soon as he comes to the floor and wishes to take this up, I will be prepared to do so. I would also like to advise Senator Dixon so he can be on the floor.

Mr. DOLE. Mr. President, if the Senator will yield. I understand we have notified the Senator from Colorado. I assume he will be coming to the floor momentarily.

In the meantime. Mr. President, perhaps the Senator from Vermont is prepared to move ahead. It is my hope we can complete this bill by early evening.

I thank the Chair and I yield the floor to the Senator from Vermont.

Mr. STAFFORD. Mr. President, I join with my friend, the manager of title I, in the wish at least that we might finish this bill early this evening.

We know of a number of amendments which will lie against title II of the bill, which is the title which was written in the Committee on Environ-

ment and Public Works.

The intent of the Senator from Vermont now is to offer, on behalf of the committee, some committee amendments for the whole committee that are mostly technical and conforming in nature. If there is no objection to doing that, it would be my intent to send the amendments from the Committee on Environment and Public Works to the desk.

The PRESIDING OFFICER. It would take unanimous consent to set

aside the Dole amendment.

Mr. MITCHELL. Reserving the right to object.

Mr. STAFFORD. Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll

Mr. STAFFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. STAFFORD. Mr. President, in view of the fact that our colleagues on the other side of the aisle are currently in caucus, and out of deference to my dear friend from Maine who is here on their behalf, I will defer offering the committee amendments until my colleagues from the other side of the aisle can be present.

At that time, we will also be ready to entertain an amendment to be offered by the Senator from Indiana (Mr. QUAYLE), which we expect will be noncontroversial as far as the committee

is concerned.

There are two or three other amendments which are noncontroversial that we would be glad to get out of the way

if Senators who have them could be present to offer them when we resume action on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMPSON). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I have had an informal conversation with the minority leader and I understand that as a result of a caucus of Democratic Members he may have ideas he wishes to advance on this matter. If he cares to do so, I will be more than pleased to vield the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The minority leader.

PROPOSAL REGARDING HIGH-WAY BILL AND CONTINUING RESOLUTION

Mr. ROBERT C. BYRD. I thank the distinguished majority leader. The Senate is in session today because the President asked Congress to return to deliberate and act on appropriation bills. The distinguished majority leader and the Speaker, meeting together, thought it advisable to propose and enact a highway rehabilitation bill, an infrastructure bill, and to enact a 5-cent gasoline tax.

The President, as I understand it, has supported that proposition. That proposition did not originate here. It is

not our proposal.

That is not said by way of derogation of the proposal. There are a good many Members on this side who support this proposal, some Members will not support it.

Now we are confronted with a situation in which, as of midnight tomorrow night, the old continuing resolution will expire and a lot of things begin to happen. A lot of people, very soon, will not get their checks: Social security recipients, veterans, military, et cetera, et cetera. It is very important that the continuing resolution be acted on by midnight tomorrow.

The majority leader indicated that he was going to do his best to complete action and adjourn sine dine by the 15th, which was yesterday, and, if not by the 15th, by the 17th. He said

that in good faith.

Having been majority leader, I know that one cannot always bring to fruition what one wishes as majority leader because, after all, it is the Senate that makes the final decisions, and the majority leader is but the elected instrument of his party to press the legislation and try to keep the legislative process moving; the minority leader is but the elected instrument of his party to try to cooperate where he can to keep the program moving and see what we can accomplish, of course, in the best interests of the country.

Now, we have come back and we have not acted on appropriation bills alone. We have reached the point now where we are within 36 hours, or nearly so, of the expiration of the continuing resolution. There are a good many amendments on this side of the aisle. A lot of Senators over here want offer amendments; we discussed them in our little caucus, but we have come to the conclusion that it is in the interest of the Nation that we get on with the business of disposing of the continuing resolution, if at all possible, before the expiration at midnight tomorrow. We are also hopeful of the previously announced deadline of the 17th, which majority leader and I both announced after consultation, and he after consultation, I believe, with the Speaker. He can correct me if I am misstating anything. But we on our side of the aisle feel that we ought to get on with the continuing resolution and pass it so that the Government will not come to a stop in the next 48 hours, and that we get action on this bill one way or the other and in a very short time, and that we adjourn sine die and go home.

We have agreed on this side of the aisle to offer no more amendments to the pending measure. We are willing to forgo the offering of any further amendments. We are willing to vote on the pending matter after 30 minutes of debate. But we are willing only to forgo offering amendments on this side of the aisle if those on the other side of the aisle are willing to forgo offering their amendments, so that we vote by 6:30 or 7 o'clock whatever we agree on.

The majority leader is going to have to consult with the Members on his own side of the aisle. But our proposition is that we have 30 minutes of debate, that we forgo offering any further amendments if those on the other side of the aisle will forgo offering any amendments, and then we vote up-or-down on the committee amendment, as amended by Senator BAKER's amendment. and amendments that have been adopted to the Baker substitute and go immediately to the continuing resolution. If the chairman of the Appropriations Committee and the ranking member are ready, we are ready on this side, and we would stay on that resolution until it is acted upon.

Now, if so, we would vote on the substitute Baker amendment as amended, without further amendIn the alternative, if the distinguished majority leader cannot reach a decision among those on his side of the aisle that there be no other amendments adopted, we would urge the majority leader, most respectfully, that he proceed to take up the continuing resolution and let us act on that and get it to conference so that the people who are employed in the Government and those who are in anticipation of checks, and so on, may know that there is going to be no delay.

We offer this proposal in the utmost good faith. I feel confident that the majority leader can obtain passage of the highway bill. We can reach a vote on it, even though a good many Members on our side may vote against the bill. I am confident it would be passed at this time. But the vote would be on the Baker substitute, as amended, with any pending amendments set aside, that we have a half-hour of debate or less and that we forgo offering any further amendments on this side, the other side forgo offering their amendments; that we take up the continuing resolution immediately, and we try to complete final action on that by tomorrow night, and be out at least by Saturday of this week.

I do not think I have misstated the proposition, and I do not think I have omitted anything, and if I have, I look to my colleagues to remind me or to correct me. That is the proposal. I now

yield the floor.

Mr. BAKER. Mr. President, I thank the minority leader and I am grateful for his remarks and the proposal that he makes.

In those remarks he observed that both of us are the agents of our respective parties in the Senate and our fundamental responsibility above all others is to try to arrange in detail the schedule of activities of the Senate, particularly of our legislative endeavors.

He will understand then, Mr. President, when I say that while I yearn for the result that he seeks, I am also committed to the passage of both of these bills, and I think it is entirely

possible to do that.

So the only exception I would take would be his suggestion—and I understand his reason and rationale—that if this agreement cannot be worked out precisely as he has proposed it that we lay aside the highway bill. I frankly do not wish to do that, Mr. President.

As majority leader, I would not propose to do that. But I do agree that there is a chance to finish this measure, this bill and, indeed, just as he has had a caucus on his side to consider this matter, I am fully prepared to do the same on my side. I would certainly not speak for every Member on this side because it is no secret to the world that there is a division on this side on how we should proceed, and an

honest difference of opinion on the relative merits of this bill and the several amendments that have been offered.

We have already done a great deal of work here. We have enlisted a lot of effort. We have lost a lot of sleep. We have adopted a lot of amendments-incidentally, most of them Democratic amendments. But beside that point, Mr. President, I think the proposal that the minority has made has great merit. I think it has great appeal to me. I think it would further and advance my ambition to pass both of these bills which I conceive to be important each in its own right, and I would recommend, Mr. President, that we take time on this side of the aisle to have an informal caucus so that we may consider it, as the minority leader has done in a most responsible way.

In order to gain that time, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 6:30 P.M.

Mr. BAKER. Mr. President, for a whole raft of reasons, including house-keeping detail, I think it would be more convenient if we recessed for a brief time.

I ask unanimous consent that the Senate stand in recess from this

moment until 6:30 p.m.

There being no objection, the Senate, at 5:57 p.m., recessed until 6:30 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer (Mr. WARNER).

### RECESS FOR 30 MINUTES

The PRESIDING OFFICER. The Chair, on behalf of the majority and minority leaders, states that the Senate will now stand in recess for 30 minutes, without objection.

Thereupon, the Senate, at 6:31 p.m., recessed for 30 minutes; whereupon at 7:01 p.m., the Senate reconvened when called to order by the Presiding Offi-

cer (Mr. Andrews).

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 7:15 P.M.

Mr. ROBERT C. BYRD. Mr. President, at the request of the majority

leader, I ask unanimous consent that the Senate stand in recess until the hour of 7:15 p.m. today.

There being no objection, the Senate, at 7:03 p.m., recessed until 7:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Boschwitz).

### SURFACE TRANSPORTATION ACT OF 1982

The Senate continued with the consideration of the bill (H.R. 6211).

AMENDMENT NO. 5599 TO AMENDMENT NO. 5598 (FORMERLY UP NO. 1457 AND UP NO. 1456)

The PRESIDING OFFICER. The clerk will state the pending question.

The legislative clerk read as follows: Dole unprinted amendment 1457 to unprinted amendment 1456.

Mr. DOLE. Mr. President, while we are awaiting the majority leader, I suggest the absence of a quorum.

The PRESIDING OFFICER. The

clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after the proposal by the distinguished minority leader following their caucus, there was an informal caucus of Republican Senators. I regret to advise the minority leader that it does not appear that at this moment we are able to enter into an agreement. I have at this time no counterproposal to make. I recommend that, in the interest of time, we go forward with the

as we can and get to passage.

We have this to do and we have the continuing resolution to do. I urge Senators to recognize that it is going to take a lot of effort to do both these things in the next day-and-a-half. By the looks of things, we shall be here for the next day-and-a-half, so we shall have that opportunity.

process of the normal course of events

and try to pass as many amendments

Mr. President, I regret that that is the situation. I yield now so that the distinguished managers of the bill may proceed if they wish.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader for trying in his caucus. I know he did it in the utmost good faith. I have a feeling that he, himself, if he could have acted alone, would have accepted the proposal because it would have insured the enactment of the highway bill this evening and proceeding immediately to the continuing resolution. I can very well understand his situation.

I hope that, as the evening wears on, the distinguished majority leader would continue—and I say this respectfully and certainly with no desire to be presumptuous—that he continue to consult with his colleagues on his side of the aisle, because I think it is imperative, and I think my colleagues do, that we get on with the continuing resolution as soon as possible.

Most of us do not think—and I do not take issue with the majority leader on this—that it is imperative that we get on with the highway bill at this point. It has a lot of merit in many ways, many of us can support parts of it or all of it. But we do know that the continuing resolution has to pass.

We all agree to that on both sides of the aisle. We do not all agree on both sides of the aisle that the highway bill has to pass now. I hope the distinguished majority leader and his coleagues will, as the evening wears on, continue to consider the proposal that we move to the continuing resolution and begin to act on it—I imagine there would be several amendments to it on both sides of the aisle—and get it to conference as soon as possible and perhaps there will be some opportunities to act on the highway bill while the matter is in conference.

I make the suggestion, not presumptuously, but in the utmost of good faith and with great respect and admiration for the majority leader.

Mr. LONG. Will the leader yield? Mr. ROBERT C. BYRD. Yes.

Mr. LONG. May I suggest that if it can be done, the majority leader give us assurance that when we pass these two bills, at least when we pass these two bills, we are going to adjourn.

Mr. BAKER. Will the Senator yield to me?

Mr. LONG. Yes; I yield.

Mr. BAKER. I can make him the assurance that when we pass these two bills, he will know instantly that we are going to adjourn, because there will be 99 Senators who will have to follow me out the door.

Mr. LONG. That would help.

It would further be good if we could have some understanding that we are going to try to keep irrelevant amendments off these bills. If you include the resolutions, there are almost 200 items on the Senate Calendar. Most are legislative measures, some 18 are bills in conference.

If Senators can do it, they are going to try to take those legislative matters from those bills that are not going anywhere and put them on the bills that are going somewhere, because they would like to have a second shot at getting them enacted. That kind of thing can happen when a Senator gets a call from the House side saying, "Look, if you can pass this provision, we will try to get it agreed to in the House."

What we should try to agree to now, if we can, or as soon as we can, is to hold ourselves to a rule of germaneness on these must bills.

Perhaps the Senators on the other side of the aisle did not see the television news while they were holding their caucus. The TV is giving us a bad time. They showed a picture of the Capitol Christmas tree and said that we are putting ornament after ornament on the Christmas tree. They even described some of the Senators in connection with some of those ornaments. [Laughter.]

If I do say so, they were very unfair to our friend from Ohio (Mr. METZ-ENBAUM). They said he had a big ornament that fell from the tree. [Laugh-

ter.]

The public is not getting a particularly good image of what we are doing when we add all these extraneous amendments.

I have nothing against Christmas trees. In fact, I was the manager of the first Christmas tree bill. [Laughter]

But the press and the media generally, particularly TV, are even now showing a picture of the Christmas tree on the Capitol lawn and describing it in terms of individual Senators and the particular baubles they put on the tree. And if I do say so, it is not complimentary to the Senate.

Several Senators addressed the Chair.

Mr. BAKER. Mr. President, I really appreciate the remarks and the insights of the Senator from Louisiana. As former chairman of the Finance Committee, I must say I am always frightened when I hear Russell Long describe all these parliamentary maneuvers that might be undertaken because they are falling from the lips of a master.

Mr. President, I can assure the Senator from Louisiana that I join him in the fervent wish that we focus our attention on the matters at hand so we can pass these two pieces of legislation and not make an omnibus bill, a carryall for every legislative ambition that every Member has. I say that with no good assurance it is going to happen, but I want to say it anyway. [Laughter.]

Mr. President, with that, I think we ought to use the remainder of our time in legislative endeavors, and I urge the managers of the bill to go on with that.

Mr. NICKLES addressed the Chair. Mr. METZENBAUM addressed the

Mr. BAKER. Mr. President, let me yield now to the Senator from Ohio.

Mr. METZENBAUM. Mr. Leader, I think it is only fair, as we talk about considering all of the amendments, that we ought to fully understand what the parliamentary procedure is. That is that we have before us at the

moment the Dole amendment in the second degree which is the pending business. It is my understanding that the Senator from Arkansas has some very strong feelings about the Dole amendment and has made those views known to one and all. He has indicated that he has the lung power to continue to discuss those matters for quite a period of time.

Now, absent that amendment, no other amendment can be called to the floor in connection with this bill without unanimous consent. I think that the leader on the minority side has made it clear that we on this side have determined that there ought not to be any more amendments and that the leader has indicated that the Members of the minority would not propose any more amendments and would hope that those on the majority side would not propose any more amendments.

I think the leader on the minority side is 100 percent right. I have no reservations in saying that I will use my right as an individual Senator to object to any amendment being brought up the remainder of the evening. I stayed until 2:30 last evening taking up some of the worst rinky-dinks that I ever heard of, ideas that people came up with out of the blue that they could have been talking about for the last 2 years, but in the middle of the night they concluded that these were great measures that the Nation needed so very badly.

Mr. BAKER addressed the Chair.
The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I do not want to treat unkindly my friend from Ohio. I do not mind him instructing me on the rules of the Senate and his prerogatives and I do not want to puncture his balloon, but I assure him there are other things that can be done. And that is not meant as a threat, but simply as an observation of the rules that permit us to move forward and I am committed to do.

Mr. President, I yield to the Senator from Oklahoma (Mr. Nickles) without losing my right on the floor.

Mr. NICKLES. Mr. President, I thank the majority leader. I, for one, would like to compliment the majority leader for his fairness and his openness in working with several of us that have had some problems with this bill. I think there are probably a couple other Senators who have amendments they would like to take up, not necessarily amendments to delay or postpone or even kill this bill, but serious pertinent amendments. I certainly appreciate the cooperation the majority leader has shown myself and other Senators in that regard.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. What is the question before the Senate?

The PRESIDING OFFICER. The question is on the Dole amendment No. 1457.

Mr. BAKER. Mr. President, I yield the floor.

Mr. DOLE. Mr. President, as I understand, there is some opposition to this amendment.

I say to the Senator from Arkansas, has he had any change of heart? Has the Senator had a heart? Let me put it

Mr. BUMPERS. Mr. President, in responding to the distinguished floor manager and Senator from Kansas on his question, I do have a heart. I am trying to save the American people \$200 million. If I could, I would just respond with a question on his amendment.

Mr. DOLE. Just make it brief. I do not want to hear the whole thing again.

Mr. BUMPERS. This morning, when the Senator moved to table the amendment of the Senator from Michigan to extend unemployment benefits, the Senator from Kansas remarked that it would cost \$700 million, and since he did not know where the money was coming from, he was forced to move to table.

Perhaps he could tell us where the \$200 million is coming from for the little amendment he has pending. I know where it goes. I know who gets it. Maybe the Senator could tell us

who is paying for it? Mr. DOLE. I take that reply as an

indication that there is still mild opposition to my amendment. I think we are very close to an agreement if we just find something to agree on. [Laughter.]

That seems to be the one hangup; we just cannot find anything to agree on. But I would say to my friends on the other side, I think, as far as the tax title is concerned, there is no problem foregoing additional amendments. That is the view of the manager of that particular title, even though there are some meritorious amendments that I think probably we could take care of in 30 seconds.

But I know what happens; if you start with one, then somebody else wants one. We did that, as the Senator from Ohio says, until early morning. I cannot speak for others, but I think the one area that I know there is a great deal of concern about is in the area of Davis-Bacon extension. That is not in title I.

So I say to my colleagues on the Democratic side, that as far as title I, which has been the most controversial up to this point, the one we spent about 21/2 days on, we are prepared to agree, if we can agree, title by title. We might be able to chip off a title at a time. There are only four titles. And as I understand, titles III and IV there

may not be any controversy over. So I hope we do not give up on trying to reach some agreement.

On the other hand, as the distinguished majority leader has indicated, there are some Members who feel very strongly that they should at least have an opportunity to raise some amendments. I do not believe any of those with reference to title I are controversial, unless I am mistaken. I am not certain of that. But as I understand it, they may be to other sections of the

So I hope that in the next few minutes we might be able to reach some accord. I might say to my friend from Arkansas, I have come to believe that you cannot pass all your legislative program in 1 year, and that we will be back in 2 or 3 weeks and will have an opportunity again next year not only for the amendment I have an interest in but for amendments that others have an interest in. I am prepared to pull down the amendment, which takes unanimous consent at this time, or dispose of it because I really believe we ought to get on with it.

Mr. LONG. Will the Senator yield? Mr. DOLE. Yes; I yield.

Mr. LONG. It seems to me that we would make great headway if the Senator would ask unanimous consent, and the Senate would agree, that we will consider no more amendments to change the tax law.

Mr. DIXON. Vote on the bill.

Mr. LONG. I would hope we could agree that we are not going to consider any further amendments to change the tax laws upward or downward. It seems to me we would make a lot of progress if we agree to at least that

Mr. BAKER. I agree it is progress. I am satisfied with that right there.

Mr. DOLE. We suggest that. Others say if we cannot agree on all of it or none of it. That might be a legitimate position to have.

Mr. LONG. If we can agree that we are not going to vote on raising or lowering taxes any further, we would

have made some progress.

Mr. SARBANES. Mr. President, if the Senator will yield, there are a number of us who were prepared to forgo offering amendments in an effort to move to a decision on this legislation and then go on to the continuing resolution. I do not think piecing it out achieves that objective. It still could go on indefinitely even if we had only one title left.

Furthermore, someone here who has an amendment perhaps to this title that he is willing to forgo offering is not necessarily satisfied because someone then on the other side can offer an amendment to some other title.

We came back into the special session to do appropriations. That was the reason the President said he wanted a special session and that was

the the reason we were brought back here.

The appropriations are embraced in the continuing resolution which expires at midnight tomorrow night. Are we going to go through this whoop-dedoo on Saturday of closing down the offices across the country that the President did once before when people came in to work and then were sent home? I know it is Saturday so it is not a lot of people but there are some offices that continue to work. Are they all going to be closed down on Saturday morning?

That is the reason we came back. This was an effort on the part of this side of the aisle to try to move on this bill. We were not trying to deny the majority leader that objective which he has. But then we were to get on to the continuing resolution.

Is the manager of the bill suggesting that he thinks that in a little bit of time this agreement not to offer amendments is possible from both

Mr. DOLE. Let me say to the Senator from Maryland we spent all day yesterday on the amendment of the Senator from Ohio. We spent a great deal of time today on one that involves unemployment compensation. I am not quarreling with the results of either one of those except to indicate there has been a great deal of time consumed on this bill and most of it on this side.

It seems to us that there are some Members who have honest-to-goodness amendments they wish to discuss. I am not sure if there are one, two, half

The answer is yes. It seems to me we are very close to agreement. I bet within 5 minutes—maybe not, come to think of it-but it should be possible if we were all reasonable, and we are, that we could agree on titles I, III, and IV, no further amendments to those titles. But I may be mistaken. I think it is worth exploring.

I am suggesting we should not say we cannot do it. In most negotiations an offer is made and a counteroffer is made and then you try to work it out. The offer has been made by the distinguished minority leader in good faith-no further amendments, final passage, which would be fine with this Senator. But as the majority leader has indicated, we could not get total agreement. We have substantial agreement.

Mr. SARBANES. I say to the manager of the bill that on both of the amendments that he referred to, which consumed considerable a amount of time on the floor, it is my recollection that they had sponsors on both sides of the aisle.

Mr. BUMPERS. I might just inject myself into this and I do not mean this to denigrate anyone. But Senators

will recall the Senator from Michigan offered the extension of unemployment benefits this morning and a motion was made to table by the distinguished floor manager which failed. Then a compromise was worked out.

I want to say to the Senator from Kansas he would be very happy to know that NBC has just reported that as being his bill.

Mr. DOLE. Very perceptive. Mr. BUMPERS. So even though it may have originated on this side, the Senator from Kansas gets credit for all those unemployed people who have a little money to jingle in their pockets over the Christmas holidays.

If I may just say one additional thing, and this is not directed at either the floor manager or the majority leader, but I think the point should be made that the agreement that was worked out on this side of the aisle and submitted to the majority was not considerable achieved without a amount of blood on the floor, and I want to say to those who feel very strongly about amendments on that side, there are people on this side who felt equally strongly but who relented and who conceded and agreed to this procedure in the interest of getting on with the Nation's business, getting this bill passed. There is obviously strong support for it, strong bipartisan support for it, and at this moment it is going to pass.

Every Member of this body who has been here for more than 3 weeks knows that anything can come unraveled at any minute when tempers are allowed to flare again, and when personal hostilities begin to manifest themselves on the floor, then any-

thing can happen.

It just occurs to me that I do not consider the offer on this side particularly magnanimous. It is a practical solution out of a dilemma and no one here much likes it, but we all have to give and take.

I had an amendment that I felt just as strongly about as the Senator from New Jersey and we all agreed finally in order to get this bill out of the way we could pass this bill in 10 minutes.

Mr. RANDOLPH. Right.

Mr. BUMPERS. We could pass this bill in 10 minutes. It would pass overwhelmingly and we could be on the continuing resolution immediately after that rollcall and have it finished by noon tomorrow and ready to go to conference.

The American people would surely applaud that, and I think it would be

gratifying to all of us.

Those who feel equally strongly about an amendment on this bill, as the Senator from Kansas has said we are going to be back here very shortly. The Senator from Kansas is going to get a chance, too. I am quite sure his capital gains will be the first bill introduced, and the first bill out of his committee. I am not naive enough to think that I have won this battle once and for all. I know that is the way it works around here.

But everyone ought to be practical enough to understand that this thing can be resolved just if Senators will be willing to be a little more magnanimous and understanding about what we are up against on both sides.

Mr. DOLE. Mr. President, if the Senator will yield so I may respond to the Senator. I do not quarrel with anything he said. It seems to me we ought to try to work this out. We are trying. We had a difficult time as probably some Members in the Democratic Caucus. But I suggest there still is a good opportunity to put it together. I think even if it takes us a little while doing it, we still ought to try. That is the only point I wish to make.

Mr. SYMMS. Mr. President, if the Senator will yield, I wish to thank Senator Bumpers for what he said. I think Senator Long made a very good suggestion. Senator Stafford, myself, Senator Bentsen, and Senator Ran-DOLPH have all put a lot of time in this bill, and I think we all realize we will be back next year; we can start over

and do it again.

I appeal to all of my colleagues on both sides of the aisle. When they think about all the different things that the Federal Government does, some things some of us like and some things we do not like. There is one thing that no country in the world can even begin to match us in America with and that is the freedom we get as individual Americans to go get in our automobile and drive where we want to go, where there is the transportation system that comes with these highways to move commercial transport across this great country.

What we are trying to do here is to allocate a little bit of the Government money that they take from the taxpayers in a user fee to fix up the

bridges and highways.

I have some more amendments. I am not willing to offer them, and I have said this is our caucus. We are very close to solution here. I think Senator Long has come up with a very good suggestion, and I just urge our leadership on both sides of the aisle and all of us to let the cooler heads prevail and move forward and see how far we can get, because I believe maybe by 9, 10, or 11 o'clock we can have this resolved and pass this legislation.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield. Mr. LONG. Mr. President, looking at what was achieved on yesterday, we managed to deal with 29 amendments. Of those 29 amendments, 18 of the 29 were Finance Committee amendments. The Finance Committee portion of the bill is in title I, the first 52 pages of the bill.

I detect that the Senator is willing to make a generous offer to the Senate, that he is willing to forgo action on his own amendment, one that he has committed himself publicly to pass if he can. It seems to me that if we would just get consent that we are not going to consider any more title I or Finance Committee amendments, we would be closing out about two-thirds of the area in which Senators might want to legislate. That still leaves some amendments that could properly be considered in other areas, areas involving the other committees, the Commerce and Public Works Committee.

But I would urge Senators to consider agreeing that we simply will consider no further amendments in the area dealing with the Finance Committee jurisdiction or title I of the bill.

Mr. DOLE. Mr. President, again I would just suggest that might be a good idea, and I want to say in fairness to the others that we have spent most of the time on title I. Maybe we spent too much time, a disproportionate amount of time on title I, so that other Members who had an interest in title II or title III or title IV have not had the opportunity we have had, having more or less dominated, which should not have dominated, the debate for the past 2 or 3 days or nights, and I think the RECORD indicates that 19 or 20 out of 28 amendments and others that were discussed and not disposed of, and I would want to confer with the majority leader. But if there is any disposition at all on that side so far as title I is concerned, I am willing to withdraw my amendment, to do whatever you do with the amendment.

I have another amendment that affects the handicapped that is going to expire on December 31, but we can do it next year, and that would be having the big title out of the way. I do not think Senator STAFFORD has more than, I do not know how many-

Mr. LONG. It seems to me, Mr. President, it would be worthwhile if we could wrap up title I which is where two-thirds of the amendments have been occurring, amendments in the Finance Committee's jurisdiction. I believe the Senate is about ready to do that, and I believe if the distinguished floor manager, the Senator from Kansas, can arrange to get that done we will have gotten most of this job done. I think we will have gotten two-thirds of it behind us, and the rest of it should go fairly easily.

Several Senators addressed Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Yes.

Mr. HATFIELD. I have just more or less outlined to the Republican Caucus what I would like to now outline to my friends on the Democratic side, and that is I have not chosen the schedule, but I would like to indicate what our schedule is. We have no choice about it. The Senator from Maryland has indicated that this resolution expires tomorrow night at midnight. That means the continuing resolution will have to be taken up whenever this is finished, if it is 9 o'clock, 10 o'clock, 11 o'clock, 12 o'clock, 1 o'clock, the continuing resolution has to be taken up immediately after this is disposed of.

It may take, I do not know, 4 or 5 hours. We have to go to conference with the House tomorrow in order to get some conclusion, and it will take 4 to 5 hours after the conference to get the paperwork done, to get the conference report back to the respective

Chambers.

Mr. CHILES. Mr. President, will the

Senator yield?

Mr. HATFIELD. That is the simple outline of where we are. My friends, on the continuing resolution we have such issues as abortion, MX missile, pay, Ted Turner, and a few other such controversies. So, consequently, I just wanted to put the Senate on notice. I have not determined this, but this is the situation we are in. So the sooner we can dispose of this, the sooner we can get to the continuing resolution, the sooner we can get to conference, the sooner we can pass some kind of a conference report, get it down to the White House and, hopefully pray to God we can get home by Christmas.

Mr. CHILES. Mr. President, will the

Senator yield?

Mr. DOLE. I yield to the Senator

from Florida.

Mr. CHILES. I think the distinguished chairman of the Appropriations Committee has put it exactly where it is. We are going to have a heck of a time passing the continuing resolution, and getting it through conference. The one thing Chairman HATFIELD was kind enough not to say is that it is probably going to be vetoed.

We all know that is going to occur or we have been told that it is because of the jobs bill proposals that are included. There is a jobs bill component in the Senate version of the continuing resolution. I do not think anybody on either side of the aisle thinks we are going to take that out. The Senate has a small jobs bill. There is a jobs bill in the House version of the continuing resolution that is bigger. The President has said he is going to veto anything with a jobs bill. So you have to add one more hurdle to our effort to get the continuing resolution passed. That one additional hurdle is that it will be vetoed and we will have to come back and deal with it after the

But the distinguished chairman kept saying we have to get on with the continuing resolution after we finish the gas tax bill. Now, there is no reason we have to do that. We could start with the continuing resolution now. I think that is what our caucus was about. The work we have come up here to do during the lameduck is to deal with appropriations. That is the work we were called for; that was the work we were told we had to come back for; and that is the work we had not completed earlier because Congress had not finished the appropriations bills. Why are we not dealing with that work we were called here to do?

After we pass the continuing resolution then there is going to be a conference. There is going to be time in between while the conference committee works. During that in between time we could be working on this gas tax bill, if there is anything to work on. We can come back to that. But why in the world at 8 o'clock in the evening before the day when the current continuing resolution is going to run out should we be spending another 5 minutes on this gas tax bill when we know we have got to pass the continuing resolution? We must go through all the issues on the continuing resolution, and the debate we have got to do on that and the conference, which is not going to be an easy conference, and then the veto, and then we must come back and try to keep this Government running. We are being held hostage by the continuing resolution process that faces us. We cannot do our work on the continuing resolution because we are dealing with this gas tax bill. I do not know why that has to be.

I was disposed to vote for a gas tax bill. I was disposed to vote for it. I am not saying I am going to continue to be favorably disposed if we are going to say that the gas tax bill has got to go first and we are not going to do our other more urgent business at the expense of actually going home and spending some time with our families.

My goodness, we have been in session all year. In addition to that a number of us have run for election and had to go through that, and now to go through this—I was not called back here to work on a gas tax bill. I was not told that was what I had to do. We were told we would be out of here by the 15th or the 17th at the latest. We have been here and we have been dutifully. We have dealt with this matter every day. A filibuster on this has not come from our side.

It seems to me we ought to go now to the continuing resolution, start on that, get that done, and let the negotiations go on. The negotiations on the gas tax bill can be going on while we are working on the continuing resolution and if they are close to any kind of agreement then we can come back to the gas tax bill. But let that happen. I am confident that the longer we go on, without getting to the continuing resolution, the more

the gas tax bill is going to begin to lose support. It is going to lose support I am confident from this side, and you may not get a gas tax bill at all if we do not move on and go to the continuing resolution.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. TSONGAS. I was very moved by the appeal by my friend from Oregon, and I would like to help.

It seems to me there are two things that can take place: One, pull the gas tax bill down, get to the continuing resolution or, two, vote on the gas bill now. The decision in both of those lies on the other side of the aisle. The most we can do is do what we did in caucus and that is to say no more amendments, let us go. So my question is why are you talking to us?

Mr. DIXON. Why not say it again? 1Mr. TSONGAS. I am prepared to be irrelevant. I want to go out.

Mr. DOLE. Mr. President, I will give the Senator a live pair. [Laughter.]

Mr. STAFFORD. Mr. President, will the Senator yield to me for a minute? Mr. DOLE. Yes.

Mr. STAFFORD. Mr. President, I thought my colleagues on both sides of the aisle would like to know what we see in the way of action at this time on title II if we go ahead.

There is a total of six amendments which would not require debate and could probably be accepted. There are three amendments, if they are offered, that probably would require debate and might require rollcall votes.

I have not been around here as long as one of my colleagues, but I have been around here long enough to know that a number of other amendments of which I am unaware could apply against title II, the highway part of the bill. But if we are in position to go ahead it would appear to me that, with the exception of one major amendment, the rest of the list facing us on title II would not take a long period to dispose of.

Mr. SARBANES. Mr. President. would the manager of the bill explain why it would not make sense to do the continuing resolution beginning now, finishing it-I think the chairman of the committee said he thought he needed 4 or 5 hours, and that would then allow it to go to conference the first thing in the morning, and you could go back on the highway bill either midnight or 1 o'clock or go back on it the first thing in the morning. We are going to be sitting here tomorrow or whenever the continuing resolution goes to conference in any event. waiting for the conference action, the preparation of the papers, and the return of the continuing resolution.

We could move now to dispose of that and then, as the majority leader sees fit, move back to the highway bill tonight or the first thing in the morning. Perhaps by that time people will see the wisdom of not offering any amendments and we will be able then to go ahead and vote on the highway bill.

Mr. DOLE. That might be an option. But I understand, having been in the House, once they get the continuing resolution, they may all go home. We could still be debating the highway bill. And maybe if the highway bill is not that important, it probably does not make any difference.

Mr. SARBANES. They could do that anyway. The continuing resolution would not get to them until tomorrow evening, as I understand it, even under the best of schedules; is that not cor-

rect?

Suppose we took the continuing resolution up now and completed it this evening at midnight, 1 o'clock, 2 o'clock, whenever, then we would go to conference sometime tomorrow, I take it. Is that correct?

Mr. HATFIELD. That is correct.

Mr. SARBANES. When would the chairman anticipate going to confer-

ence tomorrow?

Mr. HATFIELD. First of all, the House would have to convene to appoint conferees. As soon as the House appointed conferees, we have scheduled a location and everyone is on alert to be ready to immediately go to conference.

I do not know how long the conference would take. It is hard to predict. It depends upon what kind of product we finally come out with on the floor. But, assuming the historic past, we probably could complete the conference in 3 to 4 hours. Then it would take on the average of about 4 to 6 hours, somewhere in that neighborhood, to prepare the report to return to the respective Houses, the paperwork.

Mr. SARBANES. So that would be tomorrow evening, under the best of

circumstances?

Mr. HATFIELD. Exactly, tomorrow evening. Then, we would have to have the House act on the conference report and we would act upon the conference report and send it down to the White House to await the verdict of the White House.

I do not, at this time, feel as certain as I did perhaps a week or so ago that the President would automatically veto it. He may feel it is better for the Republic to get the Congress out of town as quickly as possible. [Laughter.] He may decide to sign it on that kind of a basis and, therefore, if he did we are home free. If he did not, then Saturday becomes a day when we have to go back to the drafting board.

Mr. SARBANES. The President might decide to sign it on some other basis beside that suggested by the chairman of the committee; namely, the substantive content of the continuing resolution being good for the country, as reflected in the judgment of the Senate and the House.

Mr. HATFIELD. I would feel that the product we are offering to the Senate would justify his signature or I would not be here to advocate it. But I am saying, notwithstanding what I may consider as to the quality of the product, for the sake of the Republic, that might even be worth his signature.

Mr. DOLE. In an effort to determine whether we are serious about this, I ask unanimous consent that I might withdraw the amendments pending at the desk in the first and second degree.

Mr. METZENBAUM. Objection.

Mr. CHILES. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. That indicates some-

The Senator from Kansas, of course, could move to table his own amendment, and that motion, I think, would probably pass. But that would open up the bill.

I wonder if we might suggest the absence of a quorum for a few minutes to see if there might be some way to resolve at least a part of the problem. I would like to speak with the majority leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ANDREWS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAWKINS). Without objection, it is so ordered.

# SURFACE TRANSPORATION ACT OF 1982—H.R. 6211

The following statements were submitted on the above bill.

GRANDFATHER CLAUSE AMENDMENT TO THE HIGHWAY BILL S. 3043

• Mr. BAUCUS. Madam President, I would like to ask the Senator from Idaho (Mr. Symms) to clarify an amendment which was accepted by the Environment and Public Works Committee. The basis of the amendment sets a national weight standard for heavy trucks at 80,000 pounds. Additional language in the amendment inserts the phrase "which the State determined" to present law.

What is the intent of this language? Mr. SYMMS. Madam President, I thank the distinguished Senator for allowing me to clarify the intent of this amendment. The provision in this bill added by the Environment and Public Works Committee regarding the grandfather clause in section 127 of title 23. United States Code clarifies

confusion which exists in a few States about the proper interpretation of the grandfather clause, differently than the Federal Highway Administration and this has led to confusion and legal proceedings. In one case, in Montana, the FHWA has refused to follow a finding by the Montana Supreme Court as to what was allowed under that State's permitting authority. The FHWA says it is not bound because the trucking company involved did not include it as a defendant in the lawsuit.

The language added "which the State determined" will resolve these outstanding conflicts. It is intended to apply to situations like Montana where a State court, or like Massachusetts, where the State attorney general, or Oklahoma where a State agency, after having carefully considered the facts in that State, is on record as having made a final determination as to what is allowable under the grandfather clause. Certainly, an attorneys general's opinion would be reviewable, with a State supreme court's ruling being the final arbiter of the State law under the grandfather clause.

It is not intended to encourage new debates about exemptions. This is particularly important since the Federal Government is picking up more and more of the costs of maintenance and repair associated, in part, with heavy vehicle use.

Mr. BAUCUS. Does this amendment preclude States from otherwise changing their permit requirements for example, by raising or lowering axle weights or increasing fees?

Mr. SYMMS. No, a State can do whatever it desires as long as it allows vehicles of the weight and size dimensions specified in this legislation or under its original grandfather clause, on its Interstate System. Section 127 becomes in effect, a standard with the grandfather clause allowing States to raise or lower their weights, and such grandfathered weights being a ceiling.

It is my understanding that the grandfather clause applies to, at the most, 16 States: Probably Nebraska, Montana, South Dakota, Oklahoma, Rhode Island, Idaho, Oregon, New Mexico, Utah, Nevada, Massachusetts, Louisiana, Michigan, Hawaii, Washington, and Alaska.

This set of States are the only ones likely to qualify under the State determination process envisioned by the committee in adding the provision; FHWA is certainly encouraged to be actively involved in the State determination process.

Madam President, I hope that this clarification will aid the Senate conferees in adopting the language agreed to in the Environment and Public Works Committee.

• Mr. DANFORTH. Madam President, I rise in support of the Surface

Transportation Assistance Act of 1982. This legislation will provide the needed authorization and revenues to rebuild the Nation's highways and bridges, as well as the public transpor-

tation systems.

The portion of the bill reported by the Finance Committee calls for the setaside of 1 cent per gallon to fund a separate account within the highway trust fund for mass transit. The provision is intended to provide funding for mass transit capital projects, including, as agreed to by the administration, new starts in rapidly growing cities and in older cities attempting to stimulate economically depressed areas.

With respect to new starts, I would like to clarify that the committee intends that, in the making of discretionary grants for new starts, preference should be given to projects which maximize the cost effectiveness of the Federal contribution by, for example, the use of existing infrastructure such as existing track, tunnels, or rights-of-

way.

Madam President, the St. Louis Metropolitan Area, including its Illinois suburbs, has been developing a low-cost approach to the establishment of a modern, urban, light-rail transit system. The project will use existing rights-of-way and existing infrastructure such as the historic Eads Bridge and its adjacent tunnel through down-town St. Louis. The estimated cost of this project is \$135 million, a small fraction of the cost of systems which do not utilize existing facilities such as Washington's Metro system.

Mr. BENTSEN. Madam President, I would like to associate myself with the remarks of the Senator from Missouri. My own State of Texas has a number of rapidly growing cities, such as Houston, whose needs lie primarily in providing new service rather than in rehabilitating older facilities. I am pleased that the legislation before us today recognizes this fact and specifically provides that the funds raised by the bill may be used for new construc-

tion

With respect to the rail project currently being planned in Houston, I am pleased that the Harris County Metro Board is committed to providing a substantial portion of the capital cost of the project with local funds. I believe that this is a responsible course of action which should find encouragement in the Congress and the administration.

Mr. DANFORTH. Madam President, I thank the Senator from Texas for his remarks. I would just ask the chairman of the Finance Committee, the Senator from Kansas, if he agrees that these two proposals are the type of new cost-effective mass transit projects which the committee intends to be given preference in the making of discretionary grants.

Mr. DOLE. That is my understanding of the committee's intent.

FISHERMEN'S EXEMPTION FROM FUEL TAX PRO-POSED BY THE HIGHWAY REVENUE ACT OF 1982

. Mr. COHEN. Madam President, as the Senator from Kansas is aware, commercial fishermen are currently exempt from the 4-cents-a-gallon excise tax that is applied to gasoline which they use for their fishing vessels. This exemption from the fuel tax is offered to fishermen as a qualified business use. Is it the Senator from Kansas' understanding that the Highway Revenue Act of 1982 would extend this exemption to commercial fishermen based upon their qualification as an off-highway business use? And, is it also the Senator's understanding that the exemption for commercial fishermen would be raised from 4-cents-a-gallon, for the gasoline used to power their fishing vessels, to 9-cents-a-gallon exemption as a result of the passage of this measure?

Mr. DOLE. Yes; that is my under-

standing.

• Mr. HUDDLESTON. Madam President, I want to commend the committee for recognizing the Federal responsibility by providing for a Federal lands highway program with authorizations for those roads on or serving Federal lands. The new Federal lands highway program, with its multiyear funding, will provide an essential longrange program to begin addressing the real needs of these neglected Federal facilities. I understand a portion of the park highway and parkway authorizations will be used for repair, restoration, and reconstruction of existing roads and a portion will be used for new construction.

There are four major Federal parkways and park highways which Congress has previously approved and on which work has been started. These are the Foothills Parkway. Cumberland Gap Highway relocation, Blue Ridge Parkway, and the Natchez Trace Parkway. It is my understanding that it is the intent that with the new authorizations provided in the parkway and park highway program that priorities be established with respect to these four parkway and highway projects, such that they will be quickly undertaken and completed prior to the initiation of other new projects which may be eligible for funding under this important pro-

Mr. STAFFORD. That is correct. It is the intent that the authorizations will provide for the early completion of these uncompleted facilities.

Mr. BAKER. I also commend the committee for its work on this program. While it is not necessarily sufficient to take care of all the needs, it does acknowledge the Federal responsibility and will help protect the initial investments to bring the current Fed-

eral highways to safe and maintainable standards and allow for the completion of these urgently needed facilities.

## UNANIMOUS-CONSENT AGREEMENT

Mr. ANDREWS. Madam President, I ask unanimous consent that the Senate temporarily lay aside the pending business and turn to the consideration of the transportation appropriations conference report, H.R. 7019, under a 10-minute time agreement, to be equally divided between myself and the Senator from Florida (Mr. Chiles), or our designees, and that no amendments be in order to the amendments in disagreement; further, I ask unanimous consent that following disposition of the conference report, the Senate resume the pending business.

Mr. ROBERT C. BYRD. Madam President, there is no objection on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF TRANSPORTA-TION AND RELATED AGENCIES APPROPRIATIONS, 1983—CON-FERENCE REPORT

Mr. ANDREWS. Mr. President, I submit a report of the committee of conference on H.R. 7019 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:
The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of December 13, 1982.)

Mr. ANDREWS. Madam President, before I present to the Senate my recommendations on the conference report I would first like to thank Senator Chiles, his staff, and all of the conferees for their assistance in reaching what I believe to be a very good compromise in conference.

Madam President, I am proud to recommend to my colleagues passage of the conference report on the fiscal year 1983 transportation appropriations bill. The bill is \$100 million below the budget request, and provides a lower level of funding than was provided in either the House or Senate

bills. This is in part due to provisions taken care of in the October continuing resolution, but it is also the result of the conferees adopting the lower level of the two Houses on may items.

The Coast Guard is funded at \$2.4 billion, including \$400 million for the acquisitions, construction and improvement of vessels and shore facilities necessary to enable the Coast Guard to continue its fine work.

The bill provides \$625 million for the FAA for facilities and equipment improvments to help implement the national airspace system plan.

Also included is \$700 million for Amtrak and \$220 million for other railroad responsibilites. Urban mass transit is funded at \$3.2 billion, including roughly \$2 billion which will be used for capital improvements in rolling stock, bus facilities and subway maintenance and construction.

The mandatory 102-inch truck width provision and St. Lawrence Seaway debt elimination are also part of the conference agreement.

Madam President, I am pleased to recommend approval of this conference report by my colleagues, and I have assurances from OMB that they will recommend enactment of the bill.

Madam President, I yield to my colleague, the good Senator from Florida.

Mr. CHILES. Madam President, I support the statement just made by Chairman Andrews and would urge the Members to vote for the conference report on the transportation appropriations bill for fiscal year 1983. Senator Andrews and his staff have done an outstanding job on this appropriation bill and have accommodated to the extent possible the interests of all the Members of both sides of the aisle.

The conference committee has made several reductions to the totals that were recommended by both the House and the Senate. The conference agreement before the Members is \$309.2 million below the level approved by the Senate and \$552.6 million below the 302(b) allocation that was provided to our subcommittee. It is also worth noting that the conference agreement is \$102.5 million below the level enacted for 1982 and \$73 million below the level requested by the administration for 1983.

While these reductions have been made, increased funding is still provided for several programs of high priority. For example, recommended in the conference report before the Members is an increase of \$127 million for the Coast Guard over the amounts requested by the administration with \$115.2 million of this increase going for the Coast Guard construction program. These funds are important to permit the Coast Guard to modernize its fleet of cutters which now have an average age of almost 28 years.

The highlights of other increases follow. The conference committee has provided an additional \$100 million for Amtrak which is the amount necessary to permit Amtrak to continue its national system of rail passenger service. The conference committee has also provided increases in programs for the Urban Mass Transportation Administration over the levels requested by the administration in recognition of the importance of maintaining a healthy mass transportation system. For example, the conference committee has recommended an increase of \$85 million for urban discretionary grants; an increase of \$185 million for urban formula grants; and an increase of \$26 million for nonurban formula grants all over the amount requested by the administration.

One additional matter that I know is important to many Members is the interstate transfer grants programs for highways and transit. As the Members recall, the Congress provided funding for these two programs for the entire year of 1983 in the first continuing resolution for fiscal year 1983. Specifically, that public law provided \$518 million for interstate transfer grants-highways and \$365 million for interstate transfer grants-transit. Because these items have already been funded, they are not included in the agreement before the conference Members.

Madam President, that concludes my remarks on the conference agreement, and I will be pleased along with Senator Andrews to help answer any questions that the Members may have.

Mr. ROBERT C. BYRD. Madam President, I commend the distinguished chairman of the Appropriations Subcommittee (Mr. Andrews), and the distinguished ranking member (Mr. CHILES). They have done a masterful job and demonstrated great skill and tremendous patience and extraordinary knowledge of the subject matter, and they came out very will in their conference with the House of representatives.

I express my appreciation and appreciation on behalf of the Senate for the work they have done.

Mr. ANDREWS. Madam President, those of us on the committee certainly appreciate the generous remarks of our good friend and colleague, the distinguished minority leader, a member of our subcommittee. We appreciate the great contribution and cooperation he has given to us as we move through the consideration of these various items so important to various parts of our great Nation.

Mr. ROBERT C. BYRD. Madam President, I thank the Senator.

Mr. DOMENICI. Mr. President, I submit for inclusion in the RECORD, two tables that present the spending and credit totals for the Transportation and Related Agencies appropriation bill for fiscal year 1983 as reported from the committee of conference. The tables follow:

TRANSPORTATION SUBCOMMITTEE—SPENDING TOTALS

[In billion dollars]

	Fiscal year	r 1983
	BA	0
Outlays from prior-year budget authority and other actions completed <sup>1</sup> .  H.R. 7019, conference agreement.  Possible later requirements:	0.9 10.6	12.4
Possible alear requirements: FAA facilities and equipment CAB air carrier payments Total for Transportation Subcommittee First Budget Resolution 302(b) allocation. Possible amount over (+)/under (-).	(2) 11.7 11.8 1	(2) (2) 19.8 20.1 3
H.R. 7019: President's request 3 House-passed 3 Senate-passed 3 Conference agreement 2	10.2 10.3 11.0 10.6	6.9 7.2 7.4 7.3

<sup>1</sup> Adjusted to include \$0.9 billion in budget authority and \$0.1 billion in outlays to account for full year appropriation of the Highway and Transit Interstate Transit Grant programs that are funded for the full year in the continuing resolution, Public Law 97–276.
<sup>2</sup> Less than \$50 million.
<sup>3</sup> Adjusted to exclude Highway and Interstate Transfer Grant programs that are funded for the full year in the continuing resolution, Public Law 97–276.

Note.-Details may not add to totals due to rounding.

## TRANSPORTATION SUBCOMMITTEE—CREDIT TOTALS

(In billion dollars)

	New direct loan objections	New primary loan guarantee commit- ments	New secondary loan guarantee commitments	
H.R. 7019, conference agreement, with direct loan obligations re- sulting from prior-year commit- ments and other actions com-	0.5			
pleted	0.5	-31		
Subcommittee	.5	1		
(9) (b) (2) allocation	.5	.1	(1)	
(-) H.R. 7019:	-(1)	2	-(1)	
President's request		-1.		
House-passed	.5	.1		
Senate-passed	.5 .5 .5	-1.		
Conference agreement	.5	-1		

1 Loss than \$50 million Note.-Details may not add to totals due to rounding.

Mr. DANFORTH. Mr. President, as the distinguished chairman of the Transportation Appropriations Subcommittee will recall, he and I worked closely together earlier this year to insure adequate preference share funding for specifically designated projects and to insure that such funding remained available until expended. I am now advised that the conferees to the fiscal 1983 transportation appropriations bill have recommended that \$25 million be derived from unobligated balances of preference shares for use for the Chicago Regional Transportation Authority and for Conrail labor protection. I would like to use this opportunity to ask the chairman whether my understanding is correct that in recommending that the \$25 million be derived from preference shares, it is the conferees' intent to use the preference share funds on a temporary basis and then to return a

like amount to the preference share program through the fiscal 1983 supplemental appropriations process.

Mr. ANDREWS. The distinguished Senator from Missouri is correct in his understanding of the conferees' intent. I also would like to assure him that the conferees remain committed to those projects for which preference share funds were earlier earmarked. Of course, we believe it is essential that persons interested in these projects submit applications for the funding as soon as possible.

Mr. MATTINGLY. I have expressed my interest for some time now that the UMTA have the flexibility needed to deal with the diverse needs of this Nation's mass transit systems. I applaud the Senator from North Dakota's efforts to see that a good bill be reported from the House-Senate conference on the fiscal year 1983 Department of Transportation and related agencies appropriations bill. This bill

is a needed step.

But I am particularly concerned that directives given to UMTA by the Senate's report and not discussed in conference be understood by UMTA. Specifically, I am interested in that section of the Senate report that directs that an amount not to exceed \$40 million be available to fund new start projects currently covered by letters of no prejudice expiring in calendar year 1982.

Is it the understanding of the Senator from North Dakota that although this report's language is not contained in the conference report, it is still binding upon the UMTA?

Mr. ANDREWS. Yes, it is, as is the usual procedure on noncontroversial items in either House or Senator re-

ports.

Mr. MATTINGLY. And is it the gentleman's understanding that the UMTA should therefore, in this matter, adhere to the direction of the Senate report subject to the normal reprograming process?

Mr. ANDREWS. Yes, it is. There is nothing in the conference agreement which would negate or diminish the

Senater report language.

Mr. MATTINGLY. I thank the Senator from North Dakota. This is important discretionary flexibility for UMTA, and I am pleased to have this point clarified.

Mr. ANDREWS. Madam President, I move that the Senate adopt the con-

ference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to. Mr. ANDREWS. Madam President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Madam President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ANDREWS. Madam President, I ask that the Chair lay before the Senate certain amendments which are in disagreement.

The PRESIDING OFFICER. The clerk will state the amendments in dis-

agreement.

The legislative clerk read as follows: Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 2 to the aforesaid bill, and concur therein with an amendment as follows:

Strike the matter stricken and inserted by

said amendment, and insert:

"\$40,000,000, of which \$1,000,000 shall be transferred and made available to the Motor Carrier Ratemaking Study Commission and"

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 6 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"HEADQUARTERS ADMINISTRATION"

"(INCLUDING TRANSFER OF FUNDS)"

"For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard including but not limited to executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, \$72,440,000, of which \$14,000,000 shall be derived by transfer from appropriations for retired pay.

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 11 to the aforesaid bill, and concur therein with an amendment as

follows:

Strike the matter stricken and inserted by said amendment, and insert: "\$50,000,000 together with an amount not to exceed \$4,000,000 which shall be derived from appropriations for retired pay".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 15 to the aforesaid bill, and concur therein with an amendment as

follows:

In lieu of the sum inserted by said amend-

ment, insert: "\$1,264,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 17 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert ": Provided further, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure without the prior approval of both House and Senate Appropriations Committees"

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 43 to the aforesaid bill, and concur therein with an amendment as

Restore the matter stricken by said amendment, amended to read as follows: " of which \$10,000,000 shall be derived from the unobligated balances of "Redeemable preference shares": Provided, That such sum shall be considered to have been appropriated to the Secretary under said section 713 for transfer to the Railroad Retirement Board for the payment of benefits under section 701 of the Regional Rail Reorganization Act of 1973, as amended: Provided further. That, for purposes of section 710 of the Regional Rail Reorganization Act of 1973 as added by section 1143 of the Northeast Rail Service Act of 1981, such sum shall be considered to have been appropriated under section 713 of the Regional Rail Reorganization Act of 1973 and counted against the limitation on the total liability of the United States"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "\$700,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment as

Restore the matter stricken by said amendment, amended to read as follows: Provided further, That, of the funds available, \$25,000,000 shall be held in reserve for 6 months after the date of enactment of this Act to be available for the rehabilitation, renewal, replacement, and other improvements on the line between Indianapolis, Indiana, Shelbyville, Indiana, and Cincinnati, Ohio: "Provided further, That, of the funds available, \$5,000,000 shall be made available only for the rehabilitation, renewal, replacement, and other improvements on the line between Attleboro, Massachusetts, and Hyannis, Massachusetts, to ensure that such track will meet a minimum of class III standards as prescribed by applicable Federal Railroad Administration regulations"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill. and concur therein with an amendment as follows:

Strike the matter stricken and inserted by said amendment, and insert:

"For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, \$15,000,000. to remain available until expended and to be derived from the unobligated balances of 'Redeemable preference shares', and for necessary expenses to carry out section 1139(b) of Public Law 97-35, \$75,000,000, to remain available until expended and to be derived from the unobligated balances of Payments for purchase of Conrail securities'.

Resolved. That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as

In lieu of the sum proposed by said amendment, insert: "\$1,606,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 56 to the aforesaid bill, and concur therein with an amendment as follows:

Strike the matter stricken and inserted by said amendment, and insert: "data from the 1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 59 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows: "1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 66 to the aforesaid bill, and concur therein with an amendment as

Strike the matter stricken and inserted by said amendment, and insert: "\$23,125,000: Provided, That of the foregoing amount, not to exceed \$10,625,000 shall be made available for the period between April 1, 1983, and September 30, 1983".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 72 to the aforesaid bill, and concur therein with an amendment as

In lieu of the matter inserted by said amendment, insert: "not to exceed \$8,000 for official reception and representation expenses of the Board;"

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 93 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

"Sec. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, decided by the Civil Aeronautics Board (hereinafter referred to as the "Board") may bring an action directly on the claim in the United States Claims Court as provided in section 10(a) of the Contract Disputes Act of 1978 with respect to claims which have been decided by a contracting officer. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will au-thorize an action on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any action under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

"(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a decision of a contracting officer under section 10(a) of such Act and as if the Board were a contracting officer:

"(1) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in

such section, not to preceed the date of enactment of the Contract Disputes Act of 1978.

"(2) Section 13, relating to the payment of claims and judgments.

'(3) Section 14(i), relating to the jurisdiction of the United States Claims Court.

"(c) If an administrative law judge has issued an initial decision after a hearing on the record in the case before the Board, the court may, in its discretion, rely upon the evidence adduced at such hearing and may give such initial decision such weight as it deems appropriate."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 96 to the aforesaid bill, and concur therein with an amendment as

In lieu of the section number named in said amendment, insert: "323".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 97 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:
"Sec. 324. No funds appropriated under

this Act shall be expended to pay for any travel initiated after January 1, 1983, by the Administrator of the Federal Aviation Administration as passenger or crew member aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: Provided, That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator within 6 hours local time of the desired time of arrival: Provided further, That this limitation shall not apply to costs incurred by any flight which is essentially for the purpose of inspecting, investigating, or testing the operations of any aspect of the Federal Aviation Administration system designed to aid and control air traffic, or to maintain or improve aviation safety: Provided further, That this limitation shall not apply to costs incurred by any flight in Department of Transportation aircraft which is necessary in times of emergency or disaster, or for se-curity reasons, or to fulfill official diplomatic representation responsibilities in foreign countries: Provided further, That written certifications shall be issued quarterly on all flights initiated in the previous quarter subject to this limitation and shall be made readily available to Congress and the general public."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 98 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: "325".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 101 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said

amendment, amended to read as follows:
"Sec. 327. Notwithstanding any other provision of law, the Secretary of Transportation shall approve, upon request of the State of Indiana, not to exceed \$4,000,000, to be made available from funds available for redistribution under 23 U.S.C. 118(b) for the construction of an interchange to appropriate standards at I-94 and County Line Road at the Porter-LaPorte County Line near Michigan City, Indiana. Such amount shall be subject to the obligation limitation enacted for fiscal year 1983 or any fiscal year thereafter on obligations for Federalaid highways and highway safety construction programs.

SEC. 328. Notwithstanding any other provision of this Act, the Secretary of Transportation is authorized to transfer appropriated funds between the Coast Guard Operating expenses appropriation and the Coast Guard Headquarters administration appropriation and between the Federal Aviation Administration appropriation for Operations and the Federal Aviation Administration appropriation for Headquarters administration: Provided, That the Coast Guard and Federal Aviation Administration Headquarters administration appropriations shall be neither increased nor decreased by more than 7.5 per centum by any such transfers: Provided further, That any such transfers shall be reported promptly to the Committee on Appropriations and the appropriate authorizing committees in the House and the Seante.'

Mr. ANDREWS. Madam President, I move that the Senate concur with the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Dakota.

The motion was agreed to.

Mr. ANDREWS. Madam President, I move to reconsider the vote by which the amendments were agreed to.

Mr. ROBERT C. BYRD. Madam President. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ANDREWS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the

Mr. BAKER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CORRECTIONS TO CERTAIN BANKING STATUTES

Mr. BAKER. Madam President, there is a matter that has been cleared on both sides for action by unanimous consent, I believe, and I will state a request now for the consideration of the minority leader and other Senators

I ask unanimous consent that the Senate proceed to the consideration of Senate Joint Resolution 271 making technical amendments to banking statutes.

Mr. ROBERT C. BYRD. Madam President, I would have no objection, provided the distinguished majority leader will attach to that that there be a time limitation of whatever time he wants, and that no further amendments be in order.

Mr. BAKER. Madam President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The legislative clerk read as follows: A joint resolution (S.J. Res. 271) to make technical corrections in certain banking and related statutes.

The Senate proceeded to consider the resolution which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike out all after the enacting clause, and insert the following:

Section 1. (a) Section 13(c)(5)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(5)(A)), as added by section 111 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 2. Section 5(0)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(0)(1)), as added by section 112 of Public Law 97-320, is amended by inserting "examination," after "operation,".

SEC. 3. The last sentence of section 26(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831c(a)), as added by section 113(p) of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 4. (a) Section 13(f)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1823(f)(1)), as added by section 116 of Public Law 97-320, is amended by striking out "paragraphs" both places it appears and inserting in lieu thereof "paragraph".

(b) Section 13(f)(6) of such Act (12 U.S.C. 1823(f)(6)), as added by section 116 of Public

Law 97-320, is amended-

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following:

"(C) In the case of a minority-controlled institution, the Corporation shall seek an offer from other minority-controlled institutions before proceeding with the sequence set forth in the preceding subparagraph.".

SEC. 5. Section 406(c)(3) of the National Housing Act (12 U.S.C. 1729(c)(3)), as amended by section 122(f) of Public Law 97-320, is amended by striking out "paragraphs (1) or (2)" and inserting in lieu thereof "paragraph (1) or (2)".

SEC. 6. Section 408(1) of the National Housing Act (12 U.S.C. 1730a (1)) is amended by striking out "mergers or acquisitions approved under subsection (e)(2)" and inserting in lieu thereof "any transaction approved under subsection (e)(2) or (m)".

SEC. 7. (a) Section 408(m)(1)(A)(i) of the National Housing Act (12 U.S.C. 1730a(m)(1)(A)(i)), as added by section 123 of Public Law 97-320, is amended by striking out "subsections (e) (2) and (1)" and inserting in lieu thereof "subsections (e) (2) and (1)".

(b) Section 408(m)(1)(B)(iii) of such Act is amended by striking out "Board of Directors" each place it appears and inserting in lieu thereof "Federal Home Loan Bank Board".

SEC. 8. The second sentence of section 17(a) of the Federal Home Loan Bank Act (12 U.S.C. 1437(a)), as amended by section 127 of Public Law 97-320, is amended—

(1) by striking out "the Administrative Procedure Act" and inserting in lieu thereof "section 553 of title 5, United States Code"; and

(2) by striking out "such Act" and inserting in lieu thereof "section 554 of such title"

SEC. 9. (a) Section 406(f)(5)(C)(ii) of the National Housing Act (12 U.S.C. 1729(f)(5)(C)(ii)), as added by section 202 of Public Law 97-320, is amended by striking out "if" the second place it appears.

(b)(1) Section 406(f)(5)(I) of such Act (12 U.S.C. 1729(f)(5)(I)), as added by section 202 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(2) The amendment made by paragraph (1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 10. (a) Section 13(i)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1823(i)(9)), as added by section 203 of Public Law 97-320, is amended by inserting "or dividends" after "interest".

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.
SEC. 11. Section 206 of Public Law 97-320

is amended to read as follows:

# "SUNSET PROVISION

"Sec. 206. (a) Upon the expiration of three years after the date of enactment of this Act, section 406(f)(5) of the National Housing Act and section 13(i) of the Federal Deposit Insurance Act are repealed.

posit Insurance Act are repealed.

"(b) The repeal by subsection (a) shall have no effect on any action taken or authorized pursuant to the amendments made by this title by or for a qualified institution while such amendments were in effect and while net worth certificates issued pursuant to these amendments are outstanding."

SEC. 12. The first sentence of section 5(b)(1)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(1)(b)), as amended by section 312 of Public Law 97-320, is amended by inserting "may accept a demand account from itself and" after "An association".

SEC. 13. Section 204 of the Depository Institutions Deregulation Act of 1980 (12 U.S.C. 3503), as amended by section 327 of Public Law 97-320, is amended by adding at the end thereof the following:

"(4) The transitional adjustment provisions in section 19(b)(8) of the Federal Reserve Act, providing for the phase-in of reserve requirements, shall not apply to an account or accounts established pursuant to this subsection."

SEC. 14. (a)(1) Section 5(c)(3) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)(3)) is amended by adding at the end

thereof the following:

"(D) Construction loans without security.—Investments not exceeding the greater of (i) the sum of its surplus, undivided profits, and reserves, or (ii) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (I) the association relies substantially for repayment on the borrower's general credit standing and forecast of income without other security, or (II) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party. Investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection."

(2) The amendment made by paragraph
(1) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

(b) Section 5(r)(2)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C.

1464(r)(2)(B)), as added by section 334 of Public Law 97-320, is amended by striking out "Depository Institutions Amendments" and inserting in lieu thereof "Garn-St Germain Depository Institutions Act".

SEC. 15. Section 352 of Public Law 97-320, is amended by inserting "Home" after "Fed-

eral" the first place it appears.

SEC. 16. Section 6(m) of the Federal Home Loan Bank Act (12 U.S.C. 1426(m)), as added by section 355(b) of Public Law 97-320, is amended by striking out "Banks" and inserting in lieu thereof "banks or in connection with obtaining a charter from the Federal Home Loan Bank Board".

SEC. 17. (a) Section 5200(b)(1) of the Revised Statutes (12 U.S.C. 84), as amended by section 401 of Public Law 97-320, is amended by inserting a comma before "to the extent specified by the Comptroller of the

Currency".

(b) Section 11(m) of the Federal Reserve Act (12 U.S.C. 248(m)) is amended by striking out in the first sentence "under paragraph (8) of section 5200 of the Revised Statutes, as amended (U.S.C., Supp. VII, title 12, sec. 84)" and inserting in lieu thereof "under section 5200(c)(4) of the Revised Statutes".

SEC. 18. (a) Section 5169(b)(1) of the Revised Statutes (12 U.S.C. 27(b)(1)), as amended by section 404(a) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engage exclusively"; and

(2) by striking out "depository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

(b) The last proviso of section 5136 Seventh of the Revised Statutes (12 U.S.C. 24 Seventh), as amended by section 404(b) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engaged exclusively";

(2) by striking out "despository institutions" the second place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,"; and

(3) by striking out "10 per centum of its" and inserting in lieu thereof "10 per centum

of the association's".

(c) The last sentence of section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841 (c)), as amended by section 404(d) of Public Law 97-320, is amended—

(1) by inserting "(except to the extent otherwise provided by law)" after "engage

exclusively"; and

(2) by striking out "depository institutions" the third place it appears and inserting in lieu thereof "depository organizations, subsidiaries thereof,".

SEC. 19. (a) Section 2(b) of the Act of May 1, 1886 (12 U.S.C. 30(b)), as amended by section 405(a) of Public Law 97-320, is amended by inserting "for a relocation outside such limits" after "stock of such association".

(b) The first sentence of section 5154 of the Revised Statutes (12 U.S.C. 35) is amended by striking out "with any name approved by the Comptroller of the Currency" and inserting in lieu thereof "with a name that contains the word 'national'".

SEC. 20. (a) Section 406 of Public Law 97-320 is amended to read as follows:

# "VENUE PROVISIONS

"Sec. 406. The last sentence of section 5198 of the Revised Statutes (12 U.S.C. 94) is amended to read as follows: 'Any action or proceeding against a national banking asso-

ciation for which the Federal Deposit Insurance Corporation has been appointed receiver, or against the Federal Deposit Insurance Corporation as receiver of such association, shall be brought in the district or territorial court of the United States held within the district in which that association's principal place of business is located, or, in the event any State, county, or municipal court has jurisdiction over such an action or proceeding, in such court in the county or city in which that association's principal place of business is located.'."

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

Sec. 21. Section 4(b)(1) of the Act of March 9, 1933 (12 U.S.C. 95(b)(1)), as amended by section 407 of Public Law 97-320, is amended by inserting "a State or" before "a State official".

SEC. 22. Section 23A (d) of the Federal Reserve Act (12 U.S.C. 371(d)), as amended by section 410(b) of Public Law 97-320, is

amended-

(1) by striking out "except for the purchase of a low-quality asset which is prohibited" in paragraph (1) and inserting in lieu thereof "subject to the prohibition contained in subsection (a)(3)"; and

(2) by striking out "purchasing loans on a non-recourse basis from affiliated banks" in paragraph (6) and inserting in lieu thereof ", subject to the prohibition contained in subsection (a)(3), purchasing loans on a non-recourse basis from affiliated banks".

Sec. 23. (a) Section 412 of Public Law 97-320 is amended to read as follows:

### "VISITORIAL POWERS

"Sec. 412. The fifth paragraph of section 5240 of the Revised Statutes (12 U.S.C. 484)

is amended to read as follows:

"'(A) No national bank shall be subject to any visitorial powers except as authorized by Federal law, vested in the courts of justice or such as shall be, or have been exercised or directed by Congress or by either House thereof or by any committee of Congress or of either House duly authorized.

"'(B) Notwithstanding subparagraph (a), lawfully authorized State auditors and examiners may, at reasonable times and upon reasonable notice to a bank, review its records solely to ensure compliance with applicable State unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with

(b) The amendment made by subsection (a) shall be deemed to have taken effect upon the enactment of Public Law 97-320.

SEC. 24. Section 424(g) of Public Law 97-320 is amended by striking out "688" and in-

serting in lieu thereof "668"

SEC. 25. Section 107(5)(A)(i) of the Federal Credit Union Act (12 U.S.C. 1757(5)(A)(i)), as amended by section 507 of Public Law 97-320, is amended by striking out "Association" and inserting in lieu thereof "Adminis-

Section 107(7) of the Federal Credit Union Act (12 U.S.C. 1757(7)), as amended by section 514 of Public Law 97-320, is amended-

(1) by striking out "and" before "(J)"

(2) by striking out "(L)" and inserting in lieu thereof "(K)"; and (3) by striking out "; and" at the end thereof and inserting in lieu thereof a

SEC. 27. The next to the last sentence of section 124 of the Federal Credit Union Act (12 U.S.C. 1770), as amended by section 515 of Public Law 97-320, is amended by inserting "of" after "installation".

SEC. 28. Section 113 of the Federal Credit Union Act (12 U.S.C. 1761b), as amended by section 522 of Public Law 97-320, is amend-

(1) by striking out "directions" and inserting in lieu thereof "direction";
(2) by striking out "unions" in paragraph

(2) and inserting in lieu thereof "union"; (3) by inserting "by" after "interest paid"

in paragraph (9); and

(4) by striking out "meetings" in paragraph (15) and inserting in lieu thereof

'meeting". SEC. 29. Section 202(c) of the Federal Credit Union Act (12 U.S.C. 1782(c)), as amended by section 529 of Public Law 97-320, is amended by striking out "paragraphs (2) and (3)" in paragraph (1) and inserting in lieu thereof "paragraph (2)".

SEC. 30. The first sentence of section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(8), as amended by section 601 of Public Law 97-320, is amend-

(1) by inserting ": Provided, however, That such a bank holding company and its subsidiaries may not engage in the sale of life insurance or annuities except as provided in subparagraph (A), (B), or (C)" before "; or (G)"; and

(2) by striking out the proviso at the end thereof.

SEC. 31. Section 701(c) of Public Law 97-320 is amended-

(1) by striking out "both"; and

(2) by inserting ", on," after "prior to". SEC. 32. (a) Section 1(b)(4) of the Bank Corporation Act (12 U.S.C. 1861(b)(4)), as amended by section 709 of Public Law 97-320, is amended-

(1) by striking out "or another" after "insured bank," and inserting in lieu thereof

'a": and

(2) by inserting before the final semicolon the following: ", or a financial institution the accounts or deposits of which are insured or guaranteed under State law and are eligible to be insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration

(b) the Bank Service Corporation Act, as amended by section 709 of Public Law 97-

320, is amended-

(1) by striking out "the Financial Institutions Supervisory Act of 1966 (12 U.S.C. 1818(b) et sec.)" in section 7(b) and inserting in lieu thereof the following: "section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818)"; and

(2) by striking out "under this Act" in subsections (d) and (e) of section 4 and insert-ing in lieu thereof "under the law of the

United States".

Sec. 33. Section 4(c)(14)(F) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(F)), and amended by section 203 of Public Law 97-290, is amended—
(1) by striking out the semicolon at the

end of subparagraph (ii) and inserting in

lieu thereof a period;

(2) by striking out "solely to do business with other banks and their officers, directors, or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public" in subparagraph (iii) and inserting in lieu thereof "to engage exclusively (except to the extent otherwise provided by law) in providing services for other depositoorganizations, subsidiaries thereof, and their officers, directors, and employees; and (II) is owned exclusively (except to the extent directors' qualifying shares are required by law) by other depository institutions":

(3) by striking the semicolon and the word "and" at the end of subparagraph (iii) and inserting in lieu thereof a period; and

(4) by striking out subparagraph (iv).

SEC. 34. Section 414(a) of the National Housing Act (12 U.S.C. 1730c) is amended by inserting "(which, for the purpose of this section, shall include a Federal association the deposits of which are insured by the Federal Deposit Insurance Corporation)" after "insured institution" the first place it

Mr. ROBERT C. BYRD. Madam President, would the majority leader state the time?

Mr. BAKER. Madam President, I ask unanimous consent that there be a 1-minute time limitation, to be equally divided and controlled.

The Presiding officer. Without objection, it is so ordered.

Mr. GARN. Madam President, during the past few weeks, the Banking Committee, its staff, and our counterparts in the House have been drafting technical amendments to the Garn-St Germain Depository Institu-tions Act of 1982. This effort has been successful largely because of the cooperation of Senator RIEGLE and other committee members and the cooperation of Congressmen ST GERMAIN and STANTON and their colleagues on the House Banking Committee. To them, I extend my personal thanks.

Senate Joint Resolution 271, as amended, contains technical revisions to the Garn-St Germain Act which are necessary at this time. The amendments to Senate Joint Resolution 271 are to reassert, through section 32, that bank service corporations may offer check clearing and similar operational services to State-insured depository institutions and to confirm our intent that the provisions in the resolution—sections 1, 9(b), and 10—regarding the deferral of or exemption from certain State franchise taxes for institutions receiving Federal financial assistance be effective as of the date of enactment of the Garn-St. Germain Act.

There are still other revisions to the act which may be appropriate, but the Senate and House Banking Committees agreed to accept only amendments which are technical and time sensitive.

Most of the revisions in Senate Joint Resolution 271 are merely grammaticorrections. cal or cross-reference Others, such as section 16, regarding the ability of savings institutions to be readmitted to membership in the Federal Home Loan Bank System, are necessary to reinsert language in the act which was inadvertently omitted from or misplaced in the conference report.

Some of the revisions are necessary to insure that there be no misunderstanding as to what the act means. In this regard, section 13 is intended to reaffirm congressional intent that the phasein of reserve requirements under

the Monetary Control Act of 1980 does not apply to money market deposit accounts, established under section 327 of the Garn-St Germain Act, in all depository institutions. Section 13 is not intended to affect in any way the status of existing law regarding reserve requirements for any other categories of deposits or accounts.

Senate Joint Resolution 271 is necessary to insure that the Garn-St Germain Act be implemented properly and that it not be misinterpreted because of some technical deficiency. The provisions are limited in scope and needed at this time, and I urge my colleagues to pass Senate Joint Resolution 271 expeditiously.

I also request unanimous consent that the attached summary of Senate Joint Resolution 271 be printed in full in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

#### SUMMARY OF S.J. RES. 271

(As reported by the Senate Committee on Banking, Housing, and Urban Affairs)

Sec. 1. Confirms intent that deferral of State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such deposits.

Sec. 2. Makes clear the obvious intent that the Federal Home Loan Bank Board has the authority to examine savings banks that convert to federal charter but maintain FDIC insurance.

Sec. 3. Provides correct reference to short

Sec. 4(a). Grammatical correction.

Sec. 4(b). Clarifies that the preference for minority controlled institutions involved in extraordinary acquisitions applies to both commercial banks and thrifts.

Sec. 5. Grammatical correction.

Sec. 6. Corrects improper cross references. Sec. 7(a). Corrects improper cross references.

Sec. 7(b). Corrects reference to Federal Home Loan Bank Board.

Sec. 8. Confirms expanded delegation authority of the Federal Home Loan Bank Board, particularly with respect to informal adjudications.

Sec. 9(a). Grammatical correction. Sec. 9(b). Confirms intent that exemption from State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such

Sec. 10. Confirms intent that exemption from State franchise taxes on deposits during period of federal assistance applies to both interest and dividends paid on such deposits.

Sec. 11. Eliminates inconsistency by specifying that the Title II sunset does not apply to outstanding certificates.

Sec. 12. Specifies power of savings and loans to open demand accounts for themselves

Sec. 13. Provides that money market deposit accounts in all depository institutions will not be subject to the phase-in of reserve requirements under the Monetary Control Act of 1980.

Sec. 14(a). Reinserts the 5 percent construction lending authority inadvertently eliminated.

14(b). Provides correct reference to short title.

Sec. 15. Corrects reference to the Federal Home Loan Bank Act.

Sec. 16. Restores language inadvertenly omitted to allow readmission to Federal Home Loan System membership.

Sec. 17(a). Grammatical correction. Sec. 17(b). Corrects statutory cross refer-

Sec. 18. Confirms intent that bankers' banks can provide services to depository institutions and their holding companies.

Sec. 19. Reasserts that relocation of bank's headquarters within community limits does not necessitate shareholder approval and clarifies that name approval by the Comptroller is not required whan a state bank converts to federal charter.

Sec. 20. Corrects the Revised Statutes reference to make clear that only the last sen-

tence of Sec. 5198 is being amended.

Sec. 21. Clarifies that "a state" as well as a "state official" can declare holidays for national banks.

Sec. 22. Confirms intent that the low quality asset prohibition applies to all Sec. 23A transactions

Sec. 23. Corrects the Revised Statutes reference to make clear that only the last paragraph of Sec. 5240 is being amended.

Sec. 24. Citation correction.

25. Corrects citation to National Credit Union Administration.

Sec. 26. Grammatical and citation corrections.

Sec. 27. Grammatical corrections. Sec. 28. Grammatical corrections.

Sec. 29. Citation corrections.

Sec. 30. Confirms the intent that the limitation on life insurance activities in Title VI is applicable to small bank holding companies.

Sec. 31. Clarifies that the student loan exemption from truth-in-lending applies to loans made on date of enactment.

Sec. 32. Corrects a statutory reference, makes clear that bank service corporations owned by national banks may perform the same services a national bank may perform, and reasserts that bank service corporations may offer check clearing and similar operational services to State-insured depository institutions as well as federally-insured institutions.

Sec. 33. Conforms the language describing bankers' banks in the Export Trading Company Act to the language used in the Garn-St Germain Act.

Sec. 34. Continues the application of Sec. 414(a) of the National Housing Act to savings banks that become FDIC-insured.

Mr. RIEGLE. Mr. President, I rise in support of these technical amendments to the Garn-St Germain Depository Institutions Act of 1982 which have the unanimous support of the members of the Banking Committee on both sides of the aisle.

The procedure that the committee followed in considering these technical corrections was that no technical amendment to which there was objection would be eligible in this joint resolution. These procedures were also followed in discussions with the House on this joint resolution. All interested outside parties have had the opportunity to review these technical changes and we find no objection.

The amendments in many instances correct grammatical or other minor errors which inevitably occur in major legislation. In some other instances

the amendments provide clarity carrying out the clear intent of the law.

Mr. President, I commend this legislation to my colleagues as legislation which will assist in carrying forward the public policies encompassed in the Garn-St Germain legislation.

The PRESIDING OFFICER. The question is on agreeing to the commit-

tee amendment.

The committee amendment was agreed to.

Mr. GARN. Madam President, I move to reconsider the vote by which the committee amendment was agreed

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read a third time, and passed.

Mr. GARN. Madam President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### ORDER OF BUSINESS

Mr. BAKER. Madam President, it is 10 o'clock at night, and there is much work yet to be done. It appears now we are not able this evening to work out a further arrangement on how we might deal with the surface transportation bill, to my regret. But being realistic about it, as I am, and notwithstanding my reluctance to do so and that of the President to do so, I ask unanimous consent that the Senate now temporarily lay aside the surface transportation bill and proceed to the consideration of the continuing resolution, House Joint Resolution 631.

Mr. ROBERT C. BYRD. Madam President, there is no objection to waiving the 1-day rule on this side. I compliment the majority leader on the action he has requested.

The PRESIDING OFFICER. Without objection, it is so ordered.

# FURTHER CONTINUING APPROPRIATIONS, 1983

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The legislative clerk read as follows: A joint resolution (H.J. Res. 631) making further continuing appropriations and providing for productive employment for the fiscal year 1983, and for other purposes.

The Senate proceeded to consider the joint resolution.

Mr. BAKER. Madam President, the distinguished chairman of the committee is here and prepared to take his place to manage this bill. Before he does so, I would like to commend the distinguished chairman, the Senator from Oregon, for the prompt and efficient way in which the committee handled this matter and he participated so effectively. I would like to congratulate the distinguished ranking member for his participation and contribution.

I especially call the attention of the Senate to the fact that this continuing resolution was moved from markup in only about 4 hours of deliberations by the Appropriations Committee. That ought to be a model for the Senate as a whole.

It would be my hope that we could work our way through this rather complex and extensive piece of legislation with something even approaching the rapidity that was exhibited by the Appropriations Committee, all of its members on both sides, and the distinguished chairman and ranking member.

I will not now put a unanimous-consent request dealing with the time limitation. I will do so later after the formalities are out of the way and Members have an opportunity to think about it.

But, while we are thinking about it, I would like them also to think about the fact that it is 10 o'clock tonight, that 25 hours from right now the continuing resolution will expire by its terms and must be replaced by a new one, and that we have to act on this resolution and the resolution must go to conference and then be acted on by both Houses, obviously, and reach the President for his consideration, all in the space of 26 hours.

If that is going to occur, we are going to have to get on our horse and ride. I propose, Madam President, that in a short time we gather together and consider a possibility of a time limitation on the bill itself, on debate on the bill, and I would be bold enough to recommend 2 hours on the bill, equally divided, I do not now make that request, but I do urge Senators to consider that possibility.

I would also suggest that we consider the possibility of a time limitation on amendments of 30 minutes on firstdegree amendments, maybe 15 minutes on second-degree amendments, points of order, appeals, if they are submitted, and the like.

I really believe that is the only way we are going to get the work of the Senate done in anything like a suitable period of time, given the constraints we have imposed on us by the calendar.

Madam President, there are technicalities that must be dealt with. There will no doubt be opening statements. So I will not put that request at this time. But, as soon as those technicalities and formalities are out of the way, I will put such a request, or a similar one, and I hope Senators will consider it favorably.

Madam President, I yield the floor. Mr. HATFIELD addressed Chair.

The PRESIDING OFFICER. The

Senator from Oregon.

Mr. HATFIELD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 631. We will use as the basis for amendments a committee print, since the ordinary print is not available.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. HATFIELD. Madam President, the Senate now has before it House Joint Resolution 631, making further continuing appropriations for fiscal year 1983. This measure was passed by the House on Tuesday and reported yesterday by the Senate Committee on Appropriations. It provides continuing authority for agencies and departments covered under 10 separate regular appropriations bills, at various spending rates specified by the provisions of the resolution.

The expiration date is September 30,

#### DELAY IN APPROPRIATIONS

Madam President, the Committee on Appropriations does not relish the necessity of bringing this measure to the floor. We do not subscribe to government by continuing resolution. We remain committed to the timely enactment of regular appropriations bills, in order to enable executive officers at all levels of government to accurately predict and efficiently manage their fiscal resources, and to insure close congressional scrutiny and control over the allocation of Federal resources.

But despite extraordinary measures, our committee has been unable to secure passage of all 13 regular appropriations bills. We have reported them all from committee, three have been enacted into law, three more have cleared conference, and a fourth, Interior, is in conference today. Given the circumstances, I believe this is an admirable achievement, and I sincerely thank all of my colleagues on the committee for their dedication and assistance.

But I am most disappointed that we have been unable to enact into law all thirteen regular bills. As my colleagues know, timely action on the bills has been one of my top priorities, and some explanation of our current situation is in order.

There are numerous factors which contribute to the delays in consideration and enactment of regular appropriations bills. One of the most significant of these is the increasing budgetary constraints imposed on discretionary, domestic, and nondefense activities. As these constraints preclude even maintaining ongoing Federal commitments and responsibilities, decisions on adjusting priorities, as well as addressing new issues and problems, become all the more divisive and difficult. The resulting controversy necessarily prolongs the consideration of appropriations measures.

Contributing to the delay is the lengthening period in which it takes Congress to adopt the first concurrent budget resolution, an action which is a prerequisite to consideration of any spending measures, including appropriations bills. This year Congress did not complete consideration of the first budget resolution until June 23, nearly 5 weeks beyond the statutory May 15 deadline. This left Congress in the curious position of consuming 50 percent more legislative days in adopting a general budgetary plan than was left, prior to the start of the fiscal year, for implementing such a plan.

This disproportionate allocation of limited congressional time becomes even more inappropriate in light of how poorly the first budget resolutions have actually served as workable budget plans. Almost invariably, the economic assumptions underlying recent budget resolutions have proven to be overly optimistic, and adjustments quickly become necessary. This is evident in the fact that it has become commonly accepted that not only a second budget resolution be adopted in the fall, but that a third, making still further revisions, must be adopted in the spring. When Congress fails to make such revisions, as has been the case this year, the estimating errors contained in the previous budget resolution become increasingly obvious. Congress is now in a position where any spending measure, including all the remaining appropriations bills, are subject to a point of order on both the House and Senate floors, even though they are within the spending allocations of the budget resolution. This is because the total outlay estimate under the budget resolution has already been breached.

Beyond the procedural impediments of the congressional budget process is still another serious and growing obstruction to the timely enactment of appropriations bills-this is the wide acceptance of the use of appropriations bills as a vehicle for legislative "riders." The inability of the normal authorizing and legislative process to provide an adequate forum in which to address these issues has led to increasing pressure on appropriations measures which must be enacted on a regular basis.

The subjects of these legislative riders range from the divisive issue of abortion to the regulation of used car sales, and now include almost every major concern facing the Congress. The committee has become such an accepted forum for nonappropriations

tempts to modify and revise legislative provisions which were previously en-

acted in appropriations bills.

The growing interest in using appropriations bills as vehicles for legislation only detracts from the primary responsibility of the Appropriations Committee-to provide funds for the necessary operations of the Government. Not only must the committee grapple with issues and provisions outside its area of expertise, it must frequently endure the prolonged debate and consideration surrounding controversial issues.

Our committee believes that it is imperative that these obstacles to the timely enactment of appropriations bills be addressed by the Congress. Unless effective measures are taken to correct these problems only further delays in the consideration and adoption of appropriations bills can be expected in the future. Such delays are the reason that continuing resolutions are necessary, despite the inefficiencies they engender in the management and operation of Government programs.

#### TITLE II

The committee has recommended a separate title providing additional funds to stimulate employment in projobs. Confronting Federal ductive budget deficits of unprecedented magnitude, the committee remains determined to exercise fiscal restraint in all areas of Government expenditures. and firmly believes that the amounts provided in this continuing resolution and the regular appropriations bills reflect this determination. The committee has reported no appropriation bill in excess of its allocation under section 302(b) of the Budget Act, and has gone to some lengths to insure that the bills conform to those allocations.

The committee is deeply concerned, however, that millions of Americans are out of work, and believes that, within the constraints of fiscal prudence, additional funds can and should be provided to employ people in productive jobs. This effort becomes even more important in view of the alarming deterioration of our capital assets and the need to restore the physical

wealth of our Nation.

The committee's recommendations in title II strike a balance between these twin responsibilities of fiscal restraint and increased employment. While making reductions in the amounts approved by the House, the committee has recommended nearly \$1,200 million for a variety of established programs that will create additional jobs in a relatively short period of time and yield tangible benefits of lasting value to the Nation.

# EXPIRATION DATE

As I noted earlier, Madam President, the expiration date on this resolution is September 30, 1983, carrying the au-

business that it now must confront at- thority provided by this measure through the balance of this fiscal year. We have proposed this date with some reluctance, yet believe it is necessary. At the conclusion of this Congress, all appropriations bills, like all other bills, will die. In order for the Congress to resume consideration of regular fiscal year 1983 appropriations bills next year, and enact them into law so that they fall out from under the terms of the continuing resolution, all the bills will have to be reintroduced, reconsidered in committee, and passed by both Houses. That is a most unlikely prospect. Only one bill in the past 15 years has been passed under similar circumstances. With those odds facing us, the committee thought it best to push the regular bills as far in the process as possible, and write the continuing resolution for the full year. This will free us to devote all our attention to the fiscal year 1984 budget process next year.

GUIDANCE TO DEPARTMENTS AND AGENCIES

In order to expedite consideration of this continuing resolution, the committee reported the measure to the floor without a formal written report. This avoids the hindrance of the 3-day rule requirement on reports. The committee has prepared, however, a statement in lieu of a report which has been distributed here in the Chamber. I also ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The committee has adopted this expedited procedure on other occasions, and while we definitely prefer to provide the Senate with formal written reports as is customary, we are completely confident that the directions and guidance given to the various agencies and departments of the Federal Government will be strictly adhered to. And, of course, in those instances in which the continuing resolution references a particular bill for which a formal written report was presented to the Senate, it is expected that the relevant agencies and departments will honor the requirements

stipulated in those reports.

Before yielding the floor, Madam President, I wish to make my customplea concerning extraneous amendments, which is no less sincerely meant for its being so often made. Already I hear those terrible rumors of hundreds of amendments lurking somewhere in the Chamber, and I know from previous hours on these measures that those rumors are likely to come true. A continuing resolution in a lameduck session is a pot of honey that draws many flies. But I do sincerely plead with my colleagues to not regard this resolution as a vehicle for every legislative whim. In the first place, we have very, very little time to complete action on this measure and send it to the President for signature in time to prevent a disruption of Gov-

ernment's operations. Even if we labor here far into the night and tomorrow, it will take an extraordinary effort, and a Saturday session, to prepare for conference, go to conference with the House, prepare the conference report, and have that report adopted in both Houses in time for the President's signature Sunday night. Even then, we will have gone well beyond the deadline of midnight, December 17.

I would further advise my colleagues that many of these rumored amendments will not be well received by our friends in the other body. They are becoming increasingly displeased with the Senate's wanton ways as regards amendments to appropriations bills, and I do not blame them one bit. Time and again, our colleagues on the House side have exercised considerable restraint both in committee and on the floor, striking down appealing but really unnecessary amendments offered by their fellow representatives, only to watch in dismay as the senate embraces those very same amendments.

Of course, the House is better armed with rules than we, but we are not totally bereft, either, and I can assure my colleagues that the House is quite exasperated with our more excessive adventures into legislating on appropriations bills. For that matter, so am I. So, my friends should be advised that this Senate may adopt numerous extraneous amendments, and your conferees will defend them, but they have little chance of survival.

And with that, Madam President, I yield the floor and await the onslaught.

Mr. SARBANES. Will the chairman yield for a question?

Mr. HATFIELD. Madam President, after the comanager makes his opening remarks, then I would be happy to yield to the Senator from Maryland.

Mr. PROXMIRE. Madam President, I will be very brief.

First, I commend the distinguished chairman of the Appropriations Committee, Senator HATFIELD. He has done a really remarkable job in the committee.

As he pointed out, this is an extraordinarily complicated bill. It was handled, as the majority leader said, very expeditiously. I have not seen a more masterful performance by a committee chairman in the many years I have been here.

I might also point out, Madam President, that this is, by far, the biggest committee in the Senate with 30 members. The attendance was remarkable. Three-quarters of the members were present most of the time. So this was given very careful consideration by a very large portion of the Senate already.

Madam President, the resolution we have before us today would continue funding the programs covered by 10 appropriations bills through the end of the fiscal year. Since three of these 10 bills have been reported from House-Senate conference committees and a fourth was completed in conference less than 2 hours ago, the resolution as a practical matter would apply to a total of 6 out of the 13 regular bills falling within the Appropriations Committee's jurisdiction.

The resolution deals with a number of controversial issues such as the MX missile and the pay raise matter. It includes a substantial amount of assisted housing support and a jobs stimulus package. In short, we could easily spend several days debating the many issues dealt with by the legislation.

However, the current continuing resolution expires in less than 26 hours, as the majority leader has told us. To get to final passage of a conference report on the resolution in that period of time will be almost impossible. About the best we can hope for is that by Saturday or Sunday we will be able to pass such a conference report. However even this gloomy timetable will become untenable unless we exercise some restraint in offering and debating amendments. The alternative is to be in session most of Christmas week. Consequently I hope that my colleagues will introduce only those amendments with the very highest priority and limit debate to the maximum extent possible so that the Government can continue to function and we can spend the holidays with our families.

Madam President, I yield the floor. I think the Senator from Maryland wanted to inquire of the chairman.

Mr. SARBANES. Will the chairman yield?

Mr. HATFIELD. I yield.

Mr. SARBANES. Will the chairman inform us which appropriations bills have moved beyond the resolution and, therefore, are not embraced in the resolution?

Mr. HATFIELD. I cannot hear the question.

Mr. SARBANES. Would the chairman inform us which of the appropriations bill have now moved beyond the continuing resolution and, therefore, are not within this resolution?

Mr. HATFIELD. We have the HUD appropriation bill that has been moved ahead and proceeded on the regular, normal schedule. It is not included in this continuing resolution, but there is an amendment that relates to that bill that is included in order to make certain adjustments.

The military construction bill is not in this resolution except as it relates to a jobs section in title II. There we have the money in a jobs measure that would involve military construction for dependent housing on military bases.

The legislative subcommittee bill is not included.

These are 3 of the 13 normal appropriations bills. So we are, in effect, including 10 in the continuing resolution.

Let me add one further point for clarification. We are using a reference in the continuing resolution in order to stay within our 302 target figures in the budget resolution. We are using, in effect, those reported bills from the committee or those that have gone through the conference. For instance, we have just acted upon the transportation bill conference report. We have moved Agriculture through conference. So we would reference those particular bills as they have moved to that point in the appropriations process. The other bills would be referenced on the Senate-reported bill that we have already acted upon on the Senate side.

That puts us then, in a sense, within our 302 target figures, with the exception of title II, which is a \$1.161,000,000 jobs proposal.

I hope that answers the Senator's question.

Mr. SARBANES. It is very helpful.

Have the District of Columbia and Interior bills also gone through the conference stage?

Mr. HATFIELD. That is correct. Interior conference was just completed about an hour ago. We are waiting on the conference report on D.C. appropriations, which will arise probably momentarily. Those bills will be referenced on the basis of the conference report.

Mr. SARBANES. I take it none of those have been signed by the President.

Mr. HATFIELD. The three that I enumerated have been signed into law—HUD, military construction, and legislative. None of the conference reports have been enacted, or any of the regular bills.

Mr. SARBANES. I thank the chairman.

Mr. STEVENS. Madam President, I would like to inquire of the chairman of the committee—if it is possible I hope Members of the Senate will consider this—that we might set up some order for the consideration of amendments.

We have 10 subcommittees that will be dealing with amendments in this bill. We have staffs in each of those subcommittees. As I understand the procedure, unless we set up some order the staffs literally have to be on call on the floor between now and some time Saturday.

In addition to that, the individual chairmen and ranking minority members of the subcommittee will have to be here at all times because an amendment could come up at any time concerning any 1 of these 10 bills.

I would like to suggest that we set up an order to deal with these bills, which is the way we did it in the committee.

For the information of the rest of the Senate, we went through this bill subcommittee by subcommittee and considered the amendments in that order. When the matters concerning agriculture were presented, the chairman and ranking minority member of that subcommittee were there, but they did not necessarily have to sit through the whole committee markup because they feared some amendment might be offered to their sector.

I would like to suggest to the chairman that we follow that procedure and then if there are any amendments that are later brought forward of concern to any one of those sectors they would have to wait until we have gone through all 10. I am not trying to foreclose anyone from offering amendments, but if the amendments are not raised during the time, for instance, the agricultural portion of the bill is before the Senate, they would wait until all 10 had been considered and then they would still be in order. I am not trying to rule amendments out.

Would the chairman of the committee be willing to try to work out something like that?

Again I say this floor is going to be absolutely packed with staff if we have to be prepared at any one time for any amendment that comes to any portion of this bill covering 10 different subcommittees. There will have to be 20 members of the committee on this floor at all times or within reach of the floor leader. When we know we are going into at least a 30- or 36-hour proposition, I think that should not be done. I think particularly the chairman and ranking minority member ought to be able to step out while the chairman and ranking minority member of a subcommittee take up something that they have been particularly working on and not have to be here all the time.

I urge the chairman to ask or inquire if it is possible to get an agreement that we can go through this as we did with our subcommittees. I think it would be very fair. Members on both sides would agree that that would be the fairest procedure we could use and we would foreclose no one from offering an amendment.

Mr. BUMPERS. Will the Senator

Mr. STEVENS. The Senator from Oregon has the floor.

Mr. HATFIELD. I would be happy to respond. First, you have the 89 page document that constitutes the continuing resolution. It is a House vehicle. Therefore, when the Senate acts, we have to amend the House vehicle. What the Senator from Alaska is saying is that on page 2 we may have

an amendment of the committee dealing with agriculture, and then on page 78 we may have another committee amendment dealing with agriculture, perhaps, because of the different structure of the bill. So anyone interested in agriculture would have us go through these one by one.

What the Senator is asking is that we take about a half hour to provide staff an opportunity to go through here, get all of the agricultural issues grouped together, and then we would take commerce next, defense next, D.C., energy, whatever, in the order and breakdown of our subcommittee structure. That would take about a half hour to put all those amendments in all those categories. Then people would know, if they had an area of interest, when that would occur in sequence to the bill.

Otherwise, you are all going to have to stay on the floor all of the time in order to raise your bill or your amendment at the time that we get to that page in the continuing resolution. That is your concern. If there is any interest in that, I have at least kept the issue before us by posing a unanimous-consent request that the committee staff be permitted to put the bill into that form for the purpose of expediting the continuing resolution.

Mr. PROXMIRE. Madam President,

will the chairman yield?

Mr. HATFIELD. I am happy to yield.

Mr. PROXMIRE. I think this is a very, very constructive proposal. I favor it personally, but I want to discuss it with the Democratic leader if the Senator will give us at least a few minutes to discuss it.

Mr. HATFIELD. I shall be happy to withhold for a time for that purpose and yield to the Senator from Arkan-

Mr. PRYOR. Madam President, I think the Senator from Alaska has proposed a very constructive method for dealing with the matter in a short time. But I ask my good friend, the chairman of the Appropriations Committee, at what stage would an amendment under this plan be in order to change the date from September 30, when the resolution expires, back to, say, for example, March 1 of 1983? At what stage would that amendment be in order?

Mr. HATFIELD. Any amendment will be in order even if we put this particular structural proposal into practice; no one is going to be precluded from offering an amendment. The proposal is that as we finish the agriculture section, if there are no more amendments dealing with agriculture, we would temporarily close that and move on to the next one. Then, if someone later on decides they had forgotten that they wanted an agricultural amendment, they would have to wait until the end of the pecking

order, so to speak, and go back to agriculture to get their amendment considered. But we shall consider any amendment and every part of the bill is open to amendment.

Mr. PRYOR. As I mentioned today to the distinguished chairman of the Committee on Appropriations, I am very concerned—in fact, I am obsessed—with the whole concept of a continuing resolution. In this Congress, I am afraid we have made the continuing resolution a rule and not

the exception any longer. It makes me wonder if we are going to be debating here in the next 24 or 26 hours the entire national defense policy of this country, with a very limited amount of debate and, in addition to that, debating that national defense policy with a time limitation; and, adding to that dilemma, trying to decide in this body during this debate what we are going to do about the MX missile, the biggest expenditure we have in our national defense posture. Would we not really be admitting that we are throwing in the towel, having no defense appropriation bill coming before this body before September 30, possibly, of 1983? This worries me, and I think it worries a lot of members of this body. I think we should have a cutoff date of March 1 rather than September 30 of 1983 before we start debating the most expensive and, I think, the most important part of the

Mr. HATFIELD. Madam President, I want to respond to the Senator because I associate myself with his remarks in toto. Let me say to the Senator that the very reasons that he raises here are the reasons why we have used September 30, as the expiration date.

measure before us tonight.

That is, in this particular fiscal year, the appropriations process was so totally thwarted by, first, a budget resolution that came in June, a month overdue; then a reconciliation resolution; then a tax bill; then an urgent supplemental that was vetoed and repassed in a different form; then a supplemental which was vetoed and overridden.

By that time, we were in September and we were considering a continuing resolution. That is what put the whole appropriations process totally behind the eight ball.

What we are trying to do in this September 30 date is consider 1983 a lost cause and to be in position to really strike out in January 1984 for the 1984 fiscal year and maintain a pace with events. Otherwise, I say to the Senator from Arkansas, if we put the appropriations process back into 1983, come next March, we shall be back into a continuing resolution for sure. We will have lost all that time in dealing with fiscal 1984 in calendar 1983 because we are still dealing with the budget for fiscal 1983. So we recommend extend-

ing it to September 30, giving the Appropriations Committee an opportunity in the process to really keep pace with fiscal 1984.

Mr. SARBANES. Madam President, will the chairman yield at that point? Mr. HATFIELD. Yes.

Mr. SARBANES. Will the chairman add to the list of matters that came up preventing our addressing the appropriations issue the fact that we had a debt-ceiling bill on the floor of the Senate from August 16 to September 23, a period of 5 weeks, when we addressed seriatim a series of amendments not germane or relevant or pertinent to the matter of debt ceiling, which occupied the time and attention of the Senate over that critical almost 6-week period? That prevented us from moving some of these appropriations matters forward and defeated the regular process.

I share this concern that since appropriations bills contain very fundamental policy decisions, what we are now doing with respect to the appropriations bills other than the seven which we have discussed—the three that are in law, the four that are now at the conference stage, all of which obtained a regular congressional review. With respect to the other matters, we are addressing really very basic policy judgments in the guise of a continuing resolution. With this date, we are doing it for a balance of this fiscal year.

Mr. HATFIELD. The Senator is right, Madam President; it is not the way to do business.

I also add one further little refinement to that for the Senator from Arkansas: come March, we do not pick up the appropriations bills that we have already acted upon. We have to go back in the new Congress and repass all the appropriations bills and all the conference reports that we have agreed upon up until this point. Remember, the Senate Appropriations Committee has reported all 13 appropriations measures. All we had to do was wait for the House bill to come over here before we could bring our bill out onto the floor.

If the continuing resolution expires on March 30, on all the work we have completed to date, we go back to square one. We do not just pick up the continuing resolution document and the products we have completed in that document, because the House has to go back and reintroduce that bill, repass that bill. We have to do the same to get to conference.

Mr. PRYOR. If I may ask the distinguished chairman of the Appropriations Committee, and I do not know of any Member of this body whom I trust more, believe in more, have more faith in than Senator Hattield: What is there in this continuing resolution to protect us or to protect this country or

to protect the legislative process, and to keep the Pentagon from engaging in the procurement and production, for example, of certain weapons systems if this is all going to be embodied in a continuing resolution? We are going to sit here from now until September 30 and really not answer these questions about the defense needs of America? What safeguard is there to make certain that the Pentagon is not going to go forward with productions of weapons without the direction that can be provided only by a comprehensive Senate debate? Will the Senator please explain that to me, a humble Senator, who is trying to find an answer?

Mr. HATFIELD. I would like to yield to the Senator from Alaska as chairman of the Defense Appropriations Committee to respond to the question.

Mr. STEVENS. Mr. President, would the Senator state that question again? Mr. PRYOR. What is there in this continuing resolution—when we appropriate however many billions of dollars to the Defense Department—what is there to protect against the fact that the Defense Department may go forward with procurement, development, and production of weapons that may not be the will of this body

or the other body?

Does the Senator understand the question?

Mr. STEVENS. I understand the question.

Mr. PRYOR. Where is that protec-

Mr. STEVENS. Madam President, if you examine this bill, you will find that on the House side and on the Senate side in the defense area we have folded in the bill that passed and the bill that was reported to the Senate. It is incorporated by reference and it will become the law. As we come out of conference, we will have a conference report that refers to the provisions that we have agreed upon and, in effect, we will be writing a defense bill.

Mr. PRYOR. That is what I know.
Mr. STEVENS. This is the first time
we will approach it in the way that the
Senator from Oregon has mentioned.
We have literally folded into this bill
the individual bills the subcommittees
have worked upon and if we are able
to get the September 30 date and hold

it there, we will be passing 10 bills in one bill on this occasion.

It is not like the old way of just folding in the numbers. We folded in the limitations not only in the bills but in the reports that accompany the bill as a result of this bill and the approach that is done here.

Mr. PRYOR. We will be, in effect, passing six bills in one bill in about 25 hours with only a few minutes to debate this time tomorrow night on each amendment.

Mr. STEVENS. Let me tell the Senator, when we went home in 1980, we

passed 2 bills and we came back in 1981, and we had to start all 11 bills over again.

We are trying to get away from that this time and finish these bills this year so they will become law and will go to September 30 and we will not have to come back next year and start in on 1983 again. We will be able to deal with 1984.

Mr. PRYOR. Where has the appropriations process gone and where has the opportunity gone to look at each one of these measures and discuss it on the floor of this Senate? Has that disappeared from the face of the

Mr. STEVENS. It disappeared in 1980 when we adjourned for the election in 1980 without having passed but 2 of the bills and when we came back in 1981, we had to start all over again on 11 bills and we spent in 1981 most of our time working on fiscal 1981 instead of fiscal 1982, and we have never caught up with the curve. This bill catches up with that curve. This bill puts us current and if it passes and we keep the September 30 date, we can come back in January and start to work on 1984 and we are not going to be in the same position again because we will be up to date.

I think the Senate owes a great deal of credit to the Senator from Oregon for having worked out an arrangement here, and I hope the Senate will stick to that September 30 date because if we do not, I guarantee you we will be coming back in 1983 and doing just exactly what we did in 1981. We will spend most of our time on the fiscal year we are in and not on our time on the appropriations bills for fiscal year

1984.

Incidentally, the defense portion of this bill would normally be on the floor, say, 4 or 5 hours, 6 hours a day for about 4 days.

We are prepared to stay here 20 hours. There is the same amount of time. We are not going to cut anyone off. There is no time limit here. And we will stay as long as it takes to debate this and get a final continuing resolution.

The Senator from Mississippi is here and I am here, and I hope I am not reading an inference that we are somehow or other appropriating billions of dollars without considering it. The Senate committee reported the defense bill to the floor of the Senate before the election. It was gone into as thoroughly, I think, as any bill in history. And this is the first time in history we ever reported a defense bill ahead of the House of Representatives. And my good friend from Mississippi had some reservations and we finally talked about it and we agreed. We put it out here so we gave the House of Representatives a little bit of encouragement to get us a defense appropriations bill.

We will now go to conference on defense in connection with this bill and this bill will go to September 30 and it is as though we have taken up the bill separately.

Mr. PRYOR. Now the Senate knows as well as I do, that 24 hours from right now we are going to be talking about closing down the Government. We are going to be talking about cutting off social security checks. We are going to be encouraging people to limit their debate to 2 or 3 minutes on a side. It is going to happen. It has happened in the past, and it is going to happen tomorrow night.

We are talking about going home for Christmas, and yet we are about to appropriate the largest amount we have ever appropriated for defense and weapons procurement and to be honest the rest of us, who are not on the Committee on Appropriations, not on the Committee on Armed Services, do not know what is in this piece of legislation.

Mr. STEVENS. If that is the case, then I have to tell the Senate any senator who does not know what is in this bill did not read what we reported to the Senate before the election. The report of the Defense Committee has been before the Senate and the bill has been before the Senate since September.

So this Senator as chairman of the Defense Committee does not like to hear the word that somehow or other the Members of the Senate do not know what is in the report we delivered so you would have time to study it because we foresaw, the Senator from Mississippi and I foresaw, exactly the situation we are in right now that we are dealing with defense in a continuing resolution, and we did not want to be caught without a Senate report and a Senate bill that we could incorporate in here.

So believe me, if there is any Member of the Senate who had not read the bill and had not read the report, this Senator cannot offer an excuse for that Member of the Senate. It has been here. No one should be able to tell me that they do not know what is in the defense bill because I will be glad to get you the report and we will put it on everyone's desk. It has been here now since September and there is no reason to try to tell the public, the people of this country, that we do not know what we are doing.

I can guarantee we are prepared to defend every single page and item in that bill that was reported if it takes 3 days.

Mr. PRYOR. Between now and midnight tomorrow night?

Mr. STEVENS. I am ready to be here. I have canceled my reservations to go back to Alaska, and I have said we are going to finish the bill.

Mr. SARBANES. Madam President, will the Senator yield for a question?

Mr. STEVENS. I yield.

Mr. SARBANES. On the problem that the Senator raises since we go into a new Congress we have to start the bills all over again, as I understand it. That would apply to 6 of the 13 appropriations bills, is that correct?

Mr. HATFIELD. Any that have not

been signed into law.

Mr. SARBANES. They have been signed into law and I take it the Senator anticipates four others will be signed into law. Is that correct?

Mr. HATFIELD. That is correct.

Mr. STEVENS. Madam President, if the Senator will yield, if this bill is signed into law, it covers all 10 and there will be none of them that were not signed into law. This goes to September 30. There will not be any bill that has not been signed into law if this bill is signed.

Mr. SARBANES. I understand that and I recognize the point the Senator is trying to make. I just want to make sure I understand how far it extends.

If the continuing resolution did not run until September 30, essentially it is reasonable to assume that there are six appropriations bills that we would have to start over again in the new Congress. Is that correct?

Mr. HATFIELD. We would have to go back and begin from the point of the continuing resolution at which point it was signed. We would have to repass all of the bills that were not signed into law separately.

Mr. SARBANES. But we would expect there to be six? We expect that

to be six in number, I take it?

Mr. HATFIELD. Assuming that the four that have been completed through conference are signed.

Mr. SARBANES. Is that a reasonable assumption?

Mr. HATFIELD. It is a reasonable assumption.

Mr. SARBANES. I thank the chairman.

Mr. HATFIELD. Madam President, the unanimous-consent proposal that I made or attempted to make on the matter of grouping the amendments has received some objections.

UNANIMOUS-CONSENT REQUEST

So, let me now proceed. We will have

to go page by page.

Madam President, at this time I ask the traditional unanimous consent that the committee amendments be considered and agreed to en bloc, with the exception of the committee amendments on page 2, line 9 through line 19 which is basically a technical amendment; on page 9 beginning with the proviso on line 20 through page 10, line 2, which has to do with the MX missile; on page 18, line 25 through page 19 concluding with the amendment on line 8 which has to do with Clinch River breeder reactor.

parliamentary inquiry.

Mr. HATFIELD. May I complete the list a second?

Mr. BUMPERS. Is the Senator asking unanimous consent for all these committee amendments be accepted en bloc?

Mr. HATFIELD. These are the ex-

Mr. BUMPERS. Oh, those are the exceptions.

Mr. HATFIELD. These are excep-

Mr. BUMPERS. I apologize.

Mr. HATFIELD. On page 57, line 15 through page 53, line 3, which is the FTC question; on page 58, line 4 through line 10, which is the Ashbrook amendment dealing with abortion; on page 60, line 4 through line 25, which is the matter dealing with copyright.

These are the known controversial amendments or sections on which we would expect to have some amendments. These would be the exceptions to the adoption of the committee

amendments en bloc.

Mr. TOWER. Reserving the right to object-

Mr. PROXMIRE. Madam President, it is my understanding that with the unanimous-consent agreement this would be treated as original text for purposes of amendment still, is that correct?

Mr. HATFIELD. Yes. Madam President, there is second part to this. The resolution as amended would be considered original text for the purpose of further amendment, with the understanding that no points of order be considered waived by reason thereof, and that the excepted committee amendments may be temporarily laid aside by agreement of the floor man-

Now, that means that no one is precluded from offering an amendment

on anything.

Mr. TOWER. Reserving the right to object, and I do not intend to object, I just want to make it clear what the ground rules are. The excepted amendments will be not considered than as original text but will be considered as amendments in the first degree?

Mr. HATFIELD. That is correct.

Mr. TOWER. And they can only be amended once in the second degree. However, those that are not excepted would be considered original text for amendment, and therefore could be amended in two degrees, is that cor-

Mr. HATFIELD. The Senator is correct.

Mr. TOWER. May I ask a further question. I believe contained in the consent agreement was a provision that an amendment could be set aside on agreement of the managers. That does not obviate the right of any indi-

Mr. BUMPERS. Madam President, a vidual Senators to object to an amendment, does it?

Mr. HATFIELD. It is not a unanimous-consent requirement. It is a matter of the two managers setting aside, as we have traditionally done.

Mr. TOWER. The point I am making is this. If someone is proceeding on an amendment that he had offered, could his amendment be arbitrarily set aside by the two managers whether the proposer of the amendment agreed to it being set aside or not?

Mr. HATFIELD. No. It is for the purpose of raising the amendment.

Mr. TOWER. I do not object.

Mr. PROXMIRE. Will the manager yield for a question?

Is it possible to conclude the expiration date which Senator PRYOR has raised and title II jobs, which I understand the Senator from Arkansas also would like to have treated the way the other provisions which the Senator listed are treated? In other words, it would have to be added to the bill instead of treated as original text and incorporated.

Mr. HATFIELD. On the date?

Mr. PROXMIRE. That is correct. The date is one. Title II jobs is the other. Is that right?

Mr. METZENBAUM. Reserving the right to object-

Mr. PROXMIRE. Excuse me 1 minute. Th Senator from Arkansas, is that the

Mr. BUMPERS. Mr. Chairman, I have this question.

Mr. PROXMIRE. We are talking about the junior Senator from Arkansas (Mr. PRYOR).

The Senator wants the expiration date, is that correct?

Mr. PRYOR. I am going to attempt to amend the expiration date.

PROXMIRE. The Mr. Senator would like to have that set aside not as a committee amendment incorporated for purpose of amendment but treated as these other exceptions have been, is that correct?

Mr. PRYOR. That is correct.

Mr. PROXMIRE. And then also title II jobs, is that right?

Mr. PRYOR. Title II jobs, I have no problems with that.

Mr. PROXMIRE. All right.

Mr. HATFIELD. We will add the Senator's issue to our exception list. We will add the expiration date.

The Senator from Ohio

Mr. METZENBAUM. Reserving the right to object, and I very well may object, it appears to me that if this unanimous-consent agreement is accepted, the floor is in the posture that only the managers of the bill will have the right to permit an amendment to be offered. I am sure they would be very fair in doing that, but the facts are that no amendment could be called upMr. HATFIELD. No, that is not correct. That is not correct. It simply says that the managers of the bill may set aside the pending exceptions that we have just enumerated. In other words, they are in place. They have to be laid aside in order for a Member to do anything else. The managers of the bill, rather than having to get unanimous consent to lay them aside each time, can temporarily lay them aside to accommodate the Senator from Ohio in offering an amendment rather than asking for unanimous consent.

Mr. METZENBAUM. But is it not the fact that if the Senator from Ohio or any other Senator-and I am not at all certain that I have any amendments, I want to make that very clear. I may have one or two, But I certainly do not have many, and I do not think they will be that controversial. But the point that concerns me is that by this procedure the managers of the bill are in a position to determine whether or not any amendment may be offered because, although you are talking only about the exceptions, the fact is the exceptions will be the pending business, will they not?

Mr. HATFIELD. No. The Senator is

incorrect.

First of all, I say to the Senator, we have 2 years of record on this procedure. Neither the Senator nor anyone in the Senate, I believe, has ever found himself thwarted in offering an amendment. So there is nothing conspiratorial about this. It has been very much the tradition.

Mr. METZENBAUM. I am not sug-

gesting that.

Mr. HATFIELD. The other point I want to make is that we are making these the pending order of business in order to flow this through an orderly procedure. They have to be set aside if the Senator wants to raise an amendment. And we will set them aside. I can give the Senator a commitment now. We will be happy to set them aside, as we have done every time for any amendment over the last 2 years.

Mr. METZENBAUM. Is it the

intent-

Mr. HATFIELD. Under the rules, these come up automatically. What we may not want is to take them up immediately. Some Senator may not want this followed automatically but set aside to let that Senator move on to another amendment.

Mr. METZENBAUM. Is it the intention of the floor managers to bring up these exceptions as promptly as possible and then not have them just hang-

ing?

Mr. HATFIELD. Yes, that would be my hope, that we could get right to them and get those controversial issues behind us so that in the wee hours of the morning we are not trying to debate the most controversial part of the bill. That is the purpose of this.

Mr. METZENBAUM. Having great confidence in the managers of the bill and their fairness, I will not object.

Mr. SARBANES. Reserving the right to object, will the chairman yield for a question?

Mr. HELMS. Will the Senator yield? Did the Senator specify section 142 as an excepted committee amendment?

Mr. HATFIELD. That is the Ashbrook amendment?

Mr. HELMS. Yes.

Mr. HATFIELD. Yes.

Mr. HELMS. I thank the Senator.

Mr. DENTON. Clarification on that same point, Mr. President. Does that mean that section 142 will be subject to a tabling motion?

Mr. HATFIELD. It would be subject to an amendment.

Mr. DENTON. I thank the Senator. Mr. SARBANES. Is it the intention of the chairman that the excepted amendments which he listed would then be offered by the committee as a pending committee amendment to be acted upon by the parties?

Mr. HATFIELD. They would be called up automatically by the order from the Chair.

Mr. SARBANES. And that amend-

Mr. HATFIELD. Unless the managers of the bill were asked to set it aside temporarily to take up some other amendment.

Mr. SARBANES. That amendment will be subject to amendment in one degree, is that correct?

Mr. HATFIELD. That is correct.

Mr. LEVIN. Reserving the right to object, will the Senator yield for a question?

Mr. HATFIELD. I would be happy

Mr. LEVIN. And a suggestion.

The Senator from Arkansas is raising a very critical amendment and I would like to ask the chairman this: If the amendment of the Senator from Arkansas is accepted and this has a shorter date than next September 30, many of these amendments will not even be offered.

The reasons that many of the amendments are going to be offered is it is the only chance anyone is ever going to have to offer an amendment on 10 appropriations bills; this is the ball game, 24 hours.

Now, may I suggest, or at least I should like the reaction of the chairman to a suggestion that the amendment of the Senator from Arkansas to have a March 1 or March 30 expiration date be taken up early because that may determine how many amendments will then be filed.

Mr. HATFIELD. I would like to take that under advisement, to look at the impact it will have on the entire set of amendments. I really do not know how to answer the Senator at this moment. Let me think about it.

Let me say that I have no personal priority as to the order here. We only listed these in the sequence of the pages. We tried to put these together in categories. There were objections. Therefore, now we are having to do the next best thing, take the committee amendments individually by the order of the bill.

Now, in order to get out of that order, we can do anything by unanimous consent short of abolishing the Republic.

Mr. LEVIN. I have no objection to this procedure. It is a very wise one. I am merely suggesting that if you take exception to that and take up the amendment of the Senator from Arkansas, you may find that many of these amendments will never be offered because there will be another opportunity to offer those amendments on a later continuing resolution.

The PRESIDING OFFICER. Is

there objection?

Mr. HATFIELD. Madam President, I have received other objections. I withdraw my unanimous-consent request at this point.

I understand the bill is now open for amendment, so the committee amend-

ments are pending.

All right, now we are in a situation, I want to explain, where we are right back to square one. We start on page 2 with the first committee amendment. We are going to take up the dozens upon dozens of committee amendments, most of which are technical, one by one.

Mr. BUMPERS. Does the Senator yield? Does he have any objection to the unanimous-consent request?

Mr. HATFIELD. Yes, from the minority party. I have been so informed by the minority staff.

May we have the first committee amendment?

COMMITTEE AMENDMENT ON PAGE 2, LINE 8

The PRESIDING OFFICER. The clerk will report the first committee amendment.

The assistant legislative clerk read as follows:

On page 2, line 8, strike "Acts", and insert "Act";

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. PRYOR. Madam President, will the chairman please explain what this amendment does?

Mr. HATFIELD. Will the Senator repeat his question?

Mr. PRYOR. Will the distinguished chairman please explain what this particular amendment does?

Mr. HATFIELD. The first committee amendment is on page 2, line 8 and it strikes the plural "Acts" and it inserts in lieu thereof the singular "Act."

Mr. PRYOR. What does that mean? Mr. HATFIELD. It means there is only one act that is covered under this, rather than the plural "Acts." It is a grammatical, technical amendment.

Mr. PRYOR. I very much appreciate the chairman's explanation. Thank

you.

Mr. HATFIELD. Thank you.

Madam President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page 2, line 8, was agreed to.

2, line 8, was agreed to.

COMMITTEE AMENDMENT ON PAGE 2, LINES 9
THROUGH 19
The PRESIDING OFFICER. The

clerk will report the second committee amendment.

The assistant legislative clerk read as follows:

On page 2, strike line 9, through and including line 19.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. HATFIELD. Madam President, this is lines 9 through 19, which deletes the House language, because we have different references on the Senate side. It is a technical amendment. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page 2, lines 9 through 19 was agreed to.

COMMITTEE AMENDMENT ON PAGE 4, LINE 9

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 9, strike "(1)"

Mr. HATFIELD. Madam President, this is on line 9, and it changes the subsection (1) to subsection (b) because of a few changes that we made prior to it. It is a technical amendment.

I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 4, line 9.

The committee amendment on page 4, line 9 was agreed to.

COMMITTEE AMENDMENT ON PAGE 4, LINE 14
The PRESIDING OFFICER. The clerk will report the next committee amendment.

The assistant legislative clerk read as follows:

On page 4, line 14, strike the comma and all that follows down through and including the sum on line 16.

Mr. HATFIELD. Madam President, on page 4, line 14, this was stricken because objections were raised by the authorizing committee and, therefore, we reinserted it in different language later in the bill.

Mr. PRYOR. Madam President, if the chairman will yield, was this the thing about the United Nations?

Mr. HATFIELD. It is a development program of the United Nations, yes.

Mr. PRYOR. I am a big supporter of the United Nations. Does this hurt or help the United Nations?

Mr. HATFIELD. We earmarked \$140,000 later on rather than \$134,000. Mr. MOYNIHAN. Madam President,

it is difficult to hear.

Mr. HATFIELD. We delete the \$134,000 and we reinsert it at the level of \$140,000.

I move the adoption of the amendment.

Mr. PRYOR. I thank the Senator. The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment on page

4, line 14 was agreed to.

Mr. STEVENS. Reserving the right to object now—I would like just to chat for a minute on it. I want the Senate to understand what you are doing by not granting the unanimous-consent request it is not possible for us to deal with amendments that had to be made to the House form of the bill in two places to take into account the action of one the authorizing committees of this Senate.

Now, this is one of the examples. There is another an endment in this bill that by not allowing us to make it original text and dealing with these matters on an issue-by-issue basis you are going to get yourselves in a real

bad position.

I am also constrained to say that in my 14 years in the Senate I have never seen an appropriations bill approached this way, and I do not understand it, unless I am seeing a filibuster start in a strange way against a continuing resolution. This is something which will set a precedent, and I want to assure the Members of the Senate on the other side of the aisle that I will be here for a long time, and I am not going to forget it. It is going to make the defense bill almost impossible to handle because the amendments we put in here we have conformed to the House procedure rather than our procedure, and our amendments in fact cut this bill in several places, so you are liable to find that although you want to take up a question about the MX all in one instance, you are going to have to take it up in several different places in this bill, and you are not going to be able to reverse it because of the way it is handled.

Mr. HATFIELD. I think this is the best way to proceed until we develop an element of trust in this body, and until we do that we cannot do it any other way.

Mr. SARBANES addressed the

The PRESIDING OFFICER. Is there further debate on this amendment?

Mr. SARBANES. Madam President, I would simply respond to the Senator from Alaska by saying I think what is at work here is we need some time to see whether other amendments should be excepted in addition to the ones listed by the chairman of the committee. I think that is a reasonable request. I think his request in that context is—I take it we will reach the MX on page 9, is that correct?

Mr. STEVENS. Part of it.

Mr. HATFIELD. That is correct.

Mr. SARBANES. It seems to me at that point we are going to have some debate of some consequence.

Mr. HATFIELD. That is correct.

Mr. SARBANES. I think the way we are working to reach that, and after there would have been an opportunity for Members to consider whether they wanted to add to the list of excepted amendments and they would not be adopted en bloc, and I say to the distinguished Senator from Alaska I think that is reasonable and would enable the Senate to move forward on this matter.

The PRESIDING OFFICER. The clerk will report the next committee amendment.

Mr. PRYOR. Madam President, will the distinguished chairman yield? I can assure the Senator I am not leading a filibuster. I can assure him I am trying to cooperate. I can also assure him I am trying to find out what is in this bill that we are going to have a few hours to debate. Would the distinguished chairman tell me how much the continuing resolution represents in terms of dollars?

Mr. HATFIELD. I will be very happy to provide that to the Senator. We will have to compute each of these separate bills in title I and add it to title II. We will get that information.

Mr. PRYOR. Would it just be roughly about 83 or 85 percent of the Federal budget?

Mr. HATFIELD. I did not hear the Senator.

Mr. PRYOR. Would it be about 83 percent of the Federal budget? Is that a correct assumption?

Mr. HATFIELD. I would not want to hazard a guess at this point because we have them scored in different references between a reported bill and a conference report, and in some instances a passed bill. Consequently, we will have to compute those for the Senator

Mr. PRYOR. I would appreciate it.

Mr. HATFIELD. It is approximately \$425.8 billion. That is everything including title II, which is \$1.16 billion.

Mr. PRYOR. I appreciate that.

Mr. HATFIELD. Madam President, may we proceed?

COMMITTEE AMENDMENT ON PAGE 4, LINE 21 The PRESIDING OFFICER. The clerk will report the next committee

amendment. The assistant legislative clerk read as follows:

On page 4, line 21, strike all through page

6. line 24 and insert new language: That, notwithstanding the provisions of this paragraph making amounts available or otherwise providing for levels of program authority, the following amounts only shall be available and the following levels of authority only shall be provided for the following accounts or under the following headings: \$237,423,437 for payment to the "Inter-American Development Bank" not to exceed \$828,137,742 in callable capital subscriptions; \$126,041,553 for payment to the "International Bank for Reconstruction and Development" and not to exceed \$1,530,275,913 in callable capital subscriptions; \$800,000,000 for payment to the "International Development Association"; \*131,882,575 for payment to the "Asian Development Bank" and not to exceed \$2,243,811 in callable capital subscriptions; \$40,000,000 for payment to the "African Development Fund"; \$217,450,000 for "International Organizations and Programs", including the provisions of section 103(g) of the Foreign Assistance act of 1961, of which not less than \$140,000,000 shall be available for the United Nations Development Program. not more than \$37,000,000 shall be available for the United Nations Children's Fund, and not more than \$7,500,000 shall be available for the United Nations Environment Program; \$697,000,000 for "Agriculture, rural development and nutrition, Development Assistance"; \$206,100,000 for "Population, Development Assistance"; \$123,512,000 for "Health, Development Assistance"; \$25,000,000 for "International Disaster assistance"; \$77,000,000 for "Sahel development program"; \$35,403,000 for "Payment to the Foreign Service Retirement and disability Fund"; \$1,450,000 in foreigh currencies for "Overseas training and special development activities (foreign currency program)"; \$2,886,000,000 for the "Economic Support Fund" (without applying prior year earmarking of funds for Sudan and Poland), of which not less than \$910,000,000 shall be available for Israel and not less than \$750,000,000 shall be available for Egypt; \$31,100,000 for "Peacekeeping operations" \$10,500,000 for "Trade and development" \$109,000,000 for the "Peace Corps" \$109,000,000 for the "Peace Corps"; \$395,000,000 for "Migration and Refugee Assistance" (without applying prior year earmarking of funds); \$5,000,000 for necessary expenses to carry out the provisions of title II of S. 2608, as reported; \$367,000,000 for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 and the provisions of title I of S. 2608, as reported; \$53,700,000 for "International Military Education and "International Military Education and Training"; \$1,300,000,000 for necessary expenses to carry out sections 23 and 24 of the Arms Export control Act and the provisions of title I of S. 2608, as reported, of which not less than \$850,000,000 shall be allocated to Israel (\$1,700,000,000 of the amount provided for the total aggregate credit sale ceiling during the current fiscal year shall be allocated only to Israel), not less than \$50,000,000 shall be allocated to Sudan, and not less than \$400,000,000 shall be allocated to Egypt; \$3,973,300,000 of contingent liability for total commitments to guarantee loans under "Foreign Military Credit Sales"; not to exceed \$200,000,000 are authorized to be made available for the "Special Defense Acquisition Fund"; and not to exceed \$4,400,000,000 of gross obligations for the principal amount of direct loans and \$9,000,000,000 of total commitments to under guarantee loans "Export-Import Bank of the United States": Provided further, That none of the funds available under this paragraph may be made available for payment to the "International Finance Corporation"

Mr. HATFIELD. Actually, the House of Representatives has not passed a foreign operations appropriations bill, but rather it has cited or referenced in its bill a current level of spending for 1982. The Foreign Operations Subcommittee of the Senate has reported a bill, and what we are doing here is deleting the House language as it relates to foreign operations. We are inserting in effect the Senate-reported bill.

That is why we have the deletion of all of these figures. In one sense it is a technical amendment in that we had to substitute a Senate reference for a House reference.

Mr. HARRY F. BYRD, JR. Will the Senator yield for a question?

Mr. HATFIELD. Yes.

Mr. HARRY F. BYRD, JR. Does the Senator from Virginia understand correctly that this amendment represents the entire foreign assistance appropriation bill?

Mr. HATFIELD. It does. But there are some other technical amendments that impact upon the Foreign Operations Subcommittee bill near the end of this bill. This does not include all foreign operations, but it is the bulk of that bill.

Mr. HARRY F. BYRD, JR. How much money is involved in this particular amendment?

Mr. HATFIELD. \$11.5 billion.

Mr. HARRY F. BYRD, JR. \$11.5 billion in this one amendment.

Mr. HATFIELD. That is correctwell, no. I want to make clear to the Senator that a while ago we tried to put all of the parts of the bill dealing with one title in together, but we were denied that. So now we are having to go page by page. This is basically the bulk of the foreign operations bill, but I would not want to tell the Senator that it is the total. The total figure, if I went through this bill and extrapolated everything, would be \$11.5 bil-

Mr. HARRY F. BYRD, JR. As I understand it, the Senator from Oregon will ask for a vote in a moment on this particular amendment.

Mr. HATFIELD. That is correct. Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. MATTINGLY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered. Mr. HARRY F. BYRD, JR. Mr. President, as I understand it, this

amendment will appropriate approximately \$11.5 billion for foreign aid. Now we can get a clean-cut vote on that proposal. The reason it is put the continuing resolution by the House, in my judgment, is that the House did not want to face the issue of voting on foreign aid so they put it all in this great big omnibus bill.

I think the Senator from Arkansas made an excellent case against trying to finance our Government on a continuing resolution.

This item ought to be voted on separately-\$11.5 billion in foreign aid. And that is just one small part of this continuing resolution. I think it is a very undesirable way to handle the tax funds of the American people. It is a very undesirable way to appropriate money. This is a gigantic bill, with huge sums of money in it, representing 10 subcommittees; 10 different appropriation bills wrapped up into this one piece of legislation, and we are asked to vote on it in a matter of hours. It was only submitted to the Senate a few hours ago.

I urge the Senate to defeat this amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 4, line 21. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 422 Leg.]

## YEAS-57

Andrews East Mitchell Armstrong Ford Moynihan Murkowski Baucus Gorton Biden Hart Nunn Boschwitz Hawkins Packwood Bradley Pell Heinz Pressler Quayle Brady Huddleston Humphrey Bumpers Chiles Inouye Riegle Rudman Cohen Jackson Cranston D'Amato Sarbanes Sasser Jepsen Johnston Simpson Danforth Kasten Kennedy DeConcini Specter Stafford Levin Dodd Lugar Stevens Mathias Symms Durenberger Matsunaga Tsongas Eagleton Metzenbaum Weicker

## NAYS-41

Abdnor Chafee Hayakawa Baker Bentsen Cochran Heflin Denton Helms Boren Burdick Domenici Exon Hollings Kassebaum Garn Laxalt Harry F., Jr. Grassley Leahy Byrd, Robert C. Hatch Long Mattingly Hatfield Cannon

Pryor Randolph Thurmond McClure Melcher Nickles Roth Wallop Schmitt Warner Percy Proxmire Stennis Zorinsky

NOT VOTING-

Glenn

Goldwater So the committee amendment on

page 4, line 21, was agreed to. Mr. HATFIELD. I move to reconsider that vote by which the committee amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The

Senator from Oregon.

Mr. HATFIELD. With the counsel of the majority and minority leaders, I would now renew my unanimous-consent request.

Mr. STEVENS. May we have order,

Mr. President?

The PRESIDING OFFICER. The Senator may proceed.

UNANIMOUS-CONSENT AGREEMENT-COMMITTEE AMENDMENTS

Mr. HATFIELD. Mr. President, I ask unanimous consent that the committee amendments be considered and agreed to en bloc with the exception of the following amendments. I will give Senators the identification not by line, but by the subject-MX, Clinch River breeder reactor, the FTC, the Ashbrook amendment, copyright, the date of expiration, community development, and the FEMA. I further ask unanimous consent that the resolution as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered waived by reason thereof and that the excepted committee amendments may be temporarily laid aside by agreement of the floor managers.

The PRESIDING OFFICER. Is

there objection?

Mr. CHAFEE addressed the Chair.

Mr. PRYOR. I object.

Mr. CHAFEE. May I understand what we are doing here? Does this mean-

The PRESIDING OFFICER. Will there please be order in the Chamber?

Mr. CHAFEE. This means that no other amendments to the total continuing resolution are permitted?

Mr. HATFIELD. Oh, yes. Any amendment is permitted to any section of the bill. We are in effect adopting basically the technical amend-ments rather than going through and changing the word "acts" from plural to singular by a separate action of the Senate on each item. We are accepting these and the whole resolution is open to any amendment at any time because all we are doing is considering it as original text for the purpose of further amendment.

Mr. CHAFEE. So we are not es-

topped in any way?

Mr. HATFIELD. The Senator is not estopped. The Senator is not circumscribed in any way.

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object-

Mr. JACKSON addressed the Chair. The PRESIDING OFFICER. Objection has been heard.

Mr. PRYOR and Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas (Mr. PRYOR) had objected.

Mr. PRYOR. Mr. President, I withdraw my objection.

The PRESIDING OFFICER. Is there objection?

Mr. HARRY F. BYRD, JR. Mr. President, reserving the right to object, may I ask the distinguished chairman of the committee, is the Senate figure for HHS higher than the House figure or lower than the House figure?

Mr. HATFIELD. If the Senator will wait a moment, I will get my chart.

To respond to the Senator from Virginia, the Senate is higher than the House Labor-HHS.

The precise figure of the House bill is \$85.3 billion, the Senate bill is \$89.8 billion.

Mr. HARRY F. BYRD, JR. Will the Senator from Oregon add that to the list of excepted amendments?

Mr. SCHMITT. Will the Senator

from Oregon yield?

Mr. HATFIELD. I say to the Senator from Virginia that there are many amendments that affect that figure which are scattered throughout this bill. There is on one line or no one exception, but the Senator from Virginia would not be precluded from offering

Mr. HARRY F. BYRD, JR. I under-

stand that.

Mr. HATFIELD [continuing]. An amendment on any one part of it.

Mr. HARRY F. BYRD, JR. The Senator from Virginia does not desire to offer an amendment but the Senator from Virginia may desire to vote against the increase proposed by the committee.

Mr. SCHMITT. Will the Senator yield?

Mr. HATFIELD. I wonder if the Senator would not move then to strike the figure at that point in time and substitute a different figure?

Mr. HARRY F. BYRD, JR. The Senator from Virginia does not desire to to that. The Senator from Virginia would only want a vote on the committee amendment which adds money to the hill.

Mr. HATFIELD. What I am saying is that the Senator from Virginia can obtain that very objective-

Mr. HARRY F. BYRD, JR. I understand that.

Mr. HATFIELD [continuing]. By moving to strike.

Mr. HARRY F. BYRD, JR. I understand but I do not wish to utilize that route. I want a vote on the committee amendment.

Mr. HATFIELD. Otherwise, this \$89 billion is scattered throughout this whole bill. There is no one line—

Mr. HARRY F. BYRD, JR. Let me ask another question. Of the 10 appropriations bills included in this measure, how many of those appropriation bills provide a figure higher than the House bill?

Mr. HATFIELD. Agriculture, Commerce, Defense, District of Columbia. energy and water, foreign aid assistance; Interior is now a conference report, so that is not different; Labor-HHS; Transportation is now a conference report that has been agreed to: Treasury, Postal Service and general Government. But let me say to the Senator that there are many reasons for this other than a matter of increase in program. There are scorekeeping differences between the House and the Senate.

There are what we consider to be underfunded or nonfunded programs in the House bill that we had to fund because we did not want to put it over onto a supplemental. So there are many reasons. One cannot just look at the statistics and see this as a contrast. We are really in some ways talking about apples and oranges.

Mr. HARRY F. BYRD, JR. Well-Mr. HATFIELD. We are within the

302 budget resolution.

Mr. HARRY F. BYRD, JR. But the 302 budget resolution in the view of the Senator from Virginia is an excessive and unjustifiably high figure.

Mr. HATFIELD. I understand that, and I would only say that is the guideline the Senate gave to the Appropriations Committee. We could not unilaterally adopt a different guideline than that which was adopted by the full Senate.

Mr. HARRY F. BYRD, JR. As I understand it, the Senate did not mandate that you spend every dollar that was authorized.

Mr. HATFIELD. No. The Senator is correct.

Mr. HARRY F. BYRD, JR. So it appears that the Senate is proposing to spend more money than the House had proposed to spend. That is a bit puzzling considering that we have a Republican dominated Senate and a liberal Democratic domination of the House.

Mr. HATFIELD. May I say to the Senator that one good example is Agriculture. The Senator is a farmer, the Senator would understand this. By the time the House and Senate acted, the administration sent up almost a \$6 billion requested increase to meet the new demand for CCC—Commodity Credit Corporation. The Senate had to take that kind of action in order to

meet the mandated entitlement program, or you might call it that, under the CCC. That puts the Senate at a

higher figure in Agriculture.

Mr. HARRY F. BYRD, JR. Apparently, for one reason or another, in most of these 10 appropriations bills, the Senate figure is higher than the House figure. May I just ask this, that the Senate add to the list of exceptions the HHS.

Mr. HATFIELD. Will the Senator indicate which amendment on HHS?

Mr. HARRY F. BYRD, JR. Whatever amendments add up to \$89 billion versus \$85 billion. There is a \$4 to \$5 billion differential between the Senate and the House. The Senate committee wants to spend at least \$4 billion more than the House of Representatives wants to spend.

Mr. HATFIELD. I say to the Senator that the House of Representatives underfunded entitlements Labor-HHS by \$5.8 billion. The view is they could be handled on a supplemental. The Senate tries to deal headon with the beginning of the fiscal year in order to reach those levels that are going to be required during that fiscal year.

That is one reason why that figure on our side is that much higher than

the House side.

Mr. HARRY F. BYRD, JR. All I ask of the Senator is that he set aside \$89 billion so that Committee amendment can be voted on. The Senate then can vote whether to increase the House spending figure by \$4 to \$5 billion. Mr. SCHMITT. Mr. President, will

the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield Mr. SCHMITT. As the chairman has indicated, we worked very closely with the Office of Management and Budget and the Congressional Budget Office to try to come up with what the most realistic figure for entitlement expenditures under the current economic conditions would be in fiscal year 1983. The Senate figure of \$89 billion-plus represents that assessment, and it is \$5.8 billion more than what the House has in their bill. You either pay the \$5.8 billion now or you are going to pay it in a supplemental.

Mr. HARRY F. BYRD, JR. I have

only one simple request.

Mr. HATFIELD. Mr. President, will the Senator yield 1 minute?

Mr. HARRY F. BYRD, JR. I am

Mr. HATFIELD. Let me accommodate the Senator this way. Let me add to my exception list lines 4 to 15, on page 15 of the C.R., the language that references the Senate bill in lieu of the House bill. Then the Senator from Virginia will be able to act upon that at the proper time. That will get, I think, to the crux of the matter that the Senator wants to address.

Mr. HARRY F. BYRD, JR. I thank the Senator from Oregon.

The Senator from Virginia understands correctly that when we get to this amendment on page 15 that a vote against the committee amendment would then put the figure back by approximately \$5 billion.

Mr. HATFIELD. The Senator is correct. It would be the same situation which the Senator moved on the foreign operations bill which \$500 million less in the House reference than in the Senate reference.

Mr. HARRY F. BYRD, JR. I thank the Senator. That will clarify that.

Mr. HATFIELD. Will the Chair now please restate the request?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair. I thank my colleagues in the Senate for agreeing to this.

The committee amendments agreed to en bloc are as follows:

On page 10, strike line 3, through and including line 9, and insert the following:

(d) Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for programs, projects, and activities provided for in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1983 (S.2956), at a rate provided for operations and to the extent and in the manner provided for in such Act as reported in the Senate on September 24, 1982 (Senate Report 97-584), as if such Act had been enacted into law, except that the following appropriations shall be as follows;

Department of Commerce: Bureau of the Census: "Periodic censuses and programs", \$93,744,000, of which \$150,000 shall be available together with \$50,000 from non-Federal sources for a new combined monthly survey

of men's and women's apparel.

Economic Development Administration: "Economic Development Revolving Fund" (Limitation on Loan Guarantees): During fiscal year 1983, total commitments to guarantee loans to steel companies shall not exceed \$20,000,000 of contingent liability for loan principal.

International Trade Administration: "Operations and Administration", \$166,426,000: Provided, That "1982" on lines 13 and 16 on page 5 of the Senate reported bill (S. 2956)

shall be "1983".

United States Travel and Tourism Admin-"Salaries istration: Expenses' and \$8,100,000, of which \$500,000 shall be used only to provide direct financial assistance to the State of Hawaii (which has been declared as a major disaster area by the President) and that such funds: (1) shall be used to supplement and increase rather than replace funds that normally would be used to promote travel by foreign visitors to Hawaii; (2) shall be obligated and expended within 60 days of the date of enactment of this Act; and (3) shall not be used to pay the administrative costs of the United States Travel and Tourism Administration or any other unit of the Federal Government.

Science and Technical Research: "Scientific and Technical Services": Provided, That of the funds appropriated \$475,000 shall be for robotics research and \$700,000 shall be for work in materials science relat-

ed to metals processing.

National Telecommunications and Information Administration: "Salaries and Expenses", \$12,667,000, of which \$502,911 of prior year unobligated balances in the appropriation "Public telecommunications facilities planning and construction" shall be transferred to this appropriation.

Small Business Administration: "Salaries and Expenses" (including transfer of funds), for necessary expenses, not otherwise pro-vided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed \$1,500 for official reand representation expenses. \$202,178,000 and for grants for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended \$12,000,000. In addition, \$31,600,000 for disaster loan making activities, including loan servicing, shall be transferred to this appropriation for the "Disaster loan fund".

Department of Justice: General Adminis-"Salaries tration: and Expenses". \$56,741,000.

Legal Activities: "Support of United States Prisoners", \$34,254,000: Provided, That not to exceed \$4,050,000 shall be available for the purpose of renovating, constructing and equipping State and local jail facilities that confine Federal prisoners under the Cooperative Agreement Program: Provided further, That amounts made available for constructing any local jail facility shall not exceed the cost of constructing space for the average Federal prisoner population for that facility as projected by the Attorney General: Provided further, That following agreement on or completion of any federally assisted jail construction, the availability of such space shall be assured and the per diem rate charged for housing Federal prisoners at that facility shall not exceed direct operating costs for the period of time specified in the cooperative agreement; and "Fees and Expenses", \$35,700,000.

Interagency Law Enforcement: "Organized Crime Drug Enforcement", for expenses necessary for the detection, investigation, prosecution and incarceration of in-dividuals involved in organized criminal drug trafficking not otherwise provided for, \$127,500,000, of which \$18,000,000 is to remain available until expended for construction of new facilities and constructing, remodeling, and equipping buildings and facilities at existing detention and correction-

al institutions. Federal Bureau of Investigation: "Salaries and Expenses", \$825,154,000: Provided, That passenger motor vehicles for police-type use may be purchased without regard to the general purchase price limitation for the current fiscal year.

Immigration and Naturalization Service: 'Salaries and Expenses", \$482,917,000.

Drug Enforcement Administration: "Sala-

ries and Expenses", \$248,162,000.

General Provision: Provided, That notwithstanding any regulation, guideline, or rule of the Corporation, the funds provided by this joint resolution for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts under sections 1006(a)(1) and (3) so as to insure that funding for each such current grantee and contractor is maintained in 1983 at the annualized level at which each such grantee and contractor we funded in 1982, or in the same proportio. which total appropriations to the Corporation in fiscal year 1983 bear to the total ap-propriations to the Corporation in fiscal year 1982, until action is taken by directors of the Corporation who have been con-firmed in accordance with section 1004(a) of the Legal Services Corporation Act.

Provided further, That none of the funds available under this joint resolution shall be used to sell to private interests except with the consent of the borrower or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974: Provided further, That sections 106 and 149 of Public Law 97-276, and this subsection in its entirety shall be effective through September 30, 1983.

On page 15, strike line 16, through and in-

cluding line 6 on page 16;

On page 16, line 7, strike "(4)"

On page 16, line 11, strike "That", and insert "That, notwithstanding section 102 of this joint resolution"

On page 16, strike lines 16 and 17, and

insert the following:

activities under the Refugee Act of 1980 and subsections (a) and (b) of section 501 of the Refugee Education Assistance Act of 1980 at the rate of \$670,670,000: Provided, That of the amounts so made available, there shall be obligated for the purposes of section 412(c) of the Immigration and Nationality Act the amount that would be derived from an annual appropriation for such purposes of \$120,000,000:

On page 17, strike line 10, through and in-

cluding line 16;

On page 18, line 9, after "Appropria-tions:", insert the following:

Provided further, That Department Energy, Atomic Energy Defense Activities, shall be funded at not to exceed an annual rate for new obligational authority of \$5,700,000,000, of which not more than \$938,700,000 shall be available for operating expenses-materials production; of which not more than \$275,350,000 shall be available for plant and capital equipment-materials production; of which not more than \$2,710,900,000 shall be available for operating expenses-weapons activities; of which not more than \$611,150,000 shall be available for plant and capital equipment-weapons activities, except that no funds shall be available for Project 82-D-109:

On page 19, strike line 21, through and including line 12 on page 21, and insert the

following:

The amount of contracts for annual contributions, not otherwise provided for, as authorized by section 5 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and heretofore approved in appropriation Acts, is increased by \$313,477,865: Provided, That the budget authority obligated under such contracts shall be increased above amounts heretofore provided in appropriation Acts by \$5,732,355,689: Provided further, That of the budget authority provided herein, \$542,640,000 shall be for assistance in financing the development or acquisition cost of public housing for Indian families, \$2,096,000,000 shall be for assistance for projects developed for the elderly or handicapped under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and \$1,000,000,000 shall be for the modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 14371): Provided further, That of the amounts of contract authority and budget authority authorized by such Act, and heretofore approved in appropriation Acts, any amount of budget authority up to \$1,000,000,000 which was obligated for assistance in financing the development or acquisition cost of low-income public housing in a year prior to 1983 and becomes available for obligation in 1983 shall be made available for modernization of existing public housing projects pursuant to section 14 of such Act and of any amount of such budget authority equal to or in excess of \$1,000,000,000 but not exceeding \$3,000,000,000, 30 per centum of such budget authority shall also be made available for modernization of existing public housing projects and 70 per centum of such amount of such budget authority shall be made available for annual contributions contracts under the section 8 existing housing program (42 U.S.C. 1437f): Provided further, That any balances of authorities made available prior to the enactment of this Act which are or become available for obligation in fiscal year 1983, shall be added to and merged with the authority approved herein, and such merged amounts shall be made subject only to terms and conditions of law applicable to authorizations becoming available in fiscal year 1983: Provided further, That the \$89,321,727 of budget authority deferred and made available in accordance with the provisos under the heading "Annual Contributions for Assisted Housing" in Chapter VII of the Supplemental Appropriations Act, 1982 (Public Law 97-257), shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act: And provided further, That none of the merged amounts available for obligation in 1983 shall be subject to the provisions of section 5(c) (2) and (3) and the fourth sentence of section 5(c)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437c), and section 213(d) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439).

#### HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

For an additional amount for direct loan obligations for "Housing for the Elderly or Handicapped Fund" under section 202 of the Housing Act of 1959, as amended, (12 U.S.C. 1701q), \$271,800,000: Provided fur-That Title I of the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1983 (Pubic Law 97-272) is amended by striking out the period at the end of the paragraph under the heading "Housing for the Elderly and Handicapped Fund", and inserting in lieu thereof the following: "Provided further, That notwithstanding section 202(a)(3) of such Act, loans made in fiscal year 1983 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probably losses under the program."

On page 24, after line 11, insert the fol-

## FEDERAL HOUSING ADMINISTRATION FUND

For an additional amount for commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended. \$6,100,000,000: Provided, That section 207(c)(3), the second proviso of section 213(b)(2), section 220(c)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by inserting "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 305 of this Act by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum"

On page 25, strike line 1, through and including line 9, and insert the following:

(h) Such amounts as may be necessary for programs, projects, or activities provided for in the Department of the Interior and Related Agencies Appropriation Act, 1983 (H.R. 7356), at a rate of operations, and to the extent and in the manner provided for in such Act as passed by the United States Senate on December 14, 1982, as if such Act had been enacted into law.

(i) Notwithstanding any other provision of this joint resolution such sums as may be necessary for programs, projects, or activities provided for in the Department of Agriculture, Rural Development and Related Agencies Appropriation Act, 1983 (H.R. 7072), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-957), filed in the House of Representatives on December 10, 1982, as if such Act had been enacted into law.

(j) Notwithstanding any other provision of this joint resolution such sums as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriation Act, 1983 (H.R. 7144), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (97-972), filed in the House of Representatives on December 15, 1982, as if such Act had been enacted into law.

(k) Notwithstanding any other provisions of this joint resolution such sums as may be necessary for programs, projects, or activities provided for in the Department of Transportation and Related Agencies Ap-propriation Act, 1983 (H.R. 7019), to the extent and in the manner provided for in the conference report and joint explanatory statement of the Committee of Conference (House Report Number 97-960), filed in the House of Representatives on December 13, 1982, as if such Act had been enacted into

On page 29, after line 15, insert the fol-

(f) Notwithstanding the limitations imposed on prevailing rate pay pursuant to subsection (a) of this section and section 109 of Public Law 97-276, an Act to make continuing appropriations for the fiscal year 1983, such limitations shall not apply to wage adjustments for prevailing rate supervisors provided by the supervisory pay plan published in the Federal Register on May 21, 1982. (47FR22100).

On page 30, strike line 16, through and including line 22 on page 31;

On page 31, line 23, strike "110", and insert

On page 32, line 18, strike "111", and insert "110":

On page 33, line 1, strike "112", and insert

On page 33, after line 4, insert the following:

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 102(c), there are appropriated to the Postal Service Fund sufficient amounts so that postal rates for all preferred-rate mailers covered by section 3626 of title 39. United States Code, shall be maintained at Step 14.

On page 33, strike line 10, through and including line 14 on page 34;

On page 34, line 15, strike "114", and insert "113";

On page 34, strike line 20, through and including line 2 on page 35;

On page 35, line 3, strike "116", and insert "114";

On page 35, after line 12, insert the following:

SEC. 115. Notwithstanding any other provision of this joint resolution, except section 102, expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for construction of Boundary Integration and Colville Valley Support; official reception and representation expenses in an amount not to exceed \$2,500; and for the purposes of providing funds for conservation and renewable resource loans and grants as specified in the Pacific Northwest Electric Power Planning and Conservation Act (Public Law 96-501), \$1,250,000,000 borrowing authority is made available to remain outstanding at any given time: Provided. That the obligation of such additionborrowing authority not exceed \$276,000,000 in fiscal year 1983.

On page 36, line 4, after "Operations;", insert the following: \$170,510,000 for "Salaries and Expenses", Internal Revenue Service; \$1,009,409,000 for "Examinations and Appeals", Internal Revenue Service; \$1,000,778,000 for "Taxpayer Service and Returns Processing", Internal Revenue Service:

On page 36, line 9, after "Service", insert the following: Provided, That none of these funds shall be available to close or relocate Customs offices in Duluth, Minnesota/Superior, Wisconsin; Milwaukee, Wisconsin; Bridgeport, Connecticut; Hartford, Connecticut; Portland, Oregon; Miami, Florida; St. Albans, Vermont; or Anchorage; Alaska, or to consolidate or reduce personnel, programs or functions of these offices;

On page 36, line 16, after the comma, insert the following: "(including the hire of 200 new special agents)":

On page 36, after line 17, insert the following:

SEC. 117. None of the funds contained in this resolution shall be available for the implementation and enforcement of any Internal Revenue ruling relating to the application of sections 511, 512, and 513 of the Internal Revenue Code to revenues generated as a result of North Dakota Century Code chapter 53-06.

On page 37, after line 3, insert the following:

SEC. 119. Notwithstanding any other provision of this joint resolution, \$770,000,000 shall be available for rental of space within the Federal Buildings Fund of the General Services Administration.

On page 37, strike line 8, through an including line 15:

On page 37, strike line 25, through and including line 7 on page 38, and insert the following:

SEC. 121. None of the funds available to the General Services Administration under this Act shall be obligated or expended for the procurement by contract of any service which before such date was performed by employees of the General Services Administration if 50 percent or more of such employees engaged in performing such service were preference eligibles as defined in section 2108 of Title 5. United States Code.

tion 2108 of Title 5, United States Code.
On page 38, line 21, after "or", insert "as "reported";

On page 38, after line 21, insert the following:

SEC. 123. Section 2 of Reorganization Plan Numbered 3 of 1979 (93 Stat. 1382, 5 U.S.C.

Appendix) is amended by adding thereto a new subsection (e) as follows:

"(e) There shall be in the Department of Commerce a Director General of the United States and Foreign Commercial Services who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribe by law for Level IV of the Executive Schedule."

SEC. 124. Section 5314 of Title V, United States Code is amended by adding the following at the end thereof: "Executive Director Property Review Board".

On page 39, line 9, strike "123", and insert

On page 39, line 13, strike "124", and insert "126";

On page 40, strike line 8, through and including line 15;

On page 40, line strike "126", and insert "127"; On page 40, strike line 20, through and in-

cluding line 3, of page 44, and insert the following: Sec. 128. Section 101(e) of Public Law 97-

SEC. 128. Section 101(e) of Public Law 97-276, an act making continuing appropriations for fiscal year 1983, is amended by striking "December 17, 1982" and inserting "September 30, 1983".

SEC. 129. Notwithstanding any other provision of this joint resolution, there is appropriated to the "Federal Labor Relations Authority", \$15,500,000.

SEC. 130. Notwithstanding any other provision of this joint resolution, \$275,000,000 of the direct loans allocated to Israel under the Foreign Military Credit Sales program shall not be available for disbursement before October 1, 1983, and \$100,000,000 of the amount authorized for direct loans for the Export-Import Bank of the United States shall not be available for obligation or disbursement before October 1, 1983.

SEC. 131. Notwithstanding any other provision of this joint resolution, the Secretary of the Treasury shall instruct the United States executive directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this or any other Act, for the production of any commodity for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

SEC. 132. Notwithstanding any other provision of this joint resolution, none of the funds appropriated or made available (other than funds for "Operating expenses of the Agency for International Development") pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to finance the operating expenses for the Agency for International Development.

SEC. 133. Notwithstanding any other provision of this joint resolution, none of the funds appropriated under section 101(b) of this joint resolution may be available for any country during any 3-month period beginning on or after October 1, 1982, immediately following the certification of the President to the Congress that such country is not taking adequate steps to cooperate with the United States to prevent narcotic

drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully.

SEC. 134. Notwithstanding any other provision of this joint resolution, of the new obligational authority appropriated under section 101(b) to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, not less than 30 per-cent shall be available for loans for the fiscal year 1983 (funds for such loans shall remain available for obligation until September 30, 1984): Provided, That loans made pursuant to this authority to countries whose annual per capita gross national product is greater that \$795 but less than \$1,285 shall be repayable within twenty-five years following the date on which funds are initially made available under such loans and loans to countries whose annual per capita gross national product is greater than or equal to \$1,285 shall be repayable within twenty years following the date on which funds are initially made available under such loans.

SEC. 135. Payments required by section 4 of Public Law 97-346 with respect to the Vice President, Senators, and officers and employees of the Senate shall be paid from the contingent fund of the Senate out of the account in such fund for "Miscellaneous Items"

SEC. 136. Any commuter authority operating commuter service transfered from the Consolidated Rail Corporation under part 2 of the Northeast Rail Service Act of 1981 shall be subject to applicable laws with respect to such service, including, but not limited to the Railway Labor Act, the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.), the Railroad Retirement Tax Act (26 U.S.C. 3201 et seq.), and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

SEC. 137. Conrail employees who are deprived of employment by assumption or discontinuance of intercity passenger service by Amtrak shall hereafter be eligible for employee protection benefits under section 701 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 797), notwithstanding any other provision of law, agreement, or arrangement, and notwithstanding the inability of such employees otherwise to meet the eligibility requirements of such section. Such protection shall be the exclusive protection applicable to Conrail employees deprived of employment or adversely affected by any such assumption or discontinuance.

SEC. 138. Notwithstanding any other provision of this joint resolution (a) For fiscal year 1983, any head of an agency or his designee may enter into a contract pursuant to the provisions of section 3(f) of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (Public Law 97-365). Of the net amounts collected, a maximum of 40 percent may be credited to an agency account from which funds are available for debt collection activities, and the balance shall be covered into the Treasury as miscellaneous receipts, unless otherwise provided by law.

(b) Paragraph (1) of section 3(f) of the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982 (Public Law 97-365), is amended by adding at the end thereof the following new sentence: "All contracts under this subsection shall be subject to the requirements of sec-

tion 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(c) Notwithstanding any other provision of law, the Comptroller General and the Attorney General shall prepare and publish within 30 days of the enactment of this joint resolution proposed regulations to carry out the provisions of and amendments made by the Debt Collection Act of 1982 (Public Law 97-365) and shall issue final regulations within 60 days of the enactment of this joint resolution.

SEC. 139. (a) Section 4109(c) of title 5, United States Code, is amended by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration," and by inserting "or the Department of Defense" after "of such Administration"

(b) Section 5532(f) of title 5, United States

Code, is amended-

(1) in paragraph (1) by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration"; and

(2) in paragraph (2) by inserting "or the Secretary of Defense" after "Administrator, Federal Aviation Administration" and by inserting "or such Secretary" immediately before the period.

(c) The analysis of chapter 55 of title 5, United States Code, is amended by inserting immediately before the period in the item relating to section 5546a "and the Department of Defense".

(d) The section heading of section 5546a of title 5, United States Code, is amended by inserting at the end thereof "and the Department of Defense'

(e) Subsection (a) of section 5546a of title

5. United States Code, is amended-

(1) in the first sentence of such subsection by inserting "or the Secretary of Defense (hereafter in this section referred to as the 'Secretary')" after "referred to as the 'Administrator')";

(2) in paragraph (1) of such subsection by inserting "or the Department of Defense after "Federal Aviation Administration" and by inserting "or the Secretary" after

by the Administrator"; and (3) in paragrph (2) of such subsection by inserting "or the Department of Defense after "Federal Aviation Administration" and by inserting "or the Secretary" after

"determined by the Administrator".

(f) Section 5546a of title 5, United States

Code, is amended-

(1) in subsection (c)-(A) in the first sentence of paragraph (1) by inserting "or the Secretary" after "Ad-ministrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(B) in paragraph (1)(B) of such subsection by inserting "or the Secretary" after "Administrator"; (2) in subsection (d)—

(A) in paragraph (1) by inserting "or the Department of Defense" after "Federal Aviation Administration" and by inserting 'or the Secretary" after "Administrator both times it appears; and

(B) in paragraph (2) by insering "or the Department of Defense" after "Federal

Aviation Administration"

(3) in subsection (e) of such section by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of Defense" after "Federal Aviation Administration"; and

(4) in subsection (f)

(A) in paragraph (1) by inserting "or the Secretary" after "Administrator" and by inserting "or the Department of School after "Federal Aviation Administration";

(B) in paragraph (2) by inserting "or the

Secretary" after "Administrator".

(g) Section 5547 of title 5, United States Code, is amended by inserting "or the Department of Defense" after "Federal Aviation Administration".

(h) Section 8344(h)(1) of title 5, United States Code, is amended by inserting "or the Secretary of Defense" after "Administrator. Federal Aviation Administration,'

(i)(1) The amendments made by subsections (b), (c), (d), (e), (g), and (h) of this section shall take effect at 5 o'clock ante meridian eastern daylight time, August 3, 1981.

(2) The amendments made by subsections (a) and (f) of this section shall take effect on the first day of the first applicable pay period beginning after the date of the enactment of this joint resolution.

SEC. 140. (a) ESTABLISHMENT OF CAPITAL CON-STRUCTION FUNDS FOR FISHERY FA-CILITIES

Subsection (a) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is

amended to read as follows:

"(a) AGREEMENT RULES .- (1) Any citizen of the United States owning or leasing one or more eligible vessels (as defined in subsection (k)(1)), or one or more eligible fishery facilities (as defined in subsection (k)(9)), may enter into an agreement with the Secretary of Commerce under, and as provided in, this section to establish a capital construction fund (hereinafter in this section referred to as the 'fund') with respect to any or all of such vessels or facilities. Any agreement entered into under this section-

"(A) shall be for the purpose of provid-

ing-

"(i) replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States for operation in the United States foreign, Great Lakes, or

noncontiguous domestic trade.

"(ii) replacement fishing vessels, additional fishing vessels, or reconstructed fishing vessels, built in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonwealth, territory, or possession of the United States and documented under the laws of the United States for operation in the fisheries of the United States, or

"(iii) replacement fishery facilities, additional fishery facilities, or reconstructed fishery facilities, located in the United States, American Samoa, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other commonor possession of the

wealth, territory, United States, and

"(B) shall provide for the deposit in the fund of the amounts agreed upon as necessary or appropriate to provide for qualified withdrawals under subsection (f).

"(2) In applying paragraph (1)(A)(ii) or

(iii)-

"(A) no withdrawal may be made from a capital construction fund for a replacement or addition purpose involving a used fishing vessel or a used fishery facility unless that vessel or facility will be used in the harvesting of fish from, or for a function described in subsection (k)(12) with respect to, an underutilized fishery;

"(B) withdrawals may be made from a capital construction fund for the purchase of a used fishery vessel or a used fishery facility for any reconstruction purpose, if such reconstruction will contribute to the development of the United States fishing in-

"(C) nothing in this section shall be construed as prohibiting the establishment and use of a capital construction fund-

"(i) with respect to fishing vessels for purposes of acquiring fishery facilities,

"(ii) with respect to fishery facilities for purposes of acquiring fishing vessels, or

"(iii) for fishing vessels and fishery facilities; and

"(D) nationals of the United States and citizens of the Northern Mariana Islands shall be treated as citizens of the United States

"(3) The deposits in the fund, and all withdrawals from the fund, whether qualified or nonqualified, shall be subject to such conditions and requirements as the Secretary of Commerce may by regulation prescribe or are set forth in such agreement; except that the Secretary of Commerce may not require any person to deposit in the fund for any taxable year more than 50 percent of the sum of (A) that portion of such person's taxable income for such year which is attributable to the operation of the agreement vessels or (B) that portion of such person's taxable income for such year which is attributable to the operation of the agreement fishery facilities. For purposes of the preceding sentence, taxable income shall be computed in the manner provided in subsection (b)(1)(A).

"(4) Notwithstanding any other provision of law, any agreement for any of the purposes set forth in paragraph (1)(A) (ii) or

(iii) may be amended in order to-

"(A) allow for the withdrawal of moneys from the fund established by that agreement and the subsequent deposit of those moneys in a fund established, whether by the same or different persons, under another existing agreement, or a new agreement, entered into for any such purpose of purposes: or

"(B) provide that one or more other persons may be permitted to become parties thereto and deposit moneys into the fund established by such agreement; whether or not any of the moneys for deposit are withdrawn pursuant to an agreement amended

under subparagraph (A).

"(5) The Secretary may not require, in the case of any agreement entered into for the purpose of reconstructing a fishing vessel or fishery facility, that a minimum withdrawal be made from the fund. For purposes of this section, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility."

(b) DEFINITIONS.-

Subsection (k) of section 607 of the Merchant Marine Act, 1936, is amended by adding at the end thereof the following new paragraphs:

"(9) The term 'eligible fishery facility' means any fishery facility which is located

in the United States.

"(10) The term 'qualified fishery facility' means any fishery facility-

"(A) which is located in the United States,

and "(B) which the person maintaining the

fund agrees with the Secretary of Commerce will be used for one or more of the functions described in paragraph (12).

For purposes of this paragraph, paragraphs (1), (2), and (3) insofar as they relate to a fishing vessel, and paragraph (9), the term 'United States' includes American Samoa, the Virgin Islands of the United States, the Northern Mariana Islands, Guam, and any other commonwealth, territory, or posses-

sion of the United States; and, when applied with respect to a fishery facility described in paragraph (12)(B), includes the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1811).

"(11) The term 'agreement fishery facility' means any eligible fishery facility or qualified fishery facility which is subject to an agreement entered into under this sec-

tion.

(c) TECHNICAL AND CONFORMING AMEND-MENTS.

(1)(A) Subparagraph (A) of section 607(b)(1) of the Merchant Marine Act, 1936, is amended by inserting "(i)" after "(A), and by inserting ", or (ii) that portion of the taxable income of the owner or lessee for such year (as so computed) which is attributable to the operation of the agreement fishery facilities," after "the fisheries of the United States."

(B) Subparagraph (B) of such section 607(b)(1) is amended by inserting "or the agreement fischer" facilities" after "the

agreement vessels.

(C) Subparagraph (C) of such section 607(b)(1) is amended by inserting "or agreement fishery facility" after "any agreement

vessel" each place it appears.

(D) Paragraph (2) of section 607(b) of such Act is amended by inserting "or an agreement fishery facility" after "an agreement vessel" and by inserting "or such facil-

ity (as the case may be)" after "such vessel."

(2)(A) Subparagraph (A) of section
607(f)(1) of such Act is amended by inserting "or a qualified fishery facility" after "a qualified vessel.'

(B) Subparagraph (C) of section 607(f)(1) of such Act is amended to read as follows

"(C) the payment of the principal on indebtedness incurred in connection with the acquisition, construction, or reconstruction

"(i) a qualified vessel,

"(ii) a qualified fishery facility, or

"(iii) a barge or container which is part of the complement of the qualified vessel.

(3)(A) Paragraphs (2) and (3) of section 607(g) of such Act is amended by inserting "fishery facility," after "vessel," each place

(B) Paragraph (4) of section 607(g) of such Act is amended by inserting "fishery facili-

ties" after "vessels.

(4) The terms "fishery facility" and "citizen of the Northern Marianas" as used in this Title shall have the meanings given in Title XI of the Merchant Marine Act of

1936, (46 U.S.C. 1271-1280). (d) Effective date. The amendments made by this section shall be effective upon enact-

ment of this joint resolution.

SEC. 141. None of the funds appropriated by this joint resolution shall be used by the Federal Trade Commission to exercise its authority under section 5 or section 18 of the Federal Trade Commission Act to invalidate any State laws or part thereof, which establishes training, education, or experience requirements for the licensure of professionals (persons who, in the performance of their occupation, are subject to licensure or certification under State law and, as a prerequisite for such licensure or certification under State law, have received a degree from an accredited institution of higher learning or successfully completed a course of specialized training at an accredited education or training facility for health professions personnel operated as an integral part of a hospital) or the permissible tasks and duties which may be performed by profes-

Sec. 142. Notwithstanding any other provision of this joint resolution, the provisions of section 616 of H.R. 7158, the Treasury, Postal Service, and General Government Appropriation Act, 1983, and section 614 of S. 2916, the Treasury, Postal Service, and General Government Appropriation Bill, 1983, shall not apply to funds appropriated or otherwise made available by this joint resolution.

Sec. 143. Notwithstanding any other provision of this joint resolution, no funds made available by this Act shall be used to develop or procure the VIPER light antitank weapon.

SEC. 144. Section 131 of Public Law 97-276 shall be amended by striking "December 17, 1982" and inserting in lieu thereof "Septem-

ber 30, 1983"

Sec. 145. Funds available under this Act may be used by the Department of Defense to enter into purchases of or commitments to purchase metals, minerals, or other materials under section 303 of the Defense Production Act of 1950, as amended, (50 U.S.C. 2093): Provided, That the total funds under this Act for such purchases or commitments to purchase shall not exceed \$50,000,000.

SEC. 146. None of the funds appropriated in this Act may be obligated or expended in any way for the purpose of the sale, lease, or rental of any portion of land currently identified as Fort DeRussy, Honolulu,

SEC. 147. Notwithstanding any other provision of this joint resolution, none of the funds made available by this Act may be used to support active U.S. military personnel stationed on shore in Europe at the end of fiscal year 1983 in excess of the actual number of such personnel stationed on shore in Europe at the end of fiscal year 1982: Provided, That this limitation may be waived by the President upon a declaration to Congress of overriding national security requirements.

Sec. 148. Not withstanding any other provision of this joint resolution, \$422,100,000 shall be available only for the purchase of the Multiple Launch Rocket System under

a multiyear contract.

SEC. 149. The authorization for the water project on Bradly Lake, near Cook Inlet, Alaska described in the plans recommended in the report of the Chief of Engineers contained in House Document Numbered 455, 87th Congress, which plan was adopted and authorized by the Flood Control Act of 1962 (76 Stat. 1180, 1193), is hereby terminated.

Sec. 150. Notwithstanding any other provision of this joint resolution, including section 102, there are appropriated \$7,000,000 for carrying out the Runaway and Homeless Youth Act, which is in addition to amounts otherwise available under section 137 of Public Law 97-276 and under this joint resolution for carrying out such Act.

SEC. 151. For payment to the Alaska Railroad Revolving Fund for capital improvements, replacements, operations, and maintenance \$7,600,000, to remain available until

expended.

On page 61, strike line 4, through and including line 12 on page 63;

On page 63, line 13, strike "Sec. 204";

On page 64, strike line 1, through and including line 9;

On page 64, line 14, strike "\$200,000,000". and insert "\$100,000,000";

On page 64, line 20, strike "\$50,000,000", and insert "\$25,000,000";

On page 64, after line 23, insert the fol-

"WASHINGTON METRO

"For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, \$10,000,000, to remain available until expanded."

On page 65, strike line 5, through and including line 12 on page 67 (except for the language which appears on page 66, lines 12 through 21):

On page 67, line 20, strike "\$200,000,000", and insert "\$100,000,000":

On page 68, line 5, after "limitation", insert the following: "Provided, That the administration may not decline to participate in a project under section 503 of the Small Business Investment Company Act of 1958 because other sources of financing for the project include or are collateralized by obligations described in section 103(b) of the Internal Revenue Code of 1954: Provided further. That loans made with the proceeds of debentures guaranteed under section 503 of said Act shall be subordinated to obligations described in section 103(b) of the Internal Revenue Code of 1954: and Provided further, That the administration and any other agency of the Federal Government shall not restrict the use of debentures guaranteed under this section with obliga-tions described in section 103(b) of the Internal Revenue Code of 1954 if the project being so financed otherwise complies with the regulations and procedures of the administration".

On page 68, line 19, strike "and", through and including line 25;

On page 69, strike line 1, through and including line 20;

On page 69, strike line 22, through and including line 4 on page 70, and insert the following:

"In order to provide jobs, to improve the growth rate of existing forested land inventories, and to decrease the number of deforested acres of Forest Service lands, there is appropriated an additional \$35,000,000 for 'National Forest System', Forest Service and in order to provide jobs to construct, improve, and maintain forest roads, trails, and Forest Service facilities, there is appropriated an additional amount of \$37,500,000, to remain available until expended, for 'Construction', Forest Service."

On page 70, line 17, strike "\$50,000,000", and insert "\$39,000,000";

On page 70, after line 19, insert the fol-

"CONSTRUCTION OF BUREAU OF INDIAN AFFAIRS" SCHOOLS

"I order to provide for the construction of the Hopi High School and personnel quarthere is appropriated an additional \$27,500,000, to remain available until expended, to the Bureau of Indian Affairs for Construction'.

## "IMPROVING INDIAN HOUSING

"In order to provide for the construction. repair, and improvement of Indian housing, there is appropriated an additional amount of \$15,000,000 for 'Operation of Indian Pro-

On page 71, strike line 6, through and including line 12;

On page 71, line 13, strike "and resource

conservation";
On page 71, line 20, strike "\$20,000,000", and insert "\$100,000,000";

On page 72, line 6, strike "\$600,000,000", and insert "\$300,000,000";

On page 72, line 14, strike "\$6,500,000", and insert "\$3,250,000";

On page 72, strike line 15, through and including line 6 on page 81:

On page 81, strike line 8, through and including line 11, and insert the following:

"For an additional amount for activities under the Comprehensive Employment and Training Act as authorized by section 181 of the Job Training Partnership Act, Public Law 97-300, \$250,000,000.

#### "COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

"For an additional amount to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$15,132,000, of which \$7,566,000 shall be obligated between January 1, and June 30, 1983, notwithstanding the provisions of section 508 of the Older Americans Act of 1965. as amended

"For an additional amount to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the older Americans Act of 1965, as amended, \$4,268,000, of which \$2,134,000 shall be obligated between January 1, and June 30, 1983, notwithstanding the provisions of section 508 of the Older Americans Act of 1965, as amended."

On page 82, strike line 5, through and including line 7 on page 84;

On page 86, line 1, strike "CONSTRUC-TION AND

On page 86, line 3, strike "construction

On page 86, line 7, strike "for construction", through and including the sum on line 9:

On page 86, line 10, strike "\$154,242,000", and insert "\$125,000,000";

On page 86, line 10, strike "; in all",

through and including line 12; On page 86, strike line 18, through and in-

cluding line 22; On page 86, line 23, strike "construction

and"

On page 87, line 2, strike "for", through and including "\$45,310,000";
On page 87, line 5, strike "\$130,489,000", and insert "\$100,000,000";

On page 87, line 5, strike "in all", through

and including line 19:

On page 87, after line 19, insert the following:

### "SCHOOLS AND HOSPITALS WEATHERIZATION ASSISTANCE

"In order to create productive jobs in manufacturing and installation of weatherproofing products, there is appropriated an additional amount for 'Energy conservation', Department of Energy, \$150,000,000, to remain available until expended for schools and hospitals weatherization assistance as authorized by the National Energy Conservation Policy Act (Public Law 95-619) (42 U.S.C. 6371-6372)."

On page 88, strike line 3, through and including line 14, and insert the following:

## ALASKA RAILROAD

To accelerate the restoration and renova tion of the existing track and attendant structures of the Alaska Railroad during the upcoming maintenance season and to generate substantial new employment on the Railroad. For payment to the Alaska Railroad Revolving Fund for capital improvements, replacements, operations, and maintenance \$26,000,000, to remain available until expended.

COMMITTEE AMENDMENT ON PAGE 9. LINE 8

Mr. HATFIELD. Mr. President, as in the normal course of things, may we in this instance at least go to the next. amendment? Will the clerk state the first excepted committee amendment which is the MX missile?

The PRESIDING OFFICER. The clerk will state the first excepted com-

mittee amendment.

The legislative clerk read as follows: On page 9, line 8, strike "Such", through and including line 13, and insert the following

Notwithstanding any other provision of this joint resolution, such amounts as may be necessary for programs, projects, or ac tivities provided for in the Department of Defense Appropriation Bill, 1983 (S. 2951), at a rate of operations, and to the extent and in the manner and under the authority provided for in such bill as reported to the Senate on September 23, 1982, as if such bill had been enacted into law. Provided, That one of the funds made available for the procurement of the MX missile or for the institution of any permanent basing mode for the MX missile shall be obligated or expended until such basing mode is approved by both Houses of Congress in a concurrent resolution. This proviso shall in no way affect the Research, Development, Test, and Evaluation funds for the MX missile or for any and all basing modes.

### UP AMENDMENT NO. 1486

(Purpose: To place certain limitations on funds for MX missile procurement and research, development, test and evaluation)

Mr. JACKSON. Mr. President, I send to the desk a perfecting amendment on behalf of myself, Senator Tower, Senator Warner, Senator NUNN, Senator Stevens, Senator Sten-NIS and Senator THURMOND.

It occurs on page 9, line 24.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Washington (Mr. Jackson), for himself and Mr. Tower, Mr. Warner, Mr. Nunn, Mr. Stevens, Mr. Sten-NIS, and Mr. THURMOND, proposes an unprinted amendment numbered 1486.

Mr. JACKSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 24, strike the period and insert in lieu thereof the following: as specified in subsection (1) hereof.

None of the funds appropriated in this resolution may be obligated or expended to initiate full scale engineering development of a basing mode for the MX missile, until such basing mode is approved by both Houses of Congress in a concurrent resolution, as specified in subsection (1) hereof.

(1) For the purposes of this section, the term "concurrent resolution" means only a resolution introduced in either House of Congress, the matter after the resolving clause of which is as follows: "That the approves the obligation and ex-

penditure of funds appropriated in Public for MX missile procurement and full-scale engineering development of a basing mode for the MX missile," the first blank space therein being filled with the name of the resolving House, and the second blank space being filled with the public law number of this statute. It shall not be in order to introduce any such resolution prior to March 1, 1983.

(2) A resolution in the Senate shall be referred to the Committee on Armed Services of the Senate. A resolution in the House of Representatives shall be referred to the Committee on Armd Services of the House of Representatives

(3) If the Committee to which is referred the first resolution introduced in the Senate or the House, as the case may be, expressing approval of the obligation and expenditure of funds referred to in this subsection has not reported the resolution at the end of 45 calendar days after the introduction of a resolution pursuant to subsection (1) hereof, such committee shall be automatically discharged from further consideration of the resolution and the resolution shall be placed on the calendar of the Senate, in the case of a resolution of the Senate, or the Union calendar, in the case of a resolution of the House of Representatives.

(4) When the committee has reported a resolution or been discharged under subsection (3) hereof it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged in the House and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(5)(A) Debate on the resolution shall be limited to not more than fifty hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order

(B) Motions to postpone and motions to proceed to the consideration of other business shall be decided without debate.

(C) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(6) Subsections (1) through (5) are enacted by the Congress-

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in subsection (b), and they supercede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(7) (A) The President shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1983, containing:

(i) a detailed technical assessment of the closely spaced basing system transmitted by the President to Congress on November 22, 1982 or such modifications thereto as the President determines to be advisable;

(ii) a detailed technical assessment of other MX basing systems that might serve as alternatives to the closely spaced basing system transmitted by the President to Congress on November 22, 1982;

(iii) a detailed technical assessment of different types of intercontinental ballistic missiles that might serve as alternatives to

the MX missile; and

(iv) a reaffirmation by the President of his selection of the MX missile basing plan transmitted to Congress on November 22, 1982 or a proposal for an alternative basing

plan.

(B) The President shall also include in the report submitted pursuant to paragraph (A) an assessment of the military capability of each alternative system or missile; an assessment of the survivability of each such system or missile against current and projected Soviet threats: an assessment of the projected cost of each such system or mis-sile and possible upgrades thereof; an assessment of the impact each such system or missile might have on present and future arms control negotiations; an assessment of the geographic, geological, and other qualifications a site for each such system or missile would likely require; an assessment of the environmental impact each such system or missile would likely have; and the identification of possible sites for each such system or missile.

(C) The report required under this subsection shall not be subject to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, relating to environmental impact statements.

Mr. JACKSON. Mr. President, this amendment leaves the Hollings amendment intact but provides for certain supplementary action to expedite the decisionmaking process by the President and by both Houses through affirmative approval of expenditure of the basing and the missile production funds in this particular item of the bill.

Mr. President, the last few days of Senate consultations on the MX missile problem have been encouraging. There is more agreement than initially met the eye. Working together—mostly out of the limelight—we have found widespread agreement on the appropriate action for the Senate to take at this stage.

The Hollings amendment now in the bill would give the Congress the opportunity to make a final decision on the MX missile and basing mode during the next session of Congress. The Senate thus has the opportunity to study and evaluate carefully the MX missile and the Dense Pack plan along with alternatives to both, and the final resolution of these issues would require affirmative action by both Houses of Congress.

The amendment how being offered would insure that the Senate and the House would have at a reasonable point in the next session an opportunity to pass upon the issue of MX without the matter being dragged on and on and the committee resolutions unreasonably delayed and possibly filibustered.

Under this amendment the President is instructed to report to Congress by March 1 on a new assessment of the various missile and deployment alternatives, with whatever proposal for a basing plan he wishes to make. The President's proposal would then be considered under the expedited procedure rules and would go into effect only if approved by a majority vote of both the House and Senate.

I believe the majority of the Senate agrees on these three fundamental

points.

First. This Nation must fortify the land leg of its strategic deterrent.

The triad of land-, air-, and seabased forces continues to be essential for stable deterrence. If we give up on the ICBM's, the Soviets can focus increased attention on neutralizing our bombers—which already are not our surest suit. With only one strong leg of the triad then remaining, the door is open to a massive Soviet concentration of resources and know-how to put our sea-based missile force in full jeopardy.

No one contests the fact of expanding Soviet offensive capabilities and the consequent rising vulnerability of Minuteman. Most in Congress recognize the requirement for strategic modernization, including a follow-on land-based ICBM. The House vote last week to delete funds for putting into production the first five MX missiles was mainly a revolt against the proposed Dense Pack deployment modenot against the missile. In this body, the opposition to including MX funds in the appropriations bill has not come so much from opponents of the missile as from those who are reluctant to fund the missile production when the mode of deployment is still in ques-

Second. There is very general agreement that the Dense Pack plan for de-

ployment is problematical.

Clearly, Congress needs the opportunity to carefully evaluate the Dense Pack scheme in relation to possible alternative modes deployment. A reasonable period for review ought to allow development of the necessary consensus on the most effective way to preserve the land-based deterrent.

Given the technological sophistication of Soviet weapons and our own Nation's defensive posture, we cannot expect any basing mode to be altogether invulnerable. The adversary's offensive posture has the obvious advantage. At best we will get a partial solution to the problem of vulnerability. But we should be able to settle on a way to base the missile that will substantially complicate Soviet offensive expectations and contribute decisively

to Kremlin respect for our strategic deterrent.

Third. There is no disagreement about the central importance of the current U.S.-U.S.S.R. arms reduction negotiations and about the goal we seek. We want to achieve mutual arms restraint and balanced verifiable arms cuts. We want to reduce weapons, to bring existing nuclear forces down to lower and lower levels of equality. Such differences of view as may exist go to the question of how to get there.

But few in the Congress will argue that we will get there by unilaterally abandoning the modernization of our strategic deterrent. Indeed, the chances for real arms reductions will be severely lessened if we ever adopt policies of one-sided disarming.

If the Kremlin sees us allowing the serious deterioration of our ICBM force, what incentive will it have to agree to mutual ICBM reductions? If NATO governments become convinced that America does not have the will to maintain and modernize its strategic deterrent, what will stop them from rejecting deployment of the Pershing II and the Cruise missile, thus bringing the MBFR negotiations to a fruitless end?

A vote on this MX matter cannot be separated from the larger issue of American foreign policy, including the current arms reductions negotiations in Geneva. I have always believed that for an American President to be effective at the conference table, he must have substantial bipartisan support.

Mr. President, it is high time we revived the practice of bipartisanship in national security that marked this country's remarkable achievements in World War II. What an era—Harry Truman, George C. Marshall, Robert A. Lovett, Senator Arthur Vandenberg, and all the others—that made possible especially the Marshall plan, NATO, and the other programs that provided for postwar security.

Why not stand now in that great and effective tradition? The issue before us is a good place to start. In fact, we have started. Intense bipartisan consultation in the last few days has brought us along as far as we have come. I recommend and urge that we continue in that spirit.

The VICE PRESIDENT. The Senator from Mississippi.

Mr. STENNIS. Mr. President, let me state to the membership that I will be quite brief here. But this embodies the subject matter that I think is the foremost question before any Chief Executive of our great Nation as to what he is going to do, try to do, and keep on trying to do with reference to some kind of a helpful, effective arms limitation over which we can have some surveillance and the capacity to tell whether the other side is cheating. That is what I told President Reagan

before he was sworn in, in answer to a question that he asked me as to what I thought was his most important, among his most important, problems.

So, Mr. President, this is a matter where we must stand together, as the Senator from Washington says, and I think we have a great deal of misunderstanding, lack of understanding, abroad among our people today, and it is something that is growing unfortunately. We have gotten off the track in some way.

The facts are—and I speak with all deference to the House of Representatives, their good intentions—I, too, think most of those votes there were prompted by a belief, a disbelief, at least in the adequacy of the basing mode. But it was a great mistake to take all the money out for this necessary front-running missile that we are depending on to furnish the leadership before the world—not just the U.S.A. but for the world.

If we are not going to furnish it—and the President of the United States is not the spokesman for it—then pray tell who is? There is none left. He has already announced that he is going to the conference, has his representatives there now, and this MX—there has been no objection particularly to it in its technical aspects—but this MX is the centerpiece of his presentation.

He might have spoken too quickly, he might have made that a little too strong—I do not think he did—but granting that he did, nevertheless, that is fixed and that is firm and that is our policy and that is our position.

When the executive branch of the Government goes to this spot, after having spoken like he has, and set the terms, then the legislative branch must absolutely back him up regardless of party, regardless of everything else. So that is what is really at stake in this whole problem.

I agree we ought to try again as to the basing mode, and I am not happy with the situation there. But so far as the MX is concerned, that is the big question. Our Armed Services Committee has gone over this for 10 years and it has been approved and reapproved over and over again. So for this added reason that I have emphasized, let us stand firm here with this money and set up the ritual that we will be certain to have the legislative power here to kill off any filibuster or anything like that.

Now, personally I felt, and I have been in this thing from the first base we ever built for any kind of missile of this type, been active in it, and I look upon the value as a deterrence, and we have got to go forward with that. There is not going to be any second chance I am afraid should anything set up. Deterrence is our mission. We carried it out splendidly, and this triad, which has already been men-

tioned here, has been a great deal of that formula.

I repeat, there are two fundamental reasons for moving ahead with the MX missile at this time.

First, the MX missile program is a key underpinning to the American position at the negotiating table with the Russians for reducing nuclear weapons. Most people, in our country and among our allies, want some form of progress-success-in our efforts to limit nuclear weapons. For my part, I told President Reagan before he was sworn in as President that I thought the most important work he could do-the most important problem he would face during his 4 years—would be on the question of a successful arms limitation agreement on which surveillance could be achieved. That should be a No. 1 priority. The United States sent a team to Geneva with a proposal for the Russians that we both make major reductions-about one-third-in the number of nuclear warheads on each side. I understand that both we and the Russians have been negotiating seriously about these matters and the Russians have made a counterproposal.

The MX missile is at the center of the American position in these negotiations. It may not be well understood why this is the case. The American proposal would cut both sides down to 5,000 ballistic missile warheads on no more than 850 land- and sea-based missiles, with no more than 2,500 of those warheads based on land.

At present, we have about 7,000 warheads on 1,600 missiles, including 2,150 warheads based on land. If this proposal would be adopted without the MX missile, the U.S. deterrent against the 5,000 remaining Russian warheads would be greatly weakened. In the 1990's under this START proposal but without MX, we would either be relying on the aging and vulnerable Minuteman force together with a very few Trident submarines or we would effectively abandon the Triad and rely on a still small number of submarines which could become vulnerable to Russian antisubmarine weapons. This would not appear to be a strong American position for deterrence against 5,000 Russian warheads that would remain under the American proposal at the START negotiations. It is doubtful that any American President could settle for that kind of agreement and get it ratified in the Senate. Therefore, if MX is canceled and there is no alternative, the American position at the arms limitation talks would be undermined, set back, and perhaps canceled out. I for one do not want this to happen.

There should be no excuses for American termination or delay of these important negotiations. The American people and the people of the world expect progress and we must

give the President the tools to make this progress. Canceling or limiting or tying down the MX missile will remove an essential tool in the President's toolbag for these negotiations.

The second reason to move forward with the MX is that there is no real alternative at present. Cutting MX without an alternative simply means a weaker military position. The MX missile is the only major program that is well along and is aimed at improving the land-based missile portion of our triad. Land-based missiles are the area of greatest Russian strength in the nuclear field and we cannot let that part of our deterrent fall behind without increasing the risk to the other parts of our triad. If one part of our triad becomes weak and easy to destroy, it lessens the chances that the other parts of the triad are an adequate deterrent. The MX program, which has been controversial since its inception in 1974, is aimed at protecting the power of our land-based missiles which are an essential element of the triad along with the new B-1 and Stealth bombers, the new Trident submarines and submarine missiles and the new families of cruise missiles of all types.

In summary, the MX missile has been approved by vote after vote in committee and on the floor every year since 1974. We have already spent over \$4 billion on its development and testing and it is now ready to begin production. There has been trouble with the basing mode for a long time. The basing mode still needs to be perfected. But we must not ask too much of the basing mode-I doubt that anything can be made totally invulnerable to huge nuclear weapons. But the basing mode can make the price of attack so high that it would help protect the other parts of the Triad by using up large amounts of their nuclear capacity. If that happens, deterrence is strengthened, especially within any limits that would be established by arms control agreements. Finally we must move forward with the MX missile.

I hope and pray that we make this strong and firm and go all out and get this thing settled, clear up the minds of our people, let all nations that are with us know we are going to do these very things, and the adversary will be convinced also.

I thank the Chair,

The VICE PRESIDENT. The Senator from Texas.

Mr. TOWER. I want to commend the Senator from Washington (Mr. Jackson) for the role he played in drafting this amendment and putting it together that achieves in my view a very desirable end.

It is an amendment that has bipartisan support. Many people were involved in the creation of it, including the distinguished Senator from Georgia (Mr. Nunn), the Senator from Alaska (Mr. Stevens), the Senator from Virginia (Mr. Warner). We even consulted some Senators who are not in agreement with it and, as a matter of fact, they made some very useful input, they made a contribution to what was put into the amendment so, perhaps, there is even more bipartisanship in it than might be apparent at the moment.

We did consult with the distinguished Senator from South Carolina (Mr. Hollings), the Senator from Michigan (Mr. Levin). They will have to speak for themselves on their views on this issue, but I want to assure the Senate that a number of people were consulted and every effort was made to craft an amendment that could be agreed to by a number of people who have a great interest in the defense of the United States, but also who can look beyond the pure military aspects of what we do with strategic systems and consider the impact on foreign policy, the impact on arms control.

The administration has endorsed this amendment because it does require us to revisit the matter of a basing mode and to come up with a decision on it and, at the same time, preserve the production money for the missile in the bill, even though it is finished.

I think the administration believes that it must have this position if a negotiated position in Geneva is to be preserved. I have discussed this matter with General Rowney, who is our START negotiator. I think that what we do here tonight, if we do the wrong thing, could have a profoundly adverse impact on our efforts to negotiate strategic arms reductions with the Soviets and theater nuclear arms reductions with the Soviets. By preserving the production money, we indicate that we do have a will and determination and, by providing for an expedited procedure, that we intend to make a decision on the matter.

To me, this reinforces the efforts of our negotiators in Geneva to try to reduce the vast stockpiles and the stabilizing weapons in the arsenals of the Soviet Union and the United States. It is a statesmanlike amendment. It assures the Senate of an opportunity to vote on this matter again in the future. It permits us to engage in rather intensive inquiry and research into the issue and to be able to face the matter intelligently.

So much that has been said about basing systems in recent days stems from information that is probably superficial. About all most people know about this basing mode or even some of the alternatives are what they read in the newspapers or hear on television, which are not always reliable sources of information on military matters, without inquiring into some

of the classified aspects and some vital intelligence that bears on the matter.

So I hope that the Senate will act favorably on this to not only provide for us the time to study the matter but assure the public, and assure our friends and adversaries alike, that we will act.

Mr. President, if I could have to attention of the distinguished sponsor of the amendment, there is a provision here that restricts the funds for production and also for fullscale engineering and development. Let me ask the Senator from Washington if it is not his understanding that we are not proscribing the fabrication of RDT&E missiles in support of engineering and test programs needed to prove out the MX missile; that that is only operational missiles that are proscribed?

Mr. JACKSON. That is correct; no question about it.

Mr. MOYNIHAN. Will the Senator from Washington yield for a question? Mr. JACKSON. Yes.

Mr. MOYNIHAN. Could I confirm with the Senator my understanding that, if we adopt the arrangement as provided in the joint resolution, it will require a positive vote by both bodies of the Congress with respect to a proposed basing mode, a vote of approval by both, in order for the production of the missile and its employment to go forward?

Mr. JACKSON. The Senator is correct.

Mr. STEVENS. Will the Senator yield?

Mr. JACKSON. I do not have the floor.

Mr. INOUYE. Mr. President, I ask unanimous consent that Mr. John Hardy of the Commerce Committee be permitted privileges of the floor.

The VICE PRESIDENT. Without objection, it is so ordered.

The following proceedings occurred after midnight:

Mr. STEVENS addressed the Chair.
The VICE PRESIDENT. The Sena-

tor from Alaska.

Mr. STEVENS. Mr. President, I want to thank the Senator from Washington for his comments and my

want to thank the Senator from Washington for his comments and my good friend from Mississippi also. I do think that it is good that we demonstrate bipartisanship in this area.

I would like to point out to the Senate another point of view about this amendment from the point of view of one who, along with my good friend from Mississippi, must face next year the question of the 1984 appropriations bill. We will be having hearings in the early part of the year, in February or March.

We have to decide what rate of spending will be permitted in procurement, in R&D, for 1984, and we hope to have a recommendation to the Senate so we can act on it I hope much earlier in the year next year. We will be able to do that if we catch up

and carry this to September 30 in any event but I know we will be able to do it if we could get some of these decisions made.

But, Mr. President, in this bill, the House is providing \$2.5 billion for research and development. We recommend just \$60 million less than that for research and development.

Mr. President, the Congress must face up to the question of whether or not we are going to accept any basing mode for MX soon enough for us to make a decision as to whether we should continue spending money for research and development of a missile if we are never going to be able to find a place to deploy it.

Now, I want the Members of the Senate, even those who oppose the procurement money, to consider what I am saying. Next year we will be facing another request for more R&D money on top of this R&D money. Unless we get this decision made on the President's request for the basing mode early enough next year, we are going to be appropriating more money for R&D, more money into this missile which may never find a home unless we approve a basing mode.

Now the amendment of the Senator from South Carolina is an amendment that requires the congressional approval of the basing mode. Notwithstanding the fact that we got into a parliamentary situation in the committee where I tried to postpone the delay of that being considered until here on the floor, the Senator from South Carolina knows that he and I discussed this last week and I approved that approach. I think the Congress ought to be involved in approving the basing mode.

The amendment now that has been offered by the Senator from Washington, basically what it adds is a fast track concept of getting us to a decision on that issue early enough next year so we can make intelligent decisions for the 1984 appropriations process. I appeal to the Senate to think of the money that is going into the R&D. This bill has, as I said, coming even from the House, \$2.5 billion in R&D for this missile.

Now I believe that we ought to set up a circumstance, as we adopt the amendment of the Senator from South Carolina, so that we can be assured that the President's recommendations will be fully reviewed. This amendment of the Senator from Washington triggers a timeframe for review by the Congress and mandates that we must make a decision and that we make a decision early enough so we can go into the concept of what will our strategic missile force be like in terms of the 1984 bill.

Now, perhaps that is too pragmatic, but I think it is one good reason to adopt this fast track approach. If you look at that amendment, basically what it adds is the Legislative Reform Act or the Budget Act concept for a fast track, a decisionmaking process for the House and the Senate, but the timeframe for debate is much longer than any other bill which the Congress has passed. There will be adequate time to debate the basing mode, but we will be forced to decide. And that is what I ask the Senate to do, to adopt now a timeframe for decision on the MX so those of us who look at these R&D requests can decide whether we should continue to appropriate money for R&D on the MX.

The money is here. Even the House agrees this year we should continue

the R&D.

I think that this R&D at this rate is excessive if we are not going to deploy the MX. I think we should consider soon this basing mode. I think we should have an entirely open mind about the basing mode decision. This amendment of Senator Jackson requires the President to submit once again to us a decision on the basing mode or a series of options on the basing mode. But at the very least, this Congress must decide whether it is going to allow the administration to go ahead with the deployment of this missile. If it is not, we must stop spending the money on the R&D and go to something else that makes some sense as far as our strategic missile force is concerned.

Mr. JACKSON. Will the Senator

yield?

Mr. STEVENS. I yield to the Sena-

tor from Washington.

Mr. JACKSON. Mr. President, I have at the desk a modification of my amendment. I ask the clerk to read it. The VICE PRESIDENT. The modi-

fication will be stated.

The legislative clerk read as follows:
(1) on page 2, line 3 I would delete "March
1, 1983" and substitute for that date the
phrase "the receipt by the Congress of the
report of the President required under subsection (7)."

(2) on page 3, line 15 delete the word "later" and substitute transfer "earlier."

The VICE PRESIDENT. The

amendment is so modified.

Mr. JACKSON. Mr. President, if the Senator will further yield, the purpose of this amendment is to give to the President the necessary latitude to go beyond March 1, should that be his decision. In other words, he is to submit not earlier than March 1, 1983. I think that gives all parties, meaning the President, the House, and the Senate, greater leeway to deliberate on this matter. I would hope that that would clarify some questions.

Mr. STEVENS. Will the Senator answer me one question? The Senator has not changed the 45-day

requirement.

Mr. JACKSON. No, sir. Mr. STEVENS. He would still be requiring the committees to act within 45 days after introduction of a resolution of approval?

Mr. JACKSON. That part does not change, but the President is not forced to act by March 1. Many feel, I would say to my good friend from Alaska, that that might not be an adequate period of time for the President to be in a position to submit a final proposal.

I yield to the Senator from Georgia. Mr. NUNN. If the Senator will yield, we can clarify this with a hypothetical. As I understand the proposal, he is saying that the President would not be able to submit a plan on February 1 and kick off a 45-day period, thereby giving us a compressed time frame.

Mr. JACKSON. The Senator is correct. He could not submit a plan prior to March 1, but he is not obligated to

submit by March 1.

Mr. NUNN. He could not submit one on February 1 which would kick off the time frame, but he could submit one on March 1 or thereafter.

Mr. JACKSON. That is correct. Mr. NUNN. And the 45 days would then start running.

Mr. JACKSON. That is correct.

Mr. NUNN. And he could conclude it on May 1 or June 1. We are not telling the President when he has to decide. We are saying, "Mr. President, we want you to review it and take whatever time you need, and once you decide, submit it and the Congress will come to grips with you."

Mr. JACKSON. The Senator is cor-

rect.

Mr. ROBERT C. BYRD. Would this be forcing the President's hand, forcing him to submit a proposal no later than March 1, by March 1, which might not properly be thought out? I think that would be most unwise.

This does not preclude him from submitting it on March 1, but he could submit it in June, July, or August, whenever he wishes. It still contains

the expedited procedures.

Mr. JACKSON. The Senator is correct. There has been some criticism about the March 1 deadline that we would have required. This way the discretion is left to the President in that regard.

Mr. BENTSEN. Will the Senator

yield?

Mr. JACKSON. I yield.

Mr. BENTSEN. Is that the only major difference between the committee amendment as it now is and the Hollings amendment?

Mr. JACKSON. No, the major difference is that the Hollings amendment provides for a concurrent resolution, I believe I am stating it correctly, without expedited procedures. The point is that—

Mr. BENTSEN. That means it could be subject to filibuster.

Mr. JACKSON. That is correct. Our procedures provide for 50 hours of debate in the House and Senate and

then it must come to a vote. It is simply a codification, as the Senator knows, of the Reorganization Act procedures relating to various programs that we have followed in the past.

Mr. BENTSEN. Let me ask, then, how the Senator answers the argument of the Senator from Alaska that this would bring about an early decision and, therefore, they would have the time to make their decision on future reserach and development if the President is allowed to defer what he proposes? Does that work contrary to what you are tying to achieve?

Mr. STEVENS. Will the Senator yield to me?

Mr. JACKSON. Yes.

Mr. STEVENS. If the President deferred his recommendation on basing mode he, in effect, would be forestalling further R&D, in this Senator's opinion. It is up to the President to get us a decision soon so we can review this and decide whether or not we are going to base this missile according to his recommendation. If we turn it down, I want to tell the Senator, I am going to start leading the fight to stop putting up money for research and development on this missile. The Senator from Georgia, the Senator from Texas, and I have had discussions on this. We cannot continue to pour money into research and development of a missile we may not be able to deploy.

I think the amendment of the Senator from Washington says the President does not just have to give it to us on March 1. I think he will give it to us as soon as he is allowed, under this amendment, and that we would have 45 days. I would anticipate a resolution of approval would be introduced almost immediately and we are triggering, in effect, 45 days after March 1 with the Senator's amendment.

Mr. JACKSON. I would add one other thing. The amendment that we have before us that was sponsored here as an add on is more restrictive than the Hollings amendment. We, in effect, fence in part of the R&D funding. I will refer to the specific language, which is on the first page of the amendment. "None of the funds appropriated in this resolution may be obligated or expended to initiate full-scale engineering development of a basing mode for the MX missile."

The Hollings amendment does not restrict that funding; we do.

In other words, they cannot go ahead and start spending money—say they have decided on plan X—before there is affirmative action by the Congress. They cannot go to a full-scale engineering development. It is further restrictive.

Mr. HOLLINGS. Will the Senator from Washington yield?

Mr. JACKSON. Yes.

Mr. HOLLINGS. As I understand the situation, on page 9, beginning at line 20, is the committee amendment, and the chairman of the committee knows that we have adopted that amendment. The amendment of the Senator leaves undisturbed the language that none of the funds made available for the procurement of the MX missile or for the institution of permanent basing mode of the MX missile shall be obligated or expended until such basing mode is approved by both Houses of Congress in a concurrent resolution.

The amendment of the Senator does

not affect that.

Mr. JACKSON. We leave that.

Mr. HOLLINGS. I do not see why the Senator says it is more restrictive. Mr. JACKSON. I say the amend-

ment of the Senator from South Caro-

lina as reported-

Mr. HOLLINGS. That is what I just read. You say it is more restrictive because you refer to full-scale engineering or operational basing mode. The committee amendment says basing mode.

Mr. JACKSON. The answer is the Senator's amendment does not restrict

R&D funding

Mr. HOLLINGS. Right.

Mr. JACKSON. Ours does. That is the difference.

Mr. STEVENS. Mr. President, will the Senator yield?

The VICE PRESIDENT. The Senator from Washington has the floor.

Mr. STEVENS. Will the Senator

from Washington yield?
Mr. JACKSON. Yes.
Mr. STEVENS. I say to my friend from South Carolina and to my friend from Washington that it appears there is a redundancy in the two amendments. The amendment of the Senator from Washington, as I understand it, does go further. The amendment of the Senator from South Carolina says institution of any permanent basing mode and the amendment of the Senator from Washington says obligated or expended to initiate any full-scale development of a basing mode.

The Senator from Washington is talking about the whole question of engineering development of any basing mode.

Mr. HOLLINGS. That is right.

Mr. STEVENS. The Senator from South Carolina is talking about the institution of that one after engineering. So the Senator from Washington is more restrictive in terms of expenditure money that we have provided in this bill.

Mr. JACKSON. The Senator is correct.

Mr. EXON and Mr. HOLLINGS addressed the Chair.

The VICE PRESIDENT. The Senator from South Carolina.

Mr. HOLLINGS. Quickly to the point, Mr. President, I shall not sup-

port this amendment because it is not really necessary. That becomes more evident as our colleagues adjust and turn in every way to really expedite the procedures. They do not expedite the President. In all our conferences on resolving this issue, we were expediting the administration that they should definitely come in no later than March 1.

That is fundamentally different now, because in those conferences, we were talking about ways to expedite the President. Now you can hear the argument by the distinguished Senator from Alaska, we have to have a firm commitment quickly because we are liable to get into the problem of continually appropriating research and development money.

On that point, hopefully, we shall always continue to appropriate R&D money with respect to strategic missiles as we make improvements to them-as we have just recently in the R&D on the Mark 12-A warhead that we put on the Minuteman III.

I do commend the fact that we now have stated, as the distinguished Senator from New York emphasized, several substantial changes in the approach of this administration and the socalled bipartisan group to get out of the problems of Dense Pack.

We started with that so-called bipartisan group opposing our amendment outright. The distinguished Senator from Texas, the chairman of the bipartisan group that compromised with themselves said, first, we ought to have a one-House veto. I said under no circumstances would we agree to the negative approach.

Then they agreed to the affirmative approach, but still by one House. Then they agreed to both Houses.

Then we changed and got down to what I really think all of us were interested in, that you could not make a survivable mode out of Dense Pack, and that what we really needed was further research and development regarding the missiles themselves.

Somehow, during the last decade after SALT I, we got concerned about the size and the throw weight of the Soviet SS-18. We decided we were going to get a big missile, with just that same throw weight, with that much megatonnage and destructive power.

Then Congress, in its wisdom, the year before last, started discussing survivability. And while we were on survivability, no one really thinks that you can knock out all the Minuteman III's in one strike. As the years progress, missile accuracy through extensive R&D is developed on both sides. The accuracy of the Soviet strike force could knock out, first by 1986, 60 percent; by 1987, maybe 70 percent. No one thinks that by 1990-95, they could knock out 100 percent. There could still be up to 100 missiles with perhaps 300 warheads. To that degree, I guess, they may be characterized as survivable. But with 90 percent vulnerability, we say they are vulnerable. As a Congress, we say let us solve that problem and move forward with a survivable basing mode.

Mr. President, let us examine the study made by Dr. Charles Townes and the special blue ribbon panel on MX that was formed by Secretary of Defense Weinberger. And incidentally, when the Armed Services Committee had its hearing, he is one witness they did not present. Dr. Townes and his blue ribbon group studied some 31 different basing modes. Members of that blue ribbon panel will tell you that if there could be a bottom of a list, Dense Pack may be leading the charge; it was never seriously considered. We learned as Senators, some 10 years ago, when we debated the ABM system, and went along with the antiballistic missile treaty, that the radar and the oversaturation of the attacking forces seriously erodes the capability of the protective radar systems of any ABM system. The one way to make it viable, of course, was to spread it—disperse it.

That is a reason, we had our Minuteman or strategic field dispersed over thousands of miles, from Montana to Arkansas. We would never have gone along with all of our eggs in one basket. No one with the best interests of our national security at heart will come to this Congress and say, let us "Dense Pack" the Minuteman. If we really wanted 1,000 warheads, 100 missiles times 10 warheads, that would be put on the MX, we could just take 300 Minutemans times 300 warheads for a total of 900, or almost the same amount. We know, incidentally, that we can put seven warheads on the Minuteman III. We have tested it, it has worked. So we could take just a partial grouping of the Minuteman and move for the survivability discussed by President Reagan about a month ago on national TV saying MX is a must.

We could easily take the Minuteman and Dense Pack it. They do not recommend that. They do not believe in their own recommendations. The fact is that we had an election on November 2 and the message went out across the land and to the administration as well, Mr. Vice President, that the defense expenditures of this Nation were going to be looked at in a very objective and reasoned fashion, we are going to see whether or not they could really be justified. We are not going to be signing blank tickets any longer.

I followed candidacies in numerous States, along with members of the administration, the Cabinet, the Vice President as well. After those elections on November 2, some 62 of those who voted in the House on the side of Dense Pack are lameducks. Thus, the MX opponents are going to get 62 new

votes on this same debate.

The Air Force came to the administration and said, "Heavens, we have been working on this new missile, and if we do not get it now, right now in this lameduck session, we are never going to get it." And then they violat-ed the intent of this Congress in the Nunn-Cohen amendment of last December 1981. At that time, we supported an amendment that provided that R&D funds for basing the MX could be used for basing in existing silos that had not been superhardened; the temporary basing system had to be compatible with the permanent basing system; and we also required the Secretary of Defense to recommend a permanent basing system by July 1, 1983.

If my colleagues had an MX missile delivered today and you were ready to base it, you could not, under the administration's submission, you could not base it earlier, under their own

plan, prior to December 1986.

That is assuming you can harden those silos by that time. Dr. Townes does not assume that. On the contrary, he wrote a very special letter that the Secretary of Defense classified. I can address my comments to those things in the letter that have been put in the public domain. I appeared on TV with the Secretary of Defense. He said he did not think I had seen the letter, but if I had, it was classified. He said, "Oh, by the way, and here is what it says." So he starts putting those things regarding the missile hardening into the public domain. The fact is I have the letter right here, and Members of the Senate have all seen that letter. They realize that the blue ribbon panel and every expert involved has said that you could not get that degree of hardening by that particular time of 1986.

Back to the original point. If you had it accomplished by that time, there is no need to buy a missile now. This missile could be produced in about 24 months. You would not really need to let the contract prior to 2 or so years before that, by mid 1984, from the December 1986 period. So the truth of the matter is that under the approach of the Armed Services Committee and this Congress, we had hoped to determine the basing mode in the orderly process. The orderly process was by July of next summer, when the President was going to make

his submission.

The Armed Services Committee with orderly hearings in the Senate and in the House would then make their recommendation and we could put the money into the 1984 Defense Appropriations Act commencing October of next year. They could then go ahead and negotiate the contract.

Now we have a big charade of speeding up the President. That is all to

give some kind of credence to the fact that this is what they call a bipartisan compromise. I oppose the amendment because it really shows the President and this administration is totally unprepared to make any submission by March 1 unless they are going to say take what we give you. You look at the Secretary of Defense, barely briefed one afternoon, he agreed to Dense Pack. And the Commander in Chief, the President of the United States, while telling the Secretary of Defense he was rather fatigued that afternoon, said go right ahead with MX even though he was not briefed very thoroughly. Now, if they are going to use that approach, they can give it to us by January 1, the same decision.

But what the good Senators from Texas, from Washington, from Georgia, from Alaska, and all are really asking for—and this I think is an accomplishment—but I do not think it can be accomplished by March 1—is a detailed technical assessment of the closely spaced basing system, a detailed technical assessment of other MX basing systems, a detailed technical assessment of different types of intercontinental ballistic missiles, and a basing plan or an alternative basing

plan.

Now we are making progress. I do not think this time and exercise has been wasted. I think we realize, as I started to say a moment ago, that having been taken in too much with respect to the SS-18, we are now in a very deliberate and calm way looking at survivability. We know the SS-20 is survivable because we do not know where it is and do not know how to hit it. If we are going to have a survivable basing mode without an ABM system and without all of this chicanery and contorted kind of description, let us do it. Something interesting surfaced in a column by George Wilson in the Washington Post two mornings ago. It concerned where the U.S.S.R. might bring in those deep Earth-penetrating missiles and then explode them all at one time. Do you know what Dr. Keyworth of the Department of Defense retorted to that? "We will put rocks around the silos and when they hit those rocks they will skip off," it is just like rocks skipping across the top of the water.

I thought until I read that item that our real problem was hardening, but now this wonderful Defense Department has found rocks that warheads

will skip off of when hit.

And then someone said, "Well, maybe they will come in and lower the warheads in parachutes. Oh," he says, "we have thought of that. We will put out antiaircraft guns and we will shoot the missiles down."

Now, do you want that duty, sitting around with an antiaircraft gun? I served in one of those outfits in World War II. Can you not see them sitting around waiting for a nuclear missile to shoot it down? [Laughter.]

I will never forget during World War II. I was on duty and we had this German submarine pack nearby and just to keep ourselves amused we told stories. We told how the green paint division, was really going to take over our particular duty and it would spread paint in a large circle all over the top of the water. And when the German submarines started surfacing to site the target, they would never know when they reached the top because the paint would cover the periscope. As a result they would keep on coming up and we would sink the submarines with antiaircraft guns. That is the same kind of mentality now in the DOD. Now we are all talking serious business. That is the kind of ridiculous mentality that I am ashamed of in our Pentagon. So when we come around and fuss about our own Senators and talk about time and dates, the reality is that you finally come in a way to no date for the President, which I think is proper, and I think the 45 days is improper for both bodies of Congress.

I do not have any idea what the House is going to agree to. But all this language is unnecessary. We do not have to have any long filibuster over a particular missile. We have broken filibusters on many, many important questions. But more than anything else, you and I both know, if the President of the United States called the distinguished Speaker of the House and said, "On a national security matter I want this matter considered,' TIP O'NEILL is going to call it and have it considered over on the House side. That is the way to do business. But this small clique is exercising around, compromising with themselves, racing all about like it is something meaningful when in fact it is not necessary and in some sense harmful to the orderly procedures that we set out in that appropriation bill when we called for a July submission last year.

There was no reason other than that election on November 2 for the bum's rush and the full court press that we have been through on the MX missile in the lameduck session. We said we were going to have the lameduck session, and I heard the President himself so state, for all these economic measures, enterprise zones, and balanced budget amendments to the Constitution. He was not talking about this until he saw the results of the November election. We should not sit any later tonight with this particular amendment. If they want to vote it in, there is not any damage done in the sense that the main portion of our amendment-and it was a bipartisan move with the distinguished Senators on the other side of the aisle, Senator HATFIELD, Senator Andrews, Senator SPECTER, and Senator WEICKER. We all

got together realizing that Dense Pack ought to be dealt with directly. That is what the committee amendment does.

This is the end of Dense Pack. If you want to join into the expedited procedures, take a good look at this particular amendment. They make this as part of the rules of the body. You cannot have a motion to reconsider. You must do this and you must do that. They call it boiler plate. I am afraid the Speaker of the House of Representatives will call it insult.

I think we should move on and not try to get into a big struggle like something really was done when the fact of the matter is we want this administration to go back to the board and start looking and finding what Congress asked for, a survivable missile and a

survivable basing mode.

On that basis, I never did include all of this language in my amendment because I thought it was unnecessary. I did talk to the Senator from Alaska, as he reminded me, and conferred with him many times. Senator Levin and many of us met together and at one time under language drawn by the distinguished Senator from Virginia, Senator Warner, we were ready to get together. But when we get all of this detailed folderol, which is the best word I know for it, it is going to get us in trouble in the conference. We might as well as get rid of it now, in my opinion, but it will not change the basic thrust of what is in the committee amendment, namely, that we have put Dense Pack to bed and let us go now and get a survival missile and a survival basing mode.

addressed Several Senators

Chair.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

The VICE PRESIDENT. The Senator from Texas has the floor.

Mr. TOWER. Mr. President, the distinguished Senator from Georgia I think is seeking the floor, and I certainly do not want to detain him because he has been a key player in the formulation of this amendment and his leadership has been invaluable.

I wish to say one or two words. Some of the things that were said about the basing mode here tonight I think reinforces the notion that we are going to have to look carefully and we are going to have to discipline ourselves. all of us here, not only those of us on the Armed Services Committee and the Appropriations Committee, and look closely at any basing mode proposal.

It is easy to make anything look ridiculous that is arcane and not easily

understood and, in fact, I do not think the press has adequately treated of the various aspects of this basing mode or some others.

As a matter of fact, I do not know of anyone who has ever won a Pulitzer Prize by saying something nice about a

weapon system.

I think it is incumbent on us, therefore, to get the information out and get it to the Members of the Senate. In fact, although it sounds funny soft landers can be defeated by a phalanx system. I am an old World War II antiaircraft gunner. I would not want the duty to try to intercept the soft landers, not just because of the nature of the duty but because I was such an ineffective antiaircraft gunner that I am sure that we would all be dissolved in a nuclear explosion if I were relied on in that instance.

But as far as other aspects of this thing are concerned, deep penetrators can be defended against. As a matter of fact the Soviets have even proposed banning deep penetrators in our stra-

tegic arms negotiations.

Furthermore, a ballistic missile defense system, if it conforms to the provisions of the ABM treaty, can only be used effectively to defend closely spaced basing because we are limited to 18 radars and 100 interceptors and its greatest effectiveness as a growth option for a survivable system would be closely spaced basing.

There are many aspects of this that we need to look at, and I hope that we will deliberate on this matter carefuly

in the weeks to come.

The VICE PRESIDENT. The Senator from Nebraska has been seeking recognition.

The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair.

Mr. President, what is the parliamentary situation right now? Is the amendment offered by the Senator from Washington amendable?

VICE PRESIDENT. The amendment is not amendable.

Mr. EXON. In a word, I anticipated that, and I thank the Chair.

Mr. President, without losing my right to the floor, I wish to inquire if I might from my friend from Washington if he could answer a few questions for me.

In the first instance, is the amendment that he is offering essentially the amendment that was described in a memorandum that was sent around to the various Senators signed by Senator Jackson, Senator Tower, Senator Nunn, Senator Warner, and Senator STEVENS? Is that the amendment that is not amendable at this time?

Mr. JACKSON. Essentially, the question whether it is course. amendable or not. As the Senator knows, it is in accordance with the parliamentary rules of the Senate.

Mr. EXON. I am aware of that.

Mr. JACKSON. I do not have anything to do with what is in the rule.

Mr. EXON. No. That is right. I understand that.

Mr. JACKSON. Yes. It is essentially the same. I did modify the amendment. There was not an immediate date certain for the President to submit the proposed plan. I did provide in the amendment on behalf of my colleagues that the President could not submit it before March 1.

Mr. EXON. I understand that. I think that was a good amendment.

Mr. JACKSON. Right.

Mr. EXON. That the Senator from Washington accepted. I was seeking the floor on numerous occasions, I will advise the Chair, so that I could ask the Senator from Washington to agree to additional amendments before the yeas and nays were requested. I was prevented from doing that, let the record show.

It is my understanding of the rules of the Senate that it would be possible, if the Senator from Washington was so inclined, that he could accept further amendments to his amendment if it were his wishes. Is that true?

JACKSON. My amendment could be perfected by modification. I can modify the amendment but amendment to the amendment would not be in order, being an amendment in the third degree.

Mr. EXON. I will state I am afraid my friend from Washington did not understand. I said that I was attempting to get the attention of the Senator from Washington to ask him to amend his amendment as he did with regard to the date before the yeas and nays were requested.

Mr. JACKSON. Does the Senator mean modify the amendment?
Mr. EXON. Modify the amendment.

Is the amendment still amendable?

Mr. JACKSON. May I say I meant no discourtesy. I did not know the Senator from Nebraska was asking me to yield to him.

Mr. EXON. I understand that. I was just addressing myself to the Chair.

Mr. JACKSON. All right.

Mr. EXON. The Senator will let me ask this question. I hope the Senator from Washington knows the Senator from Nebraska has been struggling with this particular issue for a long, long time. I would hope that my colleagues in the Senate would realize and recognize that we are about to make a very, very important decision with regard to the overall defenses of the United States of America.

Now, I am not here to make any representation as to who should be protected, who is right and who is wrong, what amendment would best indicate that the United States of America is not the best protected because I think that is what we all want in this body. But I think that we have to be afforded all of the information, the total information, if you will, before this body and our sister body in the House of Representatives are in a position to make the important determination that expressly will be made when we get the report back that I think is well intentioned and reasonably well framed in the amendment offered by the Senator from Washington and others.

I am hopeful that, and I think the Senator from Washington knows full well, in the opinion of the Senator from Nebraska that the focus is not broad enough or well defined as it should be in the amendment that was just offered by the Senator from Washington. There are other Senators in this body who have been working with the Senator from Nebraska on this very point. For some reason that I cannot understand, there seems to be a movement in some quarters to restrict terminology that we use in requesting this study.

I would ask at this time, so that it might be possible for the Senator from Nebraska to join in support of the amendment offered by the Senator from Washington, if the Senator from Washington could agree to a modification of his language with some very simple but very important matter that I think should be addressed by the Senate after we get the information back.

It is the old situation, I suggest, Mr. President, that if we do not ask the right questions are we going to be assured that we get the right answers on which to base the important decisions that will be ours when this comes back. I am not critical of the amendment offered by the Senator from Washington, but only from the standpoint that I do not think it goes far enough to insure that we get the right information.

Simply said, and I will be glad to send the language over, but let me read it at this time. It is very simple and it addresses some specific questions that I think we need answered in specifics from the President and the Pentagon before we make the decision then, hopefully, we will make some time next year. These questions are not spelled out in the amendment offered by the Senator from Washington, and if I could have the attention of the Senator from Washington I would like to read some very simple but important language that the Senator from Nebraska would like to have the Senator accept and amend his amendment so that the Senator from Nebraska can support it.

It reads this way—in other words, it is exactly like you have it.

Mr. JACKSON. I have a copy of it here. Please, go ahead and read it.

Mr. EXON. You have a copy of it?

Mr. JACKSON. Yes, I think I do. Go ahead.

Mr. EXON. Well, the copy I have says:

The report required under this section shall further include a comparative detailed technical assessment of alternative programs including acceleration of the Trident II program to provide target coverage equivalent to that of the MX missile system, acceleration of the cruise missile and manned strategic bomber programs particularly the Advanced Technology Bomber, enhancements and improvements to the Minuteman missile force, and development and deployment of a land-based missile system in deep underground basing, multiple protective shelters and closely spaced basing incorporating mobility and deception, a road mobile missile smaller than the MX and a common missile for land and sea deployment.

That is it. It is simple, it is self-explanatory, and I think it would be tremendously helpful to this Senator and to all of the other Members of this body if we could simply incorporate the language I have just outlined.

I would ask if the Senator from Washington would agree to accept that as a part of his amendment.

Mr. JACKSON. May I first respond to my good friend from Nebraska, because he has been a most conscientious student of strategic policy, and I commend him for it. He has been very active in the committee.

You will recall that on the amendment that I have submitted it states:

The President shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1983, containing

and then I go down to:

A detailed technical assessment of different types of intercontinental ballistic missiles that might serve as alternatives to the MX missile.

I think the only problem I would have is the area of the role of the bomber. We are dealing here basically, I would say to my good friend, with the issue of ballistic missiles, intercontinental ballistic missiles. So we should not get off onto the assessment of the advanced technology bomber, for example, and other aspects relating to the cruise missile, which is not a ballistic missile. I could accept the amendment-it would take unanimous consent—I could accept the Senator's amendment with that deletion so that we do not get into the question of the advanced technology bomber. If the Senator would modify that and confine it to the missile I would accept it. Would the Senator so modify it?

Mr. EXON. I would agree to so modify it. I would think it would be better if we left it in there. Let me say

this before I agree to that. Mr. JACKSON. Yes.

Mr. EXON. What I am trying to do, and I think what we are falling into is a trap by not doing, is to try to take a look at the broad picture of the defenses of the United States of America

Anyone who is planning for the future defenses of the United States of America without at least considering the Stealth bomber cannot be very well-informed. I think we should look at the total picture and not simply isolate and talk about the MX or some portion of it as if we were in a vacuum. I think that is one of the problems we have had so far in the MX debate that there seems to be a tendency that either you are for the MX in toto and, therefore, you get a white hat, and if you are not for it in toto you get a black hat.

I suggest that that is not the proper way to insure the proper return for the taxpayers' money when we are looking to the important matter of the defense of this country.

But I would simply say that in an attempt to be reasonable, if the Senator will agree to accept that, deleting the advanced technology bomber—and the Senator said the cruise missile, is that right?

Mr. JACKSON, Yes, I am trying to confine it, I will say to my good friend, to the ballistic missile because that is what we are talking about.

Suppose the amendment, which would appear at an appropriate place under (7) would include the following provisions:

(iv) a comparative detailed technical assessment of alternative programs including acceleration of the Trident II program to provide target coverage equivalent to that of the MX missile system, enhancements and improvements to the Minuteman missile force.

I am striking out "acceleration"—

Mr. EXON. I understand.

Mr. JACKSON. And then go on for the remainder of that.

Mr. EXON. I thank my friend from Washington. With that understanding—

The VICE PRESIDENT. Is there objection to the modification?

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not, for clarification: There is a provision for an assessment of the environmental impact each such system or missile would likely have. We are not adding a system, we are still talking about the ballistic missile system, and nothing else?

Mr. JACKSON. We are confining it to the ballistic missile system.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. JACKSON. I yield.

Mr. WARNER. I have two versions. Mr. JACKSON. One is a list of items that the Senator from Nebraska—

Mr. EXON. If I could clarify that, I think the Senator from Virginia has an old copy.

Mr. WARNER. I wanted to make certain of that.

Mr. EXON. What I sent to the Senator and what the Senator read from was a condensation of it.

Mr. WARNER. The question I ask of the Senator is with respect to the timeframe within which this report is to be made. It would be my suggestion that it would be parallel with this amendment offered by the Senator from Washington, as amended.

Mr JACKSON. Let the record show it would be a part of the report referred to under (7) which reads as fol-

lows:

The President shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives, not later than March 1, 1983, containing

So that this language would appear in that list of items at an appropriate place.

Mr. WARNER. I would find that satisfactory.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may modify my amendment in accordance with the proposal made by the distinguished Senator from Nebraska.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it

is so ordered.

Mr. JACKSON. I thank the Chair. Mr EXON. I thank the Senator.

Mr. JACKSON. I thank my friend from Nebraska, and I appreciate it very much.

The VICE PRESIDENT. Will the Senator send the modification to the desk?

The modification is as follows:

On page 3, after (7)(A)(iii), insert the following:

(iv) a comparative detailed technical assessment of alternative programs including acceleration of the Trident II program to provide target coverage equivalent to that of the MX missile system, enhancements and improvements to the Minuteman missile force, and development and deployment of a land-based missile system in deep underground basing, multiple protective shelters and closely spaced basing incorporating mobility and deception, a road mobile missile smaller than the MX and a common missile for land and sea deployment.

Reletter "(iv)" as "(v)".

Mr. NUNN. Mr. President, the hour is late and we have a lot of work in front of us. I will just take a very brief period of time.

MX-THE QUESTION OF SURVIVABILITY

Mr. President, during the Defense appropriations debate last year, I said that the issue of the MX was one of survival—survival of the missile and possible survivial of strategic stability.

I stated on December 2, 1981, that there was considerable doubt in my mind about the wisdom of proceeding with an MX program if reasonable survivability could not be assured. Unfortunately, 1 year later, we face the same situation.

The issue of the MX is still one of survival but there is an added meaning to this term now. Not only do we need to be concerned about the MX in the context of nuclear stability or nuclear exchange, but we should be concerned about the survival of the MX in the budget and its place in the strategic force modernization program.

The first question of survivability of the MX cannot be resolved at this time and, thus, I do not believe we should proceed with any MX missile procurement.

While we should not proceed with the procurement of the MX missile at this time, we should preserve its place in the budget so its capability could be added to our strategic arsenal should the questions about its survivability be favorably resolved next year.

Now is not the time to argue about how the MX got in the deep ditch that it is in; now is not the time to point any fingers of blame; now is the time to recognize that the modernization of our strategic forces is a serious matter with complex implications and deserves to be treated as such.

Congress has a responsibility to examine this latest MX proposal in an objective and thorough manner and approve or disapprove in a timely fashion. This deliberative and objective process is just not possible in a lameduck session and certainly it is not possible in any debate tonight. The Senate Armed Services Committee, through no fault, had but several hours of a not very productive hearing on this matter; the House did not hold one hearing prior to the vote.

I have indicated from the outset that I have an open mind on the closely spaced basing proposal, and in my judgment, both Congress and the executive branch have certain responsibilities related to the MX at this juncture.

For the executive branch, there is a responsibility to objectively reexamine the basing proposal for the MX as well as modifications and possible alternatives and to provide Congress with this analysis early next year. There is a responsibility to conduct a comprehensive analysis and recommendations on alternatives should the MX program not be approved.

As part of this analysis, the executive branch has a responsibility to insure that no options—including mobility and deception—are precluded in this study.

In terms of the legislative branch, we have a responsibility to preserve the national security options in the strategic force area while the executive branch conducts their reexamination.

We also have a responsibility to insure that MX procurement not proceed until we can have reasonable assurance of both its survivability and its contribution to stability at the strategic level.

In my judgment, the bipartisan compromise amendment offered by Senators Tower, Jackson, Stevens, Warner, and myself as well as others and supported by the administration

insures that all these responsibilities will be met.

It insures that a comprehensive reexamination of the land-based portion of the triad occurs and is reported to Congress on March 1, 1983. It insures that no procurement money will be spent on the MX missile unless both the House and Senate give positive approval. It insures that Congress will act in a reasonable timeframe after additional information is available and the congressional hearing process has a chance to be completed. It neither prejudges the MX issue nor provides the green light.

With these factors in mind, I agreed to support this compromise approach.

However, let us not delude ourselves if this compromise is approved. The MX debate will commence next year with the scales tipped heavily against it. The executive branch and the Congress must face the reality of this situation, and we should not allow ourselves to be in the position next spring of deciding on the MX without an ability to consider alternatives should it not be approved.

For this reason, I have stressed in discussions with the administration and my colleagues the need for the Department of Defense to conduct just such an examination.

I have in mind a comparative analysis of the current strategic program and such alternatives as acceleration of the Trident II program, acceleration of the cruise missile program and the manned strategic bomber programs. In addition, there should be an examination of options to enhance our existing Minuteman force and to develop other land-based systems in various deployment modes.

We should not permit a stalemate situation to develop and for the MX to die a lingering death on the vine. Our national security requirements demand that the executive branch and the legislative branch follow a reasoned and responsible course through this MX dilemma, and I believe the compromise approach represents the best way given current circumstances.

Just as I asked the question a year ago, will we preserve the options necessary to insure that the appropriate decisions on the strategic force modernization program can be made in a timely manner, I pose it again tonight. My answer this time is the compromise approach.

I commend the Senator from South Carolina for proposing that the production money for the missile not be allowed to be expended until such time as we find a basing mode, because I think he is precisely right on that. It we are not going to find a way to make this missile survivable, than it opens up a number of questions and it changes the whole history of the MX. It changes the original reason for the

MX and it makes us, I think, rethink all of our strategic program and also it makes us rethink a great number of our arms control premises.

I also wish to commend the Senator from Nebraska for expanding the horizon here of the alternatives that the administration will be required to submit.

I also thank the Senator from West Virginia. The suggestion he made about changing the March 1 date had made a great contribution because we are now saying to the President of the United States that we want you to submit another basing mode, or at least reconsider the one you already submitted if you are going to resubmit it, but we are not going to put a limit on you; it is up to you when you submit it.

I think the President is going to be savvy enough to realize that this is going to probably be the last chance for the MX. If this basing mode does not work, if this basing mode is not acceptable to the Congress, then the MX, I think, has to be rethought and we have to begin to think about alternatives, and that is where the Senator from Nebraska has aimed his remarks. So we begin to look at those alternatives and I think that will be done, hopefully, under this amendment.

Mr. President, I just wish to say that the President of the United States has made some very significant concessions in the last couple of weeks. He has conceded that the money will be spent for producing the missiles, he has conceded it will require an affirmative approval of both the House and the Senate, and he has also agreed to resubmit his basing mode, and he has agreed to reexamine that.

Now, I think those are very significant concessions by the President and the executive branch. What he is basically asking in exchange for that is that the Congress deal with it when it comes here, that we not prolong it, that we not stretch it out over the year. Really, the only difference between what the Senator from South Carolina and the Senator from Oregon (Mr. HATFIELD) are proposing and what the Jackson amendment proposes is whether or not we expedite the procedure whereby the Congress comes to grips with this overall, very important question. But I think that is a reasonable request from the President. I think it is a reasonable part of the compromise.

I believe the Senator from South Carolina posed the question: Why should we do that? Why should we have an expedited procedure? Well, I would just like to make a couple of points.

We have been working on this missile now since 1974. We have expended, in round figures, some \$4 billion, and we have not built one. And we do

not have a basing mode yet. \$4 billion is a lot of money.

is a lot of money.

Under the Hollings amendment, it is as restricted as it is under the Jackson amendment. But, nevertheless, we are leaving the research and development money in the bill. Under the Hollings amendment, it says go ahead and have research and development. How much is that research and development? Is it not a few million dollars. It is \$750 million for 1983.

Now, the question comes: Do we want an expedited procedure once we get the final offer on the MX basing mode, or do we want to let it go on and on and on? And it is going to go on and on and on, and we are going to spend more and more money.

The Senator from South Carolina, I think, makes a telling point when he says that it is going to be hard to find someone to take the duty of going out there and manning those antiaircraft guns to shoot down nuclear weapons. I think that is a very telling point and not completely facetious. But we, I think, need to make sure that we do not have research and development about how you harden the personnel tanks or whatever they are going to be for the people who are going to try to shoot down those missiles.

I will guarantee you that the R&D money will be extended if we let it set there and go on and on and on. I think we need to come to grips with it.

But, even more importantly, why do we have an expedited procedure? I think it is even more important that, as a nation, we decide what we are going to do with our strategic forces. If we let this MX question go on and on, we are going to have a very difficult time with any arms control negotiations.

The administration has made it plain that their arms control position in Geneva is based on the assumption that they are going to have 100 MX missiles. If we are not going to decide that issue in the near term, if we are going to let it linger, it is going to affect the ability to negotiate, it is going to affect the substance of the Geneva proposals, and it is going to certainly affect the perception in the world about U.S. consistency and where we are headed.

One final point: We are not the only one looking at this MX missile and what we are going to do with this. The other people are not confined to the Soviets. Our allies in Europe are looking at us very closely now because they have impending some very difficult political decisions about whether to go forward with the Pershing II missiles and the ground-launched cruise missiles. I think it is essential that we recognize that this is a decision that is being watched not only by our adversaries but also by our allies and if we are going to kill the MX missile, then we ought to find an alterna-

tive and we ought to find that alternative over the next several months.

It is absolutely essential—and this is why I disagree with the House action—it is essential the word go out, if we are not going to have an MX program, that we do have a coherent, overall strategic plan. We should not have a vacuum in this very important area.

So, for those reasons, because the President has made some significant concessions and asked that we deal with the problem in an expedited fashion and because of the immense importance that all of these decisions play in arms control, I think it is essential that we go along with this compromise.

Again, I commend the Senator from South Carolina, because, in effect, his amendment in this, the heart of the amendment is going to be carried no matter if the Jackson amendment carries or it does not. The Hollings amendment is preserved in the Jackson amendment, and I think that is a very significant achievement, preserving the right of the Senate and preserving the right of the House and requiring that we take another look and the President take another look at this very important question.

Mr. President, I yield the floor.
Mr. HATFIELD addressed the

The VICE PRESIDENT. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I will only raise a brief word in opposition to the Jackson modification, and that is that this is probably not the appropriate time to raise this argument, considering what we have just been through. Anyway you look at it, we are circumscribing the parliamentary procedures of the Senate by these expedited procedures; that is, we are circumscribing the normal rights that are extended to all Members of this body. We sought not to do that, even for such a thing as a gas tax. And perhaps at this moment in time that might be the argument in support of Senator Jackson's amendment.

I still think that something of this magnitude, where we find ourselves in the process of trying to create an orphan missile—something that could, in effect, destabilize the whole arms control picture. All of these factors lead me to believe it is inappropriate at this time to circumscribe ourselves down the road 3 or 4 or 5 months from now. This will prevent us from taking up the matter in other than a normal legislative parliamentary manner.

I am not going to belabor the argument. I only want to say that I do feel it inappropriate to support the Jackson expedited procedures at this time. That in no way threatens a filibuster. I have not filibustered on some of the weapons programs about which I feel

very strongly because I believe there is a time when the majority must work its will.

At the same time, I do not want to deny any Member of this body the opportunity to utilize certain legislative parliamentary procedures this far in advance of knowing what the issue is. That is the only reason I would

That is the only reason I would oppose the Jackson amendment at this

time.

Mr. LEAHY addressed the Chair.
The PRESIDING OFFICER. The
Senator from Vermont.

Mr. LEAHY. Mr. President, I would like to speak for just a few minutes. Two days ago I voted in the Appropriations Committee in support of Senator HOLLINGS' amendment on the MX missile. We adopted the Hollings amendment in the Appropriations Committee.

Once again, I offer my support to the Hollings amendment on the MX missile. I would have preferred an unequivocal no on Dense Pack here and now, because it is so patently unworkable. However, this is one of those times when the best is the enemy of the good. The Hollings measure at least makes spending on MX production and basing contingent on congressional approval of a basing mode. Even if the President comes back with Dense Pack next year, I believe it is now dead.

It is unfortunate that we probably will not have a straight vote on the Hollings amendment, notwithstanding the Appropriations Committee's action. Because of that, I think there will be a lot of votes against the amendment of Senator Jackson and others.

The Senate's decision on Dense Pack foreshadows the most important strategic issue the United States faces in this decade: Should or can the United States maintain a triad of ICBM's, SLBM's and heavy bombers, or has the time come to begin phasing out land-based missiles?

Unfortunately, that central issue is not being heard in this argument to-night.

In my remarks, I will confine myself principally to whether Dense Pack makes technical, cost, or policy sense. I do not intend to discuss in any detail whether the United States needs a new land-based missile at all. That is a fundamental question concerning the future of the strategic triad about which there has as yet been no informed debate. I will offer a suggestion at the end of my remarks on how the country might address in a bipartisan way the role of land-based missiles in the future. However, I am deeply concerned that a missile with the first strike potential of MX would accelerate the trend toward improved nuclear war-fighting capabilities. Both sides are already moving in that direction, and MX could setoff an unrestrained counterforce race that would be gravely threatening to strategic stability.

WILL DENSE PACK WORK?

The purpose of Dense Pack is to provide survivable basing for the MX at the time of its projected introduction in 1986 and beyond. If it is to be judged viable, each of three critical questions must be answered with a confident yes. An uncertain or equivocal answer to any of them means Dense Pack must be found wanting technically.

First, will fratricide work as predicted—or, more accurately, will the Soviets be sufficiently fearful it would work that they would be deterred from attempting an attack on Dense Pack?

Second, can MX's silos be sufficiently hardened against blast and other effects of nuclear explosions to withstand a Soviet attack?

Third, can the United States be confident that it will anticipate Soviet threats to Dense Pack with sufficient leadtime to devise, fund, test, and implement countermeasures at a bearable cost?

With my colleagues on the Select Committee on Intelligence, I have spent several hours with administration strategic, military, intelligence, and scientific experts on these questions. In those discussions, without going into highly classified exchanges we had. I was forcefully struck by the extraordinary dependence of Dense Pack's effectiveness on unknown and untested physical phenomena, subjective judgments about Soviet capabilities, and best guesses about future technologies, both on our side and on the Soviets. If we go ahead with Dense Pack as the President wants, it will be an act of faith, not a decision based on tested technology and verified facts.

Let us look at the first uncertainty. Fratricide obviously is key to Dense Pack survivability. If this theory does not work as claimed, Dense Pack is not viable.

There is no doubt that nuclear explosions will deflect, destroy or otherwise render arriving warheads harmless. But precisely how and to what extent it would do so, and how significant this would be in disrupting a determined, large-scale attack, remains highly uncertain. There is no consensus among the experts, and for good reason. The Limited Test Ban Treaty of 1963 prohibits all atmospheric nuclear explosions, so most knowledge about nuclear effects must come from computer simulations and models, test with high explosives, and physics theory. Without actual nuclear explosions under carefully controlled test conditions, it is difficult, if not impossible, to answer questions about fratricide conclusively. This country cannot afford to commit itself to a major strategic program on the basis of untested theory.

Hardening silos to unprecedented levels is also a critical—and unproven—factor in Dense Pack survivability. The Defense Department contends its studies show unheard-of hardness is now possible; Conveniently, these gratifying results are being attained—and leaked to the press—just as the President is trying to go ahead with Dense Pack.

Many scientists, including Dr. Charles Townes, chairman of the scientific Task Force set up to advise Secretary Weinberger on MX basing, have revealed serious doubts that hardness desired by the Air Force can be achieved by MX's scheduled introduction in 1986. According to press reports Dr. Townes has written to Secretary Weinberger that even if hardness targets are achieved on schedule, this will not be enough. Even if current Minuteman silo hardness were tripled or quadrupled, this would not protect MX from large Soviet warheads. A 25 megaton SS-18 warhead detonated on the Dense Pack field would create a crater approximately one-half mile in diameter, encompassing at least three or four silos and covering with several feet of earth some six to eight adjacent ones.

The third significant uncertainty concerns me greatly as a member of the Select Committee on Intelligence. If the United States decides to build Dense Pack, the Soviets may begin work on new warheads designed to overcome fratricide, such as earth penetrators, soft landers and maneuvering, terminally guided reentry vehicles, all with special fuzes for simutaneous detonation.

The United States cannot afford to prepare for every conceivable contingency. We must know far enough in advance what options the Soviets have decided upon in order to have time to field effective countermeasures. The future survivability of Dense Pack will be heavily dependent on timely intelligence about emerging threats. This will be a heavy burden on our intelligence capabilities, though one which I believe they are capable of bearing. However, I believe it would be most unwise to make the survivability of a central U.S. strategic weapon so dependent, not on its inherent technical capabilities, but on assessments of future Soviet intentions.

The administration asserts that Dense Pack will meet survivability requirements at a cost of about \$26 billion. However, this estimate excludes additional silos for deceptive basing, expansion of the force size, ballistic missile defense, or other countermeasures against future Soviet threats. Even Dense Pack's supporters admit that without countermeasures it will become vulnerable to new Soviet weapons by the mid-1990's. According to the administration, countermeas-

cheap-\$2 to \$3 billion for an additional 100 silos, and some \$9 to \$12 billion for an antiballistic missile force that would remain within ABM Treaty limits.

I dismiss these numbers. With inevitable cost overruns, the true cost of Dense Pack and future countermeasures will probably exceed \$50 billion. By contrast, four additional Trident submarines with Trident II missiles will buy as much capability, with assured survivability, at a fraction of the

DENSE PACK UNDERMINES ARMS CONTROL

In addition to disturbing technical unknowns and uncertainties, Dense Pack raises major arms control problems. Building silos for Dense Pack could destroy the current tacit understanding not to undercut the SALT II Treaty, which bans construction of fixed ICBM launchers. The United States and the Soviet Union could be left with no limits at all on offensive strategic weapons. Dense Pack threatens the SALT Antiballistic Missile Treaty as well. If the United States were to opt for an ABM defense of Dense Pack, the ABM Treaty would have to be renegotiated-thus opening the way for the Soviets to demand concessions. Minimal, uncertain and short-lived gains in ICBM survivability are not worth risking a treaty which is so important to national security and stability.

President Reagan argues that going ahead with MX in Dense Pack is necessary to give him a bargaining chip in the START talks. Everyone is familiar with the history of bargaining chips. We seem to be on the verge of deploying some of them now. In any case, the President's argument is not logical, since his START proposal would permit all U.S. strategic programs, in-

cluding MX, to go forward.

The bargaining chip ploy is pernicious, as Ambassadors Gerard Smith and Paul Warnke, negotiators of SALT I and II respectively, have pointed out. As one committed to the concept that rational arms control can serve the Nation's security, I reject it. This country should pursue arms programs that contribute to its security, not for leverage in negotiations. If an arms control agreement is concluded that maintains or enhances security, then otherwise useful programs can be safely limited, canceled, or reduced. Proceeding with a foolish program in the hope that it will be given up in arms control is a recipe for being stuck with a flawed weapon.

Mr. President, Dense Pack is not acceptable on technical, cost, or policy grounds. President Reagan should recognize the futility of trying to gain approval of a basing mode which a majority of the Joint Chiefs of Staff, several former Secretaries of Defense, the House of Representatives, the best sci-

ures will be relatively simple and entific minds in the country, and, in my opinion, a majority of the American people all oppose. Instead of turning against such massive opposition, he should turn to the real question of whether there is any role for landbased missiles in our strategic Triad.

PROPOSALS FOR A NATIONAL COMMISSION ON THE STRATEGIC TRIAD

I urge President Reagan to take this great issue, which is so fundamental to the Nation's security, out of the heat of partisan politics. Strategic deterrence is a task which must transcend party advantage and narrow military service considerations. We need a broad national consensus on what the country should do about the strategic Triad, the role of land-based missiles. and the future of nuclear deterrence. Events have shown clearly that another technical study by Defense experts will not do.

Before the coming Presidential campaigning season begins-and it just about has-and bipartisan cooperation becomes unlikely, I believe President Reagan should name an independent, bipartisan, blue ribbon commission on the future of the strategic Triad. Its members should be drawn from the best military, scientific, arms control, intelligence, and analytical talent the country has to offer, and with balanced representation from both political parties. Its aim should be to prepare an objective assessment of the strategic Triad, including whether land-based missiles can continue to play a vital part in the national securi-

There are ample precedents for such an examination of a critical national issue. Perhaps such a commission would conclude that land-based missiles make such a unique contribution to deterrence that some way must be found to base them survivably. If so, basing modes hitherto thought politically infeasible, such as road mobile, might become nationally acceptable. Perhaps an objective study would show America's safety requires that the day of the ICBM begin drawing to a close. But, I do not believe the country will get an objective answer until the entire issue is lifted out of political, service, and bureaucratic politics.

Might I say in conclusion, Mr. President, that such a commission appointed by President Reagan, with the kind of mandate I have described, would give far more illumination to the country on this great issue than any debate we might have on narrowly drawn amendments late in the evening on a continuing resolution that really should not even be before us.

CRANSTON addressed Mr. the Chair.

Mr. VICE PRESIDENT. The Senator from California.

Mr. CRANSTON. Mr. President, I had intended to offer an amendment to provide that the Senate act as the

House acted on this matter, striking money for procurement. Those who were joining with me in this amendment were Senators Mathias. Kenne-DY, PELL, PRESSLER, INOUYE, RIEGLE, MATSUNAGA, BAUCUS, METZENBAUM, MELCHER, EAGLETON, PRYOR, PROXMIRE, and Harr. It was also supported by other Senators.

Due to an unusual parliamentary situation that developed when this bill was taken up, such an amendment is not now in order.

In order to provide an opportunity for a vote identical to the House position, I intend to move to recommit the bill to the Committee on Appropriations with the following instruction: That the committee report the bill back to the Senate forthwith, provided that the amendments already agreed to by the Senate shall remain agreed to and with the accepted committee amendments as they were reported to this bill on December 15 still acceptable, and with the following amendment, which is the amendment I would have offered:

On page 9, line 13, insert the following sentence after the period: "Notwithstanding any other provision of this Act, the amount appropriated for Missile Procurement. Air Force, is reduced by \$988,000,000: Provided. That none of the funds appropriated by this Act shall be available for the procurement of any MX missile: Provided further, That none of the funds appropriated by this Act shall be available to conduct any research, development, test, or evaluation in connection with a closely spaced basing mode for the MX missile.".

Mr. President, all this motion proposes is that the bill be recommitted and reported back forthwith, which, as we know, can happen instantly if so voted in the same form as was reported on Wednesday, along with one new committee amendment that I shall explain shortly.

I am taking this unusual procedure or parliamentary route because the committee amendment striking the House language on page 9, lines 8 through 13, was agreed to by the Senate through a unanimous-consent request which was unclearly made and to which I would have objected had its intent been made clear. Hence, it is not open to me to amend this underlying House language as I and others had intended to do. So that the first vote on the MX would be, in effect, identical to the position that the House took in this bill; that is, to delete all funds for MX procurement.

The motion to recommit has the same effect as would have been had by such an amendment to the underlying House text, now struck out by the Senate by the unanimous-consent request, which I daresay most Senators did not know occurred or did not know the import of in terms of its consequences.

Let me stress again that this motion to recommit would leave the bill and the Appropriations Committee amendments intact in all other respects. Let me explain the reasoning that has led me and others to offer this amendment.

The purpose of our amendment is to halt production of the MX missile now, once and for all. I believe the time has come for us to face the fact that the MX missile, in whatever configuration and in whatever basing mode, will not enhance our security as a Nation. In fact, I believe it will do the opposite. There is no reason to earmark additional appropriations for its production. There is every reason to sustain the strong bipartisan House vote deleting production funds.

The bill before us still appropriates \$988 million for MX missile production. It is a step back from the courageous position taken by the House. It is another decision not to decide on

the matter of the MX.

We have been wrestling with the MX issue for nearly a decade now, but no Pentagon official has successfully answered the question, How do we securely base this missile? Or, more im-

portant, why do we need it?

The time has come to stand up and be counted on the basic question of whether we should continue the MX folly or whether we should spend our taxpayer dollars on more responsible defense and social efforts; or whether that money should not be spent at all as part of our crucial efforts to reduce our enormous deficit.

More than 30 basing modes—more than 30 basing modes—for the MX have been considered and rejected one by one, one after the other. Among the American people, the project has become something of a joke. But in our criticism of the ridiculous, unworkable, and indefensible Rube Goldberg basing schemes, we have lost sight of a more fundamental question: Why do we need the missile itself?

Earmarking production funds for the MX—even conditional funding will not make us more secure. It will only breathe new life into a dangerous and expensive nuclear weapons program which serves no constructive

purpose.

What is the mission? I ask you, what is the mission of the MX that the Reagan administration is so eager to fund? Is it to insure deterrence, mutual assured destruction, and thus to prevent a deliberate decision by an adversary to launch a nuclear war?

No. That is not the reason. Reagan administration officials have sought to redefine deterrence so as to require more nuclear-war-fighting capabilities. They have specifically justified the MX production funding request on the basis that the United States needs more hard-target-kill capabilities, more counterforce weapons to threat-

en hardened Soviet missile silos and command and control centers. This Reagan administration position is a radical departure from three decades of U.S. strategic doctrine. The bipartisan doctrine of deterrence has held that U.S. security in the nuclear age can best be assured by having an unquestioned ability to respond with devastating nuclear force to a surprise attack. We have this without the MX. But now administration spokesmen are trying to redefine deterrence as requiring us to beef up our capabilities to fight "limited" nuclear wars and to produce a new missile that is widely viewed as a first-strike weapon.

Mr. President, regardless of whether we in the Congress or those in the Reagan administration view the MX as a first-strike weapon or not, we must be realistic and recognize that undoubtedly the Soviets will see it as a first-strike weapon. A missile with the MX's characteristics and capacities makes no sense as a retaliatory weapon, so the Soviets must conclude that we want it for first-strike pur-

poses.

This essential point has been argued most cogently in a December 13, 1982, New York Times article by Herbert Scoville, Jr., former Assistant Director of the Arms Control and Disarmament Agency and Deputy Director for Research of the Central Intelligence

Agency.

Dr. Scoville explained why the MX makes no sense as a retaliatory weapon. I ask each of my colleagues to listen carefully to this particular point, why this is not a retaliatory weapon, why it will be viewed by the Soviets as a first-strike weapon, with dangerous consequences for us. Just listen to this brief extract from Scoville:

Even if the Air Force's optimistic predictions for Dense Pack were fulfilled-if 50 of the 100 MX missiles did survive and were launched against the Soviet missile siloshow could the administration expect them to destroy the Soviet missiles? By the time our MX warheads reached their targets, the silos would be empty. The Russians would have launched part of their force in their first strike, and certainly they would not leave those missiles in their silos to be de-stroyed once they knew our retaliatory attack was underway. As soon as their warning systems told them that we had sent our missiles toward the Soviet Union, Moscow would launch every remaining missile it could get out of the ground. Launching an MX retaliatory attack against Soviet silos would thus only insure that every single warhead the Soviet Union was capable of launching would be dispatched toward every American target the Russians could find.

The Russians must see that the MX missile system could pose little threat to its land-based missiles unless it were used in a first strike. They must therefore assume that under some circumstances, the United States would actually launch such a strike—and undoubtedly their military plans are based on this assumption. They have no choice but to prepare themselves to pre-

empt an American attack—to beat us to the punch. Thus, the administration's claim that we must build the MX to maintain our deterrent is totally illogical. Instead of making nuclear war less likely, it can only increase the chance that this ultimate horror will take place.

The Reagan administration originally claimed it had to have the MX missile to close the "window of vulnerability."

Reagan officials stacked outrageous conjecture on top of ill-informed speculation on top of unrealistic assumption and claimed that the United States was open to Soviet nuclear blackmail in the early to mid-1980's. Then in his November 22 MX Dense Pack sales pitch to the Nation, President Reagan was silent on the window of vulnerability.

The President shifted ground and talked of the need to have an invulnerable land-based nuclear deterrent—and proceeded to propose a basing scheme which a responsible majority of the Congress have concluded is clearly vulnerable to the farfetched scenario it is designed to protect against.

On certain occasions, in its desperation the administration has pleaded that the MX is needed for an arms control negotiating bargaining chip. For example, during President Reagan's December 10 press conference on MX, he argued that a vote against MX production today is a vote against arms control tomorrow. This has been perhaps his most disingenuous and dangerous argument.

If we legitimately need the MX for national security reasons, no President should bargain it away. But the fact is that we do not need the MX missile.

The history of arms control is replete with bargaining chips that never got bargained away, that were deployed, leaving a less secure, more dangerous world. In fact, the problem of ICBM vulnerability which the MX was originally designed to cure was caused by a bargaining chip that President Nixon never cashed in at the SALT negotiating table—the MIRV warhead, which we and then the Soviets deployed.

It is particularly misleading for the Reagan administration to suggest—as it did on the eve of the House debatethat it needs the MX as a bargaining chip. Administration spokesmen have privately assured Senators in classified briefings that President Reagan would never back away from his commitment to deploy the MX. This should be clear from the President's START proposal, for which he claims he needs the MX. Even if the Soviets accepted the President's initial START offer in toto, the United States would not be barred from full deployment of the MX-some bargaining chip.

Then, too, there is the absurdity of continuing to spend still more billions

of dollars on a perilous and destabilizing nuclear bargaining chip. Thus I am not surprised that the administration is now backing away from the bargaining chip pitch.

We have already spent \$4.4 billion on MX R&D. The administration proposes to spend another \$26.4 billion on MX Dense Pack. With inflation, a likely ABM system and cost escalation, a more realistic price tag is \$40 billion. To continue to appropriate such exorbitant sums for a system we may never deploy—while we have close to 20,000,000 Americans unemployed or underemployed and a \$200 billion annual deficit—would be terribly irresponsible.

Ultimately, we will have to face these realities. It is becoming increasingly apparent that the MX missile will never be built and will never be deployed. The basic question before us today is: How much more money are we going to waste on this unnecessary weapon? The 245 Members of the House—including 50 Members of the President's party—who stood up to the President's pressure on this tough issue were a courageous vanguard. We should not undercut them.

There are practical calculations on the best use of our defense resources which compel us to reject the MX missile now. But there are also serious considerations with respect to the future of arms control which we must weigh.

President Reagan came to office having opposed every single arms control treaty ever negotiated by past Republican and Democratic Presidents. And yet under great pressure from the Congress, he pledged last March that he would do nothing inconsistent with the ABM and SALT II treaties so long as the Soviets adhered to them.

The MX-Dense Pack proposal of the President, however, threatens virtually every major strategic arms control treaty the United States has ever signed with the Soviet Union. MX-Dense Pact deployment would be a clear violation of the SALT II prohibition on construction of new fixed site ICBM launchers. To test the terribly shaky assumptions about missile fratricide upon which the entire MX-Dense Pack concept relies, there should be immense pressures from the Pentagon to resume atmospheric nuclear testing on a large scale. This would undermine the limited test ban treaty. And because so many administration officials believe the Dense Pack system would never work without an ABM system, its deployment anticipates a breach of the ABM treaty-our most effective cost-saving accord to curb the arms race.

The United States already has some 30,000 nuclear weapons.

We have more than 2,100 intercontinental ballistic missile warheads.

We have more than 4,700 submarine launched ballistic missile warheads.

We have more than 2,500 strategic bombs for airplane delivery; we have some 15,000 battlefield and tactical nuclear weapons; we are building a B-1; Trident subs; and Pershing II's, GLCM's, SLCM's, and ALCM's.

We are engaged in a perilous and costly nuclear arms race with the Soviet Union which daily presents us with the threat of planetary extinction.

How will a Senate vote keeping alive MX missile production improve this grave situation?

Now is the first opportunity Senators have to vote to kill MX missile production. There is a debate throughout the country, but the Senate has never had an up-and-down vote on the future of the MX. The country is also activated by the proposal of a bilateral, verifiable nuclear weapons freeze. More than 20 million Americans have voted on this issue this year: 60 percent in support. Yet the Senate has not taken the matter up. Together with Senator Pell, I offered the Kennedy-Hatfield nuclear freeze language in a Senate Foreign Relations Committee markup, but the resolution addressing this issue has not been taken up by the Senate leadership. We may fail to kill the MX this morning. We may leave its ultimate fate to a conference committee or to a vote sometime next year, but the MX is not likely ever to be deployed.

I urge each of my colleagues to think seriously about how long we should delay this decision. I believe the time to cut our losses and to end the MX program is now, right now. So I urge my colleagues to support our motion to recommit the effort to delete MX production funds unconditionally, to support the House action and to uphold responsible defense and

arms control policies.

Mr. President, before closing, I wish to pay tribute to two of our colleagues and friends, Mark Hatfield and Fritz Hollings. Their strong and effective leadership in fashioning a substantial Appropriations Committee majority from Senators in both parties has helped to move us closer to stopping the MX once and for all. The Cranston-Mathias amendment seeks to build upon their work and delivered the coup de grace by endorsing the House decision to delete MX production funds.

I yield to the Senator from Connecticut.

Mr. DODD. I thank the distinguished Senator from California for yielding.

Mr. President, I should like to join with him this evening in this unique procedure that we are using to bring this matter to a vote. Had it not been for this procedure, the issue of whether or not we decided to move forward

with the procurement of the MX missile would have been avoided altogether. We are going to have that chance now.

Mr. JOHNSTON. Will the Senator yield for a question at that point?

Mr. CRANSTON. I have the floor, I yield to the Senator for—

Mr. JOHNSTON. Point of order.

Mr. CRANSTON. I do not wish the floor. I am glad to yield.

Mr. JOHNSTON. Point of order. The Senator cannot yield the floor except for a question?

The VICE PRESIDENT. The Senator is correct.

Mr. CRANSTON. Can the Senator phrase his statement as a question?

Mr. DODD. I will conclude this with a question.

We are now going to have, I believe, and I am sure the Senator will agree, the opportunity this evening, to vote up or down the procurement of the MX missile?

Without the procedure that the Senator from California has provided us, that opportunity would have been avoided altogether. And so, Mr. President, I am delighted to be able to join with the Senator from California in this effort.

I ask the Senator from California, is it not true that the Dense Pack-MX system is typical of what is wrong with the way we build our strategic forces in the very first place? I ask him further whether or not he believes it is wrong in the most fundamental sense that the arms race has forced its own logic on the whole procedure? It is not the thinking man who controls the acquisition of new arms systems, but it is the self-generating pressures of the arms race that forces man to spend more and more of his scarce resources in pursuit of this or that strategic illusion.

Mr. President, as Members of our Federal legislature, we certainly have no heavier responsibility than to guard the security of our Nation.

We wish to have the United States the most secure nation on Earth.

My interpretation, however, of this responsibility involves making choices. This is what we are not doing tonight, making hard choices, instead of a chain of affirmation for every new scheme thought up by our military strategists.

There is no reason why we should not reject doing the same tonight.

I do not believe there is a majority coalition in this body that would support Dense Pack. What we are doing is delaying a decision we virtually all have made and have made sometime ago. We have decided this missile is no good unless we have a basing mode that is worthwhile. We have all decided, or at least the majority did, that this basing mode is not working.

There is nothing in our Constitution which prohibits the President from coming back tomorrow, next week, next month, proposing a basing mode and, if it enjoys majority support of this Congress, then we will move forward.

Why do we need to delude people by putting aside almost \$1 billion and then saying to the President: Come up back here with a plan and in a certain amount of time we will respond to that plan either favorably or unfavorably?

It seems that we are just playing a game, dragging around a dead cat. This issue is really dead in the minds of the American public. We are playing a game at 2 o'clock in the morning that does not deserve to be played.

The House of Representatives did the right thing. Fifty-one Members of even the minority party in that body said it is not a good idea, that we

should reject it.

Yet tonight we are going forward, and we are going to say what we would never say in any other area of our Federal budget. We are going to give you \$1 billion, fence it in, put it aside, set up this escrow, call it what you will, and then we are going to play this for as many weeks or months as it takes to build a political consensus, not an intelligent technical consensus, because I do not believe in the next few weeks or next few months we are going to arrive at any better decision than the last 7 years and \$4.5 billion have provided us.

That is really what the choice is, what the Senator from California is proposing with this motion to recom-

mit.

I am delighted to be able to sponsor it, and I hope the majority of colleagues here support it when the motion comes up.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. DODD. I yield.

Mr. KENNEDY. I have asked if the Senator would include me as a cosponsor of the particular motion that the Senator from California is offering, and I understand that he will.

Mr. CRANSTON. I will. I do.

Mr. KENNEDY. Mr. President, the hour is late, and we have heard, I think, for the last 2 hours an interesting debate about what we are going to do or what we may not do if the President of the United States submits a particular proposal to the Congress of the United States over the period of the next 3 months on this particular weapons system.

But is it not true, and I ask the Senator from California this particular question, initially, that over the period of the last 5 years under two Presidents of different parties that the Joint Chiefs of Staff and the best of our military experts and the best of our civilian experts have been focused

on the issue of how to make this missile virtually invulnerable and have been focused on the issue of the basing mode and that we have brought to bear in this country the very best in terms of the military planners, those who have the knowledge and the technical ability, to focus on this issue of basing and over the period of the last 5 years they have finally submitted a program which, as I understand, was rejected by a majority of the Joint Chiefs of Staff, the Dense pack proposal, which is an alternative to the previous administration proposal which provided for a mobile missile? I understand that over the period of the last 5 years both the Democratic administration and the Republican administration have not been able to get the Joint Chiefs of Staff to agree on the basing mode.

Is that the Senator's understanding? Mr. CRANSTON. That is my understanding. Meanwhile we have spent \$4.4 billion.

Mr. KENNEDY. Furthermore, do I understand whether we follow the Jackson proposal or the Hollings proposal, effectively what we are saying to the American people, if we follow those particular recommendations, is that somehow we think that in the next 3 months this President is going to be able to go back to the drawing board and come back with some kind of a proposal that will be acceptable and that we are basically making a presumption in favor of that prospect, even though over the period of the last 5 years, the best Republican and Democratic administrations have been unable to do so?

Mr. CRANSTON. That is correct, and Senator Hollings graphically described how this President will probably go about making that decision.

Mr. KENNEDY. Mr. President, according to my understanding over the period of the last several years both administrations have considered the various basing modes of launch under attack (LUA), orbital based, shallow underwater missile (SUM), hydra, orca, ship—inland, ship—ocean, sea sitter, wide body jet (W.B.J.), short takeoff and landing (STOL), vertical takeoff and landing (VTOL), dirigible, midgetman, hard rock silo, hard tunnel, south side basing, sandy silo, commercial rail, dedicated rail, offroad mobile, ground effect machine (GEM), road mobile (Minuteman), road mobile (new missile), covered trench, hybrid trench, dash to shelter, mobile front end, pqol, minuteman/ MPS, MX/MPS, continuous airborne aircraft, deep underground basing, ballistic missile defense (BMD), and now Dense Pack?

Is that roughly the understanding of the Senator from California?

Mr. CRANSTON. That is my understanding. Mr. KENNEDY. Finally, I would like to ask my friend and colleague from California this question. We have heard a great deal on the floor of the Senate tonight from those Senators supporting the proposal of the Senator from Washington or the Senator from South Carolina, about national security.

Does he really believe that our national security is enhanced by the Congress of the United States earmarking some \$1 billion and fencing it, however you want to categorize it? Does he really believe our national security is going to be enhanced by earmarking money for a missile whose mission has yet to be defined and that somehow this is going to enhance our position with the Soviet Union? If they have had any chance to read this discussion or debate or to follow the discussion in the Armed Services Committee, do you think that they believe we have found some kind of a system by which this particular missile can be effectively deployed for our national security? Does the Senator from California believe that our national security is going to depend on accepting the Senator from Washington's amendment or the Senator from South Carolina's amendment?

Mr. CRANSTON. No, I do not.

Mr. KENNEDY. Finally, is it the Senator from California's understanding that in his recent press conference the President of the United States actually removed the MX from the bargaining table in the Strategic Arms discussions with the Soviet Union? That is my understanding and I believe that to be the fact.

So, Mr. President, just finally, as I understand, in response to the arguments that have been made here about the MX being an additional bargaining chip, that is bunk. It will not even, according to this President of the United States, be on the bargaining table.

I believe, Mr. President, with regard to enhancing the security of this Nation at this particular time that that argument, given this record, is bunk as well.

I welcome the determination of the Senator from California and the Senator from Connecticut and the other cosponsors of this for really facing this Senate up to what is at issue, and that is whether we are going to move ahead with the production of a missile without a mission and a missile which I do not believe is going to increase the security of this Nation.

Mr. CRANSTON. I thank the Senator for his forceful and incisive analysis of the situation, and I thank him for his partnership.

I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I am a strong supporter of the amendment proposed by the Senator from California (Mr. Cranston) deleting production funds for the MX missile and money for Dense Pack basing.

I know that many of my colleagues will oppose funding of the MX because of their concerns over what appears to be a fundamentally wrong-headed basing scheme. I share their concerns about Dense Pack. However, I believe that a plan so misbegotten as Dense Pack was almost to be expected, given the requirement to find a home for the MX. The basic problem that brings us to this debate is not Dense Pack, which is only a symptom, but MX, which is the problem.

I was frankly astonished Tuesday by Secretary of Defense Weinberger's response when I asked him in a Committee on Foreign Relations hearing whether the administration, in its nearly 2 years in office, had ever given any serious thought to the abandon-

ment of the MX.

The Secretary's answer was, "No, I do not think so." He mentioned only some consideration of a common missile for submarines and land-based silos. But it was clear that this administration is taking a solid position in favor of the MX, for better or for worse.

I conclude that, if the administration is incapable of considering alternatives to the MX, the Congress has a duty to the American public to do so. We should start right now by firmly denying production funds and money for Dense Pack basing. Frankly, I wish the Senate and the House would go the whole distance and delete all MX funds.

To me, there are several compelling

reasons to take this step:

First, the MX is a tired answer to a problem that will not go away. That problem is the theoretical vulnerability of land-based missiles. Absent a truly mobile and survivable system, land-based missiles are going to be thought vulnerable by a sizable number of defense strategists. I am not at all convinced that the vulnerability threat is nearly as real as some think. However, the simple truth of the situation is that if we go ahead with MX or some other basing scheme, we will condemn ourselves to continuous and needless public debate, constant worry over the viability of our deterrent, and the expenditure of countless billions to solve a problem which appears to have no solution.

Second, it should be clear to all of us that there are many uncertainties. No one really knows how the Soviets would be able to attack Dense Pack late in this decade or in the 1990's. Accordingly, no one really knows how effectively Dense Pack could survive attack. Clearly, the Pentagon is lobbying heavily to convince us that Dense Pack is an ingenious scheme and that the Soviets cannot cope with it. Who

among us doubts that the Pentagon is viewing our own programs most optimistically and downplaying the possible reaction of the Soviet Union? Of course, we all know that, if we were to deploy MX and Dense Pack, the song would change most dramatically in several years and we would hear of the dire threat to Dense Pack that must be countered with the expenditure of additional tens of billions.

Third, MX and Dense Pack would undermine existing arms control agreements and jeopardize any hope of meaningful arms control agreements in the future. Clearly, the administration thinks MX and Dense Pack would be useful in negotiations, but it could never be a bargaining chip, because it would never be cashed in. Accordingly, the Soviets would be faced with the development of major new weapons system they believe is contrary to SALT I and SALT II. The administration may play games with terms like "launchers," "silos" and "canisters," but no one can doubt it is a game which would worry us greatly if initiated by the Soviets. Thus, MX and Dense Pack would do violence to the fragile fabric of SALT, which the President has pledged not to undercut, and raises real questions about the future of strategic arms control. If antiballistic systems were sought for Dense Pack, there is no question in my mind, having reviewed the 1972 ABM treaty and the 1974 protocol, that development of a new complex in Wyoming is not consistent with the understanding between the parties and would require us either to go back to the Soviets for modification or to abrogate the treaties.

Fourth, against the background of our current economic woes and projected deficits, the throwing of our treasure into more land-based missiles seems almost staggeringly misguided. We know that the MX will cost at least \$26 billion more. Although the administration has studiously avoided any indication that Dense Pack must be defended by ABM's, Secretary Weinberger cited the fact that Dense Pack "would be more easily defended" by an ABM than other basing modes. An ABM could add \$10 to \$20 billion.

Mr. President, there are other strong arguments against MX and Dense Pack. I can see no equally compelling arguments in favor.

I am convinced that our best course would be to rely for our deterrent on the very potent and much more survivable sea-based and air forces. If, in the end, we turn completely away from large land-based missiles, we will have removed the targets in our heartland which are thought to be so inviting to our adversaries. If we had no hard targets such as missiles in reinforced silos, the utility of the Soviet land-based forces would be diminished.

What a step for stability that would be.

Now is the time to call an end to the nuclear arms race and then to move ahead with reductions and other measures to insure that nuclear weapons will never again be used. As temporary custodians of our wondrous country and planet, we owe it to our children, our granchildren and their children to pass on the precious heritage that we have been so fortunate to inherit.

Now is the time to act. Tomorrow it may be too late.

Thank you, Mr. President.

Mr. CRANSTON. I yield to the Senator from New York and then to the Senator from Louisiana.

Mr. MOYNIHAN. Mr. President, could I ask the Senator from California is it his understanding that the President has indicated that the administration will abide by the terms of the SALT II treaty even though it has not been ratified?

Mr. CRANSTON. Yes.

Mr. MOYNIHAN. Is it my understanding that the Senator from California feels that the Dense Pack proposal to the degree that it adds new launchers would, in fact, violate the SALT II treaty?

Mr. CRANSTON. Yes, because they would be fixed-site launchers.

Mr. MOYNIHAN. Fixed-site launchers, which are fixed under SALT I and that carries forward. May I say I agree with him completely.

Could I then ask him in this most solemn of relations between ourselves and our adversary, the Soviet Union, if we have openly advocated a missile system which violates almost the first subject of the armament negotiations, which is the number of launchers, will our Nation not be profoundly inhibited and deeply disabled in calling attention to Soviet violations of the SALT agreements and insisting on conformity?

Will we not, in effect, have given up that right ourselves having in the instance most openly violated that?

Mr. CRANSTON. Yes; we will.

Mr. MOYNIHAN. Would that not be a very grievous loss? It is one thing not to have passed that treaty but at least we could abide by it.

Mr. CRANSTON. I would agree totally with the Senator.

Mr. MOYNIHAN. Would the Senator do me the honor of putting me down as a cosponsor?

Mr. CRANSTON. I would be delighted to do so.

I yield to the Senator from Louisiana

Mr. JOHNSTON. I thank the Senator for yielding for a very basic question, which is this: If the Jackson-Nunn amendment be defeated, would not the Senator's amendment be in order without having to refer this

matter back to the Appropriations Committee?

Mr. CRANSTON. Well, the desire of the proponents of this approach was to have the first vote on this if we could arrange it to come out that way.

Mr. JOHNSTON. In other words, what the Senator is saying—he is not upset with the parliamentary rules; he just wants to displace the order of consideration by referring it back to the committee. That is all that this is about, is that not correct?

Mr. CRANSTON. Yes; certainly.

I yield to the Senator from Mary-

land, who is my prime cosponsor.

Mr. STEVENS. Mr. President, I am going to object unless we are going to have questions now. This is control of the floor at 2 o'clock in the morning, and we are going to be here until 6 o'clock tomorrow night on defense alone if it keeps up this way which is

sort of wearing.

I think the Senator from California may yield for a question and I would like to hear the question before I—I reserve the right to object to this yielding without the right of his losing the floor because if he yields for more than a question he is going to lose his right to the floor.

The VICE PRESIDENT. The Senator is correct. The Senator form California has the floor and is permitted

to yield for a question.

Mr. CRANSTON. I beseech my partner from Maryland to make his re-

marks a question.

Mr. MATHIAS. I do have a question to the Senator from California. It is a question that arises from the fact that I support his motion.

The question really is not whether we are to maintain a strong nuclear deterrent, but, I ask the Senator from California, whether or not the production of an MX constitutes an essential addition to the deterrent. Does this add anything to the deterrent which has been reliable for 37 years?

Mr. CRANSTON. I believe that rather than adding to our deterrent it adds to the invitation to the Soviet Union to make a first strike.

#### THE MX MISSILE

Mr. EXON. Mr. President, the United States currently stands at a crossroads with regard to the future of our nuclear deterrent forces.

As the United States invests in the necessary modernization of its strategic nuclear deterrent, it is imperative that this effort be undertaken in a militarily sound manner which takes into account the other steps which are vital to enhance our conventional forces as well as the necessity to remain compatible with arms control objectives. The overriding consideration must be that we not consider the MX missile system in isolation from our overall defense capabilities—present or future.

Of the several steps outlined in the administration's strategic forces modernization program announced in October 1981, the question of the MX missile has engendered the greatest amount of dispute. For almost 10 years, this Nation has attempted to solve the dilemma of the vulnerability of our land-based intercontinental ballistic missiles. It is now time to enter the final stage of this policy development process and move ahead aggressively to solve this problem within the context of our overall strategic deterrent and defense needs.

Our current strategic nuclear triad of forces has evolved over time into a system which has served us well. It consists of three legs—land-based missiles, submarine-launched missiles, and air-breathing systems. The value of this triad is being exemplified today as our current, relative weakness in land-based ICBM's is being compensated for by our superior submarine, bomber, and cruise missile forces.

The Soviet Union, on the other hand, has placed approximately 75 percent of its strategic forces in land-based ICBM's which has served that nation's objectives to date, but which should work to their increasing disadvantage over time. The U.S. triad

should be retained.

Nevertheless, it is time for the United States to reevaluate the functions within the triad. The entire debate surrounding the MX to date has centered around the principle of retaining the primacy of land-based ICBM's within our nuclear forces structure. Since their advent, landbased ICBM's have been the only triad component encompassing prompt-response, hard-target kill weapons. This has remained so because of previous technology; command, control, and communications deficiencies within the sea-based leg; and the relatively slow flight times of air-breathing systems. Some of these constraints will, in the near term, no longer apply and the United States must consider adjusting to these developments as we modernize our deterrent.

To continue to rely to such a great extent on fixed, land-based ICBM's in view of Soviet strength in this area may not be to our advantage. We must stop playing into Soviet strengths and begin taking advantage of our own strengths and Soviet weaknesses.

The United States has not yet developed a proven solution to the vulnerability of fixed, land-based ICBM's. Numerous studies and concepts have been found deficient on military, fiscal, environmental, or political grounds. Previous attempts to utilize mobility and/or deception have not succeeded for one or more of the same reasons. It must be remembered that the new, 10-warhead MX missile was always intended to utilize mobility and be deceptively based. The latest plan,

closely spaced basing, embodies neither of these founding principles and its concept of survivability is new, untested, unproven, and raises serious questions in several areas—not the least of which is the issue of near-term antiballistic missile deployment. At first look, it represents an attempt to find a solution to a problem within parameters which may be too restrictive.

Rather than continuing to rely so heavily on large, land-based ICBM's, given their inherent vulnerability problems, it is time to investigate changing the functions within our triad. Before the end of this decade, technology will no longer mandate that land-based ICBM's be the sole hard-target kill, prompt-response weapons in our strategic forces. With the advent of the Trident II (D-5) missile, this function has already been accelerated and its initial operating capability is now expected within 2 years of that of the MX. Communications with our submarine force is already highly reliable and current programs already initiated and being planned can and will make this communications enduring in wartime.

Our submarines at sea are currently invulnerable and are expected to remain so into the foreseeable future. It may be preferable to emphasize the basing of our prompt-response, most flexible deterrent force in a currently invulnerable basing mode rather than continuing to retain this function in a basing mode beset with vulnerability problems caused by the one area of soviet strategic primacy—their land-based missiles.

Mr. President, it is time to stop downplaying the capability of our current nuclear force. They are most capable today and the United States is not inferior to the Soviet Union in this overall category. Our greatest area of concern, nevertheless, is what to do about the vulnerability of land-based missiles. Our entire deterrent is in the process of being modernized and, therefore, the issue of land-based missiles is but one of many in the overall scheme of this modernization. It is important, but not the issue of most critical importance, to the virtual exclusion of all others.

Since closely spaced basing has not been proven—or rejected—as a viable MX basing mode, what is the best course of action? To decouple the missile and basing mode is not prudent. These two aspects have never been, and should not now be, separated. What good is a new, 10-warhead MX missile without a survivable and acceptable basing mode? It makes no sense to this Senator to procure the MX and then possibly have it become a "sitting duck" to accurate and large Soviet ICBM's which ae already deployed.

We must not forge that the President overruled the recommendation of three previous Presidents and our uniformed military leadership in October 1981 when he ordered the interim deployment of the MX in existing Minuteman silos, delaying until late 1984 a decision on permanent basing. Congress rejected that ill-advised plan and, instead, mandated a December 1, 1982, decision on MX basing. The President has now proposed closely spaced basing and it is the Congress turn to work its will on his recommendation.

To repeat what I said earlier, Mr. President, we must not decide on the MX and its basing mode in isolation. I believe we ned to retain the nuclear triad. I believe that the research, development, testing, and evaluation of the MX missile itself should continue without interruption-including the MX flight test program due to begin early next year. Nevertheless, I also believe that the actual procurement of operational MX missiles should not of forward until Congress has had the opportunity to evaluate all feasib's plans for the basing of the MX in conjunction with the other portions of our strategic deterrent. After all, the President made this decision just weeks ago based on his own internal study. We cannot, and should not, be required to ratify it immediately-in isolation.

The Congress must be afforded the opportunity to examine alternatives to the MX in closely spaced basing. We need to examine further acceleration of and reliance on the sea-based leg of the triad with the coming of the Trident II missile. We need to examine improvements to our bomber and cruise missile forces on top of those already planned. We need to further examine closely spaced basing, as well as other land-based deployment modes for the MX. And we need to examine possible alternatives to the MX itself, including a smaller and mobile ICBM. Our amendment will accomplish this goal within an acceptable timeframe.

Mr. President, it is not only our right but our duty and responsibility to request an examination of these alternatives and to withhold judgement on the MX until we have them. This is not a new request and certainly these kinds of comparisons already exist. This is not a tactic of delay. We simply need to have this information before us to make an informed judgment.

I assure you, Mr. President, the sky will not fall in during this short interim period.

In closing, I want to emphasive that the objective here is to modernize our strategic nuclear deterrent in the most militarily effective and cost-efficient manner possible. Congress shares that responsibility with the President. It is spelled out in our Constitution. The choices are not easy—but neither is the world in which we live.

Mr. MATHIAS. Having in mind that this is a missile that has yet to be flight tested, is it not exactly what its name implies, MX, missile experimental? Is this the time to be investing in it? I might elaborate that question by saying that although I can envision circumstances that might require producting a new land-based ICBM, I have to confess I am less than sanguine about spending \$988 million to produce a weapons system that has no home.

It is not—and I ask the Senator from California—possible that the MX has become the "Flying Dutchman" of our time? After considering 34 different basing modes, is it not true that we still have not found it a home?

Mr. CRANSTON. That is true, and the administration apparently recognizes that because the bill, if our amendment is adopted, will still contain \$1.7 billion for MX missile R&D. I have never heard of a situation where it is desired to spend that much on R&D but also go into production.

Mr. MATHIAS. Well now, one final question, Mr. President: The President of the United States has suggested a possible remedy to this situation. His proposal is to delay production of MX until the 15th of March, when he hopes that a suitable basing mode will have been found. Now that, I think, is a step in the right direction.

But maybe we need to do more than take a step. We need to do more than tiptoe when you have the recent testimony of the Secretary of Defense, who indicates that the Pentagon has no fallback position, has no alternative to Dense Pack. The question I am asking is, should we not take more than a small step, a tiptoe, should we not take a quantum leap to deal with this problem?

Mr. CRANSTON. Yes; we should, and that is what we are proposing.

I want to answer a question that was asked by the Senator from Alaska during the debate. The amendment that I am proposing in the form of a recommital motion does not strike the R&D that is in the measure. It leaves that intact, except it prohibits R&D, as does the House action, for the so-called Dense Pack approach.

As a result of all this, Mr. President, I now move to recommit the bill to the Committee on Appropriations with the following instruction that the committee report the bill back to the Senate forthwith provided that the amendments already agreed to by the Senate shall remain agreed to and with the excepted committee amendments as they were reported to this bill on December 15 still excepted and with the following amendment:

On page 9, line 13, insert the following sentence after the period: "Notwithstanding another provision of this Act, the amount appropriated for Missile Procurement, Air Force, is reduced by \$988,000,000: Provided, That none of the funds appropriated by this Act shall be available for the procurement of any MX missile: Provided further, That none of the funds appropriated by this Act shall be available to conduct any research, development, test, or evaluation in connection with a closely spaced basing mode for the MX missile."

Mr. President, I ask for the yeas and nays on the motion.

The VICE PRESIDENT. Will the Senator send his motion to the desk.
Mr. CRANSTON. Yes.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I very reluctantly rise at this hour in the morning to oppose the motion offered by the Senator from California. I do so as probably the original Member of this body to offer a specific action against the MX missile. I did so by offering a reservation to the SALT II treaty in the last Congress. That reservation was not only the MX missile, but all the counterforce weapons. So I will take no back seat to anyone in this body as far as being a consistent opponent of the MX missile. But the logic and timing totally baffle me on this particular motion, at this hour and under this circumstance, and I will tell you why.

I will tell you why. This is a conferenceable item. The House has deleted those funds. Do not tie our hands here by raising this issue and failing. Let me tell you I know what the head-count is on this issue. Send us to conference with the House, which has, in my view, the right position, and have a record vote that ties our hands as conferees.

I am laying out the strategy. I am not trying to play hide and seek with anybody here. I hope that we go to conference and that our position in the Senate committee, which was 16 to 12 for the Hollings amendment, will yield to the House position. But if you lock us into a record vote here, we have less likelihood of sustaining that position in conference.

Now, let me say further that I have no reason to believe there is any evidence that the two Houses will agree to a basing mode by a joint resolution. There is the burden of proof at this point on anybody who raises this.

I think it is one thing to ring up the pennants on the yardarm and call for the battle, but I would like to know where the troops are before we charge into battle.

This is ill-timed and it is not organized. I do not think we ought to put ourselves out here in that kind of a situation and strengthen the hands of those who want to go ahead with this MX missile.

THE CRANSTON-MATHIAS AMENDMENT

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senator Gary Hart be added as a cosponsor of the Cranston-Mathias amendment to be proposed to the continuing resolution. I am pleased to have the support of Senator Hart, who has been a leader in our efforts to delete all production funds for the MX missile.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MITCHELL. Mr. President, this continuing resolution contains \$3.437 billion for the MX program. Of this amount, \$2.449 billion will fund further research and development on the missile and its basing system, and \$988 million will fund the purchase of the

first five of the new missiles.

The question before the Senate is whether or not the Congress should approve the \$988 million for the five missiles before agreement has been reached on the means of basing the new weapon.

I oppose providing the funds necessary for the Department to purchase the new missiles. Accordingly, I have joined as a cosponsor of Senator Cranston's motion which would strike all

MX procurement funding.

My primary reason for opposing the inclusion of MX procurement funds in this resolution is my belief that our Government should deal with MX as a unitary system, comprised of a missile component and a basing component. I agree with those who argue that it makes no sense to construct one component when the other component is still on the drawing board, and is the subject of substantial criticism from well-informed, responsible members of the military, scientific, diplomatic, and legislative communities.

On November 22, President Reagan announced his intention to base the missile in a pack of fixed silos located in close proximity. Since that announcement, many serious questions concerning the basing arrangement have been raised and a number of deficiencies in the proposal have been

identified.

The list of Dense Pack critics grows longer each day. Nobel physicist Charles Towne, who chaired the President's basing evaluation panel, doubts whether the silos can be hardened enough to insure the missiles' survivability. Three of the five military Chiefs of Staff remain unconvinced that this basing scheme meets the missiles' requirements. Two former Secretaries of Defense, Dr. Harold Brown and Dr. James Schlesinger, are critical of the plan.

Brown labeled it "vulnerable."
Schlesinger wrote:

Even if the silos hardness design were actually achieved the Soviets have available to them measures to counter Dense Pack within a few years of initial deployment. Either earth penetrators or other innova-

tions (not yet discussed in open literature) would permit silo destruction.

The administration, in response, has to date failed to make its case for the basing plan. The administration's failure has led Members of Congress, many of whom in the past have been supportive of the President's strategic arms policies, to question the entire system. The December 7 House vote against the missile component of the system reflected this increasing skepticism on the part of the Congress.

I do not suggest that Congress has made a final decision, nor that the President has lost the battle for the MX system. That is not the case. If it were, three of our committees—Armed Services, Foreign Relations, and Intelligence—would not have begun, or have scheduled, hearings concerning the feasibility and implications of the

basing arrangement.

I am suggesting that this body is not yet in a position to appropriate funds to produce MX missiles. As long as our committees are gathering information, are evaluating this information, and are preparing recommendations for the full Senate, this body should not commit itself to building the missiles.

Second, I oppose MX missile funding at this time because I disagree with President Reagan when he insists that these five missiles are needed by U.S. arms negotiators at the Geneva Strategic Arms Reduction Talks (START).

In the last 2 weeks, President Reagan has repeatedly emphasized that his arms control negotiators require the U.S. procurement of MX missiles in 1983 as a "bargaining chip" in Geneva.

Interestingly, the President has done this at the same time he has sought to avoid discussing the viability of the basing mode which he is proposing

I have reviewed the President's bargaining chip argument, and have concluded that it is illogical and contra-

dicts the historical record.

It is illogical because we live in an open society which thrives on free and vigorous discussion of public policy issues. To the extent that the Soviet Government has diplomatic representatives here, the congressional debate on issues such as the MX is known to the Soviet Government. If this Congress approves the purchase of the missiles and yet cannot agree whether or not they are needed, or how they shall be deployed, what weight can a procurement decision—standing by itself—have with the Soviets?

I agree with former arms control negotiators Gerard C. Smith and Paul

Warnke who have written:

The MX missile program should not be justified as a useful bargaining chip in discussions with the Soviet Union. It should be examined for its impact on our national security, on a more stable strategic balance and on the hope for nuclear arms reductions.

The bargaining chip argument in support of MX procurement is especially ironic when one examines past U.S. experience. Nonclassified sources estimate that today the nuclear superpowers possess between them roughly 14,000 independently targetable (MIRVed) warheads. A MIRV'd warhead is one of a group of warhead carried by a single missile. Each warhead in the group can be directed at a different target upon release from the launching missile.

In 1971, David Packard, President Nixon's chief arms control negotiator told the Congress that "MIRV is a very important bargaining chip."

Now we have 14,000 MIRV'd warheads. And both the United States and the Soviets are planning to build more.

Ten years ago cruise missiles also were offered to the Congress as muchneeded bargaining chips. The Congress gave approval to development of cruise missile technology and production followed. However, this process did not result in the winning of Soviet concessions at the bargaining table. Instead, the result was the addition of cruise missiles to our ever-growing nuclear weapons arsenal.

A fundamental weakness in the bargaining chip argument for MX stems from the fact that the Geneva negotiations—even if the President's START proposal prevails—would leave MX wholly untouched. Does the President, or his negotiators, need as a bargaining chip \$1 billion worth of MX missiles when the stated U.S. objectives for the talks do not envision any reduction in the MX system, or limitations on MX deployment, in exchange for Soviet concessions? The answer, obviously, is "No".

A third reason for stripping this resolution of MX missile production funding relates to the fact that the Dense Pack basing arrangement may violate the letter and spirit of the SALT I agreement to which the United States is a party, and the provisions of the SALT II agreement which President Reagan has pledged to follow as long as the Soviets do likewise

Dense Pack may violate SALT I because an expected second phase of this basing arrangement would require the deployment of an antiballistic missile system which is prohibited under the terms of the 1972 pact. These termsand those of a subsequent protocolstringently restrict ABM deployment by prohibiting either the United States or the Soviet Union from installing ABM systems on more than one site each. The Soviets chose to defend Moscow with their system. The United States decided to defend a field of Minuteman ICBM's at Grand Forks, N.D. After a year in operation, and an expenditure of \$5 billion, the

Grand Forks ABM site was deactivated.

Our Government cannot switch its ABM site from Grand Forks to the proposed Dense Pack site in Wyoming, without either violating SALT I or getting the Soviets to agree to a treaty amendment. If the long-term deterrent value of MX based in a Dense Pack depends on protection by an ABM system, as many defense specialists—including Armed Services Committee Chairman John Tower—believe, the Congress must address the arms control ramifications which will result from U.S. withdrawal from the ABM agreement.

Our Foreign Relations Committee also will have to determine if SALT II's terms would be proscribed by the establishment of a Dense Pack ABM. SALT II bars the construction of new fixed missile silos. MX in Dense Pack is an intercontinental ballistic missile in new fixed silos. While the President may claim that the United States at some later date could mobilize the missiles and their launching "capsules," such mobility is clearly not readily available, nor would it be achieved for the \$27 billion which the President says his system will cost.

The high-price tag of the MX system is the fourth reason for my decision to oppose the procurement of the missiles at this juncture. In many respects, what U.S. military planners want from the system is the greater uncertainty which it alledgedly would create for their Soviet counterparts. Even if Members of the Senate accept at face value the claim that the existence of greater strategic uncertainty on the part of the Soviets will enhance U.S. security, we have to ask ourselves if the benefits are worth the costs.

A total of \$27 billion is only the starting price. If MX advocates have their way and add more missiles and more silos later in this century, or succeed in supplementing the basing arrangement with an ABM system, the \$27 billion figure will climb sharply. In a period when most economists are in agreement that the Federal deficit will exceed \$180 billion this fiscal year, can we afford to commit our Nation to such an expensive system?

Senator Jackson, whose advocacy of a strong defense cannot be challenged, has focused on the question of how long the MX in Dense Pack can be expected to serve our Nation's defensive needs. On a recent edition of NBC's "Meet the Press," Senator Jackson stated:

I think the basic problem in terms of the budget is that the current proposal would become operational in '86, '87 and would be reasonably secure for four years. That's a lot of money to pay for a four year survivable program.

Mr. President, I believe deeply in a strong America, and my record in this body as a supporter of realistic defense authorization and appropriations measures reflects this belief. I am not able, however, to support the MX system as long as the deterrent value of the system remains in doubt, the survivability of the missile component is in question, and the relationship of the system's deployment to the administration's arms control negotiations remains unclear.

The case for MX has not been made. As a result, I cannot support the provision in this continuing resolution of funds to construct the MX missile.

Mr. LEVIN. Mr. President, I support the motion to recommit, to delete funding for initial production of the MX missile. We do not have a basing mode which is survivable, cost-effective, and economically feasible, and it simply makes no sense to begin procuring any of these missiles. Putting in production without a basing mode is worse than putting the cart before the horse.

It is building a multibillion-dollar cart without knowing if there even will be a horse.

Doubts increase daily as to the cost, effectiveness, survivability, technical feasibility, deployment schedule, and arms control implications of Dense Pack. Until and unless these massive doubts are resolved—and they cannot be resolved until late next year after lengthy congressional hearings before at least four committees—it is fiscally absurd to appropriate any money to begin MX production.

There are few defense programs about which there is so much disagreement and controversy as the MX missile and its Dense Pack basing mode.

Three out of the five members of the Joint Chiefs of Staff—our Nation's highest military officers—have recommended against deploying MX in Dense Pack. The chairman of the special Pentagon advisory panel which studied Dense Pack, Dr. Charles H. Townes, has expressed serious doubts about this basing mode.

In fact, Dr. Townes' letter to Defense Secretary Weinberger sharply contrasts with the optimism expressed by the administration about Dense Pack's effectiveness, survivability, cost, and schedule.

His letter, which I hope all my colleagues will read in its classified form, provides strong and persuasive evidence against congressional approval of such a basing mode at this time, if ever.

Earlier this week, I learned from the Air Force that during the next 4 years, Dense Pack will cost the American taxpayers almost \$7 billion more than was included in the President's 5-year defense plan for MX when he submitted that program to Congress earlier this year.

Thus, Dense Pack makes the already outrageously expensive Reagan 5-year

defense plan another \$7 billion more costly to our hard-pressed citizens.

If the President is to restrain Pentagon spending to within his 5-year plan—which itself exceeds our congressional budget resolution in 3 of those 5 years—he will have to cut other military areas. Or he will add \$7 billion to the deficit.

Yet the way the Reagan administration has structured its fiscal 1983 defense budget, with all its up-front obligations for big-ticket weapons programs like the MX, the B-1B bomber, and the two nuclear aircraft carriers, the only way it will have any flexibility to make up for additional Dense Pack costs will be to slash combat readiness and troop levels.

Considering this administration's overemphasis on nuclear weapons, it will have to pay the Dense Pack bills by slicing into the muscle and bone of our conventional forces. It is no wonder that the Chiefs of the Army, Navy, and Marine Corps could not support Dense Pack.

The Senate should call a halt to this disastrous course by eliminating initial production of the MX missiles from the fiscal 1983 defense budget. This will give Congress the opportunity to reconsider this program, especially in light of the questions about Dense Pack, and to decide whether there are better, less expensive ways to maintain the land-based leg of our strategic triad.

And remember most of the additional \$7 billion cost of Dense Pack will hit American taxpayers squarely in the face during the very years our economy will be struggling the most to overcome the astronomical Federal deficits caused by Reaganomics.

Given all of Dense Pack's flaws, this is nothing short of piling military disaster on top of economic disaster. Furthermore, the worst might be yet to come, because the Pentagon's most credible and independent cost-estimating office—the Cost Analysis Improvement Group, or CAIG—has yet to examine MX/Dense Pack to evaluate the Air Force's figures.

When CAIG examined the B-1B bomber program's purported \$20.5 billion price tag, it estimated that flying turkey instead could cost as much as \$27 billion. And those estimates are in constant, fiscal 1981 dollars, not the inflated dollars we actually will spend.

If CAIG even investigates MX/Dense Pack, we might see those costs escalate faster than the Soviets are expected to be able to develop and deploy weapons able to defeat Dense Pack—and that is depressingly fast.

MX/Dense Pack may well be another cost fiasco like the B-1B bomber, and our economy and taxpayers can scarcely afford to pay for unnecessary spending of any shape or variety.

In addition, the estimate that there now is a \$7 billion shortfall for MX/ Dense Pack in the 5-year budget plan does not include any additional funds for expansion of the basing mode or the deployment of a ballistic missile defense for it. These two steps will be necessary to increase MX/Dense Pack's already tenuous survivability. according to many experts, and they will cost tens of billions of dollars

We will hear protests from the Pentagon from the Air Force that Dense Pack costs less than those of other unproposed successfully schemes-that it will cost "only" \$26.4 billion in uninflated, fiscal 1982 dollars. The Air Force probably will claim there is no \$7 billion shortfall in the present budget plan, either.

How they will be able to make such claims with any confidence escapes me, because not even Doctor Townes' Defense Science Board was able to pinpoint Dense Pack's costs just 2 short months ago. In two of the very few unclassified passages of its report, this prestigious group of experts stated:

The Closely Spaced Basing (Dense Pack) concept is in an early stage of development. Consequently cost, time and effectiveness estimates are still not firm as this report is being written. In particular, several of the key parameters of the concept are still changing \*

And, "\* \* \* the definition of the system, its effectiveness, and its costs are still not complete."

Since this report was submitted, we have learned that the Air Force still does not have a specific design for the Dense Pack, superhardened silos, the key to the system's supposed survivability and effectiveness. Without this, it cannot have a firm idea of how much Dense Pack will cost.

The average American would not buy a new car, a major appliance, or a new home without having a firm idea of how much it would cost to buy, operate, and repair that purchase for the many years that he or she would have

The American Congress should not pay the downpayment on a multibillion-dollar missile system, which is what approving missile production money this year is—a downpayment without receiving better cost estimates about Dense Pack.

At the very least, we should be finally prudent and insist on more independent cost estimates from the CAIG, and from the General Accounting Office, our own accounting watchdog.

I and several of the other Senators supporting either eliminating or "fencing" MX missile production money in fiscal 1983 have asked GAO to conduct a full investigation into all the claims about Dense Pack. We have requested that this examination be conducted on the highest priority and most urgent available to Congress until some time Dense Pack. next year.

It would be a shocking abdication of decisionmaking congressional our powers if we approved missile production money based solely on information from the executive branch about Dense Pack's costs and supposed effectiveness. At the very least, we should wait until our own investigative agency, GAO, has completed a comprehensive, independent evaluation of the MX program and this latest basing mode proposal.

Congress first opportunity to fully consider and responsibly evaluate MX/Dense Pack will come next year during its hearings on the fiscal 1984 Defense budget request. There only has been time for one hearing so far on Dense Pack by the Armed Services Committee, and the news was very bad at that session.

The many contentious and complex issues surrounding Dense Pack have momentous military, fiscal, and arms control implications. In this extremely tight budget year, we cannot justify to our constituents approving MX missile production money on the basis of one hearing, which raised serious doubts about it.

We have had no opportunity yet to hear from Dr. Townes, who has expressed such deep skepticism about Dense Pack, or from any of the other members of his Defense Science Board, whose report raises so many doubts about the system. Other outside experts should be called to testify.

We surely should not approve missile production without hearing from such individuals, because all we have now upon which we can base our decision are self-serving claims from administration witnesses. These claims border on the absolutely unbelievable in certain cases, and they must be resolved before we proceed with missile production.

For example, at our hearing, the President's science adviser, Dr. George Keyworth claimed that there was no room for disagreement within the American scientific community about the feasibility of Dense Pack-at least, and I quote Dr. Keyworth: "not among those who have studied the issue carefully."

Besides the appalling arrogance of this statement, one is prompted to ask whether Dr. Keyworth thinks that Dr. Townes, a respected physicist from the University of California and Secretary Weinberger's personal choice to head two MX studies for the Pentagon, has "studied the issue carefully."

We all know Dr. Townes has done so, and even a superficial glance at his letter to Secretary Weinberger-provided to me by an official DOD courier from the Pentagon's Legislative Liaison Office, by the way-demonstrates

basis, but even so, results will not be how strong is his skepticism about

Other committees also need to become involved in examining Dense Pack, because its implications also fall into the jurisdictions of the Appropriations, Foreign Relations, and Intelligence Committees. The Senate should have the full benefit of the special expertise of each of these committees before it approves MX produc-

It makes no fiscal and military sense to procure MX missiles until we know whether Dense Pack is survivable. Congress went on record against any nonsurvivable basing mode when it passed the Cohen-Nunn amendment late last year.

After 15 years and more than 30 studied basing modes, the Air Force and three Presidential administrations have failed to develop a basing mode which is credible to the American people-to say nothing of the Soviets-which is militarily, politically, or financially acceptable and which does not retard arms control.

Now we are being asked to approve production of missiles based on a deployment scheme which was developed less than 8 months ago after some miraculous study results about hardening and fratricide first surfaced in the middle of last year.

Before June of this year, everything we were told by the Pentagon about hardening was that technical limits prevented building silos much above 5,000 pounds per square inch (PSI) hardness, and that fratricide provided no margin of safety against Soviet warheads.

Now we are being told that, based on some new revelations, that it may be possible to harden silos to previously unheard of levels and that the Soviets cannot overcome fratricide.

The world of hardening and fratricide has turned upside down in 6 months, Mr. President. We cannot approve missile production until we have investigated this astounding turn of events much more thoroughly.

At least we should not approve those missiles, because their survivabilityand indeed possibly the survivability of our Nation-is being placed on the alleged success of theories and techniques which are so complex and interrelated that, if one factor is out of position, the entire basing mode comes crashing down like a house of

We are being assured that the Soviets cannot and will not be able to defeat Dense Pack for many years after it is deployed, based on our best intelligence estimates of Soviet capabilities. Yet I believe there are disagreements within the intelligence community about this which suggest that Dense Pack may well be vulnerable much earlier.

Congress must resolve those doubts before funding the first MX missiles, so we can learn if Dense Pack even will survive long enough to justify its huge costs. If the Soviets are able to develop ways to defeat Dense Pack shortly after it is deployed, thus forcing us to spend additional, untold billions of dollars developing "counter countermeasures" to stay ahead of them, then we will be running in place and getting nowhere, militarily. Economically, we will be running a race into the poorhouse.

These staggering economic costs for Dense Pack and MX also must be weighed against the "opportunity costs" we might have to pay by diverting scarce defense dollars away from other, more survivable strategic forces and from our conventional forces, where our military needs are greatest.

Congress needs to hear directly from each of the members of the Joint Chiefs of Staff to determine why each of them voted as they did about Dense Pack. We may well learn that our overall military strength will be weaker if we deploy MX in Dense Pack, because we will not have the resources to put our conventional forces "house" in order, as NATO Commander Gen. Bernard Rogers is urging.

Improving our conventional forces will do much more to increase our national security and that of our allies than will throwing billions of tax dollars away on the unneeded or unworkable strategic nuclear weapon system which MX/Dense Pack has become.

Before it approves any MX missile funding, Congress also needs to consider fully the arms control risks of Dense Pack, and whether it is compatible with existing arms control treaties, which the administration has pledged not to undermine.

These arms control risks are not just a matter of some idealistic pursuit of the vestiges of détente. They carry severe military consequences.

The Soviets are in much better position to expand their nuclear forces by building more missiles, adding more warheads, and deploying an antiballistic missile system, than is the United States. If this administration believes we are strategically inferior now, an incorrect self-delusion, it would find us even further behind the nuclear 8 ball if its MX plans forced the abandonment of SALT I, SALT II, and the ABM Treaty. Ironically, its MX decisions would undercut the strength of our nuclear deterrent forces, instead of reinforcing those forces, to say nothing of handing the Soviets a major propaganda victory in a jittery Europe.

This administration already has aided and abetted the Soviets enough in the past by playing into their hands with loose talk about limited nuclear wars, nuclear demonstration shots and "dirt and door" civil defense schemes.

Congress must resolve those doubts Deploying MX in a way guaranteed to efore funding the first MX missiles, undermine arms control would only two can learn if Dense Pack even will compound past mistakes.

Speaking strictly about arms control, we also have heard many statements from the administration that it is necessary to buy MX missiles in fiscal 1983 to permit our negotiators to bargain from a position of strength in the arms talks with the Soviets.

If we do not have the MX, we will have no "bargaining chips" with the Soviets we have been told repeatedly. To me that implies that we intend to give up the MX if the Soviets are willing to give up something in return. However, the President's chief negotiator at START, Lt. Gen. Edward Rowny, has unequivocally rejected the nation that we will give up the MX by stating to our committee:

MX to me is not a bargaining chip. I will repeat that: It is not a bargaining chip. I am convinced that we need it for our security.

I would remind the Senate that there are plenty of other weapons in this defense bill which represent to the Soviets both potential bargaining chips and a sufficient demonstration that we are serious about maintaining our strategic nuclear strength.

The \$2.5 billion we intend to spend on continued MX research and development, including the beginning of a 20-missile flight test program ought to be a sufficient bargaining chip and show of strategic will. We do not need the missiles for that.

More importantly, there are hundreds of cruise missiles, the advanced technology bomber, improvements to our B-52's and Trident submarines and Trident missiles to demonstrate our strategic improvement program. The Soviets are probably much more worried about Trident submarines and Trident II missiles—strategic systems they cannot target—than an uncertain MX/Dense Pack arrangement which they will be able to attack.

Trident II by itself is more of a bargaining incentive to the Soviets, and there are billions in the fiscal 1983 budget to demonstrate that to them. Five MX missiles without a home will not be very impressive to them at the START talks.

These contradictory statements about whether MX is a bargaining chip are a perfect example of the way the administration is trying to sell MX/Dense Pack and of why the case for approving missile production just does not add up. Until Congress sorts out the facts from the fiction, and I think there is much more of the latter than of the former, we should put such a decision on "hold."

Some final words about the way this administration is approaching the entire strategic nuclear issue reinforce why Congress should pause long and hard before approving missile production

When he announced his MX decision, President Reagan said that preventing conflict and reducing weapons were the most misunderstood issues of our time. Referring to the disagreements among the experts about whether the MX missile is even needed and whether Dense Pack would work, he said:

The result is that many Americans have become frightened and, let me say, fear of the unknown is entirely understandable. Unfortunately, much of the information emerging in this debate bears little semblance to the facts.

These comments by the President are ironic, because a large part of whatever fear, ignorance, and confusion that may exist about our nuclear deterrence policies and strategic weapons programs can be attributed to him and his administration.

For instance, the President says he wants to reduce the vulnerability of our land-based missiles, but he proposes to put the MX in a fixed basing mode whose survivability is, at best, dubious:

The President says he wants arms control treaties and will not undermine those already signed, but the MX/Dense Pack violates SALT I and SALT II and ultimately could lead to the abrogation of the ABM Treaty;

The President says the Soviet Union spends more on defense than we do, but a comparison of the amounts spent by us and our NATO allies with what is spent by them and their allies shows that we spend more;

The President says that the Soviets are ahead of us in virtually every measure of military strength. Yet the former and current chairman of our Joint Chiefs say they would not swap our military capability for that of the Soviets.

The President's news of our total military inferiority also came as a surprise to the Library of Congress, which at my request consulted Defense Department and Defense Intelligence Agency information to produce a list of at least 20 important measure of military power by which the United States and its allies possess a decided advantage over the Soviet Union and its allies.

These measures are in both the strategic and conventional forces areas, and I will insert them for the record at this point.

The list follows:

#### MEASURE OF MILITARY POWER

	U.S. position	Soviet position	U.S. advantage
Strategic nuclear forces:		1134	100
Total warheads and bombs	9,662	7,060	+2,602
Total missile warheads	7,128	6,735	+393
Total MIRV'd missiles (IC/SL)	1,056	980	+76
Total MIRV'd SLBM's	496	208	+288
Total SLBM warheads	4,976	1,433	+3,543
Total heavy bombers, including LRA		-	
Backfires	316	235	+81
Tanker aircraft (active reserve)	621	50	+571

MEASURE OF MILITARY POWER-Continued

	U.S. position	Soviet position	U.S. advantage
Conventional forces:	DAG.		
Marine divisions  Marine manpower  Strategic airlift aircraft  Tactical airlift aircraft (active and	155,000 310	13,000	+142,000
reserve) Utility/cargo helicopters Airborne warning/control aircraft	511 4,970	400 2,100	+111
(AWACS)	24 720 278	9 60 150	+15 +660 +128
Aircraft carriers: Attack carriers VTOL helicopter carriers Amphibious ships (less HELO carri-	12 12	0	+12
ers)	49 83	26 69	+23 +14

	U.S./	Soviet/	U.S./
	NATO	WP	NATO
	position	position	advantage
Aircraft carriers Attack HELO-ASW Destroyers and cruisers Frigates and corvettes Mine warfare ships	8	0	+8
	10	3	+7
	143	74	+69
	204	126	+78
	303	216	+87

Sources: Library of Congress based on Defense Department/Defense Intelli-gence Agency data.

Mr. LEVIN. The Secretary of Defense says that "we have virtually stood still over the years" in improving our strategic forces. Yet since 1970, we have made major improvements in at least 11 critical strategic nuclear areas, including deploying the 550 new, multiple warhead Minuteman III missiles and doubling the destructive power of more than half of those with new, improved warheads.

We also improved the guidance systems on these missiles to make them more accurate. We deployed 496 new, multiple warhead Poseidon submarinelaunched ballistic missiles and the first of the new Trident I submarinelaunched missiles. The construction of nine new, more capable and quiet Trident submarines was approved.

The bomber leg of our triad was improved greatly by deployment of 1,150 new, nuclear short range attack missiles aboard our B-52's, and we began the air-launched cruise missile program.

When you compare the growth in missile warheads between the United States and the Soviets between 1970-81, you actually discover that the United States added 5,254 reentry vehicles, some 235 more than did the Soviets, who added 5,019.

The United States also outpaced the Soviets in the growth of bomber delivered weapons by adding some 486 more bombs and air-to-surface missiles

during these last 12 years.

Overall, the United States added 721 more nuclear weapons to its strategic arsenal than the Soviets added to theirs, according to the Library of Congress, which also Defense Department and Defense Intelligence Agency information to compile these figures I have cited.

That is not a bad performance for a nation which supposedly stood still during this period in the arena of strategic nuclear weapons.

I would like to insert into the RECORD at this point the list of at least 11 significant strategic actions the United States took during this period of alleged dormancy.

The list follows:

U.S. STRATEGIC FORCE IMPROVEMENTS SINCE 1970

Deployment of 550 new, multiple warhead Minuteman III ICBMS, 1970-75.

Deployment of 496 new, multiple warhead Poseidon SLBM's, 1970-77. Deployment of first new, multiple war-

head Trident I SLBM's, 1979.

Deployment of about 1,150 new, nuclear short-range attack missiles aboard B-52 bombers, 1970-76.

Accelerate full scale engineering development of MX missile, 1979.

Completed R&D and initiated production of air launched cruise missiles, late 1970's.

Doubled yield/destructive power of Minuteman III warheads by beginning deploy-ment of hundreds of new Mark 12A reentry vehicles to replace existing, less capable RV's, 1970's.

Upgraded guidance systems of Minutemen III ICBM's with new NS-20 inertial system

to improve accuracy, mid-1970's.

Upgraded silo hardness of Minuteman ICBM silos to reduce vulnerability to nuclear bursts and installed titanium shrouds on missile nose cones to reduce vulnerability to electromagnetic pulse from nuclear explosions, mid-1970's.

Approved construction of nine new Trident submarines and began construction of at least seven of these new, more capable and quiet strategic missile ships, 1973-79.

Began R&D on avionics modernization program for B-52 bombers, late-1970's.

Mr. President, to add to the incoherence of it all, while the President says we are in a position of nuclear inferiority to the Soviets, he is unilaterally dismantling our Titan II ICMB's which have the most powerful warheads in our nuclear arsenal and contain one-third of our land-based megatonnage. And he is doing it not for safety reasons, but according to testimony before our committee, to make relatively small budgetary savings.

A decision of such momentous defense, fiscal and arms control ramifications as MX/Dense Pack should not be based on gross misstatements of our military capabilities and misleading exaggerations of those of our adver-

Instead of closing a "window of vulnerability," the President is opening a window of incredibility by painting a distorted picture of American weakness and Soviet strength. He is increasing our insecurity by overemphasizing doomsday nuclear weapons which soak up billions of dollars from needed improvements in our conventional military capability.

The question is not whether we need to be strong enough to deter the Soviets. We do. The question is whether Dense Pack adds to or subtracts from our security. The question is whether Dense Pack solves the perceived ICBM vulnerability problem or whether it compounds it by substituting one fixed land based missile for another, with the new one being a "first strike" weapon more likely to attract a preemptive Soviet strike in time of crisis, thereby making us less secure than we are now.

It is time for the President and his administration to stop the scare tactics that only increase the misconceptions and misunderstandings-and the fear of the unknown-which the President decries

Congress own credibility in the eyes of our hard-pressed taxpayers is at stake in making the MX decisions-to say nothing about the credibility of the President and the Air Force. I think the President and the Air Force will have to do a much better-and much more straightforward-job of demonstrating that this missile and its Dense Pack basing mode truly are needed before Congress risks its own credibility and the trust of the American people by approving this weapon system.

Mr. KENNEDY. Mr. President, I support this motion to eliminate all production funds for the MX missile. The House of Representatives has already taken the essential step of denying production funds, and the Senate should do the same.

The time has come to put the administration out of its misery on the MX. This weapon is a missile without a mission. It is in trouble in Congress because neither the Reagan administration nor any previous administration has been able to devise a satisfactory rationale for the missile or a satisfactory method for protecting it.

The failure of Dense Pack is the latest and clearest sign that the Pentagon has been unable, even after several years of study, to develop a realistic basing mode. In fact, this is the 34th basing mode that has been studied for MX, and we are no closer to an answer today than we were when the missile was first proposed.

MX has also become a symbol of what is wrong with this administration's nuclear arms control strategy and its proposals for a massive military buildup. Their schemes, which entail the largest peacetime increase in military funds in our history, amount to spending for the sake of spending, without clearly stating what defense strategy we are pursuing, without explaining why particular weapons are needed, and without generating the sort of broad national consensus that is essential if the Nation is to have confidence in our strategy not only for national security, but for survival in this increasingly perilous nuclear age. The idea that more spending makes more security has led the Reagan administration to try to produce the MX, regardless of wheth-

er it could be protected.

The MX is part of the administration's dubicus program to build more and more nuclear weapons-at an incredible cost of \$180 billion over 5 years, and at the expense of the readiness of our conventional forces and our pressing economic needs. At last, Congress is beginning to understand that the Reagan administration has abdicated its responsibility on national security by advocating a blank check military buildup. It is up to Congress, therefore, to set our defense priorities straight, before the current round of excessive spending further distorts our economy and undermines the bipartisan consensus we have long had in all parts of this country for a responsible defense policy.

I support a strong national security-and needed improvements in our military forces. But we must oppose this administration's indefensible increases in defense spending. cannot counter the Soviet threat by bankrupting and Sovietizing the American economy; we must not break the budget in order to pay military

waste that weakens the Nation. In a desperate attempt to salvage MX, the Reagan administration has also resorted to the shallow argument that the missile is needed to shore up our bargaining position in arms control talks with the Soviet Union. In recent years, however, we have learned again and again that the last refuge of an administration in trouble over defense policy is to invoke the discredited doctrine of bargaining chip diplomacy. For over a decade, the nuclear arms race has been heedlessly perpetuated by this dubious theory; inevitably, each side feels forced to match new and threatening weapons systems with escalations of its own. A decade ago. MIRV's were defended as a bargaining chip for the SALT I talks. While the talks were stalled, the United States proceeded to deploy MIRV's-and then we were told that they were too important to bargain away.

And now, after its latest flip-flop on MX, it appears that the administration has actually been using the bargaining-chip theory as a bargaining chip with Congress, not the Soviets. This week, President Reagan declared that the MX is not on the negotiating table in Geneva after all, and that it

will never be traded away.

Let there be no mistake-while the United States builds its MX missiles, the Soviet Union will not stand idle. As recent history demonstrates, the Soviets are prepared to match us every step and every missile of the way in the futile, costly, and increasingly dangerous pursuit of the phantom of nuclear superiority. You do not have to be an Isaac Newton to understand the

first law of motion in the nuclear arms race-each action by one side will be matched by a reaction by the other

What President Reagan seems to be suggesting is that the United States must threaten the Soviets with another escalation of the arms race in order to achieve any progress on arms control. The effect of this will only be to drive the arms spiral ever upward. rather than stop it where it is at the present level of essential nuclear parity.

Rarely, if ever, has there been such disagreement in the country over the issue of national defense. Indeed, the administration itself is seriously divided over whether its Dense Pack proposal will actually work. A majority of the Joint Chiefs of Staff seriously questioned the survivability of Dense Pack. So has Dr. Charles Townes, the distinguished scientist who headed the President's independent evaluation team. In light of these serious doubts, there is no justification for placing the \$26 billion burden of financing this missile on the backs of American tax-

In a sense, the straw that finally broke the MX camel's back is Dense Pack, the incredible basing mode that was proposed by the administration and that has brought well-deserved national ridicule upon it. On its face, it is absurd to put all our MX missiles in single basket, where they will become nothing more than nuclear sit-

ting ducks for Soviet hunters. The purported theory of Dense Pack is that if MX silos are spaced close together, than attacking Soviet missiles will be destroyed or deflected by the so-called principle of fratricide, under which the blast and radiation from the first Soviet missiles would prevent subsequent Soviet missiles from reaching their targets. Dense Pack has been criticized primarily because fratricide is just a theory, and nothing more. It is an untested and untestable phenomenon that is inherently unreliable as the basis for a serious decision on nuclear policy and national security.

In addition, Dr. Townes criticized Dense Pack because we might not be able to build adequately hardened silos by the time the MX missile is deployed. If so, one medium-sized Soviet warhead could destroy several MX shelters, and such warheads could be detonated far enough apart in the Dense Pack field to minimize the ef-

fects of fratricide.

Knowledgeable critics also believe there are other approaches which the Soviets could use to avoid fratricide and defeat Dense Pack. They could carry out an attack over time, destroying parts of the Dense Pack field in successive waves. And to insure that the United States did not fire its surviving MX missiles before later stages of the attack, the Soviets could deto-

nate nuclear weapons high above the field, generating radiation, blast, and turbulence that would destroy U.S. missiles if they were luanched. In effect, MX missiles would be pinned down in their silos, vulnerable to the next round of Soviet warheads.

Another tactic the Soviets might use would be to attack the Dense Pack field with very large warheads, such as the 20-megaton warheads that the SS-18 is said to be capable of delivering. Since one of these warheads could be used to destroy three or four shelters, extreme accuracy would not be required. Even if every U.S. missile silo were not destroyed, such a Soviet attack would bury them in rubble, making it virtually impossible for the United States to retaliate with MX.

If Soviet missiles could be timed to explode simultaneously, they could hit Dense Pack and avoid fratricide entirely. Although the administration claims that the Soviets currently do not have the capability to achieve the precise timing for such an attack, clocks accurate to a millionth of a second are already commercially available.

Other experts suggest that the Soviets could use "soft-landed" warheads that would hit the ground without exploding and could then be detonated simultaneously. Alternatively, the Soviets might develop "earth-penetrating" warheads that would not explode until after they had burrowed into the ground, where they would be shielded from the effects of other warheads.

Finally, even if Dense Pack can be made to work initially, there is little doubt that the Soviet Union will eventually develop measures to overwhelm the system. The testimony of the Joint Chiefs of Staff strongly suggests that Dense Pack would guarantee survivability for only 4 years.

Given the inherent weaknesses of Dense Pack, it seems likely that the Reagan administration has a secret and even more expensive agenda. behind its current MX plan. If the Soviets develop effective countermeasures, the United States will in turn seek additional means to protect MX, such as a new ballistic missile defense. This in turn would most likely entail abrogation of the ABM Treaty, one of the few real successes in the long struggle to achieve meaningful nuclear arms control agreements with the Soviet Union. By pressing forward with MX and jeopardizing the ABM Treaty, the administration would launch yet another escalation of the arms race-and this time the escalation would take place in both defensive and offensive weapons systems.

In sum, MX puts us on the path of a dangerous and destabilizing new round of the nuclear arms race, and that is a path which the United States should not take.

(The names of Mr. MOYNIHAN and Mr. MITCHELL were added as cosponsors of the motion to recommit.)

Mr. CRANSTON. So, Mr. President, we have had enough on this discussion. I believe I am not precluding anyone from speaking, but I move to table the Cranston motion, and I ask for the yeas and nays.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient

second.

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Oregon (Mr. HAT-FIELD) to table the motion to recommit of the Senator from California (Mr. CRANSTON). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 70, nays 28, as follows:

#### [Rollcall Vote No. 423 Leg.] VEAS\_70

	I EAS-10	
Abdnor	Durenberger	Lugar
Andrews	East	Mattingly
Armstrong	Exon	McClure
Baker	Ford	Murkowski
Bentsen	Garn	Nickles
Biden	Gorton	Nunn
Boren	Grassley	Packwood
Boschwitz	Hatch	Quayle
Brady	Hatfield	Randolph
Burdick	Hawkins	Roth
Byrd,	Hayakawa	Rudman
Harry F., Jr.	Heflin	Schmitt
Byrd, Robert C.	Heinz	Simpson
Cannon	Helms	Specter
Chiles	Hollings	Stafford
Cochran	Huddleston	Stennis
Cohen	Humphrey	Stevens
D'Amato	Jackson	Symms
Danforth	Jepsen	Thurmond
DeConcini	Johnston	Tower
Denton	Kassebaum	Wallop
Dixon	Kasten	Warner
Dole	Laxalt	Zorinsky
Domenici	Long	

# NAYS-28

	111110 80	
Baucus	Leahy	Pressler
Bradley	Levin	Proxmire
Bumpers	Mathias	Pryor
Chafee	Matsunaga	Riegle
Cranston	Melcher	Sarbanes
Dodd	Metzenbaum	Sasser
Eagleton	Mitchell	Tsongas
Hart	Moynihan	Weicker
Inouye	Pell	
Kennedy	Percy	

## NOT VOTING-2

Goldwater

So the motion was agreed to. Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEVIN. Mr. President, I believe the matter now before the body is the Jackson amendment

The VICE PRESIDENT. The Senator is correct.

Mr. LEVIN. Mr. President, we are now moving to change Senator Hot-LINGS' amendment in the Appropriations Committee. The Hollings action in the Appropriations Committee was and is the high watermark in the very basic battle against the basing mode which really threatens our own securi-

This seemingly sound amendment of Senator Jackson makes a serious change in the Hollings amendment. The change is all wrapped up in two little worlds. It is called "expedited procedures." The Senate, under the Jackson amendment, gives up in advance-gives up in advance-the traditional rights of debate in this body that it would take 60 Senators to cut off. These traditional rights are changed, the rules of the game are changed, on the most important weapons system that we will probably ever vote on in our Senator careers.

I hope that we will keep the Hollings amendment, the committee amendment, and defeat the Jackson amendment and not change the rules of the game on this of all missiles, of all systems, of all votes. This needs a fullblown traditional Senate debate and does not need a change of the rules in

advance of that debate.

Mr. President, I hope that we will defeat the Jackson amendment.

Mr. EAGLETON and Mr. STEVENS addressed the Chair.

The VICE PRESIDENT. The Senator from Alaska is recognized.

Mr. STEVENS. I yield to the Sena-

tor from Wyoming.
The VICE PRESIDENT. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I rise in support of the Jackson amendment and to address the issue of MX funding, not simply because it is one of the most important questions that many of us will be asked to address during our time in this Chamber, but also because the President's decision on MX would seek to place my home State of Wyoming in a primary role in the Nation's defense

I am proud to say that Wyoming has always participated very willingly in the Nation's defense. Warren Air Force Base was activated on July 4, 1967, as Fort Francis E. Warren. In the 1800's it was a cavalry post and has changed its primary function a number of times in the intervening years—but has never slackened in its resolve to assist in providing for the Nation's defense.

We are now the center of the "scorecard" of the Soviet Union, the massive bullseye. That is not an extraordinary feeling for us, because we were the first State to have the Atlas missile in

1957. We have the Minuteman missile at this time.

I have a great deal of personal ambivalence about the MX. The ambiva-lence is not so great with regard to Dense Pack. I have a lot of trouble with that.

I can assure you that I have the same strong emotional and human feelings that have been expressed to me by many hundreds of my fellow Wyomingites since the President's recent decision. I feel the same ambivalence-the same tearing of loyaltiesthe same difficulties with the assessment of our priorities. And while it is most difficult to express these sentiments in a single statement, I do believe that the vast majority of my fellow Wyomingites recognize our Nation's need for a strong defense, and are willing to "do their share." At the same time, we must be assured that a major expense and a major defense system such as this will provide all of the protection and the deterrence, that we so obviously must have-and do so without waste and without the critical disruption of our lives or our environment. That is indeed human nature for we wish to be assured that any system deployed will continue to provide a deterrence for a reasonable period of time-and that without question the presently untried fratricide theory will work.

Only a very few days have elapsed since the full details of the MX Dense Pack basing plan and the site selection were made known to all of us. Now it falls upon us to fund or to deny those funds for implementation of this system. Wyoming is fully prepared to perform its defense duty, but it seems to me that many important questions have yet to be answered about Dense Pack basing. I, for one, would want to feel that this body made its crucially important decison only after a full and most careful analysis of this incredibly technical proposal.

To make a hasty judgment, to use this occasion as simply an opportunity to rattle the cages of the full birds over at the Pentagon, to flex congressional muscle-or to do any of this for reasons other than out of the most serious and sincere concern for the defense capability of our Nation-would be most reprehensible and irresponsible. This is not a time for posturing. This is not a time for "politics as usual." This is a time for the elected representatives of the people of the United States to be quite thoughtful and serious about its defense needs and to very seriously weigh with extraordinary care the many and varied consequences of our decision.

Beyond the technical questions that are posed by MX and its basing mode, we now find ourselves faced with an unusually awesome moral responsibility. We all yearn to reduce worldwide nuclear weapons—to reduce the specter of global holocaust. It is so ironic that we must now ponder the production of the most destructive force yet known to man in order that we might preserve peace. But I feel it must be done. It must be done logically and responsibly—but it must be done.

I hear very clearly those expressions which are often presented to me that we must take the first step in arms reduction-that we must at some point say "enough is enough" and that we must move toward weapons reduction even if it means placing us, initially, at risk. Ah, if only that could really be an effective way to reduce our supply of arms and the daily threats to our existence and our cherished way of life. But the government we are dealing with in the Soviet Union does not quite share our regard for human life and human rights. Its stated support for arms reduction does not carry the same meaning as we attach. History has certainly shown us that we cannot and must not base our defense on the simple assurance that they will "follow our lead." One need only cast a brief glance into more recent history to learn how the Soviets respond to those who seek freedom, but who are weaker than themselves. I suggest to those who would base our defense policy on "faith," visit with the people of Afghanistan, Poland, Czechoslovakia, and Hungary about "faith" in the Soviets' good intentions.

I have recently heard from a great many of the established organizations and the newly emerging groups who say they oppose funding for the MX because they "want peace." So do I. So does everyone in this Chamber, and almost every person in our Nation. But when one looks beyond the well meaning slogans and the catch phrases, we find there is much more to assuring the peace than simply commending it to those who would destroy us. Our choices are not easy. They are difficult morally. They are difficult technically. They

are difficult politically.

One point must be clearly made: I do not desire any form of "arms race." I desire that we do only what needs to be done—no more. I do not desire to achieve a position of awesome superiority with the Soviet Union—as that might well only launch them in the same direction. We must first strive toward a position of equality and then begin the effort of mutual and fully verifiable arms reduction.

I believe the Pentagon has well demonstated one fact: That we have now slipped into a position of defense vulnerability. I agree with the President that an effective land based missile is still necessary as the "third leg" of our defense Triad. To those who point to the total volume of our arms and say. "We now have all of the weapons to destroy the Earth many times over—

why do we need more?", I respond that the total "megatonnage" of our defense means little to us if we have not the means of assuring our enemies that we also possess the capability of protecting those arms from a first assault and also the willingness and ability to then use them. That is a key to this debate—for that is deterrence. Without real deterrence, it makes little difference how many tons of weapons and warheads we own.

I think we often find that we overlook the broad perspective when dealing with this sensitive issue. There are many ways in our free society that a proposal such as this one can be stopped or deferred. We have the means to halt a project based on objections to minor elements of an overall plan. That is the way it must be in a free society-but I would caution my colleagues to well recall that the Soviet Union has no such system-no such checks and balances. Its people are not "consulted" on such issues and its government's motives are not openly discussed-and are certainly not subject to debate and common acceptance. Recall that theirs is a system of government that by its very design is able to more readily pose a threat to the rest of the world.

I do have some very real concerns over the prospects of constructing the MX in our "own backyard"-concerns over the possible use of prime agricultural land that could be taken for the placement of the system-concern over the environmental damages that could occur during construction and dozens of other concerns-yes, those questions must be resolved. The Pentagon has assured me that each and every one of our concerns about environmental and social impacts that are being expressed by Wyoming's people are being most carefully reviewed, and that each and every one of the sensitive environmental laws which I helped to enact when I was a member of the State legislature will be fully respected and observed if the MX is deployed near Cheyenne. Those are truly significant problems, but problems that can be dealt with-problems that we can solve, problems over which we have control.

Of primary importance now is for us to maintain a broad view of the entire issue and understand that some sacrifice, some commitment may be necessary for the common good. And if we allow ourselves the provincial expression of saying, "not here—not this—not now"—then I feel we must also ask the questions, "then where—and what—and when?"

Consider that we now ask many other NATO nations of the world to accept U.S. defense systems that are designed for our protection as much as for their own. Are we to reject the placement of similar systems on U.S. soil? We cannot simply designate

someone else somewhere else to be the world's traffic cop. I believe that we must commit those resources and render those sacrifices that are absolutely required in order to preserve our society. We must match our commitment to the scope of the threat. No more, no less.

Some say it is a violation of God's will to amass nuclear arms that are designed to take the lives of other human beings. But would God's will be done if those who truly believe in Him, who spread His word, who do His work, fail to defend themselves and are therefore sponged from the face of the Earth by those who do not believe in Him-those who will not even allow others to speak and spread His wordthose who will not carry on His work? Can that really be God's will? I do not even suggest that I know the answer to that one-but it is a theological and practical question worth pondering.

Consider also in this great debate the multitude of basing modes for the MX that have already been presented—and rejected. Our Nation has pondered the basing of the MX missile in planes, on ships, in deep holes, shallow holes. hardened holes, dirigibles, in trenches, on rail cars and in a number of other ways. And for one reason or another—whether political, financial or technical—each of those plans was eventually scrapped.

If we were to deny this awesome weapon-even as reluctant as we may be to be forced to produce and deploy a destructive force of this magnitudewhat then do we deploy? I feel the people of our Nation believed the President when he said we need a land-based missile that would be resistant to attack and would be able to survive a first assault-for without that we would have no deterrence. We must have the clear assurance that war will not be waged by our enemies because of their knowledge that it cannot be won by them. So I ask again, if not MX-what? If not nowwhen? If not Dense Pack-then what? And with Reagan to the proposition that this is a first-strike weapon. If it were a first-strike weapon, we would just put it out in a clump of sagebrush and cover it with a cottonwood and have it there. That is not what it is. Therefore, I think it is a necessary part of our armaments.

Let me quote from a recent editorial in the Wall Street Journal. It refers to our need to determine alternatives if we are to deny the present proposals and states:

The important point is to recognize that there are alternatives to the MX, if only we were willing to seize them. That is the real lesson of the House vote, and learning it is the most important step we can take to enhance our national security. Unhappily it seems more likely that nothing will be learned, that the MX will be killed but nothing will take its place, that we will continuously that the MX will be killed but nothing will take its place, that we will con-

tinue to allow the quest for mirage-like agreements to cloud our thinking. If that is the outcome, the vote against MX will be precisely what President Reagan called it, a grave mistake and grievous error.

I also recall a statement of one of my Senate colleagues early in my tenure here when he was giving an address to a sincere group of persons deeply concerned about peace in the world. He said essentially that there are things that are worse than war and they are slavery, bondage, torture, loss of freedom, and it is well to keep those elemental things in consideration in the national debate.

I have not enjoyed the task of sorting through the MX in the State that I love, grew up in and was raised in, and which, in the most awesome scenario, would be just a hole in the ground. This will give us time to reflect and review. I shall support the amendment and I thank my colleagues for their courtesy.

The VICE PRESIDENT. The Sena-

tor from Missouri.

Mr. EAGLETON. Will the Senator from Alaska answer some brief questions?

Mr. STEVENS. I shall be happy to. Mr. EAGLETON. Will the Senator inform us how much has been spent on MX to date in previous appropria-

tions? Is it \$4 billion-some-odd? Mr. STEVENS. That is roughly the

amount, yes. Mr. EAGLETON. The bill before us, focusing only on R&D, how much is in this bill for R&D on the MX?

Mr. STEVENS. \$2,449,300,000 for R&D, of which \$1,674,300,000 is for the missile R&D and \$775 million is

for the basing mode R&D.

Mr. EAGLETON. If the Hollings amendment—the Hollings amendment is in the bill, but if the Hollings amendment, as soon to be perhaps amended by the Jackson amendment, is adopted, is any of the R&D money for the basing mode fenced in?

Mr. STEVENS. It is my understanding that only approximately \$215 million of the basing mode R&D could be spent under the interpretation of the Jackson amendment that I give it.

Mr. EAGLETON. So if the Hollings-Jackson amendment becomes law, then that \$775 million—about \$550 million of that cannot be spent because the Senator said \$215 million could be spent.

Mr. STEVENS. That is my under-

standing, yes.

Mr. EAGLETON. What will the \$215 million that is in the bill for R&D on MX basing mode be spent on?

Mr. JACKSON. Mr. President, will the Senator yield for a clarification?

Mr. STEVENS. Yes, Mr. President, I think the Senator could get the clarification better from Senator Jackson. There has been a change in this amendment since we had our conference. It is my understanding-I ask

the Senator from Washington, was my first answer correct?

Mr. JACKSON. There are estimated to be \$215 million available for the ongoing R&D in basing. The \$500 million is fenced under my amendment. It is not fenced under the Hollings amendment.

EAGLETON. The Senator fences \$500 million. My question is, if you fence \$500 million of the \$775 million in that account, what, then, is the other \$257 million or thereabouts going to be spent on?

Mr. JACKSON. \$215 million—I do not recall whether it is \$715 million or

\$775 million.

Mr. EAGLETON. Well, around here, \$50 million here and there does not amount to much.

Mr. JACKSON. Under our amendment, about \$215 million is available for the R&D ongoing work on the basing. The rest of it is fenced.

Mr. EAGLETON. Could the Senator from Alaska or the Senator from Washington or the Senator Texas tell me what the \$215 million unfenced is going to be spent on when this bill becomes law?

Mr. JACKSON. The \$215 million will be used to continue looking at various other alternative proposals.

Mr. EAGLETON. Basing modes. We are talking basing modes. But the amendment that we have offered prohibits any full-scale engineering and development on any mode, any mode.

Mr. STEVENS. The Senator is right. I would say to the Senator from Missouri that the emphasis should be that the money is available for any basing mode but it cannot be used for a fullscale engineering of any basing mode.

Mr. EAGLETON. But \$215 million. nonetheless, is going to be spent researching yet another basing mode? Will we include the 33 on the list that has already been previously mentioned by Senator Kennedy and others?

Mr. STEVENS. I would say to my friend that it could be spent. Whether it will be spent in this time frame is an entirely different question. I have no idea how much could be spent between now and March, and I would doubt not very much of this money because there is already carryover money from the previous appropriation.

Mr. JACKSON. May I further respond. It is my understanding that the \$215 million is adequate to take care of the R&D on the various alternative basing modes into the spring. We made these changes in the Hollings amendment because the Hollings amendment leaves open the \$700 million-odd for R&D in connection with various basing modes.

Mr. EAGLETON. My next question to the Senator from Alaska. In the bill there is then \$1.6 billion-plus for the

MX missile itself, R&D? Mr. STEVENS. R&D?

Mr. EAGLETON. \$1.6 billion-some-

Mr. STEVENS. That is right, \$1,674,300,000 for R&D for the missile.

Mr. EAGLETON. Would it be the opinion of the Senator from Alaska that if the ultimate decision within the next 6 months or thereabouts, less than 6 months, was that there is no defensible basing mode for the MX, a considerable amount of that \$1.6 billion that we are about to appropriate was wasted?

Mr. STEVENS. I would say that it would have been wasted if it had been spent but this is money which probably could not be spent by the time the decision will be made, and that is why I want the timeframe I say to my friend. Let me finish on just one thing because the Senator has his finger on the very thing that has bothered me. That money will build about 20 missiles. I want to repeat that. It will build 20 missiles for testing. What is the reason for us to continue building them if we are not going to have a basing mode? Let us decide the basing mode question as early as possible without a filibuster and make the deci-

As I said before, if it is the decision of the Senate and the Congress that there is no defensible basing mode system, I am going to join whoever wants to help in canceling that money for the continuing R&D of this missile. Now, we might shift it over to another missile system and, as I say, the Senator from Georgia and I discussed this. He has some good ideas in this area if we have to abandon this mis-

Mr. EAGLETON. Does not the Jackson modification make it possible to further postpone the ultimate decision on the MX basing mode?

Mr. STENNIS. No. I do not think so. Mr. JACKSON. On the contrary. May I answer?

Mr. STENNIS. Yes.

Mr. JACKSON. On the contrary. A decision is forced under the expeditied decision.

Mr. EAGLETON. By what date? From the President.

Mr. JACKSON. I modified at the suggestion of a number of Senators the mandatory requirement that the President submit it by March 1. We have said that it should not be earlier than March 1. So there will be some discretion. On the other hand, if you leave it stand the way it is, the money can go on and be spent the whole year on the basing mode without coming to any decision. The \$700 million we are talking about.

Mr. EAGLETON. I like the facet of your amendment, but under the other part the President might not send up his final recommendation, say, until July 1.

Mr. JACKSON. That would be, I think, something that I would not agree with. I think the real danger is that they might try and move too fast.

Mr. EAGLETON. The point I am making is the longer we postpone the day of reckoning, the longer we postpone the ultimate decision. We all know in this Chamber what that ultimate decision is going to be. I do not think there is anyone in the Chamber who disagrees as to what the ultimate decision is. There is no basing mode for MX; that the more money we appropriate in this bill for R&D will be wasted. So we will add to the \$4 billion-plus that has been spent in previous years a pretty good hunk of money out of a billion-six for R&D on the missile and probably \$215 million on the basing mode. Delaying the decision, which is what in essence we are doing with this little game we are playing here, is a very, very costly game and a very, very costly delay.

Mr. HART. Will the Senator yield? Mr. STEVENS. Mr. President, there is no decision for R&D. There is money in the House bill and money in the Senate bill. On the point of my good friend of the timeframe for the decision, as far as the Jackson amendment, it forces us to a decision early next year.

Mr. HART. Will the Senator from

Alaska yield for a question?

Mr. STEVENS. I am happy to yield. Mr. HART. Will the Senator from Alaska or the Senator from Washington or any other Senator remind the Senate of the terms of the SALT II treaty with regard to the testing of new missile types?

Mr. STEVENS. I would have to tell the Senator I do not have that text with me. I would be happy to get it. but I do not have the text with me.

Mr. JACKSON. As I recall, it was limited to certain variations in the configurations of the ICBM's. I believe the relevant reference is to paragraph 9 of article IV of the treaty which results in limitations at a later stage of the test flight sequence.

Mr. HART. It is the recollection of the Senator from Colorado that each side under the terms of the agreement, which both sides have agreed to live up to informally, was that each side was limited to the testing of one new

ICBM type.

Mr. STEVENS. I would say to the Senator from Colorado that the staff informs me that it contemplated one new type and at the time the discussion was about the MX type.

Mr. HART. Would the Senator from Alaska be able to inform the Senate of when the Air Force intends to flight-

test the MX?

Mr. STEVENS. I am told sometime

in January, February.

Mr. HART. Therefore, would it not be correct if in fact the Air Force undertakes that test and completes it that that would in effect be the missile type that the United States would stand them, because they both deal

be entitled to under the terms of the SALT II agreement?

Mr. STEVENS. I do not think testing is acceptance; no. I think we could test any number.

Mr. HART. Of course, the agreement permits us to test any number, but once a missile type is tested, then it is assumed for the purposes of the treaty that any further missile that is deployed is a missile of that type.

Mr. STEVENS. It is test and deploy, as I understand it, and therefore the mere testing would not be the selec-

tion of that one type.

Mr. HART. It would not represent the selection of that one type but for purposes of the counting rule under the SALT agreement, there is an assumption on both sides that if that missile is tested a deployed missile is assumed to be of that type or at least that capability.

Now, let me, if the Senator will indulge me, explain to our colleagues what that means. By the time, under this provision, the Senate of the United States is called upon to be presented by the administration a basing mode or a final decision on deployment, this missile will have been flight tested and for purposes of that agreement there will be an assumption at least by the Soviet Union that any future ICBM is an MX.

What that means, if I understand the situation, is that any further study by the Air Force, the Defense Department, or the administration, or anyone else, on a common missile or a socalled road mobile missile, or any of the other alternatives, is academic for purposes of an arms-control agreement.

Mr. STEVENS. I am informed that the Senator's conclusion is not correct because it does not count in terms of this limitation until it is selected and deployed. The money that is fenced is the missiles for deployment. The money for R&D are missiles for test. Those test missiles are not counted in the system until you actually select it for deployment.

We have no money here for deployment. We are not intending to deploy it until the basing mode is selected.

I remind the Senator that during the last few weeks I was the author of the amendment that prohibited putting money into a single basing mode R&D concept, so we always had our R&D going at more than one basing mode so we would not lose totally the investment in R&D in the missile if we ended up with a basing mode that was rejected. We would have nothing to fall back on.

We are about the situation we are in now. We are going to review all the other basing modes, but this concept the Senator raised is not in any way affected by the Jackson amendment or the Hollings amendment, as I underwith money that, by definition, is in the bill and is spent and would not be available for expenditure for missiles for deployment. In other words, we would be prohibited from making the decision under the treaty until the basing mode is approved. That is my understanding.

Mr. HART. I appreciate the comments by the Senator from Alaska. I think a more authoritative view will disclose that, once a certain threshold is passed of testing of a new type, that for purposes-if the Senator from Utah would like to join us in colloquy we will be glad to have him.

Mr. GARN. I spent a lot of time with the Senator from Colorado debating the issue 3 or 4 years ago.

Mr. HART. I do not believe this issue has been debated in any case.

Mr. GARN. I wish to point out that I said to the Senator from Colorado the Soviets are testing two or three right now.

Under the Senator's interpretation, right now the Soviets are in absolute violation three or four times over for the new generation of missiles they are testing.

Mr. HART. I think I am still discussing with the Senator from Alaska.

The Senator from Colorado is not suggesting a violation of the treaty. The Senator from Colorado is suggesting, for purposes of counting rules and SALT I and II, that after a certain threshold is passed a testing of a new type the only way to verify any arms control agreement is to presume that the next generation of missiles deployed are the missiles of that type. Otherwise, there is no way to carry out an arms-control agreement.

I am not saying anyone violated the treaty, but if any Senator intends to vote on this proposition knowing that a flight test of MX is scheduled for February of next year and believes that that missile can be voted against in March and not complicate profoundly the problems of agreeing to an arms-control agreement, whether you call it SALT II or START or anything else, then that Senator is badly deluded because there is a serious problem involved here.

I would finally just say to the Senator from Alaska or ask, if I may, whether after voting on the Jackson amendment it would still be in order at some time before the disposition of this resolution to offer an amendment

on the MX question.

Mr. STEVENS. It is my understanding, in answer to that question, it would be possible to reach the money that is in the bill for R&D or for the procurement money—that would be fenced by this action-but the other money would be reachable. I would only say to my friend that the money that has already been available for expenditure under existing law is the money that is going to be used in January and February for the testing. None of the money before us would be affected. That money is already there and is available for expenditure for that testing.

Mr. HART. If I may clarify that, the Senator from Alaska is saying that funds are already authorized and appropriated for flight testing of the MX and are not included in this resolution.

Mr. STEVENS. The existing continuing resolution allowed them to continue at the R&D at a little bit higher than the prior rate and they have money, and it is being committed. It is money that is being committed already for that testing.

Mr. HART. I thank the Senator.

#### MX STRATEGIC PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Nation's strategic posture in relation to the Soviet Union has been the subject of mounting confusion over the last few months. The need to modernize our strategic arsenal, particularly our land-based ICBM's and our bomber forces, has been apparent for some time. Yet, the decisions which have been made by the President, at the recommendation of Secretary of Defense Weinberger, have led to uncertainty and serious controversy.

This confusion has been generated partly by overly alarmist presentations and rhetoric by the administration regarding the strategic balance. It has been accompanied by what now appears to be an ill-advised formulation for basing the MX missile. A torrent of criticism, even ridicule, has greeted the Dense Pack basing plan announced by the President on November 22d of this year. It has been revealed that the plan has been recommended, not only over the very serious reservations of the chairman of the blue-ribbon commission created to examine basing options, but also over the objections of a majority of the Joint Chiefs of Staff.

The result is that the Congress is being placed in the position of having to second-guess, to reevaluate the administration's recommendations in the strategic area. Some may question how technically capable Congress is of fully evaluating the various options presented to us by the executive branch. Yet, it appears that we have little choice. The ineptitude shown by the administration in formulating a rational defense plan for the Nation has contributed greatly to the nearly complete unraveling of the national consensus for higher levels of defense effort, which the administration enjoyed 2 years ago. We have seen a squandering of enormous faith and good will toward major increases in defense spending. It is becoming increasingly difficult now, I am afraid, to retain the confidence of the American people and the Senate in the ability of

the Department of Defense to fashion an appropriate, cost-effective series of priorities in the defense area.

The President recently made a televised presentation to the American people on the Nation's defense posture. The sweeping implication of the presentation was that we have become inferior to the Soviet Union, and are slipping further behind in all defense categories. Such a proposition is subject to dispute.

It is true that the Soviets have more missiles (1,398) than does the United States (1,052). These strategic missiles have substantially more throwweight and twice the number of reentry vehicles than do ours. Specifically, the Soviets now are fielding some 5,500 reentry vehicles, while the United States

While this imbalance in land-based missilery is worrisome and needs correction, it should not obscure the fact that the United States has a decided advantage over the U.S.S.R. in bombers in terms of numbers, payload, and penetration capability. Further, we are modernizing our bomber force with Steath techniques, thus assuring our lead in this area for the foreseeable future.

Furthermore, the United States has a decided advantage over the U.S.S.R. in submarine-launched ballistic missiles—the most survivable leg of the triad. We have substantially more reentry vehicles in this prong of the triad, 5,400 of them, with greater accuracy than the Soviets, who possess 1,900 such vehicles. Also, our submarines are far quieter and more difficult to detect than are the Soviets.

In addition, we are now placing cruise missiles into our operational inventory, far ahead of the Soviets.

The sum total of strategic reentry vehicles indicates that the strategic balance is, indeed, one of rough parity. The United States has a total of some 7,650 strategic reentry vehicles, the Soviets some 7,400.

Despite this parity, modernization of the land-based missile leg of the strategic triad is essential. Abandonment of the land-based leg would not leave the Nation with a Dyad providing acceptable deterrence against Soviet aggression. Instead, it would allow Soviet targeting to proceed against the bomber leg, throwing that prong of the arsenal into question as well. There is, therefore, a continuing need to engance U.S.-land-based ICBM survivability. Although it is probably impossible to ever achieve invulnerability for U.S. ICBM's-indeed, pursuing the illusory goal of invulnerability would simply push the arms race to new heights without any resolution-it is imperative to first, complicate Soviet target planning; second, raise the level of uncertainty over Soviet ability to achieve a knockout of our land-based forces in a massive surprise attack;

and third, force continued large Soviet investments directed at putting our ICBM's at risk.

The MX is an attempt to reach these land-missile enhancement objectives. Abandoning the MX without formulating another solution to growing Minuteman missile vulnerability is unacceptable.

The difficulties in reaching an agreeable MX basing method over the last few years may be a result of improper sizing of the missile. The difficulties might be alleviated with development of a smaller missile allowing easier deception and mobility techniques. A number of alternatives to the MX have been proposed over the last several years by various Senators. In the event that the Senate is unable to arrive at a consensus over an acceptable basing mode for the MX, an evaluation of several other missile proposals should be made available by the Department of Defense. Such studies should be mandated now so that they are available during the same timeframe that we are examining Dense Pack and other MX deployment options.

Thus, I am particularly pleased to cosponsor the study amendment which is being offered by Senators Nunn and Exon, which requires a complete evaluation of alternative MX basing modes and missile designs by DOD. This would frame the Nation's strategic debate in a very responsible and comprehensive way next spring, and I think it would begin to remove much of the confusion which now is fogging up the Nation's strategic program.

Given the uncertainties over the basing proposal for the MX, it appears illogical to procure the missile while the evaluation of basing alternatives proceeds. Indeed, it is entirely possible that an alternative to the MX itself will find a consensus over the course of the next year. Therefore, I would congratulate the efforts of the distinguished Senator from South Carolina (Mr. Hollings) in fashioning a positive fence around the procurement funds until Congress has had a full opportunity to examine these matters. I would also support efforts to insulate the Senate's deliberations in this area from the threat of a filibuster. The Nation's strategic posture cannot be allowed to atrophy because of the actions of a small minority in the Senate to frustrate our decisions in this area. Nevertheless, this is a complex and difficult area, and we will need ample time to deliberate the options which present themselves. Our deliberation, therefore, should go forward in a timely way. The Senate should not allow itself either to be stampeded or frustrated.

Appropriate consideration must be given to the arms-control impacts of

the administration's strategic recommendations. I fully supported the President's initiatives in moving to the negotiating table on both intermediate range weaponry in the European theater and strategic weaponry. We all want those talks to be successful. Without an arms-control framework, no U.S.-land-based missile system will be survivable in the long run. Restraint is needed, through an armscontrol framework, in order to retain a

viable land-based system. The administration has maintained that if the Senate does not give it production funds for the MX missile, its hands will be tied in Geneva. Just this week, I welcomed the statements by the President that he would accept a positive fencing arrangement for production money. This is a very welcome position by the administration. I would hope that the administration will no longer threaten the Congress with jeopardizing the achievement of arms-control agreements with the Soviets. I would point out that, first, the administration has not always been an ardent promoter of arms talks with the Soviets. It was only after a great deal of pressure from many Senators, as well as the activities at the grassroots, that the administration got serious about arms-control negotiations. Second, the administration overlooks the fact that its Dense Pack proposal may reasonably be interpreted as a violation of the SALT II Treaty draft-which the administration has said that it and the Soviets are both abiding by. Administration officials, such as Messrs. Nitze and Rostow, testified during the hearings on the SALT II Treaty that the vertical multiple-protective shelter proposal of the Carter administration was unquestionably a violation of SALT II fixed launcher limits. Now these same officials cannot possibly maintain that Dense Pack, which is clearly a less mobile system than the protective shelter proposal, does not violate SALT II limits. They cannot have it both ways.

Furthermore, there are clear indications that, in order for Dense Pack to be a viable system, it will need to have an anti-ballistic-missile point defense system protecting it. This, of course, would completely render a dead letter the treaty we have signed with the Soviets banning such systems.

And so, the administration cannot argue that by holding up the MX basing mode the Senate is hurting our negotiating efforts, while that very proposal belies this Nation's commitment to arms control.

The administration has also advertised the Dense Pack system as a vital bargaining chip for use in Geneva. Presumably, it could be traded off for something valuable that the Soviets are deploying. But how valuable is a bargaining chip that does not work?

The distinguished Senator from Washington (Mr. Jackson), one of the most knowledgeable in this body on these matters, has stated that the Dense Pack basing system would be secure against Soviet attack for perhaps 4 years. The system would cost at least \$30 billion, probably substantially more. That is a high price to pay for a 4-year life-too high. Dr. Charles Townes is reported to have written to Secretary Weinberger, indicating that Soviet countermeasures to Dense Pack might be developed almost simultaneously with our deployment of the system. How valuable is such a marginal proposal, then, as a bargaining chip? If it is so marginal, a fact which hardly would escape Soviet planners, then what would the Russians really be willing to give up in return?

I suppose that if we in the Senate were afraid of being accused of hurting our arms-control negotiators in Geneva, we should just go along with any scheme the administration sends up to us. Then we would not, however,

be doing our job.

It should not be too much to ask for a system that is first, workable; that is, enhances the survivability of our land-based ICBM's; second, cost effective; that it will work for considerably longer than 4 years; that will help build arms-control agreements and not put them in jeopardy; and, last, that has been very thoughtfully constructed with the technical problems worked out to an acceptable range of risk. On none of these counts does the Dense Pack program appear to score very high. The Senate will, indeed, have to get into this program in substantial depth.

I am pleased to announce that the Senate Intelligence Committee, at my request, has agreed to do a detailed report on various aspects of the MX basing proposal, including Soviet countermeasures, the question of silo hardening, and the issue of ballistic missile defense. I ask unanimous consent that the text of the letter I recently wrote to both the chairman and ranking Democrat on the Intelligence Committee asking for this work be inserted at this point in the RECORD. I believe the study will be of substantial assistance to the Senate in sorting out the complicated issues which we will be confronted with early next spring in making a final decision on Dense Pack.

The letter follows:

U.S. SENATE, OFFICE OF THE DEMOCRATIC LEADER, Washington, D.C. December 8, 1982. Hon. DANIEL PATRICK MOYNIHAN,

Vice Committee on Intelligence, Washing-

ton, D.C.

DEAR MR. VICE CHAIRMAN: The President's recent selection of the "Dense Pack" basing mode for the MX missile presents Congress with defense decisions of momentous military, fiscal, and arms control ramifications. Therefore, it is important that Congress have as much solid information as possible

about the strengths and weaknesses of the selected basing mode to demonstrate to the American people that scarce defense dollars are being spent prudently. Since several of the critical factors influencing our eventual resolution of this question directly involve intelligence data and analyses, the Select Committee will have a unique role to play in our deliberations.

Accordingly, I think it would be extremely helpful for the Senate to have a classified independent study and analysis prepared by the Intelligence Committee of all the available intelligence information on this subject, including assessments which bear

upon:

The survivablity of the missile in the "Dense Pack" basing mode, both with and without the protective features of an antiballistic missile system in association with

Likely Soviet reaction to their strategic programs to deployment of MX in the "Dense Pack" basing mode, including their ability to develop effective countermeasures to it: and

Present hardness of Soviet silos and the U.S. ability to exploit and improve upon Soviet hardening techniques to achieve the "superhard" levels required by the Air Force for "Dense Pack" configuration.

Your Committee's guidance in these areas is needed for the Senate to make a prudent and responsibile decision about MX and "Dense Pack," and I look forward to receiving it.

Sincerely.

ROBERT C. BYRD.

NEW SOVIET MISSILE DISINFORMATION

Mr. SYMMS. The Soviets have used disinformation recently in order to conceal two of their violations of SALT II, and a prominent U.S. newspaper was the victim.

The Washington Post of December 8, 1982, and December 10, 1982, contains an interesting new case of Soviet disinformation. A story by Dusko Doder, datelined Moscow on December 8 entitled "Soviets Seen Near Arms Escalation" stated:

But Ustinov's warning that the Soviets would match the MX with a similar weapon closely followed the disclosure that the Soviet Union had tested a new intercontinental ballistic missile within the past three weeks. The Soviet missile is believed to be the SS-16 . . . military specialists here believe that Moscow has a powerful incentive to deploy a new and mobile intercontinental ballistic missile . . . experts here say the main reason the Soviets have refrained from developing the SS-16 fully is that its deployment would drastically reduce chances for future arms control agreements with the United States. (Italics added.)

On December 10, 1982, The Washington Post stated:

An article Wednesday about Moscow's attitude toward the MX missile program incorrectly suggested that the latest Soviet missile test involved a mobile SS-16 rocket. U.S. sources said the rocket involved was a version of the larger SS-19 (Italics added)

The Soviet disinformation consists of the fact that Soviet military specialists in Moscow stated that the new Soviet ICBM being tested was the mobile SS-16. Further, the Soviet military experts were trying to imply that the alleged SS-16 testing being resumed had been interrupted for several years due to Soviet concern over the negative impact of such testing upon arms control. Thus, the Soviets were trying to argue that they had previously exercised arms-control restraint by not testing their mobile and unverifiable SS-16 for several years.

Why would the Soviets try to mislead the United States about the new missile they are testing? There are several reasons for them to try to hide their equivalent to the U.S. MX. First and most significantly, Soviet testing of their new medium to heavy ICBM is being done with full encryption of its telemetry and thus in violation of the SALT II Treaty. (See attached newspaper article.) SALT II states in paragraph 3 of Article XV:

Each Party undertakes not to use deliberate concealment measures which impede verification by national technical means . . .

More specifically, the Second Common Understanding to paragraph 3 states further that:

Each Party is free to use various methods of transmitting telemetric information during testing, including its encryption, except that, in accordance with the provisions of paragraph 3 of Article XV of the Treaty, neither Party shall engage in deliberate denial of telemetric information, such as through the use of telemetry encryption, whenever such denial impedes verification of compliance with the provisions of the Treaty," (Italics added.)

In regard to the new medium or heavy Soviet ICBM being flight-tested, the United States needs to be able to verify launch-weight, throw-weight, number of warheads, number of stages, type of propellant, and diameter of stages. All of these characteristics of the new Soviet ICBM now being flight-tested are being concealed from U.S. verification monitoring due to the almost total Soviet telemetry encryption.

The second reason that the Soviets would want the U.S. public to believe they were testing their mobile SS-16, rather than a new medium-heavy ICBM to replace the SS-19, would be

in order to allay U.S. alarms about reports of SS-16 deployment activity at their Plesetsk Test Range. There have been reliable reports that the Soviets have deployed up to 200 mobile SS-16's at their Plesetsk Test Range, in flagrant violation of the SALT II Treaty. Reports of resumed SS-16 testing would allay these reports of SS-16 deployment. Now that the Pro-

tocol to SALT II has expired, SS-16

flight testing is no longer prohibited. In sum, the Soviets have given the Washington Post disinformation on their new ICBM for two purposes: To at least temporarily cover up their new medium-heavy ICBM testing in violation of SALT II, and also to mask their SS-16 deployment activity equally in violation of SALT II. The Washington Post has admitted that it was

fooled, thus implicitly conceding the effectiveness of Soviet disinformation.

Mr. GRASSLEY. Mr. President, in approaching the subject of funding for the MX missile system, I would first stress that whatever our position may be regarding development of a new strategic weapons system, we must rededicate ourselves as leaders to support carefully crafted mutual arms restraints and verifiable arms reductions. The balance of strategic power is very delicate and necessitates our concerted efforts.

I must also stress that our Nation's economy is in a very delicate condition. Our care in deciding the appropriateness of particular spending measures is being carefully scrutinized by the American people, for we are stewards of the Nation's trust.

The measure presently under consideration would prohibit the full-scale expenditure of funds for the MX missile production program unless both Houses of Congress have passed resolutions approving a Presidential plan delineating a specific basing mode. This compromise approach to the MX program has resulted from careful analysis and strenuous debate. I believe it is strategically sound because it provides an opportunity for extensive analysis of the strengths and weaknesses of this proposed strategic system. The compromise is also economically rational because funds are not being appropriated for an MX basing system that has narrow support.

As this body debates the issue of funding the MX missile system, \* would without hesitation suggest that there is no one in this great body who relishes the very sobering task of analyzing and critiqueing a strategic nuclear weapon system with such potentially awesome destructive capability as the MX system. Undoubtedly there are Members of this Senate as well as the House who know very personally that war is indeed hellish, some carrying permanent scars from those experiences. All of the Members of Congress would surely hope and pray, especially at this time of the year, for peace to reign on Earth; not merely a cessation of conflict, but a peace based on twin foundations of liberty and justice. We would often wish that the world did not daily face active threats to peace; indeed, we wish that the delicate balance were not broken so often by violence and conflict between parties. We would wish that trust between nations would be the most evident characteristic of their relationships; yet truces and agreements collapse daily or simply remain tentative proposals. And of course, wishing does not make it so.

The reality of the world cannot accurately be pictured as a place where all problems are tidy and neat; where all solutions are obvious to all parties at all times. When facing the complexities and sobering realities of the prospect for the MX missile system, we must approach the issue with totally realistic appraisals of the strategic situation in the world. What is that situation? From 1950 to the early 1960's the United States enjoyed a strategic superiority over the Soviet Union with balanced defenses and a strong counterforce capability. The development of the defense triad system of: First, bomber force; second, land-based missiles; and third, submarine-launched missiles took shape as the Soviets pressed to establish a strategic force with long-range bomber production, increased deployment of intercontinental ballistic missiles, increased spending in research and development and development of four new ICBM's. In the midsixties the United States began to deemphasize defense of facilities and counterforce capabilities while pursuing arms control. In that same period the Soviets set in motion a program of increased ICBM deployment greater than the United States, emphasizing concerted development of accurate, survivable, and massively retaliatory nuclear systems. From the late 1960's the strategic situation transformed noticeably. In 1968 Secretary Robert McNamara froze landbased missiles at 1,054, where they remain today. No new U.S. strategic bomber has been built and B-52's, which once numbered 1,300 and now number only 316, are older than any of the servicemen flying them. Total U.S. nuclear megatonnage has shrunk by more than 50 percent since 1968 and the Polaris submarines of that era are rapidly becoming obsolete. Additionally, since 1962 U.S. defense spending in constant dollars has remained remarkably constant and the proportion of defense spending devoted to nuclear forces has remained near 9 to 10 percent, the United States has for years essentially allowed the Soviets to catch up in nuclear power. The Soviets have answered the near-freeze by the United States with sharp increases in strategic systems. Secretary of Defense Harold Brown once described the U.S. experience with the Soviets in this way: "When we build, they build. When we stop building, they build." In the past decade alone, the Soviets have outspent the United States for strategic systems by over \$290 billionenough to pay for the entire B-1, MX and Trident programs three times

The debate about the necessity of the MX missile system must be viewed against this historic and strategic backdrop. It should also be noted that the MX system has a long history. Presidents Nixon, Ford, and Carter urged development of a new strategic system, which would eventually allow older, more numerous land-based mis-

siles to be phased out. Many in Congress during that same period have strongly urged that the MX system be developed, based on the analyses of technical strategic experts. However, care must be taken in analyzing the appropriateness of funding at such levels as we are here considering.

I opposed the previous plan submitted by President Carter which would have established a race-track basing mode. It appeared to be environmentally, socially, and economically unsound. I have also expressed concern about the Dense Pack basing mode recently submitted because of its narrow support in some technical and military circles. Though there may be broad agreement about the need for an effective strategic deterrent. I for one will not simply throw dollars at the problem. Until there is a convincing case made for a survivable missile in a survivable basing mode I will not blindly support a large production program for the MX missile system. Our economy is too deeply recessed and our strategic problems are too serious to allow this body to incautiously appropriate funds for a basing program that is ill-conceived and narrowly supported. I will support the compromise agreement which appears to be strategically and economically most reasonably crafted.

WE MUST SUPPORT THE PRESIDENT'S MX DENSE PACK DEPLOYMENT DECISION

Mr. SYMMS. Mr. President, I rise to support President Reagan's MX Dense Pack deployment decision. We need to deploy the MX in order to preserve world peace and international security. All Americans and all Senators are in favor or peace and international stability. MX deployment serves the cause of peace. There are several major specific reasons why I support the President's MX deployment deci-

First, the MX missile, independent of its basing mode, will contribute significantly to the deterrence or a possible soviet first strike. In this way it helps preserve world peace.

Second, MX has the capability to redress the Soviet counterforce preponderance. In this way MX will bolster deterrence and peace.

Third, MX is the only weapon system available from 1986 to 1990 which can counter the huge Soviet SS-18 and SS-19 force. It is needed to Soviet counterforce balance the threat.

Fourth, MX in Dense Pack deployment will have greatly enhanced hardness, which will greatly increase uncertainty for Soviet target planners at relatively low cost to the United States here again, it will bolster deterrence and peace.

Fifth MX, will motivate the Soviets to begin meaningful arms reduction talks. Arms control negotiations, of course, serve the cause of peace.

Sixth, the U.S. creation of a survivable ICBM capability will enhance strategic stability, and make nuclear blackmail, crisis, and war less likely. Seventh, a U.S. failure to deploy MX

on American soil now would make deployment of long range theater nuclear forces in Europe more difficult if not impossible.

Mr. President, I have several additional specific reasons for supporting President Reagan's decision to deploy the MX. These are as follows:

First, if we do not deploy MX, we would acquiesence in the Soviet Union's massive strategic buildup during the past decade of SALT. During the same period, America unilaterally restrained its own strategic forces significantly.

Second, if we do not deploy the MX. we will codify and make permanent dangerous Soviet strategic advantages. Soviet strategic superiority threatens world peace.

Third, we need to deploy MX as a replacement for aging and vulnerable U.S. systems such as the Titan II and Minuteman ICBM's.

Fourth, we would undercut NATO deterrence if we fail to deploy MX.

Fifth, failure to deploy MX would hopelessly reduce U.S. bargaining leverage in arms control negotiations, because U.S. unilateral restraint would prevent us from having any systems to trade

Sixth, failure to deploy MX would undermine U.S. leadership of the free world and would damage the cohesion of the NATO and United States-Japanese alliances. This would be a setback for world peace.

In sum, a few additional important facts related to MX deployment need to be stressed:

American defense spending has been relatively level over the years, while domestic spending has increased by three times;

Our strategic forces are a small part of our defense budget, and cost less now than in the sixties:

The Soviet Union has spent far more on military, in particular strategic forces, than the United States;

Our nuclear stockpile has declined significantly in numbers and total megatonnage since midsixties;

We have fewer nuclear missiles and bombers than in the sixties;

Modernization of our strategic forces

is long overdue: Programs must be funded now for our defense into the 21st century.

Here are some further facts detailing Soviet strategic buildup and U.S. restraint:

Since SALT I was signed in 1972, the U.S.S.R. has spent approximately \$140 billion more than the United States on strategic forces.

U.S.S.R.: In the last 15 years, 68 SSBN's deployed in five new or improved classes.

United States: Now deloying Trident submarines, the first SSBN's built since 1967.

U.S.S.R.: Since SALT I, about onehalf of SLBM force replaced with three new SLBM types: A new SLBM type is being tested.

United States: One new SLBM deployed.

U.S.S.R.: Since SALT I, essentially entire ICBM force replaced with 10 variants of three new ICBM's.

United States Minuteman III modified, but no new ICBM's deployed.

U.S.S.R.: Since Salt I. over 250 backfire bombers with inherent intercontinental range.

United States: No new intercontinental bomber in over 20 years.

U.S.S.R.: Since SALT I and ABM treaty, substantial ABM upgrade of single permitted site.

United States: Only ABM site, dismanted in 1976.

Most United States strategic launchers are obsolete. Here are the facts on the relative age of U.S. strategic forces:

Twenty-two percent of American warheads are on ICBM's. Of these, 23 percent are on ICBM's over 15 years old; none are on ICBM's less than 5 years old;

Fifty percent are on submarines. Of these, 92 percent are on submarines 15-20 years old:

Twenty-eight percent are on bombers, which average about 20 years old;

Only 4 percent of total U.S. warheads are on launchers less than 5 years old; 77 percent are 15 years or older:

In contrast, Soviet warheads are on modern launchers;

Seventy-two percent of Soviet warheads are on ICBM's. Of these, 89 percent are on ICBM's less than 5 years old, and 99 percent are on ICBM's less than 10 years old;

Twenty percent are on submarines. Of these, 99 percent are less than 10 years old;

Eight percent are on bombers. Of these, 55 percent are on backfires, which average less than 5 years old:

Fully 70 percent of total Soviet warheads are on launchers less than 5 years old; 95 percent are on launchers less than 10 years old.

As a result of its massive buildup of strategic forces, the already tremendous Soviet advantage will continue to increase. Modern, powerful, and survivable Soviet forces would be effective for many years, while a large portion of American forces will become ineffective due to obsolescence and Soviet defensive measures.

As I have stated, since SALT I was signed, the U.S.S.R. has spent \$140 billion more than the United States on acquisition of strategic forces.

If the United States spent this \$140 billion, Soviet strategic spending advantage, this would be enough to:

Modernize all U.S. strategic offensive forces: 100 modern land-based missiles (MX); 100 modern bombers that can defeat Soviet defenses and provide the flexibility of a manned penetration; 3,200 air-launched cruise missiles to provide a highly accurate system capable of penetrating Soviet air defenses; 20 modern, quiet submarines (Trident), equipped with longrange missiles that allow the submarines to patrol in home waters.

Modernize our air-defense system to counter the growing Soviet bomber threat: 12 airborne warning/control systems (AWAC's); 5 squadrons of modern interceptors (F-15); an "over the horizon" radar to improve early warning; improvements to the longrange early warning radars (DEW line); reduce vulnerabilities on our command and control communications and intelligence infrastructure; and defend MX against a ballistic-missile attack.

The MX deployment program would cost only \$26 billion over the next 10 years, an average of only \$2.6 billion per year.

Aging American strategic forces cannot maintain deterrence indefinite-ly.

Here are the facts on our SSBN's/SLBM's.

Most American SSBN's face block obsolescence in early 1990's.

SLBM range must be extended by Trident II missiles in order to increase survivability of submarines.

A large, vigorous Soviet antisubmarine warfare program would be largely unaffected by freeze.

Here are the facts on our ICBM's. Minuteman is vulnerable and incapable of attacking sufficient Soviet hard targets to maintain deterrence.

Here are the facts on our bombers. The Soviet air defense system is massive, and is the most effective air defense system in the world.

The Soviets have 5,000 radars, 2,500 interceptors, and 10,000 SAM's.

ALCM is needed as standoff weapon. B-1B is needed to escape destruction on ground and to penetrate.

Mr. President, one of the virtues of the MX ICBM in the Dense Pack deployment mode is that it violates the unratified SALT II Treaty. The Soviets have been flagrantly violating the SALT II Treaty since late 1979. Over 10 separate Soviet SALT II have been documented and reported in the press. SALT II has been made a dead letter by the Soviets. Their massive SALT II violations are indisputable. Thus the time has come for America to cast SALT II aside and deploy MX.

Regrettably, President Carter and President Reagan have defied the Senate's prerogatives in contravention of the treatymaking power of the Consti-

tution. Both President Carter and President Reagan committeed the United States to compliance with the SALT II Treaty, without the advice and consent of the Senate. This U.S. SALT II compliance policy under the Reagan administration began March 1981, with a State Department announcement that the United States would not undercut the SALT II Treaty, as long as the Soviets did not undercut SALT II. But the U.S. Constitution says nothing about giving the Soviets a role in deciding whether or not the United States ratifies and complies with a treaty. Moreover, the Senate has a voice in U.S. treaty compliance. Further, on May 30, 1982, President Reagan himself stated:

As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint.

SALT II is an existing arms control agreement, although it is an unratified treaty. The U.S. Constitution states that:

He (i.e., the President) shall have power, by and with the advice and consent of the Senate to make treaties provided two-thirds of the Senators present concur...

This constitutional language is being contradicted by the President's policy that the United States not undercut SALT II contingent upon similar Soviet behavior. Further, the word "undercut" could even be interpreted to mean that the United States is bound to comply not only with the precise provisions of SALT II, but also with the undefined "spirit" of SALT II as interpreted by the U.S. President or even the Soviets. Thus, the President's policy of not undercutting SALT II is in effect Presidential ratification of the SALT II Treaty, committing the United States to compliance with SALT II's provisions. Not only have the Soviets officially never informed the United States that they will not undercut SALT II, but they are in fact undercutting SALT II with their many SALT II violations.

Thus, the Soviets have all the benefits of U.S. compliance with SALT II, while they themselves have accepted no obligations.

The President's policy of compliance with the unratified SALT II has official, even legal, status as a Department of Defense directive. Department of Defense Directives 5100.7 and 5100.72, and Air Force Regulation 28-1, require U.S. compliance with the unratified SALT II treaty. Further, these directives require quarterly reports from the military services on U.S. compliance with the unratified SALT II treaty

There are many examples of U.S. unilateral compliance with the unratified SALT II treaty. The following listing is probably only partial:

First. The U.S. unilateral deactivation of 292 strategic delivery vehicles— 160 Polaris SLBM's, 54 Titan II

ICBM's, and 80 B-52D bombers—counted in the SALT II treaty and in its data exchange, an integral part of the treaty.

Second. The U.S. modification of B-52 bombers to carry "strakelets" on those models which are also being equipped with air-launched cruise missiles. These "strakelets" are supposed to be "functionally related observable differences" required by the unratified SALT II, and they cost about \$80 million.

Third. The U.S. redesigning of the B-1B bomber in order to carry two fewer air-launched cruise missiles, 20 instead of the 22 each is capable of carrying, in unilateral compliance with the unratified SALT II Treaty.

Fourth, the U.S. cancellation of deployment of 50 or 100 stockpiled Minuteman III ICBM's in compliance with the unratified SALT II Treaty's ceiling of 1,200 MIRV'ed missiles.

Fifth. The U.S. limitation of the throw weight of the MX ICBM to somewhat above 3,600 kilograms, in compliance with the unratified SALT II Treaty.

Sixth. The U.S. limitation of the launch weight of the MX ICBM to 90,000 kilograms, in compliance with the unratified SALT II Treaty.

Seventh. The U.S. limitation of the number of warheads on the MX ICBM to 10, instead of 14, in compliance with the unratified SALT II Treaty.

Given the above seven examples, President Reagan's decision to deploy the MX in the Dense Pack basing mode is not surprisingly being justified as being in compliance with the unratified SALT II Treaty. Both Defense Secretary Weinberger and Assistant Secretary Perle argue that MX Dense Pack does not violate the SALT II Treaty. Thus the United States has constrained its strategic forces in eight significant ways. The administration argues that the MX canister, not the silo, is the launcher, and that this launcher is mobile. This argument, however, would be much more credible if the number of silos was greater than the number of canisters, and if the MX transporter-erector was also capable of launching the missile from its canister.

Instead, there are planned to be 100 canisters deployed in 100 silos. There is no reason to move each canister, because there are no extra silos, which in addition are to be very close together. Moreover, the canister can not launch the missile from the transporter-erector. Indeed, the only way the missile will be launched operationally will be from its silo. Indeed, logic and all observable characteristics of the MX Dense Pack suggest that the silo is the fixed ICBM launcher.

But article IV of the unratified SALT II Treaty states that:

contruction of additional fixed ICBM launchers

(2) Each party undertakes not to relocate fixed ICBM launchers.

Thus, each of the 100 new MX Dense Pack silos would violate either one or the other of the above provisions

In addition, article V, paragraph 2, of the unratified SALT II Treaty states that:

. each party undertakes to limit launchers of ICBM's and SLBM's equipped with MIRV's, and ASBM's equipped with MIRV's, to an aggregate number not to exceed 1,200.

Due to the fact that at least seven Trident submarines carrying 168 MIRV'ed SLBM's are already under construction, the United States will be exceeding the 1,200 MIRV'ed missile ceiling with MX Dense Pack by as early as 1984, when the construction of the 100 MX Dense Pack silos will have to begin for them to be operational by 1986 as planned.

Thus we must conclude that MX Dense Pack will violate both article IV and article V of the unratified SALT II Treaty.

But the Reagan administration argues, incorrectly and contrary to the observable facts, that MX Dense Pack is in compliance with SALT II.

In sum, one of MX Dense Pack's virtues is the fact that it violates the unratified SALT II Treaty. Thus if MX Dense Pack is deployed, the unratified SALT II will have to be declared dead.

Section 33 of the Arms Control and Disarmament Act of 1961 states:

No action shall be taken under this or any other law that will obligate the United States to disarm or reduce or to limit the armed forces or armaments of the United States, except pursuant to the treaty-making power of the President under the Constitution, or unless authorized by further affirmative legislation by the Congress of the United States.

Strictly interpreted, section 33 states that Presidential policies to limit U.S. strategic force levels in compliance with expired or unratified SALT Treaties are both contrary to the law and inconsistent with the Constitution.

Thus MX Dense Pack has finally made the unratified SALT II Treaty a dead letter. The seven other examples of Reagan administration compliance with the unratified SALT II Treaty are equally contrary to the law and inconsistent with the Constitution.

The Soviets themselves have been behaving as if the SALT II Treaty was dead since late 1979. President Reagan recognized the existence of Soviet SALT II violations when he stated on May 9, 1982:

So far, the Soviet Union has used arms control negotiations primarily as an instrument to restrict U.S. defense programs, and in conjunction with their own arms buildup, as a means to enhance Soviet power and prestige. Unfortunately, for some time suspicions have grown that the Soviet Union

(1) Each party undertakes not to start has not been living up to its obligations under existing arms control treaties.

> President Reagan is right. The Soviets have been violating the SALT II Treaty. The following examples of Soviet SALT II violations have been reported in the press, and are well known:

> First, the reported Soviet rapid reload and refire exercises for their giant SS-18 cold-launched ICBM.

> Second, the reported Soviet covert deployment of the camouflaged and concealed mobile SS-16 ICBM's at the Plesetsk test range. This activity is similar to the Soviet illegal deployment of 18 SS-9 ICBM's at the Tyuratam test range during SALT I.

> Third, the Soviet deployment of AS-3 Kangaroo air-to-surface missiles on 100 TU-95 Bear intercontinental bombers in violation of several provisions of SALT II. This is also a Soviet falsification of the data exchange, calling into question all Soviet-supplied data.

> Fourth, the continued almost total encryption of telemetry signals from the following Soviet missile programs: The SS-NX-20 SLBM, the SS-NX-19 SLCM, the SS-18 MOD X ICBM the SS-20 IRBM, and now the new Soviet medium-heavy ICBM equivalent to the U.S. MX. This encryption is in violation of several provisions of SALT II.

> Fifth, the fact that all Soviet camouflage, concealment, and deception is intended to deliberately interfere with U.S. national technical means of SALT verification-satellite reconnaissanceand therefore constitutes another Soviet SALT II violation. This violation is confirmed by a Soviet military dictionary dated as early as 1966, which states explicitly that all Soviet interference with satellite reconnaissance is deliberate.

> Early in the Reagan administration, in January 1981, President Reagan called Soviet leaders liars and cheats who commit any crime to advance their objectives. In the same press conference, President Reagan declared that SALT II was unverifiable. President Reagan's concern that SALT II was unverifiable was fully consistent with his campaign statements opposing SALT II as "fatally flawed, unequal, destablilizing, and unverifi-able," His concern was also fully consistent with the Republican platform's tough arms control section, which was reaffiremed by President Reagan after the election.

Thus if the Soviets are flagrantly violationg SALT II, the United States should also cast SALT II aside and

deploy MX Dense Pack. Mr. QUAYLE. Mr. President, the question of what to do with MX is surely one of the most difficult to face Members of Congress in many years. To put the issue in the proper perspective for today's vote, it is important to look at the circumstances of this vote.

Last month President Reagan proposed to the Congress that we approve the necessary money to procure the first five operational missiles and provide for the basing of the MX missile in the closely spaced basing scheme. This proposal was submitted in reponse to a December 1 deadline which was set by the Congress.

What does that proposal mean? What does it require of the Congress? First of all, it means that we have a proposal before us on a matter of the very greatest importance to our national security which must be taken very seriously. Second, while it certainly does not mean that we ought to rubber stamp it just because the President proposed it, neither does it mean that we should prejudge it without giving it a fair hearing or reject it without knowing the facts.

I have personally spent a considerable number of hours in the past several weeks trying to understand the pros and cons of this issue. My preliminary study has convinced me that I need to know a great deal more before I will be prepared to vote inteligently on this issue.

There are a number of people who apparently have already rejected the Dense Pack basing scheme as one that technically will not work, is too expensive, it is wrong because it "puts all our eggs in one basket," is a destabilizing first-strike weapon, or violates existing treaties. Some of these arguments may turn out to be valid, but I am, frankly, disappointed that there has been so much "jumping the gun."

For the same reason I was disappointed by last week's House vote deleting the \$988 million in procurement money. While I understand the reasons why so many House Members voted to delete the money, my disappointment lies in the fact that the Members were required to vote up-ordown on an issue for which they were simply not fully prepared.

As I mentioned earlier, the President's proposal was submitted to meet a congressional deadline. Thus, I hardly think it unreasonable that the Congress now set a deadline for itself which will allow adequate time to examine the President's proposal and alternatives to it.

There are a number of very important questions which need to be answered before we can intelligently act to accept or reject the President's proposal. Until and unless we devote the needed time to carefully examine the proposal, we act irresponsibly if we reject the proposal out of hand. While I am strongly opposed to a Congress which rubber stamps important matters the executive branch proposes, I am just as strongly opposed to rejecting important proposals without adequate consideration. I particularly believe that to be the case in a matter of such great importance as the modernization of our strategic forces.

Let me suggest some of the questions which I believe must be examined during the next several months:

Has Soviet deployment of accurate SS-18 and SS-19 missiles changed the strategic balance and put the United States at risk? If so, what response is needed?

Is a triad really needed to assure deterrence or is it reasonable to rely on a strategic force consisting of bombers and submarines?

Is the 1986 date for initial operational deployment of the MX missile critical in closing the "window of vulnerability" or can we wait for the 1989 deployment of the Trident D-5 missile?

Is a missile with rapid response and hard target kill capability like the MX needed for deterrence? Is its first strike capability a destabilizing factor?

How important is the question of vulnerability of each component of the Triad? Must all three legs be equal?

Will closely spaced basing really work? Can the required hardening be achieved? Can we be confident about the effects of fratricide? Does the effectiveness of Dense Pack require that it be deployed in more than one field, with deception and with an ABM system? Does our uncertainty about Dense Pack mean a similar Soviet uncertainty and thus make closely spaced basing an effective deterrent? What about the Soviet counters—can they achieve them and when?

If closely spaced basing is rejected, what then? Do we wash our hands of MX? Are there better alternatives?

If there are none, is it better to proceed with MX in Dense Pack and rely on the uncertainty factor or should we just press forward with our R&D efforts?

What about the cost? Can we afford \$26 billion or more or is it something we must spend to insure the continued security of our Nation?

What will be the impact of MX—either approval or rejection—on the START and INF negotiations in Geneva? What about the "bargaining chip" issue—is this a reason for approving MX or should it be treated as just a side benefit of the approval of a system we really need? What about the ABM and SALT treaties?

There are undoubtedly other important questions to be examined. My purpose in enumerating these is to suggest the immense importance of this issue and the need for time to examine it. In an editorial piece in this past Sunday's Washington Post, retired Gen. Maxwell D. Taylor argued against the need for the MX. While I am not prepared to accept his final conclusions about MX, I fully agree with the test which General Taylor proposed be applied to MX and all major weapon systems. He stated:

My argument is that Congress should make it a practice to evaluate the essentiality of the MX and all other controversial programs of high dollar value prior to voting on them. Then, regardless of other possible motivations, Members of Congress could tell their colleagues, the media and their consciences: "I voted for (or against) weapon A or program B because of solid evidence that it is (or is not) essential to our national security."

It is for precisely that reason that I urge the Senate adopt the amendment proposed by Senator Jackson and others which would leave the money for MX procurement in the bill but fence it by prohibiting obligation or expenditure until the adoption by both Houses of Congress of a resolution of approval. With the expedited procedures provided in the amendment there would be ample time for the Congress to examine the kinds of questions I have suggested need answering and then to vote up or down on the issue.

I urge my colleagues to support this amendment. This is not a matter of victory for the President or defeat for the MX opponents. It is simply a vehicle which will enable the U.S. Senate to meet its responsibilities on a very important issue. We cannot do so in the hurly-burly of this lameduck session. And we cannot do so by rejecting MX now or by fencing off the money into the indefinite future. We need time to study the issue—which this amendment will give us—and then the guarantee that we will have the opportunity to vote our decision.

I strongly urge support for the Tower amendment.

ower amendment.

# THE JACKSON MX AMENDMENT

Mr. THURMOND. Mr. President, I rise in support of the proposed amendment. It is in the best interest of our national defense to proceed with production funds for the MX missile. Due to public and congressional concern about the missile and the proposed basing scheme, however, the best course of action for the Congress is to legislate the restrictions outlined in the proposed amendment.

This allows the administration ample time to evaluate its decisions and provide further information to the Congress. Additionally, it sets a definitive timetable for consideration of the issue and final approval or rejection by the Congress.

Although I favor providing production funds without restrictions, this proposal is the most acceptable and responsible alternate course of action for the Senate.

Mr. President, I feel that the Congress as a whole has failed to give this issue the attention necessary to render a fair judgment.

The MX program has been before the Congress for a number of years, but suddenly there is a rush to terminate the program. There have been great condemnation of closely spaced basing, yet a majority of the Members of the Congress has not received the detailed briefing that the Air Force presents on the issue.

Mr. President, it is an unfortunate circumstance that this issue is clouded by uninformed negative public sentiment. I would like to read you a quotation from a prominent American:

The United States is a preeminently christian and conservative nation. It is far less militaristic than most nations. It is not especially open to the charge of imperialism. Yet one would fancy that Americans were the most brutally bloodthirsty people in the world to judge by the frantic efforts to disarm them both physically and morally. The effect of all this unabashed and unsound propaganda is not so much to convert America to a holy horror or war as it is to confuse the public mind and lead to muddled thinking in international affairs.

A few intelligent groups who are vainly trying to present the true facts to the world are overwhelmed by the sentimentalist, the emotionalist, the alarmist, who merely befog the real issue which is not the biological necessity of war but the biological character of war.

Those words which are pertinent today, were spoken by Douglas MacArthur in 1935. We are confusing public sentiment with necessity.

Our land-based ICBM force no longer affords us a second strike capability because of its vulnerability, yet we are here arguing about terminating a program that previously has had strong bipartisan support.

I can imagine what our NATO allies must think of our resolve. The United States talks NATO into allowing ground launched cruise missiles and Pershing II missiles to be deployed in Europe to offset Soviet theater nuclear forces, and now the United States is hesitant to modernize its land based ICBM's while the Soviets maintain a constant pace upgrading their Strategic Rocket Forces.

It is no wonder that our allies doubt our reliability and our integrity.

A serious question that we as leaders must ask ourselves is, "What will the Soviets do in response to our action?" Many people hope that the Soviets would respond with a similar gesture, but I doubt it.

President Carter terminated the B-1 program unilaterally and the Soviet ambassador to the SALT talks was asked what the Soviets would be willing to concede. His reply was, "We Soviets are neither pacifists nor philanthropists."

Mr. President, I have served in the Senate for 28 years and have watched the strategic relationship between the United States and the Soviet Union with interest. In the last 18 years alone, from 1964 until the present, the United States has had five Chief Executives. They have had to manage defense spending through a consensus in Congress and justify increased defense spending against increased spending

for social programs. With those five Presidents came five strategies for dealing with the Soviets. Conversely, from 1964 until a few weeks ago, the Soviets had only one leader. The Soviets had no debates over defense spending being too high at the expense of social programs.

The result has been a disparity of military capability in favor of the Soviets. The Presidential election of 1980 was a mandate to alter this disparity, and MX is a vital part of the modern-

ization program.

Mr. President, I urge my colleagues to support the amendment in question so that the Congress can make its final decision in a timely manner.

Mr. PERCY. Mr. President, I regret that many citizens who are in good conscience involved in the movement for arms control and peace are viewing the choice between the Jackson amendment and the House action as one which supposedly indicates whether you are for or against the MX. I would emphasize that the House action leaves intact the \$1.7 billion for research and development on the MX missile. It did not kill the MX; indeed, it leaves intact more MX moneys than it deletes. Moreover, the Jackson amendment has a more restrictive fence on the R&D funds earmarked for the basing mode. The Cranston/ Mathias amendment would have restricted \$560 million of these funds until April 30, but at that time they would become automatically available. By comparison, the Jackson amend-ment restricts \$715 million in R&D funds for basing-not \$560 millionand these funds would become available only if both Houses vote affirmatively to release them. Lastly, I would point out that where the Cranston/ Mathias amendment would have deleted the missile procurement funds without directing any studies for possible alternatives, the Jackson amendment would allow the Congress the benefit of deciding the ICBM modernization issue next spring with all possible missile and basing options detailed by the administration in its report. In summary, I do not regard the Jackson amendment as a cover for giving the President more time to sell Dense Pack, which I believe from a practical standpoint is dead. I believe it will in fact occasion a far more fundamental and comprehensive reexamination of where we go from here with the ICBM leg of the strategic triad. It is a responsible approach, one which appropriately addresses the seriousness of the issue before us.

Mr. STEVENS. Mr. President, have the yeas and nays been ordered?

The VICE PRESIDENT. The yeas and nays have been ordered.

Mr. DURENBERGER. Mr. President, I rise very briefly.

Mr. President, I rise to compliment those of my colleagues, and I think it is most of them, who have been sitting here since about 20 minutes to 12 participating in one way or another in this discussion.

I think it has been an informative discussion. We have heard from all of the Presidential candidates and from a

lot of just plain Senators.

Mr. President, the Congress has been handed a unique opportunity to test its own role in the shaping of American security policy. No matter which of the alternative resolutions considered here tonight is adopted, it is clear that Congress will have the opportunity—if it seizes it—for a full and comprehensive debate over some very fundamental issues. We have needed such a debate for some time, and I hope we take advantage of it.

When addressing a system as complex as the MX missile—a weapons project which has been around for some 10 years—we too often focus on only a part of the issue at any given time. We seldom have the opportunity to take a comprehensive look at an entire range of interrelated issues. Instead, we focus on only those particular aspects which appear topical at a given time. The longstanding controversy over basing systems provides a good illustration.

I thought the Senator from Nebraska made one of the major contributions here this evening by expanding on the scope of the report which the President must provide to Congress.

I think perhaps if we had a little more time and it were not the middle of the night others of us might have made other contributions to that

report language.

There is far more to the MX missile system than how it is based. But it has proved nearly irresistible to focus on only such things as the various proposals designed to reduce ICBM vulnerability. Worse, it has proved nearly irresistible to reduce a highly important argument to the level of caricature. If we are to decide whether we need an MX missile system, we should do so on the basis of an informed discussion, and not simply a throwaway phrase like "Dunce Pack." We should get down to the issue that several of my colleagues have put their finger on: the national security policy of the United States.

We have seldom looked at all aspects of the MX question simultaneously. So we find ourselves in the awkward position of having nearly produced a missile about which there is divided opinion, and having done so without examining our rationale, much less having found a basing mode which can be widely supported.

No matter which amendment passes tonight we have the opportunity to overcome these kinds of intellectual problems. One thing is clear: We will have a debate, and it will be compre-

hensive and final.

So what does that mean when we take up this issue next year?

It means first and foremost that this is not an area in which there is any particular "expertise" as that term is customarily used.

Our Nation's security is a function of many different things: The health of its economy; the political will of its leadership; the support and unity of its citizens; the state of its alliances and its diplomacy; the credibility of its defenses—all its defenses, and not merely a few examined in isolation.

Security is not simply a function of strategic nuclear weapons. It is a complex mix of every fiber and every element of our Nation, as expressed in and guided by overall policy. And it is that policy which we are sent here to make. The opinion of an engineer is no more or no less valuable than the opinion of a military officer or an economist or a farmer or a businessman or a philosopher on this matter. A debate about our overall security policy will of necessity involve all of us here, and it will ultimately involve every citizen. It will not be and cannot be confined simply to people who know everything there is to know about the MX missile or about silo hardness. What does all this mean in terms of the particular questions we should examine?

It means, for instance, that we must be cognizant of the economic costs involved in this missile system and in its likely successors as time goes on. We must answer once and for all whether our security will be enhanced or degraded by an expenditure of \$26 billion or more for one single weapons modernization program.

It means that we must explore and help develop once again a common understanding of the requisites of deterrence in the nuclear age. We must ask ourselves whether a concept like "strategic superiority" has any real meaning under today's circumstances. And no matter how we answer that question, we must ask what role the MX missile plays in underwriting that concept, or any other strategic concept.

It means that we must explore what it is we seek in arms control and arms reduction agreements, and how best to accomplish our goals. We must ask ourselves about the costs and consequences of deploying any new weapon; about the validity of the so-called bargaining chip approach; about the likelihood that a short-term gain can result in a long-term loss; about whether a given deployment means closing a window or opening a new round of action and reaction which only drains more money away from hospitals, transportation, schools, and so forth.

It means that we must carefully weigh the question of the so-called window of vulnerability. What does

this term mean in the real world rather than in abstract analysis? What does it imply for the future of our strategic triad of land-based ICBM's, sea-based missiles, and manned bombers? Does it spell the end or prove the

strength of the triad?

It means that we must explore the nature of our nuclear guarantee to other nations as well as to our own. Does the policy of extended deterrence which backs up the NATO alliance require a new missile or a regeneration of European confidence in the American willingness to stand by its commitments? For that matter, is the policy itself worth evolving along the lines suggested by Gen. Bernard Rogers and others-away from our current emphasis on nuclear weapons and toward a greater emphasis on general purpose forces?

It means, finally, that we must examine whether the particular technical characteristics of the MX missile and its closely spaced basing system engender our confidence or raise our

doubts.

Senators will notice that I have mentioned last that which most often is mentioned first-the technical characteristics of this weapon system. That is because this level of analysis is appropriate only after we have examined the larger context, a context which reflects our understanding of security, of strategy, of diplomacy, or of arms control.

We had something approximating this kind of debate in 1969 when the ABM was considered. We had it again a few years later, when the Senate explored the SALT I Treaty and ultimately agreed to its adoption. But attempts since then have been cut short. We spent many hours preparing ourselves for a debate on the SALT II Treaty, but we never had that debate. And we have spent the better part of 10 years preparing for a full and final debate on the MX ICBM. We are now certain that we will have that debate. We can put to rest once and for all the questions we have examined individually and sporadically rather than collectively and thoroughly. We can move on to new business.

So let me repeat, whichever approach to this debate we ultimately adopt, we have succeeded in setting our agenda. That is most welcome because it is long overdue. As Churchill said after the battle of El Alamein:

This is not the end. It is not even the beginning of the end. But it is the end of the beginning.

I look forward to the end.

So I am grateful for the opportunity that Senator Hollings and Senator HATFIELD provided me with their resolution a month ago to address this subject.

I think a large part of the credit for the Jackson resolution that is before us and the action the House took is

due to the courage of the Senator from South Carolina and the Senator from Oregon in putting forth this proposal for the approval of this resolution

I thank you, Mr. President. Mr. STEVENS. Mr. President, I shall not take the time of the Senate.

I may have misled the Senator from Missouri slightly in one answer with regard to the amount of money that could be spent.

I may have misled Senator Eagleton in the answer I gave in saying that only \$215 million could be spent. It might be possible to spend more of the R&D money for the basing mode but it could not be spent for anything that was connected with full-scale engineering development or for any institution or permanent basing mode.

We are told that the estimate was about \$215 million, but if it ends up to spend more I would not want to be held to the \$215 million. It is not a limit in the Jackson amendment. That is the estimate that we had, but it is possible to spend more of that money under this language.

Mr. EAGLETON. I thank my colleague.

SEVERAL SENATORS. Vote.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Washington.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is

necessarily absent.

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

#### [Rollcall Vote No. 424 Leg.] YEAS-56

Abdnor	Domenici	Mattingly
Armstrong	East	McClure
Baker	Exon	Murkowski
Bentsen	Garn	Nickles
Boren	Gorton	Nunn
Boschwitz	Grassley	Percy
Brady	Hatch	Quayle
Byrd.	Hawkins	Roth
Harry F., Jr.	Hayakawa	Rudman
Byrd, Robert C.	Heflin	Schmitt
Cannon	Helms	Simpson
Chiles	Humphrey	Stennis
Cochran	Jackson	Stevens
Cohen	Jepsen	Symms
D'Amato	Johnston	Thurmond
Danforth	Kasten	Tower
DeConcini	Laxalt	Wallop
Denton	Long	Warner
Dole	Lugar	Zorinsky

	NAYS-42	
Andrews	Cranston	Hatfield
Baucus	Dixon	Heinz
Biden	Dodd	Hollings
Bradley	Durenberger	Huddleston
Bumpers	Eagleton	Inouye
Burdick	Ford	Kassebaum
Chafee	Hart	Kennedy

Riegle Moynihan Sarbanes Levin Packwood Mathias Pell Sasser Specter Pressler Matsunaga Melcher Proxmire Stafford Metzenhaum Tsongas Prvor Randolph Weicker Mitchell

## NOT VOTING-2

Goldwater

So Mr. Jackson's amendment (UP No. 1486) (as modified) was agreed to.

Mr. TOWER. I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the parliamentary situation is now to approve the committee amendment, as amended, is that correct?

The VICE PRESIDENT. The Sena-

tor is correct.

Mr. HATFIELD. I so move.

The VICE PRESIDENT. Is there further debate?

Mr. HART. Parliamentary inquiry. The VICE PRESIDENT. The Sena-

tor will state it. Mr. HART. Mr. President, if the committee amendment is adopted, to what extent will that preclude further amendment of this section of the resolution?

The VICE PRESIDENT. The section of a resolution that is the subject of the committee amendment, as amended, may not be amended directly except by an amendment broader in scope that makes a substantive change in language that has not been the subject of an amendment.

Is that clear to the Senator?

Mr. HART. I think it is as clear to the Senator as it is to the Chair. [Laughter].

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 9, line 8.

The committee amendment on page

9, line 8, was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the committee amendment was agreed

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 15, LINE 4

Mr. HATFIELD. Mr. President, our next committee amendment, I believe, is the one on the matter of Labor-HHS, offered by the Senator from Virginia. He proposes to adopted the House level in lieu of the Senate level; is that correct?

The VICE PRESIDENT. The clerk will report the next committee amendment.

The legislative clerk read as follows: On page 15, line 4, strike "House", through and including "Center" on line 12, and insert the following:

H.R. 7205 as reported to the Senate on December 8, 1982, as if such Act had been enacted into law (but excluding, on page 46, lines 12 and 13 of that bill, the words "H.R. 3598 as passed the House on November 4, 1981").

• Mr. LEVIN. As I stand here this morning at 3:25, I just cannot believe what the Senate is doing. Here we are, on the legislative of a forced march passing almost a \$450 billion appropriation bill to fund most of the Government for the entire 1983 fiscal year, and no one can even pretend to know anymore than the broadest outlines of the bill. This bill came to the floor almost immediately after it was considered by the Senate Appropriations Committee, so we have not had any time to seriously analyze it. It is true that the House considered a version of this bill earlier in the week, but at that time we in the Senate were engaged in all night sessions on the highway bill, and Senators were devoting all of their attention to that bill.

Not only has the authorization process abdicated its responsibility to the appropriation committee, but the appropriations process itself has been once again perverted by combining 10 appropriations bills into one. We started down that road last year when there was a proposal to have the huge fiscal year 1982 continuing resolution run for the entire fiscal year. At that time I threatened a filibuster unless the continuing resolution had a midyear termination date. It is truly distressing how much my words then focused on the same problem which we confront right now. At that time I

said.

I intend to do what I can, as one individual, to stop this from happening, so that we can preserve the historic appropriations process in Congress, and not ship the purse down Pennsylvania Avenue to the White House.

Fortunately, for fiscal year 1982 we stopped at the brink and set a termination date of March 31. This morning, we seem about to go over the brink.

Not only is what we are doing here a travesty from the standpoint of legislative process, but it is fiscally outrageous to consider this bill as we are now. How can we sort out what is excessive from what is essential, if we do not even know the slightest details of what we are passing upon.

That is why I will vote against the committee amendment on the Labor-HHS appropriation bill, and why I intend to support the Pryor amendment to set a termination date of-

June 1.

We pride ourselves on being the most deliberative body in the world. Well, then let me ask, "What in the world do we think we are doing now, and how in the world can we pretend

to be deliberative?"•
Mr. HARRY F. BYRD, JR. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRY F. BYRD, JR. As I understand it, the question at issue now is the Senate committee amendment to the House proposal; is that correct?

The VICE PRESIDENT. The Senator is correct.

Mr. HARRY F. BYRD, JR. May I address a question to the chairman of the committee: As the Senator from Virginia understands it, the Senate committee added approximately \$5 billion to the figure in the House bill, so the vote then would be as to whether to add the \$5 billion which would be in addition to the figure approved by the House?

Mr. HATFIELD. The Senator is cor-

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays. The VICE PRESIDENT. Is there a sufficient second? There is a sufficient

The yeas and nays were ordered.

The VICE PRESIDENT. The question is on agreeing to the committee amendment on page 15, line 4. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll. Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is

necessarily absent.

second.

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Bentse

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Byrd.

Canno

The PRESIDING OFFICER (Mr. MURKOWSKI). Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 78, nays 20, as follows:

#### [Rollcall Vote No. 425 Leg.]

#### YEAS-78

Moynihan

Hatch

Andrews	Hatfield	Murkowski
Baker	Hawkins	Packwood
Biden	Hayakawa	Pell
Boschwitz	Heinz	Percy
Bradley	Hollings	Pressler
Brady	Huddleston	Quayle
Bumpers	Humphrey	Randolph
Burdick	Inouye	Riegle
Byrd, Robert C.	Jackson	Roth
Chafee	Jepsen	Rudman
Chiles	Johnston	Sarbanes
Cochran	Kassebaum	Sasser
Cohen	Kasten	Schmitt
Cranston	Kennedy	Simpson
D'Amato	Laxalt	Specter
Danforth	Leahy	Stafford
Denton	Long	Stennis
Dodd	Lugar	Stevens
Dole	Mathias	Symms
Domenici	Matsunaga	Thurmond
Durenberger	Mattingly	Tower
Eagleton	McClure	Tsongas
Ford	Melcher	Wallop
Gorton	Metzenbaum	Warner
Hart	Mitchell	Weicker

#### NAYS-20

rong	DeConcini	Helms
IS	Dixon	Levin
en	East	Nickles
	Exon	Nunn
	Garn	Proxmi
ry F., Jr.	Grassley	Pryor
on	Heflin	Zorinsk

# NOT VOTING-2

Glenn Goldwater

So the committee amendment on page 15, line 4 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 18, LINE 25 Mr. HATFIELD. Mr. President,

what is the next amendment?

The PRESIDING OFFICER. The clerk will report the next committee amendment.

The legislative clerk read as follows: On page 18, line 25, beginning with the colon, strike through page 19, concluding with the word "amended" on line 8.

Mr. BUMPERS addressed the Chair. The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, for the Members of the body who are on the floor, this particular committee amendment strikes the House language that eliminated funding for the Clinch River breeder. For the first time in 12 years, since the Clinch River breeder was first put on the agenda, the House of Representatives voted to terminate it.

Mr. HATFIELD. Mr. President, will

the Senator yield?

Mr. BUMPERS. I would be happy to vield.

HATFIELD addressed the Mr. Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. STENNIS. Mr. President, may we have quiet.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. In consulting with the leaders of this amendment, it appears that it would be possible to ask unanimous consent for a time agreement, 15 minutes to a side.

The PRESIDING OFFICER. Is the Senator making that request?

Mr. HATFIELD. I am making that as a unanimous-consent request.

The PRESIDING OFFICER. there objection? The Chair hears none and it is so ordered.

Mr. HATFIELD. I thank the Senator.

Mr. BUMPERS. Mr. President, I thank the distinguished chairman.

We have voted on this a number of times. Everybody has heard all of the arguments.

The last time was in September and by a margin of one, the Senate agreed to continue funding for Clinch River. Now, this body has an opportunity to do something really worthwhile and help with the budget deficit all at the same time.

But just to rehash the sorry history of the Clinch River breeder, remember that in 1970 this 375-megawatt plant was scheduled to cost \$400 million, and out of that \$400 million the nuclear industry and the electrical utilities of this country were going to put up half the money. Twelve years later, the cost is estimated—and I will come back to that in just a moment—\$3.5 billion to \$8.6 billion; but the point is that we have put \$1.1 billion into Clinch River, and so far all we have to show for it is a few bulldozers down there in the past 2 months clearing off a site.

I remind the Members of this body that there are 10 to 20 light water reactors in this country that have been abandoned in various stages of construction because of terrible cost overruns and safety factors. The Clinch River breeder reactor will be the same, and scientists will tell you that the technology is already obsolete.

One other thing I want to point out is that this is designed to be a demonstration project.

But we are not demonstrating anything. Breeders are not that esoteric any more. The Russians have a breeder, the French have a breeder—and another one under construction—the Japanese have a breeder, the British have a breeder, and the Germans have a breeder. There is not anything unique about this idea. You might say, "Well, if it is so red hot for them, why shouldn't we continue with this one?"

The answer to that is twofold. No. 1, most of those countries that originally embarked very enthusiastically on a breeder program, almost all of them, except the French, have put their breeder reactors on the back burner. The Russians are not building any more, the Japanese are not building any more, the British are not building any more, the Germans are not, and even the French since Mitterand became the Prime Minister are inclined to put their breeder program on the back burner.

the back burner.

I remind the Members of this body that it has not been too many years ago since there was a raging debate on this floor with the same arguments. "Well, the British and the French are going to do it and they did it." They built the Concorde, and we did not, and the rest of it is history.

It has not been too many years ago since a lot of thoughtful people in this body said "let us not build that ABM system out in North Dakota because it will be obsolete the day it is finished," but by one vote in the Senate we appropriated \$6 billion—that would be the equivalent of \$20 billion today—built an ABM system, and we started dismantling it on the front end just before it was completed on the back

You see these two charts there I am displaying. The one on the left is one you saw about a week ago in the Washington Post, an ad paid for by the Edison Electric Institute. Who is

that? That is the National Association of Electrical Utilities. And they are telling you in that ad why it is so important to go with this new technology. "It is going to be the wave of the future."

What they do not tell you is that 12 years ago they made a contract with the Federal Government to put up 50 percent of the money to build this, when it was scheduled to cost \$400 million.

So far they have put up \$110 million of the \$1.1 billion that has been spent, and of the \$8.6 billion the GAO says this thing is going to cost to build and complete. Those members of the Edison Electric Institute who are so hot for this project do not intend to put another dime in additional money into this project. It is now Uncle Sugar's baby. If Uncle Sam does not put up the money, the breeder will never have \$1 more put into it.

When President Reagan came to power, he said our energy policy in the future is going to be long-term highrisk. The Government will invest in those long-term high-risk investments that industry cannot afford to make.

If the Edison Electric Institute thinks breeder technology is the wave of the future, why do they not commit their money to it?

That is the simple question.

When the breeder concept first came about in this country we thought we were facing a uranium shortage. There was even the suggestion that by 1990 we would see our last full fuel cycle running out of uranium. The assumption was that the demand for energy was going to be 7 percent a year increase, 7 percent a year. Last year demand in this country increased 1 percent. This year it has increased only 2 percent. And uranium seems to be flowing out of the ground everyplace, particularly Australia. There was even a suggestion at one point that we would have 1,200 light water reactors-this was an official U.S. estimate-1,200 light water reactors on line by the year 2000. We have about 72 going right now and all the rest of them have been abandoned.

Now I commend to you, if you have not seen it, an article a few weeks ago by David Freeman, Chairman of the TVA, who said nuclear power is fine. It is those reactors that scare him.

I am not even debating the safety factor here. I am not going to debate the dangers in the proliferation of plutonium.

What sense does it make for a country that is facing a \$200 billion deficit every year for the foreseeable future to be committed to a 375-megawatt pilot demonstration breeder reactor? That is \$23,000 per kilowatt in capital cost. You can build a coal-fired plant for \$1,000 a kilowatt. And what are we going to get out of it? Even Dr. Teller, who thinks service stations ought to

be pumping up plutonium, says this is a technological turkey. It is technologically unsound. It is economically unsound. It is absolute folly for us to continue this any longer.

If we do not kill it tonight, there might be an effort made in the future, but about 3 years from now the argument will be heard we have too much money invested to turn back. You know those arguments as well as I do. It is just like Lucy holding the ball for Charley Brown every September. Everybody knows she is going to pull it out from under him. If we vote to fund this tonight that is exactly where we are headed.

Mr. President, I reserve the remainder of my time.

I yield 2 minutes to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am pleased to cosponsor the amendment by the Senator from Arkansas to eliminate funds for construction of the Clinch River breeder reactor.

Clinch River was originally proposed in the 1960's when it appeared that demand for electricity would continue to increase rapidly exhausting our supply of uranium fuels at an early date. Under the circumstances foreseen in the 1960's, breeder reactors were expected to be a near-term economic necessity. Demand for electricity was growing at a rate of 7 percent per year. Each year orders for light water reactors increased. The world's supply of reasonably priced uranium fuel was projected to be exhausted by the turn of the century.

So the Federal Government entered into a partnership with the electric utility industry to build the Clinch River breeder reactor as a demonstration project. When the agreement was signed in 1972, the utility industry was committed to pay over one-half the expected cost of the project. But their commitment was limited to \$257 million. Cost overruns became the responsibility of the American taxpayer.

I have no quarrel with the decision to begin this effort. At the time it was made. I would have supported the inconditions vestment. But changed a geat deal since the late 1960's and early 1970's. Electricity demand has leveled off. Known uranium reserves have not declined, but have grown significantly. In fact, the price of uranium has been falling in recent months. There have been no new orders for light water reactors since 1978 and many, many reactors on order have been canceled. It is clear that electricity from nuclear energy will be a much smaller part of our future energy supply than was expected at the time that the decision to build the CRBR was made.

Breeder reactor technology is no longer a near-term economic proposi-

tion. It now appears that breeders could not serve economically in private utility markets until the year 2020 or beyond. Whether the technology built into Clinch River is obsolete by today's standards or not, it surely will be obsolete in 40 years when, and if, the private utility market becomes interested in breeders for the commercial production of electricity.

Mr. Presdient, the budget problems of the Federal Government are pressing on all sides. Millions of Americans are being asked to make sacrifices to put our eocnomic house in order. To deserve their support we must demonstrate that the budget decisions made here on the floor of the Senate are made with standards of reason and fairness applied to all items. Whatever reasons may at one time have supported the decision to build Clinch River. have now evaporated in the face of new energy realities. Fairness demands that we not go ahead with a project which has no possibility of benefiting the American taxpayers of this generation. The least we can do is to see that the funding for the reactor is eliminated from this continuing resolution.

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, will the Senator from Idaho yield to me 3 minutes?

Mr. McCLURE. Mr. President, I yield 3 minutes to the Senator from Tennessee

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, I willingly agree to very brief time limitation.

As the Senator from Arkansas points out we have plowed this furrow a few times. There is no need for us at almost 4 o'clock in the morning to go over it in detail once more.

Mr. President, I would make only one point I would wish to contribute to this debate at this time.

Whether we like it or not people will look back on this Congress as they have looked back on every Congress and make some judgments on two things: One, how well we managed the affairs of the country today; and second, how well we could peer into the future and anticipate the needs of the Republic a year or a decade or a century from now.

It is in that second category, Mr. President, that we must now be concerned for this project.

I will acknowledge freely, as I have done so often in public, if a decision were before Congress tonight on whether to go forward with the breeder reactor technology as the base fuel cycle and the energy system for the future of the United States, I would not support that. We are not ready to do that. If the decision were to be made tonight that we are going to

whatever type, I would not support that.

But, Mr. President, I believe we have to do something for the future, and the breeder reactor technology will be needed not today or next year or even in the 1990's. This is an investment in our responsibility for the first decade of the next century, and when we reach that time and if we need a breeder reactor system, it will be 30 years too late to start, and every other industrial nation of consequence in the world will have gone forward with their stake, with their demonstration, with their little bet on whether or not they will need this technology in the first decade of the next century.

I believe we should continue that investment which we have already

begun.

Mr. President, perhaps this project should be reviewed extensively on the basis of future financing, on control of the project, on a number and range of other things that have changed since it was originally authorized, and I will support that. But, Mr. President, tonight on this continuing resolution is not the time to terminate a project that we perhaps will need and almost surely cannot afford to forgo in the discharge of our responsibility to see into the future.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume.

Mr. President, I rise in strong opposition to this amendment to delete funding for the Clinch River breeder reactor project. The Senate earlier this fall rejected a similar attempt. The issue has not changed. No new facts have come to light which have materially changed the goal which America set for itself 10 years ago. We believe it is essential that advanced breeder reactor technology be preserved for our country.

For 5 years, the Clinch River breeder project has been attacked with a variety of arguments for its termination. Each year, Congress has repulsed these arguments, and the plant today stands with 70 percent of components completed or on order and on-site construction continues apace. The arguments against completing this essential research and development facility are no more valid today than they have been in previous years. The American breeder reactor program is today at the point where the sensible next step is the engineering demonstration of a first large-scale breeder electric powerplant. reactor The CRBR is therefore appropriate and prudent in a carefully-timed, conservatively-paced engineering development program.

The Clinch River breeder reactor is not technologically outmoded or inherently unsafe, as some have argued. Repeated assessments by the General

build a string of breeder reactors of Accounting Office, most recently supported by their July 12 report, have found that among:

> A wide range of knowledgeable industry, government, and private individuals. . . . No one we talked with was able to provide us with any specific facts indicating that components or design features were obsolete.

> The continued keen interest of French. British. Japanese. and German breeder experts in aspects of the CRBR design makes clear that the technology is current, with a number of important design refinements and a fundamental advance in the core configuration developed in the past 4 years. In short, the Clinch River reactor is meant to be a technology development and demonstration facility, and the current design achieves that objective.

> Those who attack the project costs often do not mention that the final cost estimate for CRBR in early 1974, before contracts were let, was \$1.7 billion. Inflation has doubled all prices since 1974, so it is quite remarkable that the most recent cost estimate of \$3.6 billion exceeds inflation by only a few percentage points. Terminating the CRBR project today would leave us with nothing to show for a \$1.5 billion investment. The completion costs, on the other hand, assumptions, by the \$8 billion revenues from the sale of electricity over the life of the project. Meanwhile, in the shorter term, the project objectives as a research, development and demonstration activity will be fulfilled.

> The recent GAO report on project costs, contrary to impressions created in the media, substantially confirms and supports the \$3.6 billion DOE cost claims estimate. Exaggerated of project costs exceeding \$8 billion can be largely attributed to imputed interest on Federal debt, a factor which GAO notes is not normally associated with cost estimates for this or any other Federal expenditure.

> To those who argue that the nuclear industry should fund this project beyond their already substantial contributions, it must be pointed out that CRBR is subject to a licensing process which has never been completed for a breeder reactor, and which will undoubtedly be longer than that for conventional light water reactors. With the confused Federal policies of the last few years, the evolutionary licensing procedure that attaches to this new technology, and the precommercial scale of this technology demonstration facility, the private sector should not be expected to increase its contributions to this project. It is clearly a proper role for the Federal Government to complete the development of such new technologies to the point where a commercialization decision can be made by the utilities.

The suggestion that the United States might purchase French breeder technology does not recognize the problems that would be incurred in licensing the French breeder, which at this time would not meet U.S. standards. It is questionable whether the French would want to subject their technology to U.S. licensing standards because of potential upgrading and disruption in their own licensing and construction schedule that could result from U.S. scrutiny.

The international community has made its position clear on breeder reactor technology development. The international fuel cycle evaluation program in 1980 strongly supported rapid development of breeder technology, citing lower radiation exposure, less thermal pollution, and less waste for disposal. The LMFBR technology was judged to be no more prone to proliferation risk than other nuclear power reactor technology. The United States, France, Britain, Germany, Japan, Italy, and the U.S.S.R. have all repeatedly reaffirmed the necessity of maintaining the liquid metal fast breeder reactor option.

In view of the commitment this Nation has made and will continue to make in the LMFBR program, it would be sheer folly not to proceed, as has each of the major advanced industrial nations, with the construction of a technology demonstration facility in concert with our basic LMFBR program. The reason is plain: Both proponents and opponents agree that breeder reactors today, without the cost benefit gained by replication of a standardized plant, can generate electricity at a cost half the present cost of oil-generated electricity. No other inexhaustible energy system comes close to this achievement.

The liquid metal fast breeder reactor is the only known technology capable of supplying our electrical energy needs for the indefinite future, at a cost which does not greatly exceed the current cost of electricity generation. I therefore urge, once again, that this amendment to delete funds for this essential technology be rejected. I ask that you continue support of the U.S. breeder reactor program, and the Clinch River breeder reactor project.

Mr. President, let me make two or three brief points. Most of them have been made before and I will not be-

labor the subject.

First of all, the contention has been made that other governments are not going forward. The fact of the matter is other governments are going forward, not just the French, the British, the Japanese, the Germans are going forward; at the same time they are going forward with their programs they all expressed extreme interest in this particular project because they recognize that this project will advance the state of the art.

So let us not be led either to the conclusion that breeder reactors are out of phase in the entire world. As a matter of fact, they are not. They are more in phase most other places than the opponents would have you believe in the United States.

Second fact: The GAO report with respect to cost estimates does not sustain what the bar graph says of the opponents of this measure. They sustain the estimates that the Department of Energy has made that, as a matter of fact, it can be essentially completed for a differential of \$1.7 billion, about \$2 billion to complete the project, about \$300 million to cancel

the project.

Mr. President, we have \$1 billion worth of components either in position or on order that would be scrapped and totally worthless if we were to scrap it now, throwing away the investment we have, and we ought to be looking not at some inflated estimate of future costs, which are, as a matter of fact, different from any other methodology that has even been applied to the cost of any Federal project in order to try to make it look like the costs are running away, we ought to be looking at the cost to complete on standard estimates of cost as compared to the cost to terminate.

Look at that difference: \$1.7 billion is that difference, and say to ourselves. "What do we buy for that \$1.7 billion?" We buy the completion of a plant that has a market value in excess of that. We buy for that amount of money, \$1.7 billion additional, a plant that costs less than a standard light-water reactor, it costs less than a 1.000-megawatt coal-fired plant, it costs less than the coal liquefaction experimental plants that are going forward, it costs less than alternative technology.

So let us focus on what is real here when we make the argument about whether or not we ought to stop going forward, and the cost estimates that have been made by others are simply

inflated and false.

I hope people will look at some of the charts that are up there as well as those that have been up all evening. We just had a couple put up, and I want you to take a look at the official total costs of \$3.6 billion, expenditures to date of \$1.48 billion; the cost to complete of \$2.8 billion, and the cost to the taxpayers if terminated \$1.78 billion, with absolutely nothing to show for it. If that is good public policy I will eat my hat.

I want you to look at the other chart, if you will, for a moment, to look at what it is we have already bought and paid for and have on hand. Do we throw it to the junkyard if the opponents of this project have their way? Mr. President, this is not the time for the country to turn its back on developing technology. Almost ev-

eryone we talk to is looking at the problem of the economy of the United States, and they will say time after time after time, "Technology is where the United States must focus its efforts. Technology is where we will continue to lead the world. Technology is where we ought to be investing our money." And then they say, "Oh, but not this one. Oh, but not this one."

It seems to me we ought to recognize that the health of this country and its future economy depend upon our investment, prudent investment in tech-

nology, and this is one.

Would you design this plant the same way if you were to start it today? No; as a matter of fact, we do not today build 1970 automobiles. But this was designed a long time ago. It would have been completed a long time ago if it had not been for the artificial delays that have been imposed upon the proj-

Do not blame the cost escalation on the project when, as a matter of fact, it is the delays that have caused the major part of the cost escalation.

Mr. President, this is a good project, in my judgment and in the judgment of many others. It is not the boondoggle that some of our friends would have you believe it is. It ought to be completed and keep the United States in the technology game that will be so important to us in future years.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair. The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, in Science magazine of December 10, 1982, here is the starting paragraph:

Europe's enthusiasm for fast breeder nuclear reactors is rapidly running out of steam, faced with increased costs, decreased projections of electricity needs, and acrossthe-board delays in the construction of conventional light-water reactors on which a commercially viable fast breeder program would depend.

In both Britain and West Germany there is now serious talk, if not of abandoning fast breeder development completely, at least of putting a freeze on expansion plans until future needs can be perceived more clearly.

The story goes on. It covers every breeder in the United States. Science magazine is one of the most respected publications on this subject in the world.

Now, Mr. President, here is the State Department cable where the United Kingdom is saying that they also are putting nuclear reactors on the back burner, and it points out that this is going to slow down the cooperation between them and the United States on breeder technology.

There is another thing I want to point out. There is \$325 million in this budget completely aside from what we are talking about now for breeder research. We are not torpedoing all the research. There is \$325 million in here even if this committee amendment is

not adopted.

Mr. President, you see those two figures there on the chart. First, you see the 1982 figure of \$3.68 billion? That is the Department of Energy's estimate of what this breeder is going to cost but it does not include interest. The \$8.88 billion figure is GAO's estimate, and it does indeed include accrued interest, and Percy Brewington, who is project manager for the breeder, says that is a perfectly legitimate cost item.

Well, Mr. President, we have not lost anything by the components that the Senator from Idaho mentioned that have already been procured. They have been tested, we have learned something from them. It is not all lost.

All I am asking this body to do is to agree with the Department of Energy's own research advisory board. The Secretary wrote on August 13, 1981, to the Energy Research Advisory Board-and they have members on there from the major universities of the country, from Mobil Oil, Conoco Oil, other industrial companies in the country, and chemical companies. Where did they put breeder reactors in their response to the Secretary's request as to what ought to be the highest priority, the middle priority, and the lowest priori-

Here it is for all the world to see: the Department of Energy's own Advisory Board says:

Clinch River Breeder is the lowest priority.

They go on to say:

This is a decision that we do not have to make right now

If we do not have to make it, let us do our duty tonight and save the taxpayers of this country \$8.5 billion on something that is never going to fly.

I will not belabor the debate any further.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. That is the reason I will not belabor the debate any further.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who vields time?

Mr. McCLURE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Idaho has 5 minutes and 51 seconds remaining.

#### CLINCH RIVER

Mr. SASSER. Mr. President, for 6 years I have stood on the floor of the Senate and spoken on behalf of the Clinch River breeder reactor project in Tennessee. I have supported Clinch River and I continue to support Clinch River, not merely because it is being built in my State, but because it is an energy option which should be developed.

Mr. President, contrary to popular opinion, Clinch River is no technological turkey. Clinch River is not obsolete. It is not old fashioned. It is the most technologically advanced breeder

design in the world.

Design is over 90 percent complete. Over 70 percent of the componentsvalued at over \$700 million have been purchased or are on order on fixedprice contracts. About half of these components have been delivered to the plantsite or to nearby locations. The licensing process is moving forward and site preparation has begun.

Over 250 persons are at work at the site building roads, a railroad spur,

and constructing buildings.

Mr. President, other nations are moving ahead with this technology. We must not step away from developing this technology. The French and the Soviet Union, in particular, are moving forward with an aggressive demonstration program. It would be a serious mistake if this Nation were to abdicate its legitimate role in this research to other countries.

This project has been delayed long enough. Let us provide this funding and continue this energy demonstra-

tion project.

Mr. HART. Mr. President, I join with Senator Bumpers in opposing the

committee amendment.

Two days ago, the House delivered to the Clinch River breeder reactor a potentially fatal blow by deleting funding for it from this continuing resolution. Now, the Senate must put the project out of its misery.

Astronomical cost overruns, decreasing growth in demand for electricity, and unfavorable economics justify killing this project once and for all.

The estimated costs for building the Clinch River breeder reactor have skyrocketed, anywhere from fourfold to thirteenfold, depending on the estimates. The cost overruns on this project exceed those that plague many of our weapons systems. In fact, the Federal Government has already spent \$1.2 billion on the project, yet not one piling has been sunk or 1 cubic foot of concrete poured.

The original 1971 cost estimate for the Clinch River breeder reactor was \$400 million—or \$960 million in today's dollars. An industry consortium of 753 utilities pledged to contribute \$257 million. Its share, at that time, represented more than 50 percent of the estimated cost.

During the past 10 years, DOE estimates of the project's cost have risen to \$3.6 billion. But the General Accounting Office (GAO) disputes the DOE figure as too low. It estimates the cost of construction at \$8.5 billion. a figure that includes several essential elements missing from the DOE estimates: The cost of the plutonium fuel for the reactor, the imputed interest to the Federal Government for financing, and the staff time used on the project.

Moreover, the GAO estimates Clinch River could actually lose an additional \$2.6 billion if operated for 25 years.

The Tennessee Valley Authority (TVA) has an option to purchase Clinch River after the 5-year demonstration period and operate it to generate electricity for its ratepayers. Yet, GAO says Clinch River will lose-not make-money. In other words, rather than TVA buying Clinch River from the Federal Government, the Federal Government would have to pay TVA to take Clinch River off its hands.

If TVA is foolish enough to buy Clinch River, it is a bad deal for TVA ratepayers. But, if we are foolish enough to provide further funding to build and operate Clinch River, it is a bad deal for this country. For, altogether, the project could saddle taxpayers with a bill for \$11.1 billion.

Mr. President, despite the massive increases in the project's construction and net operating costs, the industry's dollar contribution has not increased. Consequently, instead of sharing 50 percent of the cost, as originally planned, the industry now will share less than 10 percent, should the project go forward. And, to date, the industry has not even met its original \$257 million commitment.

If, as originally intended, this project is supposed to demonstrate the commercial viability of breeder reactors, why should not the private sector continue to bear its original 50 percent share of the costs? It should-if it truly believes in the commercial viability of breeder reactors. But, apparently, the private sector has its doubts: Early on, it secured an agreement that the Federal Government would pay for all costs exceeding the original 1971 estimate.

Others also have doubted whether breeder reactors, in general, and the Clinch River breeder reactor, in particular, could pass muster in the free market. David Stockman-besides his boss perhaps the most fervent supporter of the free market-described Clinch River as-

incompatible with our free-market approach to energy policy. The breeder cannot compete with existing nuclear technologies within the timeframe contemplated by its advocates without continuing massive subsi-

Stockman wrote that in 1977. And, as the estimated costs have spiraled, Clinch River has become even more incompatible with free market princiThe spiraling costs alone would not justify terminating the Clinch River breeder reactor if the project reaped countervailing economic benefits. But, breeder reactors do not make economic sense today. And, according to study after study, they will not make economic sense until the middle of the next century, if ever.

The reason is as simple as the law of supply and demand. Breeder reactors use plutonium-the raw material of nuclear weapons-to boil water and produce the steam that turns the turbines to generate electricity. Plutonium is an extremely expensive reactor fuel, extracted by a highly technical process from the spent uranium fuel rods discharged from conventional nuclear power reactors. The GAO estimates the plutonium fuel for the Clinch River breeder reactor could cost from \$23 to \$200 per gram. Thus, to supply Clinch River with the 6.2 million grams of plutonium required to fuel it for the 5-year demonstration period will cost between \$143 million and \$1.2 billion.

Because breeder reactors can use the plutonium left over from conventional reactor fuel and produce-or breedmore fuel than they consume many experts a decade ago saw them as the ideal way to extend our supposedly scarce uranium resources. But using plutonium in breeder reactors to generate electricity is like feeding cream to a cow to get milk. Only when the price of oats or hay exceeds the cost of producing cream would it make economic sense. Similarly, only when the price of uranium exceeds the cost of producing plutonium would breeder reactors make economic sense.

Today, the price of uranium would have to increase tenfold, from its current level of \$18 per pound, for breeder reactors to become economically justifiable. Yet, the proven uranium reserves in this country have doubled over the past 10 years. At the same time, the projected demand for uranium has drastically decreased as the growth in demand for nuclear power has declined. Consequently, the domestic uranium industry has tumbled into a severe depression that has thrown out of work over half of the Nation's 22,000 uranium miners—many in my own State of Colorado.

The domestic uranium industry has even tried to persuade the Congress to restrict imports of less expensive foreign uranium as a step toward restoring its economic health. Why should we now spend billions of dollars to develop an alternative to uranium fuel, when the domestic uranium industry verges on collapse? The question answers itself: Obviously, we should not.

If current economics do not justify use of the breeder as a uranium insurance policy, then adoption of alternative technology to the breeder reactor will make it even more economically unjustifiable.

Backfittable technology currently under development by the nuclear industry and the DOE could increase by 15 percent the uranium efficiency of existing nuclear powerplants. This technology could save ratepayers \$12.7 billion through the year 2000, according to the GAO. Yet, the DOE, with its skewed nuclear priorities, keeps trying to slash funding for research and development on this technology.

In addition to the uranium savings that would result from backfitting existing reactors, we can further reduce uranium consumption by up to 40 percent with a new generation of uranium-efficient, advanced converter reactors. A full-scale effort to develop these reactors as an alternative to breeder reactors would not only significantly extend our uranium resources but also give us a highly competitive, proliferation-resistant technology with which to capture our former share of the international nuclear market.

If, as many suggest, breeder reactors are the nuclear equivalent of the supersonic transport and the Concorde jets, then uranium-efficient, advanced reactors are the nuclear equivalent of the Boeing 757 and 767. If the administration truly wanted to help the failing domestic nuclear industry, it would reject the economic chicanery of those supporting the Clinch River breeder reactor and instead promote uranium-efficient advanced reactors, a product that can survive in the free market.

Mr. President, We have all heard the argument that breeder reactors will increase the risk of nuclear proliferation by leading us into a plutonium economy in which tons of weapons-grade material move in international commerce each year. Given that only 10 to 15 pounds of plutonium are necessary to build a crude atomic bomb, widespread use of breeder reactors will result in thousands of bombs worth of plutonium annually. And, separated plutonium is extremely difficult, if not impossible, to safeguard from theft or diversion for building bombs.

Mr. President, in a period of unacceptably high Federal dificits, declining growth in demand for electricity, and abundant supplies of uranium, the unfavorable economics alone should clinch the case against the Clinch River breeder reactor. But if not, the grim prospect of nuclear proliferation and nuclear terrorism should.

Mr. President, we must terminate now the Clinch River breeder reactor—and put this nuclear Rasputin to rest once and for all.

Mr. McCLURE. Mr. President, I yield myself such time as I may consume. I, again, do not intend to belabor the subject. As the Senator from Tennessee has said, we have plowed this furrow many times before.

Let me repeat what I said previously. Foreign governments are interested in breeder technology and they are investing their own money in it. They are not investing as much as we are, but they are investing their own money in it.

I remember a few years ago, under the Carter administration, when Jim Schlesinger was the Secretary of Energy and somebody was asking about the breeder reactor. He said what I thought was flippant at the time but maybe not have been. He said, "Well, if we ever need a breeder, we can buy it from the French."

Mr. President, that is a commentary on where this country may well be headed, in an area where we have had technological preeminence from the beginning of the nuclear age in the peaceful use of the atom that was first inaugurated by President Eisenhower as a good spinoff of the awful age that had been entered in Hiroshima and Nagasaki.

Yes, there are peaceful uses for the atom. The Senator from Arkansas made some reference a moment ago about reduced expectation of the use, reduced projections for the use of energy in the future.

Of course, energy consumption is down today. You do not consume much energy in a factory that is closed down. And we know we have economic recession in this country and we also believe there will be economic resurgence. There may be a difference of opinion about how it will happen or when it will happen or under what circumstances it will happen, but I do not think there is anybody in this body who is going to sit here and say we are not going to have better economic times in the next 10, 15, 20, or 30 years. And, over that period of time, we will be looking at technology such as this to lead us toward the energy future that this country must have.

I keep puzzling to myself why it is we continue to shoot ourselves in the foot with respect to vulnerability of energy supplies. That "shoot yourself in the foot" is an old Western euphemism. You are supposed to picture some fumbling, bumbling idiot trying to get his six-shooter out of his holster and in pulling it out of his holster he shoots himself in the foot. This is not that kind of shooting yourself in the foot. This is where you hold your foot up and take dead aim and pull the trigger. It is not by accident, it is by design.

Why would we deliberately cripple ourselves with some kind of a masochistic design to increase our dependency upon imported oil? This country must, for itself and for the security of the future, continue to build energy resources for the future, and one of the energy resources for the future lies in

the development of nuclear technology, including the breeder reactor.

Mr. President, there are various forms of nuclear waste around this country that can be utilized if we have a breeder program at sometime in the future. Let me point to just one and its value, not because we are going to use it now but because it is there for the future.

When uranium is mined, it goes through the milling process that produces the yellow cake that goes on to enrichment that then goes on to fuel. After it has been mined and milled, that which does not go into the yellow cake goes into the storage drums as radioactive waste. We only take about 1.5 percent of the potential energy from uranium. We throw the rest of it away; a once-through fuel cycle that wastes over 98 percent of the potential.

But in that waste which is stored in 50-gallon drums around this country as a waste, there is potential energy if we have a breeder program. That potential energy, just in what we now have in this country, is worth \$25 trillion at today's oil prices. Now, that is not net. There is an expense to get it. But are you going to tell me that this Nation is so wealthy that we can afford to throw away an asset that is worth \$25 trillion because we refused to invest an additional \$1.7 billion in the continuation of the development and technology?

I say to my friends, that has to be the height of stupidity. This is a time for us to reaffirm our confidence in this Nation and the confidence in our ability to move forward in technology rather than say we are another knownothing age.

Mr. President, I hope that the committee amendment is approved. I think the yeas and nays have been ordered. I am prepared to yield back the remainder of my time and I do yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the committee amendment on page 18, line 25. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. HATFIELD. Mr. President, on this vote, I have a live pair with Senator GOLDWATER. If he were present and voting, he would vote "aye". If I were permitted to vote, I would vote "nay". I therefore withhold my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. GLENN) would vote "nay."

any other Senators in the Chamber wishing to vote?

The result was announced-yeas 49, navs 48, as follows:

[Rollcall Vote No. 426 Leg.]

#### YEAS-49

Abdnor	Hatch	Pressler
Andrews	Hawkins	Rudman
Baker	Hayakawa	Sasser
Boren	Heflin	Schmitt
Brady	Heinz	Simpson
Burdick	Helms	Specter
Cannon	Huddleston	Stennis
Cochran	Jackson	Stevens
D'Amato	Jepsen	Symms
Danforth	Johnston	Thurmond
Denton	Kasten	Tower
Dole	Laxalt	Wallop
Domenici	Long	Warner
East	Mathias	Weicker
Garn	Mattingly	Zorinsky
Gorton	McClure	Transfer of the second
Grassley	Murkowski	

#### NAYS-48

Armstrong	Durenberger	Moynihan
Baucus	Eagleton	Nickles
Bentsen	Exon	Nunn
Biden	Ford	Packwood
Boschwitz	Hart	Pell
Bradley	Hollings	Percy
Bumpers	Humphrey	Proxmire
Byrd,	Inouye	Pryor
Harry F., Jr.	Kassebaum	Quayle
Byrd, Robert C.	Kennedy	Randolph
Chafee	Leahy	Riegle
Chiles	Levin	Roth
Cohen	Lugar	Sarbanes
Cranston	Matsunaga	Stafford
DeConcini	Melcher	Tsongas
Dixon	Metzenbaum	
Dodd	Mitchell	

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED-1

Hatfield, against.

## NOT VOTING-2

Glenn Goldwater

So the committee amendment on page 18, line 25 was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMITTEE AMENDMENT ON PAGE 26, LINE 24 The VICE PRESIDENT. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, what is the next order of business?

The VICE PRESIDENT. The clerk will state the next committee amendment.

The assistant legislative clerk read as follows:

On page 26, line 24, strike out "March 15" and insert in lieu thereof "September 30".

Mr. HATFIELD. Mr. President, I have checked with the author of this amendment

Mr. PRYOR. Mr. President, there is no order.

The VICE PRESIDENT. The Senate will be in order. Senators are asked to take their seats.

Mr. HATFIELD. Madam President, I have checked with the author of this amendment and it is agreeable to pro-

The VICE PRESIDENT. Are there pound a unanimous-consent request for a half hour equally divided, 15 minutes to a side. Therefore, I ask unanimous consent to limit this amendment to one-half hour equally divided.

> The PRESIDING OFFICER (Mrs. HAWKINS). Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. PRYOR. Madam President, I do not think I have submitted my amendment to the desk amending the committee amendment.

Mr. HATFIELD. May I ask the Senator a question?

Mr. PRYOR. Certainly, Madam President.

Mr. HATFIELD. Is it the intention of the Senator from Arkansas to debate the question on the basis of the committee's proposed September 30 date, or does the Senator plan to offer a substitute for that date?

Mr. PRYOR. I do plan to offer a substitute and am ready to send that substitute to the desk.

Mr. HATFIELD. I yield to the Senator for that purpose.

#### UP AMENDMENT NO. 1487

(Purpose: To change the termination date for availability of appropriations and funds pursuant to the resolution)

Mr. PRYOR. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator wish the time agreement to apply only to the substitute? Otherwise, the time will have to be yielded back before the substitute is in order.

Mr. HATFIELD. Madam President, I yield back the time on the previous amendment on my side.

Mr. PRYOR. I yield back my time.

The PRESIDING OFFICER. Without objection, there will be 30 minutes equally divided.

Mr. HATFIELD. Madam President, do I resubmit the request for a time agreement on the substitute?

The PRESIDING OFFICER. The Senator may.

Mr. HATFIELD. I ask unanimous consent that there be a limitation on the substitute of 30 minutes equally divided, 15 minutes to a side, with no amendments to be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it

is so ordered. The clerk will state the amendment. The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 1487.

On page 26, lines 24-25, strike "September 30" and insert in lieu thereof "June 1"

Mr. PRYOR. Madam President, what we have is a situation involving a \$425.8 billion appropriations bill. It is the largest bill that we will consider in this session of the Congress by far. It is most of the Federal budget. As we talk informally among ourselves, we all say, "My goodness, this is a terrible way to run the Senate. This is a terrible way to run the Congress."

We all sit back in the cloakrooms and say, "If I had run my business or my law firm, or whatever, as we run the Senate, I would have been bank-

rupt" and so forth.

Madam President, we have established in the past two decades a precedent. That precedent was dreamed up, I think, by some individual with a very ingenious mind. For the last 20 years we have had in this Congress 74 continuing resolutions; 85 percent of all the appropriations bills for the past 20 years have been passed after the start of the succeeding fiscal year. So we can see that this is not just a problem that we are faced with a few days before Christmas in 1982; this is a problem that has been building and getting worse for the past 20 years.

We have seen, 198 times, these bills and these appropriations not approved by the end of previous fiscal years and signed into law. We have seen, as I have stated, 74 continuing resolutions in the past 20 years. This, my colleagues, is by far the largest of all in

history.

I rise now to say that it is my belief that the continuing resolution concept is an abdication. It is an abdication of not only our opportunity, but duty, to look at each line of each appropriation bill, to dissect those appropriations bills deliberately, certainly, surely, and make a final adjudication. We all know this morning that that is not the case that we are dealing with and neither is that the environment in which we legislate.

Madam President, I commissioned an intern last summer to do a little work for me. I had a young lady by the name of Ann Roscopf who came and spent several hours trying to figure out what the Senate had done from January 1 until the last day of June of this year. I do not think it will come as any surprise to any of us that we spent one-third of all of our legislative time during that 6-month period in recesses and in quorum calls.

Well, maybe that, in itself, is not bad, but when we look at the composite picture, we see that an enormous

amount of time has been wasted.

What do we do? Here we are. We have worked now 3 nights very late and into the morning, and maybe this entire night, trying to adopt this appropriations bill, this monster bill that is most of our budget. Most of us actually do not know what is in it, nor are we going to have ample opportunity to debate its contents.

I know we are going to hear, let us go ahead and continue this over until September 30 as the committee has recommended. What I am recommending in this amendment is very meager. It says, no, let us not go to September 30 before we appropriate, as we should; let us go simply until June 1. That, at least, will not be appropriating money for the whole country, for the whole Federal Government for a period which would amount to an entire fiscal year.

The other concern I have—and I do not see the majority leader on the floor. I am not blaming him for mismanagement—but I do think that the country is very concerned when they see us working all night, all day, at the last of a session—a lameduck session—attempting to handle our business as we are doing it. It is an abdication, and all of us know it. We all might as well go ahead and admit it.

I know that people are saying, well, let us wait until September 30, because we are not going to have time to do it. Let us look and see what we are going

to do in January.

On January 3, we are all going to come back to Washington; we are going to hold up our hand; we shall start a new Congress; we shall be sworn in. Then what is going to happen? The next day, we are going to leave and we are going to close this place down. It is going to become a morgue for the next few weeks. No one is going to be here, no one is going to be looking at appropriation bills, no one is going to look at anything else except what we want to look at back in our home States or some far-away land.

I say to my friends, Madam President, we have got to somehow bring this process under control. My amendment simply moves the expiration date from September 30 as the committee recommends to the date of June 1. It is that simple. I hope I will have the support of my colleagues as we attempt to wrestle with a very, very serious problem.

Mr. HATFIELD. Madam President, I

yield myself 3 minutes.

Madam President, I cannot fault the description of the situation here that has just been offered by the Senator from Arkansas.

Let me say to the Senator from Arkansas that as chairman of the Appropriations Committee, there is no one I think who feels the frustration of this whole process more than I. I only recount the fact that this year Congress did not complete consideration of the first budget resolution until June 23. That was nearly 5 weeks beyond the statutory May 15 deadline.

Madam President, this left Congress in the very curious position of consuming 50 percent more legislative days in adopting a general budget plan than was left prior to the start of the fiscal year for implementing such a plan.

That is where we were.

I am not making this as a matter of criticism. I am merely saying these are the facts of the case. They put us in an intolerable timeframe in trying to act on a continuing resolution.

But this is not going to correct the problem that the Senator from Arkansas suggests. This is merely going to make more inefficient the administration of these programs. The agencies are going to be uncertain for how long a period and at what level of funding they should sustain these programs.

If we put a June 1 date on this, then we are going to be right back where we are now. We are going to be doing 1983 appropriation bills or a continuing resolution at a time when we should be addressing 1984. Do not put the Appropriations Committee into this same bind, for it will put the whole Senate in the bind we are in tonight. We are not going to salvage 1983. There is no way we are going to salvage that other than through a continuing resolution.

So let us move it clear through to September 30 as we have proposed. We then free up the whole process to move into the 1984 budget and appropriations process. Then by getting the budget resolution passed on time I can assure the Senator, the Senate Appropriations Committee will certainly move on time.

We were into June this year in the Senate for a budget resolution, and July before we saw an appropriations bill acted upon by the House. We on the Senate side had done our homework. We had held our hearings. We were ready to go and bring it right out here to the floor after marking it up in committee. But there was no reason we should mark up at that time until the House could act on a bill.

Consequently, all I can say to the Senator is that I join him in expressing the same kind of frustration on this procedure. But I really feel we are merely going to continue it by this action rather than expedite it.

Mr. PROXMIRE. Madam President, will the chairman yield?

Mr. HATFIELD. I am happy to yield.

Mr. PROXMIRE. In the chairman's judgment, if we do adopt the amendment offered by the Senator from Arkansas, what realistic possibility is there that the Senate would be able to act on any of these six appropriations bills before June 1? Would we have another continuing resolution in the judgment of the chairman, or would we be able to pass some or most of appropriations bills on the basis of our past experience?

Mr. HATFIELD. I would say to the Senator that what the Senate might be able to accomplish is only half of the picture. I think we could do our mechanics of this, but we have to again rely on the House of Representatives to act. I have no idea what the House would do. The House in the past has indicated that if we get into

this situation, they will tack on another continuing resolution.

Mr. PROXMIRE. My point was on the basis of our past experience, is it not true that these particular bills have such controversial matters in them that our experience has been that we cannot, we have not been able in the past to get appropriations bills passed once we have a continuing resolution going into the next year?

Mr. HATFIELD. Yes; I understand now more precisely the Senator's question. Let me cite the record. In the last 15 years there was only one bill, one bill, that was passed under similar circumstances after entering a new session of Congress.

Mr. PROXMIRE. Only one appro-

priation bill passed.

Mr. HATFIELD. Only one appropriation bill in the last 15 years under these similar circumstances. So the likelihood is very, very slight that we could act on these bills after we return.

Mr. STEVENS. Madam President,

will the Senator yield?

Mr. HATFIELD. I am happy to yield

to the Senator from Alaska.

Mr. STEVENS. I ask the Senator, is there any possibility, if we adopt the Senator's amendment, that we could have any flexibility in conference at all? Is it not true that if we leave the date there, the House has the other date, it is possible at least some of these bills can go to September 30, and we can negotiate our way out and at least have some of the bills not come back on us under the circumstance that we face where all of these bills from the House and Senate will die at the end of this session?

Mr. HATFIELD. The Senator is correct. We would be in a much more likely position of being able to have these bills acted upon and totally re-

moved from that situation.

Mr. STEVENS. Is it not also true, if you look at the supplementals, that the cost of Government has gone up because the supplementals that we have been asked for in the spring always are larger because we cannot get to them until late in the summer due to the fact that we are trying to work on bills for the same fiscal year that we are in when we are facing supplementals on those same bills and also trying to deal with the appropriations bills for the next fiscal year? So if the Senator's amendment passes, we will be back in the same position only worse than we are now. The only way out of this is to follow the Senator's leadership and try to get some of these bills through to September 30, at least some of them. If we adopt the Senator's amendment, we will have no flexibility at all with the House except between March and June. With the committee's amendment at least we have the chance of getting some of these 10 bills over to September 30 so

we do not have to fight them again halfway through the next fiscal year.

Mr. DOMENICI. Madam President, will the distinguished Senator yield 3 minutes to the Senator from New Mexico?

Mr. HATFIELD. I yield.

Mr. DOMENICI. Madam President, I rise to congratulate the Appropriations Committee. It is absolutely necessary that all of the problems cited by the distinguished Senator from Arkansas regarding continuing resolu-tions get resolved by the U.S. Congress. The best way to resolve it is precisely as recommended by this committee and the distinguished chairman, Senator HATFIELD. If anyone thinks we are going to do any better in terms of the specifics, in terms of the costs, in terms of meetings like this for continuing resolutions, by having this continuing resolution expire in June, it seems to the Senator from New Mexico that that is absolutely impossible. It is going to get worse, not better. If we could once and for all be finished and let the appropriators start with a clean slate, we would be in a marvelous situation in terms of having the bills here, having the time, and not being here at 5 o'clock in the morning, when the Government is going to close down. Every argument that he has cited in favor of his amendment strangely enough impresses the Senator from New Mexico in favor of the committee amendment.

The people want us to finish. They want to understand. They are never going to understand as long as we have one continuing resolution after another. They would like it to finish and hear the word appropriation again instead of continuing resolutions.

I can assure you, that every time we have gone with the continuing resolution with the idea that we are going to have an easier job when we actually get in appropriations bill, times have changed, people want more, everything else piles up and we never come in with any less money. I doubt if we have ever come in with anything that is more streamlined. We have the agencies sitting around wondering what their budgets are. If you are looking for efficiency it is not there. I can only say that the only thing better would be if the House of Representatives in conference would agree to this. Can you imagine what it would be like for this institution and for them over there to start next January and not have any continuing resolutions facing them? It appears to me that it would be one of the most remarkable accomplishments in the last 15 years. I know of the great concern of the Senator from Arkansas, but it seems to me that exactly what he wants to happen will probably happen only if the Appropriations Committee desire that we go on through a year actually comes out of conference. I hope the Senate

sends a message that that is what they would like to happen.

I thank the chairman.

Mr. SYMMS. Madam President, will the Senator from New Mexico vield?

Mr. DOMENICI. I think I have no time remaining.

Mr. HATFIELD. I yield to the Senator from Idaho.

Mr. SYMMS. I thank the Senator.

I would like to say to my good friend from Arkansas-and I discussed it with him yesterday, and I say again-I do not know how many managers and administrators I have talked to in the last several years of the different agencies of Government who have oftentimes told me:

If you fellows in the Congress would just give us a budget, even if it is a little less than what we asked for, but we know how much we are going to have, then we can work around the budget.

What the Senator is suggesting, it would appear to me, he ought to move it up to the 31st of January when we can then do this once a month. It makes it more uncertain for them, and I certainly agree with the leadership position that Senator HATFIELD has taken of let us get it behind us, put it up to next year and then start on the 1984 appropriations bills.

We are the laughing stock of America. Every time we run out of money we come down here and stay until midnight or 5 o'clock in the morning, whatever the case is, because we cannot get the business done. Why not set it out there? It just appears to me that what the Senator wants to accomplish that this only compounds the problem. I do not care if you talk to Forest Service people, BLM people, military people, educators, in any different Government function, they will always come back and tell you:

We would be better off if we had a budget that we could count on that was reliable and we do not always have this up in the air with the continuing resolution.

So it will be settled.

Mr. PRYOR. May I ask my friend from Idaho if I would be able to elicit his support for my amendment if I changed the date from June 1 to March 1? That was my original idea that I had discussed.

Mr. SYMMS. No, that is the point I am making. Then you would have to do it again, and it makes it more un-

But the point is in my opinion what your sincere point that you are making is you would be better off if you put it to September 30, 1984, and then we would at least not have the uncertainty that there will be no funding for this agency or that agency, and they close their doors and then reopen them, and have all the uncertainty, the unpredictability, which almost makes it impossible for any manager of any Government agency to at least give the taxpayers a fair shake for the money they spend, because you make it so difficult for those sincere, hardworking people to do a good job because they do not know what the plan has in store for them.

Mr. PRYOR. You talk about removing uncertainty, and I am talking about the corruption of the appropriations process. Some of my colleagues say, "Go home for Christmas, let this thing go to September 30, wipe the slate clean," and it sounds wonderful, beautiful, it is a magnificent concept. But the truth has been and it is very simple, that we are throwing in the towel and we are admitting that the system we have does not work.

I wish I were smart enough to make a recommendation. I know we have two very splendid former Members of this body, one from your side of the aisle and one from my side of the aisle, Senator Pearson and Senator Ribicoff, who are working on getting suggestions and trying to find a real constructive way that might serve as Moses leading us out of the wilderness, so to speak, because we are in a wilderness.

Mr. FORD. Mr. President, will the Senator yield?

Mr. PRYOR. I am delighted to yield. Mr. FORD. I will say to my distinguished friend from Arkansas that basically what we are talking about here now is a dilemma about financing the Federal Government and its functions.

For some time now there has been floating around a 2-year budget proposal. That 2-year budget proposal has the nomenclature to get us out of the dilemma we are in. It will give us the opportunity to have time to dissect the budget, as the distinguished Senator from Arkansas has stated earlier.

I would be very hopeful that all of those who are now saying that we want to clean the slate and just go ahead and do it, we are back in here again. We are back in here again and doing the same thing next year. If you had a 2-year period and had the pressure valve along the way to accommodate whatever problem you run into, I think the distinguished Senator from Arkansas would then accomplish the purpose he is looking for.

I could not help but inject that into the conversation here. I admire both sides of what you are trying to do, and there may be an answer flowing out of

Mr. PRYOR. I thank the Senator for his comment.

Mr. STENNIS. Mr. President, may I ask a question?

As I understand, the Senator from Arkansas proposes this year only, the current fiscal year, that we go over until next September 30; is that correct?

Mr. PRYOR. No; that is the recommendation of the Senate Appropriations Committee.

Mr. STENNIS. The Senator was favoring that position?

Mr. PRYOR. Mine would move the date from September 30 to June 1. My amendment would move that back so that we would see this continuing resolution expire and so we could attempt to appropriate, as we are charged to appropriate, under our existing and historic procedures.

Mr. STENNIS. If the Senator would yield to me for just 1 minute-

Mr. PRYOR. I would be happy to yield.

Mr. STENNIS. I have been thinking about this quite a bit in the last day or two, and under the schedule I will now be the ranking minority member of the Appropriations Committee next

We have now come to the point where we either have to have a continuing resolution or a debt ceiling or something special all the time. Go into another, and go back and have another round with a continuing resolution. It seems to be like-

Mr. PRYOR. Seventy-four times in

20 years.

Mr. STENNIS. We ought to try for a year. I am not exactly following you, I am trailing you. We ought to try for a year, and this year is already well through the year, and let this go for the 12-month period. I believe it is worth the experiment. I would not want to favor making it permanent now but just to see how it works for 1 year.

It is a very grave matter. We cannot get at the things in the normal way any more, the committees cannot,

Mr. LEVIN. Mr. President, will the Senator from Arkansas yield?

Mr. PRYOR. I would be happy to

Mr. LEVIN. Let me commend my friend from Arkansas for raising a very critical issue. It was raised in a similar manner on November 19, 1981. We had the same problem. We have the same problem. Somebody tried to turn what was supposed to be a temporary stopgap funding measure of limited duration-that is the definition, temporary stopgap measure of limited duration into the whole ball of wax, the whole budget. Ten appropriations bills, \$400 billion-plus, the defense appropriations bill, HHS, we were doing all of that in 24 hours, going through midnight.

We are told to clear the decks for the 1984 fiscal year budget. I think the price for our doing that is to abdicate our duty for the 1983 budget. We should not do that. We ought to have, we ought to get, another continuing resolution in January or February or March, get it out of the Appropriations Committee, take a week and discuss it right. Let us discuss it right. We cannot discuss this in 24 hours. The Defense appropriations bill is worth more than 24 hours. The priorities of this country are worth more than 24 hours, and yet we wrap it up in this ball of wax, and then we are told finally it is inefficient for the agencies to have this interim deadline. If that is the test, efficiency for the agencies, we are going to make the people's elected representatives an irrelevant factor. We cannot permit the Senate of the United States to become an irrelevancy, and that is what I am afraid we are going to do unless we adopt the Pryor amendment.

Mr. PRYOR. I thank the distinguished Senator from Michigan.

Mr. STENNIS. We are now beset by these interim periods when it comes to being a big scare that the Government is going to close down. Monday morning, if we do not settle this thing Saturday, watch Monday morning, the scare will be on, the telephones will be ringing, and it seems to me that that creates a lack of confidence in us, as to what are we doing or why are we not doing something.

Mr. PRYOR. I think the greatest lack of confidence, I might say to my friend from Mississippi, is when they see us not performing our duty. And we are not performing our duty when we abdicate this great power away and just throw in the towel and admit the system is broken down. We have to change it. I hope my colleagues will consider strongly adopting this amendment so that we will have an opportunity to appropriate this money.

The PRESIDING OFFICER (Mr. JEPSEN). The time of the Senator from Arkansas has expired.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I vield back the remainder of my time. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) is necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH) is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote nay.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 24, nays 73, as follows:

[Rollcall Vote No. 427 Leg.]

YEAS-24

Burdick Byrd, Robert C. Boren Exon Bradley Cranston Heflin Bumpers Dixon Jackson

Kennedy Metzenbaum Riegle Mitchell Sarbanes Leahy Levin Pryor Sasser Matsunaga Randolph Zorinsky NAYS-73 Abdnor Garn Murkowski Andrews Gorton Nickles Armstrong Grassley Nunn Packwood Baker Hart Baucus Hatfield Pell Percy Bentsen Hawkins Boschwitz Hayakawa Pressler Proxmire Brady Heinz Helms Quayle Byrd. Harry F. Jr. Hollings Roth Cannon Huddleston Rudman Chafee Humphrey Schmitt Chiles Inouye Simpson Cochran Jensen Specter Cohen Johnston Stafford D'Amato Kassehaum Stennis Kasten Danforth Stevens DeConcini Lavalt Symms Thurmond Denton Long Dole Lugar Mathias Tower Domenici Tsongas Wallop Durenberger Mattingly Eagleton McClure Warner Melcher Weicker Ford Movnihan NOT VOTING-3 Goldwater Hatch Glenn

So Mr. PRYOR's amendment (UP No.

So Mr. Pryor's amendment (UP No 1487) was rejected.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was rejected.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I should like to complete the last action of business. That is, since Senator Pryor's amendment was defeated, I move the adoption of the committee amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the committee amendment on page 26, lines 24 and 25.

The committee amendment on page 26, lines 24 and 25 was agreed to.

ORDER OF BUSINESS

Mr. HATFIELD. Mr. President. I wish to outline for the Senate precisely where we are and what remains to be done.

We now have five more committee amendments—one relating to the Federal Trade Commission, on which the principals have agreed; I shall propound a unanimous-consent request for a time limitation of 30 minutes. An Ashbrook amendment on abortion, on which the principals have agreed to 20 minutes equally divided; one on a copyright amendment on which principals have agreed on a 20-minute time agreement; one on community development, on which there is no time agreement; and one to FEMA, on which there is no time agreement.

So far, I have had the following Senators indicate they wish to offer amendments: Senator Baucus, two amendments; Senator Dopp, one; Senator QUAYLE, two amendments; Senator HAWKINS, two; Senator PERCY, one;

Senator Thurmond, one; Senator DeConcini, one; Senator Moynihan, one; Senator Danforth, one; Senator Cranston, one; Senator Cannon, one; Senator Chafee, one.

Mr. LEVIN. I have one, Mr. President.

Mr. HATFIELD. Senator Pell, one; Senator Proxmire, two; Senator Levin, one; Senator Warner, one; Senator Gorton, one; Senator Boren, three; Senator Dixon, one; Senator Melcher, one; Senator Pryor, one; Senator Pressler, two; Senator Pressler, two; Senator Tower, one; Senator Domentici, one; Senator Helms, three.

Mr. President, I should like to propound a unanimous-consent request that we continue with these amendments and that we stack the votes on any that require a rollcall beginning at 10 o'clock. That would permit those Senators who do not have amendments to at least get some sleep. It would also require the Senators who do have amendments to be on deck ready to offer them as we move through this list.

Then it would provide the opportunity for the Senate to complete this work by noon, hopefully, so that we can go to conference at 1 o'clock.

Mr. STENNIS. If the Senator will yield on that, we start voting at 10 o'clock?

Mr. HATFIELD. We start voting at 10 o'clock on the amendments that have been acted upon and that require a rollcall. We would stack them to begin voting upon them at 10 o'clock.

Mr. STENNIS. If the Senator will yield, the Senator means once they have been debated, they will come up; then we shall vote?

Mr. HATFIELD. That is correct. Mr. PRYOR. Could we have 10-

Mr. PRYOR. Could we have 10minute votes on those?

Mr. HATFIELD. I would not include that at this point. I shall leave that to the leadership.

Mr. RUDMAN. Will the Senator yield?

Mr. HATFIELD. Yes, I yield.

Mr. RUDMAN. Mr. President, I would like to inquire whether it might be possible, in light of a number of things which the chairman is aware of, if this next item is taken up, as I expect it will be and disposed of in a fairly brief period of time—that is the FTC amendment. For a number of reasons, I would think, because of the number of undecided votes on this very important matter to the American people, we might not be through until 5:30, perhaps a little longer. I hope we have a vote at that time.

I would like at least to address the sleep possibilities of my colleagues.

Mr. HATFIELD. If I understand the Senator correctly, he is suggesting that we not ask for the unanimousconsent and start stacking the votes until after the FTC amendment has been voted upon?

Mr. RUDMAN. We can start propounding them now and take the next amendment after the FTC.

Mr. HATFIELD. Mr. President, I propound the unanimous-consent request that, following the action on the FTC amendment, we begin stacking the votes on any amendments that have been debated and that require a rollcall, beginning at 10 o'clock.

Mr. LONG. Reserving the right to object, I would like to ask the Senator a question.

Suppose on these amendments, one requires more debate than one anticipated so that we cannot conclude the debate on that one. Does this anticipate that that particular vote will not be stacked, that we would go to some other amendment and come back to that later on?

Mr. HATFIELD. That is correct, I would say we have a majority of these amendments that I have announced before we added the other ones from this recent floor action. We have on most of them a time agreement among the principals. I have not propounded any of those time agreement requests yet, but the principals have agreed to time limitations. So we ought to be able to move through all of those pretty well, I think, on rather short time limitations.

Mr. LONG. Where the Senators are willing to agree to limited debate or feel that they have debated enough, that is fine. But where some feel there is one that should be debated at length, that should not be voted on at 10 o'clock.

Mr. HATFIELD. The ones we would stack would be only those where debate has been completed or which would require a rollcall.

Mr. DECONCINI addressed the Chair.

Mr. DOLE. Mr. President, do we know what the amendments are? If there are any that affect the Finance Committee, we would have to stay and debate those. Is it safe for the Finance Committee to go home so we can get ready for the highway bill?

Mr. HATFIELD. I think it would be very desirable for the Finance Committee to have representation on the floor at all times, because I know a number of these have indicated that they have some relevance to the committee.

Mr. LONG. May I say to the Senator in that connection that those of us on the Finance Committee—I believe I speak for the chairman as well as myself—intend to pass a Finance Committee bill.

We do not intend to have Finance Committee bills passed on the appropriation bill. We are willing to offer Senators an opportunity to offer their amendment on this bill or some other bill, but we are not willing—it can be either on the gasoline tax bill or some other measure, but we are not willing to have the Appropriation Committee interfere with the work of the Finance Committee. And we are willing to stay here as long as it takes to see that that is not done.

Mr. HATFIELD. Let me say the Senator knows that the intent on the part of the chairman of the Appropriations Committee is not to intrude on the jurisdiction of the Finance Committee.

Mr. LONG. We have no problem in this regard, so far as I know, with the chairman of the Appropriations Committee. There was a time when it was not that way. But we have no problems with the chairman of the Appropriations Committee. He is willing to stay within the bounds of his committee jurisdiction and within the bounds of the law and the rules. But some of our colleagues have a bad habit of trying to take the Finance Committee bills and add them on top of the appropriations bills, and we think it is about time we stop that foolishness.

We had a Democratic caucus, and I am not going to say what the Senators might have said, but we have to stop this thing of taking amendments on other bills that have been passed, or in conference or on bills that have not yet been placed on the calendar and adding all those things on other bills on the theory that they would have a better chance somewhere else, because all that means is we will never get out of here.

We will not get out of here at Christmas. We will not get out of here at New Year's. We will just go until one session expires and start the next day and never get our business done. So we just do not want to be by-passed and we want to offer people an opportunity to vote. But I am here to say that if someone cannot get a vote on his tax amendment on a tax bill, he is not going to be able to get a vote on an appropriation bill. Some of us on the Finance Committee are here to see that that does not happen.

Mr. DECONCINI. Will the Senator from Oregon yield?

Mr. HATFIELD. I yield.

Mr. DECONCINI. Mr. President, I think there is a unanimous-consent request before the Chair, and reserving the right to object, I think the FTC amendment coming up is very important, but it is no more important than the Ashbrook amendment or the Levin amendment or the DeConcini amendment or anything else.

I ask the Senator from New Hampshire not to keep us here for his amendment, because his amendment is very important but so are all the other amendments that the chairman is attempting to stack at this time. I hope that he would allow it to be stacked along with all the rest.

Mr. HATFIELD. I would only comment that I am going to be here throughout the whole situation, so consequently it has no bearing on my convenience. But I am trying to accommodate as many Senators as possible. The Senator from New Hampshire asked for that. I was trying to accommodate him. I will try to accommodate any other Senator.

Mr. ZORINSKY. Mr. President, Reserving the right to object, I will have to object to any unanimous consent which would allow a time agreement on a Radio Marti amendment or the ability of a Radio Marti amendment to be added to any other amendment, because, as the majority leader is aware, I have been on and off filibustering that piece of legislation. I do not care if it does take until New Years; I am not going to provide any unanimousconsent request, for myself, without precluding Radio Marti amendments.

Mr. HATFIELD. I say to the Senator that we are most anxious to take up those amendments in priority with which we have time agreements. With the number that I look at here now, we are really going to be pressed to get through by noon.

I can assure the Senator that preference and priority will be given to those amendments that do have time agreements reached between the principals.

Mr. ZORINSKY. The chairman should not then hesitate in including in that unanimous-consent preclusion until after 10 o'clock or 11 o'clock of bringing that up.

Mr. HATFIELD. I would be reluctant to include that in the unanimousconsent agreement because I do not want to take any of these amendments in preference status or to in any way prejudice the amendments. I do not think that that would be appropriate.

Mr. ZORINSKY. Likewise, I feel that I would be prejudiced after 2 weeks of filibuster and I must object.

Mr. STEVENS. This does not say amendments will or will not be raised. It just said that if a vote is ordered, it will take place at 10 o'clock this morning. It does not give anyone any right to bring up an amendment. It does not give us any right to terminate debate. It does not change anything except we vote at 10.

Mr. ZORINSKY. If an amendment is brought up with a high priority, it would be amendable by a Radio Marti amendment, would it not?

Mr. STEVENS. That is right, but it is only the votes that are ordered between now and 10 o'clock that will commence at 10.

Mr. ZORINSKY. The problem is, I do not want the votes to occur ever. And once the amendment is on, they start at 10 o'clock, it is not going to help me very much.

Mr. HATFIELD. Mr. President, I withdraw my unanimous-consent agreement so that we can get on with

the business of taking care of these amendments.

I withdraw my request for unanimous consent to stack the votes at 10 o'clock

COMMITTEE AMENDMENT ON PAGE 57, LINE 15

Mr. HATFIELD. I ask the Chair to put the next amendment to the body.

The PRESIDING OFFICER. The request is withdrawn. The clerk will report the next amendment.

The legislative clerk read as follows: On page 57, line 15, insert a new section 141.

Mr. HATFIELD. Mr. President, the comanagers of the bill, Senator Prox-MIRE and I, will temporarily set aside the FTC amendment in order to provide a freestanding opportunity for the Senator from Idaho to offer an amendment undergirding this amendment.

The PRESIDING OFFICER. The manager has that right.

#### UP AMENDMENT NO. 1488

(Purpose: To temporarily limit, until an authorization bill is enacted, the expenditure of funds by the FTC against stateregulated professions.)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. McClure) proposes an unprinted amendment numbered 1488.

Several Senators addressed the Chair.

Mr. METZENBAUM. Will the manager of the bill yield for a question?

Mr. McCLURE. Parliamentary inquiry, Mr. President.

Mr. METZENBAUM. Will the manager of the bill yield for a question?

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. McCLURE. Mr. President, has the amendment been reported?

The PRESIDING OFFICER. The amendment has been reported but not read.

Mr. McCLURE. Will the clerk read the amendment?

The PRESIDING OFFICER. The clerk will report.

Mr. MOYNIHAN. Mr. President, might we have order?

The PRESIDING OFFICER. The clerk is reporting the amendment.

The bill clerk resumed the reading of the amendment:

At the appropriate place in the bill insert the following:

SEC. . Until legislation authorizing the activities of the Federal Trade Commission is enacted into law, or until the expiration of this act, whichever comes first, none of the funds—

Mr. PROXMIRE. Will the Senator yield? Will the chairman of the Appropriations Committee yield for an inquiry?

Mr. HATFIELD. Yes.

Mr. PROXMIRE. The Senator asks unanimous consent, as I understand it, that this be a freestanding amendment?

The PRESIDING OFFICER. The amendment is being read.

Mr. HATFIELD. No.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Is

there objection?

Mr. HUDDLESTON. Objection.

The PRESIDING OFFICER. There is an objection. The clerk will continue to read.

The bill clerk resumed reading the amendment as follows:

appropriated by this act may be used by the FTC for the purpose of investigating, issuing any order concerning, promulgating any rule or regulation with respect to, or taking any other action (other than one that is already the subject of litigation in the courts of the United States on or before the date of enactment of this Resolution) against any State licensed and regulated profession (as that term would apply under the definition in 29 U.S.C. 162(12)) or the local, State or nonprofit membership association thereof.

Mr. McCLURE addressed the Chair. The PRESIDING OFFICER. The

Senator from Idaho.

Mr. FORD. Point of order, Mr. President. What is the time agreement on this amendment? No time agreement?

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. McCLURE. Mr. President, I do not know whether it is possible to get a time agreement on this amendment. The Senator from New Hampshire, who is the principal proponent of the amendment in the Appropriations Committee, has expressed a willingness to have a time agreement. The Senator from Idaho is willing to have a time agreement, and I do not know that the requirement of other Members might be. But I would be willing that it be a very brief one. I think everyone knows what the issue is, although I know the Senator from New Hampshire wants to make a statement and I have three or four other Senators who want to make a statement on my amendment.

Mr. RUDMAN. Will the Senator

yield?

Mr. McCLURE. Yes, I yield without

losing my right to the floor.

Mr. RUDMAN. Would the Senator from Idaho be willing to consider, knowing the rather complex parliamentary situations that now exist by virtue of the fact that this is now a freestanding amendment rather than a second-degree amendment, in light of that would the Senator from Idaho be willing to agree to a 30-minute time agreement equally divided only up unto a tabling motion, which I intend to make, and the time agreement ex-

piring at that point? Obviously, if that succeeds, that is the end of it. If it does not, then the ball game starts over again. Would the Senator be willing to agree to that?

Mr. McCLURE. I say to the Senator I am very willing to agree to that, but I yield to the Senator from Oregon.

Mr. PROXMIRE. When the Senator from New Hampshire says the ball game starts over, that means if the tabling motion fails, there is no time agreement on the McClure freestanding amendment?

Mr. RUDMAN. The Senator from

Wisconsin is precisely correct.

Mr. HATFIELD. Mr. President, I propound then a unanimous-consent request for a time agreement on the pending McClure amendment, 30 minutes to be equally divided and with the tabling motion to follow that period of depate.

Mr. ZORINSKY. Mr. President, reserving the right to object, would the Senator include in that unanimous consent that that amendment not be subject to further amendment?

Mr. METZENBAUM. Will the Senator further provide that if the tabling motion fails, there is unlimited debate

available?

Mr. PROXMIRE. We have done that.

Mr. METZENBAUM. I do not think the Senator said that.

Mr. HATFIELD. That is precisely what we said.

Mr. PROXMIRE. That is right.

Mr. METZENBAUM. Will the Chair restate what the unanimous-consent

request is?

The PRESIDING OFFICER. The unanimous-consent request was for 30 minutes of debate on the amendment equally divided, to be followed then by a motion to table; provided that if the motion to table fails, the amendment would remain pending without a time limitation.

Mr. METZENBAUM. That is fine.

Mr. ZORINSKY. Mr. President, would the Senator propound in addition that the amendment not be further amended?

Mr. HATFIELD. All right.

The request has been made that I amend my unanimous-consent request that it not be amendable, that this motion not be amendable.

Mr. RUDMAN. I have no objection

with that.

Mr. HATFIELD. Mr. President, I thank the Senator from New Hampshire.

I amend my unanimous-consent agreement to include the request of the Senator from Nebraska that the amendment is not amendable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair. Mr. McCLURE. Mr. President, this amendment on behalf of myself and my colleague, Senator Melcher, would limit the expenditure of funds by the Federal Trade Commission for actions against the State regulated professions or their nonprofit membership associations until an authorization bill is enacted.

This amendment builds on the action taken Wednesday by the Appropriations Committee when they adopted an amendment offered by my colleague from New Hampshire, Senator RUDMAN. His amendment places a needed, and very welcome, restraint on the FTC's unwarranted incursions into the professional sphere. However, I am concerned that this committee action does not go far enough. It seems to me that many areas of legitimate professional activity would still be subject to the FTC's notorious fishing expeditions and disruptions. The committee amendment also does not protect professional associations and the beneficial, voluntary self-regulation that they promote.

For example under the Apropriations Committee amendment, the FTC could still challenge medical peer review activities. The Commission would be allowed to attack the codes of ethics of attorneys, doctors, dentists, nurses, engineers, and other professionals.

As I interpret the committee language, the FTC would still be able to attack a State's procedures for disciplining lawyers. The voluntary board certification system in medicine would still be subject to the Commission's meddlings. Cost containment activities undertaken by a variety of health professionals would be subject to FTC challenge. Certainly, in this time of rising health care costs, this Congress should not take any action that would prevent doctors, dentists, nurses, and others from coming to grips with this difficult problem.

I think we can all agree that the types of activities I have just mentioned are worthy and in the public interest. They should be allowed to continue unhindered. The committee language, while a useful first step, is too narrow to protect these worthwhile programs conducted in the public interest.

The amendment we offer now would be in addition to the language adopted by the committee. It would extend the protections already agreed upon. Our amendment is not a substitute for the committee language. Rather, it is a necessary, constructive addition to what has already been achieved.

I think it is important to note the closeness of the committee vote on this issue. The committee's language was adopted 15 to 14, a mere one-vote margin. That tells me that a substantial number of the members of the committee believe as I do—that we need to go farther in limiting the FTC. The restrictions already adopted are

useful, but we need to do more at least until the matter can be properly disposed of on the authorization bill.

Certainly that is a view shared by a majority of the members of the Commerce Committee. The FTC reauthorization bill they have reported would resolve the problem, but unfortunately has not yet been voted on. However, I urge adoption of our amendment as a way to implement, however temporarily, the will of that committee.

Our views on the need for greater limits on the FTC are also shared by the House of Representatives. On December 1, by a substantial vote of 254 to 155, the House amended their FTC reauthorization bill to place a moratorium on any new FTC actions against

the professions.

These actions by the Commerce Committee and the House amply demonstrate the desire of many in Congress to put a lid on the FTC's continued attacks on the professions. I believe it is time for the whole Senate to recognize that intent by adopting this amendment.

I should point out that this amendment is a limited one, certainly in comparison to the actions I have just cited. In fact it is really a middle ground between these actions and that of the Appropriations Committee.

Mr. President, I would like to make one final point about our amendment. I am sure we all agree that this FTC issue should be settled on the reauthorization this year. Hopefully, we will be able to conclude that effort early in the 98th Congress. In anticipation of that early work, the duration of our amendment would be only until the reauthorization is enacted or until the end of the continuing resolution, whichever comes first. Since this continuing will run until the end of the fiscal year, I think this proviso is needed to insure that there are no funding restrictions that might be inconsistent with the enacted authorization. Therefore, as soon as we finish the authorization bill, our amendment will no longer be in effect-even if the professions issue is not then disposed of.

In conclusion, let me say that think the unfair advantage the FTC has over the States and the professions they regulate has gone on long enough-especially when in August they even tried to interfere with a State requirement in Maine designed to hold down health care costs. I hope my colleagues will agree and will support our amendment.

The PRESIDING OFFICER. Who

yields time?

Mr. McCLURE. I yield 3 minutes to the Senator from Alaska (Mr. STE-VENS).

Mr. STEVENS. Mr. President, just briefly, I think the Senate should realize that until just 5 years ago professions of this country did not have the attention of the FTC that they have today. The reason was that traditionally this has been a field for the States.

In the period of time since the FTC has started to take jurisdiction, the States have gradually yielded to the Federal Government the regulation over some of the professions as the FTC has extended its jurisdiction.

I have taken the position and I think it is a valid one that the Federal Government should not extend this jurisdiction. It should insist that the States continue to regulate the professions as

they have in the past.

I have high regard for my friend from New Hampshire and he says "but they have not done so in some of these areas." So he wants to have a partial area of Federal jurisdiction through the FTC

Frankly, I tell you I see no reason to do it. We have situations where we now are expanding our Federal taxes so that we can continue to send more revenue sharing back to the States.

We have the situation where local governments and State governments are informing their people that they do not have to raise taxes as the Federal Government does. The main reason is because we have taken more and more of the State jurisdiction into Washington.

This is one place where we can draw the line and say that the procedures that existed in this country for over 200 years worked, the professions flourished, and they were subject to control by the State legislatures, by actions of the State because they knew there was no one in Washington who was going to do it for them.

If we allow the FTC to expand its jurisdiction now, the time will come when no State will pay any attention to its professions because the Federal Government will pay the bill.

To me it is a simple matter of saving the system worked before the FTC moved to take this jurisdiction, and we should insist that it continue to work and not allow the FTC to bring to Washington the power to regulate the professions of this country.

Mr. RUDMAN. Mr. President, I yield myself 5 minutes from my time.

Mr. President, I rise in opposition to the amendment by the Senator from Idaho and in support of the compromise amendment which I offered and Committee on Appropriations the agreed to.

President, the committee Mr. amendment would reserve to the States exclusive authority in those areas where they traditionally have exercised jurisdiction—the so-called quality of care issues. Specifically, it would prohibit the Federal Trade Commission from preempting State laws, or parts thereof, which establish "training, education, or experience requirements for professionals or the

permissible tasks and duties of professionals." These are areas in which the States have expertise and the FTC does not, and the FTC should not be in the business of questioning duly enacted State laws.

At the same time, the committee amendment would retain the FTC's authority over anticompetitive "commercial practices" or professionals, practices such as price fixing and boycotts. The FTC's authority in these types of actions is unchallenged as regards businesses. No sound reason at all has been advanced for arbitrarily immunizing from FTC scrutiny professionals who engage in such illegal acts.

The compromise proposal, Mr. President, differs from the earlier Broyhill-Florio amendment in that the socalled preemption override, which would have allowed the FTC to preempt any State law if it found that it did or might adversely affect competition, has been eliminated. A number of Senators were concerned that the override provision created a loophole which the FTC would exploit to second-guess appropriate State actions, a fear, I might add, that was not unfounded given some of the FTC's past actions.

In addition, the American Medical Association raised the concern that it would grant the FTC its largest expansion of regulatory authority since the Magnuson-Moss amendments of 1975 and 'law." "would go far beyond existing Accordingly, I responded to these concerns and dropped that sec-

tion of the compromise.

In contrast, the amendment advanced by the Senator from Idaho would totally eliminate FTC jurisdiction over the professions and their professional associations. The FTC would be prohibited from investigating and pursuing even the most clear-cut and egregious violations of antitrust and consumer protection law and would be forced to drop litigation now underway.

To understand what is at stake here. it is instructive to take a look at the cases the FTC has brought against professionals in the past:

- 1. Illegal threats by a town's only doctors to boycott the local hospital's emergency room if it recruited competing physicians to practice at the hospital.
  - 2. Advertising restrictions used to:
- a. Prevent doctors from advertising they accept medicaid or medicare assignment.
- b. Prevent doctors from advertising to the Hispanic community that they spoke Span-
- c. Drive a physician house-call services out of business.
- d. Prevent a church organization from running a low-cost cardiac stress clinic.
- 3. Price-fixing agreements where physicians agreed not to work below "usual" rates, thus preventing hospitals from reducing costs.
- 4. Boycotts of health maintenance organizations by physician groups by, for example,

excluding HMO doctors from hospitals or preventing them from obtaining malpractice

5. Boycotts of dental cost-containment programs developed by insurance, industry, and labor groups.

6. Illegal kickbacks from a major medical laboratory corporation to physicians.

7. Coercion to compel a State medicaid program to increase doctors' fees.

8. The Eyeglass I rule which permits the advertising of eyeglass prices and requires that prescriptions be released to consumers. This is the only instance in which the FTC has invalidated state laws relating to the professionals and it has led to a substantial reduction in the price of both eyeglasses and contact lenses, including a reduction in the average price of soft lenses from \$300 to \$100.

As you can see, Mr. President, these actions by the FTC have had nothing to do with the quality of care. The quality of treatment any patient received was not affected in any manner by these FTC actions. All that changed was the price the consumer had to pay.

All the change was that the price

was lower.

The American Medical Association has advanced the proposition that FTC authority over the professions is duplicative, that the U.S. Department of Justice and the State attorneys general have sufficient authority to take whatever actions are necessary. My response to that argument is direct.

First, the Justice Department has traditionally deferred to the FTC in this area, just as it has in the area of Robinson-Patman violations, and it has not brought a case relating to professionals in many years. It has neither the resources nor the expertise. There can be no greater emphasis of this than the fact that the last six Assistant Attorneys General in charge of the Department's Antitrust Division, including William Baxter, the incumbent, have opposed the complete ex-

emption for professionals.

As for the State attorneys general, the AMA has neglected to mention that 13 do not even have the legal authority to bring antitrust actions against professionals and 27 others have never done so, primarily for lack of resources. In my neighboring State of Maine, for example, the FTC is currently conducting a price-fixing investigation involving doctors. Prior to commencing the investigation, the FTC asked the attorney general of Maine if he would prefer to handle the case. He declined.

Yet, Mr. President, the most outrageous aspect to this line of argument that the AMA has advanced, and which shows just how arrogant professionals can sometimes be, is the fact that at the last AMA House of Delegates meeting, in June of this year, a resolution was adopted in support of a health care exemption from both Federal and State antitrust laws. Thus, the AMA has had the unmitigated gall

to come before the Congress requesting an exemption from FTC jurisdiction on the grounds the States can handle any existing problems while preparing to seek exemption from State jurisdiction at the same time. That kind of duplicity should not be rewarded.

Mr. President, it is interesting to hear what others have to say on this issue. The Wall Street Journal, not a liberal paper by any means, wrote:

[G]enerally, more power to the FTC has meant more punitive and unnecessary regulation. But this time the Commission is on the side of the markets. . . . A lot of what is going to be walking around disguised as decentralization or deregulation just may, when you take a closer look, turn out to be just the same old protectionism underneath.

conservative organizations such as the Heritage Foundation, the National Association of Attorneys General, and the Small Business Legislative Council have also criticized total exemption.

The administration opposes the amendment of the Senator from Idaho and supports the compromise as indi-

cated in statements by Vice President Bush, OMB Director Stockman, and HHS Secretary Schweiker. Additionally, all four Commissioners of the FTC

support my position.

Supporters also include the American Association of Retired Persons. Consumers Union of America, Congresswatch, the UAW, the United Steelworkers, the Food Marketing Institute, and virtually every health professional organization other than the AMA

Mr. President, I know we are trying to pass this continuing resolution and will conclude my remarks. But, one final point must be made. Roughly \$300 billion, representing 10 percent of the gross national product, was spent on health care in this country last year. The Federal Government is the Nation's single largest purchaser of health care, having spent about \$80 billion in fiscal 1982 alone. Under these circumstances, it is clear that the Federal Government must have the authority and means to combat illegal, anticompetitive practices by health care professionals. The FTC is the only Federal agency with that means and authority to do that. To argue that its authority to scrutinize such activities should be revoked is to abdicate a national responsibility and is nothing short of absurd.

The compromise proposal the Committee on Appropriations adopted is reasonable. It grants the States exclusive authority in those areas where it has been used and where they have expertise while preserving FTC jurisdiction in areas where it has traditionally acted. The amendment by the Senator from Idaho would place a limited class of people above the law and represents the worst type of narrow. special interest legislation. If adopted, it would prove that Adam Smith was probably correct when, 206 years ago. he observed:

People of same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.

I urge my colleagues' support of the compromise and their vote against the pending amendment.

Mr President, you have in front of you a letter from the Vice President of the United States who indicates the support of the administration.

I noticed something very interesting in the last week. For the first time in 20 years doctors are making house calls. They made house calls in the Dirksen Building, they made house calls in the Russell Building. They are so concerned about our health that the reception room is packed, with them, and I say we ought to give the American people a break.

As they trudged down the steps discouraged and disheartened because we did the right thing, as they get into their Mercedes and Porsches and drive back to their suites in the Madison, let us give the American people a break. Let us regulate those things which need regulation. Let us regulate anticompetitive practices. I thank the

Mr. EAGLETON. Mr. President, will

the Senator yield for 1 minute? Mr. RUDMAN, I yield 1 minute.

Mr. EAGLETON. I thank my col-

I think everyone in the Chamber knows that the fastest growing industry in America is health care in all of its ramifications. I am told it now consumes close to 10 percent of our gross national product.

Mr. President, I speak with at least some indirect authority on price-fixing in the health field. My brother is a doctor. He practiced radiology before he had a stroke. It was a well-know fact in the State of Missouri that radiologists established their prices in and among themselves. There was a uniform or standard charge agreed to among the profession for a GI series; a uniform charge agreed to among the profession for a chest X-ray, and so through the major medical speciality disciplines. The "boys" got together and said, "What are we going to charge this year for this particular procedure?"

If there is one area in this country where we need more competitionfree, open, fair competition-it is in the delivery of health care. If there is one area that needs the closest of scrutiny in terms of avoiding price-rigging it is the health care industry. It is the most noncompetitive big industry in

Finally, Mr. President, I must chuckle a bit at the notion that we should leave these matters up to "prudent State regulation." I am a former attorney general of Missouri and I know there is no likelihood that the States can or will do the kind of job that the FTC can and will do. The resources simply are not there to do the kind of job which needs to be done. Do not expect the medical profession or the Healing Arts Boards of the States to do the job. If you leave it up to the States, you are insuring the job will not be done.

Mr. RUDMAN. Mr. President, I yield 2 minutes to the Senator from

Oregon-3 minutes.

Mr. PACKWOOD. Mr. President, let me elaborate on what the Senator from New Hampshire has said about the things the FTC is trying to do and what they are not trying to do. They are not trying to tell doctors or lawyers or anybody else how to define themselves as professionals; to define how long they must go to college; or to tell a State who to certify for medical or law schools.

What we are trying to say is that henceforth ophthalmologists cannot withhold prescriptions from their patients, so that the patient can shop around and ask what their eyeglasses will cost. The FTC had to stop that practice. We are saying that people can practice dentistry, law, or medicine in retail stores if they choose to. The various professions have tried to

stop that.

In Broward County, Fla., they tried to say it was unethical if you advertised in the yellow pages that you spoke Spanish, which might be of some help to a possible number of patients who do not speak English. All we are trying to do is to subject the professions to the same rules when it comes to their practice of business; business, not their practice of medicine, the same rules to which everyone else is entitled.

If what the American Medical Association wants to achieve is achieved they will be followed by the other professions. Here are the AMA's draft laws. Indeed, Senator Rudman is right. Here is one they have for the Federal Government, and here is one they drafted for State governments to get them out from all possible regulations, and the lawyers will be right behind and the architects right behind.

We have seen a lot in terms of medical advance recently, but, my fellow Senators, there is indeed a triple bypass operation: bypass Congress and bypass the States and bypass the public, and that is what you are going to get if this amendment passes.

Mr. RUDMAN, I yield 2 minutes to the Senator from Ohio, keeping in mind we have a very limited time

agreement.

Mr. METZENBAUM. Mr. President, I commend the Senator from New Hampshire for coming forth with a compromise that I think may take us out of this very difficult situation. That is what the committee amendment is. The amendment now being offered by the Senator from Idaho would undo that compromise.

In my opinion, the compromise is not exactly where we ought to be because I believe we ought to make it very clear that the FTC as its jurisdiction with respect to the doctors, with respect to the lawyers, with respect the dentists. But in order to provide some method of handling that, the Senator from New Hampshire has come up with a formula that would leave the States with exclusive authority in those issues relating to the quality of care and licensing requirements, but it would preserve the FTC's ability to challenge boycotts, price-fixing, deceptive commercial practices in the health care and affected industries. I think that is a fair way out of this

I do not know whether it will be acceptable, and I am sure it is not acceptable to the AMA and the ADA, and maybe the ADA and their high-priced lobbyists, but I think it is a way of giving the public some measure of protection, and I hope we see fit to support the Senator from New Hampshire's motion to lay on the table.

I believe it is in the public's interest, and I believe it is in the spirit of making it possible for free competitive forces to work in the economy and not to permit some of the professions to

be exempt from the law.

Mr. RUDMAN. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. GORTON. I thank the Senator. Mr. President, I must express my strong opposition to the McClure amendment which would strip the Federal Trade Commission of any power to enforce the Nation's antitrust laws with respect to State-regulated "professionals," and would totally exempt professionals from the Federal laws against consumer fraud and deception. This exemption would clearly be contrary to the public interest: It would create a privileged class above the law; It would unnecessarily increase the costs of health and other professional services to all Americans; and it would ultimately limit the freedom of choice among professional services

Under the McClure amendment, the FTC would be prohibited from investigating even the most clear-cut and flagrant violations of the antitrust and consumer protection laws, simply because these violations were committed by licensed professionals. Price fixing, boycotts, kickbacks, fraud, and deception would be shielded from FTC challenge, even if the activities were totally unregulated by the State.

While the States have traditionally regulated certain aspects of the health

care professions, State regulation has been directed primarily at licensure requirements, scope of practice questions, and other quality of care issues. In contrast, the FTC has generally focused on restraints on the commercial aspects of professional practice, aspects unrelated to legitimate quality of care concerns and proper professional self-regulatory activities. This commercial conduct includes precisely the same type of activities engaged in by all businesses, for example debt collection, advertising, contracting for goods and services, and the determination of fee schedules, office locations, and hiring practices.

It is the illegal commercial aspects of professionals' activities which the FTC seeks to prevent. Since both professionals and nonprofessionals engage in the same kinds of commercial practices, there is no valid reason for arbitrarily immunizing from FTC scrutiny those professionals who engage in anticompetitive or deceptive practices.

Mr. President, the FTC has long been active in scrutinizing professional activities from both antitrust and consumer protection perspectives. None of these efforts is directed at interference by the Commission with the State licensing of professionals.

A closer look at the specific nature of the FTC's activities respecting professionals will illuminate this debate. The primary purpose of the Commissions' efforts has been to enhance competition and the informed consumer as the regulators of the market-place. In the professional area, as well as in other areas of the economy, the FTC has sought to remove restraints on the competitive process.

FTC antitrust cases, for example, have challenged the following types of conduct:

Boycotts of HMO's by physician groups—for example, excluding HMO doctors from hospitals, and preventing HMO doctors from getting malpractice insurance.

Coercion used to first, compel a State medicaid program to increase doctors' fees and to second, boycott a health insurance cost-containment program developed by automobile manufacturers and the UAW.

Price-fixing agreements where physicians agreed not to work below "usual" rates, thus preventing hospitals from reducing costs.

Illegal kickbacks involving physicians and a major medical laboratory corporation.

Illegal threats by a town's only doctors to boycott the local hospital's emergency room if it recruited competing physicians to practice at the hospital.

Suppression of truthful information—for example, ethical restrictions on advertising were used first, to prevent a church organization from running a low-cost cardiac stress clinic, second, to help drive a physician house-call service out of business, and third, to prevent senior citizens from learning which doctors accept medicare payments.

Illegal conspiracies preventing physicians from forming business partnerships with licensed nonphysicians such

as clinical psychologists.

Boycotts of cost-containment programs developed by insurers, industry, and labor to hold down dental costs.

FTC actions have also stopped fraudulent behavior by professionals. For example, the FTC has challenged:

Undisclosed health risks involved in a doctor's synthetic hair implant busi-

Deceptive advertising by a weight clinic that used a prescription drug never approved by the FDA as safe and effective for treatment of obesity.

The FTC has proceeded cautiously in examining whether and when professional regulation imposes substantial costs on consumers without providing any coutervailing benefits. Studies show that some restrictions on the business aspects of professional practice do not increase quality but do increase prices, restrict choices, and reduce availability of professional goods and services. For example:

Higher prescription drug prices resulted from State laws restricting price advertising. A 1975 study estimated that these regulations cost con-

sumers \$134 million in 1 year.

Higher prices for eyeglasses existed in States with regulations strictly limiting competition among optometrists. A 1975 study estimated that these regulations increased eyeglasses prices by 34 percent.

Mr. President, all of this FTC activity is clearly in the public interest, but would be prohibited by the McClure amendment. It is argued that it is only a temporary moratorium, merely barring the FTC from expending funds on law enforcement in the professions for the duration of the continuing resolution. But this would cause tremendous injury to consumers and to honest, law-abiding professionals and would abuse the congressional budget process.

A sweeping ban on use of FTC funds to investigate or prosecute law violations in the professions would:

Force immediate cancellation of over 20 antitrust and 12 consumer protection investigations, including alleged boycotts by physicians pressuring other doctors to stop working with nurse practitioners in rural health clinics; a possible physician conspiracy to boycott health maintenance organizations and cost-containment programs; and alleged false advertising claims by practitioners of laser beam facelifts.

Interfere with administration efforts broad-based coalition of health, proto restrain artifical increases in health fessional, business, consumer, and

care costs that are aggravating the Federal deficit and making it harder for Congress to fund needed health programs for the Nation's poor.

Stop dead two cases now before the Commission after trials in which administrative law judges found private physician and dentist organizations guilty of conspiring to obstruct cost-containment and raise prices.

Prevent the FTC from policing

Prevent the FTC from policing against abuses in scores of professions, including engineering, nursing, chiropractic, and psychology, which do not

want FTC oversight removed.

Mr. President, this issue becomes particularly momentous when seen in the light of the fact that the cost of health care is approaching \$300 billion annually. Last year, for the second year in a row, health care costs rose more than 15 percent, accounting for

nearly 10 percent of the GNP.

It is encouraging to see new and innovative ways of organizing, delivering, and financing health care services develop such as health maintenance organizations and individual practice associations. There are also many categories of health professionals-such as nurses, nurse midwives, nurse practitioners, and dental hygienists to name a few-who are educated, trained, and licensed by the States to perform certain medical services and who are able and willing to perform those services at lower costs for more people. These developments have been welcomed by consumers, but predictably resisted by some health care providers. When this resistance takes the form of violation of the Nation's antitrust laws, it cannot be tolerated. It is difficult to fathom, in these circumstances, how Congress can seriously consider removing these problems from the scrutiny of the agency of the Federal Government which has shown the most interest in finding creative and constructive solutions.

Mr. President, there have been a number of legislative proposals in the 97th Congress designed to promote free competition in the delivery of health care as a means of cost containment. These procompetition proposals are varied and have attracted great attention, but will have to await another Congress for serious consideration. But, the underlying concept represents the best hope for slowing the continuing rapid rise of health care costs: We must restructure the American health system in a direction away from regulation and toward a competitive free market. This is precisely the central theme of the FTC's activities respecting professionals. Keeping the Commission on the job is our best chance in this Congress to make any progress in this area.

Keeping the Commission on the job in this respect is the reason that a broad-based coalition of health, pro-

labor interests representing 21 million individuals, 34 national organizations and their 800 affiliated organizations has strongly opposed the blanket exemption represented by the McClure amendment. The health care professionals in this group, including nurses, psychologists, dental hygenists, chiropractors, and clinical laboratory practitioners, believe in the free enterprise system. They are not afraid to compete. The consumer groups and labor unions recognize that rising costs and lack of access to health care have become problems of crisis proportions. Retailers like chain drug stores and large department stores want to offer competitively priced health care goods and services to consumers. And, the Washington Business Groups on Health, as major consumers of medicare, recognize their strong interest in free competition in the health care marketplace.

Mr. President, advocates of the blanket exemption make a number of arguments which seem persuasive on their face. Closer scrutiny reveals, however, that these arguments are largely lacking in substance.

First, it is argued that the States and the Justice Department can adequately enforce the antitrust and consumer protection laws respecting the professions. Few States have the resources and expertise to address a problem of this magnitude, however. Thirteen States do not even have the antitrust authority to do so, and 27 States have never brought an action in this area. Recognizing these problems, the National Association of Attorneys General has twice in the last year passed resolutions strongly opposing an exemption for State-licensed professionals. The Attorneys General have recognized that the FTC is "uniquely equipped to evaluate the activities of professionals and their asso-

Although the FTC and the Department of Justice do share responsibility for enforcing the Federal antitrust laws, Justice has no authority over fraud and deceptive trade practices; the blanket exemption would totally eliminate Federal enforcement in those areas. Even in antitrust enforcement, Justice has historically not focused on the professions, leaving it to the recognized expertise of the FTC. This has led to a rare and bipartisan consensus in this subject: All four sitting FTC Commissioners and the chief antitrust enforcement official of the Department of Justice, as well as his six immediate predecessors, are unanimous in their opposition to the blanket exemption.

At the same time as they were making this argument that Justice and the States can take care of the problem, the AMA House of Delegates in June resolved to seek changes in the State antitrust laws and the Sherman and Clayton Acts. The AMA proposals in this regard would seriously weaken the ability of State attorneys general and the Justice Department to enforce these laws against professionals.

A second contention by proponents of the McClure amendment is that it is being offered in the name of deregulation. As one who has supported the administration's program to rid the country of excessive, unwarranted and inefficient regulations, I am here to say that this proposal is not part of that effort. It is the FTC's efforts which are deregulatory in nature. FTC Chairman Miller is a person who has spent virtually his entire career opposing Federal regulation. He puts the point this way:

The essence of deregulation is to have competition in the marketplace guide the allocation of resources rather than have such decisions made by an army of bureaucrats in Washington. Where antitrust and . . . FTC-type consumer protection regulation . . . come in is in making sure that competition in the marketplace does indeed live up to its full potential . . . (1)f people become convinced that effective market competition is not possible in the health care field, . . . we are going to witness an explosion of direct federal regulation that will make the 'naughty old FTC' pale in comparison.

Mr. President, this is why Vice President Bush, OMB Director Stockman and HHS Secretary Schweiker have stated repeatedly that the Reagan administration opposes the professions exemption. It is because the FTC's efforts are deregulatory in nature and help to free the market for health care and other professional services from unwarranted restraints on fair and open competition.

Mr. President, the final arguments of proponents of this exemption which I will address are the contention that FTC enforcement activities have fundamentally undermined the ability of States and professionals to insure the quality of care given to patients, and the related argument that FTC enforcement interferes with legitimate self-regulation by the professions, such as peer review programs and cost containment agreements. The facts simply do not bear out these contentions. The exclusive focus of FTC enforcement is the business or commercial practices of professionals. As I previously outlined in detail, the FTC has challenged illegal restraints of trade such as price fixing, boycotts, bans on truthful advertising, and the deceptive promotion of health care services. I fail to see how these cases can be construed as actions that lessen the quality of care.

The Commission has never overruled State licensing board decisions concerning the qualifications, education, or testing of State-licensed professionals. It has only sought to preempt State regulations on one occasion: The

1978 eyeglasses rule prohibited flat bans on commercial advertising by eye care specialists, conduct which the Supreme Court has also prohibited.

Mr. President, the FTC has never brought an action challenging the activities of a peer review board which seeks to set ethical or quality of care standards for its profession. The Commission's order in the AMA case expressly states that peer review is not restricted in any way, and the legality of peer review was never an issue in that case. Like other beneficial programs, peer review can occasionally be abused. Price-fixing conspiracies or coercive boycotts directed against health maintenance organizations should not gain immunity from the antitrust laws because they are labeled "peer review" or "self-regulation."

The FTC has also never prohibited or challenged physician or medical society participation in discussions with insurers concerned about containment of rising costs. When the Commission has taken action, is when medical and dental groups organized economic boycotts of State medicaid plans or insurers who tried to establish cost containment programs.

Mr. President, the committee amendment, proposed in the Appropriations Committee by the distinguished Senator from New Hampshire (Mr. Rudman), represents a reasonable compromise. It would prohibit the FTC from preempting State laws relating to the quality of care, scope of practice, and licensure requirements. These are the areas where the States have traditionally been preeminent. In this respect, the controversial preemption override, which the AMA argued gave the FTC new authority, has now been eliminated. But, the FTC would retain authority over the commercial and business practices of professionals-where the activities of professionals are analogous to other businesses. Quite frankly, this is the most that the AMA and other professional groups legitimately have a right to ask the Congress to provide. To go further and create a privileged class above the law, unnecessarily raising the cost of health care for all Americans, and ultimately limiting the freedom of choice among professional services, would clearly be contrary to the public inter-

What this amendment seeks to do is to take an entire group of professionals and say that no laws relating to consumer fraud and deceptive practices will apply to them under any circumstances. It violates the most fundamental rule of our society that we should never let any individual be a judge in his own case.

As someone who knows something about this subject, along with every other former attorney general in this body, I urge you to vote for the

1978 eyeglasses rule prohibited flat motion to table this McClure amendbans on commercial advertising by eye ment.

Mr. RUDMAN. Mr. President, I yield 30 seconds to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, earlier in the debate we heard that the medical profession was really doing such a good job in this whole area of competition. We in this body faced the issue of cost containment some 5 years ago, and it was defeated because we were going to leave the issue of competition to the medical profession. That has been one area where they really failed to lower their costs. That case has been made here well today. I think it is important for the membership to understand that the people leading the fight on this are three former attorneys general of States who have dealt with problems of competition in their States. I think that is an important lesson for us to listen to this morning. I strongly support the Senator from New Hampshire.

Mr. RUDMAN. Mr. President, may I inquire how much time we have left?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CHAFEE. Mr. President, I want to commend the distinguished junior Senator from New Hampshire for his amendment.

I think the important thing that we have to remember is it does not apply to medical standards or legal standards, it applies to advertising and competition. I did note that in the American Medical News that the chairman of the American Medical News called for rigorous accreditation standards in order to offset the anticipated surplus of physicians in the next decade. I do not think that is something we want to accomplish.

Mr. President, I support the language reported by the Appropriations Committee with regard to the Federal Trade Commission's scrutiny of professionals, and I oppose the McClure amendment which would completely exempt professionls from FTC scrutiny.

Each of us here tonight should ask himself the following question: Is it in the best interest of the public to create a special class of business persons; that is, licensed professionals, to be excluded from FTC investigation of violations of antitrust and consumer protection laws? In my opinion it is not

I urge each of you to seriously consider the effect of exempting licensed professionals from FTC scrutiny. The FTC would be prohibited from bringing antitrust and consumer protection cases against professionals who engage in outright consumer fraud, price fixing agreements, and coercive practices. The FTC challenged the American Medical Association's restrictions on advertising, and as a result physi-

cians are now able to advertise useful information such as their ability to speak different languages, willingness to accept medicare or private insurance as payment in full, office hours, availability to make house calls, and other important information. If professionals and their ogranizations are exempted from FTC jurisdiction, the AMA could once again restrict adver-

tising by its members. An example of the type of activity which the FTC seeks to prevent is clearly evidenced in a November 26, 1982, issue of American Medical News, a publication of the American Medical Society. In that edition, the chairman of the Association of American Medical Colleges called for tougher accreditation standards as a means of limiting the number of medical students and offsetting the anticipated surplus of physicians in the next decade. A position such as this could be viewed as a violation of antitrust laws, and the FTC could conceivably bring suit. Would not all of us like to limit the supply of people in our professions in order to insure that the demand for our services would always be equal to or greater than our ability to supply them.

The FTC has no interest in passing judgment on the best standard of medical care in a community. Its interest in keeping professionals within its scrutiny is to insure that professional rules do not preclude them from competing in the marketplace.

Removing Federal jurisdiction over an economic activity such as the rendering of a professional service is good if it fosters competition; however, it is not good if it fosters a cartel. Past experience has shown that the temptation to restrict competition is too great to be ignored within a highly trained group of professionals, such as physicians.

I urge my colleagues to support the language as it stands and to defeat any effort to substitute language which would allow professionals and their associations to hold the public hostage to their whims.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Mr. President, I yield 7 minutes to the Senator from Montana (Mr. Melcher).

Mr. MELCHER. Mr. President, it really does me a lot of good to hear several learned lawyers lambast another great profession—physicians. But what are these professions that are licensed by a State, or what are the related nonprofit association? Are there any engineers around? Surveyors? I know there is one geologist here. I know there is one geologist here. These are four of the licensed professions.

I am licensed in the State of Montana, license No. 200. It was granted to me by the Montana Veterinarian

Board in 1950 pursuant to the State law. It cost 25 bucks a year, too, to keep that license renewed.

I am also required to have 10 hours of seminars in veterinary medicine every year to keep it renewed, and I have to abide, if I am practicing, by applicable Montana law covering the practice of veterinary medicine. If I commit a felony, the license is cancelled automatically.

I also belong to the State association and to the national organization, and that costs me about another \$150 a year. You might say, "So what? What does that have to do with the FTC and their investigation?"

Well, a few years ago, the Federal Trade Commission carried on an investigation of practicing veterinarians. It was a long process. The Commission procedure required records, documentation, scores of pounds of papers and legal briefs and testimony. And what were they after? That was very vague, what they were after.

Finally, after a long period of time, it boiled down to two points, rather vaguely expressed: Why did veterinarians not advertise more, and why did they not write out prescriptions rather than dispense directly?

Mr. EAGLETON. Will the Senator yield for a question?

Mr. MELCHER. I will be delighted to yield after I get through and if I have some time.

What were the views of my patients? Well, let me give you a couple of examples.

First of all, Bossie, Carl Aask's cow. She needed a little service, a little post-parturient service. Bossie did not care one nickel's worth whether I advertised. And she did not care at all about me dispensing drugs. In fact, she rather resented it. but she did not want a prescription.

And Carl Aask did not either, because Carl Aask lives about 28 miles from Forsyth and he did not want to run into the drugstore after that prescription. And if I told him he had to, I would not have been invited there to dinner, and I always liked to eat at Mrs. Aask's table.

The second patient was Susie, a cocker spaniel that belonged to Kent Amo. Susie had a heart problem and she needed some digitalis. And she neither cared whether I advertised or dispensed directly that digitalis.

Was anybody hurt by this FTC investigation of veterinarians that went on and on and on to find out whether we advertised enough or dispensed directly? Well, I can tell you for sure it was not even noticed by Susie or Bossie. And, Kent Amo, the owner of Susie, did not care, and Carl Aask, the owner of Bossie, did not care.

So was there anything hurt? What were they after? Antitrust? A poor place to look—why did FTC investigators not spend their time and taxpayer's dollars on more obvious investigative needs? The investigation of veterinarians created a lot of havoc with my profession and the association that had to act on my behalf to give them all of that documentation over a course of months and months and bled the association in funds for legal fees.

Under the Clayton Act passed in Congress in 1913—that is the organic act of the FTC—and that act specifically did not direct, and that was Congress saying it, anyone in FTC to investigate these nonprofit associations for antitrust violations. In 1913 Congress also wisely enacted the Sherman Antitrust Act specifically delegating to the Justice Department the responsibility of investigating these nonprofit associations; including veterinarians, mind you, for any antitrust violation.

We do not need any more harassment by the FTC. What does the FTC say now as expressed in the Rudman amendment. "We have got a compromise. We are just going to come into States to investigate professions, but leave them alone on licensing procedures and State laws, but we will continue to do our thing rather than the Justice Department doing their thing on antitrust."

If there is any problem that my former patients have and my former clients have with antitrust, the Justice Department is available. And if Congress wants to change that, let Congress change it by directing antitrust inspections by FTC. That is a change in law and our amendment suggests that meanwhile, let us leave FTC and their tigers right here in Washington, not harassing the State or on other investigations but licensed professional associations which are closely covered under the varying circumstances of different States by State law.

The PRESIDING OFFICER (Mr. NICKLES). The Senator's time has expired.

Mr. McCLURE. Mr. President, I yield 2 minutes to the Senator from Kentucky (Mr. Ford).

Mr. FORD. I thank the distinguished Senator from Idaho.

Mr. President, I rise to speak in support of the amendment offered by Senators McClure and Melcher. I believe their amendment places necessary, additional limits on the authority the FTC exercises over the professions.

The action of the Appropriations Committee Wednesday was a welcome one. It is gratifying that the committee sees the need to restrict the Commission's activity in this area, and that is what they said. However, the committee language does not go far enough. There are still too many areas of legitimate professional endeavor, regulated and supervised by the States, which would be left open to the intrusion of the FTC.

We must remember that the Commerce Committee in May reported a reauthorization bill that clarifies that the FTC has no jurisdiction over State-regulated professions. That is out here. It is on the table now. Hopefully we can get it up. The House of Representatives on December 1 voted to place a moratorium on further Commission action in this area. The Senate Appropriations Committee language falls short of these actions. The McClure-Melcher amendment will put the Senate on record as supporting Senate Commerce Committee, the which is the Commission's authorizing committee, and the House in this area.

Mr. President, I have already said that I think the action of the Appropriations Committee is a worthwhile first step. But it is only a first step. We need to do more.

For example, the Appropriations Committee language would not protect local cost containment efforts by health providers. The McClure-Melcher amendment would.

The committe lanaguage would not protect professional associations' efforts at voluntary self-regulation. The McClure-Melcher amendment would.

The committee amendment does not protect medical peer review. The McClure-Melcher language does.

Mr. President, these few examples I have just cited point up the limitations of the Appropriations Committee's action. These examples are all worthwhile activities that I am sure we want to see continued. Yet they would all be subject to FTC attack if we do not expand upon what the committee has done.

I hope that the 98th Congress will quickly settle this issue by enacting a reauthorization bill for the FTC as early as possible. Then we can lay this issue to rest. But until that time, I think we must act to implement the intent of Congress to limit the FTC's jurisdiction over the professions.

The Appropriations Committee has shown us the way to move. Now let us take the needed additional steps. I urge you to support the McClure-Melcher amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. Mr. President, I yield to the distinguished Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise to support the McClure amendment.

The substitute offered by Senator RUDMAN, and accepted narrowly by the Appropriations Committee would merely prohibit the FTC from prempting State licensure laws. This is a good first step, but it is not enough.

The FTC has not only sought to preempt State licensure laws, but other State laws regulating professionals as well That is the problem, and that is why we need to adopt the McClure language.

In its current investigations of the dental, optometric, and legal professions, the FTC is examining other State laws, such as those governing employment of professionals by profitmaking corporations and how professionals should operate branch offices.

All of these State laws are part of the comprehensive regulatory systems developed in the respective States. Reasonable people may disagree about the merits of any particular State law, but that is not the point. The point is that it is the States who have traditionally regulated professionals—rather than the FTC—who should make the ultimate decision.

The Rudman substitute leaves too much authority with the FTC to preempt State law, so I must oppose it.

I urge the Senate to support the McClure amendment.

Mr. HEINZ. Mr. President, I urge our colleagues to support Senator Rudman's motion to table Senator McClure's amendment to exempt the professions from Federal Trade Commission jurisdiction. Business practices related to services provided by professionals should be subject to the same rules that govern the marketplace behavior or other commercial interests. Providing an exemption for the professions creates a privileged class above the law and poorly serves the public interest.

The Federal Trade Commission's charge directs it to preserve the integrity of a free and competitive marketplace for all goods and services-including services rendered by professionals. The FTC's enforcement activity regarding professionals has been "deregulatory" and "procompetitive," not "regulatory." Exempting the professions from FTC authority could ultimately result in increased costs of health, legal, and other professional services to all Americans. At a time when the annual cost of health care is approaching \$300 billion representing 10 percent of the gross national product, and the Federal Government is the Nation's single largest purchaser of health care, insuring that the Federal Government has the authority to combat anticompetitive actions is of major national interest.

If the FTC loses authority over professionals, no Federal agency will have authority to stop deceptive advertising, consumer fraud or price fixing by professionals. The Department of Justice and other Federal agencies simply do not have the resources and expertise to assume this role. State enforcement agencies do not have the authority and resources to take the place of the FTC either. The National Association of Attorneys General, and the attorney general of my own State of

Pennsylvania, oppose the professions exemption.

The provision in the continuing resolution (H.J. Res. 631) regarding Federal Trade Commission jurisdiction over professionals addresses concerns that the FTC might intrude into professional practice or proper State jurisdiction. It eliminates FTC jurisdiction in those areas where the States traditionally have had exclusive jurisdiction—such as scope of practice, licensure requirements, and legitimate quality-of-care concerns. It does, however, retain FTC authority over the "commercial" practices of the professions.

The administration and a coalition of business, health, professional, and consumer groups support this provison, and oppose any move to exempt the professions from FTC authority. I ask that you join my colleagues and I in supporting Senator Rudman's motion to table this amendment which would arbitrarily immunize those few professionals who engage in violations of Federal antitrust law from FTC scrutiny.

Mr. LEVIN. Mr. President. I support the compromise amendment which adopted by the Appropriations Committee in its markup of the continuing resolution, regarding the FTC's jurisdiction over State licensed professionals. The compromise amendment strikes a fair balance between the legitimate need to insure that the FTC's authority does not encroach upon State laws governing licensure requirements or quality of care and the Commission's responsibility under the FTC Act to protect consumers from certain harmful anticompetitive business and commercial practices of professionals.

The amendment being offered by Senator McClure to the continuing resolution would carve out a blanket exemption for the professions from the regulatory and antitrust scrutiny of the FTC.

On May 29, 1982, I wrote to Chairman Miller regarding the Commission's activities affecting the dental professional and I also solicited his views on legislation restricting the Commission's antitrust and regulatory jurisdiction over the professions. In his July 15, 1982 response to me, Chairman Miller stated:

The Commission is unanimous in its opposition to special interest legislation that would grant to state-regulated professionals complete immunity from the Federal Trade Commission Act. The majority of the Commission's activities with respect to the professions have focused on conduct unrelated to state licensure. For example, our Bureau of Competition has brought cases to prevent attempts by physicians to fix prices, boycott other physicians who affiliate with Health Maintenance Organizations or boycott health insurers who attempt to institute cost-containment programs. None of these activities is the focus of state licensure, but

all would be immune from FTC scrutiny under the pending legislation.

Chairman Miller is a strong advocate of deregulation, but he considers this attempt to strip the Commission of its jurisdiction as one which will stifle competition rather than promote it.

I have been a strong advocate of legislation which is designed to provide increased opportunities for the Congress to exercise its oversight responsibilities over Government agencies to insure that regulations promulgated by the agencies are consistent with the intent of Congress. For example, my amendment to the FTC's authorization bill provides the Congress with authority to review FTC regulations before they take effect and to veto them if they do not reflect the will of Given such protection Congress. against Federal Trade Commission excesses, I believe it would be unwise to carve out an additional special blanket

protection for the professions.

Mr. President, if the Senate approves this amendment, it will send the wrong message to the public—a message that the Congress is willing to exempt certain groups of individuals from the laws which apply to everyone

else.

That perception of favoritism will undermine the professions and create a reaction to them which will create great problems for them.

Mr. McCLURE. Mr. President, I understand the Senator from New Hampshire is ready to move to table.

I do think the Senator misspoke himself. He got carried away by the rhetoric of his own remarks when he said it would interfere with the pend-

The amendment specifically says it does not. The record should be clear.

Second, what is it? It is a restriction on authority during the period of the CR or until the authorizing legislation passes. What has happened in both bodies? In both bodies the authorizing committee has voted for this restriction, and then a handful of people have refused to allow debate on the committee's action.

That is why we are here tonight. We should not be legislating here in this context, debating this issue in this context. The authorizing committee should have permitted their work to go forward on the floor. They have refused to do so because they did not have the votes in their own committee. That is why we are here.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCLURE. It is said that the Antitrust Division of the Department of Justice will not act. The only cases that have been brought have been brought by the Antitrust Division of the Justice Department. The FTC has not done a single one of them.

I hope the motion to table is defeat-

Mr. RUDMAN. Mr. President, I think the question has been discussed enough.

Mr. President, I do not get excited by my own rhetoric. I get excited when I see someone attempting to perform a frontal lobotomy on the free enterprise system, which is precisely what is going on here.

• Mr. DURENBERGER. Mr. President, the issue of FTC jurisdiction over the professions cannot be condensed into the simple slogans and hasty generalizations that we have all been hearing. It is not a matter of buying votes, exempting a privileged class, or threatening the very quality of patient care. These characterizations do not do justice to the complexity and importance of the issue. We must not let the intensity of emotions surrounding the debate cloud the real issues.

There seem to be a strong consensus among all parties on the value and need for enforcement of the antitrust laws applicable to the learned professions. The AMA, which is probably the strongest advocate for the exemption, testified that it does "not oppose the proper application of the antitrust law to the profession." The issue was what role, if any, the FTC should play in that process.

In the 4 years that I have served on the Health Subcommittee of the Finance Committee, I have seen the issue from both sides. I have seen the FTC effectively challenge boycotts, price fixing, the suppression of information, and illegal kickbacks. No conscientious observer would deny that these practices hurt choice, competition, consumers, and the health care system as a whole by fracturing the essential bond of public trust.

At the same time, I have seen the harm that can be done when an overzealous agency abuses its authority. In my home State of Minnesota I have seen the FTC abuse its subpoena power to obtain information. And I have seen the FTC undercut a very effective and responsible program of fee review by physicians. A program of undeniable value to the public was wiped out.

I believe that many of the problems with the FTC are people problems—problems stemming from the attitudes and approaches of the Commission's leadership and staff. I am generally not an advocate for making permanent changes in the structure of governmental agencies to cure temporary problems in the administration of those agencies. And I believe the administration of the FTC has improved. I ask that an exchange of correspondence with FTC Chairman Miller be included at this point.

The correspondence follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., December 13, 1982.

Mr. James C. Miller III, Chairman, Federal Trade Commission, Washington, D.C.

Dear Chairman Miller: As you know, I have a great many concerns about the role of the FTC in overseeing the professions. As a Minnesota Senator committed to increased choice and competition in the health care sector, I've seen the issue from both sides. I've seen the FTC effectively challenge boycotts, price fixing, and the suppression of information. There's no question in my mind that these practices hurt consumers and our entire health system by undermining public trust, choice, and competition.

At the same time, I've seen the harm that can be done when an overzealous agency abuses its authority and undercuts effective, responsible self-regulation. In my home state of Minnesota, I've seen the FTC abuse its subpoena power in obtaining information from a very competitive Health Maintenance Organization. And I've seen the FTC shut down a responsible program of fee review performed by our Foundation for Health Care Evaluation. A program which reduced fees to the public and kept fee-for-service physicians competitive was snuffed out.

With such a mixed report card it's not surprising that the issue of continued FTC jurisdiction over the professions generates such controversy. The uneven performance of the FTC makes careful examination of any proposed legislation essential.

I would very much appreciate your views on the following issues:

(1) Under what circumstances will the FTC interfere with the medical profession's efforts to review doctors' fees? When is fee review considered "price fixing" and when is it considered responsible self-regulation?

(2) The FTC Amendments of 1980 went a long way toward assuring a more reasonable subpoena-issuing authority. What further steps have been taken to control unnecessary and burdensome "fishing expeditions?"

(3) Health care cost coalitions are springing up in communities across the nation in an effort to contain rising medical costs. Will the FTC interfere in the responsible participation of medical societies?

(4) The fear or threat of FTC intervention stops many health professionals from participating in responsible self-review and self-regulation. What efforts is the FTC undertaking to improve the understanding of both professionals and the public as to what constitutes an acceptable practice?

(5) There is little disagreement that the FTC should *not* be permitted to use its authority to invalidate state laws which establish requirements or permissable duties of professionals. Are you prepared to support such legislative language?

The distrust and resentment of the FTC that many professionals feel is rooted in a remarkably inconsistent performance by the agency. I am generally not an advocate for making permanent changes in the structure of governmental agencies to cure temporary problems in the administration of those agencies. But I and many professionals across the country need evidence that the course of the FTC is straight, clear, and corrected, I look forward to your response.

Sincerely,

Dave Durenberger, U.S. Senator.

FEDERAL TRADE COMMISSION. Office of the Chairman, Washington, D.C., December 16, 1982.

Hon. DAVID DURENBERGER.

U.S. Senate,

Washington, D.C.

DEAR SENATOR DURENBERGER: Thank you very much for your letter of December 13, 1982 concerning the role of the FTC in overseeing the professions. I deeply appreciate this opportunity to respond directly to your request for my views on issues of concern to you in this area.

I share your concern that the FTC's actions must not only be sound in substance, but also must be undertaken with fairness and sensitivity so that the obligations of the law are clearly communicated without indiscriminate accusation or oppressive inquiry. In short, I welcome this opportunity to answer the five questions you have asked, and to assure you that the course the FTC is following in the health care area is "straight, clear and corrected."

(1) Under what circumstances will the FTC interfere with the medical profession's efforts to review doctors' fees? When is fee review considered "price-fixing" and when is it considered responsible self-regulations?

The FTC supports self-regulatory efforts within the medical profession to review doctors' fees for possibly excessive charges. Although the Commission's staff has in the past examined particular peer review programs in response to complaints from physicians and patients, the Commission has never challenged any peer review program. The FTC approves of peer review of fees by professional associations to aid in cost-containment and help patients resolve fee-related disputes with health professionals. This approval was recently stated in an official advisory opinion to the Iowa Dental Association. The Commission very definitely considers such programs responsible selfregulation.

As the Commission explained in its advisory opinion, peer review programs could be abused in ways that could create liability under the antitrust laws. Peer review programs should not be used as part of a scheme to collectively fix physicians' fees in the community, to discipline professionals for innovative practices, or to coerce insurance carriers to pay whatever fees a local professional society deems warranted. In no case would the Commission challenge a peer review self-regulatory program operated in good faith to serve the public interest.

(2) The FTC Amendments of 1980 went a long way toward assuring a more reasonable subpoena-issuing authority. What further steps have been taken to control unnecessary and burdensome "fishing expeditions?"

A variety of internal procedures have been adopted to insure that the FTC's investigative authority is properly exercised. Economists and often other experts are involved at the early stages of investigations, to insure that inquiries are justified by the facts, not just "official curiosity." We have tightened the evaluation process to prevent investigations from getting past the initial stages without receiving approval "from the The Commission's Bureau Directors now play a more active role in insuring that requests for information are neither burdensome nor unnecessarily broad. Special efforts are being made to explain the purpose and focus of investigations to recipients of subpoenas, civil investigative demands and inquiry letters, so that they may work together with Commission attorneys to resolve any problems that might arise in

connection with requests for information. Requests for investigative subpoenas are carefully scrutinized by the Commissioners. Furthermore, as you may be aware, the FTC reauthorization bill, S. 2499, would provide additional safeguards by applying the requirements for "civil investigative demands" to FTC antitrust investigations.

(3) Health care coalitions are springing up in communities across the nation in an effort to contain rising medical costs. Will the FTC interfere in the responsible participation of medical societies?

The Commission supports the development of health care coalitions as a potentially valuable means of helping contain rising medical costs. The FTC does not object to, and will not interfere with, responsible medical society participation in health care coalition activities. I have, for example, reviewed a list of potential coalition activities that was jointly suggested this last January by the American Medical Association, the American Hospital Association, the Blue Cross-Blue Shield Associathe Health Insurance Association of America, the Business Roundtable, and the AFI-CIO. In that long list of proposed coalition activities. I found no activity that the Commission would seek to prevent, nor any in which medical society participation would be improper. Of course, neither medical societies nor others should use coalition as forums for unlawful price-fixing, group boycotts or others illegal conspiracies in restraint of trade.

(4) The fear or threat of FTC intervention stops many health professionals from par-ticipating in responsible self-review and selfregulation. What efforts is the FTC undertaking to improve the understanding of both professionals and the public as to what constitutes an acceptable practice?

I have been extremely concerned by the widespread misunderstanding among physicians and other health professionals regarding the FTC's actions involving the professions. One of my major goals has been to remedy this by increasing our communicagroups, with professional both through speeches by myself and members of my staff and also through informal meetings with representatives of various professional associations.

Another important vehicle for clarifying the impact of the antitrust laws on activities of professionals is our advisory opinion procedure. As you may know, the Commission's Rules of Practice provide that interested parties may request advice on the legality of a proposed course of conduct. The Commission recently issued an advisory opinion to the Iowa Dental Association explaining that the association's proposed program for peer review of dental fees did not violate the antitrust laws. In speaking to professional groups, I encourage them to take advantage the advisory opinion procedure. course, staff attorneys are available to provide informal guidance as well.

Also, we seek when possible to work out voluntary understandings with professional associations who we learn may be engaging in unlawful restraints on competition. This avoids the need for formal law enforcement proceedings with their attendant adverse publicity, and helps keep the focus on what can be done and off accusations about who may have done something wrong in the past. We followed this less adversarial course recently when we closed an investigation of a state medical society after it undertook to rescind anticompetitive policies it had adopted in violation of the Commissions's order in the American Medical Association matter.

(5) There is little disagreement that the FTC should not be permitted to use its authority to invalidate state laws which establish requirements or permissible duties of professionals. Are you prepared to support such legislative language?

Yes, I wholeheartedly support Senator Rudman's language as approved by the Senate Appropriations Committee on December 15, because I believe that it will insure that the FTC will not invalidate state laws governing entry requirements into the professions or the permissible scope of practice of professionals. I also believe that the proposal made by Representative Broyhill would be effective in this regard. If Con-gress is unable to resolve this issue during the current session, I would be most eager to work with you and your colleagues next year in exploring these and other legislative alternatives that would prohibit the FTC from invalidating such state laws.

I hope the information I have provided here is useful to you. If we can provide any further information or materials explaining the Commission's activities or plans, please let me know.

Sincerely yours,

JAMES C. MILLER III,

Chairman

Mr. DURENBERGER. I recognize that the issue of FTC jurisdiction runs deeper than just the people involved. It involves the process too. There are legitimate questions raised about a process which gives an agency the power to be plaintiff, judge, and jury. And I am very sensitive to the fact that 2 years of congressional studies produced a bipartisan recommendation of the kind advocated by the Senator from Idaho.

Although I share many of the concerns of my colleagues about the FTC. I cannot support the all-or-nothing approach embodied in an exemption or moratorium.

First, the impact of any antitrust authority-whether it is the FTC, the Justice Department, or the State attorneys general—resides as much in its potential as a threat as it does in its actual actions. If we are going to strip the FTC of its authority, we must make sure everyone knows the responsibility for antitrust authority will be picked up elsewhere. To remove the FTC's jurisdiction in one fell swoop leaves the Justice Department and the States reeling. They have neither the resources nor the expertise to assume antitrust responsibility that quickly. The transfer of antitrust authority from the FTC, if it occurs, should proceed in a thoughtful and rational This kind of precipitous manner. action is irresponsible.

Second, we have not had an opportunity to discuss the full ramifications of an exemption or a moratorium. By addressing a complex authorization issue on a money bill, we do not have sufficient time to discuss the issues. For example, I am not at all convinced of the need to exempt all professions from FTC jurisdiction. We are not even sure who is included in that definition. much less what the impact of such a far-reaching exemption would be.

Finally, I have misgivings about any amendment which precludes all FTC oversight. To consider exemptions from antitrust activities is one thing; to bar all oversight-including fraud and deceptive advertising, over which Justice has no authority-is clearly unwarranted.

In short, although I do have misgivings about the FTC and its role in policing the professions, I feel strongly that this is not the time to make precipitous decisions. We must maintain the bond of public trust, and we must assure that the mantle of antitrust enforcement is not compromised.

Mr. PROXMIRE. Mr. President, the legitimate question before the Senate is: What should the scope of jurisdiction of the Federal Trade Commission be when State-licensed, State-certified

professionals are involved?

The answer of the Senate Appropriations Committee is to reserve to the States exclusive jurisdiction over professional questions and to reserve to the Federal Trade Commission jurisdiction over questions of unfair or deceptive business practices or acts by all individuals, regardless of their professional status.

The answer of Senator McClure and his supporters is that the Federal Trade Commission should have no jurisdiction over anyone who is designated a professional and that the States and the Justice Department can be trusted to meet all of these questions.

He could not be more wrong.

## THE RUDMAN SUBSTITUTE

The Rudman substitute, adopted by the Senate Appropriations Committee, is a fair, almost Solomonic decision, which reflects a long-recognized distinction between Federal and State roles.

The Rudman substitute reserves to the States those areas where they have the most expertise and have been the most active—the professional areas relating to quality of care, professionals' scope of practice and licen-

sure requirements.

By contrast, the nonprofessional commercial questions relating to unfair or deceptive business practices-boycotts, price fixing, fee schedules and the like-are reserved to the jurisdiction of the Federal Trade Commission, which has been the lead Federal agency in attempting to stop these activities which undermine a free market and competition.

THERE IS NO CASE FOR A BLANKET EXEMPTION

Mr. President, the supporters of the McClure amendment are telling us that the Senate Appropriations Committee did not go far enough, that nothing less than a complete exemption from the Federal Trade Commission's oversight will protect profession-

But, Mr. President, it is up to the supporters of this amendment to make their case for this exemption.

Over the years the Congress has occasionally granted limited exemptions to the antitrust authority of the Federal Trade Commission where a legitimate public interest is served but it is incumbent upon those who support such exemptions to make their case. This is even more true with this type of broad exemption.

But they have not made their case and instead attempted to confuse the

issue with half-truths. How?

First, by attempting to blur two distinct types of actions: "business pracand "professional credentialling." Organizations such as the American Medical Association have done their members a disservice by contributing to that effort and have unnecessarily created uncertainty in the minds of physicians and county medical societies where none should exist.

The actions of the Senate Appropriations Committee make it clear that there is a distinction between these two types of activities and that they each have an appropriate forum for resolution. This should remove any uncertainty that may still exist over FTC jurisdiction as a result of this misinformation campaign.

Second, the supporters of the broad exemption have attempted to turn the issue on its head by demanding to know how the actions of the Federal Trade Commission have lowered

health care prices.

Another smoke screen. It is not the responsibility of the Federal Trade Commission to lower health care prices although I believe that there is a strong body of evidence that FTC actions have lowered costs. The American Association of Retired Persons, consumer groups and even an investigative article by a Wall Street Journal reporter agreed that savings could be attributed to FTC actions. But that is beside the point.

The responsibility of the Federal Trade Commission is to protect consumers against unfair or deceptive business practices. That protection is essential and has never been conditioned on the reduction of the Consumer Price Index by even a fraction of a point. It is an action which stands on its own merit and the Senate needs

to reaffirm.

Third, they argue that this authority properly belongs with the States or

the Justice Department.

It is clear that the Justice Department has neither the staff nor the expertise nor the funds available to enable it to assume nationwide responsibility in this area. The Justice Department has always deferred to the Federal Trade Commission in this area, just as Congress intended when it provided the FTC with this author-

What then of the States? As has been pointed out earlier, 13 State attorneys general do not even have legal authority to bring antitrust actions and 27 attorneys general have never brought such an action.

#### WHAT WOULD BE THE IMPACT OF THIS AMENDMENT?

The implications of adopting this radical amendment are frightening.

First, tens of thousands of Americans would not be protected from unfair or deceptive business practices while they waited for their State attorneys general to be granted authority in this area, while they waited for those offices to acquire staff and expertise in this area and while they waited for the Justice Department to acquire the necessary staff and expertise to pick up the responsibilities of the Federal Trade Commission.

Second, as FTC Chairman James Miller III, a conservative economist, President Reagan's deregulation czar, has observed:

I'm an economist by trade. I've been involved in a couple of successful deregulation projects like trucking and airlines and I know what deregulation looks like. Believe me, this ain't the animal!

He goes on to note that it would create a privileged special class of individuals—some of the highest paid individuals in America—who would be exempt from the type of scrutiny to which any other type of business would be subjected.

Third, as the Wall Street Journal. the Reagan administration and the National Association of State Attorneys General have noted, this amendment could have the impact of artificially raising prices for services that

are already frightfully high.

WHO SUPPORTS THIS EXEMPTION? It is worth noting, Mr. President, why this exemption proposal is before us today. The credit goes to the American Medical Association.

They have mobilized their members to write all of us hundreds of letters in support of this exemption. Yet, in all of the mail that I have received no one but doctors, their spouses and their children have written me supporting this exemption.

Not one constituent unaffiliated with the medical profession has written me in favor of this exemption.

Not one

Not a nurse.

Not a senior citizen.

Not one consumer.

Not even a lawyer and lawyers would also be exempt under the McClure amendment.

Mr. President, I speak with no animosity toward the medical profession. My father was a general practitioner for 55 years. My daughter is a physician assistant and my son-in-law is a doctor. I know well the dedication of those in the medical profession but they have been misled regarding the wisdom of the McClure amendment and stand virtually alone in support of it.

By contrast, the opposition proves the proposition that politics makes strange bed fellows. President Reagan, Vice President Bush, FTC Chairman Miller, 40 consumer, labor, business, senior citizen, and professional organizations representing over 21 million members, the National Association of State Attorneys General, as well as such conservative organs as the Wall Street Journal and even such groups as the Republican Research Committee of the House of Representatives oppose the exemption.

The overwhelming public response is that this broad exemption is wrong: It is bad economics, bad politics and, most importantly, it is simply unfair.

The closing hours of this lameduck session are not the time to give cursory debate to such a sweeping, and, I think, radical proposal.

It is important that we make it clear that the Senate intends for all Americans to be treated fairly and by supporting the Rudman substitute we will provide the legitimate protection that the medical community deserves.

The PRESIDING OFFICER. All

time has expired.

Mr. RUDMAN. Mr. President, I move to lay on the table the McClure amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRISIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Idaho. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is necessarily absent.

I also announce that the Senator from Utah (Mr. HATCH) is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch) would vote "nay".

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. Glenn) and the Senator from Louisiana (Mr. Long) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 59, nays 37, as follows:

[Rollcall Vote No. 428 Leg.]

YEAS-59

Abdnor Boschwitz Byrd,
Andrews Bradley Harry F., Jr.
Baker Brady Byrd, Robert C.
Baucus Bumpers Cannon
Biden Burdick Chafee

Heinz Packwood Chiles Cohen Humphrey Pell Percy Cranston Jackson D'Amato Kassebaum Proxmire Kennedy Pryor Danforth Quayle Riegle Leahy Levin Dodd Lugar Mathias Rudman Dole Durenberger Sarbanes Specter Stafford Eagleton Mattingly Metzenbaum Gorton Mitchell Thurmond Hatfield Movnihan Tsongas Murkowski Hayakawa Nunn Weicker NAVS-37 Helms Randolph Armstrong Bentsen Hollings Huddleston Roth Boren Sasser Inouye Schmitt DeConcini

Jepsen Simpson Johnston Stennis Denton Domenici Kasten Stevens Laxalt East Symms Exon Matsunaga Tower McClure Wallop Ford Melcher Zorinsky Garn Grassley Nickles Heflin Pressler

NOT VOTING-4

Glenn Hatch Goldwater Long

So the motion to lay on the table UP Amendment No. 1488 was agreed to.

Mr. RUDMAN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KASTEN. Mr. President, if I may, I would like to ask the distinguished subcommittee chairman a question in order to clarify the impact of the continuing resolution on the authority of the Federal Trade Commission.

Mr. WEICKER. I would be glad to answer the Senator's question.

Mr. KASTEN. Mr. President, on September 22, when the Appropriations Committee considered S. 2956, the State, Justice, Commerce appropriations bill, I offered, and the committee accepted, an amendment designed to extend the effectiveness of certain expiring provisions of the FTC Improvements Act of 1980.

These provisions place certain limitations on the FTC's authority with respect to paying public intervenor funding (Improvements Act section 10), commercial advertising (section 11), trademarks (section 18), agricultural cooperatives (section 20), and rulemaking (section 21, establishing legislative veto procedures).

These limitations were scheduled to expire on September 30, 1982. By reference to S. 2956, however, the continuing resolution extended these limitations to December 17. They must be extended again, however, in order to maintain the status quo while new FTC authorization legislation is being finalized.

Am I correct that the continuing resolution now before the Senate will operate to make my amendment effective for the duration of the resolution?

Mr. WEICKER. Yes, you are correct. The relevant provision of the continuing resolution is section 101(d). This section provides that programs and agencies falling within the State, Justice. Commerce appropriations bill will be funded "at a rate provided for operations and to the extent and in the manner provided for" in S. 2956. Since your language is contained in S. 2956, the continuing resolution adopts its terms by reference. Thus, taken together, House Joint Resolution 631 and S. 2956 will have the intended effect of continuing the effectiveness of the provisions you mention, as they were in effect on September 30, 1982, for the length of this continuing resolution.

Mr. KASTEN. I thank the Senator, and I appreciate his continued cooperation with this important issue.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Parliamentary inquiry. The question now falls back to the committee amendment on the FTC?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. I move its adoption. The PRESIDING OFFICER. Is

The PRESIDING OFFICER. Is there further debate on the committee amendment?

The committee amendment on page 57, line 15 was agreed to.

Mr. HATFIELD. Mr. President, before we move to the next committee amendment, I should like to yield momentarily to the Senator from Maryland to make a statement relating to one of the other committee amendments to be acted upon.

#### THE COPYRIGHT AMENDMENT

Mr. MATHIAS. Mr. President, I thank the Senator from Oregon. I think the Senate deserves a little good news at this hour.

The managers of the bill have been expecting that I might make a point of order on the Copyright Royalty Tribunal amendment.

It is an amendment that so clearly violates the rules that I am comfortable in leaving it to the conferees to take care of if there is any doubt about it.

I ask unanimous consent to have a letter from the Parliamentarian printed in the Record at this point.

With that, I will rest my case with the conferees being able to take care of it.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

OFFICE OF THE SECRETARY,

Washington, D.C., December 16, 1982.

Hon. Dennis DeConcini,

U.S. Senate,

Washington, D.C.

DEAR SENATOR DECONCINI: Rule XV, paragraph 5, states that: "It shall not be in order to consider any proposed committee amendment (other than a technical, clerical, or conforming amendment) which contains any significant matter not within the jurisdiction of the committee proposing such amendment."

The amendment, which I am enclosing, appears to be in violation of that rule in that under the precedents of the Senate, it is legislation on an appropriations bill and the Committee on Appropriations is specifically precluded by Rule XVI from reporting a bill containing amendments proposing new or general legislation. Thus it would appear that it is not within their jurisdiction to do so.

Sincerely.

our load at this moment.

ROBERT B. DOVE, Parliamentarian.

Mr. HATFIELD. I want to thank the Senator from Maryland for lightening

Mr. MATTINGLY. Mr. President, the Copyright Royalty Tribunal ruled on October 20, 1982, that an increase in royalties of 300 percent and more on distant signal programing would go into effect on January 1, 1983. This gave the cable telecommunications industry only 9 weeks in which to respond and adjust before being liable for the huge increase. The cable industry is being saddled with an increase in costs that will substantially impact its ability to expand its services to its customers, to add new customers and to maintain service to its existing subscribers.

The industry is not asking for a tax break or bailout. It is simply asking for a stay pending an appeal of the Copyright Royalty Tribunal ruling and a transition period to adjust. Other major rate increases approved by the Copyright Royalty Tribunal have been given a stay and a period of adjustment. This provision will only provide the same consideration to the cable industry.

My amendment would:

First, simply delay the effective date of the Copyright Royalty Tribunal's decision until the U.S. court of appeals rules on the cable appeal.

Second, not overturn the Copyright Royalty Tribunal ruling. If the rate increase is judged to be appropriate by the court of appeals, it would then take effect.

Third, not be necessary if the full Senate considers H.R. 5949, the cable copyright bill, before it receses this session, or the appeals court rules.

Although the rate is scheduled to go into effect January 1, 1983 an appeal will not be heard until the spring or summer. The court, in denying a stay, based its ruling on the finding that there would be no "irreparable damage" to the cable industry by not

granting a stay. That is a strict ruling that does not consider monetary loss, even major loss, irreparable. While that may be true in the strictest sense, I do not believe my colleagues would like to see the promising future growth of cable blocked from realizing its potential because of that decision. Again, we are talking about fairness. There are many interests that would like to see the bold experiment represented by the cable industry fail. Not on its merits, or open competition, but through such tactics as the Copyright Royalty Tribunal rate increase.

My amendment would not:

First. Dispute the FCC's recent decision to abolish either the "syndicated exclusivity rule" or the "distant signal limitation" ruling.

Second. Dispute that fees for signal carriage are in need of review.

On the other hand, though only 900 systems out of 4,500 are affected, these systems represent the vast majority of cable subscribers, and cable systems that are the cutting edge of this industry.

I ask my distinguished colleagues to vote for simple fairness and support

the committee position.

COMMITTEE AMENDMENT ON PAGE 58, LINE 4
Mr. HATFIELD. Mr. President, I
should now like to propound a unani-

mous-consent agreement.

Mr. President, the next committee amendment has to do with the Ashbrook amendment on abortion, and the principals of that amendment are the Senator from Alabama (Mr. Denton) and myself. I would propound at this time a unanimous-counsent agreement that this committee amendment be restricted to a 20-minute time agreement equally divided between the Senator from Alabama and myself.

The PRESIDING OFFICER. Is

there objection?

Mr. PROXMIRE. Mr. President, would the unanimous-consent agreement permit a second-degree amendment to be added?

Mr. HATFIELD. I would amend my request to not permit an amendment in the second degree to the amendment being proposed by the Senator from Alabama.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

The Chair hears none, and it is so ordered.

Mr. HATFIELD. Mr. President, I believe the clerk has to report this amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 58, line 4, insert a new section

SEC. 142. Notwithstanding any other provision of this joint resolution, the provisions of section 616 of H.R. 7158, the Treasury, Postal Service, and General Government

Appropriation Act, 1983, and section 614 of S. 2916, the Treasury, Postal Service, and General Government Appropriation Bill, 1983, shall not apply to funds appropriated or otherwise made available by this joint resolution.

Mr. HATFIELD. Mr. President, just for clarification, I did not hear the first part of the reading. This is commonly referred to as the Ashbrook amendment, is that correct?

The PRESIDING OFFICER. The

Senator is correct.

Mr. HATFIELD. I thank the Chair, and I yield the floor.

Mr. DENTON addressed the Chair. The PRESIDING OFFICER. The

Senator from Alabama.

Mr. DENTON. I should like to thank first the distinguished chairman of the Appropriations Committee for the kindness and fairness with which he arrived at the gentleman's agreement

by which we are proceeding.

My wish is to resolve a very simple question which could hardly provoke a

long emotional debate.

I wish to resolve that simple question, and I do not anticipate any motion or any effort to prolong the debate.

The simple facts are that the appropriate vehicles for the Ashbrook amendment; namely, the House and Senate versions of the Treasury Postal Service and continuing resolution for fiscal year 1983 do contain the so-called Ashbrook amendment. Both of those bills were reported from the respective Appropriations Committees in September 1982.

In 1981 the House passed the Ashbrook amendment by a vote of 253 to

162.

The provisions of the Ashbrook amendment are also contained in the current continuing resolution.

The Office of Personnel Management is indeed already implementing

these provisions.

The Senate has passed the Hyde amendment. So both Houses of Congress and all polls of public opinion have indicated clearly majority opinions to the effect that abortion should not be paid for with Federal funds at taxpayers' expense except in cases involving the life of the mother.

I would stress that the Ashbrook amendment in no way denies Federal employees the right to obtain or contract for coverage of abortion at their own expense through inexpensive riders in their own personal insurance policies.

Rejecting the amendment would merely withdraw the part of the 60percent Federal contribution that

would pay for abortions.

We are not talking about taking away any earned benefits. The Government share of medical care would remain constant for any contract offered in the future. The types of benefits offered by any particular health plan are not now nor have they ever been fixed

The Office of Personnel Management is authorized to exclude or include any benefits as it considers necessary or desirable.

In fact, currently benefits such as eyeglasses, dental care, and even routine pap smears to detect cervical cancer are excluded by some of the

most major carriers. We simply cannot continue, Mr. President, to allow the news media justifiably to accuse Congress of a double standard, a double standard of denying Federal funds for abortions for certain classes of ordinary citizens; namely. those receiving medicaid while at the same time permitting the use of Federal tax dollars for the abortions of another wealthier class of citizens, Federal employees.

I ask unanimous consent that a recent letter from Kenneth Duberstein, assistant to the President, which states "the Ashbrook amendment is in accord with the administration's position on abortion" be printed in the

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE. Washington, December 1, 1982. JOHN C. WILLKE, M.D.,

President, National Right to Life Commit-

tee, Inc., Washington, D.C.
DEAR DR. WILLKE: Thank you for your recent letter regarding the Ashbrook Amendment, which prohibits funding of nonlifesaving abortions under the Federal Employees Health Benefits (FEHB) program.

I appreciate your contacting me in this matter. As you know, the Ashbrook Amendment is in accordance with the Administration's position on abortion, and we strongly support its retention. I have taken the liberty of sharing your letter with the President's policy advisers to ensure that the concerns you have expressed receive close attention and consideration.

With best wishes.

Sincerely.

KENNETH M. DUBERSTEIN, Assistant to the President.

Mr. DENTON. I yield to the distinguished Senator from North Carolina. Mr. HELMS. Mr. President, I thank the Senator from Alabama.

Mr. President, I support the Ashbrook amendment. As the Senator from North Carolina has said so many times on this floor, we become a part of what we condone. Although some may argue that the issue on this amendment is not really abortion, I must respectfully disagree. It is about abortion; it is about the deliberate destruction of innocent human life. Even worse, it is about doing so with Federal tax dollars.

Mr. President, the Senator from North Carolina does not want to take up the time of the Senate in explaining his views further on this matter. I believe these views are well known. Let us go ahead and vote forthwith, and in the matter of the Ashbrook amendment let us agree with our colleagues in the House and accept this provision.

Mr. President. I ask unanimous consent that an outstanding article by a distinguished North Carolinian-R. V. Young, an English professor at North Carolina State University-be printed in the RECORD at the conclusion of my remarks. I commend his thoughts on abortion to the public and my colleagues in Congress.

There being no objection, the article was ordered to be printed in the RECORD, AS FOLLOWS:

TAKING CHOICE SERIOUSLY

(By R. V. Young)

Towards the close of Aldous Huxley's dystopian vision of a future world ruled by an omnicompetent technocratic state, there is an arresting exchange between the World Controller, Mustapha Mond, and John the Savage, a young man raised on a primitive 'reservation" outside the confines of the "Brave New World." The peculiar style of the Savage's remarks is in part explained by a stray copy of the "Complete Works" of Shakespeare which, along with a cultic religion based on Indian fertility rites and a degenerate Catholicism, has helped to shape his view of the world.

"Exposing what is mortal and unsure to all that fortune, death and danger dare even for an eggshell. Isn't there something in that?" he asked, looking up at Mustapha Mond. "Quite apart from God-though of course God would be a reason for it. Isn't there something in living dangerously?"

"There's great deal in it," the Controller replied, "Men and women must have their adrenals stimulated from time to time."

"What?" questioned the Savage, uncomprehending.

"It's one of the conditions of perfect health. That's why we've made the V.P.S. treatments compulsory."

"V.P.S.?"

"Violent Passion Surrogate. Regularly once a month. We flood the whole system with adrenalin. It's the complete physiological equivalent of fear and rage. All the tonic effects of murdering Desdemona and being murdered by Othello, without any of the inconveniences.

"But I like the inconveniences."

"We don't, said the Controller, "We prefer to do things comfortably."

"But I don't want comfort. I want God, I want poetry, I want real danger, I want goodness. I want sin."

"In fact," said Mustapha Mond, "you're claiming the right to be unhappy.'

"All right then," said the Savage defiantly, "I'm claiming the right to be unhappy."

"Not to mention the right to grow old and ugly and impotent; the right to have syphilis and cancer; the right to have too little to eat; the right to be lousy; the right to live in constant apprehension of what may happen tomorrow; the right to catch typhoid; the right to be tortured by unspeakable pains of every kind." There was a long silence.

"I claim them all," said the Savage at last. Mustapha Mond shrugged his shoulders. 'You're welcome," he said.1

Footnotes at end of article.

Of course it was not Huxley or the twentieth century which originated the opposition adumbrated here between freedom and hap-"Many there be that complain of piness. Divine Providence," says John Milton, "for suffering Adam to transgress; foolish tongues! When God gave him reason, He gave him freedom to choose, for reason is but choosing; he had been else a mere artifical Adam, such an Adam as he is in the motions." 2 Centuries before, Aristotle had reasoned out the paradox that a life of pleas-ure ("comfort" Mustapha Mond might call it) is less happy than a life of virtue requiring hardship and choice.3 The issue is today of pressing importance because, for the first time in his history, mankind may actually have within his reach the possibility of guaranteeing, at the cost of freedom and reason, a kind of happiness: the absence of pain, anxiety, and suffering; indulgence in various sensual and emotional, even certain intellectual, pleasures and gratifications. It may be that we truly stand on the edge of that abyss which C. S. Lewis has termed "The Abolition of Man." 4

The most spectacular symptom of this crisis is the current conflict over abortion. Proponents of abortion represent themselves as champions of freedom of choicepro-choice" is their preferred designation. Yet the justification of abortion requires a redefinition of human nature in such a way that genuine freedom and choice become impossible. The abortion mentality is utopian. Its goal is to eliminate all that is unpleasant, uncomfortable, and imperfect in human life. "It will become necessary and acceptable," said a 1970 editorial in "Cali-fornia Medicine," "to place relative rather than absolute values on such things as human lives, the use of scarce resources and the various elements which are to make up the quality of life or living." <sup>5</sup> The abortionist proposes a world of happiness and com-fort in which virtually every possibility of anxiety and suffering, ugliness and deformity, pain and loss, has been removed. In this air-tight, sterile world, uncluttered by the debris of history and sealed off from the pressures of contingency, perfectly free individuals will make absolutely free choices among a multitude of relative values. Obviously we are confronting a tissue of sheer contradiction. Proponents of abortion demand absolute free choice while under-mining the conditions in which authentic choice are possible and abolishing the personal responsibility which gives choice its significance.

#### WHAT IT MEANS TO CHOOSE

Let us begin by considering what it means to choose. It is a commonplace of moral philosophy to observe that free choice requires that the action of the choosing subject be undetermined by internal or external necessity. It is not so commonly recalled, howevthat choosing also requires that an agent's choice be capable of realization in actual consequences. "The object of choice being one of the things in our own power which is desired after deliberation," writes Aristotle, "choice will be deliberate desire of things in our own power." 5 The operative phrase for the present purpose is "things in our own power," to which the philosopher immediately adds that choice is "concerned with means" rather than ends. Choice is, then, the selection of means by which a rational agent, a person, enacts his will or realizes his intentions in the world he inhabits. It is the remarkable privilege of a spiritual creature that he is capable of transcending the apparently ineluctable material processes of the universe by selecting among various alternative and mutually exclusive possible courses of action.

As a result, the defining characteristic of a rational creature is his capacity for decisive action with substantial effects upon his world. This is an inestimable privilege and a fearful responsibility, because our choices affect others, even as their choice affect us. Were the world so made that others were immune from our good and evil," observes Rev. James V. Schall, S. J., "it would follow that we are intrinsically isolated, and not socially related in that unique area of choice wherein we decide how we shall utimately define who we are." Human freedom therefore, can never be absolute. Inevitably it is constrained, not only by one's own prior choices, but by the impinging choices of others. Paradoxically, for human beings to be free at all-for their choices to have import-their freedom must be realized within limitations. One can only choose what is possible; for a choice to be moral, it must acknowledge additional limitations which include, above all, the integrity of similarly unique rational creatures. Abortion, insofar as it purports to "terminate a pregnancy" without killing a human being, is the choice of what is impossible.

Among human beings pregnancy is vertually always the result of a choice. Even cases of forcible rape involve the choice of the rapist, and so even the pregnant victim of such a crime is subject, in an especially cruel mode, to the cost of living in a contingent universe in which the evil choices of others have real effects. But of course only a tiny-almost an infinitesimal-fraction of the more than one million abortions done each year in this country can claim even the tenuous justification that the woman did not choose the act of intercourse which resulted in her pregnancy. It is not impossible that there are girls, quite young, who have entered into sexual activity without fully appreciating its possible consequences; but it is doubtful that their number is nearly so great as enthusiasts for grade-school sex education would have us believe.

The fact is that most women who conceive children have freely chosen, with full knowledge of its potential outcome, the sexual relation which has resulted in pregnancy. Abortion is, then a choice whose precise purpose is to obviate the result of a previous choice. To be sure, there is nothing intrinsically evil in seeking to compensate for one's errors, but abortion is an especially deceitful and vicious means of solving problems by pretending they never existed. As the nortorious California Medicine editorial coolly phrases it, "it has been necessary to separate the idea of abortion from the idea of killing, which continues to be socially ab-horrent." Hence abortion is a very peculiar form of killing; in the typical murder the victim is usually the object of the murderer's greed, rage, or immediate fear. The woman who procures abortion, however, has no particular animus against the specific person in her womb; she does not want him dead as such. Rather, she wants him never to have existed at all. It is not that a certain individual is perceived by another as an obstacle to some good thing which the latter wishes to acquire or retain; it is the human existence per se of the newly begotten child which is perceived by his mother as an evil because she does not wish to be a mother. Although stories of female athletes who resort to abortion in order not to miss a tournament, or of women who weigh an-

other child against a vacation or a new car, are not unfamiliar, this narrowly-calculating attitude is not typical. Anyone who has addressed a college audience on this issue has undoubtedly heard from young women in the audience this objection, or something like it: "If I had a baby it would ruin my whole life." What such a young woman is unwilling to face is not the child as such, but the alteration in her own sense of identity or self-image. She is unwilling to accept a development in the reality of her situation which she has not planned, even though it is a known possible consequence of her own actions.

In this perspective it is not difficult to see why so many women seeking (or simply favoring) abortions do not think of themselves as murderers, and why they react so angrily to the imputation. Subjectively their intentions are wholly different from those of, say, a Mafia hitman or a drunken wife beater. And this consideration does not even take into account the various social and economic pressures and very real suffering often attendant upon unplanned pregnancies which unquestionably mitigate the moral guilt in many instances of abortion. Yet, notwithstanding the sympathy which must frequently be extended to women contemplating abortion, there is some basis for insisting that abortion is, from an ontologiperspective, worse than ordinary murder. St. Augustine explains that sin consists in preferring an inferior to a superior good; that is, in inordinate love.9 Abortion not only prefers the comfort, convenience, or advantage of the pregnant woman to the very life of her unborn child, a fundamentally good thing, but seeks to deny that the life ever existed. In this sense it is a radical denial not only of the worth of a specific life, but of the essential goodness of life itself and the Providential ordering of its procreation.

The woman who chooses abortion, therefore, is destroying the basis on which choice can be made. Rather than making amends for a mistaken prior choice, rather than accepting the abundant, gratuitous good available in any new life-even when conceived in illicit or distressing circumstances-she seeks instead not merely to evade the consequences of her action but to obliterate its existential reality. The choice of abortion is a meaningless choice-no choice at all-because its sole purpose is to render nugatory another choice. Abortion is the most obvious means by which we currently attempt, as individuals, to attain the "Brave New World," to benefit from "all the tonic effects of murdering Desdemona and being murdered by Othello, without any of the inconveniences.

The California Medicine editorial seems to suggest that "the very considerable semantic gymnastics which are required to rationalize abortion as anything but taking a human life"10 are aimed simply at removing the onus of homicide from this act. Doubtless remorse and a concommitant desire for legal and ethical justification constitute a powerful motivation for the various linguistic subterfuges adduced to conceal the true nature of abortion. Still, I am inclined to suspect that the various euphemisms for abortion are, ultimately, designed to conceal not only the abortion itself but the entire actuality to which the abortion is applied as a remedy. The many young women who have insisted to me-fiercely, even desperately-that abortion is "different" from infanticide, that a fetus is "not the same as a baby," are not, I think, overwhelmed by

guilt (in most instances the abortions are still, presumably, hypothetical), nor are they fiends bent on justifying murder. They are victims themselves—hapless collaborators in a pervasive conspiracy of self-indulgence and irresponsibility which suppresses truth and consequences alike, and promises that no decision is ever final.

'Nothing is at last sacred but the integrity of your own mind," wrote Ralph Waldo Emerson. "Absolve you to yourself, and you shall have the suffrage of the world." Along with Franklin, Emerson is America's cherished and platudinous prophet, and the result is the evil banality of situation ethics, which promises that anything is 'OK" if it is wanted with sufficient intensity: "It may be biologically human, but it's not human to me." I vividly remember these words, spat from the tight lights of a nursing student. "I think you're one hundred percent right," said the young man to whom I had just demonstrated that life begins at conception, "but I still disagree with you." What these wholly typical examples of contemporary logic have in common is their insistence that opinion need have no connection with reality, that (indeed) reality itself is shaped by the imperious force of subjective desires, rather than serving as a natural limit to desire. Quite lost is the wisdom of St. Thomas Aquinas: "Our choice is always concerned with our actions. Now whatever is done by us is possible to us. Therefore we must needs say that choice is only of possible things." 12 In a world where possibilities have no limits and choices no finality, choice itself is meaningless.

There is no small irony, then, in Time magazine's endorsement of "pro-choice advocates" at the close of a recent cover story, "The Battle over Abortion," 13 for the very label is a grotesque misnomer. The "choice" of abortion takes choice out of the realm of possibility into the realm of wish. The woman does not wish to be pregnant, to bear a child. Now this wish that things be other than they are can, superficially, be gratified. With an early suction abortion she need never see the child, never even feel him kick. It is easy, then, to believe that the child never existed, that the abortion was merely a "procedure," the "terminated" pregnancy merely a temporary condition unrelated to her own serious choice already consummated. Of course, this is pure evasion. Once a woman has conceived she is forever the mother of a child. As has often been observed, it is only a question of whether the baby will be born alive or dead, whether he will leave the womb whole or in

pieces.

Sometimes the evasion does not work. Another of my vivid memories is a young woman's explanation of why she had missed my freshman composition class for more than six weeks. She had become pregnant in her second semester at the University. The counseling service had (of course!) recommended an abortion. "It will be as if it never happened," she was told. "You needn't miss a class." But it had happened, and she knew it. She quit going to all of her classes because of shame and guilt over a "non-event" of which her teachers and classmates were unaware. Now she faced the prospect of going home and explaining to her family why she had failed all of her courses. Her parents had not been informed of the event: after all, it was to be as if it had never happened. I felt, and still feel, deep sympathy for this girl; but I believe that, in the long run, she is far more fortunate than many of her sisters who have gone back to class and accepted a "choice" which cast into oblivion not only the lives of their unborn children, but also the integrity and meaning of their own lives.

I have suggested that the abortion choice is not a valid choice at all, but a mockery of choice because it renders choice nugatory by denying its consequences. I would argue also that meaningless choices are destruc-tive of freedom, that the freedom to abort is, in fact, the prelude to slavery. Reality exists; choices do have consequences. We may make further choices which mitigate or amend those consequences, but we can never simply ignore them. Sooner or later they overtake us. The woman who seeks to evade the consequences of sexual activity through abortion barters away not only her offspring's, but her own birthright for a mess of emotional pottage. She who allows herself to be convinced that abortion is 'anything but the taking of a human life,' who permits herself to believe that there was never a baby there at all, has literally yielded up a portion of her soul. As John the Savage realizes in "Brave New World," freedom requires the "right to be unhappy, and anyone who will be happy at any price cannot be free. But to the extent that one freely yields up the freedom of his will-for comfort, pleasure, security-to that extent one diminishes his own humanity, because our human nature itself is defined by our freedom: not in a jejune political sense but in the radical sense that we can make choices which deliberately alter our relation to the world we inhabit. The serious, philosophical proponents of abortion are convinced that ordinary human beings must not be permitted such choices, and they are determined to redefine and reconstitute human nature to this end. Abortion is merely one weapon, albeit a very important one, in their arsenal.

There is no need to reiterate here the endless list of scientific evidence establishing the consensus (which Justice Blackmun was, incredibly, unable to locate in writing Roe, v. Wade) that maintains that a new human life originates at conception.14 What is worth considering are the arguments by means of which scientists, who are unwilling to lie, or fearful of doing so in a professional context, justify their promotion of abortion. In 1964 Columbia anthropologist Ashley Montagu wrote: "The basic fact is simple: life begins not at birth, but at conception"; and he went on to describe the "developing child" as "a living, striving, human being from the very beginning." 15 When Professor Montagu's pro-abortion stance was called into question in the light of such remarks in this book called, significantly enough, "Life Before Birth," he responded by asserting in a letter to the New York Times (March 3, 1967) that although "from the moment of conception the organism thus brought into being possesses all the potentialities for humanity in its genes and for that reason must be considered human . . . the embryo, fetus and newborn of the human species do not really become functionally human until humanized in the human socialization proc-

Let us for the moment prescind from Professor Montagu's distortion of his actual statements in "Life Before Birth," and from the fact that his Times formulation provides an explicit rationale for infanticide as well as for abortion at any stage in pregnancy. Let us instead set Professor Montagu's lucubrations beside a famous passage of the "Declaration of Independence," generally regarded as the charter of the American conception of human rights:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are life, Liberty, and the pursuit of Happiness . . ." 17

When Jefferson wrote "all men" he meant, of course, all human beings, and when he said they were equal he did not refer to talent, stength, intelligence, other endowments, but simply to the fact of their equal humanity. As Aristotle points out, substantial entities do not admit degree: "If a particular substance is 'man,' it will not be any more or less a man either than itself or any other man, in the way that one white thing is whiter than another, or one beautiful thing more beautiful than another." 18 When Jefferson says that all men are "endowed by their Creator with certain unalienable Rights," he attributes to each human being, merely by virtue of his humanity, certain innate or intrinsic rights which cannot be denied because he fails to measure up to a test of functionality. He can, presumably, forfeit his rights by violating those of another, but otherwise these natural rights are unconditional because they are an attribute of human nature. It will not. I trust, escape notice that Jefferson lists the right to life first.

Now Professor Montagu's efforts to weasel out of his admission that unborn children are human beings undermines the very basis for any natural rights at all. It is not enough simply to be human; in order to qualify for protection under the Montagu scheme, one must be "functionally" human. Obviously we are not endowed with "functionality" by our Creator, and we are not all equally functional. What is more, there is nothing very stable about such criteria: who is to say what constitutes functionality? Is a poet as functional as a steel worker? A nuclear physicist as a dairy farmer? Depending on whether man is to be regarded as a symbol-using animal, a tool-using animal, or a laughing animal, at his most functional (and hence most human) he might be college professor, carpenter, or comedian. Once functionality has been established as the standard by which the humanity of fetuses and infants can be denied there is no logical or moral basis for not applying the same

standard to the general population.
If Professor Montagu's views prevail. then, our human rights cannot be natural or innate; they can only be civil rights, for it is society which confers humanity itself since we are only "humanized in the human socialization process." There is no guarantee that the process will always be successful, that every adult of the species will be deemed sufficiently functional to merit human status. In any case, what society giveth, society taketh away. The Supreme Court decisions illustrate this melancholy fact in a striking way. Using a logic similar Montagu's, Justice Blackmun wrote: 'With respect to the State's important and legitimate interest in potential life, the 'compelling' point is at viability. This is so because the fetus then presumably has the capability of meaningful life outside the mother's womb." 19 For human beings to enjoy natural rights, there must be a publicly-acknowledged definition of human nature which enables a human being to be identified rationally. The allied sciences of genetics and microbiology have made this task easier than ever: there is a genetically human organism present from the moment an ovum produced by the female of the species is fused with a sperm produced by the

male. "Functional" and "meaningful," however, are not aspects of an individual organism, but describe instead the regard in which he is held by others. "Meaningful" in particular is an utterly meaningless term unless we specify, meaningful to whom? In Roe v. Wade the Supreme Court has produced a decision which is essentially totalitarian: it does not merely deny human rights to a certain class of human beings; it assumes the prerogative of conferring humanity itself. "We need not resolve the difficult question of when life begins," 20 writes Justice Blackmun, and on this basis he and six colleagues have arbitrarily decreed that (for now at least) it will begin at birth.

Philosophically, the most disquieting term in Professor Montagu's remarks is "potentialities for humanity," which finds an echo in Justice Blackmun's invocation of the cliché, "potential life." Logically, the phrase is absurd because it is not legitimate to call the fetus "potentially" anything unless one is prepared to say what he is actually; but, as Professor Montagu concedes, in genetic terms the fetus "must be considered human." He cannot at the same time be both potentially and actually human, and his humanity is potential only to the same extent that we are complexes of "human potentialities." As the Spanish philosopher Xavier Zubiri argues: "The person is the being of man. The person finds himself implanted in being 'in order to realize himself." Zubiri proceeds to explain that "realizing himself" means "having to elaborate his personality in life." 21

In other words, human life, throughout its course, is a matter of realizing potentialities; and no one ever succeeds in realizing or completing himself absolutely. It has always been a curious morality that argues for the legitimacy of killing unborn children because their human future lies before them. Even the heathen poet Ovid tells his mistress, who has attempted abortion, "Let the ripe fruit fall of its own accord. Suffer the new to grow. Life is no small reward for a little delay." 22 When the matter is closely scrutinized, it becomes clear that the term "potentially human" can be applied to us all. No one becomes human except in his acts; that is, our humanity, in any sense other than the purely biological (which abortionists insist upon disregarding), is not automatic or necessary. We do not necessarily attain it by becoming "viable," or being born, or starting school, or reaching the age when we can drive, or drink, or vote. Human life is precisely the activity of fulfilling human potentialities, of becoming human. Because the rational nature of human beings is defined by the capacity for free choice, it can be neither necessary nor absolute. "Hence, in its acts," writes Zubiri, "the living 'becomes' in reality that which it already was, and its being consists of 'arriving at' which is not physical or chronological, but metaphysical, and which includes even 'having arrived at.' "23 Human rights must, perforce, be grounded in simple biological (or genetic) humanness, because that is all that can be safely ascertained at any given point in any person's life. The right to life is, then, the right to the opportunity to realize one's human potential. The abortionists virtually demand that Jefferson's "pursuit of Happiness" become a right to happiness itself—as in the Planned Parenthood slogan, "Every child a wanted child"— before the right to life be granted. But the Greek sage Solon said that we must call no

man happy while he lives; the end of his life only will reveal if it were a happy one.24

It will be perceived that our discussion has come full circle: happiness and freedom again. For it is because persons are complexes of potentialities that they are free-free to make the choices that fulfill their lives in specific, concrete, and finite ways. Happiness, then, is necessarily limited—you cannot, as the old saying puts it, have your cake and eat it too. you cannot choose to have sexual intercourse and remain a virgin. a person who is not intimately involved with another. You cannot become pregnant without becoming still more deeply and intimately involved with yet another personanother pulsing, living bundle of human potential. Therefore, Zubiri can argue, "Freedom is only possible as freedom 'for,' not just as freedom 'from' . . ." 25 That is, our freedom itself is a condition of our finite nature and our situation in reality, which binds us to the limitations and consequences of our own choices.

What is more, in a contingent universe, a universe predetermined neither by Calvin's inscrutable deity nor by B. F. Skinner's alltoo-scrutable material environment, our choices are not merely decisive; they issue in consequences that are unpredictable, that are larger than we are. Never is this more true than when our choice is the sexual act. which may, beyond our immeidate intention or control, issue in a new human life, a new complex of possibilities with unforeseen consequences. "Thus, a kind of defiance, a challenge to every existing order," writes Rev. Schall, "is necessarily contained in the very birth of any human child." 26 The price of freedom, if I may alter a famous line, is eternal uncertainty. Freedon means risk, suffering, genuine evil; but it is also the only basis for true goodness and happiness,

as Fr. Schall explains: 'This implies, paradoxically, that a creature exists in the world who has disaster as a constitutive element in his very metaphysical make-up. The refusal to accept such a being, to accept this as an accurate description of man as a unique, new being capable of radical decision-or of such a God as his origin-is indeed behind much of the rejection of Christianity, which continues to insist on posing a freedom so full of risk that it threatens to jeopardize what seems most worthy and valuable. But without the possibility and actual existence of such a free creature, the absolute adventure, the seriousness, and unbounded joy that really lie behind creation would not be

possible." It is the rejection of this element of risk and uncertainty in the life of men and women that accounts for the shrill anxiety and incessant self-delusion of the abortion mentality. Attempts to rationalize abortion as a moral alternative to childbirth, or even to minimize its horror as a "necessary evil," inevitably entail a distortion of reality, indeed an attempt to repudiate human nature and the creature-status of human beings. Magda Denes makes this chillingly (though inadvertently) clear in the introduction to her personal and graphic account of the hideous obscenity of an abortion hospital:

"For in fact I am for abortions [she says] My rage throughout these pages is at the human predicament. At the finitude of our lives, at our nakedness, at the absurdity of perpetual ambivalence toward the terror of life and toward the horror of death." 28

Abortion is, then, a rebellion against the providentially ordained structure of human

life-against the unforeseen contingency which a baby poses to the tidy, comfortable worlds we may have planned or even constructed for ourselves.

Given their origin in a denial of the order of nature, it is not surprising that arguments favoring abortion rarely respect the données of reality. Judith Jarvis Thomson. professor of philosophy at M.I.T., asks one to imagine that he has been kidnapped and knocked unconscious by members of the Society of Music Lovers. Upon awakening he finds himself lying in bed with a famous violinist whose circulatory system has been routed through the kidneys of the kidnap victim. If the latter does not agree to lie in bed for nine months, allowing the comatose musician to make use of his kidneys, then the musician will die. This fanciful situation is offered as a reasonable analogy for pregnancy. Not content with such nonsense, Professor Thompson proceeds to berate those who believe in the sanctity of life for their refusal to make even hypothetical exceptions: "I suspect, in fact, that they would not make an exception for a case in which. miraculously enough, the pregnancy went on for nine years, or even the rest of the mother's life." <sup>29</sup> Even athesists, it would appear, will invoke the miraculous when it suits their purposes.

The argument from "what if" reaches it apotheosis with Michael Tooley:

'Suppose at some future time a chemical were to be discovered which when injected into the brain of a kitten would cause the kitten to develop into a cat possessing a brain of the sort possessed by humans, and consequently into a cat having all the psychological capabilities characteristic adult humans. Such cats would be able to think, to use language, and so on. Now it would surely be morally indefensible in such a situation to ascribe a serious right to life to members of the species homo sapiens without also ascribing it to the cats that have already undergone such a process of development: there would be no morally significant differences."30

Professor Tooley, who seems to think this an absolutely devastating scenario for rightto-life advocates, has evidently not read the "Narnia" series, where C. S. Lewis sets forth quite lucidly the proper relationship between human children and talking animals. In any case, anyone who did to ordinary garden-variety cats what abortionists do to unborn children would most likely be sent to an institution for the criminally insane. Whatever chemicals may be discovered in the future for the enhancement of the intellect, it is obvious that we possess already the capacity to debase it by willfully ignoring the nature of reality and the goodness of creation. One is reminded of Virgil's words to Dante as they enter the gates of hell: "Now we come to the place where I have told you / that you will see the wretched people / that have lost the good of the intellect." 31

The abortion mentality is utopian, and that, in turn, is necessarily totalitarian. Happiness cannot be guaranteed to free men and women. Freedom means, among other things, "the right to be unhappy," or at least the right to risk unhappiness. Only comfort, security, and a stale, sterile pleasure can be guaranteed, and then only to creatures of a far more diminished humanity than any unborn child, whose world lies all before him. The abortionists' choice" slogan is a lie based on a lie. It promises choices without consequences, and hence without meaning, by way of killing supposedly without victims. Proponents of abortion demand freedom, but they do not take freedom seriously. To be "free" of unwanted pregnancy, they lie about the nature of the unborn child and of their own actions. And of course it is only the truth that will set us free.

#### FOOTNOTES

- 1 "Brave New World" (1932; Reprinted by Harper & Row: New York, 1969), p. 163.

  2 "Areopagitica" (London, 1644).
- <sup>3</sup> "Nicomachean Ethics," 1099a, 1105a-1112a. 'The Abolition of Man" (1947; reprinted by Macmillan: New York, 1965).
- <sup>5</sup> Quoted by K. D. Whitehead, "Respectable Killing, the New Abortion Imperative," (Catholics United for the Faith, New Rochelle, N. Y., 1972), p. 163. [The entire text of the editorial in "California Medicine" (Sept., 1970; Vol. 113, No. 3) has been reprinted several times in this review, most recently in Appendix C of HLR, Winter '82.-Ed.]

6"Nicomachean Ethics, 1113a. See also St. Thomas Aquinas, "Summa Theologica," I-II, xii-

- 7 "Christianity and Life" (Ignatius Press: San
- Francisco, 1981), p. 17. \* Quoted by Whitehead, pp. 163-64.
- Of True Religion," 23, 26, 37, "The City of God," XIV, 4-6.

  10 Quoted by Whitehead, p. 164.
- 11 "Self-Reliance," in "Essays" (1841; reprinted by Charles E. Merrill: Columbus, Ohio, 1969), p. 41.
  - 12 "Summa Theologica," I-II, xiii, 5.
    13 "Time," 117, 14 (6 April 1981), 28.
- 14 The case is briefly but thoroughly summarized by Scientists for Life, "The Position of Modern Science on the Beginnings of Human Life" (Sun Life:
- Thaxton, Va., 1975).

  18 "Life Before Birth" (New American Library,
- New York, 1964), p. 2.

  18 Quoted by Whitehead, pp. 53-54. This passage is in part adapted from my earlier essay "Liberty, Reality, and Abortion," "The Wanderer," March
- 18, 1976, I, 6-7.

  17 Charles Callan Tansill, ed., "The Making of the American Republic: The Great Documents" lington House: New Rochelle, N.Y., n.d.), p. 22.

  - 16 "Categories," Chap. 5, 3b-4a.
    19 "Roe v. Wade" (January 22, 1973), p. 48.
  - 20 "Ibid., p. 44.
- 21 "Nature, History, God," trans. Thomas B. Fowler, Jr. (University Press of America: Washington, D.C., 1981), pp. 375, 376.
- 'Amores," II, xiv, 25-26: "sponte fluant matura sua. sine crescere natu. est pretium non leve vita morae.
- Nature, History, God," p. 363.
   "Cited by Aristotle, "Nicomachean Ethics,"
- 25 "Nature, History, God," p. 342.
- 26 "Christianity and Life," p. 17.
- 27 "Ibid., p. 87.
- 28 "In Necessity and Sorrow" (Basic Books: New York, 1976), p. xv. This and the following two paragraphs are adapted from my review of Bernard Nathanson's "Aborting America" Reason," 6, 4 (Winter, 1980), 327-31.
- 29 "A Defense of Abortion," in "The Rights and Wrongs of Abortion," ed. Marshall Cohen, Thomas Nagel, and Thomas Scanlon (Princeton Univ: Princeton, N.J., 1974), p. 6.
- Abortion and Infanticide," ibid., pp. 75-76. 31 "Inferno," III, 16-18: "Noi siam venuti al loco ov'i't'ho detto che tu vedrai le gente dolorose c'hanno perduto il ben de l'intelletto.
- Mr. HELMS. Mr. President, I thank the Senator from Alabama and I thank the Chair.
- Mr. JEPSEN. Mr. President, will the Senator yield?
- Mr. DENTON. I yield to the Senator
- Mr. JEPSEN. Mr. President, how much time do we have remaining?
- The PRESIDING OFFICER. The Senator from Alabama has 5 minutes and 30 seconds remaining.
- Mr. JEPSEN. Mr. President, I rise in opposition to the committee amend-

ment to strike the Ashbrook amendment from the continuing resolution.

First, we must understand that we are talking about a benefit under the Government health care plan which accounts for only 0.2 percent of the total 4 billion 200 million dollars outlayed under the Government employee health plan. This is only one-fifth of 1 percent of all of the money that is spent in the health coverage of employees. It is important to note that under the 1982 health benefit contracts, over 100 of the insurance carriers agreed voluntarily to limit abortion coverage precisely in the manner in which the Ashbrook amendment would require if passed. Moreover, the amendment that we are talking about today does not limit, in any way, the right of a Federal employee to have an abortion under current law. The amendment simply states that the Federal employee, like every employee in the private sector, be required to pay for the abortion with her own private funds and not at the partial expense of taxpayers. The elimination of mental health and dental care coverage is a clear sign that the package of benefits offered to Federal employees can, and on occasion, must be reduced in order to cap the constantly spiraling costs of this program.

Another point that I would ask my colleagues to consider is that Federal employees are taxpayers, like everyone else, and like the rest of the taxpaying population, many harbor the same resentments against the use of Federal funds for abortion that will be found in the population at large. There is no reason to believe that the taxpaying public that happens to be employed by the Federal Government is radically different on this issue than the public at large and many people consider this not a medical benefit but a morally reprehensible procedure.

Mr. President, I would also like to address the objection that says that the elimination of funding for abortions under the Federal Employee Health Benefits Plan represents some form of interference in an employer-employee relationship. The objection is simply unfounded.

The Office of Personnel Management does not negotiate wages or benefits with Federal employee unions as unions. In fact, it is prohibited from doing so by the United States Code, title V. OPM does negotiate with the unions as insurance carriers, in the same manner as private sector insurance carriers. Federal employees may well deserve the 60 percent taxpayer contribution as part of their compensation, but to say they are entitled to partially taxpayer funded nonlifesaving abortions is incorrect.

I strongly urge my colleagues to restore current law and oppose the committee amendment.

Thank you, Mr. President.

Mr. ZORINSKY. Mr. President, will the Senator from Alabama yield?

Mr. DENTON. I yield to the Senator from Nebraska.

Mr. ZORINSKY. Mr. President, the continuing appropriations resolution currently pending before the Senate contains a serious flaw which must be corrected. The Senate continuing appropriations resolution deletes the House language prohibiting abortion coverage under Federal health insurance plans. This is not the time to debate the abortion issue. The action of the Senate Appropriations Committee is not consistent with language unchanged in the bill, restricting payments for abortions under medicaid, except when the life of the mother is endangered. This is a blatant inconsistency.

The Federal Government pays at least 60 percent of the cost of the Federal employee health benefits program, which paid for 17,000 abortions in 1981. Like the Helms-Hyde amendment, the amendment proposed, to restore the House language, would permit abortion funding "where the life of the mother would be endangered if the fetus were carried to term." This amendment would not interfere with contracts currently in effect.

When I was the mayor of Omaha, I led the successful effort to eliminate abortion funding from the city's employee health plan.

Mr. President, it seems to me that on the grounds of consistency alone, regardless of the reasons, I and others who supported the Helms-Hyde amendment to prohibit medicaid payment for abortions must support this amendment as well

There were those who argued, "Since abortion is legal, the Helms-Hyde amendment is unjust because it denies to the poor what is available to the wealthy." I, and many of my Senate colleagues rejected this argument because we recognize that every abortion destroys a living human being. Therefore, no consideration no less weighty than the life of the mother itself can justify an abortion. And if there is discrimination involved, it is not against the poor, but against the unborn children whose lives cannot be saved. Congress has ended abortion-onfunding Federal of demand under medicaid. And we are speaking today of another program which is directly funded and administered by the Federal Government. I suggest that we ought not to continue to provide for the relatively well-to-do something we have rightly denied to the poor. I urge the adoption of the amendment.

I thank the Senator from Alabama. Mr. DENTON. I thank the Senator from Nebraska.

Mr. HATFIELD. Mr. President, has the Senator yielded the floor?

Mr. DENTON. I yield.

Mr. HATFIELD. Mr. President, I find myself in a very difficult role because I stand with the Senator from Alabama, the Senator from Nebraska, the Senator from Iowa, and the Senator from North Carolina on the basic issue of abortion. I oppose abortion and Federal funds being used for abortion except in the case of the life of the mother.

But, Mr. President, there is another principle involved in the Ashbrook amendment that causes me to have to stand here this morning and indicate my opposition to having it put back in the continuing resolution, after the committee voted to delete it:

We are dealing with the principle of whether or not we should put the Federal Government in a role of telling an individual citizen how he or she can spend his or her money after the taxes have been paid and other obligations met by law. It is simply this: Under this program the medical benefit plans of the Federal Government constitute compensation. In effect, we are saying to the Federal employees, "You cannot use that compensation to have an abortion."

The principle is simply I did not want the Federal Government to begin sticking its head under the tent and stipulating how individuals can spend their own compensation, as long as it does not violate the law.

I do not believe the Federal Government should be in the business, even in this indirect manner, of telling insurance companies whether or not they can make certain programs available in their plans.

This is a matter of labor-management negotiations. It is not a matter for us to put this kind of prohibition on such compensation. Compensation is what it is. I think that is a very important principle to consider.

We talk about Big Government. We talk about Government intruding in the private lives of people. This is a far different thing than having Federal funds that are appropriated funds being used to perform abortions.

We are now saying to Federal employees, "Your compensation that you have earned, cannot be utilized to obtain an abortion under a negotiated health benefit plan which provides for that coverage."

I just want to put this thing into perspective. We are not dealing here with a simple issue of abortion or antiabortion. I would line up with such a vote on the antiabortion side as I have in every Hyde amendment and every other vote that we have conducted throughout the number of years that this issue has been before us.

I thus reluctantly rise to oppose the Ashbrook amendment. I know the antiabortion lobby is making this a symbolic vote on the question of abortion. I know the pressures that are applied here that if you are antiabortion you are pro-life, you have got to vote for the Ashbrook amendment. I hate to be put in that situation because, frankly, it is oversimplification, I think it is misleading.

There is no one who feels as strongly as I do about abortion. I must also say I have a very strong feeling about the principle of not putting the Government in the role of dictating how people can spend the money which they have earned as long as it does not violate the law of the land. That is the principle I hope we can keep in mind in supporting the committee in its effort. By the way, I might say this item will be in conference with the House, as the House contains the Ashbrook amendment.

Mr. PACKWOOD. Mr. President,

will the Senator yield? Mr. HATFIELD. I yield.

Mr. PACKWOOD. Mr. President, in my young legal career I almost exclusively practiced labor law, and negotiated contract upon contract from the employer's viewpoint. It was always very clear when we negotiated a package—if it included more in fringe benefits, it included less in wages. We always traded off one with the other, but it was always a package for compensation. The senior Senator from Oregon stated it very well.

This is not a proabortion or antiabortion vote. Indeed it really is not even a financial vote. The Senator from Iowa talked about the de minimis amount that is involved. If we are looking to save immense amounts, then you might want to look at eyeglasses or dentures. But this is a de minimis amount. Nothing of any consequence is going to be saved-if you are looking for money to be saved. It is one more effort to make this appear to be an abortion-antiabortion vote. What it really is is a vote to determine whether you are going to take away employees' compensation, call it fringe benefits or wages. Take it away from them when they are entitled to decide how they want to spend it.

If we pass this amendment of the Senator from Alabama we are saying "We are going to take it away from you. It is yours, but we are going to take it away from you because we don't like abortion." That is the wrong

way to phrase this issue.

Mr. DOMENICI. Mr. President, does the Senator have any time?

Mr. DENTON. How much time does the Senator from Alabama have?

The PRESIDING OFFICER. The Senator from Alabama has 2 minutes and 24 seconds.

Mr. DENTON. I will turn the time over to the Senator from New Mexico. Mr. DOMENICI. I just wanted to

ask somebody a question.

Mr. DENTON. If we can help the Senator out, go ahead.

Mr. DOMENICI. Let me ask the Senator from Oregon, the manager of the bill, what is the current law on this?

Mr. HATFIELD. The current law is there is no restriction. The Ashbrook amendment would be prospective in January 1983.

Mr. DOMENICI. It was my understanding that the continuing resolution under which we operated already has the Ashbrook limitation in it as law.

Mr. HATFIELD. Let me further clarify. The first continuing resolution inadvertently made it applicable for the first 3 months of this year. However, the Ashbrook amendment would have practical application in January 1983, when the new plans commence.

Mr. DOMENICI. But right now whatever it is that you have been saying we should not be doing and that the distinguished junior Senator says is not good management-labor law has been done for 3 months by the Federal Government; is that correct?

Mr. HATFIELD. Technically, the matter is in the law at the moment, but it is not being enforced because it does not take effect until new contracts commence in January 1983. So we are not in effect taking away or changing something that is—being done now because, as I said initially, it was to take effect January 1983.

The first continuing resolution inadvertently made it applicable for the first 3 months, in a prospective sense. However, it is not being enforced at the present time.

Mr. DOMENICI. I had understood to the contrary. But in any event, would the continuing resolution to which you allude, which would have rendered the law effective January 1, was that starting on this date to continue for how long, a year?

Mr. HATFIELD. Well, it would have been for the length of the resolution. Mr. DOMENICI. How long was that

with reference to this body of law? It could not have been December 17.

Mr. HATFIELD. No. What I am saying is that the inadvertent action taken by the committee put it into effect for 3 months from October 1 through November, and part of December. That is the period of the last quarter of the year. Then the Ashbrook amendment initially was to take effect January 1983, but it has not been enforced in that period of October, November and December.

Mr. DOMENICI. How could it be put into effect January 1 when it was part of a continuing resolution that expired December 17?

Mr. DENTON. I would have to question the distinguished chairman because the evidence is definitely to the contrary on record in order to clarify his answers to the Senator from New Mexico.

OPM notified carriers of enactment of the Ashbrook amendment and of its possible application in 1983. OPM required the brochures of plans proposing to offer elective abortion coverage in 1983, either to be silent on the point or to state that Congress had imposed restrictions that might exclude elective abortion coverage next year. That was in October 1982.

AFGE sued again. Judge Horan upheld OPM, refusing to issue a temporary restraining order. The court said that this time there was a legislative act which, even though it expires on December 17, 1982, must be given deference. Over 100 carriers of the some 120 or so insurance carriers now involved in this process and have voluntarily enforced the prohibition on Federal funding of abortions. If that is incorrect, I wish to have it corrected.

Mr. HATFIELD. I do not think so. I think what the Senator read is a statement of intent, but the actual application of the law was to be January because the contracts begin in January. It could not take effect on existing contracts. It had to take effect on prospective contracts which begin in January.

Mr. DENTON. The notifications started going out quite some time ago. Mr. HATFIELD. That is correct.

Mr. DOMENICI. Senator, I do not know whose time I am using—

Mr. HATFIELD. The Senator was using the time of the Senator from Alabama. What is the time situation?

The PRESIDING OFFICER. Actually there is 1 minute remaining on the amendment. The Senator from Oregon's time has expired. The Senator from Alabama's time is 1 more minute remaining.

Mr. HATFIELD. I do not think I understood the Chair.

The PRESIDING OFFICER. There is 1 minute remaining equally divided.

Mr. HATFIELD. I did not yield any time. The Senator from Alabama yielded time to the Senator from New Mexico to ask his questions.

The PRESIDING OFFICER. That is correct, and there are 2 minutes remaining to the Senator from Oregon.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senator from New Mexico have 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. I am really confused. I guess I would ask either the Senator from Oregon or the distinguished Senator from Alabama if we do not adopt the amendment the Senator from Alabama has offered, we are we or are we not changing substantive law with reference to this issue? At first it would seem to me it was being said there was no such law in effect, as

if you were proposing something new

in your amendment.

I am led to believe that if we do not adopt the amendment of the Senator from Alabama we will be changing the law from what it is to something different. Could somebody tell me the answer?

Mr. HATFIELD. Yes I would be very happy to respond. It was not substantive law, it was in the continuing resolution as a statement of intent to take effect in January, so it was not a matter of changing substantive law.

Mr. DOMENICI. I thank the Sena-

tor.

• Mr. NICKLE. Mr. President, I rise in support of this amendment which would continue the current ban on the use of tax dollars for abortions in Federal employee health programs. The current continuing resolution contains this ban and it is in the House's version of the pending continuing resolution. The Senate Appropriations Committee has removed the abortion restriction.

There are two issues involved in this policy question. The first is consistancy. Congress has adopted the Hyde amendment prohibiting medicaid coverage of abortions as part of the appropriations process. We have debated this question many times and resolved it. Although opinions regarding the central question of abortion vary, a majority of Senators have come to the conclusion that taxpayer's dollars should not be used to finance abortions, since this has become Congress stance, we need to apply it consistantly. If we are not going to pay for abortions for low-income women, then we have no business financing them for Federal employees.

The second issue that is raised with this amendment is the question of whether Congress has the right to dictate Federal employee fringe benefits. I know that some of my colleagues believe Congress does not have that right. In response to such concerns, I would like to point to a significant factor; 60 percent of every Federal employee's health premium is paid for with tax dollars-over \$2 billion per year. In the dual role of employer and custodian of the tax dollars, we have every right to speak to the amount and nature of health benefits. Not only do we have the right, we have an obligation to do so.

Finally, we are not, as some would allege, denying any Federal employee the right to an abortion. We are simply saying that tax dollars should not be used for such an activity.

I urge my colleagues to affirm a consistant stand on this issue. Regardless of the diverse views of this body on abortion, let us be consistant in our policy on public financing of abortion. In the eyes of many, myself included, this is financing the taking of human life. For others, it is simply an inap-

propriate use of Federal funds. Whatever viewpoint you hold, let us be consistant in our policy and get the Federal Government out of the business of funding abortions.

Mr. HATFIELD. I yield back the remaining time.

Does the Senator wish a rollcall

Mr. DENTON. I do.

Mr. HATFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 58, lines 4 through 10. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH) is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is

necessarily absent.

The PRESIDING OFFICER (Mr. Grassley). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 49, nays 48, as follows:

# [Rollcall Vote No. 429 Leg].

## YEAS-49

Baucus	Hatfield	Percy
Bentsen	Hayakawa	Pryor
Bradley	Heinz	Riegle
Brady	Hollings	Rudman
Bumpers	Inouye	Sarbanes
Burdick	Jackson	Sasser
Byrd.	Kassebaum	Schmitt
Harry F., Jr.	Kennedy	Simpson
Byrd, Robert C.	Leahy	Specter
Chafee	Levin	Stafford
Chiles	Mathias	Stevens
Cochran	Matsunaga	Tower
Cohen	Metzenbaum	Tsongas
Cranston	Moynihan	Wallop
Dodd	Nunn	Warner
Gorton	Packwood	Weicker
Hart	Pell	Alega Steel

# NAYS-48

	111110 10	Control of the Contro
Abdnor	Eagleton	Lugar
Andrews	East	Mattingly
Armstrong	Exon	McClure
Baker	Ford	Melcher
Biden	Garn	Mitchell
Boren	Grassley	Murkowski
Boschwitz	Hawkins	Nickles
Cannon	Heflin	Pressler
D'Amato	Helms	Proxmire
Danforth	Huddleston	Quayle
DeConcini	Humphrey	Randolph
Denton	Jepsen	Roth
Dixon	Johnston	Stennis
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Long	Zorinsky

#### NOT VOTING-3

enn Goldwater Hatch

So the committee amendment on page 58, lines 4 through 10, was agreed to. Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to lay that motion on the table. Mr. DOMENICI. Mr. President, I

suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

Mr. DENTON. I ask for the yeas and navs.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk proceeded to call the

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), and the Senator from Maryland (Mr. Mathias), are necessarily absent?

I also announce that the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. DURENBERGER) are absent due to illness.

I further announce that, if present and voting, the Senator from Minnesota (Mr. DURENBERBER) would vote "nay."

On this vote, the Senator from Maryland (Mr. Mathias) is paired with the Senator from Utah (Mr. Hatch).

If present and voting, the Senator from Maryland would vote "yea" and the Senator from Utah would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 50, nays 45 as follows:

# [Rollcall Vote No. 430 Leg.]

# YEAS-50

Andrews	Cohen	Levin
Baker	Cranston	Matsunaga
Baucus	Dodd	Metzenbaum
Bentsen	Gorton	Moynihan
Bradley	Hart	Nunn
Brady	Hatfield	Packwood
Bumpers	Hayakawa	Pell
Burdick	Heinz	Percy
Byrd,	Hollings	Pryor
Harry F., Jr.	Inouye	Riegle
Byrd, Robert C.	Jackson	Rudman
Chafee	Kassebaum	Sarbanes
Chiles	Kennedy	Sasser
Cochran	Leahy	Schmitt

Stevens Wallop Simpson Specter Stafford Warner Weicker Tsongas NAVS-45 Mattingly Abdnor Exon Armstrong Ford McClure Melcher Biden Garn Grassley Mitchell Boren Murkowski Boschwitz Hawkins Cannon Heflin Nickles D'Amato Helms Pressler Huddleston Proxmire Danforth DeConcini Humphrey Quayle Randolph Denton Jepsen Johnston Dixon Roth Kasten Stennis Dole Domenici Laxalt Symms Eagleton Thurmond Long Lugar Zorinsky

#### NOT VOTING-5

Durenberger Goldwater Mathias Glenn Hatch

So the motion to table the motion to reconsider was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The PRESIDING OFFICER. The motion to reconsider is not in order.

COMMITTEE AMENDMENT ON PAGE 60, LINES 4-25

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The Secretary of the Senate read as follows:

Sec. 152. Notwithstanding any other provisions of law, during the pendency of any appeal or review in any court of competent jurisdiction of the decision or decisions that are the subject of this section, no funds appropriated by this joint resolution or any other Act of Congress which provides funds for the Library of Congress and the Copyright Royalty Tribunal for fiscal year 1983 shall be expended to implement, enforce, award, or collect royalty fees under, and no obligation or liability for copyright royalty fees shall accure pursuant to, the decision announced by the Copyright Royalty Tribunal on October 20, 1982, Docket No. 81-2, and any subsequent decision, order, memorandum, or opinion issued by the Tribunal in such docket or relating to the subject matter of such docket, insofar as such decision and any subsequent decision, order, memorandum, or opinion relate to the establishment of a royalty rate of 3.75 per centum of the gross receipts of certain cable systems for the carriage of certain distant signal equivalents. Nothing in this section shall be construed as barring the Copyright Royalty Tribunal from expending funds decide, and to issue written materials with regard to its Docket No. 81-2, and to defend in court or elsewhere its decision, orders memoranda, or opinions in such docket or relating to the subject matter of such

Mr. HATFIELD. Mr. President, I remind the Senate this is the issue that Senator Mathias and Senator Mathias and Senator Mathias had been discussing earlier and on which Senator Mathias said he would not raise a question at this time.

Consequently, this is not in controversy, at least to my knowledge, and I ask the Chair to put the question on this committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to

Mr. MATTINGLY. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

agreed to.
COMMITTEE AMENDMENT, PAGE 66, LINES 12-21

The PRESIDING OFFICER. The clerk will state the next committee amendment.

The Secretary of the Senate read as follows:

Page 66, lines 12 through 21, strike.

Mr. HATFIELD. Mr. President, I wish now to pose a unanimous-consent request that has been agreed to by the two principals to this amendment, Senator Dopp from Connecticut and Senator Garn from Utah, and that is that a 30-minute time limitation be applied to this amendment, with no amendments in the second degree.

I propound that and so ask unani-

mous consent.

The PRESIDING OFFICER. Is the Senator from Nebraska seeking the

Mr. ZORINSKY. Yes, Mr. President, Could the chairman add to that, provided that no modifications also not be in order?

Mr. HATFIELD. Will the Senator repeat his request?

Mr. ZORINSKY. Provided that no

modification may be in order.

Mr. HATFIELD. That is not necessary. That would be redundant to the request as I have stated it of having no amendments in the second degree in order.

May I inquire of the Chair if I am correct?

The PRESIDING OFFICER. The Senator from Oregon is correct.

Mr. ZORINSKY. I thank the Chair. Mr. HATFIELD. Mr. President, I made that unanimous-consent request as outlined, 30 minutes equally divided, with no amendment in the second degree.

The PRESIDING OFFICER. Is there any objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. DODD addressed the Chair. The PRESIDING OFFICER. How much time is the Senator yielding?

Mr. DODD. Mr. President, I yield myself so much time as I need pursuant to the agreement.

Mr. President, if the Senate adopts this committee amendment, we will be forfeiting what I believe to be our last chance to do anything at all about what is by overwhelming consensus

what is by overwhelming consensus the single largest problem facing our Nation today: Unemployment. This is our last chance. There will not be another opportunity to enact an effective jobs program.

The House language provides a onetime, \$1 billion expenditure for the community development block grant program, a program that enjoys broadbased support, is recognized by people on both sides of the aisle as being a very effective way of getting a good, meaningful jobs program into our communities and States.

As to other programs, people have raised questions about their effectiveness and whether or not they are make-work or realistic jobs. But everyone, I think, agrees generally that the community block grant program does not fall into that category.

This was something that was recognized in the other body. As I mentioned, its language does provide a one-time \$1 billion expenditure.

Mr. President, I think it is quite clear that while we have addressed many of the problems in this body over the last 24 hours or more, no single issue is as important to the people we represent as the issue of jobs. With 12 million people out of work, with some 3 million people who have given up all hope entirely, in fact, have given up the search and dropped out of the market entirely, with people who have good education and work experience, being told now in the greatest economy on the face of the Earth that we cannot find a place for them, with families who have moved to cities all across this land looking for work, and who have to live in abandoned railroad cars or in their own automobiles because the jobs they thought would exist in certain parts of the country are not there-all of these people believe, and I think they are correct, that this issue just cannot wait. If, in fact, this is the only opportunity, my hope would be that we would not adopt the committee amendment and we would accept this modest-and it is a very modestamount. It is not going to solve unemployment totally, this very modest proposal that was included in the other body's language to provide some jobs. But it will signal our willingness to face up to the issue.

Very briefly, as I mentioned, it is a one-time-only \$1 billion amount for fiscal 1983 for the CDBG program. Those funds would match up an existing pool of American citizens who are able to work and who are actively seeking work with an existing backlog of community projects. This is a key point. We do not have to go out now and create new work programs in our various cities and States. Rather these are projects that have been kicking around for some time now, that are waiting to go, that have been identified by our cities and States as needed programs. We can utilize

projects which I just mentioned are in the backlog.

This program, as I also noted, is not going to eliminate unemployment. You are not going to wipe out unemployment for 12 million people, provide 12 million jobs, by any stretch of the imagination. We are talking about perhaps 150,000 to 200,000 jobs, hardly enough to deal with the serious numbers of almost 12 million. But it is going to provide at least that many with a chance to regain some dignity, do something worthwhile for our communities and, of course, and allow them to become taxpaying citizens. Many of them have none of those things as a result of being out of work.

For those of us in this body, Mr. President, it would mean that we did not turn our backs to the one problem that sent us back for this lameduck session. There are a lot of reasons that may have justified our being here, but none is more important than unemployment. In fact, with regard to the so-called gas tax bill that was described as a jobs bill and the reason for coming back, it is now not quite clear whether we are ever going to see that legislation.

Now we are dealing with a continuing resolution, and it is the only opportunity we are going to have. I know others are going to make an argument we have got \$1.2 billion worth of jobs in this Senate bill-well, do not kid yourselves-a quarter of a billion dollars for building military housing is not a jobs bill; that is, a 5- or 10-year program. It is not going to get you jobs immediately. Neither will the \$100 million for the Economic Development Corporation-that is not a jobs program. Nor is \$250 million for CETA replacement—that is not a jobs program, it is a training bill. Do not be fooled that that \$1.2 billion is jobs money. It is not jobs money.

The community development block grant program adopted by the other body provides jobs quickly. So I would urge my colleagues to oppose the committee amendment that has been proposed by the distinguished chairman of the committee.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. HUMPHREY). The Senator from Utah.

Mr. GARN. Mr. President, the Senator from Connecticut has indicated that the House has included \$1 billion for HUD's community development block grant. Now, it is rather interesting that we are adding in the CR things that have been taken care of in the regular appropriations bill. The majority of the HUD-Independent Appropriations bill Agencies was passed and enacted into law in September. It is law for the full year and it is not part of the continuing resolution.

The ironic thing is that in September the House of Representatives cut CDBG and I had to add back the funds which they took out. Now 3 months later they have added an additional \$1 billion for the program. I think it needs to be noted that there is also \$426 million of unobligated balances that will carry over into fiscal 1983—half of what we are talking about will be carried our from the 1982 budget into 1983.

I am really rather surprised that my friend from Connecticut would talk about this as a proposal which would create jobs. It simply is not a jobs program. They could not have picked anyplace to spend money that would be a poorer choice to provide jobs that the CDBG program. I do not intend to take a lot of time, but we can go back and look at the history of CDBG, and I am a supporter of it. I am a former mayor who was at the other end of CDBG. It is not a jobs program. For every \$1 billion you appropriate you get \$20 million of the money spent in the first year. That is all we are talking about. It is a historical fact that if we appropriate this \$1 billion we will get outyear problems and create more deficits. You will simply get only about \$20 million spent during this next year. How many jobs is that going to create? Do not let anybody in this Senate vote to put in \$1 billion for this tonight or this morning or whatever day or time it is around here, on the basis of jobs. There are not enough jobs in this proposal to spit across the Potomac.

I do not intend to take my 15 minutes. Everybody, if they are listening on their squawkboxes or their staff, can check me out. It is not a jobs bill, and it is coming from a supporter of CDBG and who had to increase funds for the program in September when the House cut it. You will get an average of 2-percent spendout. So if you appropriate \$5 billion you will get \$100 million next year. Out of this amendment we will get only \$20 million during this next year.

I reserve the remainder of my time. Mr. KENNEDY. Mr. President, will the Senator from Connecticut yield?

Mr. DODD. Yes, I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I listened to my friend and colleague from Utah describe the Dodd proposal he did not describe the Dodd proposal, and then he indicated that he opposed what he described.

The fact is that the Dodd proposal uses the mechanism of the CDBG in order to minimize the redtape and use a process and a system which are well-known, well-understood by mayors in this country, and targeted to labor-intensive need within those local communities.

That is all spelled out in the amendment. It is very clear. It is very precise.

It is not as described by the Senator from Utah.

The needs which this program will address are compelling for local communities. It is targeted on those individuals whose unemployment compensation has expired. And this, by definition, means that these are individuals who held jobs and now have lost them as a result of the inadequate and misinformed, and I think unfair and unjust, economic policies of this administration.

We cannot resolve all the economic problems in the final hours of this lameduck session, but we can take some modest steps to try and indicate that we are prepared to provide some help and some hope and some opportunity to several hundred thousand Americans who have worked over the period of their lives and to address the needs which exist in local communities and to use a mechanism that has been tried and tested and widely accepted within local communities in this country.

I welcome the opportunity to support the amendment of the Senator from Connecticut.

Mr. DODD. I thank the Senator from Massachusetts very much.

I wish to add one thing. If my good friend from Utah is correct and people are listening on their squawkboxes, I would like to also point out that there is a distinction between what the Senator from Utah has said about how much payout you actually get with this \$1 billion. My good friend from Utah is absolutely correct, with the \$1 billion appropriation you would get around \$20 million in terms of actual dollars if you were talking about an ongoing program. We are not talking about an ongoing program. Here we are talking about a one-time supplemental—a one-time supplemental. The billion dollars is to be spent in fiscal year 1983. There is a vast distinction between a one-time effort such as this and an ongoing program that you stretch out.

The work we are talking about is going to be done in that period of time. It will create jobs in communities throughout the country through the funding of local community development block grant programs and to produce real assets. That is what we are talking about in this bill for the American people, and to remain available until September 30, 1985.

But to talk about this in terms of an ongoing, long-term kind of program is to miss the point entirely. This \$1 billion is likely to be spent in 1 year; not stretched out over a number of years. We are proposing a one-time injection of dollars just as passed in the other body and now being supported on this side of the aisle. I reserve the remainder of my time.

Mr. GARN. Mr. President, I do not know, it is 8 o'clock in the morning and I have been up all night. I realize I am not an attorney, but you can read the language—and I have been chairman of the committee for a few years and I have served on it for more than that, and I am a former mayor-and it simply is not a fact that this language mandates that this additional \$1 billion be spent in the next year. There is no new program created by this language. There are no new guidelines. There are no new procedures.

I will read it.

For an additional amount for "Community development grants," to be made available to metropolitan cities and urban counties in accordance with the provisions of section 106(b) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), to create jobs in communities throughout the country through the funding of local community development programs and to produce real assets for the American people as a result thereof, \$1,000,000,000, to remain available until September 30, 1985.

There is no requirement that this money be spent faster than it is normally spent. That is the language. It is very simple. Attorneys do not usually write legislation that simple and direct so that ordinary, stupid people, untrained in the law like me, can understand it. But that is what is says.

Now, I have spent a little time with community development block grants. I lobbied for them when I was not a Member of Congress. There is no new procedure, no new guidelines, no new anything. In the existing program, if we simply appropriate an additional \$1 billion it will only have a spend out rate of 2 percent. That is all that can be spent. The language does not provide any procedures to spend it any faster during the next year.

This is not a jobs program. We are being conned if we believe that. It simply is not the fact. And because you put words in here that says it will create jobs, that does not necessarily mean it, or that you will spend the funds all over the country. I mean, who is kidding whom. That is not the

result.

Now, if somebody wants an additional \$1 billion more for CDBG let them vote for it. In ordinary times, I would be in favor of that. But let us not be confused with wanting that over a period of time at the spendout rate of \$20 million and some flowery language that says it is going to create jobs.

We have played that game in Congress for years that because we put some language in a piece of legislation it is going to do something. This language does not accomplish that.

Mr. President, I am ready to yield back the remainder of my time if the distinguished Senator from Connecticut is also ready.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Connecticut has 5 minutes remaining and the Senator from Utah has 91/2 minutes remaining.

Mr. DODD. Mr. President, I will not take that 5 minutes, but let me just sum up by saying what we intend to do, if we reject the committee amend-

ment.

If that amendment is rejected, I will offer a proposal that does call for a 1year expenditure of \$1 billion and that was offered earlier this week that goes into the community development block grant program. Our idea is to make those dollars meaningful and not have it dragged out over several years.

Again, I wish to emphasize the point I made at the outset. This is it. There will be no other opportunity. We are going to be leaving here in a few hours. We are going to be going back to our respective States and it appears as though we are going to have done absolutely nothing about unemployment.

We will have been here for 3 weeks, faced with the highest unemployment in 40 years in this country. We are going to have left there having done a lot of things for ourselves and others and we will not have done one thing for 12 million unemployed Americans

prior to December 25.

I do not know if this Congress wants to go back home having totally avoided that issue. But that is precisely what we will have done. Three weeks of work and not one single thing to help 12 million unemployed Americans, the overwhelming majority of whom are in those lines through no fault of their own.

With all the talk and all the rhetoric about putting people back to work, we will have done absolutely nothing. This is it. This is the last opportunity to reject this committee amendment. By doing that, we will at least say we are going to do something or try to do something about 150,000, possibly 200,000 people—what a small drop it is-of the 12 million. There will be no other opportunity.
Mr. President, I yield back the re-

mainder of my time.

Mr. GARN. I yield back the remain-

der of my time. Mr. DODD. Mr. President, I ask for

the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. The

question is on agreeing to the committee amendment on page 66, lines 12 through 21. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), the Senator from Maryland (Mr. Ma-THIAS), and the Senator from Arizona GOLDWATER) are necessarily (Mr. absent.

I also announce that the Senator from Utah (Mr. HATCH) and the Senator from Minnesota (Mr. Duren-BERGER) are absent due to illiness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 62, nays 32, as follows:

# [Rollcall Vote No. 431 Leg.]

#### YEAS-62

Abdnor	Garn	Nunn
Andrews	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatfield	Pressler
Bentsen	Hawkins	Proxmire
Boren	Hayakawa	Quayle
Boschwitz	Heflin	Roth
Byrd,	Heinz	Rudman
Harry F., Jr.	Helms	Schmitt
Chafee	Huddleston	Simpson
Chiles	Humphrey	Specter
Cochran	Jepsen	Stafford
D'Amato	Johnston	Stennis
Danforth	Kassebaum	Stevens
DeConcini	Kasten	Symms
Denton	Laxalt	Thurmond
Dole	Lugar	Tower
Domenici	Mattingly	Wallop
East	McClure	Warner
Exon	Murkowski	Weicker
Ford	Nickles	Zorinsky

#### NAYS-32

Baucus	Eagleton	Metzenbaum
Biden	Hart	Mitchell
Bradley	Hollings	Moynihan
Bumpers	Inouye	Pell
Burdick	Jackson	Pryor
Byrd, Robert C.	Kennedy	Randolph
Cannon	Leahy	Riegle
Cohen	Levin	Sarbanes
Cranston	Long	Sasser
Dixon	Matsunaga	Tsongas
Dodd	Melcher	

#### NOT VOTING-6

Brady	Glenn	Hatch
Durenberger	Goldwater	Mathias

So the committee amendment on page 66, lines 12 to 21, was agreed to. Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. WEICKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

#### TEACHER TRAINING IN LIBERIA

Mr. HAYAKAWA. Mr. President, I understand that administration plans for USIA programs include appropriations for educational and cultural activities in Liberia. Mr. President, I have had an ongoing interest in education in Liberia ever since my days as President of San Francisco State University. From 1963-73, we conducted

an education project with Liberia which resulted in the establishment of the Monrovia Consolidated School System, modeled on the American community school concept.

I traveled to Liberia last summerthe first Senator to visit the country since the coup of 1980-and was very pleased with the effort being made to improve the lives of the country's citizens in the field of education. The Government's long-range plans include an expansion of the school system throughout the contryside on the model of the Monrovia Consolidated School System. One serious problem they face, however, is a shortage of qualified teachers at the preuniversity level, especially in areas such as math and science. Liberian and American officials are now exploring ways in which the United States can assist in meeting this problem. Several exciting projects involving teacher training and curriculum development are on the drawing board.

Moreover, I understand that the Liberian Government and San Francisco State are eager to resume a long-term working relationship for the purpose improving Liberia's education system. I am enthusiastic about the prospect of San Francisco State being able to put its experience with Liberia and its expertise in the field of education to such constructive use in a country which is so important to our foreign policy interests in Africa. USIA officials have advised me that there are sufficient funds available for this purpose in the appropriations contemplated for Liberia. I hope that also is the understanding of the manager of this bill. The interest and support of this body will be very helpful in making these hopes and plans for Liberia become a reality.

Mr. WEICKER. I thank the Senator from California. I appreciate his interest in this matter and I commend the contribution he has made to our understanding of the importance of Liberia.

I will say in response that it is also my understanding that funds are available to conduct the educational programs the Senator discussed. My own information about Liberia's needs in the field of education support what he has said: The training of qualified teachers needs to be a high priority.

I appreciate the Senator's special knowledge of San Francisco State's expertise in this area, and I hope that the plans now being developed can be implemented in short order.

Furthermore, I think it would be fitting if in the future we refer to these teacher training activities as the Hayakawa program. I am sure that I have the full support of our Senate colleagues in making this suggestion.

Mr. HATFIELD. Mr. President, may I be recognized?

Senator from Oregon. The Senator from California spoke first.

Mr. HATFIELD. I think we usually recognize the manager of the bill.

COMMITTEE AMENDMENT ON PAGE 84, LINE 8, THROUGH PAGE 85, LINE 21

Mr. President, we now have one last committee amendment and the principals in this case are the Senator from Arkansas (Mr. PRYOR) and the Senator from Utah (Mr. GARN). They have agreed to a 20-minute time limitation equally divided without any amendments in the second degree. Therefore, Mr. President, I propound this unanimous-consent request for such a 20minute time limitation, equally divided, without any amendments in the second degree.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment. The bill clerk read as follows:

Committee amendment on page 84, strike beginning on line 8 through line 21 on page

Mr. HATFIELD. Before I yield the floor, Mr. President, I would like to state this is the last committee amendment, which means after this, we will have an open season on amendments.

I am very hopeful that we can start with noncontroversial, short, non-rollcall-required amendments, of which I know of a goodly number. If we could handle those in rapid fashion, we might be able to indicate then to the rest of the Members that we possibly could have about an hour window and Senators would have to be here to offer those amendments. If we begin to get into a quorum call situation because of a lack of Members to offer amendments, then we will have to move to some of the other amendments. But that is the plan that we have now and so anyone who wants to indicate to me such a noncontroversial, short, nonrollcall amendment, I

would be very happy to make a list.
The PRESIDING OFFICER. Who yields time?

Is all time yielded back?

Mr. PRYOR. Mr. President, I would inquire as to whether the chairman of Appropriations Committee is ready to begin?

Mr. HATFIELD. Yes.

Mr. PRYOR. Mr. President, I am today opposing the committee amendment and urging the Senate to restore \$50 million to the continuing resolution for the benefit of emergency food and shelter programs serving the needy. I am joined in this effort by my colleagues Senator HATCH, Senator Dodd, Senator Riegle, and Senator MELCHER.

This amount was approved by the House but was not included in the bill reported by the Senate Appropriations Committee. It is my strong opinion that this money must be restored. We

The PRESIDING OFFICER. The are facing today a situation unlike any seen in America since the 1930's. Our economy is weak and our unemployment rate is higher than 10-percent nationwide. Everywhere there is evidence of financially troubled people: Soup kitchens, food and clothing lines, emergency shelters and havens.

> More than 5 million people are currently drawing unemployment, which is an increase of 75 percent over a year ago. About 2 million people have exhausted all entitlement to benefits since the beginning of this year alone.

> In addition, the number of people living below the poverty line has increased during the past 2 years. And because public and voluntary agencies lack the resources to meet growing demands for emergency services, they have had to permit individuals and sometimes entire families to sleep in car and buses. Others less fortunate are spending cold nights on air grates, abandoned buildings, beneath trucks and bridges, and in Salvation Army clothing bins.

> Our most recent figures show that between 250,000 and 1 million people are homeless today. I realize this is a wide margin of estimate, but the fact is that the homeless population is ever-changing and accurate figures are simply unavailable. But those now needing assistance include the elderly, the indigent, battered women, runaways, those affected by recent weather catastrophes, and the "new poor". The "new poor" are those who now find themselves unemployed for the first time, unable to retain their homes, and victims of cutbacks in Federal and State assistance.

> In my own State of Arkansas, the University Medical Center at Little Rock has become the focus of attention in the past few weeks. Many indigent patients in the hospital have been sharing the food provided them as patients with other members of their family. And family members with no place to go are now sleeping in hospital hallways. Others are spending the night in their cars in nearby parking lots.

> A catch 22 factor is at work here. The unemployed cannot find a job. And the welfare laws do not permit able-bodied people to receive assistance. On the other hand, many disabled people cannot hold down a job and yet have had their benefits terminated. More than 158,000 persons have been taken off disability rolls in a stepped-up review process that began last year.

> The problems, Mr. President, feed upon each other: A lack of funds going to emergency services, a lack of jobs, a tragic insufficiency of public housing. Many elderly people are being forced to choose between either food or shelter-because they cannot afford them

I have long been impressed by the dedication of those professionals and volunteers who valiantly work in agencies of relief and assistance. They have performed invaluable services on extremely limited budgets and with increasingly smaller resources.

But they cannot continue to carry this burden on the meager funds now provided them. This proposal would appropriate \$50 million to the Federal Emergency Management Agency and then distribute this amount to the United Way of America. This distribution would not take place at some long-awaited point in the bureaucratic future. These funds would be available within 45 days of enactment of this legislation. And timing is crucial for the coming winter months.

In addition to the United Way, a board would be made up of members from the Salvation Army, the Council of Churches, the National Conference of Catholic Charities, and the Council of Jewish Federations. The money would be spent prior to the end of

fiscal year 1983. The \$50 million is not to be used as a substitute for existing public or private resources. If the voluntary organizations providing emergency food and shelter should find it necessary in some circumstances to provide payment to needy persons to enable them

to secure food or shelter, there should not be any reduction in State, Federal, or local assistance programs for these

people. Mr. President, recently my State and many others across the country have been devastated by floods and tornadoes. We have sought to provide emergency assistance to deal with the catastrophic situation faced by these many homeless. I believe we are facing a daily crisis in our cities and towns that

cannot be ignored. Failure to provide these funds would only indicate an indifference to the plight of America's needy. George Bernard Shaw said this: "The worst sin toward our fellow creatures is not to hate them, but to be indifferent to them. That is the essence of inhumanity."

I ask unanimous consent that a letter on behalf of the United Way of America be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED WAY OF AMERICA, Alexandria, Va., December 16, 1982. Hon. DAVID H. PRYOR, Russell Senate Office Building,

Washington, D.C.

DEAR SENATOR PRYOR: The House version of a new continuing resolution (H.J. Res. 631) includes a \$50 million grant for emergency food and shelter assistance. United Way of America would be the recipient of the grant and would form a board of national health and welfare organizations (United Way of America, The Salvation Army,

Council of Churches, National Conference of Catholic Charities, Council of Jewish Federations, Inc., and two others to be named by United Way of America) to distribute the funds

Local United Ways and their agencies are keenly aware of the increasing need for emergency services. Demand is growing daily at food banks and temporary shelters. If the proposed emergency assistance provision becomes law, United Way of America is confident that the board of national health and welfare organizations will be able to carry out its mandate from Congress to get food to the needy speedily and efficiently.

Sincerely.

WILLIAM ARAMONY.

Mr. RIEGLE. Would the Senator

Mr. PRYOR. I yield to the Senator

from Michigan.

Mr. RIEGLE. I want to commend the Senator for his initiative here and to emphasize my support for this effort and draw attention to the fact that there was a story in the Washington Post a couple of days ago that indicated in the last week in the District of Columbia, the Nation's Capital, we have had four different individuals die of hypothermia which means that they literally froze to death on the streets of Washington, D.C. That is just within the last 7 days. Now, we are just starting the worst of the winter period in the Nation's Capital, and the problems being faced by people like the four who lost their lives within the last week by freezing to death I think are precisely what lie at the heart of this problem that has been illuminated by the Senator from Arkansas.

Clearly, something needs to be done about it. More and more stories are appearing in the national network, stories of people living under viaducts, people living in abandoned housing, people trying to find shelter wherever they can, and the numbers are growing. Something has to be done about

I think many things have contributed to this, but the failure of an economic recovery to take hold is putting more and more people in this circumstance. There has to be a response. I think it has to be a national response because it is national problem.

I commend the Senator from Arkansas for his leadership, and I very much support the effort that he makes here.

Mr. PRYOR. I thank my friend from Michigan. I yield 1 minute to the distinguished Senator from New York, Senator MOYNTHAN.

Mr. MOYNIHAN. I thank my friend from Arkansas. I rise simply in support of the proposal noting a recent estimate that the number of homeless in New York now exceeds the population of Fargo, N. Dak., and it is not an eastern phenomenon. Many of us will have read the really awful story, those of us who are parents, of an unemployed man who has been living in his automobile with his wife and children. His wife is in a Rocky Mountain State having gotten a job in a diner. He went to see her-

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MOYNIHAN. At the diner, and when he came back, the child, although bundled up, had frozen to death.

Mr. PRYOR. I thank the Senator for making that observation.

I reserve the remainder of my time. Mr. DODD. Mr. President, I rise to join my distinguished colleague from Arkansas in sponsoring this amendment to the continuing resolution to provide \$50 million for emergency shelter and food for the homeless.

The tragedy of homelessness has become all to commonplace in this country. Thousands upon thousands of Americans now lack one of the most basic of human necessities: adequate shelter. As unemployment soars, their numbers grow everyday. They include some of our very youngest citizens, and some of our oldest.

We used to think that scenes of mothers and infants sleeping on sidewalks only occurred in the so-called underdeveloped nations. Today, we can see such scenes in our own backyards.

The skyrocketing incidence of homelessness in this Nation is in good part a result of the administration's misguided notion that you can cure unemployment by allowing to people to "vote with their feet." Children are now without roofs overhead because their parents have journeyed from State to State, seeking jobs where there are none to be had.

Now is not the time, however, for observations which some might term partisan. Congress must respond immediately to prevent children and adults from freezing to death this winter because they have to sleep outdoors. The House has already included \$50 million in the continuing resolution for charities to feed and to house temporarily those without shelter. The Senate must examine its conscience and follow suit.

I do not suggest that this stop-gap effort solves the problem of homelessness among our constituents. Earlier this week I introduced a bill providing for the renovation of abandoned buildings so they can be used as temporary shelter for the homeless. I will reintroduce this legislation and attempt to secure its passage early in the next session of Congress. And, I will work to find long-range solutions to such root causes of homelessness as unemployment.

At is moment, I urge my colleagues to support the amendment at hand. Only immediate action will prevent fellow Americans from sleeping on park benches and hot air grates this

I ask unanimous consent that an article from the New York Times outlining the crisis proportions which homelessness is reaching across the country be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 16, 1982] Congress Is Urged To Help Homeless

#### (By Iver Peterson)

Washington, December 15.—Congress was urged today to help the growing number of homeless Americans, displaced by unemployment and neglect, whose problems of cold, hunger and joblessness were described as a "national disgrace."

In the first Congressional hearing on homelessness in America since the Depression, the House Subcommittee on Housing and Community Development heard of a growing legion of former mental patients pushed out into the streets, of rural families forced out by spreading suburbs, and of jobless, homeless families "voting with their feet" in search of new employment.

"I think we're dealing with nothing less than a national tragedy and a national disgrace," Mayor Ted L. Wilson of Salt Lake City said. "To put it succinctly, we have a hell of a mess on our hands out in our

cities.'

The committee heard witnesses estimate the number of homeless Americans at half a million to two million men, women and children. In some older, urban areas, as many as 30 percent are former mental patients let out of institutions without any permanent system of support.

#### YOUNG MEN FORCED INTO STREETS

Many others are young men who had existed on the edge of poverty and self-reliance in the best of times, and who have been forced into the streets by a persistent economic recession whose impact they were the first to feel.

Carol Bellamy, president of the New York City Council, said the homeless men seeking room in the city's expanding number of shelters no longer fit stereotypes of the Bowery bum. Their average age last year was 36, she said, and most were under 40; half were high school graduates and a fifth

had some college education.

"For too long," Miss Bellamy said, "we have believed that homeless people prefer to live on the streets. In most cases, this is simply not true. Most do not prefer subway cars, doorways and park benches to clean beds. The do not want to rummage in garbage cans instead of having three meals a day. They do not enjoy infrequent washing in train and bus stations rest rooms."

A 1980 New York state ruling held localities in the state constitutionally responsible for sheltering homeless men, a mandate New York City has extended to homeless

women as well.

As a result, New York's expenses in caring for the homeless have grown from \$6.8 million in 1978 to \$38 million for the current fiscal year, and the number of spaces for homeless men to 4,500.

#### THE PROBLEM OF JOBLESSNESS

Although alcoholism and mental problems afflict many of the homeless, witnesses today stressed that unemployment lay beneath the problems of many newly homeless families.

"What do you say to a husband and wife and three children sleeping in an old caron the road, desperately looking for work?" asked Maj. Paul Kelly of Cleveland, head of the northern Ohio Salvation Army.

"This holiday season we reflect on the story of the nativity," he added. "We ponder how an innkeeper could have asked Mary and Joseph to reside in an animal stall. Yet there are thousands of Americans, men, women and children, that would welcome straw for a bed and the warmth of the barest of shelters."

From Cleveland also came Al and Mary Long and two of their three children. Mr. Long had worked in a metal plating shop until the automobile factories it served cut

back its orders.

"Well, I lost my house, I couldn't find another job, my wife had to go to her sister's and for five weeks I lived at the Volunteers of America shelter," Mr. Long said.

The group eventually hired Mr. Long at low wages and the family now has a modest home, but the experience stuck with him:

"There's a lot of people out there who need help," he told the committee. "I heard from some of the other testimonies that people think some of those people out there won't want to work, but there's 80 percent of us that do."

Mrs. Long said, "I try to work and help out but the money just doesn't go far enough, and for the second year in a row we're not going to have any Christmas."

Bob Hayes, lawyer for the National Coalition for the Homeless, said: "If one percent of the homeless people in American were displaced by earthquake or other national calamity, a national emergency would be declared. The National Guard would be mobilized and other steps would be taken. But in the face of this emergency, the nation sleeps."

Witnesses urged Congress to move beyond the \$50 million for emergency shelter and food that was approved by the House Tuesday, as part of a measure to finance the government.

Mr. GARN addressed the Chair. The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, amendment is one that is difficult to argue against on the basis of the nature of the problem. I am very well aware of the problem and I do not particularly have any objection to the \$50 million for this purpose, but I do have objection to the procedure and the precedent that it sets. The House included \$50 million to FEMA for emergency food and shelter as my colleague from Arkansas has pointed out; \$50 million would then be given within 45 days of enactment of the resolution to the United Way of America which would constitute a special board to determine how the funds are to be distributed to local, private, and voluntary organizations. I cannot think of a better organization than the United Way to distribute funds of this kind. However, while FEMA is charged with broad responsibilities to plan for and coordinate responses to several emergency conditions, the House's proposal simply goes beyond the scope of FEMA's current authority.

They do not have the authority to do programs of this kind. The House proposal is not within the type of incidents declared as major disasters or emergencies. I recognize that the problems of the people who would receive assistance can be considered major emergencies and disasters. I do not dispute that. I do not want anyone to think I dispute the arguments in favor of this proposal. But it simply is not within the scope of the Disaster Relief Act of 1974, nor is it within the scope of civil emergencies under Executive Order 12148 where imminent threats to public life and public safety are defined.

The precedent bothers me in that private nonprofit organizations have never received Federal funding in the manner proposed by the House of Representatives.

This would present a precedent for providing funding in the future for other organizations and, as you know, we get a lot of requests from many private organizations for Federal funding. Maybe these are procedures that should be established at another time by changing the authorizations and making it possible to provide assistance to these organizations.

But FEMA does not now have that kind of authority.

Based on legislation proposed by the House of Representatives it would be impossible for FEMA to comply with the terms of the resolution concerning the grant award within 45 days of enactment of the resolution.

The Senator from Michigan has pointed out the problems of the winter. We have had one or two die in Salt Lake City this winter due to the extremely harsh weather that has already hit the area.

But to carry out the program in accordance with the law, even if you assume FEMA had the authority, it would be necessary that they follow current law. This means full public rulemaking under the Administrative Procedures Act to be carried out to assure that fairness, equal treatment, and due process are present in the management and administration of the program by the United Way and any other voluntary organizations.

Procedures would have to be spelled out and rulemaking defined if a long series of issues, including rights of assistance, how applications for assistance are to be completed and filed and period of eligibility for such an assistance.

I think this whole process is too complicated for the type of emergencies that FEMA is supposed to handle. It would be a bureaucratic mess.

Again, I am not saying that there is not a problem, but FEMA is not set up to handle the program. I do not know how, unless there were actual changes in the law, that they would be allowed to speed up or change any of these procedures.

It has been estimated that at a minimum, rulemaking in this procedure would consume 120 to 180 days to assure adequate public participation. We have always added the public participation feature in these laws. In fact, when I was mayor of Salt Lake City, I used to hold more hearings because the Government required me to hold them. You can imagine establishing the definitions and restrictions that would be applied to the program.

I suggest that there are existing programs in the Department of Health and Human Services that would be far better able to handle this type of distribution; in addition, the Department of Agriculture has the emergency commodity assistance program, school breakfast and lunch program, the child care feeding program, which are designed to address problems relating to food and shelter.

I do not argue with what my colleague is attempting to accomplish. I understand it and I do not disagree. However, I believe this is the wrong mechanism because it simply would not provide the aid in a short period of time.

I hold the remainder of my time.
The PRESIDING OFFICER. Who

vields time?

Mr. RIEGLE. Mr. President, I ask unanimous consent that I might be able to speak for 3 minutes on this issue without having to use time of the Senator from Arkansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank my colleagues. Mr. President, I wish to further point out the development that you may not yet be aware of, and that is that in my State of Michigan in the city of Detroit, the largest cities in the Nation, that city has just declared a state of civil emergency because of a shortage of food and the inability for people to sustain themselves, several thousands of people to sustain themselves in that city.

The Governor of the State of Michigan, who is a Republican Governor, Governor Millikin, has been serving now for I think 14 years, is joined in making an effort to try to respond to what is clearly an enormous problem and while that happens to be the problem of a major city in my State I think it increasingly is a problem across the country but it helps again to illustrate how severe this problem is

The Senator from Utah, my good friend, has said that even though this may well be something that should be done and it is something that Congress may feel needs to be done, somehow or another the bureaucratic inertia, the impossibility of rulemaking and so forth would prevent us from responding in an urgent fashion to an urgent problem.

I cannot accept that. This administration came to town on the notion that it was sort of antibureaucracy and that they could get things done.

I have confidence in this instance with a urgent problem that if this Congress speaks and says look we want a response to this problem they can

get the job done.

I believe if there is a will to get it done it will be done. I do not think it has to take more than 45 days if you have people literally freezing to death on the streets or going hungry or facing the prospect of starvation, and that is the situation we find.

Finally, we had a case the other day in Michigan that just goes beyond anything any of us have seen in our memory in public service, and that is a man was apprehended in our State who was destitute and who had no money to get by on and he was found to have been taking and killing dogs belonging to his neighbors in order to have food to eat, and when this man was apprehended his circumstances were so pathetic and when he was taken into court the judge was so struck by the absolute poverty of this man's circumstances that he had to resort to killing dogs of his neighbors just in order to be able to eat that when he in turn ended up passing a sentence and sending this man to jail he indicated he was doing it so the person would be somewhere where he would have a chance to eat.

The judge expressed in fact his own feelings of shame that we have come to such a situation in this country where people should be so desperate that they should have to turn to those

kinds of circumstances.

Yesterday my colleague from Michigan indicated the fact that unemployed workers in Michigan were selling their blood in order to have money to be able to eat and feed their families.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RIEGLE. I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I thank my colleagues. I do not know how on the eve of this Christmas season with all the money that is being spread around in all these different programs we can fail to respond in this modest way to something as urgent as the problem that is before us now when four people in the last 7 days have frozen to death on the streets of Washington alone, it should tell us there is a problem out there, that it is time that we moved to do something about. I hope we will.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER. Mr. President, I ask unanimous consent that I may have 2 minutes without using the Senator's time. The PRESIDING OFFICER. Is there objection?

Mr. GARN. Mr. President, reserving the right to object, and I will not object, but we agreed to a time limit of 10 minutes on each side.

Rather than do that, I will yield—I do not intend to use the remainder of my time—so we do not prolong it I am happy to yield 2 minutes of my time.

Mr. MELCHER. I thank my colleague from Utah.

Mr. President, this is not a huge amount, but it is an amount that should be included in this appropriation and it should be done now.

The \$50 million involved here is about one-tenth about what we increased in foreign aid to bring foreign

aid up to about \$11 billion.

So I encourage the Senate to accept it. I think the point cannot be missed in here in the language as proposed by the Senate to track with that of the House of Representatives already agreed to. The administrative costs would be held to 2 percent of the total appropriation. It could be less than that but what can we get done in distribution throughout this country of needed food, clothing, and shelther help and heat help that we could implement with that low administrative cost?

I would make a suggestion, as one of the authors of the proposal, that we should add to the groups that would manage this, voluntary groups—there are two slots open, appointments made—filled by United Way, the LDS (Latter Day Saints) whose church organization is very good at distributing needs to people and doing it in the right way.

I would also point out that the Commodity Credit Corporation is involved here, and we have got these huge surpluses of dairy products, for one, and other surpluses that are mounting and should be given out to people who need it, and need it now.

Mr. PRYOR. Mr. President, I know the distinguished Senator from Utah has mentioned that we are going to be establishing a precedent if we funnel funds through FEMA to the United Way of America to be dispersed.

You know, I was just sitting here thinking, I do not know where this country would be if we did not establish a new precedent every now and then. In fact, I think if we ever needed that new precedent, it is now. Hopefully, we are about to do it in agriculture in the PIK program; hopefully we are about to do it again in this particular program. We are trying to circumvent the very bureaucracy the Senator from Utah was discussing and have food going to the needy within 45 days.

I see our friend, Senator Jackson, has just entered the Chamber. I might note that Seattle, Wash., has been

trying to assist its increasing number of homeless persons, but it is difficult. In November, Operation Nightwatch, a group of ministers working on the downtown streets, conducted a census of those sleeping outside in a 20-block area of the central city. They found more than 300 people. In September, the city's shelter network was forced to turn away 2,466 people for lack of resources. Fifty-five percent of those turned away were children, Mr. President.

Senator Melcher mentioned that just today or I guess it was last nightin fact I do not know whether it is 10 minutes until 9 in the morning or 10 minutes until 9 at night, I cannot figure that out-but just a few hours ago the Senate passed a foreign aid bill of \$11.5 billion. Today we are asking for the restoration of \$50 million to go to our own needy people in this country who are desperate and who do not know what Executive Order No. 12148 is and do not understand what the precedent might or might not be.

They are hungry. They are cold. They do not have a roof over their heads. This is a meager amount we have requested, and we have organizations which have volunteered to help. I think we should do this and do it forthwith. I hope our colleagues will

make this decision.

The PRESIDING OFFICER. The

Senator's time has expired. Mr. GARN. Mr. President, I do not intend to prolong this discussion because I only have a minute or two left. I do not want any misunderstanding. I do not like the position that I am being put into because I have listened to the stories which my colleagues have related, and I do not disagree. I do understand the problem. But I am trying to point out as sincerely as I can that it is very easy to say if there is a will there is a way.

I have heard that, and I have seen these administrative procedures, and I have seen some of my colleagues who would fight in some of these processes to make sure that every "i" was dotted and every "t" was crossed. But I am simply trying to point out to my colleagues there could have been some more imagination on the part of the House and Senate to figure out a better way to implement this program

in a better way

There is simply no way, I say to my friend from Arkansas, for this administration or any administration to put through the program and not violate the law. There is no way that the funds would be distributed in 45 days even if you can somehow shortcircuit the process and tell FEMA, "You have got to speed up the process, you have got to shorten the hearing time," and so on.

I am not arguing the substance of what you are trying to do, but simply

saying again that due to the procedures you would be using you are kidding yourselves if you think you can allocate the funds before March or April, if you are lucky. You would be far better off if you spent some time on some other areas, forgetting the precedent whether we get deluged by other people or not.

So I am arguing procedure and I wish you would pull this amendment down and look for some place else while the hours of debate go on. It would certainly facilitate what you are trying to accomplish because regardless of the size of the problem I do not think it is possible to whack through this in a short period of time as you

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back-

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment on page 84, line 8 through page 85, line 21. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) and the Senator from Maryland (Mr. Mathias), are necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH) and the Senator from Minnesota (Mr. DUREN-BERGER), are absent due to illness.

I futher announce that, if present and voting, the Senator from Utah (Mr. HATCH), would vote "nay"

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER (Mr. DENTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 43, nays 52, as follows:

## [Rollcall Vote No. 432 Leg.]

#### YEAS-43

Abdnor	Grassley	Proxmire
Andrews	Hatfield	Quayle
Armstrong	Hawkins	Roth
Baker	Helms	Rudman
Boschwitz	Humphrey	Schmitt
Brady	Jepsen	Stafford
Byrd,	Kasten	Stevens
Harry F., Jr.	Laxalt	Symms
D'Amato	Lugar	Thurmond
Denton	Mattingly	Tower
Dole	McClure	Wallop
Domenici	Murkowski	Warner
East	Nickles	Weicker
Garn	Packwood	Zorinsky
Gorton	Percy	

## NAYS-52

Baucus	Bradley	Cannon
Bentsen	Bumpers	Chafee
Biden	Burdick	Chiles
Boren	Byrd, Robert C.	Cochran

Huddleston Nunn Cranston Inouve Pell Jackson Pressler Danforth DeConcini Johnston Pryor Dixon Randolph Kassebaum Dodd Kennedy Riegle Sarbanes Eagleton Leahy Sasser Exon Levin Simpson Ford Long Hart Matsunaga Specter Hayakawa Melcher Stennis Heflin Metzenbaum Heinz Mitchell Hollings Moynihan

#### NOT VOTING-5

Durenberger Goldwater Mathias Glenn Hatch

So the committee amendment on page 84, line 8 was rejected.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was rejected.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, could we have order in the Chamber? I would like to have the attention of the Members.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, would like to just outline hopefully the next hour. I would invite all Senators who have a noncontroversial, simple amendment that would not require a rollcall to let us know as quickly as possible so that we may clear that with both sides of the aisle and handle it in a very expeditious manner. I believe that would give us about a 1-hour window for those who need to take care of other matters. But I would also make a strong underlying caveat. That is, if we run out of amendments and there is no one on the floor to offer amendments, we do not plan to put in a quorum call but. rather, we plan to go to third reading. I just want to make clear that we want to accommodate every Senator and we are trying to do this in an orderly fashion.

So far, we have nine amendments that have cleared both the minority and the majority sides of the aisle. We will proceed in that order. Then, after that hour, or after covering these, we will be ready to go to those amendments that will require a rollcall or will have some element of controversy. We are trying to lay it out here as clearly as possible.

Mr. President, at this point I ask unanimous consent that the two managers who have now begun this list of noncontroversial amendments proceed on the basis of this list of amendments that have been cleared on both sides of the aisle in order to proceed along this outlined fashion.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, but not intending to because I am not certain what the request is—

Mr. HATFIELD. I would say again for the benefit of the Senator from Ohio that we are attempting to provide a 1-hour window. We are attempting to try to take care of the noncontroversial amendments that do not require a rollcall. In order to make that determination, these will only be amendments that have cleared the minority side and the majority side in making analyses and checking back with their respective principals, either the ranking minority member of the subcommittee or the chairman of the subcommittee.

Then, in order to maintain that orderly kind of procedure, this roster that the two leaders have developed for this process would be considered as the pecking order of handling and bringing up the amendments.

Mr. METZENBAUM. I may say to the manager of the bill there are nine items listed on that list. I would like to find out what the one having to do with the extension of the legislative veto is before I agree to the other eight. I would like to know what it says. That has been a controversial matter around here. I think we ought to know what the proposal is before we agree.

Mr. HATFIELD. I will be very happy to respond to the Senator and get a copy of it for him.

The PRESIDING OFFICER. Will the Senator provide the Chair with a list also?

Mr. HATFIELD. Yes.

Mr. METZENBAUM. Would the Senator from Oregon want to proceed with the other eight? That would expedite matters.

Mr. HATFIELD. Mr. President, I yield to the Senator from South Carolina at this time in order that he may present an amendment.

The PRESIDING OFFICER. Has the Senator withdrawn his request for unanimous consent?

Mr. HATFIELD. I have withdrawn my request for unanimous consent agreement at this time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

UP AMENDMENT NO. 1489

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina (Mr. Thurmond) proposes an unprinted amendment numbered 1489. At the end of the bill add the following new section:

"Sec. — That authorities contained in Public Law 96-132, 'Department of Justice Appropriation Authorization Act, Fiscal Year 1980,' are in effect for the remainder of the fiscal year."

Mr. THURMOND. Mr. President, as many of my colleagues are probably

aware, the Department of Justice has been without authorization legislation for the past 2 fiscal years. Although most of the activities of the Department are authorized under statutory provisions, some are not.

This amendment that I am offering today would carry forward certain authorities for the Federal Bureau of Investigation to engage in undercover and related law enforcement efforts. The authorization had been given to the FBI in the 1980 authorization legislation for the Department of Justice. My amendment simply carries forward the authorization contained in that

Mr. President, this amendment has been requested by the Department of Justice and has been cleared with both the ranking minority member of the Senate Judiciary Committee, Mr. BIDEN, and the distinguished managers of this bill. I thank the managers for accepting the amendment.

Mr. President, I ask unanimous consent that a letter from Edward C. Schmults, Deputy Attorney General in the Department of Justice, be printed in the Record following my statement.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE OFFICE OF THE DEPUTY ATTORNEY GENERAL,

Washington, D.C., December 13, 1982.

Re: Continuing resolution amendment. Hon. Strom Thurmond,

Chairman, Senate Judiciary Committee,

Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the last Department of Justice Appropriation Authorization Act (Public Law 96-132) was for Fiscal Year 1980. This Act provided certain authorities and exemptions to the Department of Justice which were carried over into Public Law 97-76, which lapsed on February 1, 1982.

The absence of authorizing legislation is causing particular disruption to the Federal Bureau of Investigation (FBI) in two areas,

as follows:

(1) language in the FBI Appropriation which authorizes the FBI to procure policetype vehicles does not contain the authorizing language to purchase these vehicles "without regard to the general price limitation for the current fiscal year." Without this language, the FBI will be prevented from purchasing 531, or 53 percent, of its planned Fiscal year 1983 procurement of 1,007 replacement vehicles.

(2) In the conduct of undercover operations in recent years, the FBI has, until February 1, 1982, relied upon certain authorizing language which exempts such operations from other restrictive legislation. Specifically, the FBI has relied upon authorizing language which (a) permitted the deposit of appropriated funds and/or income from undercover operations in banks and other financial institutions, and (b) permitted the use of income generated by an undercover operation to offset necessary and reasonable expenses of the undercover operation.

With regard to the first identified exemption, there is other existing legislation which generally provides a basis for the FBI

to deposit up to \$100,000 in a single account, which is the limit of FDIC insurance.

The inability to deposit in excess of \$100,000 in a bank account immediately endangers and curtails undercover operations with "show money." Money is used to establish credibility, financial stability and business assets. The FBI cannot open multiple bank accounts where show money exceeds \$100,000 and appear real or "normal." Such actions cause immediate problems and danger for undercover Agents and our "business" activity.

The FBI recently received concurrent jurisdiction in narcotics matters. Failure to use the income offset function or place large amounts of funds in bank accounts means that the FBI will be unable to conduct many long-range undercover operations in narcotics matters, particularly where laundering of illegally obtained money is involved.

With regard to the second identified exemption, the FBI has no authority and, therefore, is not offsetting income against expenses of undercover operations.

Current Organized Crime, White Collar Crimes, Terrorism and General Property Crimes undercover operations are utilizing business fronts which operate as normal business entities. This requires the receipt of income and disbursement of expenditures on a day-to-day basis in a normal fashion to maintain a cover. Cash receipts/income is deposited in a bank account and expenditures are made from the bank account. This cannot be done without the income offset exemption. Without this exemption, exposure of the business cover, informants and/or undercover Agents is risked or the undercover operation cannot be undertaken.

In current Organized Crime undercover operations, the subjects are either "business partners" or have access to the books/bank accounts. Inability to offset income (conduct normal business) immediately raises questions and eventual suspicions of the subjects.

In undercover operations, outside employees of the operation will promptly become suspicious if their salary/expenses are not paid through the business account.

In order to alleviate these critical disruptions to law enforcement functions, and absent any prompt passage of authorizing legislation, I request your consideration toward introducing an amendment to the upcoming Continuing Appropriations Resolution to yield some relief. I request that you consider the following language which would cover all authorities previously available to the Department of Justice in past, although now lapsed, authorizing legislation:

"That authorities contained in Public Law 96-132, 'Department of Justice Appropriation Authorization Act, Fiscal Year 1980,' are in effect for the remainder of the fiscal year."

Very truly yours,

EDWARD C. SCHMULTS, Deputy Attorney General.

Mr. MATHIAS. Mr. President, the amendment which has been proposed by the distinguished chairman of the Judiciary Committee is an important one. It would give the Federal Bureau of Investigation authorities which will be helpful to it in running undercover operations. The FBI has been without these authorities since the expiration of previous legislation on February 1,

1982, and the lack has impeded the efficient management of these operations.

I rise only to remind the Senate that the Select Committee on Undercover Operations, in the final report which it has just issued, addressed the issue of these undercover authorities in great detail. The select committee recommended that the powers granted to the FBI by this amendment ought to be granted on a permanent basis, not as an amendment to an appropriations bill. The select committee also recommended that the powers be granted, not in isolation, but in the context of a more encompassing bill which will establish a framework for the regulation of FBI undercover operations. Until such legislation is enacted, the Congress will not be fully discharging its responsibility to provide oversight to the undercover operations of the FBI. I support the chairman's amendment; and I hope that we can count on his support for the broader undercover operations bill which the select committee has recommended, and which we plan to introduce early in the 98th Congress.

Mr. HUDDLESTON. Mr. President, the amendment offered by the distinguished Senator from South Carolina (Mr. Thurmond) temporarily corrects a problem with current FBI authority that should be resolved by permanent legislation. Today the Select Committee to Study Undercover Activities of Components of the Department of Justice released its final report. As vice chairman of the select committee, I am pleased to support this amendment which will enhance the FBI's ability to conduct undercover operations during the next several months.

The final report of the select committee recommends the enactment of permanent legislation so that it is no longer necessary to give the FBI temporary extensions of the authorities needed to run proprietaries, deposit funds in banks, and enter into contracts and leases for the purpose of carrying out an undercover operation.

The language of this amendment is identical to language that was previously in the Department of Justice Authorization Act and that expired on February 1, 1982. The final report of the select committee recommends some revisions in that language, including additional authorities and greater flexibility in their use.

The final report of the select committee also recommends that these authorities be enacted as part of a larger framework of standards and guidelines. That framework would require the attorney general to issue guidelines for FBI undercover operations, to report changes in those guidelines to the Judiciary Committees in advance, and to submit an annual report to the Judiciary Committees on all closed operations and long-running operations.

An essential part of that framework would be a legislative standard for undercover operations. That standard should require reasonable suspicion of possible criminal activity before an undercover operation is initiated or an individual is targeted, with a higher probable cause standard for activities that may endanger first amendment rights.

There should also be a statutory provision for compensation of persons who suffer damages as a result of illegal or negligent Government conduct in an undercover operation. And consideration should be given to clarifying the law of entrapment.

I plan to work with the chairman of the select committee, the distinguished Senator from Maryland (Mr. Mathias) and other members of the select committee to frame a bill that can be introduced and acted upon promptly in the next Congress. I urge my colleagues to give the final report of the select committee, and the legislation needed to implement its recommendations, the most serious consideration.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1489) was agreed to.

Mr. THURMOND. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I direct the Chair's attention to the Senator from Oklahoma, who seeks recognition.

#### UP AMENDMENT NO. 1490

(Purpose: To provide certain pay to certain individuals training air traffic controllers)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oklahoma (Mr. Boren) proposes an unprinted amendment numbered 1490.

At an appropriate place in the joint reso-

lution, insert the following:

SEC. . Notwithstanding any other provision of this joint resolution, section 5546a (a) of title 5, United States Code, is amended (1) by deleting the period at the end of paragraph (2) of subsection (a) and inserting in lieu thereof a semicolon and the word "and", and (2) by inserting immediately after paragraph (2) of subsection (a) the following new paragraph:

"(3) any employee of the Federal Aviation Administration who occupies a position at the Federal Aviation Administration Academy, Oklahoma City, Oklahoma, the duties of which are determined by the Administrator to require the individual to be actively engaged in or responsible for training employees to be air traffic controllers, and who, immediately prior to assuming such

position at such Academy, occupied or was assigned to a position referred to in sub-paragraph (A), (B), or (C) of paragraph (1) of this subsection.".

Mr. BOREN. Mr. President, in the continuing resolution that we passed last September, we included a provision that granted a pay raise to those dedicated FAA employees who remained on the job during the PATCO strike in August 1981. I supported that provision because I felt it was necessary to compensate these dedicated employees who performed so admirably during those trying times for our Nation's air transportation industry and insured the safety of the traveling public.

However, in providing this pay increase, I believe we failed to include an equally dedicated and hard-working group. I am referring to those FAA employees at the FAA Academy in Oklahoma City who are involved in training others to be air traffic controllers and other essential jobs in restoring our air control system.

Several categories of FAA employees at the Academy correspond directly to employees in the field who will be receiving the pay increase. But for the fact that these Academy instructors are training students in Oklahoma City, they would also be receiving the pay increase. In fact, the FAA Administrator has stated to me that when these instructors return to the field, they will receive the pay raise.

When the current instructors return to the field they will be replaced by FAA employees who, when they become instructors at the Academy will not be eligible for the pay increase.

Mr. President, it becomes obvious that recruitment of qualified instructors will become very difficult, if not impossible, since they will have to take a substantial pay cut when they move to the Academy in Oklahoma City.

I would like to ask the distinguished Senator from North Dakota, Senator Andrews, if he believes that my amendment is necessary in order to fairly compensate those FAA Academy employees who joined in the efforts to help rebuild our air transportation system and but for the fact of their being instructors would be receiving the same increase as their counterparts in the field?

Mr. ANDREWS. I thank my friend from Oklahoma, Senator Boren, for offering this amendment. I do think his amendment is necessary because I share his concern that all of those FAA employees who have contributed to the strike recovery should be treated fairly and equally. I commend the Senator for his amendment and I am pleased to accept it on behalf of the committee.

Mr. President, this amendment has been cleared on both sides by the chairman of the Subcommittee on Transportation (Mr. Andrews) and by the ranking member on this side (Mr. Chiles). It is an amendment that simply extends to those air traffic controllers, who were temporarily assigned as instructors at the Air Controller Training Academy the same bonus benefits and salary as received by the other air traffic controllers who stayed on the job during the recent emergencies, to make sure all these air traffic controllers who stayed on the job are treated alike.

Mr. HATFIELD. Mr. President, this amendment offered by the Senator from Oklahoma, again, has been reviewed by both minority and majority staffs. It is acceptable to the commit-

tee.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1490) was agreed to.

Mr. BOREN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT NO 1491

(Purpose: To restrict the sale by the General Services Administration of certain real property known as the Naval and Marine Corps Reserve Center at Beavertail Point, Jamestown, Rhode Island)

Mr. PELL. Mr. President, I send to the desk an unprinted amendment and ask unanimous consent that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. Pell) for himself and Mr. Chaffe, proposes an unprinted amendment numbered 1491.

At the appropriate place in the joint resolution insert the following new section.

SEC. — . No funds, including funds provided in this joint resolution or in the account entitled "Expenses, Disposal of Surplus Real and Related Personal Property" (Account No. 47-5254-0-2-804), may be expended by the General Services Administration to proceed with any sale or disposal of real property and improvements known as the Naval and Marine Corps Reserve Center at Beavertail Point, Jamestown, Rhode Island, containing 6.81 acres, more or less, and identified by General Services Administration control number N-RI-482A.

Mr. PELL. Mr. President, the amendment before the Senate pertains to a surplus Federal land problem in Rhode Island involving the General Services Administration. The language which Senator Chafee and I have developed would prohibit GSA from going ahead with its plans to auction for commercial development a former Naval and Marine Corps Reserve Center in Jamestown.

The land in question, Mr. President, is entirely surrounded by existing park land. The town of Jamestown and the

State has been in the process of acquiring the property for park and recreational purposes until GSA-as part of a nationwide plan to auction off surplus Federal lands-stepped in and determined that the property should be sold at fair market value for residential development. This property, Mr. President, surrounded as it is by the beautiful Narragansett Bay Islands Park, should be preserved for the enjoyment of all the taxpayers as park and recreational land. To let this property, which the Park Service has already approved for recreational use, fall into the hands of private developers is about as appropriate as permitting a condominium development in the middle of Yellowstone National Park.

The General Services Administration has set a deadline of January 15 for the State or the town to indicate a willingness to purchase the property at fair market, residential value. After that date, GSA will proceed to put the land on the auction block for private development. We are trying with this amendment to obtain further time for either further negotiations with GSA on the future of the site, or for appropriate legislative remedies to be pursued in the next session. I would stress, Mr. President, that the amendment pertains only to this one piece of surplus property in Rhode Island, and will have absolutely no effect on other pending GSA conveyances.

I very much hope that the managers of the resolution will agree to accept the language Senator Chafee and I are

proposing.

Mr. CHAFEE. Mr. President, I am proposing this amendment for myself and Senator Pell. This amendment deals with a small parcel of land—6.8 acres—in the middle of an existing State park in Rhode Island which the General Services Administration has decided to sell for residential use. The language of this amendment would prevent that sale.

The General Services Administration's new policy of demanding fair market value for property surplused by the Federal Government is a result of Executive Order 12348 which was published on March 1, 1982. While this policy has merit in some circumstances, it does not have merit in this

instance.

The State of Rhode Island applied for this land in December of 1981—3 months before the Executive order was published. The State never received information indicating that the former policy of conveying land appropriate for park use at 100-percent discount had changed until its application was denied in October of this year. Nor was the State informed of the exceptions to the order under which an application for 100 percent public benefit discount would be approved. One of the exceptions to the

Executive order refers to applications submitted before March 1, 1982, the denial of which would create a hard-ship on the State.

As I have mentioned, the parcel of property in question is surrounded by an existing State park. The State park system in the Narrangansett Bay area is unique in that it provides large scale public access to the waterfront for swimming, fishing, scuba diving, boating, and many other recreational activities. If this land is allowed to be placed on the public auction block for developers to purchase, its pristine beauty will be lost forever. Not only Rhode Islanders, but all people who visit Rhode Island to take advantage of its recreational opportunities will be denied the benefit of access to this property's shoreline.

This amendment is specific to this one piece of property and is not intended to have any national signifi-

cance.

It is my sincere hope that the managers of this resolution will accept the language that Senator Pell and I are

proposing.

Mr. PELL. Mr. President, what this amendment does is provide that a piece of land, about 6 acres, that is in the midst of a park area in Rhode Island, in Jamestown, not be released for sale to commercial interests at this time; that for the life of the continuing resolution, this land be held by the GSA. Our desire is that in this period of time, an arrangement be worked out among the State, the community, and GSA, to make sure that this land will remain in the parkland areas by which it is surrounded. It has been cleared by the majority and the minority staff. I hope it will be agreeable.

Mr. HATFIELD. Mr. President, this, again, is one such amendment that I referred to before. We have reviewed this amendment on both the majority and minority side and it is acceptable

to the majority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (UP 1491) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT 1492

(Purpose: To establish limits on payments to the directors and officers of the Legal Services Corporation.)

Mr. DECONCINI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Arizona (Mr. DeConcini) for himself, Mr. Weicker, Mr. Hollings, Mr. Kennedy, Mr. Proxmire, Mr. Metzenbaum, Mr. Pryor, and Mr. Cranston proposes an unprinted amendment numbered 1492.

On page 14 line 16 strike "Act," and insert "Act: Provided further, That no member of the Board of Directors of the Corporation shall be compensated for his services to the Corporation except for the payment of an attendance fee at meetings of the Board at a rate not-to-exceed the highest daily rate for grade fifteen (15) of the General Schedule and necessary travel expenses to attend Board meetings in accordance with the Standard Government Travel Regulations: Provided further, That no officer or employee of the Corporation or a recipient program shall be reimbursed for membership in a private club, or be paid severance pay in excess of what would be paid a Federal employee for comparable service.'

Mr. DECONCINI. Mr. President, recent oversight hearings by the House Judiciary Committee have uncovered serious abuses by certain members and officers of the Legal Services Corporation. The evidence suggests that the present Chairman of the Board and President of the Corporation, along with some of the recent appointees to the Board, are much more interested in ripping off the program than in improving its administration. Apparently, the individuals involved have no compunction at all when it comes to exploiting their positions for purely personal gain. And exploit them they do.

The disclosures so far tell a sorry tale indeed:

The administrative budget of the Board has more than doubled in 1 year. In fiscal year 1981, administrative expenses came to \$113,721. The comparable sum for this last fiscal year was \$273,731.

Chairman William F. Harvey has collected \$25,028 in consulting fees from the Board through November this year. The previous Chairman, William McCalpin, received \$4,704 in consulting fees last year. Altogether, the Board chalked an heretofore unrivaled \$156,201 through November this year. The previous Board last year collected a total of \$72,029.

A considerable portion of these "consulting fees" are paid for travel. These are not ordinary travel expenses, however. For instance, Mr. Harvey apparently bills the corporation at \$221/day for his driving time. This, of course, is in addition to lodging and meals. This would probably make him the highest paid self-employed chauffer in the history of the world.

Chairman Harvey also believes in sharing the spoils. He took it upon himself to negotiate what can only be called a sweetheart contract with Mr. Bogard, the President of the corporation. Bogard just happens to be one of Harvey's former students. The contract provides, in addition to a \$57,500 salary, a generous severance allowance of a year's pay, and benefits, and expenses, an unlimited expense account until June 15 when his family will presumably move here to join him, plus two round trips per month for trips to Indianapolis to visit his family in the interim. The Board would also pick up the tab for Mr. Bogard's membership in a private club of his choosing.

Now, Mr. President, there is no reason to belabor the obvious. This is an outrageous situation and should not be tolerated another moment.

Our amendment will address the most egregious abuse. It prohibits compensation for Board members except for actual attendance at Board meetings. It also prohibits the practice of providing private club memberships at public expense and restores parity between Legal Services employees and employees of the Federal Government insofar as severance pay is concerned. I urge my colleagues to join me in passing this amendment.

Mr. METZENBAUM. Mr. President, will the Senator add me as a cosponsor?

Mr. PRYOR. Mr. President, will he

add me also?

Mr. DECONCINI. Mr. President, I ask unanimous consent that the Senator from Ohio (Mr. METZENBAUM) and the Senator from Arkansas (Mr. PRYOR) be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, this is an amendment that has been cleared by both sides of the aisle and is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The amendment (UP No. 1492) was agreed to.

Mr. DECONCINI. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1493

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Prox-MIRE) proposes an unprinted amendment numbered 1493.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . None of the funds appropriated under this joint resolution or any other Act to any executive department or agency may be expended for the transportation of any

At the end of the bill add the following.

be expended for the transportation of any officer or employee of such department or agency residing in the United States between his domicile and his place of employment, with the exception of the secretaries of the executive departments enumerated in 5 U.S.C. 101.

Mr. PROXMIRE. Mr. President, some weeks ago this committee approved an amendment to the Treasury-Postal Service appropriations bill

prohibiting the use of Federal funds to chauffeur executive branch employees between home and work unless they happened to be Cabinet Secretaries or principal diplomatic or consular officials.

As we all know, there is very little chance that the Treasury-Postal Service bill will be sent to the White House for the President's signature before the 97th Congress adjourns. Consequently, I am proposing that we add a slightly modified version of this amendment to the continuing resolution.

As reworded, the amendment would not cover Federal officials stationed in foreign countries. Although it originally exempted diplomatic and consular officials, it has been suggested that such an exclusion is not wide-ranging enough to protect all Federal workers who might be exposed to acts of terrorism in politically volatile countries. The redrafted language would eliminate this problem.

Mr. President, current law (31 U.S.C. 638a) makes it quite clear that Federal workers are not to be driven from home to work and back again, but this law is honored more in the breach than in the observance. In fact, the law has been so consistently violated that the Comptroller General could not believe it meant what it said and came out with an opinion to this effect. My proposed language would make it crystal clear that the Congress knew what it was doing when it passed this legislation.

The members of this committee may be surprised to learn that, at the present time, the Under Secretary of State for Management, the Administrator of the St. Lawrence Seaway Development Corporation., who lives in the Metropolitan Washington area, the Deputy Director of the Office of Management and Budget, the Deputy Postmaster General, and the Deputy Director of the International Communications Agency all have the use of chauffeured cars to drive them between home and work. These are a handful of the 122 executive branch officials we know about who are provided with door-to-door limousine service on a regular basis.

It would be nice to think that the use of portal-to-portal limousines by Federal bureaucrats was shrinking. However, it is worth noting that the State Department on June 12 of this year came out with a legal opinion extending this privilege to four Under Secretaries of State and the Counselor of the State Department. The rationale was that these officials, including the Under Secretary for Management, "have substantial responsibilities for the conduct of international negotiations and the performance of numerous other diplomatic functions."

This type of restriction has been applied to the agencies funded through the HUD-Independent Agencies bill for about 5 years now and has had no adverse effect on their operations. In fact, the former head of the Veterans' Administration, Max Cleland, drove himself to and from work although he was a triple amputee. I see no reason for the limitation to be applied to a mere handful of agencies and departments. It makes sense, it will save about \$3 million, and, at a time when we are asking our constituents to make painful sacrifices to hold down Federal spending, I do not know why we should not ask Federal bureaucrats to give up their limousines.

That is what the amendment does. Mr. HATFIELD. Mr. President, this matter has been discussed and debated before. If I am not mistaken, I would say to the Senator from Wisconsin, it

has been part of our continuing reso-

lution in the past.

Mr. PROXMIRE. That is right. Mr. HATFIELD. This is merely an amendment that the Senator has offered on previous occasions. It has been cleared on both sides of the aisle and is acceptable to the committee.

Mr. PROXMIRE. I thank the Sena-

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1493) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

# UP AMENDMENT NO. 1494

(Purpose: To assure the use of corrected data for computing impact aid for local educational agencies in Montana)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read

The Senator from Montana (Mr. Baucus), for himself and Mr. MELCHER, proposes an unprinted amendment numbered 1494.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, at the end of title I of the joint resolution insert the following new

"SEC. . Notwithstanding any provision of this joint resolution or any other law or regulation payments for local educational agencies under the Act of September 30, 1950 (Public Law 874, 81st Congress) in Montana for fiscal year 1983 shall be computed from corrected 1981 financial data. The provisions of this section shall not apply unless the following conditions are met:

"(1) No such payments shall be made until an audit is conducted.

"(2) No such payments shall be made prior to March 30, 1983.

'(3) The total amount of the increase in payments made by reason of this section shall not exceed \$3,000,000.

(4) No such payments shall be made unless prior approval is obtained from the Committee on Appropriations of the Senate and of the House of Representatives.'

### MONTANA IMPACT AID

Mr. BAUCUS. Mr. President, I am introducing this amendment with Senator Melcher to correct a problem that could affect severely several Montana public schools.

Federal impact aid assistance is distributed according to formula grants, and it is used by the recipient schools for general operating expenses. These funds are critical to Western States and other localities with substantial Federal lands.

Part of the distribution formula is the local contribution rate. Local school officials compute how much they can contribute to the operation of the schools. The more the local contribution, the less Federal impact aid is granted.

For several years, Montana's Office of Public Instruction has computed incorrectly the local contribution rate. The office had included in their calculations the funds received by local governments from other Federal programs. This led to overcalculation of the local contribution rate, and re-

quests for less Federal impact aid money than was justified.

In short, Montana schools that are eligible for impact aid have received less than they are entitled to.

Unless this problem is corrected soon, some 30 schools in Montana will continue to be penalized. Even worse, 5 schools serving 1,300 students will be forced to close, and several others will be operating in the red.

The amendment we introduce today is a technical amendment. It would allow the Department of Education to use Montana's corrected calculations when distributing funds under the Federal impact aid program.

We are not asking for an increase in overall appropriations. We only seek Montana's fair share of the fiscal 1983

appropriation.

This fair share is jeopardized unless this amendment is adopted. This continuing resolution limits the impact aid funding to a percentage of 1981 payments. Therefore, Montana is locked into the incorrect calculations and the mistakenly low impact aid levels of 1981.

This amendment will correct a serious, yet inadvertent, error. It will also insure that several rural Montana

schools do not close.

To the best of my knowledge, Mr. President, this situation has not developed in any other State.

The House managers of H.R. 7205 recognized the serious nature of this problem in a colloquy on the House floor, following passage of the bill.

However, the Department of Education has informed the delegation that they cannot rely on a colloquy to correct this error. The Department insists that only an amendment like this will correct the situation.

Mr. President, this amendment is essential for the continued operation of Montana's heavily impacted schools. It is a fair amendment and it does not increase the appropriation for impact aid. I urge adoption of this amendment.

Mr. MELCHER. Mr. President, I join my colleague from Montana in urging the adoption of this technical amendment.

The situation facing several school districts in Montana is drastic. For example, the Browning public schools, educating about 1,700 Indian children from the Blackfeet Reservation, may not be able to complete the current school year. Heart Butte, which recently completed a \$6 million school building financed by Federal funds, will close next year. So will several other schools whose total enrollment is about 4,000 students.

The problem arises here today because the Department of Educationafter considering the appeal of Montana to be allowed to correct the 1981 miscalculation of entitlement for several months-informed the Montana school officials on December 1 that they would not permit the error to be corrected. They also cited Department regulations which they insist cannot be waived.

In a colloquy on the House floor on December 1, our colleague, Representative Ron Marlenee, was assured that the House Appropriations Committee did not intend "that Montana receive a shortfall—in impact aid—and want to rectify that situation." This does not satisfy the Feds-hence amendment.

Mr. President, contrary to what the bureaucrats in the Department have told some Senators, this amendment does not reduce impact funds for other States this year. It will correct a situation that has been compounded by the practice of operating under continuing resolutions which provide that the base for computing a school's impact funds is the percentage of the payments received in 1981. Montana schools have been the victims of snowballing reductions since 1981 because of wrong figures which the bureaucrats in the Department failed to catch and correct.

As ranking member of the Senate Select Committee on Indian Affairs, I want to point out to the Senators that if the public schools cannot finance the education of Indian children from

the reservations, the cost to the Federal Treasury to build and operate Federal schools for 4,000 Indian children will be far higher than keeping them in the public schools. The law and the various treaties commit the Federal Government to provide education for Indians. It is also, by far, the most educationally sound policy. As in every State, the Montna State government provides a share of the cost of instruction in the public schools. In Montana. this is about 45 percent. In those districts with taxable property, the balance of funding is derived from property tax. Indian reservations are not taxable, as you know, and are eligible for impact aid. In Montana, most Indian impacted districts are "super A" districts, with more than 50 percent Indian children.

If the schools are forced to close for lack of sufficient funds, the cost of constructing and operating Federal or contract schools could be \$50 million initially, at least, plus about \$24 million a year in operating costs for educating these children, providing transportation or boarding facilities, and other services. The State share would not be available for children not in public schools. In addition to this high cost to the Federal Treasury, the children would be denied the high type of public education Montana wants all of its young people to have.

Mr. President, I urge my colleagues to accept this amendment. It will start us in Montana on the road to equity for our heavily impacted schools. It will also force the Department of Education to do what is right, their regulations to the contrary. It will not penalize any district in any other State.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

The amendment (UP No. 1494) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the able.

the motion to lay on the table was agreed to.

### ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, we have had other Senators who have indicated that they wanted to present a noncontroversial amendment and they are not present. We will plan, then, to conclude this session very shortly, and then go to other amendments that may be controversial, may require a rollcall, and I just want to put the Senate on notice that we are coming to the end of this particular list that we have cleared.

There may be others, but this list will then drop down to the bottom because, as I indicated before, if the Senator is not present, we have to move on to other amendments. We are not going to wait for Senators to come back to the floor.

I ask the Senator from New York, does he have an amendment in this category?

Mr. MOYNIHAN. No. sir. It is controversial.

Mr. HATFIELD. We do have one other in this category, if we could complete it.

Mr. President, I yield the floor.

UP AMENDMENT NO. 1495

Mr. CHAFEE. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1495.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 20, after the colon, insert the following new language: "Provided, That no funds under this heading shall be used for further study or construction or in any fashion for a federally funded waterway which extends the Tennessee Tombigbee project south from the City of Demopolis, Alabama, and"

On page 17, line 20, after the colon, insert the following new language: "Provided, That no funds under this heading shall be used for further study or construction or in any fashion for a federally funded waterway which extends the Tennessee Tombigbee project south from the City of Demopolis, Alabama, and"

Mr. CHAFEE. Mr. President, what this amendment does is to provide that no funds under the heading which deals with the funds for the Tennessee-Tombigbee can be used for further study or construction in any fashion for a Federal-funded waterway which extends the Tenn-Tom project south from the city of Demopolis. This is similar to an amendment, which provision we had in the act last year. I have cleared this with the junior Senator from Louisiana, the senatorial delegation from Alabama, and the senatorial delegation from Mississippi, and it is acceptable with them. I move its passage.

Mr. PROXMIRE. Will the Senator yield? This is strictly a limitation, is

that right?

Mr. CHAFEE. That is right. In the bill we are considering, there is \$320 thousand for study in this area, and the House is \$750 thousand. It is constantly stated here that nothing is going to be done south of Demopolis, that the Tenn-Tom is north of Demopolis. This would prevent any funds being used south of Demopolis. In all fairness. I want to say that for routine engineering work, which has been done in the past for the waterway which comes up from Mobile to Demopolis, this is not intended to get

Mr. MOYNIHAN. Will the Senator yield?

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. The Senator has just said what I meant to ask him. There will be normal Corps of Engineers work in the waterway, but to the degree that it would take place where there had been no canal from the Pickwick Pool, that is to take place, but not an extension of the waterway?

Mr. CHAFEE. That is right. We in no way want to interfere with what would normally take place in the waterway which is from Mobile up to Tenn-Tom. It is nothing for Tenn-Tom

extension south.

Mr. HEFLIN. Will the Senator yield?

Mr. CHAFEE. Yes, I yield.

Mr. HEFLIN. I appreciate the study that the Senator from Rhode Island has given this. I am agreeable to this amendment.

A similar amendment was adopted known as the Levin amendment last year, on November 4, 1981, and we had a good deal of discussion and a good deal of debate relative to the legislative history pertaining to it, which was designed to show that this is an effort to stop anything below Demopolis as it would apply to the project of the Tennessee-Tombigbee. There are some ongoing things, as the distinguished Senator from New York pointed out, pertaining to other locks and dams in the normal course, because the Warrior River runs into the Tombigbee and the Warrior River connects Birmingham, Tuscaloosa, and other areas. And there are two dams in that area, the Coffeeville Lock and Dam and the Demopolis Lock and Dam where there are some activities that are going on in the normal event.

So I think reference to the debate before would clarify this that occurred on November 4, 1981, and what the distinguished Senator from New York has said I think clarifies it and shows the intention.

I have no objection and, therefore, I agree with him that this should be adopted.

Mr. CHAFEE. I thank the distinguished Senator from Alabama and of course the distinguished colleague who is currently the Presiding Officer for their assistance in this.

Mr. SIMPSON. Mr. President, will the Senator yield 1 minute?

Mr. HEFLIN. I am glad to yield.

Mr. SIMPSON. Let me say I watched the progress of this particular project, and I hope it would be nonprogress. I see others feel as I do.

I do appreciate the feelings of the Senators from Alabama and Mississip-

pi. I want to be on notice that in the procedures I do not want at this time to block the system in what we are doing in this exhaustive fashion. But I want to be on notice. I want to deter-mine why the State of Alabama and the State of Mississippi have not provided participating funds when they both came into revenue in the recent royalty distribution, some \$500 million. It is not the purpose to raise that here in the discussion. I just place it out being on notice because there is not one of us who is involved in a public works that does not believe the States should begin to raise their participation percentages from 5 or 10 or 20 percent.

Senator Moynihan, Senator Domenici, Senator Chafee all are involved in that. Those are things that I want to determine because certainly public works projects in my State we are participating now up to 40 and 45 percent. I think that is a State's obligation in this exercise of public works construc-

tion.

I thank the Chair.

Mr. HEFLIN. Mr. President, will Senator Simpson yield?

Mr. SIMPSON. I do not have the time. But certainly the Senator may proceed.

Mr. HEFLIN. I wish to say that I think when we get into this he will see that the State of Alabama and the State of Mississippi made substantial contributions. Substantial contributions have been made through various things pertaining to the harbor and with regard to getting ready to make Mobile port the location, relocation of bridges, the railroad trestles, highways, other things—there have been substantial amounts.

Rather than getting into detail when the Senator brings it up he will give us an opportunity we think we can show him the participation that has been made.

Mr. SIMPSON. I appreciate that from the Senator from Alabama. We will work with him seeing what the percentages are and what I think they should be.

Mr. CHAFEE. Mr. President, I move passage of the amendment.

Mr. HEFLIN. I wish to hear Senator STENNIS right now. I think he would wish to make a statement.

Mr. STENNIS. Mr. President, will the Senator yield me half-a-minute.

Mr. HATFIELD. I yield.

Mr. STENNIS. Mr. President, on this matter here we have had consultation, and I commend the Senator for the work he has done here. This is entirely agreeable to me for my part. It fits in with the Levin matter that we had up a year ago.

I see the Presiding Officer here. I know he feels the same way.

I gladly join in and endorse the amendment.

Mr. HATFIELD. I thank the Sena-

Mr. HEFLIN. May I make one correction? The distinguished Senator from Alabama, Senator Denton, is in the chair. He is not in a position but I am sure if he were on the floor he would wish to make remarks. Perhaps he can make them now or I ask unanimous consent that time be given for him to add remarks as if they were to appear here, or whatever he would like to do in that regard.

Mr. STENNIS. Mr. President, if the

Mr. STENNIS. Mr. President, if the Senator will yield to me, I ask unanimous consent to have printed in the RECORD certain figures that I have worked out about the contributions of the States to this matter to which reference has been made.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## TENNESSEE-TOMBIGBEE WATERWAY PROJECT COSTS

	1983 1984		Percentage of total cost	
			1983	1984
Corps of Engineers	\$1,830,000,000 9,600,000 9,400,000	\$1,820,000,000 9,600,000 9,400,000	91 {1} 1}	91 {1}
Total Federal	1,849,000,000 164,000,000	1,839,000,000 159,000,000	92 8	92
Total	2,013,000,000	1,998,000,000	100	100
Non-Federal costs: Highways	740,300 163,122,100 79,100 58,500	670,300 158,184,200 87,100 58,500		
Total	164,000,000	159,000,000	8	

1 Equals 1.

NON-FEDERAL COSTS—BRIDGE RELOCATIONS

Fiscal year 1984 data: Total relocation cost—\$159,000,000.

The many	Alabama	Mississippi	Total
State share	\$27,347,000	\$131,653,000	1 \$159,000,000
dollars)	-19,900,000	-69,600,000	-89,500,000
State funding	7,447,000	62,053,000	² 69,500,000

<sup>&</sup>lt;sup>1</sup> \$159,000,000 = 8% of total project cost. <sup>2</sup> \$69,500,000 = 3.5% of total project cost (Less DOT).

NON-FEDERAL COSTS—BRIDGE RELOCATIONS PLUS RECREATION COST-SHARING

Initial recreation development is 100% Federal.

Remaining recreation costs=\$57,400,000. With Administration cost-sharing (50-50) the non-Federal costs are:

Local sponsors are meeting all obligations on schedule. Section 132 of the Federal Aid Highway Act of 1976 provides a portion of the total non-Federal requirement of \$159 million (\$89.5 million). The states of Alabama and Mississippi are providing \$69.5 million, a sizable commitment.

Generally, navigation project authorized since 1952 provide Federal participation in highway bridge modification costs in accordance with the cost-sharing principles of Section 6 of PL 67-647, as amended, commonly known as the "Truman-Hobbs Act." The Tenn-Tom project was authorized in 1946, with all bridge and highway modification costs as non-Federal costs. The intent of the Section 132 legislation was to provide a measure of equity to the local sponsors by treating the project similarly with those currently being authorized.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1495) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEFLIN. Mr. Preisdent, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### UP AMENDMENT NO. 1495

(Purpose: To extent the moratorium on the decertification of local economic development districts.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and I believe it has been cleared on both sides.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes unprinted amendment numbered 1496.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 1, immediately after "Economic Development Administration:" insert the following: "Provided, That immediately after 'amended' on page 3, line 10 of S. 2956 as reported by the Senate Committee on Appropriations there shall be inserted 'and Public Law 91-304, and such laws that were in effet immediately before September 30, 1982,"

Mr. BUMPERS. Mr. President, this amendment declares a moratorium that has been in effect since Public Law 91-304 was passed on decertification of local economic development areas.

The moratorium expired on September 30, 1982, and has not been extended.

We have language that extends the moratorium in title 2 of the bill which is the jobs section but we cannot have it in title 1 where is is equally important. All this amendment does is simply put it also in title 1.

Mr. HOLLINGS. Mr. President, since we are on EDA I want to make a statement about section 101(d) of House Joint Resolution 631. This section makes provision for the Departments of Commerce, Justice, and State, the Judiciary and the Related

Agencies Appropriations Act of 1983 at the levels reported in S. 2956 on September 24, 1982, with several exceptions to take into account budget requests transmitted to the Congress after the committee reported the bill. The largest addition we recommended to our previous level is \$127,500,000 for the 12 task forces that the Attorney General requested to fight organized criminal drug trafficking. We have also taken into account several other budget amendments submitted by the Department of Justice which will enhance the activities of the Federal Bureau of Investigation and the Drug Enforcement Administration.

On a personal note, I am pleased that our distinguished chairman, Senator Weicker, has accepted two new items that I presented. The first adds \$150,000, which together with \$50,000 from non-Federal sources, will be used for a new combined monthly survey of men's and women's apparel. This will replace the former apparel survey which was dropped from the 1983 budget due to insufficient response by

the apparel industry.

However, a coalition of textile and apparel manufacturers have secured support for this new survey including a financial contribution of 25 percent of the cost of compiling this vital information. As noted in Chairman Hattield's explanatory statement, the committee also emphasizes the importance of the publication of apparel production data for the year 1982 and asks that Census produce the annual apparel survey for 1982 by not later than March 30, 1983.

The other item is of particular importance to South Carolina as we have reestablished the steel loan program of the Economic Development Administration. In 1978 we approved the use of \$100 million from the EDA revolving fund to guarantee \$500 million in loans to steel companies. Approximately \$300 million was ultimately guaranteed in loans to five companies. One of those companies was Korf Industries which operates steel plants in Georgetown, S.C., and Beaumont, Tex., as well as other plants in several other States.

Georgetown Steel, unlike most steel firms, is operating at close to capacity but due to the soft prices because of the economic recession as well as foreign imports they have lost a considerable amount in 1982. The \$20,000,000 loan guarantee authorized in this bill is to be part of a restructuring of Korf's long-term debt that will assure the continuation of some 2,421 jobs nationwide, including 937 in South Carolina, 778 in Texas, 241 in North Carolina, 63 in Tennessee, and 402 in other States.

Mr. HATFIELD. Mr. President, the Senator has shared this amendment with the majority and minority and the staff, and it has been cleared on

both sides and it is acceptable to the committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arkansas.

The amendment (UP No. 1496) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

BOARD FOR INTERNATIONAL BROADCASTING AND THE VOICE OF AMERICA APPROPRIATIONS

Mr. PERCY. Mr. President, I send to the desk an amendment which I had intended bringing up for immediate consideration.

I ask unanimous consent that the reading of the amendment be dispensed with but that it be printed in the Record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 14, after line 2, add the following: Board for International Broadcasting: "Grants and expenses," \$111,600,000.

International Communication Agency: "Salaries and expenses," \$519,223,000.

International Communication Agency: "Acquisition and construction of radio facilities." \$27,920,000.

Mr. PERCY. Mr. President, Thomas Jefferson wrote that "A decent respect for the opinions of mankind" was one of the reasons for making public our Declaration of Independence. Today, in a world where mass communication is a commonplace, our respect for the opinions of others is based not only on our decency, but also on our will to survive. The reason is simple. We are engaged with the Soviet Union in a struggle of ideas, a contest for the understanding and support of all mankind. As a result, international information is a vital element of the foreign and national security policy of the United States.

The success of the United States in international affairs depends to a critical degree on how well the actions of the United States are understood by the rest of the world. In making clear our position on the vital issues of our day, by explaining the ideals and hopes that shape our Nation, we can instill in the peoples of the world an understanding of and interest in our democratic experience.

By telling the truth about what is happening in the world today we can provide the perspective necessary for others to make an intelligent judgment. There is no instrument available which is more effective for accomplishing this than the international broadcasting operations supported by the U.S. Government.

Yet, as has been noted time and again, we have not devoted sufficient resources to this valuable instrument. As Professor Samuel Huntington of Harvard University has said:

Over the years, we have not given as much support as we should have to putting our case before the various audiences around the world. We tend to treat that sort of activity as marginal. We spend hundreds of billions of dollars on weapons, but can hardly spare a few million for a task that seems to me to be equally equivalent.

Let me give an example. In 1980 the Voice of America had a budget of \$86 millon dollars. The Soviets by comparison spent an estimated \$800 million dollars on international broadcasting. For the same year, if you add together the VOA budget with the Radio Free Europe/Radio Liberty budget, the United States spent \$176 million dollars on international broadcasting. Again, by comparison, the Eastern bloc as a whole spent a billion dollars on international broadcasting. That means that the Soviet Union together with its satellites spent a total of nearly five time as much on international broadcasting as the United States. An indication of what this mens is that, last year, the Voice of America had a total of six high-powered transmitters. The Eastern bloc and the U.S.S.R., by comparison, had

The \$44 million dollar increase that I am proposing for the VOA/RFE/RL budget will begin to make up for this regrettable difference in capabilities. That money will be used to improve engineering ability, increase the effectiveness of the radios, and begin the modernization of equipment which is essential for international communications.

The President has spoken out strongly in support of this initiative. "It is vital" he said, "That we undertake initiatives now for the modernization and strengthening of our international radio broadcasting operations. The time has come to give these opertions—for too long systematically underfunded and neglected—the attention they deserve." I believe it is essential to proceed with this if we are to succeed in this very serious and important competition.

Recently, when a Polish ship docked in Canada, the sailors wrote a letter to the Voice of America in which they said:

We...wish to convey our great appreciation for your excellent broadcasts. Not only we, but thousands of sailors from other Polish ships, have been listening to your program, because you are the only ones from whom we can learn the truth about Poland and Poles. We tune in your frequencies day and night, sharing information thus received with those who cannot listen because of work schedules. We also appreciate your broadcasting for so many hours. We know from others that your programs are heard throughout most of Poland. You

seem to know more about us than does the Community Party's Central Committee, and you understand us better. . . . Thanks again, and keep up the good work.

President Reagan has urged that we take this action, and adopt this amendment which will provide funds for rapid modernization of the technical infrastructure of the radios and enable us to rebuild personnel levels in essential areas. Having these improved capabilities, as promptly as possible, the President says, is a matter of vital national interest. That is why we are acting now to seek the funds necessary, rather than waiting until next year and delaying the modernization of the radios for many months.

Mr. President, the following organizations have contacted me to express their strong support for the VOA/BIB amendment:

The Joint Baltic American National Committee

The Estonian House of Chicago

The Estonian Society of Los Angeles The Estonian American National Council

The Lithuanian American Council The Polish American Congress

The Polish American Congress, Eastern Pennsylvania District

The Michigan Division of the Polish National Congress

Pomost

Solidarity International

The Committee in Support of Solidarity The World Federation of Hungarian Freedom Fighters

The Ukrainian National Information Sedrvice

The Illinois Division of the Ukrainian Congress Committee of America

The Ukrainian Human Rights Committee in Philadelphia

Americans for Human Rights in Ukraine, based in Newark

The Society of Veterans of Ukrainian Insurgent Army

The Organization for the Rebirth of Ukraine

The Chicago Chapter of American Friends of the Anti-Bolshevik Bloc of Nations, Inc. The Advisory Council for the Defense of

Human Rights in the USSR
The Czechoslovak National Council of

America
The American East European Ethnic Con-

ference, based in Springfield, Va.
The Congress of Russian Americans, Inc.,

Washington Chapter Free Cambodia, Inc.

The Federation of Cambodian Associa-

Cuba Independiente y Democratica

The National Association for Uniformed Services

In essence, Mr. President, the resolution calls for an additional \$44 million increase proposed by the administration, strongly supported by the President and the National Security Council, for consideration by the Senate at this time.

I have engaged in considerable discussion with my distinguished majority leader, Senator Baker, with Paul Laxalt, chairman of the Appropriations Committee, and the distinguished chairman of the subcommittee, Senator Weicker, on this matter.

I would be happy to yield at this time for Senator Weicker's comments.

Mr. WEICKER. Mr. President, I say to my good friend from Illinois, the distinguished Senator Percy, the chairman of the Foreign Relations Committee, that I am not negative toward what it is he is proposing. I had reservations insofar as it being brought in at the last moment not by the Senator but by the administration and requiring a rather large amount of money.

In order to accommodate the distinguished Senator, this would mean unbalancing some other figures that are already in place for other agencies of

Government.

I would hope we could get right to this on a supplemental in the next session of Congress. Senator Laxalt, who will be the new chairman of the State, Justice, Commerce Subcommittee, has assured prompt hearings on this matter, and I would hope the Senator would be good enough to withdraw his amendment at this time with the understanding that the matter will be raised early on in the forthcoming new session.

Mr. PERCY. I have discussed the matter with Judge Clark, the National Security Adviser to the President, and he was disappointed but understanding that unless this continuing resolution is adopted by midnight tonight the Federal Government ceases to operate. So many Senators have had urgent matters they have had to withhold because of the impossibility of handling them on this bill, and this is the problem that we face.

With the assurance that the distinguished Senator from Connecticut, who has indicated he is not out of sympathy at all with the objectives of it, will use his considerable influence and his considerable weight to see that we do have on as expedited a basis as possible action in this matter, I would certainly not wish to take the risk that we would delay this bill and the consideration of it by insisting upon action on this amendment at this time.

The urgency of this matter is high. This is a battle, it is a battle for the minds of people, and I know no better way than to do it through a strong international broadcasting operation. If we would just be tacking \$44 million on the military defense bill, you would hardly be able to find it. But here the impact is tremendous. The hope and encouragement it offers to Americans of ethnic origin is to indicate that we have not forgotten the fact that truth is the most powerful weapon we have, and truth must be gotten behind the Iron Curtain and elsewhere, into those countries that are deprived of the truth. The very fact that the Soviet Union spends more to blot out and blank out and jam our broadcasts than we do to make the broadcasts themselves is an important factor.

But I do take into account that this is a matter that if expedited early in the session I think we can take care of, and I appreciate very much the comments of my distinguished colleague.

Mr. WEICKER. I assure my distinguished colleague that he will receive

an early hearing.

Mr. HATFIELD. May I also thank the Senator from Illinois for raising the issue, and the Senator from Connecticut for working out these arrangements so that we can move ahead and certainly without prejudice we will be able to review this at a future date.

Mr. MOYNIHAN. Mr. President, will you allow me to express my appreciation to the Senator from Connecticut. This is a matter of great concern to the Senator from New York and his remarks are very heartening.

Mr. WEICKER. I thank the Sena-

Mr. PERCY. I want to join with my colleague and also express my deep appreciation to Senator Pell who, in his usual bipartisan sense, has cosponsored this amendment and has been a pillar of strength in this regard.

Mr. PELL. This amendment, which Senator Percy and I are sponsoring is a long overdue effort to upgrade the Voice of America and Radio Free Europe/Radio Liberty. The radios are key assets in the contest of ideas and as such are vital to our national security. It is pennywise and pound foolish to neglect the radios at a time of enormous buildup of our military strength.

This amendment, which is supported strongly by the administration, will enhance the ability of VOA and RFE/RL to be heard by replacing obsolete equipment—some of Radio Free Europe's broadcast equipment, for example, was captured from Germany in 1945—and by increasing the technical means to overcome Soviet bloc jamming. The amendment will also allow the radios the additional bureaus, staff, studios, and travel funds to provide high quality, firsthand coverage of important news stories around the world.

America's radios are competing in a world which has become keenly aware of the demands of the information age, and which is devoting increasing resources to the war of ideas. America's radios have no high-powered transmitters; they lag substantially in hours of broadcast and languages aired; they operate language services sometimes with half the number of personnel employed for the same amount of time by the BBC and other major services. It is past time to redress the balance—in our favor.

This amendment will complement another provision of the continuing resolution in enhancing the impact of American ideals. This provision, which is the result of efforts undertaken over the past Congress by Senator Weicker and myself, increases by \$20 million or more than one-third, the funding for exchange-of-persons programs. The administration has recognized that these programs are another cost-effective way of enhancing American influence and have endorsed this increase. At this juncture, I would like to acknowledge and commend the work of USIA Director Charles Z. Wick in persuading the administration to support the \$20 million increase.

The Voice of America, Radio Free Europe, Radio Liberty, and the exchange-of-persons programs have a vital national security role. It is commonsense that we should increase funding for these programs not only because they are so cost effective but also because they utilize our greatest strength—the vitality of America itself.

Mr. PERCY. I thank my distinguished colleague.

### UP AMENDMENT NO. 1497

(Purpose: To amend the Social Security Act to preclude the cut off of Medicaid funding to States which have incurred longfall expenditures in an effort to comply with the "pass along" provisions of Public Law 94-585, and for other purposes)

Mr. HATFIELD. Mr. President, the Senator from Alabama seeks recognition.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. HEFLIN. Mr. President, I send to the desk an amendment on behalf of Senator Denton of which I am a cosponsor. This deals with a penalty which the administrative agency involved does not have authority to waive, but it resulted as a result of long-delayed regulations. It deals with SSI, and the SSI payments were to be paid on the basis of the preceding year or back in 1976.

They later changed the position by regulation. Three years later the State of Alabama was charged with a penalty. They did not have authority. The administrative agency supports it. Senator Denton has been working very diligently and hard on this, and I have been in a supportive role, and I move its adoption.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Heflin), for himself and Mr. Denton, proposes an unprinted amendment numbered 1497.

Mr. HEFLIN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Section 1618 of the Social Security Act is amended by adding the following new subsection: "(c) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for any portion of the period of July 1, 1980 through June 30, 1981, if the State's expenditures for such payments in that twelve-month period were not less than its expenditures for such payments for the period July 1, 1976 through June 30, 1977 (or, if the State made no supplementary payments in the period July 1, 1976 through June 30, 1977, the expenditures for the first twelve-month period extending from July 1 through June 30 in which the State made such payments)."

Mr. HATFIELD. The amendment is acceptable to me.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1497) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### UP AMENDMENT NO. 1498

(Purpose: To increase the appropriation for low income home energy assistance)

Mr. CHAFEE. Mr. President, on behalf of myself, Mr. MITCHELL, Mr. HEINZ, Mr. PERCY, Mr. COHEN, Mr. BRADLEY, Mr. PELL, Mr. TSONGAS, Mr. PACKWOOD, Mr. DURENBERGER, and Mr. WARNER, I send to the desk an unprinted amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. Chafee), for himself and others, proposes an unprinted amendment numbered 1498.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I insert the following new section:

SEC. . There is appropriated \$25,000,000 for carrying out title XXVI of the Omnibus Budget Reconciliation Act of 1981, relating to low income home energy assistance, which is in addition to amounts otherwise available for such title XXVI under this joint resolution.

Mr. CHAFEE. Mr. President, I also ask that Mr. Weicker be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, today I am offering an amendment to House Joint Resolution 631, the continuing resolution, to restore \$25 million for the low-income energy assistance program.

The Appropriations Committee has suggested funding this program at \$1.870 billion for fiscal year 1983, \$25

million below last year's level of \$1.875 billion.

The cost of essential home energy imposes a disproportionate burden on low- and fixed-income households. During the winter of 1978-79, the average direct residential energy expenditure by a poor household was 10.9 percent of disposal income; by 1980-81 this had risen to 13 percent. Under current law, estimates based on energy information administration data indicate that this percentage will rise to 15 percent.

These increases in energy and fuel costs have consistently and dramatically outpaced increases in the Consumer Price Index and various indexed benefit programs, and have caused severe suffering for many Americans. This is an intolerable situation. Now is not the time for the Federal Government to add to the burden of the low-income household by cutting back on its commitment to the energy assistance program.

Since 1978 the average electricity bill has increased by 65 percent, natural gas by 104 percent, and heating oil by 140 percent. This situation will most likely continue. Heating a home is not a luxury; it is a necessity, and an ever-increasing burden for many. For this reason, I urge my colleagues to join with me today in adopting this essential amendment, which merely restores outlays for fiscal year 1983 to the 1982 level. The Federal Government must maintain its commitment to low-income families which are experiencing inceasing difficulty in meeting today's high energy costs.

What this does, Mr. President, is to appropriate \$25 million for carrying out the low-income home energy assistance, and bringing it up to the 1982 level.

This has been cleared on both sides and it is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. SCHMITT. Mr. President, I want to compliment the Senator from Rhode Island for his initiative. This will restore the appropriations for low-income energy assistance up to the authorized level, and no further increases would be possible without violating the rules of the Senate. The amendment is acceptable to me and to the minority.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

Mr. PROXMIRE. Mr. President, before we proceed we would like a 5-minute delay on it so that we can go over it. We have not seen it before.

Mr. HATFIELD. Mr. President, I ask unanimous consent that this amendment may be temporarily laid aside so that we may proceed to another amendment.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request that a previous amendment be laid aside? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe the Senator from New Jersey is seeking recognition.

### UP AMENDMENT NO. 1499

(Purpose: Redesignation of I-95)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. Brab-LEY) proposes an unprinted amendment numbered 1499.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

### H.J. RES. 631

At the end of the bill add the following new section:

SEC. 138. (a) Notwithstanding the first sentence of section 103(e)(4) of title 23, U.S. Code, the Secretary of Transportation shall approve the withdrawal from the Interstate System the route of Interstate Route 95 and Interstate Route 695 from the intersection with Interstate Route 295 in Hopewell Township, Mercer County, New Jersey, to the proposed intersection with Interstate Route 287 in Franklin Township, Somerset County, New Jersey.

(b) Notwithstanding any other provision of law, the Secretary of Transportation is authorized and directed, pursuant to section 103 of such title, to designate as part of the Interstate Highway System the New Jersey Turnpike from Exit 10 to the interchange with the Pennsylvania Turnpike and the Pennsylvania Turnpike from such interchange to and including the proposed interchange with Interstate Route 95 in Bucks County, Pennsylvania.

(c) The Secretary of Transportation is further authorized and directed to designate Interstate Route 95 and assure through proper sign designations the orderly connection of Interstate Route 95 pursuant to this section.

Mr. BRADLEY. Mr. President, this would redesignate or withdraw from the Interstate System certain parts of Interstate 95 and designate the New Jersey Turnpike instead.

It has been approved on both sides, and I ask unanimous consent to adopt it.

Mr. HATFIELD. Mr. President, the Senator is correct. This is one which has already been acted upon on the previous vehicle, and it was cleared at that time, and we are clearing it now at this time and making it acceptable to us.

Mr. BRADLEY. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (UP No. 1499) was agreed to.

Mr. BRADLEY. This is offered on behalf of Senator Brady and myself. Mr. HATFIELD. Mr. President, I

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. The Senator from Alabama is seeking recognition.

### UP AMENDMENT NO. 1500

(Purpose: To provide for a wider navigation opening on the Warrior River at Franklin Ferry Bridge, Jefferson County, Ala.)

Mr. HEFLIN. Mr. President, I send to the desk an amendment which has been cleared on both sides.

The PRESIDING OFFICER. I believe that the question recurs on the Chaffe amendment.

Mr. HATFIELD. I ask unanimous consent, Mr. President, that we continue to lay that aside momentarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alabama (Mr. Heflin) proposes an unprinted amendment numbered 1500.

Mr. HEFLIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, line 3, after colon add "Provided, further, That of such amount \$1,000,000 shall be available only to provide for a wider navigation opening at the Franklin Ferry Bridge, Jefferson County, Alabama."

Mr. HEFLIN. Mr. President, this amendment deals with a bridge where boats going in navigable portions are striking it and it needs to have a wider navigation. It has been cleared on both sides and I move that it be adopted.

Mr. HATFIELD. This is an amendment which, as chairman of the Water Resources Subcommittee of the Appropriations Committee, I have been familiar with. I talked to the subcommittee chairman on the House side about it as well as our minority and majority staff on our side, and it is acceptable to the committee. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment (UP No. 1500) was agreed to.

Mr. HEFLIN. I move to reconsider the vote by which the amendment was agreed to. Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Chafee amendment.

Mr. HATFIELD. Mr. President, I believe the Senator from California is seeking recognition.

The PRESIDING OFFICER. Is the Senator from Oregon asking that the Chafee amendment be temporarily laid aside?

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily lay aside the Chafee amendment to take up the Cranston amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

### UP AMENDMENT NO. 1501

(Purpose: To express the sense of the Congress that the United States should maintain programs helping to provide disabled persons with opportunities for full, productive lives and protecting such persons from unfair discrimination and that disabled persons should receive fair treatment in the administration of disability benefits)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. Cranston), for himself, Mr. Baucus, Mr. Cannon, Mr. Chapee, Mr. Chiles, Mr. DeConcint, Mr. Dood, Mr. Heinz, Mr. Inouye, Mr. Kennedy, Mr. Levin, Mr. Matsunaga, Mr. Metzenbaum, Mr. Mitchell, Mr. Moynihan, Mr. Pryor, Mr. Randolph, Mr. Riegle, Mr. Sarbanes, and Mr. Sasser proposes an unprinted amendment numbered 1501.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following new section:

SEc. —. (a) The Congress finds that:

- (1) During the decade of the Seventies the Congress, with broad bipartisan support and in concert with Republican and Democratic administrations, established and improved programs to help handicapped Americans to become as productive and independent as possible and have the opportunities for participation in our society that should be each citizen's due.
- (2) These programs have made much progress toward ensuring that handicapped children receive free appropriate public education; toward making adequate vocational rehabilitation services available to meet the needs of handicapped persons; toward eliminating architectural and transportation barriers which exclude handicapped persons from many employment, educational, recreational, social, and other opportunities that other Americans enjoy and from full participation in our society's institutions; and

toward protecting handicapped persons from unfair discrimination.

(3) Various proposals have been made to repeal major laws establishing disability programs, to reduce substantially Federal funding for and certain benefits in such programs, and to weaken regulations implementing such laws.

(4) The social security disability insurance benefits of thousands of disabled persons have been precipitously terminated.

(5) These proposals and actions are particularly burdensome for handicapped persons already suffering hardship as a result of cutbacks in major health, nutrition, and social programs.

(b) In view of the findings in subsection
(a), it is the sense of the Congress that:
(1) Federal programs designed to ensure that disabled Americans are provided with the opportunities for the educational and rehabilitation services and the access to public facilities and services they need to achieve their full human potential and live as independently and productively as possible should be maintained and funded at not less than current programmatic levels and should be enhanced where cost-effective restoration, growth, or expansion would be achieved.

(2) Changes in permanent regulations implementing Federal laws relating to the education and civil rights of handicapped individuals should be limited to changes that are necessary to conform to authoritative judicial decisions interpreting those laws and to improve program efficiency and effectiveness without diluting the individual rights and protections provided under cur-

rent regulations.

(3) The reviews of the continued eligibility of disabled recipients of social security disability insurance benefits should be conducted in a manner ensuring that each recipient is apprised of the nature and pur-pose of the review; that determinations of ineligibility do not occur as the result of erroneous interpretations of law or of failures to give full and fair consideration to all pertinent evidence, including the recipient's medical history and evidence available from the treating physician or other licensed practitioner; and that mentally impaired recipients are provided the assistance needed to respond to the administrative requirements of such reviews and to exercise their rights in connection therewith.

(4) The level of veterans' disability compensation benefits for service-connected conditions should be maintained.

Mr. CRANSTON. Mr. President, this amendment would express the sense of the Congress that the Federal Government should maintain effective programs to assist in providing disabled persons with maximum opportunities for fuller, more productive and independent lives.

The time has come, Mr. President, when it is essential for the Congress to assert clearly and forcefully that it stands behind Federal programs that offer handicapped individuals opportunities to overcome or minimize their disabilities and provide the means of subsistence to those who need it. This amendment would make that muchneeded statement.

Mr. President, I want to emphasize at the outset that the preservation of these programs is not a partisan issue. In fact, broad bipartisan support in Congress during Republican and Democratic administrations brought about major advances in these programs during the 1970's to provide disabled persons with the assistance and opportunities they need to participate more fully in our society and to become as productive and self-sufficient as possible.

Moreover, many leaders on both sides of the aisle in both Houses of Congress have worked hard throughout this, the 97th, Congress to preserve programs for handicapped persons and to insure that these individuals receive fair treatment under them.

Nevertheless, the need for this amendment has arisen because the number and range of proposals and resulting actions in the past 2 years to eliminate or reduce these programs have created hardship for many disabled persons and caused deep concern among all those interested in assuring fair treatment for handicapped Americans.

In a November 24, 1982, letter that I sent to each of my colleagues in the Senate, I outlined some of the major causes of concern. They are as follows:

First, proposals have been made by the administration to block-grant programs under the Education for All Handicapped Children Act of 1975; to reduce appropriations for the three major education programs for handicapped children by 30 percent in fiscal year 1983; and to weaken substantially the regulations implementing the 1975 law. These proposals have alarmed the parents of handicapped children and others concerned for the welfare of these children. Fortunately, the Administration, faced with a storm of protest, has withdrawn the most objectionable parts of these regulations. But it is continuing to consider extensive revisions, and the continuing uncertainty and insecurity they created have been enor-

Second, proposals have been made by the administration to block-grant the Federal-State vocational rehabilitation program and independent living services program under the rehabilitation act of 1973 and to reduce appropriations for rehabilitation programs by about one-third in fiscal year 1983. Vocational rehabilitation programs are proven cost-effective means of enabling disabled persons to become productive citizens. The efforts to reduce these programs are shortsighted and ill-advised.

Third, the social security beneficiary rehabilitation programs have been virtually eliminated. Under these programs, State vocational rehabilitation agencies received \$124 million in fiscal year 1981 and only \$3.5 million in fiscal year 1982 for the rehabilitation of disabled social security act benefici-

Fourth, proposals have been made by the administration to repeal the Developmental Disabilities Assistance and Bill of Rights Act and to reduce funding for developmental disabilities services and advocacy by more than one-third in fiscal year 1983.

Fifth, proposals have been made by the administration to eliminate the Architectural and Transportation Barriers Compliance Board; to rescind the minimum guidelines and requirements that the Board had adopted for public building accessibility; and to dilute these guidelines and requirements.

Sixth, the administration prematurely mounted a massive review of the eligibility of disabled persons for social security disability benefits that has resulted in overworked State agencies conducting unfair, inadequate reviews. In assessing this tragic ongoing situation, the Senate Governmental Affairs Subcommittee on Oversight of Government Management concluded that benefits had been terminated "for thousands of severely disabled persons who deserve to remain in the program."

Seventh, proposals have been under consideration in the executive branch to weaken basic Government-wide regulations for implementing section 504 of the Rehabilitation Act. This is the "civil rights charter" for handicapped Americans. It prohibits discrimination against qualified handicapped persons in Federal and federally assisted programs. Regulations are essential for its implementation and the current regulations are, I believe, fair and balanced. They are not in need of a major overhaul.

Eighth, in July 1981 the Department of Transportation adopted an interim rule-replacing its section 504 regulations-regarding transportation for handicapped persons. This 17-month-old "interim rule" provides no assurance of continuing progress toward the provision of adequate, accessible transit services for handicapped persons.

Ninth, proposals have been made by the administration to reduce certain veterans' service-connected disability compensation benefits by more than \$400 million in fiscal vear 1984.

Tenth, the administration proposed to eliminate both the National Institute of Handicapped Research and the Federal Government's Interagency Committee on Handicapped Research. These proposals have come at a time when research offers the best promise for helping handicapped persons to overcome their disabilities. They have come at a time when Federal leadership and coordination are greatly needed to insure that we capitalize—for the benefit of all disabled Americans-on the great scientific advances that are now possible in a number of areas of research.

Eleventh, the suffering, because of their particular vulnerability, of handicapped persons from cutbacks in a wide range of social programs, such as health care, housing, nutrition, and social and legal services is also a major cause of concern.

Mr. President, many handicapped Americans have suffered from these broad, wide-ranging attacks on essential programs. Many more are now very deeply concerned that the next set of regulations and the next budget submissions will mean more hardship, more lost opportunities. This is not what the American people want for these most vulnerable citizens.

I believe that the people of this great Nation are both wise and compassionate. They do not want to sacrifice the well-being of the most vulnerable among us for short-term budget gains. I am convinced that they want cost-effective education, rehabilita-tion, and other programs that lead to independence and productivity. They do not want to throw away those programs and thus create a waste of talent and energy, needless dependence, and unnecessary expenditures to cope with that dependence.

They want us to improve those programs and make them more efficient.

I am also sure that the American people want those who can work to be removed from the disability rolls. But the American sense of fair plan dictates both that there be assurance that any review of those rolls be conducted fairly and that disabled persons be given meaningful opportunities to be rehabilitated.

Mr. President, I say to all of my colleagues: let us open our eyes wide to what has been happening. Let us start again to do what we all know truly reflects the attitude of the American people toward their fellow citizens who have met with such tragedy.

I urge all of my colleagues—on both sides of the aisle—to support this amendment and, by its adoption and subsequent enactment, send a message of hope to those who are despairing—as well as a message, to those who would attempt to erode disability programs, of strong congressional resolve to defeat such efforts.

There is no expenditures involved of any sort. I understand it is cleared on

both sides of the aisle.

Mr. SCHMITT. Mr. President, I think it is very clear that not only is it the sense of the Senate but the sense of the country to maintain assistance for those people who are unable to care for themselves, either temporari-

ly or permanently.

I do not believe that the Senator from California in any way means to imply that the Senate, particularly the subcommittee that I chair and on which Senator Proxmire is the ranking committee member, or the full Appropriations Committee, has been negligent in their duties, at least to the extent authorized with respect to the programs directed specifically at the assistance to the handicapped.

We have tried, with the assistance of Senator Weicker and many others of great concern with these programs, to fund them at the highest levels that are possible and is a priority that really has exceeded priorities in many other very important areas.

Mr. CRANSTON. Mr. President, I concur. As I said in my statement, it is not a partisan issue. Broad bipartisan support in Congress during Republican and Democratic administrations brought about major advances in these programs. Many leaders on both sides of the aisle and both Houses of Congress have worked hard throughout this, the 97th Congress, to preserve programs for handicapped persons and to insure that these individuals receive fair treatment under them.

Mr. HATFIELD. Mr. President, this is a matter again that has been cleared on both sides of the aisle. It is acceptable to the committee.

Mr. HEINZ. I rise in support of the Cranston amendment, I urge support of this resolution, congressional support of programs for handicapped persons, not only because of my personal commitment to these programs, but also because of my own knowledge of how children and adults with disabilities have benefited. Less than 10 years ago a severely disabled child was often denied the right to attend school. Today, excluding these children is against the law.

People with disabilities—and there are over 30 million such persons in our country—have made major gains in the last decade. These gains have ranged from securing the right to an education to better vocational rehabilitation services; from being able to live in a community setting rather than an institution; from being barred from public buildings, to being able to participate in public life. Most of these major gains have one fundamental common denominator—the central and crucial role of Federal programs and services.

Central to the gains persons with disabilities have made in the last decade is the notion that the person with a disability is always a potentially contributing member of our society; that too often our system has fostered dependency and with dependency came the status of second-class citizenship, and often the denial of basic human rights.

The movement to secure equal treatment for persons with a disability did not originate with the Congress; the movement to increase independence and to enable disabled persons to contribute to society did not originate in the Oval Office. This dual movement to secure equal citizenship and social productivity originated with persons with disabilities themselves and their families and friends.

The example of their struggle prompted Members on both sides of the aisle, Republican and Democrat, to promote key legislation during the 1970's, legislation that literally made a major difference to millions of persons with disabilities.

We have a long way to go to help fulfill the aspirations of one of America's largest minority groups, yet in the last 2 years we have witnessed an attempt to reduce these appropriations and indeed to undercut these programs in significant ways. Some of this has already been accomplished. Across the land people with disabilities are viewing these actions as an assault on important gains won over the years. The administration's attempts to deregulate and strip away important provisions of special education and the section 504 regulations can be seen as fundamentally inconsistent with the promotion of independence and self-help.

The time has come for the Congress to reaffirm once again its historical commitment in this area. Most of my colleagues have continually supported cost effective and progressive legislation on behalf of disabled persons. To retreat now from our historic achievements would cost the taxpayers of this country increased dollars for increased dependency. Worse still, a retreat from our commitment will mean a return to second-class citizenship which we cannot afford, neither fiscally nor morally.

Mr. SASSER. Mr. President, during consideration of unprinted amendment 1500 proposed by Senator Cranston, to express the sense of the Congress that the United States should maintain effective programs to assist in providing disabled persons with opportunities for full, productive lives, the text of my remarks in support of the amendment was inadvertently omitted from the proceedings.

I ask unanimous consent that my remarks appear at an appropriate place in today's proceedings, and in an appropriate place accompanying the proceedings of UP 1500 in the permanent edition of the Congressional Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I rise in support of the amendment now being offered by my distinguished colleague, Senator Cranston, which "express[es] the sense of the Congress that the United States should maintain effective programs to assist in providing disabled persons with opportunities for full, productive lives and to protect such persons from unfair discrimination in Federal and Federally assisted programs and activities and that disabled persons should receive fair treatment in the administration of disability benefits."

Over the past 2 years, a number of proposals and subsequent actions have threatened to terminate or substantially cut back programs created to provide disabled individuals with the opportunities they need to enter the mainstream of society. The programs threatened with significant cuts or discontinuation include: the Education for Handicapped Children Act: vocational rehabilitation and independent living services; section 504 of the Rehabilitation Act of 1973; social security disability insurance benefits; the Architectural and Transportation Barriers Compliance Board; the National Institute for Handicapped Research; and compensation benefits for servicedisabled veterans.

I am deeply concerned about any actions which dilute the protections currently available to our disabled citizens. There has been tremendous progress in recent years in removing various physical and social barriers. These efforts have dramatically im-

proved the quality of life for thousands of disabled individuals. Access to privileges which many take for granted are available largely because of Government efforts in this area. We must now stand behind these programs which offer disabled individuals opportunities to overcome or minimize their disabilities and live fuller, more productive, self-sufficient lives in our communities and that provide subsistance-level support for those who have no other means of existence.

I urge my fellow Senators to join me in supporting this amendment to dispel the anxiety and hardship which the reductions and proposed eliminations in programs have already created

for our disabled citizens.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California (Mr. CRANSTON).

The amendment (UP No. 1501) was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1498

The PRESIDING OFFICER. The question recurs on the Chafee amend-

Mr. CHAFEE. Mr. President, I move the adoption of my amendment

The PRESIDING OFFICER. question is on agreeing to the amendment numbered 1498 of the Senator from Rhode Island (Mr. CHAFEE)

The amendment (UP No. 1498) was

agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I wish to thank the distinguished chairman and the ranking member.

UP AMENDMENT NO. 1502

Mr. HATFIELD. Mr. President, on behalf of Senator Kasten, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The

clerk will report.

The bill clerk read as follows:

The Senator from Oregon (Mr. HATFIELD), on behalf of the Senator from Wisconsin (Mr. KASTEN), proposes an unprinted amendment numbered 1502.

Mr. HATFIELD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, add the following new section:

. Notwithstanding any other provision of law or this joint resolution, none of the funds provided for "International Orgaand Programs" under section nizations 101(b) of this joint resolution shall be available for the United States' proportionate share for any programs for the Palestine Liberation Organization, the Southwest Africa Peoples Organization, or Cuba.

Mr. HATFIELD. Mr. President, this is a matter which has been carried in the fiscal appropriations bill every year since 1979. It is a restriction that relates to funding provided under the international organizations and programs account and simply prohibits any U.S. proportionate share for any programs funded under that account from being available for the programs for the Palestinian Liberation Organization, the Southwest Africa People's Organization, or Cuba.

This has been the language in all of our bills and it was an oversight that it was not included in this one. So, on behalf of Senator Kasten, who is the chairman of our Subcommittee on Foreign Operations, I offer it at this

Senator Inouye, as the ranking minority member of that subcommittee. has cleared it and we have heard from a number of Senators about this in support of it, including Senator Pres-SLER and Senator GARN. So it is acceptable to the committee and I would move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from

Oregon (Mr. HATFIELD)

The amendment (UP No. 1502) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. QUAYLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to

Mr. HATFIELD. Mr. President, Senator Packwood and Senator Kasten and Senator Percy are on my list at this moment, but they are not present on the floor. I would at this time yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 1503

(Purpose: To reduce the appropriation for salaries and pay of certain officers and employees of the legislative branch by 10 percent)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from New York (Mr. Moynihan) proposes an unprinted amendment numbered 1503.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that further

reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the joint resolution insert the following:

SEC. . For the purposes of section 101(e) of Public Law 97-276, the amounts specified in Title I of S. 2939, entitled the Legislative Branch Appropriation Act, 1983, as reported September 22, 1982, for-

(1) compensation of officers, employees, clerks to Senators, and others as authorized

by law;

(2) salaries of the Majority Policy Committee and the Minority Policy Committee; (3) salaries in House leadership offices;

(4) compensation of officers and employees of the House of Representatives;

(5) professional and clerical employees of standing committees of the House of Representative, including the Committee on Appropriations and the Committee on the

(6) staff employed by each Member of the House of Representatives in the discharge of his official and representative duties;

(7) salaries of the Joint Economic Committee;

(8) salaries of the Joint Committee on Printing; and

(9) salaries of the Joint Committee on Taxation, are each reduced by 10 percent.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to

Mr. HATFIELD. Mr. President, at this time, on behalf of the Senator from New York, I ask unanimous consent that there be a 10-minute time limitation, with no amendments in the second degree, to be equally divided, on the amendment of the Senator from New York.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I certainly do not intend to, would the Senator from New York give us one line of what this amendment does?

Mr. MOYNIHAN. It is a 10-percent cut in the budget for the staff of the U.S. Congress.

Mr. METZENBAUM. That is noncontroversial.

Mr. HATFIELD. Did the Chair rule on my request?

The PRESIDING OFFICER. there objection to the request of the

Senator from Oregon? Mr. PROXMIRE. Mr. President, will the Senator repeat the substance of his amendment?

Mr. MOYNIHAN. It is a proposal to reduce expenditures for the staff of the Congress by 10 percent.

Mr. PROXMIRE. No objection. Is there a limitation on second-degree

amendments? Mr. MOYNIHAN. Yes; there is.

The PRESIDING OFFICER. there objection? Without objection, it is so ordered.

Who yields time?

Mr. MOYNIHAN. Mr. President, I yield myself 4 minutes.

Mr. President, I am raising a matter which has been a concern of mine from the first days I came to the Senate, which is simply the phenomenal and continuing growth of the congressional bureaucracy. We find the size of the respective staffs of the House and the Senate and the various joint, special, and select committees steadily growing, and simultaneously we find our capacity to get our work done is steadily diminishing. This is no better demonstrated than by the fact that we are here at 10 minutes after 10 a.m. in the second day of debate on the pending resolution. We have been here almost 30 hours on this floor on this legislation.

The problem with our staff, ironically, is that it is of such high quality that it keeps thinking of more complex, more difficult, and more time-consuming matters for us to address. If it were a staff of less competence or less initiative it would have less of an entropic effect upon our proceedings.

The reason for this development, Mr. President, is not difficult to identify. What we are witnessing is a clear demonstration of the rule that "organizations in conflict become like one another."

The White House had no staff until 1935. The Congress had none until 1945. The Supreme Court, for practical purposes, did not have any until 1955. But as each has acquired staff, so the others have felt that they must do so as well, in order to remain coequal in power and influence. The President presides over his staff, we preside over our staff, and the staffs of the Supreme Court Justices talk to newspapermen.

Mr. President, in a very short number of years from a total of 590 persons employed directly by Senators just after the war, we have today reached 3,600. Including the staff of the committees and leadership, there are 60 staff members per Senator. We have, in consequence, become executives of small enterprises rather than colleagues.

Yet, Mr. President, I put it to you that the size of the staffs of the U.S. Senate and the House has increased beyond the point where they enable us to compete on equal terms with the other two branches of Government. It ought to be reduced. My proposal would reduce by 10 percent the outlays for staff in fiscal year 1983.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point an article to this effect by Mr. James Reston of the New York Times.

There being no objection, the article was ordered to be printed in the Record, as follows:

A Bonus for Congress (By James Reston)

Washington, Dec. 14.—Even at Christmastime, with about 12 million Americans un-

employed and a Federal budget deficit of over \$100 billion, it's hard to imagine that senators and representatives, now making \$60,622.50 a year, should vote themselves a \$17,000 raise.

But they should. For, leaving aside the increasing number of millionaires in the House and Senate, many of the rest of them, no fooling are among "the truly needy" who require a "safety net" to avoid being led into bankruptcy or temptation.

Even a financial delinquent, with the help of a calculator, can figure out their problem. They have to pay income tax on that \$60,000 paycheck, which takes about a third of it, and they have other obligations.

Many of them have spouses, who are the unpaid Federal servants. They even have children, who at best are not inexpensive. They have to maintain houses in their states or be condemned by their opponents in the next election for not even living among the voters.

Meanwhile, they have to provide a pad where their families can eat and sleep in Washington, where the cost of living, and even of dying, is not easy. Put all this in your own calculator, and see how far \$60,000 goes, even when you send the kids to public school. Most congressmen look fairly healthy and even fancy on TV, but most of them are in middle age, caught in the middle between their rebellious children and their aging parents.

OK. Obviously, this is a hard argument to make to the unemployed in Detroit or Peoria, or even to officials of the Treasury, who are now running out of scratch. So is there a way to meet the serious financial plight of many of the people who make the laws of the nation, without adding to the staggering national debt?

I think there is. The present cost of running Congress is not due primarily to the increase in salaries for senators and representatives, but to the startling increase in the numbers and salaries of their staffs.

For example, the total Congressional staff in 1960 was about 7,000 at a cost of \$135 million. Today it is a little over 19,000, costing \$1.2 billion, not counting a little financial comfort and service on the side.

Representatives get \$360,000 a year for staff assistants, to be distributed as they like. Senators from the smaller states have a staff budget of \$650,000 a year, and from the larger states \$1.3 million. So while the pay of senators and representatives has almost tripled from \$22,500 in 1960 to \$60,000 today, the inflation in the Congressional budget has gone mainly to this explosion of the legislative bureaucracy.

Accordingly, eliminating a middle-level assistant or two in any Congressional staff could more than make up for the \$17,000 proposed raise in Congressional salaries, and a solid argument could be made that somewhat smaller Congressional and executive staffs might improve the efficiency of both branches of Government.

The reason for increasing Congressional staffs over the last generation was clear enough. As budgets became larger and more complicated, the executive branch hired more experts and introduced more computers. So the legislative branch, to keep up, insisted on more staff and more computers of its own.

There was clearly a need for additional staff and space on Capitol Hill, but it has gotten out of hand, and the cost may not even be the most important aspect of the problem. For in many cases these Congressional and Cabinet staffs, like the profes-

sional bureaucracy in the executive branch downtown, don't merely assist the senators, representatives and Cabinet officers, but tend to replace them. They tell many of them what to say. They write their speeches and Op-Ed page articles, and sit by their side, suggesting what their questions and their answers should be in Congressional committees.

No doubt all this performs a useful service, and the better congressmen and Cabinet officers keep these aides on tap rather than on top; but there is a danger that this professional bureaucracy could become an anonymous and unelected fifth estate of our democracy.

These staff assistants, or at least many of them, are writing the policy positions of many of the powerful people in the legislature and the Cabinet, and most of the time we don't even know who they are. Unlike Cabinet members, they were merely appointed, never had to be examined or confirmed, and serve at the pleasure and work for the political advantage and success of their masters.

Accordingly, it might not be a national disaster if one or two of them were dismissed in each Congressional office, and the boss added their salary to his own, and had to do a little more work to speak for himself. No doubt it would add to the unemployment problem, but not much, and it wouldn't add a penny to the national deficit.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.
The PRESIDING OFFICER. Who yields time?

Mr. WEICKER addressed the Chair. The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to oppose the amendment of the distinguished Senator from New York. The fact is that much of the cutting that has been done by this and other administrations has been achieved because of the predominance of staff in sofar as the executive branch of Government is concerned relative to the resources of the legislative branch.

I do not think at this time, if indeed the Senator wants to assist those of no means or impoverished means, that this particularly achieves their end.

I do not intend to get into a long debate on the matter, but it has been this Senator's observation that, if anything, in the legislative branch of Government, both in terms of Senators personal staff, which serves their particular constituency, and those staffs that are on committees in the U.S. Senate, they are undermanned. Indeed, at this time, I think such a move would be counterproductive in terms of the oversight job, which is our responsibility.

I have found that that has been sorely lacking so far as the Congress is concerned, both on the House and the Senate side.

I say to my good friend from New York there is no reason why each Senator cannot, in effect, put into being the amendment of the Senator from New York. Every Senator here can cut his staff 10 percent, 15 percent, 20 percent, and return the money. There is nothing stopping any of us from doing that. I would suggest this is possibly better done on a State-by-State basis rather than engage in a generalization which I think could clearly damage the oversight capacities of this body.

The PRESIDING OFFICER. Who

vields time?

Mr. EXON addressed the Chair. Mr. WEICKER. I am glad to yield a couple of minutes to the Senator.

Mr. EXON. Will the Senator from New York yield for a question?

Mr. MOYNIHAN. I do, but I do not know how much time I have left.

Mr. EXON. As I understand, there would be a reduction in the total amount of moneys appropriated for all of the Senate staff and the numbers of individuals thereon?

Mr. MOYNIHAN. Exactly.

Mr. EXON. I thank the Senator from New York.

The PRESIDING OFFICER. Who

yields time?

Mr. MOYNIHAN. Mr. President, I would take such remaining seconds as I may have. Accepting the good faith of the remarks of the Senator from Connecticut, as I always do, it is simply not in the dynamics of an organization to forgo a staff when others do not. This is true even as between different committees in the Senate, and between different Senators who inevitably feel obliged to match the resources of their rivals and colleagues. If we are going to cut staffs at all, this is something we ought to do together in the appropriation process. This is our opportunity.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Connecticut yield back the remainder of his time?

Mr. WEICKER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The

clerk will call the roll. The legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. I yield back the re-

mainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), the Senator from Kansas (Mrs. Kassebaum), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I also announce that the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Utah (Mr. HATCH) are absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from Tennessee (Mr. SASSER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 25, nays 68, as follows:

[Rollcall Vote No. 433 Leg.]

### VEAS-25

Baucus	DeConcini	Mitchell
Biden	Denton	Moynihan
Boren	Dole	Nickles
Burdick	East	Proxmire
Byrd,	Exon	Simpson
Harry F., Jr.	Grassley	Thurmond
Cannon	Heflin	Warner
Cohen	Helms	Zorinsky
D'Amato	Jepsen	

## NAYS-68

Abdnor	Hatfield	Nunn
Andrews	Hawkins	Packwood
Armstrong	Hayakawa	Pell
Baker	Heinz	Percy
Bentsen	Hollings	Pressler
Boschwitz	Huddleston	Pryor
Bradley	Humphrey	Quayle
Brady	Inouye	Randolph
Bumpers	Jackson	Riegle
Byrd, Robert C.	Johnston	Roth
Chafee	Kasten	Rudman
Chiles	Kennedy	Sarbanes
Cochran	Laxalt	Schmitt
Cranston	Leahy	Specter
Danforth	Levin	Stafford
Dixon	Long	Stennis
Dodd	Lugar	Stevens
Domenici	Matsunaga	Symms
Eagleton	Mattingly	Tower
Ford	McClure	Tsongas
Garn	Melcher	Wallop
Gorton	Metzenbaum	Weicker
Hart	Murkowski	

# NOT VOTING-7

Durenberger	Hatch	Sasser
Glenn	Kassebaum	
Goldwater	Mathias	

So Mr. Moynihan's amendment (UP No. 1503) was rejected.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

ORDER OF PROCEDURE

agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, let me update the situation as it now stands.

We have completed about 17 of the so-called short amendments that have been noncontroversial without the necessity for a rollcall. We have about 30-some amendments left. These now are getting to the place where we will expect rollcalls on at least a major number of them if they are all offered.

We have about three or four more of the brief kind that will take about 30 seconds to a minute each, and they have been cleared by both sides of the aisle

That is the way we have been working on them. If they once get cleared by the staff on both sides, then we take them up and we have been grinding them out.

Let me also say that I will ask for a rollcall vote on the final conference report. So I think it is well to put the Senate on notice that once this is acted upon here by this body, the conferees will expedite the handling of the conference as quickly as possible, but we will ask for a rollcall vote on final passage of the conference report.

I think a bill of this magnitude requires such, but I also want all of our colleagues to stay here also, since I have to stay here.

So I like their company so much, having been with them all night, I could not stand the thought of losing contact during the final moments of this bill.

We are making progress, but I must say I will have to advance my target time of noon today a few hours and indicate we are going to press on and complete this entire report sometime today or later if necessary in order to get to conference as quickly thereafter as possible.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. HATFIELD. Mr. President, I yield to the majority leader.

Mr. BAKER. Mr. President, as much as I know everyone hates to get off the continuing resolution, for a minute I have a matter that has to be taken care of. It has been cleared on both sides. It involves a resolution which the Senate should adopt in the opinion of the joint leadership and of the Senate counsel in respect to a subpena for testimony of Senator LARRY PRESSLER in a case in the district court.

Mr. President, I ask unanimous consent that the pending measure be temporarily laid aside so that we may proceed to the consideration of this resolution, and upon its disposition that we immediately return to the consideration of the continuing resolution and that the total time allocated to this will not be more than 1 minute equally divided following the usual form.

PRESIDING OFFICER. there objection to the request of the Senator from Tennessee.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I shall not object, does majority leader include in that that there be no amendment?

Mr. BAKER. Yes. No amendments will be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE TESTIMO-NY OF SENATOR LARRY PRES-SLER

BAKER. Mr. President, Mr. behalf of myself and the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows: A resolution (S. Res. 520) to authorize the testimony of Senator Larry Pressler and representation by the Senate Legal Counsel in the case of United States of America v. Joseph Silvestri, Cr. No. 80-00291 (S).

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the resolution be dispensed

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there objection to the present consideration of the resolution?

There being no objection, the Senate preeeded to consider the resolution.

Mr. BAKER. Mr. President, Senator LARRY PRESSLER has been served with a subpena to testify in the case of United States of America against Joseph Silvestri, which is being tried in the U.S. District Court for the Eastern District of New York. The subpena was issued on behalf of Mr. Silvestri, who is the last of the Abscam defendants to be tried.

Earlier today the Senate Select Committee to Study Law Enforcement Undercover Activities of Components of the Department of Justice announced its findings. The select committee confirmed the well established fact of Senator Pressler's complete innocence. Senator Pressler's actions have also received the commendation of the judicial branch. As Judge C. George Pratt, who is now a U.S. Circuit judge, noted in an earlier Abscam opinion:

[Senator] PRESSLER, particularly, acted as citizens have a right to expect their elected representatives to act. He showed a clear awareness of the line between proper and improper conduct, and despite his confessed need for campaign money, and despite the additional attractiveness to him of the payment offered, he nevertheless refused to cross into impropriety. United States v. Myers, 527 F. Supp. 1206, 1226 (E.D.N.Y. 1981).

Senator Pressler has had to endure an unfair burden as a result of Abscam. The subpena is a continuation of that burden. It is a further result of the questionable decision to authorize a staged bribe meeting with him although there never was any ground for suspecting any impropriety by the Senator. For this reason, we believe that it is proper for the Senate to provide legal counsel to Senator Pres-SLER with respect to the subpena.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 520

Whereas, in the case of United States of America v. Joseph Silvestri, Cr. No. 80-00291 (S), pending in the United States District Court for the Eastern District of New York. the defendant has issued a subpoena for the attendance and testimony of Senator Larry Pressler.

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate with-

Whereas, Title VII of the Ethics in Government Act of 1978, Public Law 95-521 establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees; Now, therefore be it

Resolved, That Senator Larry Pressler is authorized to testify in the case of United States of America v. Joseph Silvestri, Cr. No. 80-00291(S), except when the Senate is in session.

SEC. 2. That the Senate Legal Counsel is directed to represent Senator Larry Pressler in connection with the subpoena for his testimony in the case of United States of America v. Joseph Silvestri, Cr. No. 80-00291(S).

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate resumed consideration of the joint resolution.

Mr. WEICKER. Mr. President, have we returned to the pending business as of this moment?

The PRESIDING OFFICER. The Senator is correct.

Mr. RANDOLPH. Mr. President, will my colleague yield to me?

Mr. WEICKER. Mr. President, I wonder if my good friend from West Virginia would just forbear for a moment.

Mr. President, there are three small amendments, all of which have been agreed to on both sides and it will take no longer than a few seconds each. I wish to dispense with those and then move immediately to a major amendment by the Senator from New Mexico, Senator Domenici. That is the intention of the managers of the bill.

Mr. BUMPERS. Mr. President, will the Senator yield?

MR. WEICKER. I yield.

Mr. BUMPERS. I have an amendment here which I could not clear with everyone but the principal person cleared with is Senator McClure, the chairman of the Energy Committee. I do not think it will take over 30 sec-

The resolution (S. Res. 520) was onds. It is already in the Interior bill. I just want to put it on this bill.

Mr. WEICKER. I wonder if it would facilitate the passage of all these noncontroversial amendments, and the committee is anxious to do that, if when a Senator has a matter which has been cleared and agreed to, if he would give a copy to staffs, both minority and majority staffs, and then get rid of this in rapid order fashion.

Mr. NUNN. Mr. President, will the Senator use his mike? I cannot hear him.

Mr. WEICKER. I cannot agree to it unless the matter is in the hands of staff. I would appreciate it if Senators who have that type of amendment would bring it to both the minority and majority managers of the bill.

I now yield to the Senator from Oregon.

### UP AMENDMENT NO. 1504

(Purpose: To make amendment with respect to the transportation of crushed glass)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Oregon (Mr. Pack-WOOD), for himself and Mr. HEFLIN, proposes an unprinted amendment numbered 1504

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of House Joint Resolution 631, add the following:

# "TRANSPORTATION OF BROKEN GLASS

. Section 10526(a) of title 49, "SEC. United States Code, is amended—
"(1) by striking 'or' at the end of para-

graph (12);

"(2) by striking the period at the end of paragraph (13), and inserting in lieu thereof ; or'; and

"(3) by adding at the end thereof the following:

"'(14) transportation of broken, crushed, or powdered glass.'.

Mr. PACKWOOD. Mr. President, this amendment deals with the transportation of crushed glass. It has been cleared on both sides of the aisle. It deregulates the transportation. Both shippers and truckers agree with it. We passed it in the Senate before in the Highway Act. It was stripped out in the conference when the entire act fell apart because of jurisdictional problems in the House of Representatives.

There was no objection then, and I know of no objection now.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (UP No. 1504) was agreed to.

UP AMENDMENT NO. 1505

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes unprinted amendment numbered

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert

the following new section:

"Sec. . Notwithstanding any other provision of law the provisions of section 10, 11(b), 18, 20, and 21 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374) are hereby extended until September 30, 1983 notwithstanding subsections 10(e) and 21(i) of such

Mr. KASTEN. Mr. President, on September 22, when the Appropriations Committee considered S. 2956, the State, Justice, Commerce appropriations bill, I offered and the committee accepted, an amendment designed to extend the effectiveness of certain expiring provisions of the Federal Trade Commission Improvements Act of 1980.

These provisions place certain limitations on the FTC's authority with respect to paying public intervenor funding, commercial advertising. trademarks, agricultural cooperatives. and legislative veto procedures.

These limitations were scheduled to expire on September 30, 1982. By reference to S. 2956 however, the continuing resolution extended those limitations to December 17. They must be extended again, however, in order to maintain the status quo while new FTC authorization legislation is being

The amendment I am offering today extends these limitations.

I emphasize to the Senate that my amendment extends current law, maintaining the status quo. We are extending the current law with the recognition that Court is now considering this issue. This amendment does not necessarily indicate the Senate's position on this issue. Indeed, many Members who oppose the legislative veto have ageed to this amendment only as a means of maintaining the status quo.

I understand that the subcommittee chairman is ready to accept this amendment, and I understand it has been cleared with the Democratic side as well. So I hope the Senate will adopt this extension of existing law.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

agreed to.

UP AMENDMENT NO. 1506

(Purpose: Prohibiting planning for or construction of any Senate office buildings after the Hart Senate Office Building)

Mr. PROXMIRE. Mr. President, send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin (Mr. Prox-MIRE) proposes an unprinted amendment numbered 1506.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Sec. 153. None of the funds appropriated in this Joint Resolution or Public Law 97-276 shall be used for the development, initiation, or implementation of plans, drawings, architectural engineering work, design work, site preparation or acquisition for, or the construction of, any new Senate office buildings or additions to existing Senate office buildings. This provision does not apply to planning, construction, or completion for the Philip A. Hart Senate Office Building.

Mr. PROXMIRE. Mr. President, the amendment that I am offering today is neither new nor complicated. It is part of one that I offered in full committee markup of the legislative appropriation bill earlier this fall. Perhaps more importantly, it is part of one that passed the Senate on September 24, 1981, as part of last year's continuing resolution, by an overwhelming 76 to 15 vote.

My amendment to House Joint Resolution 631 would do the following: Impose a prohibition on the use of any legislative branch appropriations for fiscal 1983 for the development of plans, design work, or construction of any new Senate office building after the Hart Building is completed.

I understand the Architect of the Capitol has no difficulty with this amendment. It has been cleared with the Legislative Subcommittee, and I understand there may be concern about existing work at the Immigration Building. It is not my intent to affect that work, and I understand that is the only reservation the Legislative Subcommittee has had or the Architect has had.

Mr. President, my amendment would prohibit any startup work or planning for any proposed new Senate office building after the Hart Building is completed. And, believe me, if staff continues to grow unchecked, the Architect will be licking his chops at the prospect of another Senate office building. In fact, contingency plans for a fourth Senate office building complex across from the Russell Senate Office Building have already been

The amendment (UP No. 1505) was published in the Architect's master plan document. The point is simple. There is a direct correlation between the growth of staff and the need for more Senate office buildings. My amendment will address this problem directly.

Mr. President, as Senators and staffs begin to pack up their materials and move into the new Hart Building, all of us should pause and reflect on why that marble palace was built in the first place. It is simple. It was built to house Members and the growing number of staff who have spilled over into the Carrol Arms Hotel across the street from Dirksen, the Immigration

Building, and other facilities.

We should also take a moment to reflect on the sad story of the cost of the Hart Building-a building that was originally supposed to cost \$47 million but has been brought to completion at a cost of \$137 million, not including the furniture to fill it, \$9.5 million. And as we consider my amendment, I urge my colleagues to support the effort to say right now that we will not even begin to think about any more Senate office buildings in this fiscal year.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1506) was agreed to.

UP AMDENDMENT NO. 1507

(Purpose: To expedite Office of Surface Mining grants to States for abandoned mine land reclamation projects)

Mr. FORD. Mr. President, I send an amendment to the desk and ask for its immediate consideration...

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: The Senator from Kentucky (Mr. FORD) proposes an unprinted amendment numbered 1507.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER. Without objection, it so so ordered.

The amendment is as follows:

Insert at the appropriate place: . Within 60 days of receipt of a comabandoned mine reclamation fund grant application from any eligible State under the provisions of the Surface Mining Control and Reclamation Act (91 Stat. 460) the Secretary of Interior shall grant to such State any and all funds available for such purposes in the applicable appropriations

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished minority leader, Senator ROBERT C. BYRD and Senator HUDDLE-STON be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, this is just to expedite the funding of appropriations for the reclamation of orphan lands, abandoned mine sites. It was cleared yesterday, went on the tax

If there is no objection to it, I would like to also add the Senator from Virginia (Mr. WARNER) as a cosponsor, and Senator RANDOLPH.

Mr. METZENBAUM. Mr. President, would the Senator yield for a ques-

tion?

Mr. FORD. I yield.

Mr. METZENBAUM. Is this the identical language before us?

Mr. FORD. Absolutely; there is colloquy that Senator McClure had last night that cleared up any problem I have so far as environment, and so forth.

Mr. METZENBAUM, I thank the Senator.

Mr. FORD. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (UP No. 1507) was agreed to.

UP AMENDMENT NO. 1508

Mr. NUNN. Mr. President, I have an amendment I send to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Georgia (Mr. NUNN) proposes an unprinted amendment numbered 1508.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the follow-

ing:

Notwithstanding Public Law 95-622, funds made available to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research under Public Law 97-216 shall remain available until March 31, 1983.

Mr. NUNN. Mr. President, I am sending an unprinted amendment to the desk for myself, Mr. KENNEDY, Mr. LEVIN, and Mr. HEINZ.

Mr. President, the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research has been a valuable and productive resource for the Congress and other governmental organizations faced with many difficult ethical questions. This Commission established by Public Law 95-622, has studied a number of important health care and research issues affecting the lives of our citizens. The Commission recommended a definition of death which has been adopted by seven States and the District of Columbia. Its statement on the necessity of pro-

tecting human research subjects from research risks was the basis for the establishment of an ad hoc committee within the Vice President's deregulatory task force to study regulations affecting research. The Commission has also studied the issues of compensating individuals for injuries resulting from research.

Mr. President, under the terms of Public Law 95-622, the Commission is scheduled for termination on December 31, 1982. However, the Chairman of the Commission has requested a 3month extension, without additional appropriations, which would delay the termination date until March 31, 1982. This additional time will enable the Commission to close down its operation and publish the remainder of its

reports.

Mr. President, I offered an identical amendment on September 29 to the first continuing resolution for fiscal year 1983, which was approved by the Senate. That amendment, however, was not accepted by the House conferees. Since that time the House has adopted H.R. 7338 which has the same effect as my earlier amendment. The Senate has not yet acted on that bill. If this amendment is approved by the Senate again today, I feel confident that it will be acceptable to the House. Therefore, Mr. President, I urge my colleagues to adopt this amendment.

There is no money involved, simply a 3-month extension to allow the com-

pletion of reports.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1508) was

agreed to.

may be more.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. These are all the noncontroversial amendments which have been cleared. I am sure there

Senator Warner has been very patient and was indeed prepared to offer his amendment. I discussed with the Senator the matter on the floor here and he has been gracious enough to stand aside for the distinguished Senator from New Mexico, Senator Domen-

It would be my hope that at the conclusion of that amendment he will have the opportunity to present his amendment.

Mr. DOMENICI. May I say to the distinguished Senator from Connecticut because my cosponsors want to speak, the majority leader and Senator Dole, they have to be at a meeting at 11 o'clock, so I would defer to Senator Warner if you would take me after

Mr. WEICKER. I think the best I can leave it now is to go to Senator WARNER and then accommodate the other Members on the other side of the aisle because we are trying to go back and forth. I will put the Senator from New Mexico in as soon as possible.

Mr. DOMENICI. You will accommodate us when you go to our side.

Mr. WEICKER. I cannot put you there now, so I hope the matter can be taken care of at such time as the majority leader and others are here with you. But I cannot guarantee that.

Mr. SCHMITT. Mr. President, will the Senator yield for just a moment? There are rumors floating around of some 30 amendments. Heaven only knows whether there are 30 or 50 or what. If Senators would please get their amendments to me or to the staff of HHS diligently we will try to clear those amendments or offer a suggestion, as the case may be.

# UP AMENDMENT NO. 1509

(Purpose: To transfer funds collected from settlements involving petroleum pricing violations under the Emergency Petroleum Allocation Act of 1973 to the Governors or Chief Executive Officers of the States for use in providing assistance for energy programs of the States)

Mr. WARNER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consider-

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an unprinted amendment numbered 1509.

Mr. WARNER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I, insert the following new section:

. (a) From the amounts held in SEC. escrow on the date of the enactment of this Act as a result of alleged petroleum pricing and allocation violations, the Secretary of Energy is directed to exercise his remedial authority under the Emergency Petroleum Allocation Act of 1973 to disburse immediately \$200,000,000 to the Governors or chief executive officers of the States.

(b) The Secretary of Energy shall make disbursements under this section based on the ratio, calculated by the Secretary,

which-

(1) the consumption within each State of price-controlled refined petroleum products (other than refinery feedstocks) during the period from September 1, 1973, until January 28, 1981, bears to

(2) the consumption within all States of such products during that period.

(c) The disbursements made under this section shall be available for energy programs of the States, including, but not limited to, low-income energy assistance and related weatherization activities.

(d) As used in this section, the term "States" means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

Mr. WARNER. I propose this amendment on behalf of myself, Senators Chafee, Pell, Levin, Simpson, Percy, Danforth, and Metzenbaum.

Mr. President, I send an amendment to the desk and ask for its immediate

consideration.

The purpose of this amendment is to provide needed financial assistance to the States to provide relief from past energy overcharges and provide energy assistance to the public, especially the low income, the elderly, and

the handicapped.

The State whose people I have the honor to represent had to close their doors to some 25,000 qualified applicants for fuel assistance this past week, due to lack of sufficient funds. When you consider the bulk of the winter season is still to come, and when we all know this is not the best of economic times in our country, indeed the world, the message was driven home that winter had indeed arrived to the Nation and with it ruinous home heating bills.

The Senate Energy and Natural Resources Committee held a 5-hour hearing on Monday to explore rising natural gas costs, and this issue was again debated extensively on the floor on Tuesday. It is apparent that there is no "quick legislative fix" for this prob-

lem.

A lengthy and comprehensive overhaul of the Natural Gas Policy Act, which is at the root of many of these problems, must await the next Congress. But the public's hardship is very real and extremely urgent.

As the temperature drops, the media and the mails are filled with stories and letters of individuals unable to afford the necessity, I repeat necessity, of both eating and staying warm. Some Americans, forced to choose between these life sustaining requirements weigh food over warmth and, unfortunately, pay for their decision with deterioration of health.

Newspaper caricatures showing senior citizens wrapped in icicle clad

blankets are no exaggeration.

Americans with limited incomes are having very difficult times paying heating bills and, under current pricing policies, there appears to be no end in sight to the heating bill increases. Natural gas prices have risen as much as 29 percent this past year in my State alone. Other States have documented increases as high as 60 percent.

In 1977 Congress passed the lowincome energy assistance program to assist low income households with rapid increases in home energy costs.

As the cost of energy has risen dramatically every year, demands on this program have increased proportionately. Congress, to meet these urgent needs, has raised the funding level of this program each year to the point that in fiscal year 1982 \$1,875 billion was appropriated.

For this year, Congress has proposed a similar funding level. But even this enormous sum is not enough to alleviate the public's home heating plight.

Many States are finding that current funding levels are inadequate. Their needy are unable to obtain relief. In fact, many States have run out of money.

Last year in Virginia, 102,000 applicants received fuel assistance moneys within our allocation of \$36.5 million. There has been a 25-percent increase in applicants with no increase in funds for this year. I cannot stand by and watch 25,000 Virginia applicants shiver and risk their very lives because we in Congress did not help.

As energy costs continue to escalate and unemployment remains high, increasing numbers of people require financial relief for their energy needs. If the States are going to be able to respond to this problem, they must be provided increased financial assistance.

Under my amendment, the Secretary of Energy would allocate moneys to Governors, giving them the discretion to direct the funds to the highest priority energy-related projects in their particular States. Priority should be given to the elderly and others with low incomes.

The funds made available under this amendment would supplement existing fuel assistance, weatherization, and other energy-related programs.

The amendment would also resolve an issue within the Department of Energy regarding the distribution of settlement moneys collected as partial payment for petroleum pricing violations. The Department of Energy is seeking to provide secondary remedies to State governments and is currently reviewing a distribution plan which I understand is consistent with this amendment.

The amendment would direct States to send out these funds now, when the real crunch will hit during the frigid months of January and February.

Unlike other plans which have been suggested for spending these funds, I believe this amendment would satisfy the legal requirements that the moneys be spent in a manner which bears some resemblance to the harm incurred. Each State's allocation would be its percentage of nationwide petroleum products consumed during the period that the pricing violations occurred.

In contrast to other options, my amendment would send the money directly to States instead of taking the unnecessary sidestep of going through

the Department of Health and Human Services.

I have contacted the Secretary of Energy and the National Governors Association to inquire how quickly these funds could be distributed to the States and then to consumers. I have been assured that payments to the States could be made very quickly.

The National Governors Association endorses this proposal and told me that many States have been anticipating receipt of these funds and already have plans to spend the money now when it is really needed. I ask unanimous consent that the letter of support which I have received from the National Governors Association be printed at this point in the Record.

There being no objection, the letter was orderd to be printed in the RECORD, as follows:

National Governors' Association, December 16, 1982.

Hon. John W. Warner, U.S. Senate, Washington, D.C.

DEAR SENATOR WARNER: On behalf of the National Governors' Association, I am writing to indicate our strong support for your proposed amendment to the FY 83 Continuing Resolution directing the Department of Energy to refund to consumers \$200 million in petroleum overcharge funds through the states. As you know, the Governors supported overwhelmingly a resolution at Annual Meeting calling for restitution through the states to petroleum consumers overcharged during the period when allocation and price controls were in effect. The resolution (a copy of which is enclosed) calls for earmarking of these funds for energy-related efforts and a strict minimization of administrative costs.

It is our view that earmarking the funds for energy-related purposes should insure that the monies can be obligated within the next six months.

Your concern with this issue is appreciated.

Sincerely,

Gov. Joseph E. Brennan, Chairman, NGA Energy Conservation and Renewable Resources Subcommittee.

### RESOLUTION

States are the appropriate agencies for the restitution to the public of overcharge refunds resulting from alleged or actual violations of price and allocation controls, once clearly identified injured parties have been compensated. The States are best able to direct the refunds to the benefit of those who may have been injured by the overcharges. The Federal Government should direct such refunds to the States for further distribution in accordance with the following guidelines: All settlement money must go to specific energy-related programs in such manner that funds are redistributed in line with the way they were collected; funds should be redistributed on an equitable or random basis to provide direct benefit to end-users; a limited amount may be used to cover State administrative expenses.

Mr. WARNER. I want to thank Virginia's former attorneys general Andrew Miller for his help in notifying the Nation's State attorneys gener-

al on behalf of this amendment. I am told that many attorneys general have filed petitions for these dollars to be transferred to States in a similar manner as my amendment will accomplish. I appreciate knowing of this support.

I am convinced that this amendment is the best way to get these funds into the hands of Americans suffering from rapidly escalating energy price increases during this frigid winter

season

This amendment would not mean an additional drain on the Federal Treasury and would not increase appropriations. Instead, this amendment would utilize \$200 million that has accrued to the Federal Government since 1978. The amendment would not take the place of any current program providing energy assistance to the States but would be a one-time supplement to existing programs.

This amendment would not set up a new Government bureaucracy or a new program. It is a one-time Federal payment to States which will break the logjam over these funds which have been gathering dust at the De-

partment of Energy.

Mr. President, in an ideal world, these funds would be returned directly to consumers who were overcharged by oil companies. But this is not an ideal world, and all the parties injured by this illegal practice cannot be identified. Those that can be identified are being paid.

My plan would distribute the \$200 million in line with the damage which has been suffered. The \$200 million represents only a portion of the funds collected. Moneys will be retained in the fund to make future refunds if le-

gitimate demands arise.

Mr. President, this Congress should not go home for the Christmas holidays without showing the American people that we are sympathetic to their economic woes and the hardship that skyrocketing energy bills are causing them this winter. This amendment will demonstrate that concern. I

urge its adoption.

Mr. DOLE. Mr. President, I rise today as a cosponsor of the amendment to provide an additional \$200 million for Federal energy assistance. The Senator from Kansas is as concerned about the Federal budget deficit and the need to hold the line on spending as any Member of this body. But this Senator also believes that we have an obligation to prevent the less fortunate members of our society from freezing this winter because they can not pay their utility bills. Without an increase in the level of Federal funds available for State use in the lowincome energy assistance program, we face that prospect. The amendment before the Senate will provide much needed assistance from available funds.

Mr. President, last Tuesday night the Senate engaged in a lengthy discussion of the failures of the Natural Gas Policy Act. That discussion emphasized three important facts which I commend to the attention of all Senators.

First, natural gas prices across the country are escalating at an unacceptably rapid rate—a rate much faster than anticipated when the NGPA was enacted. In the past year alone the consumer price of natural gas has increased an average of 35 percent.

Second, these rate increases have become an intolerable burden on many households, particularly low-income families and those suffering from unemployment. Over 53 percent of American families rely on natural gas to heat their homes. For many the inability to pay their natural gas bill has meant termination of service.

Finally, well-meaning attempts of many of my colleagues to address flaws in our current natual gas regulatory system are unlikely to have a significant impact on price this winter. As I mentioned Tuesday night, there is only one way to help those most severely harmed by cold weather and fuel prices beyond their budgets. That is to increase funding for the low-income energy assistance program.

Congress has already authorized \$1.875 billion and the continuing resolution now funds the program at that level, equal to last year. Unfortunately, natual gas prices have increased an average of 35 percent in the past year. The amendment before the Senate will help keep pace with rising fuel bills.

Mr. President, the low-income energy assistance program does not provide big payments to beneficiaries. Last year in Kansas the average payment was \$133. In some cases that money meant the difference between life and death. This year, by eliminating two of four programs, Kansas hopes to raise the average payment to \$186. But that will be done by serving fewer people at a time when more people are in need.

Earlier this week I met with our new Secretary of Energy and several mayors from communities in the Greater Kansas City area. The message from home was clear—hundreds of people in the Kansas City area are facing a winter without heat because they cannot pay their natural gas bill. Mr. President, these are not impoverished communities. Several of the cities represented are located in one of the most affluent counties in the country. Nevertheless, in Overland Park, Olathe, Lenexa, and Merriam, hundreds of people are without heat. Those people need this amendment.

The practical effect of funding the low-income energy assistance program at the same level as last year is to reduce assistance by 35 percent. The

Senator from Kansas does not believe that is the intent of the Senate; \$200 million seems like a lot of money—it is a lot of money. But, Mr. President, estimates of the amount needed to adequately fund the LIEAP program run as high as \$5 billion. If we adopt this amendment we will only reach slightly more than 40 percent of that amount.

In the fact of a projected severe winter and with knowledge of a failed policy with respect to natural gas, it is the least we can do.

Mr. PERRY. Mr. President, I support the amendment by the Senator from Virginia. This amendment will provide badly needed funds to help consumers across this country cope with rising fuel costs. Consumers in my own State of Illinois are facing gas hikes this winter in the range of 17 to 60 percent. At the same time, many are experiencing unemployment. It is unfair to ask the man or woman who has just lost his job to pay double to heat his home. We have discussed on the Senate floor over the past few days what can be done to curtail this rise in gas prices-and something must be done, but as this debate continues we must do something to help people cope with these rising costs over the next few months. This amendment would do just that. It would return money to the States for energy programs including, but not limited to, low-income energy assistance and related weatherization programs.

This money would come from \$200 million now in escrow which has been collected from oil company overcharges to consumers during the seventies. This money rightfully belongs to the consumers who were actually overcharged during this period. But because it is impossible to identify each individual consumer, we should at least attempt to place this money where consumers in general will benefit. Distribution to the States provides the quickest means to get this money out.

The States under this amendment are provided a great deal of flexibility in order to design programs which will meet the special needs of consumers in the States in the quickest manner possible. I am hopeful that States will be both wise and creative in getting these funds out. It is particularly important that States utilize or devise programs which can help not only those individuals which have been eligible for lowincome energy assistance in the past, but the many consumers who are facing unemployment for the first time and at the same time experiencing large utility increases.

I agree with my colleague from Virginia that it is unconscionable to have these funds gathering dust at the Department of Energy, while many Americans go cold, unable to pay their

fuel bills this winter. I urge adoption of this amendment.

Several Senators addressed the Chair.

Mr. WARNER. I still have the floor. The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. WARNER. I ask unanimous consent to add the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. DeConcini), and the Senator from Indiana (Mr. Lugar) as cosponsors.

Mr. President, I also ask unanimous consent that the distinguished Senator from Massachusetts (Mr. Kennedy) be added as a cosponsor.

The PRESIDING OFFICER. With-

out objection.

Mr. WARNER. The gist of this amendment is that there is a fund in the Department of Energy now in excess of one-half billion dollars which is in an escrow account. We have consulted extensively with the officials of the Department of Energy, and while they may not bless this action it is clear that this money is there and it could be available next week for distribution to the Governors of the States, and that is precisely what my amendment calls for.

I urge that my colleagues support this amendment. We have checked it out technically, and it is our judgment that if enacted into law the Secretary of Energy can administer these funds by distributing them to the Governors, and it will be a very successful help.

I offer a perfecting amendment on behalf of the distinguished Senator

from Ohio (Mr. METZENBAUM).

The PRESIDING OFFICER. The Senator may modify his amendment if he so desires. Does the Senator desire to modify his amendment?

Mr. WARNER. I offer a modifying amendment on behalf of my distinguished colleague from Ohio (Mr. METENBAUM).

Mr. JOHNSTON. Mr. President, I

object.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. He does not have a right to amend it. This is a modification, is that correct?

Mr. WARNER. That is correct. I offer it on behalf of the distinguished Senator from Ohio.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the end of Title I, insert the following new section:

SEC. . (a) From the amounts held in escrow on the date of the enactment of this Act as a result of alleged petroleum pricing and allocation violations, the Secretary of Energy is directed to exercise his remedial authority under the Emergency Petroleum Allocation Act of 1973 to disburse immediately \$200,000,000 to the Governors or Chief Executive Officers of the States.

(b) The Secretary of Energy shall make disbursements under this section based on the ratio, calculated by the Secretary, which-

(1) the consumption within each State of price-controlled refined petroleum products (other than refinery feedstocks) during the period from September 1, 1973 until January 28, 1981 bears to

(2) the consumption within all States of

such products during that period.

(c) The disbursements made under this section shall be available for energy programs of the States, including, but now limited to, low-income energy assistance and related weatherization activities.

(d) As used in this section, the term "States" means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United

States.

(e) In addition, the Secretary of Energy shall distribute to the Governors or Chief Executive Officers of the States as promptly as is practicably feasible, all other amounts collected or hereafter collected as a result of alleged petroleum pricing and allocation violations which are attributable to direct or indirect injuries to ultimate consumers or to otherwise unidentifiable parties, and which are not necessary to satisfy the claims of identifiable injured claimants who can demonstrate specific injury.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

UP AMENDMENT NO. 1510

Mr. JOHNSTON. Mr. President, I send an amendment to the desk in the second degree and ask for its immediate consideration.

The PRESIDING OFFICER. The

clerk report.

The bill clerk read as follows:

The Senator from Louisiana (Mr. Johnston) proposes an unprinted amendment numbered 1510 to the Warner amendment numbered 1509.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so or-

dered

The amendment is as follows:

Delete subsections (b) through (d) of the amendment and substitute the following:

(b) The Secretary of Energy shall make disbursements under this section based on the ratio, calculated by the Secretary, which—

(1) the consumption within each State of refined petroleum products (other than refinery feedstocks) and natural gas during the 8-year period ending January 28, 1981, bears to

(2) the consumption within all States of

such products during the period.

(c) The disbursements made under this section shall be available for energy programs of the States, including, but not limited to, low income energy assistance and related weatherization activities.

(d) As used in this section, the term "States" means the several States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States

(e) After disbursing the funds as provided in subsection (a), the Secretary of Energy

(1) periodically identify those remaining funds held in escrow, as described in subsection (a), for which no claims are pending and for which it is impossible or impracticable to determine the rightful individual recipients for restitution, and

(2) disburse in the manner specified in subsection (b), as soon as possible, those funds identified under paragraph (1).

Mr. JOHNSTON. Mr. President, this is a very serious problem. I congratulate the Senator from Virginia for addressing the problem, but it has a very basic flaw. And I ask my colleagues to lend me their ears for just a couple of minutes.

What this amendment does is take the fund of overcharges, which is now available and can be transferred, and gives it to States for low-income energy assistance, but it gives it to States based upon petroleum consumption.

Now, the problem with that, obviously, if you live in a State that relies upon natural gas as opposed to home heating oil, it is not fair. So what this amendment does, Mr. President, first and primarily, is to base the formula for distribution to the States on the consumption within each State of refined petroleum products, other than refinery feedstocks, and natural gas during the 8-year period pending January 28, 1981; the percentage that bears to the consumption within all States of such products during the period. So what this does, Mr. President, is make it fair to those who consume natural gas as well as those who use home heating oil.

Now, Mr. President, I do not know what the effect of the amendment is in terms of what it does to each State. It, frankly, does not matter because it would be fair to each State no matter what they use.

Now the second thing this would do, Mr. President, would be to grant this money to the States to use in their programs, including low-income energy assistance, as well as weatherizations.

It ought to be up to a State to determine whether the money can best be used directly in low-income energy assistance or whether a greater payoff can be achieved by using it for low-income weatherization. I hope my colleague from the State of Virginia will accept the fairness of this amendment and that it can be adopted.

Mr. WARNER. Mr. President, I have to respectfully oppose the perfecting amendment offered by the distinguished Senator from Louisiana. I do so for the following reasons. I have placed at each of the desks the allocation of funds as they will be made under the amendment that I offered, as modified by the amendment of the distinguished Senator from Ohio.

Now this is predicated on information that we received from the Department of Energy. It is a known formula and the amounts each State will receive are stated herein. The Department of Energy informs us that if we were to accept the amendment offered by the distinguished Senator from Louisiana, it would immediately throw this entire transaction into question and subject the first transfer of funds from the Department of Energy to a single Governor to a court suit and, in all probability, this effort on behalf, hopefully, of the Senate and the Congress to help people who are needy, will come to an absolute halt with an injunction in court.

Mr. JOHNSTON. Will the Senator

yield for a question? Mr. WARNER. Yes.

Mr. JOHNSTON. Will the Senator tell me how possibly this amendment would subject it to a court suit, whereas otherwise it would not be subjected

to a court suit?

Mr. WARNER. The amendment offered by the Senator from Virginia is predicated on a formula based on a distribution of petroleum. This fund has been accumulative from the overcharges on petroleum. No natural gas is involved in terms of the overcharges that go in this fund. So, if we are now going to distribute the fund, it has to be distributed on the basis of the use of petroleum, not natural gas.

Mr. JOHNSTON. Mr. President I suggest to the distinguished Senator from Virginia that these are funds that are available for whatever Congress wishes to do with them. If you are going to use it for low-income energy assistance, that is for people who are cold, and they are cold whether they use natural gas or whether they use petroleum. I say to the Senator that his formula is fatally flawed. If it is constitutionally required that it be distributed to users of petroleum, then I say do not use it for energy assistance. Let them use it according to the present law.

If the present law needs changing, then let us change it in a fair way and make it available to people who are cold and who need both natural gas and home heating oil, because it is just not fair to give it to the users, in effect, of home heating oil and not to the users of natural gas, as well.

Mr. WARNER. The amendment offered by the Senator from Virginia allows the Governors a wide margin of flexibiltiy as to the uses of the moneys received. It can be used for low-income assistance, for heating, weatherization, and other energy assistance projects.

Mr. JOHNSTON. That is right. They can use it, but they do not get as much. The Governor does not receive it if his citizens have been using natural gas as opposed to using home heat-

ing oil.

Mr. WARNER. I can appreciate the desire of the Senator from Louisiana perhaps to reallocate this along the lines of the users of natural gas. I

might, in that context, ask a question. When we earlier discussed this issue, the subject of feedstocks arose. Could the Senator acquaint the Senator from Virginia as to how his amendment is drawn with respect to use of natural gas for feedstocks?

Mr. JOHNSTON. I read the full statement into the Record. It is not intended to use natural gas feedstocks. If that is any problem and if that is not clear from the amendment, if that would satisfy the distinguished Senator from Virginia, that can be easily cleared up.

Mr. METZENBAUM. Will the Senator from Louisiana yield for a ques-

tion?

Mr. JOHNSTON. Yes.

Mr. METZENBAUM. Is it a fact that, if the Johnston amendment were adopted, the amount of gas which is used by the petroleum plants would be considered in making the allocation back to the States?

Mr. JOHNSTON. If that is a problem in this amendment, that can be

corrected.

Mr. METZENBAUM. It was originally drafted one way and, I am trying to say to my friend from Louisiana, then we understood it was drafted a different way.

Mr. JOHNSTON. I have received only one draft, and I believe I received that from the Senator from Ohio, or from staff. If the Senator has another draft that corrects the problem, I will

be glad to accept that.

Mr. METZENBAUM. I say to the Senator from Virginia—and I think we may all be trying to move in the same direction—that if the Senator from Louisiana would eliminate the use of gas for petrochemical plants in the formula allocation, then I think that there might be far more equity, because it is well known that tremendous amounts of gas are consumed for industrial purposes in Texas, Louisiana, and Oklahoma.

Mr. JOHNSTON. If I may interrupt the Senator to say it was not my intention to do so, and I would be glad to do

that.

Mr. WARNER. Mr. President, I would continue to express my objections for two reasons. First, I have been working on this amendment for some 48 hours with the assistance of the Secretary of the Department of Energy and his staff. It is an unusual amendment.

You may recall that this fund was the subject of a distribution by President Carter at one time when he endeavored to try to give it away to several charities. While my memory does not serve me as to exactly what happened, I know that was terminated.

Nevertheless, a lot of people have looked at this fund for varying uses. I have followed very carefully the advice given me by the Secretary and his staff as to the best means possible of meeting the emergency, particularly for low-income assistance people and the elderly and the handicapped. That is the first reason I object.

The second is that the Secretary of Energy has provided the Senator from Virginia with a formula allocation of exactly how much money each State will receive.

So in support of my amendment, we know exactly, presumably to the dollar, what another State will receive.

The Senator from Louisiana is not able to provide that information.

Third, I think it might well be that this whole thing would collapse as a result of a lawsuit since these funds were put in the escrow account because of an overcharge on petroleum. If we gerrymander this formula based on something produced from natural gas, not knowing how the various States would be allocated the fund, we would be doing irreparable damage to the cause that the Senator from Virginia and many others are endeavoring to achieve.

Mr. McCLURE. Will the Senator yield?

Mr. WARNER. I yield.

Mr. PELL. Mr. President, I am very pleased to join with my colleague from Virginia (Mr. Warner) as a cosponsor of legislation to return \$200 million of the oil overcharge funds collected by the Department of Energy to Governors for use in energy-related programs, particularly home heating assistance and weatherization.

As my colleagues may be aware, in June 1981, I introduced similar legislation along with 17 cosponsors (S. 1439) to provide for the distribution of oil overcharge funds collected by the Department of Energy to States for weatherization and low-income energy assistance. At that time, I was especially concerned by reports that the Department of Energy was planning to return unclaimed overcharge funds collected from the oil companies to the U.S. Treasury instead of consumers.

I emphasize, Mr. President, that my legislation would not have prevented individual consumers, businesses, or utilities from seeking relief and restitution through the Department of Energy if they were the victims of oil price violations. S. 1439 provided only a mechanism for the distribution of the oil overcharge funds collected by the Department of Energy. These funds, under my bill, were to be distributed equitably to the States if the individuals overcharged could not be identified.

Mr. President, since June, 1981. I have been working vigorously to seek a resolution of the matter of oil overcharges and specifically, the funds collected by the Department of Energy which currently are held in escrow accounts in the Treasury. I believe these

funds should be returned to consumers as soon as possible for energy programs where the needs today are the greatest-low-income energy assist-

ance and weatherization.

Immediately prior to the October recess, I, along with two of my colleagues, Senator Charge and Senator LEAHY, met with then-Secretary of Energy Edwards and Raymond Hanzlik. Administrator of the Economic Regulatory Administration, to urge a timely resolution of this matter-that the Department of Energy return the unidentifiable oil overcharge funds held in escrow to Governors for distribution to consumers. At that time, Secretary Edwards advised me that a decision on the issue was pending and he was sympathetic to the return of the escrow funds to Governors for energy conservation uses and home heating assistance.

I am, therefore, especially delighted, Mr. President, that my colleague, the Senator from Virginia (Mr. WARNER), and so many others agree that the Department of Energy overcharge funds held in escrow should be returned to consumers as soon as possible this winter. I commend Senator WARNER for this extremely timely initiative. It is especially important for consumers who need energy assistance now. I strongly urge my colleagues to support this amendment and hope that Secretary of Energy Hodel will move quickly to return these funds to the States.

Mr. EAGLETON. Mr. President, I ask unanimous consent that I may be added as a cosponsor to the Warner amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I understand what the Senator from Louisiana is trying to do because in some States there is very little natural gas consumption and very little to measure by. Yet the emergency we are trying to get to is caused by the escalation in the price of natural gas, the escalation in the price of oil having already occurred.

But there is a difficulty, as I see it, in the formulation that the Senator from Louisiana has mentioned. That is that all we are dealing with in the formula is volume. One of the essential

elements to consider is price.

It seems to me if we can add to what the Senator from Louisiana has suggested, that the allocation formula reflect the ratio, including the volumes of oil and gas product, and also the price in those States, we might then have the mix that allows the allocation of this money in an appropriate way to the States that are really affected by it

Mr. JOHNSTON. Will the Senator yield for a question? I have some lan-

guage that might solve that.

Mr. McCLURE. Let me just, before yielding, indicate that if we do not include natural gas at all, you might have a large quantity of additional money being allocated to States that have heavy oil consumption, where the problem is in States that have heavy natural gas consumption.

If you can modify the formula so that it had both volume and price, we might get around that question.

Mr. WARNER. I note from the allocation under the formula provided by the Senator from Virginia that Louisiana gets \$5 million and Virginia gets but \$4 million. I think Louisiana gets a very fair share compared to what is received by my State.

I recognize the problem raised by the distinguished Senator from Idaho, the chairman of the Senate Energy Committee. But, again, I can only express hard work for 48 continuous hours, seeking the best advice, presumably from those who have the primary responsibility. They said steadfastly, "Do not let the natural gas be used in this formula or it may well jeopardize the entire distribution."

Mr. McCLURE. It would seem to me that it would jeopardize the entire distribution if, as a matter of fact, it is volumetric only. But I do not see how it really does if you include price as part of that formula. You will find some States where natural gas is priced at or above the equivalent oil. You will find some other States in which natural gas, even in spite of the recent increases, is substantially less

If it is that escalation in pricing of natural gas that we seek to reach, why would we want to allocate heavily out of this fund to the States that have relatively low natural gas consumption but have high oil consumption?

I recognize that is going to impose an administrative burden upon those who have to come up with the ratio, but, as the fellow said, that is what they are paid for.

Mr. WARNER. It was described to me as an administrative nightmare.

I wonder if I might gain the attention of the distinguished Senator from Ohio. He offered a compromise by which language might say that if, in fact, the proposal of the Senator from Louisiana did jeopardize the distribution of this fund, the Secretary of Energy could disregard that amendment and proceed under the formula devised by the Senator from Virginia.

Mr. METZENBAUM. Responding to the Senator from Virginia, I think if we had a few minutes we could draft such language. I do not think the Senator from Louisiana has indicated a willingness to be cooperative with respect to his language. It occurs to me that the time of the Senate might be well used if, by unanimous consent, this amendment were temporarily laid aside without the Senator from Virginia or the Senator from Louisiana losing their place on the calendar.

Mr. KENNEDY. Will the Senator from Virginia yield for one point?

Mr. WARNER. Yes.

Mr. KENNEDY. I am a cosponsor of the Senator's amendment, and I think it is enormously compelling. It is fair, it is right, it is just. As I understand the Senator's amendment, it is a recognition that the U.S. Government has accumulated these funds on the basis of overcharges, and the Senator wants to distribute those resources which are in the Treasury with a formula based upon the consumption of refined petroleum product. Am I cor-

Mr. WARNER. That is correct.

Mr. KENNEDY. The Senator wants to develop a system or a process where the fund would go back to the States and the States themselves would develop some kind of way to distribute them in as fair and as equitable way as a State can devise, to the people who have been most adversely affected.

It seems to me that this is the way it should work.

If the companies themselves have overcharged and violated the law, if the consumers have been adversely impacted in the various States that consume that product, the Senator from Virginia has offered a reasonable, sensible, responsible, and fair way in which those injuries can be redressed. I would just hope that the Senator would continue to fight for what I consider to be an extremely fair and equitable approach, and one which moves us beyond the current impasse. The Senator from Virginia should be commended.

I would say, finally, I think the Senator from Virginia is wise to try and not get into the whole question of natural gas prices, as I understand he has not up to this time.

Finally, I want to say I welcome the interest of the Senator from Louisiana in trying to get additional resources for low-income people. I think all of us understand that we have never fulfilled our obligations to those people, obligations which were spelled out at the time we adopted the windfall profit tax. At that time we indicated we would provide up to one-quarter of the windfall profit tax to low-income individuals. We have seen that program assaulted time in and time out.

I hope that we can find ways, particularly when we are going to be facing one of the coldest winters, to try and deal with their particular needs, but I must say I do not believe this is the vehicle with which to do it.

I respect the efforts of the Senator from Virginia in protecting the interests of consumers all over this coun-

Mr. WARNER. I thank the Senator. Mr. President, the parliamentary situation, as I understand it, is a request by the Senator from Ohio to see if they can develop more satisfactory language.

Mr. WEICKER. I wonder if we can lay this amendment aside temporarily so we could proceed to other amendments.

Mr. WARNER. The Senator from Virginia is perfectly willing to cooperate in this regard. I am willing to temporarily lay the amendment aside.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Has the amendment been laid aside?

The PRESIDING OFFICER. Not vet.

Mr. QUAYLE. Mr. President.

The PRESIDING OFFICER. Will the Senator withhold for one moment, please?

Is there objection to laying aside the Warner-Johnston amendment?

Mr. QUAYLE. Reserving the right to object, Mr. President, I shall not object, but I understood that we were going to go back and forth here. Senator Cranston and I have an amendment we have been trying to get up for a long time. I thought I had worked it out with the chairman of the Appropriations Committee and later the subcommittee chairman. May I ask the subcommittee chairman, will we try to go to that side next? Otherwise, I shall start seeking recognition in my own right, because we do have—

Mr. CRANSTON. May I seek recog-

nition, Mr. President?

Mr. WEICKER. Mr. President, it is true, not as a matter of any formal agreement, that we have been trying to go from side to side. While this amendment is being laid aside, it would be the fair thing to do to recognize somebody from the other side of the aisle. That is what we have been doing without any formal agreement to that effect.

The PRESIDING OFFICER. Is there objection to laying aside the

Johnston amendment?

Mr. QUAYLE. Still reserving the right to object, I will not object, but I do hope this informal arrangement can be accommodated, because we have worked hard and I talked with the Chair about it, I have talked to other people about it, and I am not going to object, but I do hope that this can be accommodated.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered. The amendment (UP No.

1510) is laid aside.

The Senator from California.

Mr. DANFORTH. Mr. President, a parlimentary inquiry.

The PRESIDING OFFICER. The

Senator will state it.

Mr. DANFORTH. Mr. President, I have sent an amendment to the desk. What is the status of that amendment?

The PRESIDING OFFICER. The Senator has sent his amendment before the other amendment had been set aside. It was the intention of the Chair to alternate sides. I thought the amendment was the Johnston amendment. Technically, I think it would be proper to recognize the Senator from California and then the Senator from Missouri.

The Senator from California.

UP AMENDMENT NO. 1511

(Purpose: To provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who died on active duty or who died later from service-connected disabilities in the amounts that would have been provided under the Social Security Act but for amendment made by the Omnibus Budget Reconciliation Act of 1981)

Mr. CRANSTON. I thank the Chair. If there is no objection, I am going to yield to the Senator from Indiana to

present our amendment.

Mr. QUAYLE. Mr. President, I send an amendment to the desk on behalf of myself and Senator Cranston and others and ask that it be stated.

The PRESIDING OFFICER. The

amendment will be stated.

The legislative clerk read as follows:
The Senator from Indiana (Mr. QUAYLE),
for himself and Mr. Cranston, Mr. Chiles,
Mr. DeConcini, Mr. Hollings, Mr. Nickles,
Mr. Simpson, Mr. Thurmond, Mr. Warner,
Mr. Jepsen, Mr. Moynhan, and Mrs. Hawkins, proposes an unprinted amendment
numbered 1511.

Mr. QUAYLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I add the following new section:

SURVIVING SPOUSES' AND CHILDREN'S BENEFITS PAYMENTS TO REPLACE CERTAIN TERMINATED SOCIAL SECURITY BENEFIT.

SEC. . (a)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the surviving spouse of a

(A) who is the surviving spouse of a member or former member of the Armed

Forces described in subsection (c);

(B) who has in such person's care a child of such member or former member who has attained sixteen years of age but not eighteen years of age and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for such month; and

(C) who is not entitled for such month to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) by reason of having such child (or any other child of such member or former

member) in her care.

(2) A payment under paragraph (1) for any month shall be in the amount of the mother's insurance benefit, if any, that such person would receive for such month under section 202(g) of the Social Security Act if such child were under sixteen years of age, disregarding any adjustments made under section 215(i) of the Social Security Act after August 1981. However, if such person

is entitled for such month to a mother's insurance benefit under section 202(g) of such Act by reason of having the child of a person other than such member or former member of the Armed Forces in such person's care, the amount of the payment under the preceding sentence for such month shall be reduced (but not below zero) by the amount of the benefit payable by reason of having such child in such person's care.

(b)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the child of a member or former member of the Armed Forces described in subsection (c);

(B) who has attained eighteen years of age but not twenty-two years of age and is not under a disability as defined in section 223(d) of the Social Security Act (42 U.S.C. 423(d)):

(C) who is a full-time student at a postsecondary school, college, or university that is an educational institution (as such terms were defined in section 202(d)(7) (A) and (C) of the Social Security Act as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 95 Stat. 841)); and

(D) who is not entitled for such month to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) or is entitled for such month to such benefit only by reason of section 2210(c) of the Omnibus Budget Reconciliation Act of

1981 (95 Stat. 842).

(2) A payment under paragraph (1) for any month shall be in the amount that the person concerned would have been entitled to receive for such month as a child's insurance benefit under section 202(d) of the Social Security Act (as in effect before the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 841)), disregarding any adjustments made under section 215(i) of the Social Security Act after August 1981, but reduced for any month by any amount payable to such person for such month under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 842).

(c) A member or former member of the Armed Forces referred to in subsection (a) or (b) as described in this subsection is a member or former member of the Armed Forces who died on active duty before August 13, 1981, or died from a service-connected disability incurred or aggravated

before such date.
(d)(1) The Secretary of Health and Human Services shall provide to the head of the agency such information as the head of the agency may require to carry out this section.

(2) The head of the agency shall carry out this section under regulations which the head of the agency shall prescribe. Such regulations shall be prescribed not later than ninety days after the date of the enactment of this section.

(e)(1) Unless otherwise provided by law—
(A) each time after December 31, 1981, that an increase is made by law in the dependency and indemnity compensation paid under section 411 of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (a) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the dependency and inden-

mity compensation rates under section 411 of such title are increased above the rates as in effect immediately before such increase; and

(B) each time after December 31, 1981, that an increase is made by law in the rates of educational assistance allowances provided for under section 1731(b) of title 38, United States Code, the head of the agency shall, at the same time and effective as of the same date on which such increase takes effect, increase the benefits paid under subsection (b) by a percentage that is equal to the overall average (rounded to the nearest one-tenth of 1 per centum) of the percentages by which each of the educational assistance allowance rates provided for under section 1731(b) of such title as increased above the rates as in effect immediately before such increase.

(2) The amount of the benefit payable to any person under subsection (a) or (b) and the amount of any increase in any such benefit made pursuant to clause (1) or (2) of this subsection, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

(f) Payments under subsections (a) and (b) shall be made only for months after the month in which this section is enacted.

(g)(1) During fiscal year 1983 the Secretary of Defense shall transfer from time to time from the "Retired Pay, Defense" account of the Department of Defense to the head of the agency such amounts as the head of the agency determines to be necessary to pay the benefits provided for under subsections (a) and (b) during such fiscal year and to pay the administrative expenses incurred in paying such benefits during such fiscal year. The Secretary of Defense may transfer funds under this subsection in advance of the payment of benefits and expenses by the head of the agency.

(2) The head of the agency shall establish on the books of the agency over which he exercises jurisdiction a new account to be used for the payment of benefits under subsections (a) and (b) and shall credit to such account all funds transferred to him for such purpose by the Secretary of Defense.

(h) The head of the agency and the Secretary of Health and Human Services may enter into an agreement to provide for the payment by the Secretary or the head of the agency of benefits provided for under subsection (a) and benefits provided for under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) in a single monthly payment and for the payment by the Secretary or the head of the agency of benefits provided for under subsection (b) and benefits provided for under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) in a single monthly payment, if the head of the agency and the Secretary agree that such action would be practicable and cost effective to the Government.

(i) For the purposes of this section:

(1) The term "head of the agency" means the head of such department or agency of the Government as the President shall designate to administer the provisions of this section.

(2) The terms "active military, naval, or air service" and "service-connected" have the meanings given those terms in paragraphs (24) and (16), respectively, of section 101 of title 38, United States Code, except that for the purposes of this section such terms do not apply to any service in the commissioned corps of the Public Health Service or the National Oceanic and Atmospheric Administration.

Mr. QUAYLE. Mr. President, this amendment is an amendment that has come out of the Committee on Armed Services. I pay my special appreciation to the Senator from California (Mr. CRANSTON) who originated the idea of the survivors' sacrifice legislation in S. 2585. As a matter of fact, there are 52 or 53 cosponsors of that legislation. There were a number of changes made in the Manpower Subcommittee of Armed Services. We worked them out with OMB and the administration. I have a letter from President Reagan, that I shall ask later on to have printed in the RECORD, supporting the legislation.

As a matter of fact, the legislation has come out as part of the pay bill, but with the uncertainty of the pay bill, it is imperative, critical, that we pass this pay bill now on this continuing resolution. It simply corrects a mistake that Congress made nearly a year and a half ago. Believe me, that

correction is long overdue.

On August 13, 1981, with the enactment of the Omnibus Budget Reconciliation Act of 1981, certain social security benefits to military widows and surviving children of military personnel were abruptly cut off. These benefits had been available for many years and had been widely used by the military services to recruit people and to induce them to remain in the military. Relying in part on that commitment, our military men and women kept their part of the bargain—some of them making the ultimate sacrifice and dying in the service of their coun-

Even after the death of our military personnel, the commitment that these benefits would be available was reaffirmed to the surviving spouses and children by the military casualty assistance personnel. By our action on the Omnibus Reconciliation Act of 1981, our Nation has reneged on its commitment. This is an injustice which we cannot allow to continue.

Believe me, Mr. President, having visited personally with a number of these spouses who testified before our committee and in meetings in my office and others, this is something that we must do and we must do it now.

It is to rectify this inequity that I offer this amendment. The language of the amendment is lifted in whole from title VI of S. 2936, the proposed "Uniformed Services Pay Act of 1982" as reported by the Committee on Armed Services. The language has been agreed to not only by the Armed Services Committee, but I understand it is agreeable to the Veterans' Affairs Committee and to the administration. This language is a successor to S. 2585, a bill which I introduced along with Senator Cranston and which has been cosponsored by 52 other Senators. The evolution of the language has resulted

from hearings in the Armed Services Committee, discussions at the staff level with the Veterans' Affairs Committee, and discussions within the administration. What has resulted is a good piece of legislation which deserves support.

The amendment will provide benefits to certain widows and surviving children of deceased military personnel—benefits that would serve to replace the social security benefits terminated by section 2205 and 2210 of the Ominibus Budget Reconciliation Act of 1981. The benefits would not be retroactive for the period from August 13, 1981, to the present, but would take effect in the month following the month this amendment is enacted.

Therein, Mr. President, is the predicament, that we must act now. We cannot wait 1 day longer, we cannot wait 1 week longer. This is something that certainly should not have happened. Because of our military personnel retention, recruitment, and, as I said in many cases, the ultimate sacrifice of dying for our Nation, to cut off these benefits is something that any compassionate government with understanding would not want to do. It was a mistake, and I am happy to report and to read a letter from the President addressed to me. It says:

THE WHITE HOUSE, Washington, October 29, 1982.

Hon. DAN QUAYLE, U.S. Senate, Washington, D.C.

DEAR DAN: I want to thank you for introducing the amendment to the Uniformed Service Pay bill which restores social security survivors benefits to certain veterans' widows. The Administration supports this restoration fully, and will work with you to insure its enactment.

Thank you also for the support you have given to the Administration's efforts to restore the Nation's vitality.

With best wishes, Sincerely,

RONALD REAGAN.

The application of benefits is limited to survivors of those who died on active duty prior to August 13, 1981, or who died later as a result of a service-connected disability which was incurred or aggravated before August 3, 1981. The amendment is carefully written to keep commitments which were made, not to extend these benefits to those whose death occurred after they were put on notice of the changed legislative policy.

In order to have a more complete explanation of the details and purpose of this amendment, I ask unanimous consent that excerpts from the report of the Committee on Armed Services on title VI of S. 2936 (S. Rep. No. 97-565) be placed in the Record following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. QUAYLE. Mr. President, the cutoff of these social security benefits for the survivors of those who made the supreme sacrifice for our country is a rejection of the obligation we undertook as a nation and a rejection of the commitment we made to provide for those who were left behind. It is essential that the Congress take the necessary step to restore these benefits to the estimated 26,500 surviving spouses and 70,000 surviving children of the individuals who died while on active duty in the military or died later as a result of service-connected disabilities.

It is essential that we correct this inequity now. Already the hardships on these military survivors has been felt. Under the 1981 Reconciliation Act, those children not receiving the student benefit by May 1982 lost the assistance the military had promised would be available. Furthermore, those whom the Reconciliation Act grandfathered into the benefit suffered a 25-percent reduction in the level of assistance. Surviving spouses with children under the age of 16 on August 13, 1981, have been denied the mother's benefit this Nation promised it would provide during the child's 16th and 17th years.

For survivors of military personnel who died before August 13, 1981, this amendment will prospectively restore the mother's benefit for parents of 16-and 17-year-old children and the student's benefit for 18-to-21 year-old children who are full-time students in certain defined postsecondary schools,

colleges, or universities.

The language of the amendment avoids the cycle of automatic cost of living increases for inflation. The benefits would be restored at the level being paid prior to August 13, 1981, with certain adjustments to account for inflation since that time. These adjustments to the mother's benefit would be equal to the average percentage increase by which dependency and indemnity compensation rates are increased under section 411 of title 38. The adjustments to the student's benefit would be equal to the average percentage increase by which educational assistance allowance rates are increased under section 1731(b) of title 38, adjusted at the same time educational assistance is increased. The advantage of this method of determining increases is that it is not tied to an automatic index, but is under the control of the Congress since it will be tied to increases which Congress must

All in all, this is a carefully thought out amendment which has broad support in Congress and in the administration. These benefits have been cut off for nearly a year and a half. I think it is unconscionable to delay further in correcting this inequity. I am confident that some time next year

the military pay bill will be reintroduced and be considered. However, I do not think we should wait 1 more day. I have been waiting for the pay bill to be considered and I understand the reasons why it has not. Had it been considered I would never have taken this step of proposing this amendment to the continuing appropriations resolution. But that is not the situation. Thus I strongly urge my colleagues to adopt this amendment and I also urge those Senators who will be conferees on this bill to strongly urge its acceptance by the House conferees.

Mr. President, this is an amendment we can all vote for with not just a clear conscience but rather a clearing of our conscience. A commitment was made and has been broken. That is not the American way—and is certainly not the way we should treat the survivors of sacrifice. A yea vote now will be a major step in correcting this inequity

### EXHIBIT 1

Uniformed Services Pay Act of 1982
September 21 (legislative day, September

8), 1982.—Ordered to be printed.
Mr. Jepsen, from the Committee on
Armed Services, submitted the following:

Report to accompany S. 2936—The Committee on Armed Services, having had under consideration the question of military pay and allowances for fiscal year 1983, reports the following bill (S. 2936) to authorize military pay and allowances, and for other purposes and recommends that the bill do pass.

### SUMMARY OF THE BILL

# PAYMENTS TO REPLACE CERTAIN TERMINATED SOCIAL SECURITY BENEFITS

Until 1981, the surviving spouses and children of deceased workers with Social Security coverage were eligible for the so-called mother's benefit and the student benefit. The mother's benefit was paid to the surviving parent of a child or children until the youngest child reached age 18. The children of retired, disabled or deceased workers were eligible for the student benefit if they were between the ages of 18 and 22 and attending school on a full-time basis. Since January 1, 1957, when military personnel began to participate in the Social Security system, their survivors have been eligible for the same mother's benefit and student benefit paid to the survivors of covered civilian workers.

Enacted into law on August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) made significant changes in these two benefits. Section 2205 discontinued payment of the mother's benefit at the point at which the youngest child reached age 16, instead of age 18. Payments to parents eligible for the mother's benefit for the month of enactment of the 1981 Reconciliation Act are not to be ended until September 1983.

Section 2210 of the 1981 Reconciliation Act provided that the student benefit would not be paid to new beneficiaries after August 1982. However, students 18 or older who were entitled to Social Security child's benefits in August 1981 and who began post-secondary school before May 1982 are eligi-

ble to continue receiving student benefits. The amounts of their benefits are not to be adjusted for changes in the cost-of-living after August 1981. In addition, beginning in August 1982, their benefit levels are to be reduced each year by 25 percent of the August 1981 level. Finally, no benefits are to be paid to these post-secondary students during the four summer months, beginning in 1982

Among the many Social Security beneficiaries affected by these changes are the surviving spouses and children of servicemen who died on active duty or later as a result of service-connected disabilities. On August 10, 1982, the Manpower and Personnel Subcommittee received testimony from Mrs. Madeline Van Wagenen, a representative of a group of such military survivors. Mrs. Van Wagenen testified that Social Security benefits formed an important part of the package of pay and benefits which were offered to servicemen to encourage them to join and remain in the military. Various Defense Department publications distributed to recruits and new officers describe the protection afforded their families by the Social Security system if they should die on active duty or later as a result of a service-connected disability. Mrs. Van Wagenen explained that the use of Social Security benefits by the military services to recruit and retain personnel constituted a commitment upon which military families relied in their estate planning.

The committee believes that the federal government should restore the Social Security benefits which were initially promised but then later denied the survivors of servicemen. Therefore, the committee recommends a provision which would authorize funds for the restoration of benefits comparable to the Social Security mother's benefit and the student benefit. Payment of these benefits would be renewed to the surviving spouses and children of military personnel who died on active duty before August 13, 1981, or who died later as a result of a service-connected disability incurred or aggravated before August 13, 1981.

The provision restores the mother's benefit to the surviving parent of a child between the ages of 16 and 18 at the level paid prior to the enactment of the 1981 Reconciliation Act. Future adjustments of this benefit after December 31, 1981, would be the average of the adjustments made by legislation in the Dependency and Indemnity Compensation paid by the Veterans Administration.

Like the mother's benefit, the student benefit would be restored to eligible post-secondary students between the ages of 18 and 22 at the level paid prior to the enactment of the 1981 Reconciliation Act. This benefit would be adjusted after December 31, 1981, by the average of the adjustments provided by legislation in the Veterans Administration educational assistance program of title 38, United States Code.

The provision recommended by the committee requires the Department of Defense to fund the restoration of these two benefits. The authority to designate the appropriate federal agency to administer the benefits is left entirely to the President.

The committee believes that the commitment made to the men and women who endured the unique hardships of military service justifies the restoration of these benefits. The families of servicemen who died or

were disabled in the line of duty should be afforded the protection they were promised.

SECTION-BY-SECTION ANALYSIS OF S. 2936

Section 601 of the bill is a free standing provision of law which provides benefits to certain surviving spouses and children of deceased military personnel as a replacement for certain Social Security benefits which were terminated by the enactment of sections 2205 and 2210 of the Omnibus Reconciliation Act of 1981 (Public Law 97-35; 95

Subsection (a)(1) provides for the head of the agency (defined in subsection (i) as the head of the department or agency designated by the President to administer this section) to pay a monthly amount to the surviving spouse of a member or former member of the Armed Forces (described in subsection (c)). This amount will be paid each month if the surviving spouse has in his or her care a child of the member or former member who is 16 years of age, but not yet 18, and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act, and if the surviving spouse is not entitled for that month to a mother's insurance benefit under section 202(g) of the Social Security Act because she has that child or any other child of the member or former member in her care.

Subsection (a)(2) describes how to determine the amount of the payment under subsection (a)(1). It will be the amount of the mother's benefit that she would receive under section 202(g) of the Social Security Act if the child were under 16, disregarding any cost of living adjustments made after August 1981 under section 215(i) of the Social Security Act. However if the surviving spouse is entitled to a mother's insurance benefit because she has in her care the child of a person other than the member or former member of the Armed Forces, the amount of the payment for the child of the member or former member shall be reduced (but not below zero) by the amount she receives for the child who is the child of a person other than the member or former

Subsection (b)(1) provides for the head of the agency to pay a monthly amount to a surviving child of a member or former member of the Armed Forces who is 18 years of age but not yet 22 and is not under a disability as defined in section 223(d) of the Social Security Act. This amount will be paid each month if the child is a full-time student at certain defined post-secondary schools, colleges, or universities and if the child is not entitled for that month to a child's insurance benefit under section 202(d) of the Social Security Act or is entitled to that benefit only by reason of section 2210(c) of the Omnibus Reconciliation Act of 1981.

Subsection (b)(2) describes how to determine the payment under subsection (a)(1). It will be in the amount that a child would have been entitled to receive for that month as a child's insurance benefit under section 202(d) of the Social Security Act (as in effect before August 13, 1981), disregarding any cost of living adjustments made after August 1981 under section 215(i) of the Social Security Act, but reduced by any amount payable to such child under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981.

Subsection (c) limits the applicability of this section by stating that a member or a former member of the Armed Forces (referred to in subsections (a) and (b)) is one who died on active duty before August 13, 1981 or who died from a service-connected disability incurred or aggravated before the date.

Subsection (d)(1) requires the Secretary of Health and Human Services to provide to the head of the agency that administers this section all necessary information. Subsection (d)(2) provides for implementing regulations to be prescribed by the head of the agency not later than 90 days after the date of enactment of section 601.

Subsection (e)(1)(A) provides that each time after December 31, 1981, there is an increase in dependency and indemnity compensation paid under 38 U.S.C. 411, the head of the agency shall increase the benefit paid to a surviving spouse under subsection (a). This increase shall be effective the same date and shall be the same overall average percentage increase by which dependency and indemnity compensation rates under 38 U.S.C. 1731(b) are increased.

Subsection (e)(1)(B) provides that each time after December 31, 1981, there is an increase in the rates of educational assistance allowances under 38 U.S.C. 1731(b), the head of the agency shall increase the benfits paid to a surviving child under subsection (b). This increase shall be effective the same date and shall be the same overall average percentage increase by which educational assistance allowance rates under 38 U.S.C. 1731(b) are increased.

Subsection (e)(2) provides that payments, if not in multiples of \$1, will be rounded down to the next lowest multiple of \$1.

Subsection (f) provides that payments under subsections (a) and (b) shall be made only for months beginning after the month in which this section is enacted.

Subsection (g)(1) requires the Secretary of Defense to transfer from the "Retired Pay, Defense" account of the Department of Defense to the head of the agency administering this section such amounts as the head of the agency determines to be required to make payments provided for under subsections (a) and (b) and to pay administrative expenses incurred in paying such benefits. Provision is also made for transfer of funds in advance of the payment of benefits.

Subsection (g)(2) requires the head of the agency to establish on the books of his agency a new account from which benefits will be paid and into which funds transferred by the Secretary of Defense shall be credited.

Subsection (h) permits the head of the agency and the Secretary of Health and Human Services to enter into an agreement which would allow for use of a single monthly payment to a person who was a beneficiary under either subsection (a) or (b) and was also a beneficiary under section 202(d) or (g) of the Social Security Act. This single monthly payment would be made only if it was agreed that this would be practicable and cost effective to the Government.

Subsection (i) defines "head of the agency" and gives certain other terms the same meaning they have in 38 U.S.C. 101.

Congressional Budget Office—Cost Estimate Title VI—Surviving spouses' and children's benefits

 Sec. 601—Survivor benefits:
 49.6
 70.4
 72.2
 67.2
 60.9

 Estimated outlays
 49.6
 70.4
 72.2
 67.2
 60.9

Mr. CRANSTON. Mr. President, I am delighted to join with my distinguished colleague from Indiana (Mr. Quayle), in urging the Senate to approve our amendment to the pending continuing resolution. The purpose of this amendment is to restore to certain surviving spouses and children of deceased military personnel those benefits that were terminated by the enactment of sections 2205 and 2210 of the Omnibus Budget Reconciliation Act of 1981.

The provisions of the amendment we are offering today-and in which we are joined by Senators CHILES, DECON-CINI, HOLLINGS, NICKLES, SIMPSON, THURMOND, WARNER, JEPSEN, MOYNI-HAN, RANDOLPH, PACKWOOD, HAWKINS, and INOUYE-are drawn from the provisions of title VI of S. 2936, the proposed Uniformed Services Pay Act of 1982, as reported by the Committee on Armed Services. Those provisions were offered in committee by the distinguished Senator from Indiana (Mr. QUAYLE), on September 14, during the committee's markup, and were derived from the provisions of a measure-S. 2585, the proposed Military Widows and Surviving Children Benefits Restoration Act—that I introduced earlier this year with Senator QUAYLE. As of today, S. 2585 has 51 cosponsors: Senators Mitchell, Matsunaga, Riegle, Hart, Hatfield, Chiles, Biden, Ford, HAWKINS, CANNON, THURMOND, PRESS-LER, BURDICK, DECONCINI, HATCH, MEL-SASSER, TSONGAS, SARBANES, LEAHY, HUDDLESTON, INOUYE, BENTSEN, SPECTER, SIMPSON, STAFFORD, RUDMAN, GLENN, COCHRAN, HEFLIN, MURKOWSKI, Boren, Jackson, Baucus, Kasten, Lugar, Heinz, Mattingly, Weicker, KENNEDY, RANDOLPH, BRADLEY, HOL-LINGS, MOYNIHAN, METZENBAUM, BUMP-ERS, PERCY, EAGLETON, WARNER, PRYOR, and DENTON.

I am especially pleased that all eleven of my colleagues on the Veterans' Affairs Committee have joined as sponsors.

Our measure would restore, through the Department of Defense, most of the benefits that would, but for the enactment of last year's reconciliation measure, have been under the Social Security Act paid to these surviving spouses and children. These benefits will not be made retroactive but will begin in the month following the month of enactment. They will apply to survivors of those who died on active duty prior to August 13, 1981, the date on which the Reconciliation Act of 1981 was signed into law or who died later as a result of a service-con-

nected disability incurred or aggravated before that date.

# BACKGROUND

Mr. President, title XXII of the Omnibus Budget Reconciliation Act of 1981 contained provisions terminating or phasing out a number of social security survivors' benefits, payable when a worker with social security coverage dies, including the so-called mother's benefit and the student benefit.

Section 2205 of the Reconciliation Act amended the Social Security Act to end entitlement to the mother's benefit—the benefit payable to the surviving parent caring for a child or children—when the youngest child reaches age 16, instead of when the child reaches age 18 as under prior law. This provision took effect in September 1981, but allowed those who were receiving the benefit as of August 1981, to continue receiving it for 2 years, until September 1, 1983.

Section 2210 of the Reconciliation Act eliminated effective August 1, 1982—with a 4-year phaseout, using 25-percent reduction factors, for students receiving benefits as of May 1, 1982—the benefit paid to a deceased worker's child, from age 18 through 22, who is enrolled in a program of

postsecondary education.

Together, in fiscal year 1983, these two provisions will affect more than 200,000 surviving spouses and between 700,000 and 800,000 student-beneficiaries. The provisions were estimated to save a total of \$597 million in fiscal year 1983, rising to about \$2.5 billion annually in fiscal year 1986 when the phaseout in student benefits is completed.

SURVIVORS OF MILITARY PERSONNEL

Mr. President, since 1957, service in the military has been considered as "covered" social security employment. Based on data from the Veterans' Administration, those affected by the reductions imposed by the Reconcilia-tion Act include an estimated 26,500 surviving spouses and 70,000 children of individuals who died while in service or later as a result of service-connected disabilities, including 20,000 spouses and more than 50,000 children of individuals who served during the Vietnam war. These individuals, who lost their husbands and fathers in service to this country, are, in my opinion, one of our very highest national responsibilities.

Mr. President, it would be misleading to suggest that this Nation has not made provision, largely through programs administered by the Veterans' Administration, for assistance to these survivors. For example, the VA's program of dependency and indemnity compensation—DIC—provides for monthly payments to these individuals, and the program under chapter 35 of title 38 provides for a program of educational assistance to surviving

spouses and children. There are other forms of assistance as well, including health care, available from the VA. In many respects, it could be said that these benefits are quite generous, and I must admit that, when I became aware of this problem, my first response was that these individuals had been provided for in an appropriate fashion by the Federal Government.

Nonetheless, Mr. President, after reviewing the case made by those who contacted me, particularly a dedicated group of military widows who have taken the name "Survivors of Sacrifice," it became clear-as it has also become clear to the 52 of my colleagues who have cosponsored S. 2585—that the benefits provided through the Veterans' Administration were only part of a larger package of benefits that were, in effect, "sold" to members of the military. They were told by the Armed Forces that the social security benefits-those eliminated by the 1981 Reconciliation Actwould be there to help provide for their families in the event that they could not. They were instructed, in the course of orientation and training classes run by the Armed Forces, that these social security benefits would insure that in the event of their deaths their survivors would be taken care of. They were thus assured that this Nation would, in recognition of the ultimate sacrifice that any individual can make for the country, see that the needs of their widows and children would be met through a combination of VA, Defense Department, and social security benefits.

Yet, Mr. President, in August 1981, long after many of these individuals were laid to rest in graves with great honor in Arlington National Cemetery and elsewhere, these benefits were swept away in the tidal wave of recon-

ciliation legislation.

# NEED FOR ACTION NOW

Mr. President, the elimination of these benefits for the survivors of those who made the ultimate sacrifices for our country is a rejection of the obligation we have and the commitment we made to care for those who were left behind. I believe, as does Senator Quayle, that it is essential that the Congress take the necessary steps to restore these benefits this year to the estimated 26,500 surviving spouses and 70,000 children of individuals who died while on active duty in the military or later as a result of service-connected disabilities.

Already, the hardships on these military survivors are being felt. Under the Reconciliation Act, those children not in receipt of the student benefit as of May 1982 have lost the assistance the military promised would be available to them, and those grandfathered into the benefit by the act have suffered a 25-percent reduction in the amount of promised assistance. Like-

wise, surviving spouses with young children under the age of 16 as of August 31, 1981, have been denied the assistance this Nation committed itself to when it sent their husbands offf to war.

I do not believe these commitments should continue unmet into the next Congress. It is likely, indeed probable, that if not enacted this year, remedial legislation would not be enacted until late 1983.

Thus, Mr. President, Senator QUAYLE and I have joined together along with others, in offering the provisions of title VI of S. 2936 at this time so that enactment of the benefits restoration legislation may be accomplished this year.

### CONCLUSION

Mr. President, there are a number of individuals who are due considerable thanks for their efforts in connection with this legislation. First, of course, I want to thank the distinguished coauthor of the amendment, Mr. QUAYLE, for his efforts throughout the the development of this legislation and his instrumental support and initiatives in the Armed Services Committee. His staff, Hank Streenstra and Judy Buckalew, have also contributed greatly to these efforts. Second, I would like to extend my appreciation to the staff of the Senate Armed Services Committee, particularly to Rick Finn and David Lyles, for their help and cooperation throughout the committee's consideration of this effort.

I would also be remiss if I did not note the contributions of my own staff on the Veterans' Affairs Committee, Babette Polzer, Ed Scott, Jon Steinberg, and Ingrid Post, who assisted greatly on this legislation.

Finally, and most importantly, I want to note the enormous contributions of one particular individual, Mrs. Madeline Van Wagenen of Laguna Nigel, Calif. Her tireless efforts, unfailing enthusiasm, and sheer dogged determination is more than any other factor responsible for this legislation being put before the Senate today.

In my 14 years in the Senate, I have rarely encountered any individual as determined and persuasive as Mrs. Van Wagenen. As a complete novice to the legislative process, she came to town and took it by storm—trooping through the Halls of Congress with her determined band of other military widows; talking to aides, Congressmen, Senators; and convincing the White House that this legislation should be supported. She has learned the legislative process better than many professional lobbyists. Her stamina and perseverance are remarkable. I understand that when this issue is resolved, Madeline intends to "retire" to California. I will certainly be proud to have her back there as a constituent. Madeline, thank you for all you have

Mr. Presient, I urge my colleagues to join with us and support the pending amendment.

Mr. CHILES. Mr. President. strongly support the pending amendment which corrects an unfortunate situation affecting many survivors of military servicemen who lost their lives in service to this Nation.

The amendment would restore certain social security benefits to widows and children of servicemen who died during active duty. These benefits were eliminated as a result of the Omnibus Budget Reconciliation Act of 1981. It is time for the Congress to focus on this situation and take the necessary steps to insure the income securities of individuals affected by

the 1981 budget action.

Soon after the enactment of the Omnibus Budget Reconciliation Act, I began hearing from many widows of military personnel who were under standably concerned about how the budget action would affect their lives. The men who died in active duty had all been given assurances that, in the event of their deaths, their families would be taken care of. The Federal Government must fulfill this commitment and continue to honor the promises made to active duty servicemen and their families. In May of this year, I joined in sponsoring legislation, S. 2585, to restore the benefits eliminated by the budget action in 1981.

Now, Mr. President, I am pleased that the objective of S. 2585, that of correcting the unfair circumstances of some 26,500 surviving spouses and 70,000 children of deceased military personnel, can be achieved by adopting the pending amendment. This amendment restores, through the Department of Defense, the benefits that would, but for the enactment of the Omnibus Budget Reconciliation Act of 1981, have been paid to these surviving

spouses and children.

The spouses and children of those who gave their lives in service to their country are among our Government's most important responsibilities.

I hope the Senate will adopt this amendment and reverse the action taken by Congress which has affected so unfairly the survivors of active duty servicemen who lost their lives in service to their country.

The PRESIDING OFFICER. The

Senator from Connecticut.

Mr. WEICKER. Mr. President, this amendment raises matters that extend beyond the jurisdiction of this committee. It very well might be that those Senators that are affected would approve it. What I would like to do at this point is to return to the amendment of the Senator from Virginia in order that we might effect consultation before the committee takes a stand against, which I do not want to do. I think it would be wise to return to the pending matter that we left while the determination is made with Armed Services as to their attitude on this amendment.

Mr. QUAYLE. Will the Senator

yield?

Mr. WEICKER. And Senator STEvens, who asked to be consulted and is in a leadership meeting if anything of this nature came up.
Mr. QUAYLE. Will the Senator

Mr. WEICKER. Yes, of course.

Mr. QUAYLE. I can assure the Senator that we have contacted the staff of Senator STEVENS. They have the amendment. We gave it to them last night. I do not have an answer back from them.

Obviously, Armed Services is fully apprised of this since it originated there. I would have no objection, if in fact we would have immediate consideration, once we dispose of the Warner amendment, to come back to the Quayle-Cranston amendment.

Mr. WEICKER. The Senator may have immediate consideration. I have no objection to that. The problem is, as the Senator well knows, this is lengthy legislation on an appropriations bill. We are not prepared to take a stance on the substance, since it is not within our jurisdiction, of what has been presented here. I am trying to give the Senator the fairest possible chance to work this out. We have a convenient situation anyway which is going to take a few minutes while we alert those Senators that would be involved.

Mr. QUAYLE. Again, may I— Mr. WEICKER. As soon as we dispose of the amendment of Senator WARNER, I would ask unanimous consent that we then return to the amendment of the distinguished Senator from Indiana and the distinguished Senator from California.

The PRESIDING OFFICER. Chair would announce that if the amendment is laid aside, it would be automatic that the Senate would come back to the Cranston amendment.

Mr. WEICKER. Fine.

Mr. QUAYLE. I ask for the yeas and nays on the Cranston amendment.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Without objection, the Cranston-Quayle amendment is laid aside. The question recurs on the Johnston amendment to the Warner amend-

UP AMENDMENT NO. 1510, AS MODIFIED

Mr. JOHNSTON. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The amendment is modified.

Mr. JOHNSTON. Mr. President, I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Senator Packwood and Senator MITCHELL be added as a cosponsor to the Quayle-Cranston amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, these modifications are made at the suggestion of the distinguished Senator from Ohio to be sure that commercial and industrial feedstocks uses for natural gas will not be included in the formula. It also uses the term that he suggested, "notwithstanding any other

Mr. President, as drawn, this amendment will make it very clear that the use of this money will be for those who are cold, whether they use home heating oil or whether they use natu-

Under the present law, Mr. President, the Department of Energy can do three things with these overcharges. First, they can return it to those who were overcharged if they can identify them. In these cases, they did not identify the parties, so therefore that option is not open to them. Second, they can use it for strategic petroleum reserve purchases, or, third, they can return it to the Treasury.

In my judgment, either one of the latter two would be better than to skew this result by pretending that we are treating fairly the low-income people in this country who are in need

What we would do with the Warner amendment is to help disproportionately those States which have consumers of home heating oil as opposed to those States which have principally consumption of natural gas.

The Johnston amendment as presently drawn will take into consideration consumption of fuel, whether that fuel be home heating oil or natural gas. Other than that, it is making no change, and I can assure my colleagues there is no legal question involved in this matter.

There may be a question of whether you are a home heating oil State, and you want to help your State disproportionately. But if you are a natural gas State or if you use both, then in the interest of fairness you ought to go with a formula that recognized fuel as fuel and poor people as poor people and does not disproportionately help those States that use home heating

Mr. KENNEDY. Will the Senator vield?

Mr. JOHNSTON. Mr. President, if I may say, I should like a vote on the Johnston amendment. If I am voted down, I will not require a vote on the Warner amendment. I will accept, in other words, the results of the Johnston amendment later to be voted by

voice vote if that is the desire of the Senator from Virginia.

Mr. WARNER. Mr. President, first, was the Senator asking for the yeas and navs on his amendment?

Mr. JOHNSTON. Yes. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays were ordered.

Mr. WARNER. Mr. President, I also ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. WARNER. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, may we have order in the Senate, please?

The PRESIDING OFFICER. The Senate will be in order. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, if I may have the attention of the Members of this particular measure, it is not as described by the Senator from Louisiana. I think it is important to understand what we are talking about. Under the Emergency Petroleum Allocation Act of 1973, a mechanism was set up so that if consumers were overcharged, they were going to be able to get a recovery.

Now there were overcharges. We all read about them in the newspapers, and the consumers and the Government brought actions about the overcharges by the major oil companies, and in many cases there have been some orders or settlements. As a result of that, money was set aside for the payment of these overcharges.

There has not been a process that has been worked out in the past about how the money would be distributed. The Senator from Virginia has come on up with a way to distribute that, what I consider to be a very fair way, a formula that will give basically back to the States in relationship to the amount of product that was used by those States.

The fact remains, Mr. President, that there are settlements on this

The Senator from Louisiana says all right. Now let us change the rules. Instead of just using the formula on the basis of the use of oil, we will use it now in terms of natural gas.

These funds do not involve allegations or findings about overcharging on natural gas. But the Senator from Louisiana says we want the distribution of the formula on the use of natural gas as well as oil.

Anyone in here who does not believe that if you accept the Johnston formula that all those consumers who might benefit from final settlements and think they are going to benefit from final settlement according to the DOE formula and find out that the Senate here on the continuing resolution has changed the rules of the game and expects that we are going to distribute that money in the manner suggested by the Senator does not understand the resolve of those affected.

So, Mr. President, I certainly hope that the efforts of the Senator from Virginia to let the States make the decision of how most favorably and equitably that money can be distributed would be the position that will be ac-

cepted by the Senate.

I think what his interest is, as I understand it, is to get these funds out. Let the States make the determination about how to get them out to the people who have been affected. Let the States make the judgment about the distribution and get the money out to these States.

I dare say if we accept the formula of the Senator from Louisiana, there will not be any distribution of moneys just this year, next year, or future years because this formula will be challenged vigorously by those who

will lose out.

So I hope, Mr. President, that the position of the Senator from Virginia, which I think is fair and equitable, would be maintained. I hope that in the future I would have the good opportunity of working with the Senator from Louisiana in finding ways that we can help meet the needs of needy people who use energy, whether it is natural gas or whether it is fuel oil.

There is a great need, a desperate need, and I welcome the opportunity

to do it.

We have basically abdicated that responsibility ever since we passed the windfall profit tax. Read the report. It says 25 percent of the windfall profit tax should go to help needy people, and we have not even allocated 20 percent of that windfall profit tax to those particular needs.

I yield to no one in my concern about those individuals and particularly in areas of the country this year which are facing high rates of unem-

ployment.

But I think the Senate deludes itself to think that under the Johnston formula you are going to get the money

think the Warner proposal as modified is fair and equitable and will achieve what the Senator from Virginia hopes to achieve, and I hope that his position will be sustained.

Mr. JOHNSTON. Mr. President, I do not want to drag this out, but the Senator from Massachusetts said I misstated this argument, and that is decidedly not true. It is the Senator from Massachusetts who is confused as to the facts, and let me tell you exactly what they are.

The Senator from Massachusetts said that we have a fund here that involves final settlement where consumers are designated. That is decidedly not so in this amendment, and I invite my colleagues to read the Warner amendment and the Johnston amend-

The Senator from Virginia will tell you that that is not so.

What we have involved here is a fund collected from those who overcharged but where the consumers cannot be identified, and that is the fund involved, and no other money.

If it were involved with those who could be identified then indeed they should receive the money and they would have a vested right to receive that money.

That money is not involved here but rather money from consumers who cannot be identified.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield for a question.

Mr. KENNEDY. All I want to do is say I would agree with the Senator from Louisiana on what that fund is? It is orders, judgments, and settlements for the benefit of consumers on the basis of crude oil and product overcharges. Some of those are difficult to identify but that does not mean there should be no remedy.

Mr. JOHNSTON. The Senator would agree then that these are consumers who cannot be identified and if the consumers cannot be identified then this money is not distributed to them or to the States. As to the consumers who can be identified their money is distributed according to court order.

Are we in agreement on that?

Mr. KENNEDY. The Senator is correct, where specifically identified parties can sufficiently prove injury they have been able to receive a settlement or favorable finding in a court of law. But we are talking about classes of consumers.

Mr. WARNER. Mr. President, if the Senator from Louisiana will yield, he has touched on the very point of this issue. The classes of consumers who were injured have been identified on a statewide basis, and they can be repaid according to the formula in this amendment.

Mr. JOHNSTON. The Senator is dead wrong. That formula is a formula of how much total petroleum products were consumed in those States. It has nothing to do with overcharges from the Department of Energy.

Mr. WARNER. You can assume that there is some relevance between those overcharges and the amount of petroleum in the States, but you cannot make the assumption that there is any relationship between use of natural gas and the overcharges that have been paid into the escrow account.

Mr. JOHNSTON. I did not try to make that assumption, but to say there is a necessary correlation between the percentage of refined petroleum products consumed and overcharges that may occur at random across the Nation is just not correct. I mean it is an assumption supported by nothing and built out of an air castle.

I am not trying to say there is any connection between natural gas consumption and these overcharges either. There may or may not be.

I do know that the program you are seeking to fund, low income energy assistance, there is a connection between those who use natural gas and those poor people who cannot pay for it.

Indeed we spent the better part of an evening here talking about people whose natural gas prices have gone up—I do not know how much. Senator Eagleton was in on that debate. But it was by a great deal.

I just think if we are going to protect poor people they should be protected.

Two more short comments: The Senator from Massachusetts says we are changing the rules of the game. Decidedly not. There are no rules of the game that would say this money would be distributed either to the users of petroleum products or to the State wherein that is used. Rather, it can be distributed to the consumer when they can be identified and these cannot be identified and to the strategic petroleum reserve or to the Treasury.

So, Mr. President, I think the case is

Mr. LONG. Mr. President, will the Senator yield on that point? Mr. JOHNSTON. I yield.

Mr. LONG. Let me ask the Senator do both amendments provide that in any case the people who are going to receive the money would be poor, or does one amendment provide that you take care of poor people who need it and the other amendment provides that you take care of all people who need it?

Mr. JOHNSTON. Both of them give it directly to the States to use in their low-income energy assistance program of weatherization program.

Mr. LONG. So in either case the money would go to the—

Mr. JOHNSTON. To poor people.

Mr. LONG. To poor people. Mr. METZENBAUM. Not necessari-

Mr. WARNER. Mr. President, if the Senator will yield, the Senator from Virginia broadened it to include not only low-income energy assistance but also weatherizaiton and other energy-related projects. The Governors are encouraged to make at least some of the funds available for low incomes, elderly, and handicapped, but the discretion rests with the Governors.

Mr. JOHNSTON. That is correct. The same is true in my amendment.

Mr. WEICKER. Mr. President, I hope that we can get to a vote on this matter. I remind my colleagues that I know that I have in hand right now 30 controversial amendments.

Given a half-hour for each, plus voting time, if we go through the night we are talking about ending this at noon tomorrow.

Mr. JOHNSTON. I am through.

Mr. WEICKER. I would hope that all amendments we could as best as possible—everybody will have their rights—move them along.

I will stay here with the chairman and the rest of the Senators as long as everybody wants, but I do not think that is what everybody wants.

Mr. WARNER. Mr. President, I am happy to summarize in 3 minutes and then yield to the Senator from Ohio to make his comments, and then I will

Mr. METZENBAUM. Mr. President, in this instance not everybody is right and not everybody is wrong. It is a rather simple fact that these funds came about by reason of overcharges pertaining to oil, and the money accumulated for that reason, and now there is a question of not being able to find appropriate recipients in order to give the money back.

The dispute between the Senator from Virginia and the Senator from Louisiana has to do with who is now going to get that money. The Senator from Virginia comes in with a formulation that says you get it based upon the amount of petroleum products that you use.

The Senator from Louisiana says you get it based upon the amount of petroleum as well as natural gas that

The Senator from Louisiana is willing to eliminate the industrial usage of both petroleum and natural gas.

On the basis of where the money came from you have to say that the Senator from Virginia is 100 percent right because he makes his allocation based upon oil. On the basis of where the money is needed most, the Senator form Louisiana certainly makes a strong argument that gas should also be taken into account. The chips have to fall where they may, and people have to decide which is the right way to go.

I will say that there is an additional amendment. We are taking about \$250 million, an additional amendment for all additional funds which may be made available.

The Senator from Virginia accepted my amendment in that respect. I think it is a question now of an up or down vote on the Johnston amendment. I intend to vote for it, but I cannot say that somebody who decides to vote against it is wrong because they voted in the opposite way.

Mr. HATFIELD. Mr. President, I rise in support of the amendment of-

fered by my colleague from Virginia, Senator Warner.

The need for providing energy assistance to the poor has been demonstrated on several levels, particularly in natural gas consuming States where prices have escalated substantially during these early winter months.

As well, Mr. President, the amendment offered by my colleague will resolve a 4-year-old stalemate over how to equitably and expeditiously compensate individuals who were injured by petroleum pricing violations during the period of price controls.

Mr. President, for those like myself who have monitored DOE's progress in resolving these settlement cases, few can argue with the merits of the proposal offered by the Senator from Virginia. I urge my colleague to support this worthy amendment.

Mr. WARNER. Mr. President, in quick summary the difference between the Senator from Louisiana and the Senator from Virginia is simply a means of how to distribute the funds. I received my formula after consultation over the past 48 hours with the Secretary of Energy, who will have the direct responsibility to draw the checks and make them payable to the Governors. He assured me if Congress acts in accordance with this bill, that those checks will be forthcoming very quickly.

Likewise he assured me if we followed the substitute formula as recommended by the Senator from Louisiana, he had severe doubts as to whether or not he could at any time effect the transfer of these funds. We, I think, are unanimous that people need help. This particular fund has been burning a hole in the Department of Energy's pocket for some many years. Let us put it to use to heat homes during this winter season.

So I urge my colleagues to accept my amendment and reject that of the Senator from Louisiana.

Mr. WEICKER. Mr. President, I move to table the amendment of the Senator from Virginia, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Connecticut to lay on the table the amendment of the Senator from Virginia. The clerk will call the roll.

The legislative clerk called the roll.
Mr. STEVENS. I announce that the
Senator from Arizona (Mr. Goldwater) and the Senator from Maryland (Mr. Mathias), are necessarily
absent.

I also announce that the Senator from Utah (Mr. HATCH), is absent due to illness.

and voting, the Senator from Utah prayer. (Mr. HATCH), would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), and the Senator from New York (Mr. MOYNIHAN), are necessarily absent.

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 38, nays 57, as follows:

### [Rollcall Vote No. 434 Leg.]

### YEAS-38

Andrews	Hatfield	Mitchell
Armstrong	Hayakawa	Nickles
Baker	Heflin	Nunn
Bentsen	Heinz	Riegle
Biden	Helms	Rudman
Boren	Hollings	Sarbanes
Boschwitz	Humphrey	Schmitt
Bradley	Johnston	Stafford
Cochran	Kennedy	Symms
Denton	Laxalt	Tower
Dodd	Leahy	Tsongas
Domenici	Long	Weicker
Gorton	Mattingly	

### NAYS-57

Abdnor	East	Packwood
Baucus	Exon	Pell
Brady	Ford	Percy
Bumpers	Garn	Pressler
Burdick	Grassley	Proxmire
Byrd,	Hart	Pryor
Harry F., Jr.	Hawkins	Quayle
Byrd, Robert C.	Huddleston	Randolph
Cannon	Inouye	Roth
Chafee	Jackson	Sasser
Chiles	Jepsen	Simpson
Cohen	Kassebaum	Specter
Cranston	Kasten	Stennis
D'Amato	Levin	Stevens
Danforth	Lugar	Thurmond
DeConcini	Matsunaga	Wallop
Dixon	McClure	Warner
Dole	Melcher	Zorinsky
Durenberger	Metzenbaum	and the second second
Eagleton	Murkowski	

## NOT VOTING-5

Glenn Movnihan Goldwater Mathias

So the motion to lay on the table UP Amendment No. 1509, as modified, was

rejected. Mr. WARNER. Mr. President, move to reconsider the vote by which the motion to lay on the table was re-

Mr. STEVENS. Mr. President, I move to lay that motion on the table. The motion to lay on the table was agreed to.

#### SUSPENSION OF CONTINUOUS FOR SESSION CHAPLAIN'S PRAYER

(The following proceedings occurred at 12 noon on Friday, December 17, 1982, the Senate having been in continuous session since convening at 9:45 a.m., on Thursday, December 16, 1982, all under the legislative day of Tuesday, November 30, 1982:)

The PRESIDING OFFICER. The hour of 12 o'clock noon having arrived, and the Senate having been in continuous session since yesterday, pursuant to the order of the Senate of February 29, 1960, the Senate will sus-

I further announce that, if present pend while the Chaplain offers a

### PRAVER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Father in Heaven, the Senators are very weary in body and mind. The committee, office, and supporting staffs are weary. The responsibilities of Government weigh heavily upon them all, while the promise of a joyful family Christmas languishes. In such circumstances heat tends to transcend light, minds function with less discern-

ment and precision.

Thy Word declares, "God is our refuge and strength, a very present help in the time of trouble." (Psalm 46: 1) "My flesh and my heart may fail, but God is the strength of my heart \* \* \*." (Psalm 73: 26) "The heart \* way of the Lord is strength to the upright \* \* . (Proverbs 10: 29) "He giveth power to the faint, and to them that have no might He increases strength." (Isaiah 40: 29).

Gracious Father, I pray for Thy direct intervention in the lives of the Senators today in a way that all may know we have been visited by Almighty God. And let us take seriously our Lord's generous invitation, "Come unto me all ye who labor and are heavy laden and I will give you rest." (Matthew 11: 28) In His name we pray. Amen.

## FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate continued with the consideration of the joint resolution (H.J. Res. 631)

The PRESIDING OFFICER. The Senate will be in order so that we can hear the Senator from Oregon.

Mr. HATFIELD. Mr. President, let me continue the next few steps here

along this tortuous journey.

We have temporarily laid aside an amendment that has been offered by Senator QUAYLE and others. As soon as we dispose of this particular issue that brings us back to, I believe, the Johnston amendment. We will move back to the Quayle amendment and dispose of it in a very fast order. I think it is about ready to go to a record vote. After that, it is hoped that we can move to the Baker-Dole-Domenici amendment, which has to do with striking the jobs program in title II of this continuing resolution.

There is an agreement amongst the principals that there be a half-hour

equally divided.

Therefore, at this time I would like to propound the unanimous-consent request of one-half hour on the Baker-Dole-Domenici amendment to be equally divided, without any secondary amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President. what I would like to suggest next is that we would like to get a listing of all the defense amendments that will be offered on the defense issue or on the defense part of this continuing resolution. If we can get a list of those at this time, what I would propose to do is then informally, while continuing debate on the current issue, to go around and try to find a time agreement on each one of those and try to take them up in some kind of sequential order to get that subject and that material out of our way as sort of an experiment to see if we can expedite this whole thing by keeping the subject of these amendments on one issue or on one title.

At this point, Mr. President, I should like to inquire of the Senators, those who expect to raise an amendment on the titles, if we could get a show of hands at this time. The Senator from Colorado.

Mr. HART. It would be my intention to have possibly two amendments, one having to do with nuclear aircraft carriers and the other having to do with MX.

Mr. HATFIELD. The Senator from Arkansas.

Mr. PRYOR. My amendment will be relative to the Maverick missile, attempting to take the production fund out and leave the R&D in-that is one.

Mr. HATFIELD. The Senator from Wisconsin has one on a carrier that I know of

Any others on the defense side-the Senator from Maine, the Senator from Washington.

Mr. SIMPSON. Mr. President, I may have one, I am not certain.

Mr. HATFIELD. On what part of the bill?

Mr. SIMPSON. On the MX.

Mr. PROXMIRE. If the chairman will yield, I had one of the aircraft carrier, but I shall merge it with Senator HART'S.

Mr. CANNON. I have one of the F-16, Mr. President. I may have another one. I am not sure.

Mr. HATFIELD. I believe the Senator from Maine (Mr. Cohen) has four. Would the Senator list those subjects in the four?

Mr. COHEN. One has to do with the authorization of the third battleship Missouri; one has to do with taking the fence off the language, at least, dealing with the rapid deployment force; there is a third dealing with LSD-28. And there is one other, I believe on the T-17. Senator Tower has the T-17.

Mr. BUMPERS. Will the Senator from Maine yield for a question?

Mr. COHEN. Yes, Mr. President.

Mr. BUMPERS. Is the one on the battleship a long lead item?

Mr. COHEN. Yes; it is. Mr. BUMPERS. I approve.

Mr. NUNN. Will the Senator yield for a question?

Mr. HATFIELD. Certainly.

Mr. NUNN. The Senator is asking about military amendments?

Mr. HATFIELD. We are trying to get a listing of all pending amendments that will be offered on the defense part of this bill.

Mr. NUNN. I have one amendment that will be offered. It is costations support and repositioning equipment.

Mr. HATFIELD. And a pay bill by Senator from Iowa. Senator Tower has two amendments. Would he give us a title or a subject of each of those?

Mr. TOWER. One is to reduce defense spending.

Mr. HATFIELD. The Senator from Texas, I think-

Mr. TOWER. May I take this opportunity to lobby just a little bit? I want to delete \$827 million from defense spending.

Mr. HATFIELD. Billion?

Mr. TOWER. Million. And one on

specialty metals.

Mr. HATFIELD. Mr. President, I believe we can proceed in an orderly fashion if the Senators would please stay on the floor so we can get an idea of the time factors required so we can put them in a package and get them in sequence, get that subject behind us. and get on to another subject.

Mr. President, what is the pending

question?

VOTE ON UP AMENDMENT 1510

The PRESIDING OFFICER. The pending question is the amendment by the Senator from Louisiana (Mr. JOHNSTON) to the amendment by the Senator from Virginia (Mr. WARNER).

Mr. HATFIELD. May we move this to a vote now?

Mr. WARNER. I am agreeable if my colleague is.

Mr. JOHNSTON. Yes.

Mr. HATFIELD. Are the yeas and nays called for?

Mr. JOHNSTON. Mr. President, if the Senator will yield, the Johnston amendment has the yeas and navs ordered. I am willing to take the result of that. After all, we voted on a motion to table and vitiate the yeas and nays on the Warner amendment.

Mr. WARNER. I indicated quite clearly to my colleague that there are Members who desire the yeas and nays on my amendment. It has been offered. I wish to let it stand.

Mr. HATFIELD. Would a unanimous-consent request be in order to vitiate the yeas and nays at this time?

Mr. WARNER. No, no, Mr. President. The yeas and nays have been ordered on the amendment.

Mr. HATFIELD. Mr. President, may we move to a vote?

Mr. GORTON. Is there further debate on the amendment of the Senator from Louisiana? If not, the yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH), is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH), would vote "nay."

Mr. CRANSTON. I announce that the Senator from Ohio (MR. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 40. nays 56, as follows:

[Rollcall Vote No. 435 Leg.]

# YEAS-40

Abdnor	Dixon	Nickles	
Andrews	Domenici	Nunn	
Baucus	Durenberger	Packwood	
Bentsen	Exon	Pressler	
Boren	Ford	Pryor	
Boschwitz	Hart	Randolph	
Bumpers	Heflin	Schmitt	
Burdick	Hollings	Simpson	
Byrd, Robert C.	Johnston	Stennis	
Cannon	Kasten	Tower	
Chiles	Long	Wallop	
Cochran	McClure	Zorinsky	
DeConcini	Melcher		
Denton	Metzenbaum		

### NAYS-56

Armstrong	Hatfield	Moynihan
Baker	Hawkins	Murkowski
Biden	Hayakawa	Pell
Bradley	Heinz	Percy
Brady	Helms	Proxmire
Byrd.	Huddleston	Quayle
Harry F., Jr.	Humphrey	Riegle
Chafee	Inouve	Roth
Cohen	Jackson	Rudman
Cranston	Jepsen	Sarbanes
D'Amato	Kassebaum	Sasser
Danforth	Kennedy	Specter
Dodd	Laxalt	Stafford
Dole	Leahy	Stevens
Eagleton	Levin	Symms
East	Lugar	Thurmond
Garn	Matsunaga	Tsongas
Gorton	Mattingly	Warner
Grassley	Mitchell	Weicher

### NOT VOTING-4

Glenn Hatch Mathias

So the amendment (UP No. 1510) as modified was rejected.

WARNER UP AMENDMENT NO. 1509, AS MODIFIED The PRESIDING OFFICER. The question recurs on the amendment by

the Senator from Virginia

Mr. HATFIELD. Since we are ready to go to an immediate vote I ask unanimous consent

Mr. FORD. Mr. President, a parliamentary inquiry

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. How are we ready to go to an immediate vote?

Mr. HATFIELD. My understanding was that debate had occurred and we were voting then first on the Johnston amendment, and that has been tabled, and then go directly to the Warner amendment because the Warner amendment is pending.

Mr. FORD. The Warner amendment is pending now. Does it have a time agreement?

Mr. HATFIELD. It has the yeas and nays ordered.

Mr. FORD. It does not have any time agreement?

Mr. HATFIELD. No time agreement. Mr. FORD. I wish to make a statement.

Mr. HATFIELD. Mr. President, I wonder if the Senator will yield for the purpose of asking for a 10-minute rollcall vote on the Warner amendment when we do get to a vote.

Mr. FORD. That suits me fine.

Mr. HATFIELD. Mr. President, I ask unanimous consent that on the Warner amendment, that will follow soon we have a 10-minute rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I have another one.

I ask unanimous consent that we set aside the Quayle amendment temporarily to go to this pending issue. The yeas and nays have been ordered on the Quayle amendment. The authors of the amendment indicate we will go to an immediate vote as far as they understand. I, therefore, ask unanimous consent to have a 10-minute rollcall vote on the Quayle amendment

The PRESIDING OFFICER. there objection to the request of the

Senator from Oregon?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I shall not, will the Senator be good enough to ask that there be no debate?

Mr. ROBERT C. BYRD. This is not adequate notice for a 10-minute rollcall vote. I have no objection to the second one but I certainly do to the first one.

Mr. HATFIELD. I did not hear the Senator.

Mr. ROBERT C. BYRD. I said we did not receive adequate notice for a 10-minute rollcall vote. I have no objection to the 10-minute rollcall vote on the second one.

Mr. QUAYLE. Let us have back-toback votes.

Mr. HATFIELD. Does the Senator raise objection to a 10-minute vote on the Warner amendment, the first amendment?

Mr. ROBERT C. BYRD. On the first one only; yes.

Mr. HATFIELD. I now then propound the unanimous-consent request for a 10-minute rollcall vote on the Quayle amendment.

Mr. QUAYLE. Back-to-back votes.

Mr. METZENBAUM. With n debate in between.

Mr. HATFIELD. Back to back with the Warner amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I thank the Chair. The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I wish to ask the distinguished floor manager of the amendment, the Senator from Virginia (Mr. Warner), how is the fine and the funds assessed and what does it go on, just domestic crude? The money that you are applying here, where does it come from? How do you arrive at it?

Mr. WARNER. The fund-

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order, in order to hear the query, so that in order that the query and the answer may be heard.

The Senator from Kentucky has the floor.

Mr. FORD. I am asking the distinguished Senator from Virginia a question. He is about to answer it.

Mr. WARNER. Mr. President, this fund was established pursuant to legislation passed in 1973. It is a fund that is accumulated from overcharges on refined petroleum products.

Mr. FORD. Domestic? Mr. WARNER. Yes.

Mr. FORD. Only domestic?

Mr. WARNER. I would have to check that.

Mr. FORD. The reason I ask the question is many of the consuming States have been paying the entitlements for the Northeastern States and now we are being shut out on the basis that we asked for a little help as it relates to natural gas. Now we have been paying the entitlements. The oil-consuming States are going to get all the payments and you leave the natural gas consumer States out again. It just does not make sense that you move into that arena and make those consuming States, of which mine is one, that we foot the bill and get nothing in return.

My State gets 1.303 I think or something like that.

Our State has been paying for a long time, and then when it comes down to share and share alike you do not let us share.

So I hope that you give me some information where the oil-consuming States in the Northeast are entitled to all of it, and the other States are not entitled to any of it, because we had to use natural gas in order to let you use oil over the years.

Mr. WARNER. Mr. President, I wish to advise the Senator from Kentucky that this is the most equitable distribution that could be devised based on the legal justification for the collection of the funds in the first place. My staff and I have been working diligent-

ly for a period of 48 hours to develop a formula which we believe could sustain a court challenge.

My distinguished colleague from Louisiana was not able to tell us how the States would be allocated the funds under his formula. Some States obviously would get more, others less, but there is nothing before the Senate today to indicate the specific allocation under his plan.

Mr. FORD. Would the Senator then be willing to set his amendment aside so that we can develop a formula and give it to you later this afternoon before we go to final passage?

Mr. WARNER. The yeas and nays have been ordered.

Mr. FORD. You can vitiate those. Mr. WARNER. The Senator from

Virginia would object. Mr. FORD. You can do it.

Mr. WARNER. I do not intend to do

Mr. FORD. But there is something definitely unfair about this, and the consuming States are not being treated properly, and my State happens to be one of them.

That happens all the time. You do not win them all, but I do not intend to be playing dead, because the Eastern States get the bulk of this.

Mr. WARNER. I wish to advise the Senator from Kentucky that I have been working on this for 12 hours, and I have been on the floor for 8 hours.

Mr. FORD. You did not ask me when I was here. In fact, this might just be legislation on an appropriation bill when you get right down to it.

Mr. WARNER. I circulated a "Dear Colleague" letter outlining the entire program. It has been in your office for some 24 hours.

Mr. FORD. Mail goes about as fast here as it does back home.

Mr. President, I do not want to take up any more time. I know what people are wanting here. But it seems to me if you want to be fair, and you have worked 48 hours with the Department of Energy, and so has your staff and all that, you might give us 5 more hours to see if we can come up with a formula that would fit the legal aspects. We have done a lot of things here and let staff work it out after we pass it. Now you want staff to work it out before, and you will not give us an opportunity to finish it. You are being unfair to those consuming States and I think those States who lose in the particular way ought to vote against it and say "no" to you.

Mr. WARNER. I can assure the Senator from Kentucky that the representations made to me by the Secretary of Energy's as well as his principal advisers are that in their judgment this is the only formula that will work and be able to be sustained in a court chal-

Mr. FORD. If the Senator will yield, did the Senator ask about natural gas?

Mr. WARNER. The Senator did inquire with respect to adjusting this formula along the lines of the amendment offered by the Senator from Louisiana.

The reply from the Department of Energy would be it would pose serious problems. It would be doubtful if the program could stand up in court.

Mr. FORD. When did the Senator advise the Department of Energy of

this request?

Mr. WARNER. I talked to the Secretary of Energy yesterday morning at about 9:35. I remember it precisely because he was on his way to a Cabinet meeting, whereupon his staff worked with my staff throughout the day.

I met later with some of his staff people. We then again this morning at 6 a.m. made contact with various persons on the Secretary of Energy's staff regarding the Senator from Louisiana's amendment, and we were advised that the proposed formula as submitted by the Senator from Louisiana would present serious legal challenges.

Mr. FORD. Then did the distinguished Senator work from 9:35 yesterday morning until this time on natural gas also to try to put a formula together or was it based on crude?

Mr. WARNER. What was the time, what was the day? We are running into—

Mr. FORD. You said yesterday you talked to the Secretary of Energy at 9:35 precisely.

Mr. WARNER. That is right.

Mr. FORD. Then you worked all day yesterday with the Department of Energy and your staff up until this time to put the formula together?

Mr. WARNER. I cannot say that, Senator. I have to tell him I worked at great length on the MX missile program and other issues that are my responsibility also.

Mr. FORD. The only thing I say is once they told you you could not put a formula together for natural gas you did not even try.

Mr. WARNER. The first I knew about a formula for natural gas was when the Senator from Louisiana approached me and said that he had in mind a perfecting amendment. I am afraid I cannot recall precisely when that was done. But immediately upon receiving that we contacted the Department of Energy and were advised that in their best judgment the amendment offered by the Senator from Virginia stood the best opportunity of effecting a program and of checks flowing during the cold winter months.

Mr. FORD. As the Senator knows, a lot of things come up and so many things come up we cannot check them all.

I again ask him in his good offices to set aside his amendment to allow us to see if we can work out a formula. I see him shaking his head, and I thank him for his courtesy.

Mr. WARNER. I thank the Senator

from Kentucky.

Mr. EXON. Mr. President, may I ask a couple of questions of my friend from Virginia? It seems to me to start out that obviously this has degenerated into a disposition of money eventually depending on which State is located where you burn oil or natural gas for the heating of homes.

As I understood from the conversation that I had with the Senator from Virginia a few days ago where I complimented him on his initiative in this area, it is to take the \$200 million that is not doing anyone any good there now and put that to some good use, and what better use could there be today than to have the States help the poorest people who cannot pay their heating bills.

Is this the basic trust of the situation as you understand it, Senator

WARNER?

Mr. WARNER. The Senator is correct. The amendment is drawn is such a way as to provide the greatest measure of flexibility, but the legislative history places emphasis on the lowincome, the elderly, and the handi-

Mr. EXON. That being the case, what portion of your formula for distribution between the States is based upon how many of the poorest people reside in the State? Let us say, for example, there were no poor people entitled to benefit from the program in Nebraska or they were born in Nebraska and they were then living in Rhode Island. Is there anything in your formula that makes any distinction as to where it is most needed to help the poor people which your formula provides?

Mr. WARNER. No; there is not. The formula is not based on need, but I am confident that the funds will flow to

many needy persons.

Mr. EXON. I would suggest to my friend from Virginia that having conceded that there is possibly much more wrong with the formula that you have devised, and I think you tried to make it fair, but it seems to me in this particular instance we should have at least some portion of the distribution based upon where the most need is, and I am wondering if, under those circumstances, the Senator from Virginia would agree to set aside his amendment for a couple of hours to give us some time to look into that?

Mr. WARNER. Mr. President, again this fund is the result of legislation passed in 1973 and the moneys represent overcharges with respect to the use of petroleum. It is the best judgment of those under the proposed act who are going to manage the distribution of the funds for the Government that this is the formula to be used. I know we could come up with a number of formulas, but I would not be able to give my colleagues the assurance that that formula could withstand the like-

lihood of a court challenge.

Mr. EXON. Along that line I would simply say to my friend from Virginia if the thrust of the legislation you are proposing is designed to help the poor people pay their bills and if you are concerned about a court challenge as to the fairness, I am not a lawyer, I have never been a judge, but if the thrust of the legislation is to help the poor and you have no part of that formula distributing this money to where most of the poor are, I would think you would be in pretty poor shape in front of the court is the point I am trying to make.

Mr. HATFIELD. Will the Senator

yield?

Mr. WARNER. Yes.

Mr. HATFIELD. I wonder if I could make a suggestion. We have been on this issue now for a number of hours. I wonder, if there is no desire to move this to an immediate vote, if the Senators would be willing to set it aside temporarily and those who are concerned about this get together in a little corner back here and resolve these problems. I think we are now really at a point where we are imposing upon the entire body this extended conversation or these remarks and concerns of three or four, I know it represents more than just three or four.

Can we not then move on with other amendments while these matters are discussed in private and by that time try to get some kind of an agreement? Otherwise, I would like to urge the Senators to let us move to a vote.

Mr. WARNER. Mr. President, I respect the chairman's efforts on behalf of those who feel that more time is needed. But I wish to point out again that I have worked on this and notified my colleagues for some 36 hours. I have been in here on the floor since 4 or 5 o'clock this morning. And while I might be of a mind to try and help, there are a number of Senators who have been associated with me who are pushing this effort forward.

This is the first instance, 1 minute before the final vote, before this particular issue was challenged. In fairness to the majority of our colleagues who have voted twice on this already, I think the vote should go forward.

Mr. FORD. Mr. President, will the chairman yield to me?

Mr. HATFIELD. Yes.

Mr. FORD. I have no intent to hold up. You get hurt here with good intentions and your constituency gets hurt with good intentions and you just cannot dot every "i" and cross every "t" and watch every amendment on this floor. We already had 20-some amendments. And I guarantee you the Senator from Virginia has not read every amendment that has been raised

today. I will say I have not read every one of them

I just wanted to have an opportunity to bring some points up that I think are relevant.

The domestic-producing crude oil paid the entitlements and States under this formula they are getting hurt a double whammy. I represent a consuming State and they are getting hurt: it is not fair.

If this body wants to vote for something that is unfair, a formula that does not help the majority of the needy, then this body has a right to do it and I will not stand in the way of

asking for a vote.

Mr. WARNER. Mr. President, there are needy people in every State and this is a relatively small amount going to every State. I dare say there are recipients in each State well qualified to take this money and more than likely far more recipients than there is money to be allocated.

SEVERAL SENATORS. Vote.
The PRESIDING OFFICER (Mr. ARMSTRONG). The question is on agreeing to the amendment of the Senator from Virginia (Mr. WARNER). The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), the Senator from Maryland (Mr. Mathias), and the Senator from New Mexico (Mr. Schmitt), are necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH), is absent due

to illness.

I futher announce that, if present and voting, the Senator from Utah (Mr. HATCH), would vote year.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. GLENN), is

necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wisning to vote?

The result was announced-yeas 76,

nays 19, as follows:

[Rollcall Vote No. 436 Leg.]

YEAS-76

Abdnor Garn Mitchell Baker Gorton Movnihan Biden Murkowski Grassley Boschwitz Hart Nunn Bradley Hatfield Packwood Brady Hawkins Pell Heflin Bumpers Percy Burdick Heinz Pressler Hollings Proxmire Byrd, Harry F., Jr. Byrd, Robert C. Huddleston Quayle Randolph Humphrey Inouye Cannon Riegle Roth Chafee Jackson Chiles Jepsen Kassebaum Rudman Cohen Sarbanes Cranston Kasten Sasser Kennedy Simpson D'Amato Laxalt Specter Stafford Danforth DeConcini Leahy Levin Thurmond Dodd Lugar Matsunaga Tsongas Wallop Durenberger Mattingly Cagleton Warner Melcher Weicker

### NAYS-19

Andrews Domenici Prvor Armstrong Exon Hayakawa Stennis Baucus Symms Bentsen Johnston Boren Zorinsky Cochran Long Denton Nickles

# NOT VOTING-5

Glenn Hatch Schmitt Goldwater Mathias

So the amendment (UP No. 1509), as modified, was agreed to.

Mr. WARNER. I move to reconsider the vote by which the amendment was agreed to.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senators from New York (Mr. D'AMATO) and my partner (Mr. Kennedy) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Idaho (Mr. McClure) be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I ask the Chair that I be added as a cosponsor of the Quayle-Cranston amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(By request of Mr. QUAYLE the name of Mr. D'Amato was added as a cosponsor.)

## VOTE ON UP AMENDMENT 1511

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Indiana. Under the previous order, it will be a 10-minute rollcall vote. The clerk will call the roll.

Mr. SIMPSON. Mr. President, this amendment is one of the most deserving pieces of legislation to be offered for consideration during these last few days of the 97th Congress. The Nation must honor its commitments to those who gave their lives in its defense; the Congress must assure that such promises are not perceived to be in question-surely no one intended them to

I wish to emphasize that I fully support the amendment. I was a cosponsor of this legislation earlier in its history, and I was instrumental in advising my colleagues of my strong support so that many of them joined me in cosponsorship. I am pleased that over 50 Senators have lent their backing to it. Certainly, it has my heartiest support.

There are some who might question my speaking in favor of an amendment to the continuing resolution which might not be considered germane. However, this amendment is dif-

ferent. It has been through the committee hearing process in the Armed Services Committee: that committee supports its passage and included a proposal for it as part of the military pay bill. It is only being offered as an amendment to the continuing resolution now that it seems as if the military pay bill will not be brought up this year. As we all know, the President has lent his support to the restoration of these lost benefits. To reverse this true miscarriage of justice, it is appropriate that this former benefit to the survivors of our Nation's service-connected deceased veterans be restored now, in the continuing resolution.

Mr. THURMOND, Mr. President, I am pleased to be a cosponsor of this amendment which would restore social security benefits to the surviving spouses and children of certain members of the Armed Forces who died as a result of service-connected disabilities

These are benefits which were promised to service members upon their induction into the Armed Forces, and we can not abandon the responsibility which we have to fulfill our promise.

Mr. President, the restoration of these benefits would be a demonstration, not only to the affected beneficiaries, but to all those who may serve in the future, that the Federal Government keeps its commitments. We can never expect our citizens to serve this country and to lay their lives on the line, if we do not honor our commitments to those who have already done so, and with great honor.

I urge my colleagues to support this important amendment.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from Indiana (Mr. QUAYLE). The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), the Senator from Maryland (Mr. Mathias) and the Senator from New Mexico (Mr. Schmitt) are necessarily absent.

I further announce that the Senator from Utah (Mr. HATCH), is absent due to illness.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

Mr CRANSTON. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 94, nays 1, as follows:

[Rollcall Vote No. 437 Leg.]

YEAS-94

Abdnor Armstrong Baucus Andrews Bentsen

Biden	Gorton	Murkowski
Boren	Grassley	Nickles
Boschwitz	Hart	Nunn
Bradley	Hawkins	Packwood
Brady	Hayakawa	Pell
Bumpers	Heflin	Percy
Burdick	Heinz	Pressler
Byrd,	Helms	Proxmire
Harry F., Jr.	Hollings	Pryor
Byrd, Robert C.	Huddleston	Quayle
Cannon	Humphrey	Randolph
Chafee	Inouye	Riegle
Chiles	Jackson	Roth
Cochran	Jepsen	Rudman
Cohen	Johnston	Sarbanes
Cranston	Kassebaum	Sasser
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Laxalt	Stafford
Denton	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Long	Symms
Dole	Lugar	Thurmond
Domenici	Matsunaga	Tower
Durenberger	Mattingly	Tsongas
Eagleton	McClure	Wallop
East	Melcher	Warner
Exon	Metzenbaum	Weicker
Ford	Mitchell	Zorinsky
Garn	Moynihan	

NAYS-1

Hatfield

# NOT VOTING-5

Glenn Hatch Schmitt Goldwater Mathias

So the amendment (UP No. 1511) was agreed to.

Mr. QUAYLE. Mr. President, I move to reconsider the vote on the Quayle-Cranston amendment.

Mr. DeCONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. QUAYLE. Mr. President, I ask unanimous consent that Senators SIMPSON and D'AMATO be added as cosponsors of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

# IIP AMENDMENT No. 1512

(Purpose: To strike title II from the bill.)

Mr. DOMENICI. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico (Mr. Do-MENICI) for himself, Mr. Baker, Mr. Laxalt, Mr. Dole, Mr. Garn, and Mr. Stafford, proposes an unprinted amendment numbered

Beginning on page 61, line 1, strike everything through page 89, line 4.

Mr. DOMENICI. Mr. President, this amendment that I sent to the desk is cosponsored by Senators BAKER. LAXALT, DOLE, GARN, and Senator STAFFORD.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Do we have a time agreement on this amendment?

The PRESIDING OFFICER. time agreement on this amendment is 30 minutes equally divided.

Mr. DOMENICI. I yield myself 4 minutes.

Mr. President, this amendment is a rather simple amendment. Basically what it does is strike in its entirety title II of the continuing resolution.

Basically that title is a \$1.2 billion public works so-called jobs bill.

Now, Mr. President, we all know that there is not real approach here or in the House of Representatives for public works type jobs. At best we have in the House of Representatives a multibillion-dollar ad hoc mixture consisting of tree planting in a brandnew program to 687 specific projects including all of the bridges on Amtrak between here and Boston. I do not think there is any doubt that when you look at it that it is anything other than pork barrel personified.

Now, I give the Senate just a little glimpse of the House bill because it seems that what has happened to us is that we got into a bidding war. Since they have their multibillion dollar so-called jobs bill, it appears that what we now have before us would send the signal that the U.S. Senate wants to

compete in some way.

Let me say this Senator understands that we have got a big problem in our country with employment. As a matter of fact, I am committed to get an extension of unemployment exception before we leave here in this lameduck session because I think that is imperative.

But Mr. President, what we are really trying to do is to come up with a plan as I see it that will reduce interest permanently, let America start to grow, and if we are going to talk about jobs creation that will do more than anything. But if we want to do some constructive things, then we ought to pass bills like the gas tax bill which will create about 300,000 jobs and will build things that are needed and well planned and ready to go.

I want to give you just a notion that there is nothing new about the House bill and there is nothing new about the Senate bill in terms of public works via new programs or projects.

I do not think there is any more glaring test of failure than for the House bill to have budget authority of \$5.4 billion and to the best of our ability to determine with all the experts around at the absolute most \$2.8 billion of that will spend in the year of 1983.

It would appear to me that patent on its face that is not the kind of jobs bill we ought to have.

I cannot even tell you when the rest of those billions that are in there would be spent. I tried to get some fiscal experts to say that the remainder of the \$2 billion—I yield myself 2 additional minutes—that it would spend out quickly but I cannot even tell you that.

I have done my best with the socalled jobs bill that we have before us in our bill; the one that apparently we want to compete with the House on so that when we go to conference we are sure we get some things we want.

My best figuring is that the budget authority there is about 1.189 so I round it to 1.2, and less than 400 million of that will spend in the year of 1983

I assume that is the year we want to affect underemployment that we want to put some people to work. When is the rest of it going to spend? Maybe 1984 or 1985 as the House bill and that might be precisely when we do not need it, just exactly the same kind of an approach that we have used recession after recession only to find that most of the money comes on well after the recovery.

I am not going to go into details on my first 6 minutes. I know the chairman of the full committee, the distinguished Senator from Oregon, knows that I hold him in the highest respect. know that he is concerned about jobs, that he wants to be compassionate and I hope he thinks the same about the Senator from New Mexico. But, frankly, I think it is a mistake to send any signal to the House now other than an extension of unemployment and a signal that we do not really think that their \$5.4 billion alleged productive jobs bill, everything from a new tree planting program, to funding the United Fund in some way that requires three organizations getting together and agree on how they are going to spend it to 687 public works projects, and I think that a few of them have already been paid for and completed and are in there by mistake.

But in any event, it appears to the Senator from New Mexico that we should not do this at this time.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I say to my good colleague and close friend, the Senator from New Mexico, that I could not agree with him more in his analysis of the House bill as it relates to those programs that he enumerated.

But he will note that in the Senate version we excise those programs. They are not in the Senate version for the very reasons that the Senator from New Mexico found fault with them. When I created this or crafted this particular proposal, we deleted them.

As I said in the committee, it is very obvious that this does not carry the support of the leadership on my side of the aisle nor does it carry any support from the White House at this point. But, I would like to say very clearly that, regardless of the fact that it does not carry the support of my Republican leadership either in the Senate or at the White House, jobs are needed now.

The infrastructure of this country is crumbling, and we need to improve it and improve it now.

The very arguments the administration has used for the gas tax precisely applies to the proposal that I have carried here in the committee and here on the floor here today.

I am puzzled when I hear my colleagues say that extending unemployment benefits and telling folks to wait for innovative and creative solutions is a solution at all. That is pie in the sky.

That is the same tired old programs we have heard about for too long of how to relieve unemployment—give them more unemployment benefits, more unemployment compensation.

I say put them to work. Let them be productive citizens of this country. Why wait until we know these things must be done. We know now the people need work.

Let me say that in the Senate bill we are putting these people to work now. We are stengthening the infrastructure. These are not leaf-raking jobs. They are not WPA-type jobs. The Senate version of \$1.1 billion includes rural water and waste disposal grants. These are engineered projects ready to go. All they need is funding—jobs now.

No waiting to get together and create some kind of a job project and then find some kind of a grant from the Federal Government. These are projects already in place and ready to go, such as watershed and flood prevention, and economic development administration grants. We excise the natural resource development grants that he refers to.

We have other programs that are listed here, including housing on military bases, which need upgrading.

The Senator said that CBO says that we are only going to be able to spend out a certain amount of this \$1.1 billion in calendar 1983; that is true. And that is true because when you obligate for construction project you do not spend the money all instantaneously but you obligate by contract for the project and you are committed thereby to have that money ready to pay out over a period of time in which that project is being constructed.

There is no plan that has been presented that has more immediate job impact than this proposal here. Now that is on the substance of the bill.

Let me just lay it out very frankly and forthrightly about the tactics and the strategy. I think any of us who have ever been to conference with the House of Representatives knows that you go to conference and you try to compromise between the two House positions. Let us assume, for example, a scenario where the Senator from New Mexico is successful in excising this and brings the Senate to a position of zero jobs bill, zero. We go to conference with the House of Representatives, and they come to that conference table, sit on the opposite side of the table from the Senators, and they have a \$5.4 billion project for jobs. Does anybody really believe that we are going to be able to sit there in that conference and come out with a zero figure with the House of Representatives, \$5.4 billion down to zero? Of course not.

No one can stand here and say they actually believe we can sit there and compromise from zero on one side of the table and \$5.4 billion on the other side of the table and come out with zero. We are going to come out somewhere between zero and \$5.4 billion, and do not put the Senate in a situation of going over there in that conference, sitting down with the House of Representatives Members and saying, "Let us sort of craft a plan now, let us sort of create a plan, that we can compromise and agree upon."

That is not where you do the business. That is not where you do the best job that you should be doing rep-

resenting the Senate.

I think this is a sound program. It is defendable on the merits of the program. I think we also have to recognize that we are put in a position of having to go to conference as well. I would ask the Senate to give us some opportunity to have some input as a body of the Senate and not put upon the shoulders of just a few Senators the responsibility of going over there after 2 nights up-and I say 2 nights because there is a possibility we will be up tonight as well-and go to conference after 2 nights of no sleep and sit there and try to create a compromise from zero to \$5.4 billion. It does not make logic or good sense.

So I urge the Senate to turn this amendment down and stand by the committee and indicate that by the bipartisan support of this project that at least we go in some kind of bargaining position, and we can go with a defensible package and a highly job-oriented and job-immediate-impact type of proposal.

Several Senators addressed the Chair.

Mr. DOMENICI. Mr. President, I yield 2 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER (Mr. Kasten). The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas, if he thought he could have the Senator from Oregon's package he would be tempted to vote for it. I think it is a very good package. He has explained it to us at the policy luncheon.

There is no doubt about it, if you could have that package it would probably make a great deal of sense if we add the \$1.1 billion. But it would seem to this Senator that knowing the House's proclivity to add, I do not quite understand the logic of starting at \$1.1 billion rather than zero. I think the House will get you up there fast enough without giving a \$1.1 billion push and then, of course, there is no doubt we are going to be challenged on this side of the aisle to come up with the creative, innovative, jobs programs if we can come up with innovative and creative jobs programs that will have a real impact.

But I am constrained, as much as I dislike disagreeing with the chairman of the Appropriations Committee, to permit us to ask him to work on this, yes, as a Republican approach to the jobs programs under the leadership of the majority leader, the chairman of the Appropriations Committee, the chairman of the Budget Committee, the chairman of the Banking Committee, the chairman of the Finance Committee, and others who might have some jurisdiction.

Right now in the Finance Committee we are looking at all of the Tax Code to see if we can create jobs through targeted jobs credit.

It would seem to me if we can have an overall approach, if we can find a program, that is better, it ought to be a comprehensive program introduced

next year.

Finally, the Senator from Kansas is still optimistic about the gas tax bill. We are going to create some jobs in the gas tax bill. We are coming back to the gas tax bill as soon as this bill has been passed and gone to conference, and I think I can say with some assurance the majority leader and others are determined, in fact about all the Republican Senators, with the exception of five, have indicated in a letter to the majority leader that we want to pass the gas tax bill this year. So there is another opportunity for jobs creation.

I thank the distinguished Senator from New Mexico.

The PRESIDING OFFICER. Who yields time?

Mr. MATSUNAGA. Mr. President, will the distinguished chairman yield some time?

Mr. HATFIELD. I will be happy to yield 2 minutes.

Mr. MATSUNAGA. Mr. President, I wish to commend the floor manager, the chairman of the Appropriations Committee, for the statement he made. I fully subscribe to his statement.

Mr. President, why are we meeting here in the lameduck session? The answer is, Because there are two pressing matters we must attend to. One, of course, is to have a continuing appropriations resolution so that the Government can operate after midnight tonight. The other is to address an emergency which has been recognized not only at the congressional level but at the White House, in the business community, and, of course, by the 12 million Americans who are now unemployed. I strongly urge my colleagues to take affirmative action now and vote to maintain the provisions which will provide relief to millions of hardworking Americans who are currently unemployed. The Appropriations Committee has proposed a reasonable program to put these people to work and to strengthen the infrastructure of our country. We can delay no longer in meeting this emergency head

Mr. President, it now appears unlikely that we will pass the Highway Revenue Act of 1982—it has been set aside and we do not know whether the Congress will complete action on this matter or not. We might be here until New Year's and still adjourn without coming to any resolution of the Highway Revenue Act. Let us not continue this pattern of inaction. Here is an opportunity to come to the aid of the 12 million unemployed and an additional million or more persons who are not listed among the 12 million unemployed because they have given up looking for a job.

Let us show our constituents that we can respond to this crisis and act on this continuing resolution, inasmuch as the House has already provided \$5.4 billion for a jobs program, and go to conference so that we can come out with something concrete for the 12 million unemployed Americans. This is an emergency which we have the responsibility to meet in this lameduck session.

I thank the chairman for yielding. Several Senators addressed the Chair.

The PRESIDING OFFICER. Who vields time?

Mr. DOMENICI. I yield 3 minutes to the distinguished majority leader.

Mr. BAKER. Mr. President, it gives me no particular pleasure to stand up and say I oppose any measure which will create jobs for Americans. But I do not think this is so in this case. I do not think the \$1.2 billion is going to create any new jobs, and I do not think the \$5.5 billion the House has put in its bill is going to create any jobs for use good reasons, and that is I think if this stays the way it is it is highly likely it will invite a Presidential veto.

I am not empowered or authorized to tell you he will veto that, I do not have that authority. But I do have some insight based on conferences with the President over a period of time, conversations with him as late as yesterday. I do not rule out the possibility that something can be worked

out in some formulation that would have the effect of creating new jobs. But I do not believe the President will sign a bill, a continuing resolution, even in this lameduck session at the end, even on Christmas Eve, I do not believe he is going to sign one that has a job package of this type of \$5.4 billion or even \$1.2 billion.

It never gives me pleasure to be in opposition to my friend, the distinguished chairman of the Appropriations Committee. He is the most dedicated and diligent Senator I have ever known. With the exception of one or two of his colleagues who serve in this body at this time I doubt that there is any chairman in the history of the Senate who has worked as hard as he has, and I commend him for his extraordinary efforts in bringing this bill to the floor in the shape he has.

I have told him that I do not support this \$1.2 billion and that indeed I will join in an effort to try to delete it, because, Mr. President, finally, I find after only a little more than 2 years on this job as majority leader that one of the major responsibilities of this job is to face reality, and the reality of the thing is if we are going to get this continuing resolution through we are going to have to adjust this ambition of ours in terms of a jobs program or funds that are available for the creation of jobs.

Mr. President, I hope that the Congress will go ahead and pass the highway bill. I would like to say for the record that I am as dedicated to that today as I was a week ago. I will try to move that bill as soon as we finish this.

I urge, Mr. President, that we support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, I

yield myself 2 minutes.

Mr. President, the chairman of the Finance Committee (Mr. Dole) has indicated that if he felt we could come out of the conference with this particular proposal, he would be a little less opposed to it. But he was concerned about our ability to prevail in conference with the House.

I have no way to predict what would happen if we held this and what we

would come out with.

I must say in all probability it would be somewhat higher than what I have proposed. But I do believe that it is very clear that the House of Representatives by a vote on the floor demonstrated a little ambivalence about the House version by the closeness of the vote they had on that question of, I believe, a rereferral. I think, therefore, that there is some indication that we have had that the House would be prone to be more moderate.

I would only say merely because if we, the Senate, go to the conference with a proposal, it does not mean that we are going to have to come home, back to the Senate, with a drastically altered proposal.

Let me remind the Senate that when we had the urgent supplemental bill before us, the House sent us a skinny package and a fat package. If you will recall, I offered a substitute for the skinny package on behalf of the Senate. We went back to conference with the House and we prevailed in that. We had a good package. We could defend it. The House and Senate came to terms.

I would say, without any way of guaranteeing that we are going to come back with the same package, I have a feeling that we can come to terms with the House and we can keep it on a type of job-producing activity and schedule that will have an immediate impact upon jobs today; will be creative in our infrastructure; will be restorative in our infrastructure, and will not be the kind of make-work jobs that turn off most of us on the Senate side and have been incorporated in many places in this House bill.

All I can say is let us go with some kind of a proposal, one that will really do the thing of getting people to work now and having an impact on unemployment. We just cannot delay and say, "Wait until next year." These people are unemployed now and we

need some symbol of hope.

This is not going to correct the unemployment problem. Neither will the House bill and neither will combined bills. But it will indicate a commitment to the Nation that we have a commitment to the unemployed and that kind of confidence can become a multiplier in the employment field. If the Government is standing by and just saying, "We are going to give you more in unemployment compensation," and wait for the private sector to create the jobs, this is not the role of Government.

Mr. DOMENICI. How much time does the Senator from New Mexico

The PRESIDING OFFICER. Two minutes and 40 seconds.

Mr. DOMENICI. I yield myself 2 minutes.

Mr. President, I repeat that I wish I could be here supporting a jobs bill. I do not think this is a jobs bill. I think in a very real sense it is a spending bill.

We are here talking about another \$1.2 billion of Federal expenditure added to a \$750 billion budget, with \$185 billion in deficit, with billions being spent in all kinds of public works, highways, bridges, roads, waterways, all of which create jobs. In fact, it is stimulative to the extent of \$185 billion in deficits, more or less.

Now we come and say we ought to add \$1.2 billion to that, and that somehow is different, in response to the

need for jobs in America.

Frankly, I do not think that is the case. I commend my distinguished chairman, the chairman of the Appropriations Committee, for the objective, which I understand is to go to conference with the House and if we are going to get taken by the House, to get taken by something that might be a little better because we have put some money here that is spending out the way our Appropriations Committee devised it.

I repeat, less than half of it will spend in the year 1983. I think there is a way to devise a jobs bill where almost every penny that you spend and appropriate will go right to jobs.

I do not think we did that here and neither will the House.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATFIELD. Mr. President, I respect the majority leader's commitment to the gas tax bill but I think at this hour and the fact we have not been able to clear this, there is little hope for any action on the gas tax bill, which I support and will vote for if I have that opportunity.

What I am going to say is simply this: This is the only opportunity that the Senate will have to demonstrate its concern for job development in this particular time of crisis. Frankly, if I were putting my money on the table, I would say that there is little likelihood that we are going to get that gas tax bill, but I am not in a position to make that prediction. I predicted Thomas Dewey's election in 1948. Take my predictions with a grain of salt.

I would predict that we will not get the gas tax. So the Senate has had a session without any positive action to relieve unemployment problems. This is our only opportunity to do that. I would urge the Senate to indicate to the American public that the Senate, as well as the House, is willing and concerned to put the Federal Government into this legitimate role to stimulate employment.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I yield back the remainder of my time.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), the Senator from Maryland (Mr. Mathias), and the Senator from

Wyoming (Mr. WALLOP) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Ohio (Mr. Glenn) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 46, nays 50, as follows:

[Rollcall Vote No. 438 Leg.]

#### YEAS-46

Abdnor	Garn	Nickles
Armstrong	Gorton	Nunn
Baker	Grassley	Percy
Boren	Hatch	Pressler
Boschwitz	Hawkins	Proxmire
Brady	Hayakawa	Quayle
Byrd,	Helms	Roth
Harry F., Jr.	Humphrey	Simpson
Chiles	Jepsen	Stafford
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Durenberger	Mattingly	Warner
East	McClure	Zorinsky
Exon	Murkowski	A CONTRACTOR OF THE PARTY OF TH

#### NAYS-50

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Andrews	Eagleton	Metzenbaum
Baucus	Ford	Mitchell
Bentsen	Hart	Moynihan
Biden	Hatfield	Packwood
Bradley	Heflin	Pell
Bumpers	Heinz	Pryor
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Inouye	Rudman
Chafee	Jackson	Sarbanes
Cochran	Johnston	Sasser
Cohen	Kennedy	Schmitt
Cranston	Leahy	Specter
D'Amato	Levin	Stennis
DeConcini	Long	Tsongas
Dixon	Matsunaga	Weicker
Dodd	Melcher	

## NOT VOTING-4

Glenn Mathias Goldwater Wallop

So the amendment (UP No. 1512) was rejected.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are about ready to embark upon a series of amendments relating to defense items, and we do not have any time agreements. We have some estimates on time but we are hoping that we can expedite it and try a few before we really set the time. There is a tendency now to utilize all the time and hopefully we can get more time utilized by this system for a while. I am urging Senators to demonstrate restraint as much as we can because we still are far from completing our list of proposed amendments, and we have

and get back here with a report.

Now, this whole matter expires at midnight tonight, so we are trying to work against that time target as well.

yet to go to conference with the House

So with that brief statement, I am going to ask the chairman of the Defense Subcommittee (Mr. STEVENS) to

become the wagonmaster on these for a while. We have a number of items upon which we will now move.

Mr. STEVENS. Mr. President, it is my understanding the Senator from Georgia has an amendment.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

#### UP AMENDMENT NO. 1513

(Purpose: To permit use of funds to fulfill certain European defense agreements)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Georgia (Mr. Nunn) proposes an unprinted amendment numbered 1513.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title I add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, section 775 of the Department of Defense Appropriation Bill, 1983 (S. 2951) shall be deemed to read as follows:

"SEC. 773. Such amounts as may be necessary, but not to exceed \$49,300,000 shall be available out of funds appropriated in this Act for Operations and Maintenance, Army, Operations and Maintenance, Air Force, Other Procurement, Army, and Other Pro-Force, curement, Air Force (1) to fulfill the obligations of the United States under the executive agreement of April 15, 1982, between the United States and the Federal Republic Germany concerning Wartime Host Nation Support, and (2) to fulfill the international obligations incurred by the United States under that part of the Long-Term Defense Program of the North Atlantic Treaty Organization that provides for the rapid reinforcement of Europe by the prepositioning in Belgium and the Netherlands of United States Army Division Sets 5 and

Mr. NUNN. Mr. President, I rise to support the action of the Appropriations Committee in the continuing resolution in placing a ceiling at current levels on the number of U.S. military personnel stationed ashore in Europe for the remainder of fiscal year 1983. I believe the distinguished chairman of the Defense Appropriation Subcommittee examined this issue in detail in hearings this year and in discussions in NATO and has adopted a prudent and balanced approach. This signal that the United States is not backing away from our NATO commitment is important given the current military and political situation there. However, by freezing the level, the committee also serves notice, and by adopting the approach the Senate will serve notice on our European allies that the United States is not willing to proceed unilat-

erally in NATO unless there is a fair sharing of the burden.

The provision in the continuing resolution is consistent with an amendment to the fiscal year 1983 defense appropriations bill that I planned to introduce with numerous bipartisan cosponsors. It would have held European troop deployments to the end of fiscal year 1982 levels, essentially the number on the ground today.

Mr. President, I ask unanimous consent that an amendment that was sponsored by myself, Senators Tower, Percy, Cohen, Thurmond, Exon, Quayle, Warner, Lugar, Biden, Humphrey, Leahy, and Mathias be printed in the Record to clearly show the aim we were going for in presenting this amendment to our colleagues before the Appropriations Committee took their recent action on agreeing to the troop ceiling.

There being no objection, the amendment was ordered to be printed in the Record, as follows:

On page 59, strike out lines 3 through 10 and insert in lieu thereof the following:

SEC. 147. (a) Subject to the provisions of subsections (b) and (c), none of the funds appropriated by this joint resolution may be obligated or expended for the purpose of supporting or maintaining, as of September 30, 1983, an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization (NATO) at any level in excess of 315,600, the end strength level planned by the Department of Defense to be assigned to permanent duty ashore in such nations as of September 30, 1982.

(b) The President may waive the restriction contained in subsection (a) if he (1) determines that the end strength level of 315,600 must be exceeded because of overriding national security interests of the United States, (2) notifies the Congress in writing at least fifteen days before making any personnel changes during fiscal year 1983 that will likely result in an end strength level as of September 30, 1983, greater than 315,600, (3) notifies the Congress in writing within five days after making a determination that the end strength level of 315,600 will likely be exceeded as of September 30, 1983, in any case in which the President did not anticipate that personnel changes previously made during the fiscal year would likely result in an end strength level as of such date greater than 315,600, but in no event may any such notice be given later than September 15, 1983, and (4) promptly notifies the Congress in writing that he is exercising his waiver authority under this subsection and includes in such notification the following in-

(A) A list identifying those military units assigned to permanent duty ashore in European member nations of NATO whose personnel strength has been increased during the current fiscal year or whose personnel strength is proposed to be increased by the end of the current fiscal year.

(B) The size of the increase made or proposed to be made, as the case may be, in the case of each such unit.

(C) A description of the mission of each such unit.

(D) A statement of the reasons for the increase or proposed increase in the case of each such unit.

(E) An estimate of the length of time the increase or proposed increase will be required.

(c) In computing the numerical limitation specified in subsection (a), there may be excluded not more than 1,200 military personnel assigned to the Ground Launched Cruise Missile program and the Pershing II Missile program to the extent that such personnel are in excess of the number of military personnel assigned to such programs on September 30, 1982.

(d) Subject to the numerical limitation contained in subsection (a), funds appropriated in this Act for the maintenance and support of military personnel assigned to permanent duty ashore in European member nations of NATO may be used during fiscal year 1983 for the maintenance and support of all units of the Armed Forces of the United States assigned to permanent duty ashore in such nations on the date of the enactment of this joint resolution.

Mr. NUNN. Mr. President, this amendment was originally drawn up in response to the provision in the Defense appropriations bill that would have resulted in a drawdown in U.S. troop levels in NATO in excess of 18,900. I agreed that many problems exist with the transatlantic relationship and there is no doubt that our allies must do more in meeting the common defense burdens. I, however, felt that a negative action on the part of the United States would be unlikely to produce a positive reaction on the part of the Europeans.

I believe there is a real opportunity to improve the conventional defense capabilties in NATO and at the same time decrease overreliance on the early use of nuclear weapons. This opportunity has the maximum chance of success when it is met in a true spirit of cooperation and coordination.

By taking this approach, we clearly signal to the Europeans that the United States will meet our NATO commitments, but we will also serve notice that we must move forward together to improving NATO's defenses.

I do believe, however, that some clarifications for the legislative intent may be in order. Specifically, my impression of the ceiling would be that it applies to all permanently assigned U.S. military personnel ashore in European NATO countries and it would preclude any increases in these personnel above the planned number as of September 30, 1982. Further, my information is that number is approximately 315,600 personnel. I ask the chairman if that interpretation is correct?

Mr. STEVENS. I beg the pardon of the Senator and ask if he will repeat the question.

Mr. NUNN. I ask the Senator from Alaska if the number 315,600 personnel as a freeze of the level of permanent U.S. military personnel stationed

onshore in European NATO countries is the correct number?

Mr. STEVENS. That will be the number when we modify it in accordance with the agreement we have made to the number which was the planned end strength for the end of fiscal year 1982.

Mr. NUNN. I thank the Senator from Alaska.

I understand there will be a modification to that effect.

In addition, I ask the Senator from Alaska if he will give us his understanding of the agreement with respect to the 4th Infantry Brigade of the 4th Infantry Division now stationed in Wiesbaden, West Germany.

I am asking the Senator from Alaska to clarify his understanding of the continuing resolution and the Senate Appropriations Committee defense bill with respect to the Army's 4th Brigade of the 4th Infantry Division now stationed in Wiesbaden, West Germany. Under the original Senate report and the supplemental appropriations conference, the Army was directed to deactivate this important combat unit.

The distinguished chairman of the Defense Appropriations Subcommittee is correct in his statement that the Army has itself wavered on the future of the "Fourth of the Four" Brigade. However, recently General Meyer, The Chief of Staff of the Army, and Gen. Bernie Rogers, the Commander-in-Chief of our forces in NATO. Both stated that the current withdrawal of the "Wiesbaden Bridage" would greatly reduce our conventional capabilities in Europe and should not be done at this time. General Rogers indicated that withdrawal of this unit would necessitate the relocation of just about every United States and German military unit in the central sector.

Mr. President, I believe that any deactivation or reduction of the "Fourth of the Four" Brigade would be counter productive. I hope the Senator from Alaska will join me in confirming that the continuing resolution permits the continued presence of the "Fourth of the Four" Brigade at least for the remainder of this fiscal year. I certainly agree with the distinguished chairman that the Army must decide once and for all what their plans are, and I will support him in his efforts to get the Army to clarify its position on this matter.

Is it the Senator from Alaska's intent that the continuing resolution permits the Army to retain the 4/4 in Germany at least during fiscal year 1983?

Mr. STEVENS. Mr. President, the 4th Brigade was a reduction that was taken by the Department of Defense for the fiscal year 1982. It was not withdrawn.

Last month when we were in Europe visiting the Commander of the U.S. Armed Forces in Europe, General

Rosen told me the brigade is an essential part of the forces deployed in Germany and will be retained.

My response to him and to the Senator from Georgia is simply the Army considered it less essential when it had to take the cut for 1982. If the Army now feels that it is essential and is willing to locate the cut for us of the same amount the brigade was not what we sought. We sought the reduction in dollars. I believe that it is up to the Pentagon to respond to us as to where they are going to take that cut, but I point out to the Senator from Georgia that cut was not just a cut of \$72 million for 1 year. It was \$72 million for a period of years because it was to bring home the brigade and to deactivate it which, as the Senator knows, has an increase in savings over a period of time, not forever, but there was a projected savings beyond 1 year.

I believe it was at least a 3-year savings they projected at the time.

Mr. NUNN. If my understanding is correct, the Senator is saying there was nothing on the part of the Appropriations Committee to say that the 4th Brigade has to be terminated or phased out, but it will be up to the Army and Department of Defense to find the funds to continue that 4th Brigade if that is one of their priorities.

Mr. STEVENS. Our committee said that the Department of Defense should keep its commitment and deactivate that brigade. We have said to them before and, as I have said, I said to the Commander of U.S. Forces Europe if that is not their decision they should then tell us where they are going to take the cut.

We did not initiate the cut of the 4th Brigade. The Department of Defense did. If they want to change that plan it would have our approval so long as they did absorb the cut that they agreed to absorb for 1982, 1983, and 1984. It is a savings we are talking about

Mr. NUNN. It is the money the Senator is trying to get at, not the deactivation of the brigade. If they can find a way to accommodate those savings without deactivating the brigade that would not breach the Appropriations Committee directive.

Mr. STEVENS. That is correct, if they find the ongoing savings and tell us where they are we would accept that. I hope they do not shoot me in the foot and take out money that we put into the Army program that they did not request. But that is why we would like to have it subject to the normal reprograming authority, but if they want to reprogram and keep the 4th Brigade, particularly after what we heard in Germany, we agree with that. They must take their ongoing savings and identify it for us.

Mr. NUNN. I thank the Senator from Alaska.

Mr. President, the amendment that is at the desk is sponsored by Senators Tower, Percy, Cohen, Thurmond, Exon, Quayle, Warner, Lugar, Biden, Humphrey, Leahy, and Mathias.

I will take very brief time to explain the amendment and if there is any more need for further explanation or if the Senator from Alaska wishes me to elaborate, I could go into more detail. This amendment permit-without increasing appropriated dollar amounts-the Department of Defense to spend up to \$49.3 million for two important initiatives: the United States-West German Wartime Host Nation Support program and the prepositioning program—known POMCUS-for U.S. Army Division Sets 5 and 6. This amendment will enable the United States to follow through on formal commitments that we first made in 1978. The fiscal year 1983 Defense Appropriations bill, S. prevents implementation these important programs by denying or blocking necessary funds.

I recognize that the military and the Department of Defense are going to have to decide that this is a priority. They are going to have to decide that something else is not as high a priority. We are not putting the additional money here so the saving that has been adopted by the Appropriation

Committee will continue.

This amendment does not change this, but this would eliminate the absolute mandate that these very important programs be terminated. It would permit the Department of Defense to go forward with these programs providing they find money in other lesser priorities.

Mr. President, I hope this amendment could be accepted by both the Senator from Alaska and the Senator

from Wisconsin.

Mr. STEVENS. Mr. President, we have discussed the Senator's amendment.

Mr. NUNN. Yes, it is the amendment the Senator has.

Mr. STEVENS. What it does is tells the Department of Army to find the funds within its existing program here, that we will approve to carry out the host nation program and the next set of POMCUS pre-positioning equipment.

One of the cuts as made by the House of Representatives would still

be in conference anyway.

I have indicated to the Senator from Georgia that we are willing to take this amendment in the conference and it would be my expectation that we would agree with the Senator from Georgia provided the Army again goes through the normal reprograming to identify the area of the funding from which they will take the money for

This is not just European host nation support. It is not just a 1-year commitment. I point out this is an ongoing commitment over the next 5 years. This will cost over \$200 million, and we estimate that the host nation program will cost a quarter of a billion dollars before it is through.

We took the position in committee and the House of Representatives has taken the position that this just simply is not justified right now to increase this amount to fund it through an increase.

Again, when we were in Europe the point was made to us to our subcomittee when we were there that this is a very high priority for the Armed Forces in Europe and for the Commander of NATO.

Under those circumstances, if the Department of Defense and the Department of Army want to realine their priorities and take this money out of existing funds and tell us where it is going to come from so we have the normal control over that reprogram we would do so. We would agree and for that reason I am going to recommend that we accept the amendment.

I say to my good friend from Georgia, however, that we have repeatedly stated our concern for the level of support coming from our allies. We view it to be disproportionately low.

Through this program of funding the cost of the host nation in terms of readiness we are taking on some of their costs in terms of their reserves and equipping their reserves. The cost of the NATO commitment to the United States has gone up from \$78 billion in 1981 to \$133 billion in this bill, and that does not include the funding of this program, as I have indicated, but, as I have said to the Senator from Georgia and the last comment that we made about the brigade, if in fact this is a higher priority than we thought it was, then we believe that the Department of Army, the Department of Defense must realine its priorities and tell us where it will take the reduction.

It did not do that, I will say, and this amendment of the Senator from Georgia will force them to do that.

On that basis I recommend to the ranking Democratic member of the committee that we accept the amendment.

Mr. PROXMIRE. Mr. President, I think both the author of the amendment, the Senator from Georgia, and the manager of the bill, the Senator from Alaska, has made it abundantly clear that this will not add any money to the bill and it would simply require the military to provide this purpose as a top priority and find the money elsewhere.

I know of no objection on our side, and I support the amendment.

Mr. NUNN. Mr. President, one final word. I thank my friend from Alaska and my friend from Wisconsin.

I do believe this is an important program. This is a program that will provide—and the Federal Republic of Germany has agreed to supply—93,000 reserve forces if there is any kind of war or confrontation and who would provide the support for American combat divisions that will be falling in on the POMCUS equipment in Europe.

If the United States provided this support with our Reserve Forces, it would cost the United States 10 times as much. And if we provided this support with our Active Duty Forces it would have cost us 40 times as much.

I do believe this is a high priority and I am hopeful, and reasonably confident, that the Department of Defense and the Army will find the money because I do believe this is a priority. This is an agreement that has been negotiated with the Federal Republic of Germany for a number of years.

Mr. President, there is a general agreement that our NATO allies need to assume a greater share of the conventional defense burden in Europe. But we cannot achieve that objective if we unilaterally withdraw from formal international commitments that were negotiated for the benefit and at the behest of the United States.

The United States-West German wartime host nation support program and the POMCUS program are integral parts of a trans-Atlantic bargain—NATO's long-term defense program—whereby the United States agreed to provide a 10-division D-Day force in exchange for increased allied support for U.S. forward-employed and reinforcing troops. We cannot expect to improve overall allied burdensharing if we fail to fund our share of key programs designed for that purpose.

# WARTIME HOST NATION SUPPORT

Mr. President, regarding the wartime host nation support program, almost 3 years ago we entered into negotiations with the Federal Republic of Germany to seek a solution to critical shortages in the U.S. combat support units. This support is necesary to give our forward deployed and early reinforcing combat units their real and sustained combat capability. In April of this year, we reached agreement with the Germans on a program under which they will completely dedicate approximately 93,000 Reservists, in time of crisis or war, to perform support functions for U.S. Army and Air Force combat forces. Without these German personnel, U.S. troops would be required for these missions.

The support that these German reservists will provide includes:

Security of U.S. Air Force facilities; support of U.S. Air Force elements at

collocated operating bases; security of U.S. Army facilities: transport, transshipment, and resupply services; evacuation of casualties; prisoner of war handling; and decontamination of personnel and equipment. Currently, U.S. forces in Europe do not have support units to provide these services.

Our agreement with the Germans provides that we will share, approximately equally, the total direct costs of this program. Actually, over the next 5 years, the Germans will pay slightly more than 50 percent of the costs; after this initial implementation period, the Germans will pay about 60 percent of the steady state annual recurring costs. In addition, much of the equipment to be used by these German reservists will be mobilized from the German economy at no cost to the United States. If this is not burden sharing, Mr. President, then I do not know what is.

I believe that this agreement represents a breakthrough in our efforts to persuade our allies to assume a larger and more equitable share of the common defense burden. As you know, one of NATO's basic principles has been that "logistics is a national responsibility." Our discussions on host nation support have successfully forced a reexamination of that principle. We now can expect that our European allies, with Germany in the lead, will become increasingly receptive to the concept of providing essential intheater logistics support to U.S. forces in wartime.

But this will only happen, Mr. President, if the United States keeps its end of the bargain. The Germans have already set aside \$18 million to pay their share of the implementation costs in 1983. I know of no one who questions the soundness of this program although a few have argued that the Germans should pay the entire bill.

As background, when the program was first proposed, the West Germans were to provide only the personnel and the United States would pay all of the costs. We have moved that initial arrangement to one that is much more favorable to the United States. However, it is clear to me that, if after the hard and lengthy negotiations that produced this cost-sharing formula, we now ask the Germans to pay the entire costs, the program is dead-a program that we urgently need in order to be able to support our combat forces in wartime.

The basic issue for the Senate to decide is: Do we want this wartime host nation support program or not? The Germans have made a substantial burdensharing offer:

They have agreed to provide support for U.S. forces which, by NATO's standards, is to be a U.S. responsibility; they have dedicated 93,000 reservists to this mission; they will provide

much of the needed equipment from

the German economy; and they have agreed to share equally the direct costs of the program.

We cannot afford to turn down this most advantageous offer. If we fail to fund our share of this program in fiscal year 1983-a total of \$44.3 million-I fear that the program will be terminated by the Germans.

#### POMCUS

When the NATO heads of state approved the long-term defense program in 1978, they also agreed to the pre-positioning of heavy equipment for three additional U.S. divisions in the central region, for a total of six division sets of POMCUS. Our allies agreed to acquire the land and buildings necessary to prestock U.S. military equipment for those units.

It is critically important that the United States follow through with our POMCUS plans. Both General Rogers, Supreme Allied Commander, Europe, and General Kroesen, Commander in Chief of the U.S. Army in Europe, have repeatedly insisted that the full six-division set POMCUS program is necessary-both militarily and politically—for the support of U.S. interests in Europe. The forward stationing of four division plus the pre-positioning of equipment for an additional six divisions is, by far, the least expensive way to insure a 10-division D-Day force-in line with our long-term defense program commitment-and the only way to do it in the near term

Mr. President, our allies have kept their part of the POMCUS bargain as well. The Belgians and Dutch have spent more than \$60 million to acquire the real estate for storage warehouses for division sets 5 and 6. The NATO infrastructure program has allocated more than \$180 million for construction at these sites. The failure of the United States to fulfill its POMCUS commitments could have serious political repercussions, especially in Belgium and the Netherlands where the planned ground-launched cruise missile deployments remain an important, yet controversial, program. Failure to meet our commitment to fill the sites when completed late in 1983 could also affect other negctiations with the allies on burden-sharing issues of great concern to the United States, such as the master restationing plan currently being negotiated with West Germany.

Mr. President, I understand the frustration that my colleagues have expressed about getting our NATO allies to assume a greater share of the conventional defense burden. At the same time, I am convinced that if the U.S. withdraws from commitments we have already made to our allies-when they have fulfilled their part of the bargain-we will only cause the allies to do less, not more, and harm vital United States security interests in the process. Thus, I urge the support of my colleagues for this amendment

that will permit the United States to fulfill these critical international orga-

Mr. PERCY. Mr. President, on December 2, the NATO defense ministers met in Brussels for their semiannual discussions on the state of NATO's defenses. During the session, the Ministers gave formal approval to the new NATO rapid reinforcement plan for Europe. The central feature of this plan is the requirement for the United States to be able to field 10 divisions on the central front within 10 days of the start of an Alliance mobilization. Four American divisions are presently stationed in Europe; six others would speed to Europe from bases in the United States were the orders to be given.

The recent action of the Appropriations Committee deleting needed to proceed with the establishment of pre-positioned equipment, known as POMCUS, for the fifth and sixth reinforcing U.S. divisions and striking funding for the wartime host nation support program with the Federal Republic of Germany are in direct conflict with the commitments of the United States under the rapid reinforcement plan adopted by the Alliance just 2 week ago. In addition, they are inconsistent with previous U.S. commitments under the NATO long term defense program.

In written testimony submitted to the Foreign Relations Committee on November 30, Gen. Bernard Rogers, the highly respected Supreme Allied Commander in Europe, warned that unless the fifth and sixth reinforcing U.S. divisions arrive in place on time and fully equipped, "the relative capability of the Warsaw Pact in the North German plain would be so overwhelming that we could not defend successfully without early use of nuclear weapons." Mr. President, we should be making every effort to raise the nuclear threshold, not lower it.

A failure to restore these funds would also pull the rug out from under our allies, who, trusting that the United States would make good on its commitment, have already-I repeat, already-spent tens of millions of dollars on these POMCUS facilities. Belgium and the Netherlands have gone to great effort to find suitable sites in their densely populated countries and have spent more than \$50 million to acquire the necessary real estate. Through the NATO Infrastructure Program, the Alliance acting as a whole has allocated more than \$180 million for construction at these sites.

Failure to fund POMCUS sets five and six would not only cripple this much-needed improvement in NATO's conventional defense capabilities, but would also endanger related programs. such as the Wartime Host Nation Support agreement under which Germany

will provide a 93,000-man reserve contingent to support U.S. reinforcements.

Mr. President, when the United States and West Germany signed this agreement on April 15, they achieved a historic breakthrough in NATO defense cooperation. For the first time, a NATO ally has agreed to pay a portion of the support costs of U.S. combat units. Before now, logistics has been considered a national responsibility, with each nation funding on its own support programs. Under the new agreement, though, the United States and the Federal Republic will share the total costs of the program equally. I should also emphasize that the program is designed to minimize the costs to the United States. Using the 93,000 German reservists for this purpose costs about one-tenth of what it would cost to provide the same capability with U.S. reservists and less than onefortieth of what it would cost using U.S. active duty personnel.

In a letter dated December 9, Secreof Defense Weinberger and tarv Acting Secretary of State Dam warned that a failure to restore the Host Nation Support and POMCUS funding "would have negative effects on our military capabilities and could seriousundermine allied confidence in making agreements with the United States for many years to come." I urge approval of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia.

The amendment (UP No. 1513) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was

agreed to. Mr. PERCY. Mr. President. I particularly wish to express my great admiration once again and deep appreciation and commendation to my distinguished colleague from Alaska (Senator STEVENS) for the statesmanship he displayed on the NATO troop issue during the Appropriations Committee markup of this bill, and on the

floor of the Senate today.

As one who led the fight against the various troop withdrawal amendments offered by Senator Mansfield in the 1970's, Senator Stevens has consistently championed the Atlantic Alliance and the vital role it plays in defending Western democracy. Although Senator Stevens and I have had some lively debates in the last few months over what constitutes an appropriate level of U.S. troop strength in Europe, I recognize that Senator Stevens has never wavered in his support for the U.S. commitment to NATO. I am very pleased that we were able to reach agreement on a provision that will stabilize the recent growth in U.S. troop levels while not requiring the unilateral withdrawal of any American troops.

Mr. STEVENS. I want to thank the chairman of the Committee on Foreign Relations for his statement. The statement he made concerning the modification position on NATO forces is correct. We have changed from 1981 to 1982 to the planned troop strength levels, and I want to thank the Senator from Georgia and his staff for working with us and with the Committee on Foreign Relations on this.

From time to time we get criticized for our trips to Europe. But I think the result of that trip showed us conclusively that the problem was that we were using numbers that no one really understood. For instance, we found that the Department of Defense answers to our questions about how many troops were in Europe included the people onboard naval vessels who are not assigned to NATO but were in the Mediterranean, inside the Gibraltar line, I guess, and they were temporarily there, temporarily afloat, and

they had counted.

They led us to the conclusion that the increase was more rapid than we had anticipated in March and, therefore, we put on a limitation to stop that increase. But I want to make sure that the Senate realizes that we have set now a ceiling and the ceiling has a bipartisan genuine support, I believe, in the Senate and it should be an indication to the Department of Defense that we are trying to put a limit on the growth of our commitment to NATO in terms of dollars. It is not manpower. It is, as I said to the Senator from Georgia concerning the brigade, it is dollars we are concerned with, and we must, I think, establish a manpower ceiling and maintain it.

So it will be our intent in the future to enforce this concept of the planned level for the end of fiscal year 1982 unless the President does, in fact, exercise his authority which is contained, which we put into this amendment, which is on page 29, which provides that the limitation may be waived by the President upon a declaration of Congress or overriding national security requirements. That is a unilateral determination by the Commander in Chief and we are prepared

to accept that.

COMMITTEE AMENDMENT ON PAGE 59. LINE 6

Mr. President, I now ask unanimous consent that the committee amendment on page 59, line 6, to strike the word "actual" at the end of line 6, and insert in lieu thereof the word "plan" to conform with the commitment I made to the Senator from Georgia; and then on line 8 of the same page, after the date "1982" insert therein "315.600"

The PRESIDING OFFICER. The Senator will send those amendments to the desk.

Mr. STEVENS. We will do that. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that a response from the Secretary of Defense to my Subcommittee on Defense, dated December 1, 1982, concerning this subject be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE. Washington, D.C., December 1, 1982. Hon. TED STEVENS,

Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR TED: This responds to your request for third and fourth quarter data on actual troop strength levels in Europe. We recently completed an audit of data on strength levels by country as of September 30, 1982 which allows us to address your question. The data for Western and Southern Europe are shown below.

Three cautions about these data: First, the apparent growth between the planned actual end-fiscal year 1982 strengths levels is more happenstance than real. The actual strengths for September 1982 are 9,100 higher than the planned strengths for end-fiscal year 1982 largely because the original end-fiscal year 1982 projections did not include the 6,200 soldiers temporarily in Europe for the REFORGER exercise, nor the 4,200 Marines temporarily afloat in the North Atlantic for a training exercise. Second, afloat forces vary considerably from quarter to quarter based on short-term fluctuations in world conditions as well as longer-term commitments. An example of this variance is between the March and June 1982 figures shown below. These first two explarations highlight again both the volatility of manpower strengths and the legitimate and required activities we might have to curtail to remain within a manpower ceiling. Third, the data the subcommittee has been using are for "Western and Southern Europe" and not just "NATO." The former includes some European countries outside NATO. In addition, "NATO" might erroneously be thought of as just the Central European region countries, whereas European NATO also includes Turkey, Greece, Iceland, Greenland (as a Danish possession). and the Azores (as part of Portugal).

# U.S. MILITARY STRENGTH (ASHORE AND AFLOAT) 1

100	Actual		Planned end	
	March 1982	June 1982	September 1982	(fiscal year) 1982 <sup>2</sup>
Army	219.8 81.0 33.1 (12.9) (20.2) 3.1 (1.3) (1.9) 337.1 (315.0) (22.1)	220.4 80.4 49.9 (13.3) (36.7) 4.3 (1.2) (3.0) 355.0 (315.3) (39.7)	227.3 81.6 39.6 (12.9) (26.6) 7.2 (1.3) (5.9) 355.6 (323.1) (32.6)	217.1 83.5 40.4 (13.8) (26.5) 5.5 (1.2) (4.2) 346.5 (315.7) (30.7)

<sup>1</sup> Totals may not add due to rounding. <sup>2</sup> As submitted in the fiscal year 1983 President's Budget.

I want to reiterate my conviction, Ted. that restrictions on troop strengths in Europe are not helpful to anyone con-cerned. With restrictions, we lose the flexibility we need to manage the department and respond to worldwide situations. As important, these restrictions undercut the commitments we have already made to our NATO partners and could provide them a ready-made excuse to cut back on their commitments because we did on ours. For my part, I assure you that I will carefully review the European strength levels we will submit in the FY 1984 President's Budget and only include those that are vital to our national interests and our troops' well-being

Frank C. Carlucci, Deputy Secretary of Defense.

Mr. STEVENS. I again thank all concerned for helping us set a new standard. I think it eliminates the confusion. We never intended to require a unilateral control. We wanted to establish a ceiling on our commitment to Europe.

Mr. NUNN. I thank the Senator from Alaska and pledge him we will work together in the next not 1 year, but in the future to see that both goals, that is strengtening the overall NATO lines but also the second goal making sure that the burden is shared in an equitable way with our allies will be improved on, and that we make progress in that respect.

Mr. STEVENS. Mr. President, was the Senator from Georgia's amend-

ment reconsidered?

Mr. NUNN. The two amendments were in one, and they have been reconsidered and a motion made to lay them on the table. They were on POMCUS.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

gest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the Senator from Montana and I have discussed the Army scraper procurement, and he would like to raise that at this time, at least raise the subject.

UP AMENDMENT NO. 1514

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana (Mr. Baucus) proposes an unprinted amendment numbered 1514:

At the end of title I, add the following new section:

Sec. None of the funds appropriated by this joint resolution may be used for the purpose of procuring any scrapers under RFP DAAE07-82-R-5388.

Mr. President, this amendment has at its heart fair play in Government contracting, pure and simple. There will be no revenue loss as a result of its adoption. In fact, it may result in savings of more than \$200 million.

The amendment relates to a solicitation for bids which was issued by the Department of the Army in August of this year. The solicitation or request for proposals was a five-year program to procure more than a thousand scapers for the Army. Depending on the bids received, the equipment will cost the Government about \$250 million.

Let me make it clear that I do not oppose the purchase of this equipment by the Army. My opposition is only to the needlessly restrictive specifications that were placed on the RFP by the Army. In fact, the solicitation was so narrowly drawn that it appears that only one equipment company qualifies.

My amendment would simply prohibit spending funds until the Army complies with the President's directive to executive agencies to enhance competition for Government contracts by eliminating unnecessary specifications and by simplifying those specifications that must be retained. The language of section 1(d) of Executive Order 12352 reads as follows:

"\* \* Executive agencies engaged in the procurement of products and services from the private sector shall:

\* \* \* \* \* \* \* (d) Establish criteria for enhancing effe

(d) Establish criteria for enhancing effective competition and limiting noncompetitive actions. These criteria shall seek to improve competition by such actions as eliminating unnecessary Government specifications and simplifying those that must be retained, expanding the purchase of available commercial goods and services and, where practical, using functionally oriented specifications or otherwise describing Government needs so as to permit greater latitude for private sector response.

This solicitation flies directly in the face of the President's order. For example, the drawings appearing in the solicitation's technical information package, together with the written requirements make it clear that the proposal is based on a single manufacturer's two-axle scraper design. The exclusion of three-axle models, however, is in no way related to performance of the vehicle's mission to load and transport earth nor its functional and performance requirements. It simply expedites the so-called competitive bidding process by eliminating potential bidders.

Congressman Ron Marlenee of Montana raised concerns about the anticompetitive nature of the solicitation this fall.

On November 3, John R. Ambrose, Under Secretary of the Army, replied to Congressman Marlenee, stating that the Army's specifications—

Reflect validated requirements for a two axle piece of equipment to allow it to fit on our military, standard trailer which must transport the equipment. Also, the turning radius of a two-axle scraper allows working in smaller areas . . .

Mr. Ambrose added that the Army declined to evaluate "life cycle costs."

The Army has, however, presented no convincing rationale for restricting equipment to two-axle scraper vehicles. Further, by refusing to disclose the dimensions of the Army's military, standard trailer the Army retains the ability to announce arbitrarily, after the fact, a limit on trailer dimensions to exclude other scrapers.

Finally, the absence of any specified turning radius requirement in the specification indicates that the Army places no importance on that characteristic. Again, the Army seeks to reserve the opportunity to announce a turning radius requirement after the fact.

A related deficiency in the RFP is the Army's refusal to consider the life cycle costs of the equipment. Initial acquisition costs cannot be considered in a vacuum. Given an anticipated life of 15 years for this equipment, all costs must be considered in determining which proposal is the most cost effective.

Frankly, the Army has suggested no features of this procurement that make it any more difficult to consider life cycle costs than in any major system procurement. Indeed, procuring agencies routinely consider these costs in other systems procurements and encounter no difficulty in verifying life cycle cost data submitted by offerors. The Government has precedents for evaluating tractors' life cycle costs, and should put this experience to work.

The result of such an analysis could be substantial savings to the Army. One potential bidder, Big Bud Tractor Co., contends that life cycle costs of its scraper could save \$215 million over the Army's preferred vehicle.

Finally, the solicitation is fatally flawed by its failure to set forth the relative importance of technical and cost elements in the proposals being considered. The General Accounting Office time and time again has ruled that procuring agencies must establish the relative weight of the factors used evaluating bids.

Given these serious problems with this solicitation, I believe that Congress must take responsibility to insure fair play and meaningful competition. My amendment would in no way bias the bidding process toward any one company. The result would be just the opposite. Once the RFP is rewritten to allow all interested state-of-the-art companies to participate, the decision process can go forward and the Army can begin to replace outdated equipment with modern, efficient machinery.

Mr. President, I have discussed this amendment with the Senator from Alaska as well as with the Senator from Oregon, the chairman of the committee. Based on those conversations, this time we will not proceed

with the amendment but instead agree to hold hearings on this subject very early in the next Congress.

I am withdrawing this amendment simply because of the short time frame that is involved here. The Senator from Alaska informs me that he is not in a position to agree. His objection is not because of the merits of the question, but because it would be bad policy to set a precedent on procurement policies where we do not have the opportunity to fully review the issues at an open hearing.

Mr. President, I see the Senator from Alaska seeks recognition and I yield to him.

Mr. STEVENS. Mr. President, we have discussed the amendment of the Senator from Montana. I understand that we do have allegations from time to time concerning the specifications for contracts and those allegations tend to have some people reach the conclusion that the preparation of the specifications were such as to eliminate some of the competitors.

I have no knowledge of the problem of scrapers under this amendment, but we have committed, with the consent of our good friend from Mississippi, to hold a hearing next year, the end of January or the first of February, to pursue this matter. It will be within the timeframe, as I understand, before the matter is finalized.

It has been the consistent policy of our subcommittee not to interfere with procurement on a line item for the expenditure of funds until we have had a contract hearing. Normally, the hearing will straighten out the problem to the satisfaction of all concerned.

I do make that commitment to the Senator and would urge him not to pursue this because we would have no alternative but to oppose it at this time, whereas we might support it if we had a record to support the feelings that the Senator has expressed to

Mr. BAUCUS. Mr. President, based upon the representation of the Senator from Alaska, and I thank him very much for it, and particularly for the fact that we will hold a hearing on this subject in January or February of next year, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

Mr. STEVENS. Mr. President, would urge Senators who are not present on the floor, who have indicated to us that they have amendments they wish to offer to the defense portion of the continuing resolution, to offer the amendments. We have a series of them. The names have been listed in the RECORD already.

Pending the arrival of any of those Senators, I would suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I understand that the Senator from Washington has an amendment. We have reviewed it. It is a very straightforward amendment concerning a reduction in the amount authorized under this bill. He is prepared, as I understand it, to agree to a time limit of 20 minutes on each side. On behalf of the committee, I would be prepared to agree to such a limit of 20 minutes on each side provided there be an agreement that the amendment of the Senator from Washington not be subject to an amendment.

The PRESIDING OFFICER (Mr. ARMSTRONG). Does the Senator from Alaska propose that as a unanimous-

consent agreement?

Mr. STEVENS. I do. With the agreement of the Senator from Washington I propose that as an agreement for this amendment, that there be a time limit of 40 minutes equally divided, with the proviso that there be no amendments allowed to the Senator's amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

UP AMENDMENT NO. 1515

(Purpose: To reduce the rate of funding for the Department of Defense by 3.3 percent except for the Operations and Maintenance account)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Washington (Mr. GORTON), for himself, Mrs. Kassebaum, Mr. DURENBERGER, Mr. CHAFEE, and Mr. DAN-FORTH, proposes and unprinted amendment numbered 1515.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 8, insert "(1)" after "(c)". On page 9, line 17, insert "other than title

III of that bill," after "(S. 2951),".
On page 9, line 20, insert ": That appropriations made available pursuant to this paragraph shall be reduced by 3.3 percent" after "law".

On page 10, between lines 2 and 3, insert

the following new paragraph:

"(2) Such amounts as may be necessary for programs, projects or activities provided for in title III of the Department of Defense Appropriation Bill, 1983 (S. 2951), at a rate of operations, and to the extent and in the manner and under the authority provided for in such bill as reported to the Senate on September 23, 1982, as if such bill had been enacted into law.

Mr. GORTON. Mr. President, this is an important and significant amendment which deals with the entire attitude of the Congress and the Nation toward the budget for national de-

The amendment would cause 3.3 percent to be taken from all elements in the defense budget included in the continuing resolution, except for those dealing with regard to readiness. The reduction would amount to \$5.6 billion, without specification except for the fact that readiness would be exempted. I would like to emphasize that the 3.3 percent applies to the balance of defense programs and not to the entire \$233 billion included in the budget at the present time.

The precise nature of those cuts would be left entirely to the Department, with consultation from the Armed Services Committee and reductions from Senator Stevens' Defense Appropriations Subcommittee. The specific details of these would not be dictated by this amendment.

The amendment arises out of a number of facts which are undisputed. The first and most important of these facts is that the United States now is experiencing a rate of inflation markedly lower than the rate of inflation which was anticipated when both the 1981 budget resolution and the budget resolution passed in May of this year were passed. In each of those cases, the budget resolution for the national defense function was based on assumed inflation rates markedly higher than the rates which we have in fact experienced.

A second and regrettable difference between the present and the time at which we passed each of those budget resolutions is that the growth rate of the U.S. economy-that is, the growth rate of the gross national producthas been sharply lower than projected.

The consequence of these two facts-one, the rate of inflation, which is encouraging; and the other, the gross national product figures, which are exceedingly discouraging-is that the real dollar appropriations contained in this continuing resolution are higher than was projected or anticipated by this body and by the Congress of the United States at the time we passed the last two budget resolutions.

As a consequence, spending for national defense as a percentage of the gross national product is also higher than projected.

As Members doubtless recall last year we enacted legislation to remedy the phenomenon known as bracket creep-the increase in the tax burden borne by taxpayers which results from inflation. Similarly, the amendment I offer today will remedy an effect I shall call—that is, the unexpected defense creep increase in spending for defense in real terms caused by the unanticipated low rates of inflation and growth in the economy which we

are now experiencing.

My amendment recognizes and compensates for this defense creep. It also recognizes the weakening national consensus for massive increases in the national defense budget. I do not mean to suggest that a significant strengthening of our defense is both in order and necessary. But I do believe that we should need the public's attitude toward these increases. It is partly in order to recreate not only the perception but the actuality of fairness in the way in which this administration and this Congress deal with the budget problems facing the United States today that this amendment is proposed.

We face annual budget deficits this year and in the next few years of between \$150 and \$190 billion. We face extraordinarily difficult during the course of next year in the passage of a budget resolution. We must, somehow or other, create a consensus which, at the same time that it reduces the rate of growth in entitlement spending, provides severe controls over discretionary nondefense spending. At the same time, we must see to it that the budget for national defense is not exempted from the same kind of scrutiny which has already been applied to most other spending areas which are the subject of this Congress' work.

Mr. TOWER, Will the Senator yield

for a question?

Mr. GORTON. This Senator will not yield until he completes his remarks.

Mr. TOWER. I wanted to question him on the assertion he made. I believed him to say that the Armed Services Appropriations Committee, in effect, had not subjected defense to the same kind of scrutiny that other programs have been subjected to.

Mr. GORTON. The Speaker would like to compliment the Senator from Alaska, most particularly, and the Appropriations Committee for forcing the administration to live within the budget resolution which this body and the House of Representatives passed earlier this year. Members will note, however, that the Department of Defense and, at one point, the President of the United States, felt quite free to ignore even that budget resolution.

The fact, however, of that significant triumph on the part of the Appropriations Committee does not avoid the fact that we have an economy which is in worse shape today than we projected when we passed that resoltion. We also have a rate of inflation which is lower today by a considerable amount than was the case when we pased that budget resolution.

Mr. TOWER. May I further ask a clarifying question of the Senator?

Mr. GORTON. No, Mr. President, this Senator will not yield until he has completed his remarks, at which time he will be happy to yield.

Mr. TOWER. I just want to be certain that I understood the Senator, that what he said was the Armed Services Committee has been derelict in scrutinizing the defense budget.

Mr. GORTON. What I was saying is that the national defense budget at this point represents a greater share of the gross national product than we anticipated when we passed either the defense authorization bill or the budget resolution this year, and that it represents a greater number of real dollars because of the lower rate of inflation than this body anticipated when it passed the budget resolution earlier this year,

Mr. TOWER. I am just trying to understand the Senator's statement about scrutiny. I could not hear it over

Mr. GORTON. Mr. President, the Senator from Washington would like to complete his remarks without interruption, if he may be permitted to do so.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. The amendment which is before us reduces the defense budget by an amount necessary to reverse the defense creep which has occurred in 1982 alone, and does not address the effects of lower inflation during the course of 1981.

Because of the fact that this continuing resolution includes the defense budget for all of fiscal year 1983, which I think is a very good idea, we shall not have another opportunity to deal with that fiscal year 1983 national defense budget. I want to emphasize most strongly that when we have passed the continuing resolution, we shall have entered into a course of conduct-entered into a set of spending decisions-which will be exceedingly difficult to deflect or defer for next year. It will make it very, very difficult for the Senate and for the House of Representatives, in the course of passing a budget resolution for 1984 and succeeding years, to undo any of the decisions which are being made here and now. Even though it may be more evident then that there has been a significant amount of defense creep due to weakness of the economy and an unexpectedly low rate of inflationthat we have spent considerably more than we intended to spend—we will be locked into a higher real level of defense spending. This will set a higher base on which to build the fiscal year 1984 budget resolution, even though a moderation in defense spending increases may be required.

In other words, Mr. President, if we are to begin to re-create the consensus which is necessary for an appropriate increase in our spending on national defense-which is to last through the next several years-we need to begin now. I repeat that I do not believe that the budget for national defense has been subjected to the same degree of scrutiny, to the same type of discipline, as has the budget in almost every area of nondefense discretionary expenditures. That scrutiny of defense programs will very clearly be required now if we are ever to begin to start on the road toward a balanced budget and make the necessary reexamination of entitlement spending during the course of the next year.

At the same time, I must say very bluntly, we will not exercise the political willingness to control entitlement programs unless and until we persuade the people of the United States that we are willing to engage in the same kind of scrutiny and discipline in connection with the budget for national defense.

It is because of the difficulty of those outside of the administration or outside of the Armed Services Committee or the Defense Subcommittee of the Appropriations Committee to set specific priorities—to make determinations between weapons systems on a highly sophisticated and intelligent basis—that this amendment is across-the-board or, rather unspecified with respect to everything except for readiness.

I readily admit that I prefer the advice of the administration, of the distinguished Senator from Texas, and of the Senator from Alaska in making those determinations. I despair, however, of getting the administration to exercise any such prioritization without being forced to do so by this body.

Less than 12 hours ago, I voted with the Senator from Alaska and the Senator from Texas in connection with the MX missile. I have the relatively strong feeling that, if priorities are set as are required by this amendment, strategic weapons will survive and that it will be in other areas that most of these cuts can be made. But I cannot be certain of what the administration would recommend under those circumstances or, for that matter, what the Senators from Alaska or Texas would recommend under those circumstances. This amendment is designed to force that setting of priorities.

Very, very bluntly, we are not going to be able to continue on the road on which we are going at the present time—we have seen that in what has happened in the House recently—unless we recognize this fundamental and profound shift in the views of the American people toward national defense budgets. Unless we take steps such as those which are contained in

this amendment, we shall find that the steps we will be taking in 2 or 3 years will require much greater cuts in readiness and in weapons systems themselves.

Mr. President, I urge my colleagues to consider very, very carefully whether we should not begin today with the process we know we must follow in 1983 with the new Congress, which will examine without prejudice every area of the budget-entitlements, discretionary nondefense spending, and defense spending itself, as well as revenues. If we do not, we will not reach conclusions of an appropriate nature next year. We will not work this country out of the recession in which it finds itself at the present time; we will not work ourselves back into the prosperity for which we all long so greatly. It is very, very important that we begin to take steps like this right now, in December of 1982, and not defer them until some vague future dates.

Mr. TOWER. Will the Senator yield

for a question?

Mr. GORTON. The Senator will vield on the time of the Senator from Alaska, but I believe there are other people who wish to speak on this subject.

Mr. STEVENS. I yield to the Senator from Texas 5 minutes.

Mr. TOWER. I understood the-Mr. STEVENS. Mr. President, I yield

the Senator from Texas 5 minutes. Mr. TOWER. I understood the Senator from Washington to say that defense does not receive the same scrutiny that other Federal spending programs receive, which I think is a rather severe indictment of the Armed Services Committee and the Appropriations Committee. Would the Senator care to elaborate on that and note

in which arfeas we have been derelict? Mr. GORTON. The Senator would answer the distinguished Senator from Texas in precisely this fashion. It is obvious to the Senator from Texas, as it is to the people of the United States, that the tests placed on the defense budget by this administration have been totally and completely different from those to which nondefense discretionary spending has been subjected; that that case has existed for 2 years; that on every occasion in which the Congress has asked for a set of priorities on the part of the national administration, it has failed to get them and has simply been told by the Secretary of Defense and by others that it is absolutely necessary that we follow their instructions to the letter.

Now, the Senator will not only admit-he has already admitted in the course of his remarks-that when it finally dawned on the administration that we were serious about the numbers which were included in the first budget resolution this year, when the Senator from Alaska went so far as to tell the Department of Defense he would not report a bill until they set priorities which brought them within that number, they did in fact do so.

The Senator from Alaska and his committee are to be greatly commended for that, but that action has not resulted in any different approach toward this entire problem by the administration. The passage of this amendment would require the administration to do exactly what I think is necessary. It would put us on record saying that we are in fact going to see to it that every element of spending in this budget is submitted to the same degree of scrutiny and that there are no sacred cows. That is what it is designed to do.

Mr. TOWER. Mr. President, what has been recommended here is a meat ax slash; it is an abrogation of congressional responsibility. As a matter of fact, it tends to make the authorization/appropriation process less relevant when we suggest meat ax cuts. I have never voted for meat ax cuts in this body, be it on welfare programs, social spending, or any other kind of spending. I think that we in the Congress ought to face up to our responsibility and define where we think these cuts should come.

To begin with, the distinguished Senator from Washington errs if he thinks that defense inflation is the same as inflation in the private sector. Let me read this memorandum of the Congressional Budget Office.

There has been much interest recently from the press and several congressional committees in the possible reduction in the fiscal 1983 budget due to lower than anticipated inflation rates. The CBO's most recent analysis shows that price increases for defense purchases have slowed but not below rates anticipated in earlier administration and CBO forecasts. Our projection, based on September 1982 CBO economic and budget outlook, points to a potential net reduction in the 1983 Defense budget of about \$0.7 billion in budget authority, not a significant amount given the uncertainty inherent in such estimates.

I suggest both in the authorization bill and in the appropriation bill reductions were made in substantially greater amounts than that.

Let me further note that if defense has such an adverse impact on the economy, why is it that no Member of this body will step forward and recommend defense establishments in their States be reduced in spending? I wish they would do it, but they will not.

And some of the greatest advocates of reducing defense spending in the Congress of the United States are the most vigorous guardians of defense spending in their respective States or districts. We can cite many examples of that but we do not like to mention

I wonder if the Senator from Washington would step forward and tell us where the Department of Defense is wasting money in his State, where are the low priority items that can be cut out?

Now, in fact, we have made reductions, and I can tell the Senator where they come from, because defense spending has already been prioritized.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. TOWER. The priorities are readiness and sustainability.

The PRESIDING OFFICER. Does the Senator from Alaska yield fur-

Mr. STEVENS. Does the Senator wish further time?

Mr. TOWER. One minute.

Mr. STEVENS. I yield 1 minute.

The PRESIDING OFFICER. the Senator from Alaska yields 1 minute.

Mr. TOWER. Readiness and sustainability and systems modernization; force structure comes third. And if the amendment of the Senator from Washington is adoped, we will have to make drastic reductions in force structure because we really do not have that much discretionary spending left in defense. I think if we do so, we ought to authorize a process whereby we repeal the current restraints put on the Department of Defense for base closures and permit them to close them, lock them up in 30 days and move them out without any reference to congressional restraint, and every-body better be prepared to identify things in his own State or district that should be reduced. It is generally regarded that defense spending is an economic asset to a State or district, and I challenge anyone to prove otherwise

Mr. STEVENS addressed the Chair. The PRESIDING OFFICER (Mr.

HAYAKAWA). The Senator from Alaska. Mr. STEVENS. I understand the frustration of the Senator from Washington.

Mr. STENNIS. Mr. President, may we have quiet. This is an important matter.

Mr. STEVENS. We see signs that there may be a lessening of support for defense spending, but I think that is not a real image now. I think there have been some of these items that have had so much attention that they have been handled in a way to put into question some of the credibility that the figures have had in the past. We are doing our best to straighten that out, and I thank the Senator for his comments concerning our action.

But, Mr. President, the impact of the amendment of the Senator, a 3.3percent reduction across the board with the exception of O&M, would be a cut of \$5.4 billion, almost \$5.5 billion.

We have already made a cut of \$16 billion. The House has made a cut, Mr. President, of \$19 billion. We are talking about budget authority now. Worse than that, we made a cut of \$8.7 billion in terms of outlays for this year alone, and we have adjusted the inflation item in this bill. It is much lower than it was the year before. As the Senator from Texas said, there is a lag of money in this bill behind the overall average of inflation. The average inflation in the country is about 5; the inflation in the defense bill in the area that the amendment of the Senator touches, because of the way it is done, excepting O&M, is in the high part of the average for the Department of Defense.

Now, I say to my friend—and he is my southern neighbor, Mr. President—that I understand where he is going. I want him to know we have gone through this bill and we have insisted that it is an honest bill as far as the reductions are concerned.

Senators are going to hear some amendments soon to put money back in where we have taken so much out. I do think that it ought not to be approached from the point of view of a cut like this. It is an across-the-board cut. We could allocate it, but it would take us a long time to do that. We had a tough enough time getting the cut we have already imposed on the Department of Defense prioritized.

I always like to remember the story of my friend in the State legislature when they wanted to cut 5 percent of the money that was necessary to build a bridge across the river in his district. That is the problem with cuts of this type. You just cannot get there from here if you apply a cut across the board. We have been specific, Mr. President, my good friend from Mississippi and his staff, and I want to acknowledge the distinguished Senator from New Hampshire (Mr. RUDMAN). I am sure that Senator STENNIS would join me in commending him as being probably the member of the subcommittee that paid more attention to cost and the specific items than any other member of our committee, and the Senate will see some of that this afternoon as we address specific items. But we have paid attention to this money. I think it is indicative of the situation, and I want the Senate to realize none of this money is spent in my State except in terms of general military expenditures. I have no production, no defense contractors, no suppliers. There is nothing here that affects my State. I do not have any parochial interest except one who believes in a strong defense.

I am not saying that makes me lily pure, but I do believe that we have been very objective in this bill and it is not the kind of bill that we can afford to have an across-the-board cut on. We will come out of the conference committee at a lower figure than we have got by definition and that will place the total cut for this year somewhere in the vicinity of \$9.5 billion, somewhere around \$19 billion in budget au-

thority. That is a substantial cut in the budget presented by the President of the United States.

I would like to yield to my good

friend from Mississippi.

Mr. BOSCHWITZ. Would the Senator yield? The Senator from Minnesota has to preside, has to assume the Chair in just a few minutes, and I would like to ask a question or two or three of the Senator from Washington.

Mr. STEVENS. With the consent of the Senator from Mississippi and with the request of the Chair to notify me when we have 5 minutes left, I will be happy to yield to my good friend.

Mr. BOSCHWITZ. And it will be on

the time of-

Mr. STEVENS. You are going to take the time of the Senator from Washington? I am happy to yield.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. I would like to ask the Senator from Washington how

he arrived at the 3.3 percent.

Mr. GORTON. We took the difference between the predicted rate of inflation for the gross national product deflator, which was 7.3 percent at the time of the debate over the 1983 budget resolution, and subtracted the amount now predicted by the most recent consensus of economic forecasters, which is 5.3 percent or a little bit The difference is 2.1 percent. We applied that number to the outlays figure in S. 2951 and determined that a savings of \$3.25 billion in addition to the amount already saved by the committee was needed. When this figure was converted into budget authority, which was accomplished by applying the spendout rates in S. 2951, it came to a savings of \$5.6 billion in budget authority being needed to bring the budget into line with the budget resolution in real terms.

Mr. BOSCHWITZ. I have been concerned about the rapidity of growth of the Defense budget, and perhaps the Senator from Alaska will talk about that and the figures in each one of the

vears.

I have supported, by and large, defense spending and most of the increases, though I have been distressed with the rapidity of the increase. I agree with the Senator that we will not be able to control entitlements until we are able to show the American people that we are more able to control defense than we seem to have been.

I wonder if the Senator would expand on that point, and I yield the floor.

Mr. GORTON. The Senator would be happy to do so, but would now wish to defer to the Senator from Mississippi and address the point raised by the Senator from Minnesota in the balance of his remarks, for which only a few moments remain. Mr. STEVENS. Mr. President, I yield 3 minutes to my friend from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Alaska and I commend the Senator from Washington. I want him to hear this. I want him to hear it. I commend him for his sharp eye and his good analysis here with reference to this money matter.

But it has been my experience over the years now, even though it looks good on paper, these across-the-board percentage reductions just do not work out. They are almost impossible to handle in conference. We get into the biggest kind of arguments in conference with stalemates with the conference from the House of Representatives on how it is going to be applied and where.

It gives too much authority, too much power, too much power to the Department of Defense.

We are the ones to set this money figure. We are to specify where it is going with very few exceptions.

I think we find rather rapidly that the figures we set and worked out are better and really save money better.

So I think as to these figures that were adopted here by those who put them in the bill it was after a rather mature consideration and measurement and comparison with the other needs and really save more money by far to stick to the system of itemized reductions, and I am impressed with what has already been done here with reference to these figures.

I am sure my time is up. I thank the membership for listening to my remarks. I am glad to support the committee on these figures.

The PRESIDING OFFICER (Mr. Boschwitz). Who yields time?

The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senator from Maryland (Mr. Mathias) be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield such time as she wishes to the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Washington.

Mr. President, as a cosponsor of this amendment, I feel it is not a meathatchet approach. I wish to say I think it has been a debate that has been thoroughly aired here.

Mr. President, I hope that the Senate will clearly understand the nature of the amendment that Senator Gorton and myself and others are offering to the continuing resolution. This amendment is not an across-theboard cut at the Defense budget; it is not the type of blind cutting amendment that the Senate has voted on many times in the past.

In discussing this amendment, we should keep in mind the following points:

The 3.4-percent reduction contained in this amendment will apply only during the course of the continuing resolution; that is until September or whenever we enact a DOD appropriation bill, whichever comes first.

Title III of the Defense appropriations bill, the operation and readiness account, is specifically exempted from the reductions that would be enacted if this amendment is signed into law. Thus, the area where we are being told that we are most deficient—training, spare parts, maintenance, overhauls; in short, the nuts and bolts of the Defense budget—shall receive increased funding beyond other portion of the Defense budget;

Our amendment refers itself to budget authority. We have not specified or mandated any necessary amount of outlays to be reduced. Thus, there is no requirement to select reductions laden in outlays. This aspect of our amendment should guard against finding the necessary reductions in manpower issues.

If some of my colleagues suspect that this amendment allows a certain amount of freedom on the part of the Department of Defense to secure the saving we seek but at the same time strongly hints that the amendment is geared for finding those savings in the procurement part of the budget, they are not incorrect. The sponsors of this amendment have made this choice consciously. The procurement budget that we are selecting this year predetermines the size of the budgets that we will be facing in the next few years. To procure now the amount of hardware in this year's defense budget will predetermine the amount of spares, maintenance, training, manpower, and much more in next year's budget, and the year after that, and the year after that, and the year after that. We cannot allow ourselves to gloss over this issue. If we endorse this defense budget as it now stands, we will be creating support requirements for later years that today appear well beyond our fiscal ability-and perhaps willingness-to provide. If we do not enact these cuts now, we will be either predetermining budgets for several years to come or we will be creating a structure that we will be undermining in later years should we think that defense savings can be enacted next year rather than now.

This problem may even now be worse than we fear. Last week several news articles appeared that pointed to the existence of an internal Department of Defense study that indicates that the 5-year defense plan is seriously underfunded and that what we are buying now for our defenses will cost considerably more than what we expect. History would seem to bear

this out. If this study is, indeed, correct, the hole we are digging ourselves into is large, far larger than we would like to think. I would hope that this issue will receive our most serious attention in the coming months.

Mr. PERCY. Mr. President, throughout my Senate career I have opposed across-the-board cuts. Across-the-board cuts inevitably penalize the most efficient operations and lead to budget padding when agencies submit their requests. Once agencies begin to anticipate across-the-board cuts, the greatest reward goes to the agency or department that pads its request the most.

The President's original budget request for fiscal year 1983 has already been cut by the Appropriations Committee by \$16 billion in budget authority. The House has cut it by \$19 billion. This level, if sustained in conference, would reduce the real rate of defense spending increase from 1982 to 1983 from over 13 percent to less than 6 percent, which represents the biggest defense budget reduction by Congress in 22 years. I support the defeat of the amendment.

Mr. GORTON. Mr. President, I yield 1 minute to the Senator from Minnesota

Mr. DURENBERGER. Mr. President, the past few years have seen the growth of a remarkable consensus in favor of restoring our national security. I expect more than a few raised eyebrows at that statement, for we hear much about the collapse rather than the cohesion of our consensus.

But I remember a time, not long ago, when the American public and its Representatives in Congress sought to cut defense spending to lower and lower levels each year; a time when we often chose to overlook the often harsh realities of the world we live in; a time when our attitude toward fiscal responsibility was altogether irresponsible.

We have come a long way since that time. The harshest critics of our current defense policy nonetheless support regular increases in at least some categories of defense spending. There is widespread understanding of the nature of the threats we face and the challenges we must overcome. There is a strong recognition of the need to reduce deficits, balance the budget, and restrain wasteful Government spending. In short, we disagree over the margins; we agree to an extraordinary amount about the central thrust of our policy. There is, in other words, a remarkable consensus in favor of restoring our national security.

Mr. President, the amendment we offer tonight is offered in that spirit. It implicitly recognizes the need to continue our renewed and long-overdue emphasis on readiness: training, spare parts, fuel, maintenance, and so forth.

It implicitly recognizes that we neglected our defense budget for too long, and therefore provides for a generous increase over last year's levels.

It implicitly recognizes, finally, tha our economic helath is a vital element of our national security. The reductions proposed in their amendment will not balance the budget or retire the debt. But they will help. Just as important, they will signal to Americans that we in Congress are serious when we say that no area of Government spending is or can be above scrutiny. That signal is needed if we are to restore the fundamental confidence which must underwrite a policy of national security.

Some may object that we seek savings without specifying reductions on a line-item basis. That is a valid concern. But we must remember that we are debating a continuing resolution here, not a defense bill, and our opportunity for such finely tuned reduction is therefor limited. That is why the proposed reductions are prorated over the term of the continuing resolution only, and not directly tied to an annual appropriations group. If we get a bill, we will have the chance we lack tonight.

I shall make only one aditional comment and that is as to the remarks of the Senator from Mississippi about the objection that we seek savings without specifying reductions on a line item basis, and I think that is a valid concern. But I think we also msut remember we are debating here a continuing resolution, not a defense bill, and our opportuntly for finding reductions is therefor limited.

That is why the proposed reductions are prorated over the term of the continuing resolution only and not directly tied to annual appropriations.

If we get a ill which I expect we will then I think we will have a chance at that detail.

I congratulate the Senator from Washington, the Senator from Kansas, and others for proposing this very thoughtful amendment.

Mr. GORTON. I thank the Senator from Minnesota.

Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. Boschwitz) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield myself 2 minutes.

As soon as the time has expired I am going to make a motion to table the Senator's amendment.

I am going to urge Members on my side of the aisle to consider what they are doing.

We worked our guts out to get this thing down to where they told us to get it. I had to adjourn four meetings. I had to have two meetings at the White House and a series of meetings with the Secretary of Defense to get the discipline that was required to live up to the level the Senate said.

What Senators are doing is revising the Budget Act. We cannot run the Defense Department in this fashion, particularly when we are not passing a bill until December.

The delay has already cost the Department of Defense \$1 billion a month in terms of the money that can be expended in terms of these programs because we are still operating in 1982 levels.

This is not the way to treat a committee that has given absolute attention to the instructions of the Senate. We have done exactly what the Senate told us and at severe strain of relationships with the Defense Department with which we must work daily.

This is \$8.7 billion below the President's budget in outlays and it is \$16 billion below the budget in authority.

The effect of the Senator's amendment is to cut another 3.3 percent from procurement.

And he tells us, "You allocate it."

That is almost impossible and to go to conference tonight it will take me a day or two to get the numbers in order to tell the House of Representatives what our numbers are.

Do not treat me like this or my committee like this.

I think there is a system here we have agreed to live up to and no chairman who has come before the Senate has done what we have done. We have lived up to the Budget Act to the extent of even taking \$200 million more than would have been required under the Budget Committee's allocation because our committee gave us \$200 million more and we did it.

The PRESIDING OFFICER. The Senator has used his 2 minutes.

Mr. EXON addressed the Chair. The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, could I have 2 minutes?

Mr. STEVENS. I ask the Senator is he for or against the amendment?

Mr. EXON. It will be somewhat of a surprise to the Senator from Alaska, but I am taking his position on this.

Does he have 2 minutes?

Mr. STEVENS. I am happy to share the time I have remaining which I think is 2 minutes.

The PRESIDING OFFICER. The Senator from Alaska has a total of 4 minutes remaining.

Mr. STEVENS. I am happy to share with my cosponsor of my position 2 minutes.

Mr. EXON. Mr. President, will wonders never cease? I am going to be very brief.

While I feel that the Senator from Washington and his associates are very sincere, I hope that we will turn this down for the simple reason that

this is one more case where we will delay putting off the hard decisions that someday we are going to have to make on the defense budget, and I say that as a member of the Armed Services Committee. We are not going to be able to go on forever making a few cuts here and a few cuts there without jeopardizing our real defense needs. Sometimes we are going to say we are going to have to make some choices between all of these expensive programs that we are moving forward on and I am afraid although it is well intentioned and as much as I would like to make the reductions that are being suggested here, I think this is the wrong way to make them, the wrong time to make them, and I hope that we can support the Senator from Alaska in this case.

Mr. STEVENS. Mr. President, I know the Senator from Washington deserves the right to close on his amendment, and I would want to allow him that.

I wish to show the Senate. This is procurement alone. We have eight titles—this is procurement alone—single spaced printout, 58 pages. There are 22,000 items in this bill that we have gone over. This is 3.3 percent that between now and whenever we go to conference we have to allocate.

That is the intent of the Senator's amendment, and he is my great friend and good neighbor, but I say this is an impossible task. You cannot assign a committee that has done its work that kind of task.

Mr. STENNIS. It is not asking too much to give us a chance here for this Senator's speech to be heard. This is a highly important matter. This amend-

ment might pass.

Mr. STEVENS. It might indeed, and it worries me. How much, for instance, should we take from the attack helicopter, how much should we take from the wide body allocations for Boeing, how much should we take from Mississippi, how much should we take from Brooklyn Naval Yard?

We are going to get those issues here in a minute, but we have been fair.

No one has come to me and said, "What you have done is unfair."

We allocated between the services. We allocated geographically, and we met your test.

I plead with you, you can cut across the board somewhere else, but you cannot here unless you give me the numbers before 6 o'clock tonight.

Mr. GORTON. Mr. President, I thank especially the Senator from Nebraska who it seems, though he spoke on the other side, in fact made our case for us. We cannot delay any longer these hard decisions. But if we do delay these hard decisions for what amounts to another fiscal year, they will be all that more difficult and all that more inefficient.

I am second to no one in my admiration for the Senator from Alaska and for what he has done. But essentially, the Senator from Alaska is telling us that the technical problem is so difficult that we cannot do what the United States of America and our citizens want us to do, that we cannot set the preconditions for the budget decisions which we meet next year.

I submit, Mr. President, that this simply is not the case. If we are unwilling to make these decisions now, we will find ourselves making much more difficult decisions and probably worse ones in another year.

It is exactly because the Senator from Texas knows perfectly well that we consistently turned down specific cuts and it is exactly because the Senator from Alaska and the Senator from Texas are so wise in this field that this amendment says that it is they who are most expert who should make these decisions. You should not come and say, well, how much of it is going to be in your State, how much is going to be in another State. You should make these decisions, and you should make them on an objective defense policy basis.

It is nevertheless well past the time that we began to subject the Department of Defense to a discipline which every other Department of this Government already knows very, very well, and which every other committee already knows very, very well. It is time that we began to rebuild a consensus for the spending increases necessary to maintain a strong national defense which the attitudes of the last 10 years have gone so far to destroy.

Mr. STEVENS. Mr. President, like other people who get in this spot sometimes the truth is restricted. I thought I had more time than I have.

I want to tell my good friend it is a time problem, and to tell you if the Senate had told us to cut what would amount to another almost \$6 billion and the Senate had sent that correction to us we would have cut it. We have followed the budget process.

You are not amending my bill, our bill. You are amending the budget process and I believe if there is to be a change you ought to consider that we will have supplementals next year and maybe we should face the question of whether there should be more cuts in the defense budget. I do not think so.

Let me tell you that we have already absorbed in this reductions in civilian manpower levels. Under the House bill we have got a series of other items. We have got \$900 million that is fenced because of the action we took this morning. There are any number of amounts in this bill that are not spendable, and we do not have time to address this right now.

The PRESIDING OFFICER. The time of the Senator from Alaska has expired.

Mr. STEVENS. I move to table the Senator's amendment, and I ask for the yeas and nays. Does the Senator have any time left?

The PRESIDING OFFICER. The Senator from Washington has 48 seconds left.

Mr. GORTON. The Senator from Alaska just told us that, if we had made this decision 2 or 3 months ago, he could have and would have carried it out. But because we come 60 days late, we should spend an extra \$5.6 billion this year and considerably more the next year. In my view the Senator from Alaska has made my case.

Mr. STEVENS. That is not true. I said I lived up to the Senate rules and live by the budget process.

I move to table the Senator's amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from Washington. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER), and the Senator from Maryland (Mr. Mathias) are necessarily absent.

I further announce that, if present and voting, the Senator from Maryland (Mr. Mathias) would vote "nay."
Mr. CRANSTON. I announce that

the Senator from Kentucky (Mr. Hup-DLESTON) is necessarily absent.

The PRESIDING OFFICER. there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 52, nays 45, as follows:

# [Rollcall Vote No. 439 Leg.]

## TOAR ER

	1 EAS-02	
Abdnor	Garn	McClure
Andrews	Glenn	Nunn
Armstrong	Hart	Percy
Baker	Hatch	Quayle
Bentsen	Hatfield	Randolph
Brady	Hawkins	Rudman
Byrd, Robert C.	Hayakawa	Schmitt
Cannon	Heflin	Stennis
Chiles	Helms	Stevens
Cochran	Humphrey	Symms
Cohen	Inouye	Thurmond
DeConcini	Jackson	Tower
Denton	Johnston	Wallop
Dodd	Kasten	Warner
Dole	Laxalt	Weicker
Domenici	Long	Zorinsky
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Boren	Danforth	Kassebaum
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Bradley	Durenberger	Leahy
Bumpers	Eagleton	Levin
Burdick	Ford	Matsunaga
Byrd,	Gorton	Melcher
Harry F., Jr.	Grassley	Metzenbaum
Chafee	Heinz	Mitchell

Moynihan	Proxmire	Simpson
Murkowski	Pryor	Specter
Nickles	Riegle	Stafford
Packwood	Roth	Tsongas
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#### NOT VOTING-3

Huddleston Mathias

So the motion to lay on the table UP amendment No. 1515 was agreed to.

Mr. STEVENS. I move to reconsider the vote.

Mr. STENNIS. I move to lay that motion on the table.

The motion to lay on the table was

agreed to.

Mr. STEVENS. Mr. President, there are other amendments. The Senator from Colorado indicated he has two amendments which he is willing to proceed with. Can he tell us which one he is ready to proceed with now?

Mr. President, first, I want to thank the Senator for that bipartisan response. It will enable us to get a bill, I think, by Monday.

I yield to the Senator from Colorado. I yield the floor if he wants me to

#### UP AMENDMENT NO. 1516

(Purpose: To increase Navy combat readiness by adding funds for operation and maintenance, Navy, for aircraft depot maintenance activities and to provide for those funds by eliminating appropriations for one nuclear-powered aircraft carrier)

Mr. HART. Mr. President, I vield to my colleague from Michigan (Mr. LEVIN), who is a cosponsor of the amendment which has to do with nuclear aircraft carriers and operation and maintenance spending. The Senator will offer the amendment.

Mr. STEVENS. I thank the Senator for telling us this is a carrier amend-

The Senator from Michigan has the floor. May we have a copy of the amendment?

Mr. LEVIN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Michigan (Mr. Levin), for himself and Mr. HART, proposes an unprinted amendment numbered 1516.

On Page 10, Line 2, strike out the period. and insert in lieu thereof a colon and the following:

"Provided further, That with respect to shipbuilding and conversion, Navy, the amount appropriated shall \$13,451,150,000;

'Provided further, That with respect to Operation and Maintenance, Navy, the amount appropriated shall \$21,119,400,000, of which \$1,675,599,000 shall be available for aircraft rework and

Mr. LEVIN. Mr. President, I, along with the Senator from Colorado, am proposing that we eliminate one of the two nuclear aircraft carriers in the defense budget that is contained in this continuing resolution. Our amend-

ment would reduce the budget authority by \$3.4 billion for one of two aircraft carriers. The outlay savings in this first year are very, very slight, as they always are in these big-ticket items. There are only \$76 million in outlays that are saved in this first year and we would use those outlays to increase the Navy aircraft depot maintenance program. That is an item that has been underfunded. It is a readiness item.

What has happened in these defense budgets is that we build these bigticket items like the nuclear aircraft carriers and we are underfunding some important combat readiness areas. That is an example of one of the things that is wrong with the defense budget.

Mr. STEVENS. Will the Senator yield for a moment so I may ask if he is interested in a time agreement?

Mr. LEVIN. I shall be happy to yield

for this purpose.

Mr. STEVENS. This is the amendment, as I understand it, in which you take the money from carriers and put it into O&M. There is no contemplated amendment to this, is there. Mr. President?

Mr. LEVIN. I have none.

Mr. STEVENS. I do not contemplate an amendment to the amendment. If no other Senator does, I wonder if Senators would consider a time agreement and that the amendment would not be subject to an amendment.

Mr. LEVIN. That would be fine.

Mr. STEVENS. What time would the Senators suggest?

Mr. HART. Mr. President, I would suggest 40 minutes equally divided and we may not use all of that.

Mr. STEVENS. Very well.

# TIME LIMITATION AGREEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that there be a time agreement on the Senators' amendment of 40 minutes equally divided and that the amendment not be subject to an amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I would like to designate the Senator from New Hampshire to handle this side's time.

Mr. LEVIN. Mr. President. I yield myself 5 minutes.

The upfront obligation of huge sums for big-ticket items like the nuclear aircraft carrier means that Congress will be forced to slack off the combat readiness accounts in the future to make the spending economies that we know will be required.

I asked the Pentagon why they are building two nuclear aircraft carriers this year. Just a few years ago, they told us that we would only need 13 carriers to protect our national security. Now the tune has changed and they say 15 carriers. I said, "Why two carriers in 1 year?"

The answer I got back from the Pentagon is that we save money when we buy in quantity.

The next question is, Well why not buy five and balance the Federal budget?

Mr. President, we cannot afford two nuclear aircraft carriers in 1 year. We simply cannot afford to do that.

There also is a severe question as to the military value of these huge nuclear aircraft carriers. Adm. Hyman Rickover, the "father of the nuclear Navy" and of the nuclear aircraft carrier, himself testified to Congress that the nuclear aircraft carriers proposed in this bill would last about 2 days against Soviet submarines. Those are his words—about 2 days.

The head of Pentagon research and development, Dr. Richard DeLauer, called a 600-ship Navy built around large aircraft carriers a "target-rich" environment. Translate that to mean sitting ducks.

The Washington Post this morning had an editorial entitled "Preserving Defense Options." I would like to share some paragraphs in this article with my colleagues, because it reflects the problems we are creating for ourselves when we make these tiny downpayments in outlays, these huge authorizations, and in the outyears, soak up billions of dollars which we know is going to come from readiness.

The Washington Post editorial of the morning reads:

## PRESERVING DEFENSE OPTIONS

The Defense appropriations voted by the lame-duck Congress will severely restrict Congress' ability to change its mind about force structures in the future. People at the Pentagon know that well. Do members of Congress?

Congressional unease about uncontrollable future growth in the defense budget has been mounting. Yet both the House and Senate versions of the continuing resolution—which will control defense spending for at least the next several months—include, with the notable and perhaps temporary exclusion of the MX missile, all the many weapon starts and continuations sought by the administration. If people in Congress think they can easily reconsider the wisdom of those purchases at a later date, they should think again.

Each new weapon start—no matter how small the initial down payment—attracts a powerful constituency in Congress ready to oppose any curtailment on grounds that money will be wasted and jobs lost. As the production lines get rolling, additional claims on future budgets will be made not only to pay for the weapons but also for the often equally huge—and usually underestimated—costs of equipping, maintaining and manning them.

Budget pressures in future years are likely to be so great that Congress will have to take actions that are harmful to national security. It could stretch out or terminate new weapons production. More likely it would ignore new developments in weaponry, skimp on essential maintenance and personnel or prematurely phase out still usable ships, planes and other weapons.

The only way to avoid this start-and-stop type of buildup is to proceed carefully, leaving some room in future budgets to adjust to changing circumstances. That means getting specific about where each major weapons system fits into urgent defense needs. What gap, for example, do the two additional nuclear carrier task forces fill? Will the planes they carry have the range and flexibility needed for likely missions? Could the \$30 billion or so needed to build and support them be spent better on other unmet needs. such as sealift and airlift? The Army is ranidly changing its doctrine for the defense of Europe. What does that imply about future needs for various ground weapons and air support?

These sorts of questions are being asked by many supporters of a strong national defense. They question whether the administration's budget plans are not too heavily conditioned by the historic buying preferences of the military services—the Navy favoring big surface ships, the Air Force its bombers and the Army its tanks—and too little attuned to how rapidly changing weapons technology is forcing changes in military strategy.

Congress has now missed its chance to force a more reasoned distribution of funds, or at least a clearer justification of the administration's defense investments. That makes the discussions of next year's budget, now going on within the administration, all the more crucial. The MX missile debate is important, but it is essentially a debate about strategic doctrine, not about budgets. The administration should also take time to consider how its current spending decisions may limit its future choices with respect to conventional forces.

That, I am afraid, represents the critical problem that we are facing when we make these investments in these huge, shiny weapons systems which are going to soak up billions from readiness.

As it was stated in this most recent edition of Newsweek magazine, December 20, 1982:

Also, by producing shipping lists chockfull of big-ticket items, the services are forced to balance their budgets on the back of the less glamorous supply inventories and maintenance money that are the real components of "military readiness."

Mr. President, the outlay savings that we can achieve in 1983 by canceling one nuclear aircraft carrier are relatively small, \$76 million, in comparison to the budget authority savings of \$3.4 billion. However, much more significant outlay savings will be realized in fiscal year 1984-\$494 million-and in fiscal year 1985-\$646 million-by this cancellation. Half a billion dollars in each of those fiscal years, when we will be feeling the worst of the budget crunch and searching desparately for savings, are savings we should seize eagerly. But outlay savings in fiscal year 1983-modest as they are-can help reduce an important readiness shortfall in another area of the Senate Appropriations Committee's bill: the Navy's aircraft depot maintenance

Aircraft depot maintenance is an essential element in the overall readiness of the Navy's aircraft. This program is divided into five major categories:

Airframe rework includes depot level maintenance of fleet aircraft, including both the aircraft structure and selected airframe system.

Engine rework includes the repair, modification, and overhaul of aircraft engines installed in Navy aircraft;

Component rework accomplished the repair, modification, and overhaul of aeronautical components such as avionic, navigational, hydraulic and mechanical components, as well as aircraft armament systems and support equipment:

Modification installations improve the combat effectiveness of naval aircraft systems by incorporating operational and safety oriented modifications in existing aircraft; and

Aircraft support services involve support such as aircraft preservation and salvage operations which depot maintenance activities provide to the fleet.

Mr. President, the Navy's aircraft depot maintenance program is critical to fleet readiness. Increases in flyinghours for training commitments, improvement in the number of Navy aircraft certified as mission capable, or meeting new or expanded operational commitments all depend on adequate funding of the aircraft depot maintenance program. Anything less than adequate funding will result in the degradation of our Navy's fleet readiness. This is the last thing we need when our Navy has increased burdens imposed by our commitments in Southwest Asia and the Persian Gulf.

When the fiscal year 1983 budget was released, the administration made a big point of its commitment to improving depot maintenance. "Significant improvements in national readiness are expected," claimed the Defense Department, "as a result of the high priority given to fully funding \* \* \* the elimination of depot maintenance backlogs."

Unfortunately, Mr. President, as the Preparedness Subcommittee of the Armed Services Committee began reviewing the Navy's fiscal year 1983 operations and maintenance request, we found that in reality the aircraft depot maintenance backlog was a long way from being eliminated. Testifying last March before the Preparedness Subcommittee, Rear Adm. Richard Martini. director of the Navy's aviation depot level maintenance program, testified that the Navy's fiscal year 1983 aircraft depot maintenance program was underfunded by almost \$191 million.

In other words, there is a backlog of \$191 million in unfulfilled requirements. We have, in other words, a budget need to meet requirements of \$191 million in depot maintenance.

What Admiral Martini pointed out is that the improvement in various readiness indicators in fiscal year 1983 were based on the assumption that the Navy's aircraft depot maintenance requirement would be fully funded in fiscal year 1983.

Now, what this means, Mr. Presi-

dent--

The PRESIDING OFFICER (Mr. Brady). The time the Senator yielded to himself has expired.

Mr. LEVIN. I thank the Chair. How much time is remaining to the propo-

nents?

The PRESIDING OFFICER. Approximately 12 minutes.

Mr. LEVIN. I yield myself 2 additional minutes.

What this means, Mr. President, is that without additional funds in fiscal year 1983, trend lines in readiness indicators such as the number of airframes not overhauled at the end of their normal operating period, or the number of empty aircraft engine compartments due to a shortage of readyfor-issue engines, or even the percent of Navy aircraft termed "mission capable" will not show improvements as projected in the budget. Instead, in many cases, the trend lines will go the other way and the readiness improvement forecast in the fiscal year 1983 budget simply will not take place.

The Appropriations Committee recognized this problem. Since the budget was submitted," the committee says in its report, "the Navy has discovered that the aircraft repair, overhaul, and modification program exceeds the budgeted level. The announced objective of eliminating the depot maintenance backlog is no longer achievable." Unfortunately, the Appropriations Committee used this problem to create another. Since the Navy's aircraft depot maintenance program was underfunded. the Appropriations Committee reduced the Navy's flying hour program on the grounds, as the committee report states, that "An enhanced flying hour program would be difficult because more aircraft will require maintenance attention \* \* \* and will aggravate depot maintenance planning objectives." Mr. President, if that does not leave the Navy's aircraft depot maintenance and flying hour program in a no-win, catch-22, doublewhammy situation, I do not know what does.

The fiscal year 1983 Defense Authorization Act included a net increase of \$51 million for the Navy's aircraft depot maintenance program. This net increase was the result of the combination of an increase of \$101 million proposed by the Senate specifically to reduce the aircraft depot maintenance backlog, and a general reduction of \$50 million to the aircraft depot maintenance program proposed by the

House as an incentive to improve management.

Mr. President, the Senate Appropriations Committee bill has a net decrease of \$50 million from the budget request for a decreased loan authorization of \$101 million.

My amendment would add three-quarters—\$76 million—of the increase proposed in the fiscal year 1983 Defense Authorization Act to bring down the aircraft depot maintenance backlog in the Navy. This is not the full authorization level, nor the full amount necessary to hold the aircraft depot maintenance backlog in the Navy at zero during fiscal year 1983. But this increase should allow the Navy to hold down their aircraft depot maintenance backlog in fiscal year 1983 to more manageable levels.

With the progress we have made in reducing depot maintenance backlogs in the services in the last few years, it would be a mistake to allow these backlogs to begin building up again. We cannot lose sight of the fact that adequately funding operation and maintenance programs is an essential ingredient in our overall readiness and

deterrent capability.

The fiscal year 1983 defense budget bill now before us contains \$7 billion to purchase new aircraft for the Navy. It makes little sense to buy shiny new aircraft while we allow our present aircraft to fall apart on the runways and aircraft carriers of the fleet.

We will do more to rebuild and maintain this Nation's defenses by fixing what now exists than by buying new assets which will not be delivered

for years.

Two years ago, Congress raised a hue and cry when the newspapers began reporting about reduced combat readiness brought about by insufficient training hours, spare parts, and depot maintenance.

Congress told itself it would not let this happen again—that it would fund adequately the operation and maintenance accounts—those parts of the defense budget most directly connected to daily combat readiness.

We are reneging on this promise already, and we seem to have forgotten the lessons of only 2 short years ago.

We still must strike a better balance between the readiness and procurement parts of the defense budget. Procurement still robs readiness, with the end result very soon being "hollow" Armed Forces equipped with new weapons but unable to train, maintain, and operate them effectively.

My amendment is a small but needed step to help strike this better

balance. I urge its adoption.

Mr. President, several other troubling readiness reductions in the Senate Appropriations Committee's Defense appropriations bill should be restored. Unfortunately, we cannot restore them in this amendment because

only a modest amount of outlay savings are available in fiscal year 1983 from canceling the second aircraft carrier.

I want to highlight these reductions, however, because they demonstrate that this bill sacrifices essential combat readiness on the altar of glamorous weapons procurement.

There is a \$25 million reduction to the Navy's flyuing hour budget request. This reduction comes at a time when the Fiscal year 1983 budget request still does not provide Navy and Marine Corps pilots with sufficient flying hours to meet their own primary mission readiness goal of 88 percent. The flying hour reduction recommended by the Senate Approprations Committee compounds the problem in the fiscal year 1983 budget request where flying hours for the Navy's premier combat aircraft-A-6 adn A-7 attack planes, F-4 adn F-14 fighers, and P-3 antisubmarine warfare patrol aircraft-are lower than they were in fiscal year 1981.

Another readiness improvement sacrificed by the Senate Appropriations Committee was the \$203 million increase for Army real property maintenance included in the fiscal year 1983 Defense Authorization Act.

As originally submitted, the fiscal year 1983 budget made only a small \$45 million reduction in the Army's \$1.7 million real property maintenance backlog from fiscal year 1982 to fiscal year 1983. If we do not provide some increase in funding over the level contained in the Army's fiscal year 1983 request, we are not going to be able to continue the progress that we began in fiscal year 1981.

Mr. President, Army field commanders are unanimous in pointing out that nothing undermines the morale and readiness of Army units more than inadequate, antiquated, and even sometimes unsafe, living and working conditions. Unfortunately, although the House added \$100 million in this area, the Senate Appropriations Committee's recommendation did not include any increase above the budget for this readiness activity.

Finally, the Senate Appropriations Committee made a very serious and unwise reduction to the Army's request for 105mm tank training ammunition.

The Army's annual training requirement for this training round is 455,000 rounds. Due to budget constraints, however, the Army requested only \$154.8 million for 397,000 rounds. The \$54.5 million reduction to this request by the Senate Appropriations Committee would reduce the requested quantity to only 144,000 rounds, only 32 percent of the Army's annual training requirement. The Army's annual training with this round will have to be curtailed drastically if the reduction rec-

ommended by the Appropriations Committee is allowed to stand.

Our armored divisions are the backbone of the Army's combat capabilities and offensive power, Mr. President. We should not be degrading these capabilities, as this continuing resolution unfortunately does.

Mr. President, the Senate Appropriations Committee bill has a net decrease of \$50 million from the budget request. We need that money for depot maintenance, for readiness.

I urge that we finally make a decision in this Senate that we are not simply going to plow billions and billions of dollars into these huge new systems when our readiness is suffering and when we know these systems are going to drain readiness of billions of dollars more in the outyears.

This is an amendment which makes sense. I hope that the Senate will agree to it.

Mr. PROXMIRE. Will the Senator

Mr. LEVIN. If I may, I yield the remainder of our time to the control of the Senator from Colorado.

Mr. HART. I will yield shortly to the Senator from Wisconsin, who I know also has a concern about this issue.

Mr. President, this is at least the fifth year in which this Senator has tried to engage the attention of the Senate and Congress on the question of carriers. At the outset, I should like to stipulate certain things so we can eliminate, hopefully, from the debate the red herrings and focus the attention of the Senate on the real issue.

The first red herring and an argument that is often made that surrounds the carrier is that those who are trying to defer these two ships are anticarrier.

Speaking for myself and I think also for my cosponsor, we are not against aircraft carriers. As far as the Senator from Colorado is concerned, I think we need more, not less.

The issue is affordability and numbers, and that is central to this debate.

A second red herring that is often raised by spokesmen for the very large nuclear aircraft carrier types contained in this bill is that big carriers are clearly superior to small carriers.

Stipulated. A *Nimitz* class nuclearpowered aircraft carrier fully loaded and at sea is clearly more capable than a smaller carrier, no question about it. That is not the issue.

The issue, Mr. President, is numbers. We have a Navy today that is built around 13 ships. The policy of this administration as pursued in this resolution is to expand that Navy by the number 2, so the Navy that this President contemplates will be a Navy built not around 13 ships but around 15 ships.

That is not enough. It is not enough, and we will not be able to afford the number of ships that are enough so

long as we are putting the dollars we are into each of them individually.

What is the debate today? The debate, it seems to me, Mr. President, is about two things: First of all, relevance, and second, vulnerability.

Mr. President, the question that has to be asked about the nuclear aircraft carrier is not how big it is, how powerful it is, how glamorous it is, how capable it is. The issue and the only issue that matters from a military point of view is how does it relate to the main task of the U.S. Navy and the overall security strategy of this Nation?

That means, is it prepared to fight and defeat the principal threat to our Forces both at sea and on land? And that is the Soviets.

The answer to that is that it is prepared to do so very poorly. That is so primarily because of the type of navy the Soviets built.

The Soviet navy is, first, a submarine navy. It is, second, a land-based air navy, and only thirdly a surface navy. The Soviets have only about 30 major surface warships armed with antiship missiles. With the proliferation of our Harpoons and Tomahawks, we will soon have more than they do, if we do not already.

But big carriers loaded with attack aircraft and fighters are suited to fight surface ships best, land-based aircraft second, and submarines only a poor third, a very poor third.

We have testimony before the Senate Armed Services Committee from the Chief of Naval Operations and other major figures that the last thing you would want to do with a Nimitz class aircraft carrier and carrier battle group is to go into a high threat submarine environment, and that is exactly the kind of navy the Soviets have built.

The best ships for fighting submarines are other submarines, not aircraft carriers. The fact of the matter is that we are not building enough submarines in part because of the type of aircraft carriers we are building and the expense of each of them, as well as the attack submarine force.

The result of all of this, of focusing so much on the carriers in the Navy is the increasing irrelevance to its main task, and that is be prepared to combat what is the Russian naval threat. I think this potentially fatal error to this country's maritime forces was stated by Secretary Lehman's article in the Washington Post of the last day or so. He told us how we would not use the carrier to fight the Soviets. He said that we would not use them in a death run against the Soviet bastion around Romanuck. We would use them in a sea-controlled role, but he never said how we would use them. Why is that? Because there is very little use for this type carrier in a war with the Soviet Union. Yet, it is the threat of the Soviet Navy which Secretary Lehman and others wave when they want more money and want more of these carriers.

And what have we heard in recent weeks? Not the capability of this aircraft carrier against the Soviets but the capability of this aircraft carrier against a third world threat such as Argentina. Well, does anyone seriously think that the threat to this Nation's security is coming from Argentina? I do not think so.

I have listened for 8 years to my colleagues instruct me and others in the Nation about the Soviet threat. The Nimitz class nuclear aircraft carrier is not responding to the Soviet naval threat and that is the principal argument against it. We need more carriers, not fewer. We need carriers that will disperse our capability rather than concentrate it. And these two carriers concentrate our capability rather than disperse it.

The other main issue, Mr. President, is the vulnerability of this carrier. The Navy tells us that big carriers are less vulnerable than other surface warships.

That may be true, but does it mean anything? We built our surface fleet around a small number of big carriers. Does it matter that it is easier to sink a frigate than a carrier or is the real question, is the carrier so invulnerable that we can save half our whole fleet and depend on just a few of them? I think that is the question. In fact, Mr. President, all sorts of evidence suggests that the big carrier is extremely vulnerable. It is vulnerable, obviously, to tactical weapons, a vulnerability that has never really been addressed by the Navy.

One response to that threat is to build, as I have suggested, more carriers rather than fewer so that if they are attacked by this type of weapon more of them will survive.

Eventually antiship missiles may not sink the carrier unless they hit the right spot, but they can set the ship on fire. And we all know that carriers are extremely flammable. You do not have to sink a carrier to make it useless. You only have to put it out of commission by destroying the action of its catapult or its steering gear or setting it on fire. It has to withdraw from the conflict at that point.

The Navy seldom talks about its vulnerability to torpedoes, and yet it is extremely vulnerable in a whole variety of ways, including its steering mechanism, its propellers, and so on, to the torpedo threat.

Finally, Mr. President, there are all sorts of evidence which I would like to include in the Record as to how the tests and sea battle exercises that are carried out are tilted in favor of this carrier.

There is no suggestion on the part of the Navy that the exercises that are conducted are in any way fair.

In fact, those who have in the past served as umpires in our war games suggest that the equations that are used are tilted heavily against any fair assessment of the vulnerability of the carrier, and there is written testimony to that effect in recent articles and books.

I think that if the Senate looks very carefully at what it is doing we are in fact, as my colleague from Michigan suggests, robbing the very fundamental backbone of our military Forces to buy increasingly vulnerable and ineffective weapons systems. That is the issue before the Senate today. It is not the relative strength of this carrier against others. Of course, it is better. It is not whether the opponents of this carrier are anticarrier. We are not. It is not whether 15 carriers are better than 13. It is a question of whether 15 are better than 30.

That is the issue. The issue is the preparedness and the operation and maintenance of our forces, and the Senator from Michigan has extremely well identified that issue.

Mr. President, I resere the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. RUDMAN. Mr. President, I yield 2 minutes to the distinguished chairman of the armed Services Committee, the Senator from Texas.

the Senator from Texas.
Mr. TOWER. Mr. Presient, this seems like days of old. We have had this carrier battle so often.

The point man for the Armed Services Committee will be Senator COHEN.

EPA Comment: He and Senator HART EPA Comment: are regular antagonists on the carrier issue, and I must say they both perform their function very well.

But I just want to say that the suggestion that the carriers cannot operate in a high-density threat environment is bunk. I have seen carriers operate in a high density threat environment. I have seen carriers on fire and still launching and recovering missions. I have seen them damaged severely and still functioning.

The modern carrier does carry within it the means of its own protection. But I think it is wrong to ridicule the role of the carrier outside of the major war because, in virtually every major crisis that has occurred a long way from our shores, we have used the carrier to respond.

It is indeed a precision instrument of diplomacy and helps us keep the peace, and for that reason alone if for no other it earns its keep.

Mr. RUDMAN. Mr. President, I yield

myself 5 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. RUDMAN. Mr. President, I wish to just very briefly respond to a number of the figures cited by my friend, the Senator from Michigan, because when we are dealing here and talking about billions and billions of dollars it tends to boggle one's mind.

It would probably be more useful to see what we are talking about the next several years and also to see whether the Navy had any rationale in proposing to Congress we acquire two CBN's rather than one or follow the advice of the Senator from Colorado to purchase more of the smaller carriers and increase, in his words, their vulnerability.

Let me point out that, first, the GAO has evaluated, and we seem to have little argument, that purchasing of two CBN's will, in fact, have a net savings of about three-quarters of a billion dollars through a procurement plan that is now under consideration contained in the authorization and the appropriations bill.

In addition, it is interesting that the total life cycle cost for two nuclear carriers is roughly about \$7.65 billion over their entire life cycle. That is about \$60 million more expensive than the corresponding costs for two conventionally powered carriers.

Finally, in terms of numbers, it might be pointed out that the outlays in this appropriation are about \$200 million over the next fiscal year, working up gradually to about \$100 billion annually in fiscal years 1984 and 1985.

So when we are talking about these large numbers, we tend to be talking about the acquisition costs totally. It is important to probably study this across the entire procurement life of the ships.

The Senator from Michigan points out that the Navy aircraft depot maintenance program has problems. I expect he is quite correct. He has heard that before in his committee. We have heard it before in ours.

This amendment would add funds for Navy aircraft rework and depot maintenance.

The authorization, in fact, deleted \$50 million from the budget, and the Appropriations Committee, in fact, conformed with that.

Let me point out that the committee recommends that the fiscal year 1983 flying hours hold to the fiscal year 1982 rate in order to increase the consumption of spares and repair parts. We recommend that the savings accrued from holding flying hours to the fiscal year 1982 rate should be applied to the aircraft maintenance program.

So I think that the committee, both Authorizing and Appropriations Committee, has attempted to address the concerns of the Senator from Michigan.

Let me say something to the Senator from Colorado. If he wants to look at naval history—and we can go back to the time of Nelson through today—there has never been a force deployed at sea that was not vulnerable. There is no navy in the world, no ship, no battle group that if the right application of force is applied against it will not be sunk.

We can agree on that.

The question then is what the force projection is of the 15-carrier battle group proposed by the Department of Defense.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. RUDMAN. I yield myself an additional 1 minute.

The Department of Defense has never contended that the carriers are invulnerable under all circumstances. But it seems to me that the Senator from Colorado kind of puts up a strawman and knocks him down. The fact is that studies through World War II and through exercises since then indicate that with antisubmarine warfare at the level and sophistication that it now exists, it makes the screening of these carriers a practical proposition, not invulnerable, but practical and for the protection of force as the Navy plans it for these 15 groups around the world. It is reasonable to assume that they will have a survival rate better than their counterparts of World War

Let me point out to the Senator from Colorado that the concentration of Japanese naval submarines in the area of Hawaii, through the Philippines, the Japanese coast, and the inland sea was probably three times what any Soviet deployment of submarines will do. We did not have ASW of the class we have today. And only one carrier was sunk after 1942.

Let me point out that the people of the Navy probably know what they are doing. That is their job. We pay them for that. It seems to me we should give them what they need to protect the force around the world.

The PRESIDING OFFICER. The time yielded by the Senator has expired.

Mr. RUDMAN. Mr. President, I now yield 15 minutes to my friend from Maine.

Mr. COHEN. Mr. President, I shall not take 5 minutes.

I think the Senator adequately covered the points which I would have made in rebuttal to the amendment offered by the Senator from Michigan.

Let me just address myself to the point made by the Senator from Michigan, who said that this is a shopping list of big ticket items that we have to put an end to. The Senator from Michigan would like to allocate whatever money would be saved from cutting the aircraft carriers out and put that money into O&M. Let me move on to the Senator from Colorado. He would like to take the savings

from the deletion of one aircraft carrier and use that to produce two aircraft carriers, smaller, more vulnerable in size or as an alternative to take the money and build more submarines.

So we seem to have covered all the bases. The Senator from Michigan is going to take the money and spend it on O&M. The Senator from Colorado is going to take the money and spend it on two ships instead of one or, as an alternative, start building more submarines.

We cannot have it both ways or all ways. It seems to me that these are the arguments which are being presented by both Senators who are in support of this amendment.

The fact of the matter is, as the Senator from New Hampshire has pointed out, the large ships do have greater survivability. They also have greater force projection capability. We have been over this argument time and time again; that a smaller ship which costs less has less capability, less power projection capability.

And let me digress here for a moment. Many of the aircraft which would be on board are planes that the Senator from Colorado has fought for over the years, AV-8B Harriers. Ironically, the AV-8B Harrier is one of the items that Newsweek magazine recommends we delete because we do not need it.

It seems to me that you could go down the list and say that we do not need this item, that we do not need the F-15 as it is too hot, or that we do not need the AV-8B Harrier. We can use land bases. We do not need the big decks. We can get two small ones, or submarines.

You can, consequently, rationalize away the ability you have to project power.

This notion, however, that we are going to disperse the assets, that we are going to build 30 aircraft carriers, instead of 15, or 2 for 1, seems to me ignores another argument.

The other argument is that you are going to have more assets to protect; that is, more smaller carriers. You are not going to send them out to a low-threat, medium-threat, or high-threat area without protection. So that means a carrier battlegroup all of its own, or that you are going to put two smaller carriers together. In that case, I do not see how we achieve any greater survivability, or how we complicate the Soviet submarine strategies, by having two ships together, instead of one large one, or by having greater escorts around it.

So without belaboring the point, it seems to me that we have a successful Navy today. We have been in the position of projecting power. We do need power projection. We do not have access to bases overseas as much as we would like.

We are now talking about doing some building in Egypt, and that is sort of tentative because it depends on good relations with Egypt. We are looking at relations with Oman and Bahrain for our land deployment force. But we cannot put troops onshore. We have to maintain a presence and the best way to maintain that presence is with the aircraft carrier, and the power it represents, and the power it is capable of projecting.

So for all of these reasons, I think we ought to reject the amendment which has been offered and debated several times before; it has been defeated several times before, and we ought to rededicate ourselves to building a successful Navy.

Mr. RUDMAN. Mr. President, I yield 4 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I will be quite brief. Let me refer to the Cuban missile crisis. Soon thereafter this Russian seagoing navy was born and was started to be built, steadily climbing in that direction ever since.

Another change: If we had not already had very fine, superior naval forces in the Middle East, in that area over there at the time of the oil crisis, 1972, 1973, perhaps already we would have been a highly different nation living in a highly different world.

It is one of the miracles of history to me that we already had that fine naval power there that was able to move in and have made most of the difference since that time.

Those oil lanes, sealanes, continue to be open and be protected, and various shooting wars they have had over there have been directly affected by just the presence of our carriers.

They have not fired a single shot in anger there. North Yemen, South Yemen, all those countries in there, as soon as our carriers got there they quieted down. There was a big, big difference, I think, since those carriers there of 1960's, the late 1960's, and early 1970's were there.

Now, I have been strong for carriers because of those reasons. But last year when they proposed two carriers I was skeptical and doubtful, and thought perhaps it ought to be one. But they proved their case very strongly; \$750 million-plus would be the savings. We turned that over to the General Accounting Office, and it was confirmed in every major particular. So we are not buying chickenfeed here, we are getting the hard steel and we are making the savings in those dollars.

Now, further, what is going to be the situation at least for a few years? This is going to be the big power there, the floating power, the changing power, the switching from area to area, carriers served by these cruisers and destroyers taking, as we all remember, the planes, the missiles, offense, de-

fense, weaponry, all the way through. That is the big thing in the world.

Now, the Soviets are still building, though in the direction of the seagoing power of their own, a seagoing navy, and this will make a margin of difference that seems to me that we must have.

I have favored some of the smaller carriers, too. I think we have got to have them in many places. I just did not go all out to try to put great forces everywhere, with tremendous bases of all kinds.

Now the way there it has been proven over and over is the carriers and the carrier force.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. So we will have what is needed here for many years.

Mr. RUDMAN. Mr. President, I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. DENTON. I thank the Senator. The case already made by the excellent presentations of the Senators from Texas, Mississippi, Maine, and New Hampshire requires very little elaboration. I would like to make some observations that, perhaps, complement theirs.

As the chairman of the Armed Services Committee indicated, this body has repeatedly reaffirmed its support for the second CVN as an essential part of our rebuilt Navy, and that speaks for itself.

It seems almost impossible that repeatedly the Senator from Colorado and the Senator from Michigan flog us around this pointless track. I am sure they are sincere, but it does seem almost monotonous.

The British Navy and the Soviet Navy recognize the aircraft carrier as the most effective, most efficient, most flexible, and most useful component of modern naval forces. American carriers happen to be the best in the world, and they will allow us to project power to protect our interests, especially if we build them in the manner that we have projected.

The second CVN is not only an essential part of our program to build a navy that can once again insure the security of the seas and assure the security of our lifelines, but it is also a symbol that this Nation has faced up to a sense of responsibility and reality in the case of economic survival. I believe that is a bipartisan facing up, and we have also faced up to reality and a sense of responsibility with respect to survival in the security sense.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RUDMAN. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. About 3½ minutes.

1½ minutes to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished manager of the bill.

In the case of the U.S. carrier, it is driven by two factors: One, the threat there indicates no diminution. In that respect, President Carter, to his everlasting credit, extended the commitment of this Nation to the Persian Gulf, the Arabian Sea, and the Indian Ocean, which required augmentation of our carrier presence there.

The second thing, which has not been mentioned here, is the management of personnel in the U.S. Navy. During the period of the Vietnam war the greatest turbulence experienced in personnel management was the extension of carrier deployments. In some instances it was so severe it resulted in riots aboard the ships when the men were contained aboard those ships for periods of 6, 7, and 8 months.

So I encourage Members of the Senate to support the judgment of the Department of Defense that it is time we do go ahead at a bargain price, I might say, and buy two additional car-

Mr. RUDMAN. Mr. President, I believe we have about 2 minutes, 21/2 minutes remaining, and if I might, I would like to yield 2 minutes to the Senator from Ohio.

Mr. GLENN. I thank the floor manager of the bill.

I would like to comment once again on the large carrier versus the small carrier difference of opinion we have here. The case for the carrier aircraft being at sea I think has been adequately made.

What I would like to address very briefly in the time we have is making the best use of our money. What is most cost effective? I have exact figures on the way over to the floor, but the figures I recall from our last debate were with the large carrier; you still have to have that whole carrier task force available. With the small carrier you still have to have that whole carrier task force available. But with the big carrier you get 98 airplanes, and the only reason you have a task force at sea is to project aircraft power out away from that fleet.

So when you have 98 aircraft versus 38 aircraft with the small carrier it just makes common cost-effective sense that we use the big carrier because it comes out for aircraft out there on a ship ready to project power at sea. The figure, as I recall, for the large carrier was around \$146 million per aircraft, including the cost of the whole task force.

With a small carrier it goes up to \$247 million for aircraft at sea ready to operate, and with an augmented task force which probably would be necessary to give better air protection

Mr. RUDMAN. Mr. President, I yield for the small carrier, and it goes up to about \$289 million.

So, Mr. President, just from a plain cost-effectiveness standpoint the large carrier makes much better sense.

I thank the floor manager for yielding time.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, I yield myself 30 seconds. Various arguments have been made in opposition to this amendment. Some can be boiled down to the presence and use of carriers as diplomatic tools; the presence of the United States around the world, and so on. I think it is extremely important for the American taxpayers to understand that even if these 2 carriers are bought at the cost of over \$30 billion, perhaps as much as \$40 billion, that will add 2 more ships for presence at sea, and those 15 ships are not going to be present at sea at any one time. It is going to be more like six or seven, and we are not fulfilling our role in the world because we have too few carriers.

Mr. PROXMIRE. Mr. President, I rise to support the motion by Senators LEVIN and HART to delete one Nimitzclass nuclear aircraft carrier from the defense portion of the continuing reso-

Mr. President, the nuclear aircraft carrier is a magnificent thing to behold. It has a full load displacement of 91,700 tons. It is 1,040 feet long or more than three football fields; 134 feet wide, with two nuclear reactors, a speed in excess of 30 knots, an unlimited cruising range curtailed only by the 13-year core life of the reactor and a crew of 6,300 men-a small city by any standards.

Its power is awesome. A typical Navy carrier air wing operates with about 89 aircraft including 24 F-14 or F-4 fighters, 24 A-7E light attack bombers, 10 medium attack A-6E's, 10 fixed wing ASW aircraft called the S-3A; 6 rotary wing SH-3 ASW helicopters, 4 EA-6B electronic warfare aircraft; 4 early warning E-2's: 4 tankers (KA-6) and 3 reconnaissance aircraft either FA-5 or FR-8's. The firepower carried by these aircraft probably exceeds that of most of the world's developing countries.

But is all this firepower the most cost-effective and least vulnerable system we can produce? Unfortunately the answer is a definite no. And what does the continuing procurement of nuclear carriers mean for increasing the number of vessels in our surface fleet. And what of the mission of the carrier in this world of nuclear weapons and accurate stand-off cruise missiles. These are the questions that need to be addressed.

First, the issue of mission. The mission of the modern carrier is caught in a paralyzing contradiction. It is outfitted for an intense battlefield environment but because of geography and concentration of forces, it cannot effectively carry out its mission close to overwhelming enemy forces.

In congressional testimony the Navy has indicated that our carriers would not be able to operate against Soviet targets in Soviet home waters until our antisubmarine warfare aircraft and ships had reduced the Soviet submarine capability to a very low level. The naval force planning study confirmed that our carriers will venture into high-risk areas only at great peril and that Soviet home waters cannot be cleared for carrier activity for a considerable period of time. What this means in effect is that a line can be drawn around the periphery of the U.S.S.R. measuring several hundred miles. Inside this barrier, our carriers fear to steam lest they be put out of action immediately.

Suppose the carrier were faced with the threat of 100-land based aircraft with torpedoes, bombs, and missiles? The answer from Admiral Hayward is simple: "You wouldn't go into an area which had the potential described without assembling the right amount of force to counter that threat.'

So much for its mission of attacking the periphery of the Soviet Union or any of its nearby allies.

Now, how about vulnerability? A modern carrier task force faces many difficult threats. Start with the Backfire bomber in their Naval Air Force in great numbers. Add the AS-6 missile with an operational range of 150 miles on board the Backfire. Then consider the Styx missile of four types of Soviet vessels with a 25 nm range; the Sepal and Shaddock on five types with a range of 250 nautical miles; the extremely dangerous SS-N-7 on Charlie class submarines with a range of 30 miles; the Siren on the Nanuchka with a 60 mile range; and the SS-N-12 on the Kiev carrier with a 300 mile range. Soviet cruise missiles also can be launched from aircraft notably the Badger with the long range AS-2 Kipper; the Bear with the long range AS-3 Kangaroo; the Blinder and Backfire with the modern AS-4 Kitchen with a 250- to 300-mile range: the Badger with the AS-5 Kelt short range cruise missile and the Badger also with the AS-6 long range cruise missile. Quite a formidable array of cruise missiles for an aircraft carrier to ward off.

Specifically, how vulnerable is the large carrier to the cruise missile? Well, this issue has been studied and answers are available. Unfortunately, they are classified for the most part. Several years ago a Member of the House quoted the Sea-Based Air Platform Study conducted by the Center for Naval Analysis to the effect that two to five cruise missile hits would put the carrier out of action-meaning "unable to launch or recover aircraft

for at least 1 hour after the attack. The ship is inoperable at least for a short time and may also be inoperable for a much longer time or indefinite-ly." Considering the hundreds of cruise missile launchers available to the U.S.S.R. and taking into account the reload factor of these units, it is likely that any carrier would sustain multiple hits during heavy fighting. A carrier with multiple hits probably would have to retire. A carrier hit by the new Soviet torpedo in the vulnerable magazine probably would blow up. A carrier hit with several torpedoes in other less vulnerable sectors could have a series of problems ranging from propulsion reductions to secondary fires and ammunition explosions.

Up to this point I have dealt exclusively with conventional cruise missile and torpedo warheads. Obviously the carrier would be extremely vulnerable to a nuclear warhead. And the Soviets do have nuclear warheads on some of their cruise missiles, according to official testimony.

#### NO PLACE TO HIDE

You can run but you cannot hide is a favorite line from the boxing community. And so it is in the modern world of ocean surveillance. The most striking lapse of logic occurs when carrier advocates continually point out that their vessel is maneuverable, fast, evasive-a phantom of the seas. So it was with the German pocket battleships that raided the Atlantic. Today technology would provide a few surprises for those raiders just as British and radar—and a judicious American amount of code breaking-turned the battle of the Atlantic into a Western victory.

We all know the fast pace of scientific progress. The U.S.S.R. has a system of radar satellites, for example, which can identify and track our aircraft carriers 24 hours a day. Our carriers cannot hide from these satellites and other technical collection systems available to the Soviets such as ground-based radars, intelligence trawlers, and such.

So they know where these ships are. And they have the weapons to destroy

## COSTS

What about the costs of the carrier and its escorts?

The aircraft carrier may be the glamour girl of the fleet but if we continue committing all our resources to this policy, there will be no fleet to treign over, The reason is simple economics. We are pricing ourselves out of a Navy by building these new vulnerable aircraft carrier task forces. Instead we should be building more, smaller, less vulnerable vessels that can be at more than one place at one time.

Congress approved the nuclear carrier U.S.S. Carl Vinson (CVN-70) in fiscal year 1974. The cost of that

vessel is now \$1.36 billion—\$1.32 billion for the ship and \$41.2 million for post delivery additions.

Another nuclear carrier the CVN-71 was approved by the Congress in fiscal year 1980. It will cost \$2.6 billion—\$2.54 billion for the ship and \$58 million for post delivery charges. And the CVN-72, will cost \$3.5 billion when it is fully funded.

Thus the cost of typical aircraft carrier has gone from \$1.36 billion to \$3.5 billion since fiscal year 1974. But that is only the beginning of the costs associated with a carrier task force.

The carrier must have aircraft. Usually there will be two air wings over the life of the carrier. At current prices and given the current mix of carrier aircraft, two wings for a new carrier will cost \$9.3 billion in constant fiscal year 1982 dollars. This probably will increase as new, more sophisticated aircraft are introduced to the fleet in future years.

Thus the total to purchase the new carrier and its aircraft then will be \$12.6 billion.

Both the carrier and its aircraft must be operated, and that takes money. The 20-year operating costs of the CVN-72 will be \$2.4 billion in fiscal year 1982 constant dollars. And the 20-year operating costs of the air wing will be \$4.1 billion in constant 1982 dollars. The total operating costs for the carrier and air wing, therefore, are \$6.5 billion and this gives a total procurement and operating cost of this single vessel of \$19.1 billion.

Now the CVN-72 will not steam the oceans by itself. That would be far too risky for such a large investment. It needs escorts to provide air defense and antisubmarine warfare capabilities

The typical number of escorts expected to be associated with the CVN-72 in a carrier battle group will be two Aegis class CGN-42 cruisers and four DDGX or DD-963 class destroyers. In addition two or three attack submarines will support the carrier battle group under certain conditions.

At the present time a CGN-42 Aegis cruiser costs \$1.56 billion or \$3.1 billion for the two required for the battle group. A DD-963 destroyer costs \$520 million or \$2.1 billion for the four necessary for protecting the carrier. The 20-year operating costs for these escorts is \$2.84 billion and an additional \$460 million will be required for the LAMPS III helicopters assigned to the escorts. Thus the cost of purchasing and running the escorts will be \$7.5 billion in fiscal year 1982 constant dollars

Manpower costs also must be taken into consideration. Using average personnel costs for officers and enlisted members of \$34,181 and \$14,917 respectively and assuming there are 3,216 sailors in the carriers's crew plus 2,356 for the air wing; 1,026 on the two

cruisers, 868 for the four destroyers and 80 for eight LAMPS III helicopters, the manpower costs amount to \$125 million a year or \$2.5 billion over 20 years.

Adding everything together, procurement, operation, and manpower costs of the carrier, the aircraft, and the escorts gives a grand total of \$30.1 billion.

And what do we get? A large floating target for advanced Soviet missiles. As former Senator and Secretary of the Air Force Stuart Symington used to say "You can't miss—knocking out a carrier is like hitting a bull in the butt with a bass fiddle."

Given radar satellites and longrange, stand-off cruise missiles launched from the air, the ground, and from submarines, the \$19 billion carrier and the \$30 billion fleet is an expensive luxury with little military utility.

If we want a 600-ship Navy, we have to build more ships of smaller size and maneuverability. Concentrating on carrier task forces will consume funds desperately needed for a larger Navy.

At the appropriate place in the bill insert the following:

"Notwithstanding any other provision of this joint resolution, no funds made available by this Act shall be used to procure or construct more than one CVN Nimitz class nuclear aircraft carrier."

Mr. LEVIN. Mr. President, the most ironic argument is that we save three-quarters of a billion dollars by buying two; by the same token, we would save \$1 billion if we bought three; \$1.5 billion if we bought four; \$2 billion if we bought 5. We could balance the budget if we bought 10 under this analysis. This is a quantity discount. We cannot afford it. Let us get one in the out-years and put some money into operation and maintenance and readiness which we are draining dry by these kinds of immense investments in two carriers in 1 year.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RUDMAN. How much time remains to this side?

The PRESIDING OFFICER.
Twenty seconds.

Mr. RUDMAN. Let me say to my friend from Michigan you know we could carry his conclusions out in a number of decimal points. We have decided as a matter of policy in the last several Congresses that we need 15. Not 19, not 27, but 15 of these groups, and that is where the figure comes from, of course.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RUDMAN. Mr. President, I move that the amendment offered by the Senator from Michigan and the Senator from Colorado be tabled, and I ask for the yeas and nays.

there a sufficient second? These is a sufficient second.

The yeas and nays were ordered.
The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Colorado. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) and the Senator from Maryland (Mr. Mathias) are necessarily absent.

The PRESIDING OFFICER (Mr. QUAYLE). Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 67, nays 31, as follows:

# [Rollcall Vote No. 440 Leg.]

## YEAS-67

Abdnor East Murkowski Garn Nickles Andrews Armstrong Glenn Nunn Packwood Baker Grassley Bentsen Hatch Percy Hawkins (Mrs.) Pressler Boren Boschwitz Hayakawa Quayle Brady Heflin Roth Byrd, Heinz Rudman Harry F., Jr. Byrd, Robert C. Helms Sasser Schmitt Hollings Cannon Huddleston Simpson Chiles Humphrey Specter Inouye Jackson Cochran Stennis Cohen Stevens Jepsen Johnston D'Amato Symms Thurmond Danforth DeConcini Kasten Tower Wallop Denton Laxalt Long Dixon Dole Lugar Weicker Mattingly Domenici Zorinsky Durenberger Mitchell

# NAYS-31

Gorton Bancus Metzenbaum Biden Hart Moynihan Hatfield Bradley Pell Bumpers Kassebaum Proxmire Burdick (Mrs.) Pryor Randolph Kennedy Chafee Leahy Cranston Riegle Dodd Levin Sarbanes Eagleton Matsunaga Exon McClure Tsongas Melcher

## NOT VOTING-2

Goldwater Mathias

So the motion to lay on the table UP amendment No. 1516 was agreed to.

Mr. STENNIS. I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER (Mr. QUAYLE). The majority leader is recognized.

Mr. BAKER. Mr. President, it is now 5:20 in the evening. The manager of the bill on our side indicates that there are a number of amendments that he is aware of that still must be dealt with, but there is another deadline, as a practical matter, that we have to deal with. That is, the present

The PRESIDING OFFICER. Is resolution expires at midnight today. The bill still has to go to conference, it has to go to the President, and we are already in trouble. I think it is time, Mr. President, to explore the possibility of a unanimous-consent agreement for a time certain for passage.

Mr. President. I do not know how many amendments there are and I gather from conversations that I have had with some Senators that we are going to have to try to ascertain that. Let me say what I would like to do, then I shall propound a unanimousconsent request.

Mr. President, may we have order?

The PRESIDING OFFICER. Those Senators in the back of the Chamber. please leave. Staff members will please cease conversation.

The majority leader.

Mr. BAKER. Mr. President, let me say what I would like to do and what I would like to urge the Senate to do. First, I would like to see us establish a time certain for passage tonight. The hour I have in mind is 9 o'clock, but I will say that is flexible.

Next, Mr. President, I would like to see us identify the amendments that must be dealt with and negotiate item by item as short a time agreement as we possibly can. I would be bold enough to suggest that except in extraordinary circumstances, we ought to keep those time eliminations down to 20 minutes or less.

Mr. President, I also hope the Senate will consider unanimous consent that no second degree amend-

ments will be in order.

Mr. President, that is the only way I know of to get this bill passed and get it to conference tomorrow. I am told by the distinguished chairman of the Committee on Appropriations that already it is probably too late, as a practical matter, to do the paperwork that will be necessary to meet the House in conference tonight. So it is already going to run over the midnight tonight deadline and run into Saturday. What we need to do, in my view, is avoid being here on Monday or Tuesday. So I think this is an urgent next step that must be taken.

I would like to ask the distinguished manager of the bill on this side, the chairman of the Committee on Appropriations, if he would make a list of amendments that we know of on this side of the aisle. I urge Senators to forgo any amendment that they do not think is absolutely necessary.

Mr. STEVENS. This is the whole bill, now

Mr. BAKER. Mr. President, I shall ask the chairman now to do that and try to establish what amendments are in order and we shall attempt to negotiate the briefest possible time limitation. I ask the minority leader if he might be inclined to do so on his side?

Mr. ROBERT C. BYRD. Would the Senator from Oregon care to go first?

Mr. BAKER. The minority leader has a list already. Will the Senator from Oregon permit me to yield to him?

Mr. HATFIELD. I will, Mr. President

Mr. ROBERT C. BYRD. Mr. President, we have a list, as far as we know, of amendments on this side of the aisle and they number as far as we know, 13.

May I say to the distinguished majority leader that I met with my colleagues on this side of the aisle today, and we are prepared to give the majority leader a time agreement but the details will have to be worked out.

It was my suggestion to my colleagues that they be on the floor so that they could speak for themselves and be prepared to protect themselves in any way they wished.

I think an agreement can be worked out so far as this side of the aisle is concerned. Senator Long and others would like to know the identity of the amendments, and I think we all would like to know that. There are certain Senators who want to be protected against certain amendments coming on as amendments in the second degree or as modifications of amendments in the first degree.

I encourage the majority leader to proceed in the direction he is going. I think it can be done. Now, whether we can finish by midnight tonight or 10 o'clock remains to be seen, but I will endeavor to do everything I can on this side of the aisle, and I think he should, if I may be so presumptious to

I will call out the names of the Members who have amendments on this side, and they can speak for themselves as to time, the majority leader will be fully aware of what we have on our side.

Mr. SARBANES. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. SARBANES. If we reach a time agreement for a vote certain on this bill-for the sake of discussion, let us say 9 o'clock this evening, 10 o'clock, whatever it is-what then is the majority leader's plan with respect to the activities of the Senate?

Mr. BAKER. Mr. President, if we reach conclusion of this measure tonight, the highway bill will recur as the pending business before the Senate. It may be that some action would be contemplated this evening on that bill, but I do not anticipate that the Senate will be asked to remain much longer than the time required to take care of a possible procedural matter in connection with the highway bill.

In any event, I do not intend to ask the Senate to remain in all night tonight, as we did last night.

Mr. SARBANES. So the majority leader would expect within a fairly short period after the final vote on this bill for the Senate to go out for the evening and over until sometime tomorrow morning?

Mr. BAKER. Yes, I would hope so.

Mr. ROBERT C. BYRD. Mr. President, pursuing that line of questioning, would it be the majority leader's intention to be on the highway/gas bill tomorrow?

Mr. BAKER. Yes, Mr. President, it would be. My fear is that we are still going to be on this bill tomorrow. But if we could finish this bill, it would be my intention to be on the highway bill tomorrow.

Mr. HATFIELD. Will the leader yield for a question?

Mr. BAKER. Yes.

Mr. HATFIELD. Will the leader expect to make a window somewhere if we are in session tomorrow on other than this measure for the D.C. conference report, which is expected momentarily from the House, and the Interior appropriation conference report?

Mr. BAKER. Yes. Mr. President, I would hope that we could arrange that without any difficulty. I think most Senators would agree that whatever conference report, especially appropriations conference reports, that we can reach we ought to take care of. That would be my wish.

Mr. LONG. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. LONG. Let me express the concern of the Senator from Louisiana. I want to cooperate with the majority leader.

Mr. President, it is the fear of this Senator that there may be legislation attached to this bill, perhaps bad legislation, which is beyond the jurisdiction of the Appropriations Committee. It may be approved even over the objection of the chairman of the committee and some of his members that does not belong on the bill, that is not relevant to it, that it should not be permitted to be added to the bill.

I have seen this Senate repeatedly overrule the Chair on a point of order when the point of order was clearly correct that the amendment was not germane or the amendment amounted to legislation on an appropriations bill.

The President of the United States should not be forced to sign into law legislation that he thinks is bad legislation. It ought to go to him on something that he is privileged to veto without bringing the whole Government to a halt. And if there is nobody on the other side of the aisle who is going to protect the President of the United States, I guess it is my duty to protect the President of the United States, because to me it is outrageous for us to try to send legislation to the President when he would not have the privilege of vetoing it, and when it does not belong on this bill, is not rele-

vant to it, and should be resisted by those who are on the appropriate committees.

I want to know what these amendments are when they are offered.

Mr. BAKER. I am convinced, but I do not know what the Senator has in mind.

Mr. LONG. I would just like to know what the amendments are before I will agree to a time limit.

Mr. BAKER. I agree with the Senator in that respect. Could I try to implement that. That is a reasonable request, I think a prudent one on both sides of the aisle. Could I ask the minority leader if he would share with us his list of amendments that we know of at this time?

Mr. ROBERT C. BYRD. Yes. An amendment by Mr. Pryor involving the Maverick missile, one amendment by Mr. Cannon—

Mr. BAKER. Mr. President, could the Senator give us any idea of a time limitation on those as we go along?

Mr. ROBERT C. BYRD. Mr. PRYOR is here.

Mr. PRYOR. Mr. President, I would prefer 15 minutes on a side. I would be glad to have 10 on a side, 20 minutes altogether.

Mr. BAKER. Ten minutes on a side,

20 minutes equally divided.

Mr. ROBERT C. BYRD. Does the Senator wish to grab that while he can get it? [Laughter.]

Mr. BAKER. I ask unanimous consent, Mr. President—1Mr. DAN-FORTH. Reserving the right to object—

Mr. STEVENS. Reserving the right to object—

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Reserving the right to object—

The PRESIDING OFFICER. Reserving the right to object, the Senator from Missouri.

Mr. DANFORTH. The problem with taking these up one at a time is that there are 13 amendments on the other side. Twenty minutes of debate per amendment, 15 minutes to a vote, that is about 7 hours. So I am concerned that before we get to this side we will be well after 9 o'clock.

Mr. BAKER. Mr. President, we are sequencing the amendments at this time, and I would make that clear. The request, though, was for a time agreement as stated to apply when this amendment comes up. Maybe it will not come up at all.

Mr. STEVENS. Reserving the right to object, Mr. President—

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I will object unless there is an agreement that any amendment that deals with the defense portion will be submitted to us for examination to make certain it covers only one subject, because of the problem we have of trying to keep track of these items.

Mr. BUMPERS. Will the Senator use his microphone, please?

Mr. STEVENS. I said I would object unless we are certain it covers only one subject and unless there will be no amendments in the second degree, because we are finding that some of these amendments actually cover two different areas and they are just impossible to handle in that kind of time to convince the Senate of the impact of the actions proposed.

Mr. BAKER. Mr. President, let me make a suggestion. I do not think we are going to get very far this way. We are going to take up too much time wondering about each other's motives and sequence and time.

Let me suggest, if I may, to my friend, the minority leader, that we ask our staff or the chairman of the Appropriations Committee and the ranking member and others to compile this list and let us look at it. We will submit it to Members on both sides and we will see if we can put together a unanimous-consent agreement.

I do not think the Senate is ready for it at this point.

Mr. TOWER. In the meantime, I am prepared to take up an amendment that Senator Heinz and I have an interest in, and we are prepared to agree to 20 minutes on a side.

Mr. STEVENS. We are prepared to accept it.

Mr. BAKER. Mr. President, that is not my domain.

Let me say to the minority leader I appreciate his efforts. We will get up a similar list and with his kind concurrence we will go over that list together and see where we go. I will try to make a request again in 30 minutes.

Mr. ROBERT C. BYRD. May I say to the distinguished majority leader that I asked each Member on my side of the aisle to be present following the vote, be prepared to respond to the inquires of the majority leader, and we are ready. The majority leader was not trying to sequence amendments. He was not trying to place all amendments on this side of the aisle over amendments over there.

It would seem to me that he could get an agreement with Members on my side of the aisle and his as to amendments on my side of the aisle, with the understanding there will be no second-degree amendments and with the understanding there will be no modifications of those amendments. He would be way ahead as far as the Members on my side of the aisle and we are prepared to do that.

Mr. BAKER. I understand that, and I am grateful for it. I think there is probably more to be gained by assembling a similar list on this side before we proceed. I would say to my friend, the minority leader, then, that I think

it would not be productive to go for-

ward at this moment.
Mr. ROBERT C. BYRD. Second, while the subject matter has come up with respect to the highway tax bill, I think Members ought to know where we are going on this. The distinguished majority leader has indicated that if and when we finish action on the continuing resolution-I guess I am not misstating him; that would automatically come back before the Senate anyhow-that he would pursue action on that measure. Am I correct in saying that?

Mr. BAKER. Yes; Mr. President, I have not fully decided what I will do on that, but I wish to put the Senate on notice of that possibility; that is to say, it is not my present plan simply to let the highway bill recur this evening, assuming we finish and go out. There may very well be a procedural motion of some sort in connection with that

Mr. ROBERT C. BYRD. I should like to say to the distinguished majority leader that-well, perhaps I had better wait until such time as he prefers to discuss that matter. We will then be prepared to discuss it on this side. But I think that insofar as voting cloture on the matter is concerned, a goodly number of our Members on our side of the aisle have discussed that and are prepared to vote for cloture on the motion to deal with the highway

Mr. BAKER. Mr. President, I do not think the minority leader would be taken by surprise-

Mr. ROBERT C. BYRD. And we have discussed this.

Mr. BAKER. And we have discussed this before, and I think you would be fully aware of any procedural motion or other effort that I might make in that respect.

I am especially pleased to hear him make his observation that there might be a significant strength for a cloture vote on his part of the aisle. That certainly is one matter that I would consider and as we both know, there are ways to reach that.

I would not expect to try to skin the whole cat tonight, but I want everyone to know there is the possibility that we would be more than simply lay down a highway bill if we finish the continuing resolution today.

Mr. ROBERT C. BYRD. All Members are alerted to the possibility of further debate on that bill at such time as action on the continuing resolution is completed.

I stand ready to help the majority leader to get the agreement on the continuing resolution.

Mr. BAKER. I thank the minority leader.

Mr. BUMPERS. Mr. President, will the Senator vield?

Mr. BAKER. I yield to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, we can probably save at least an hour if the majority leader would get a unanimous-consent agreement for 10-minute rollcall votes on all future rollcall

All Senators are here and they will be put on notice. Surely no one is going out partying tonight. I do not see why we could not do that.

Mr. BAKER. Let me explore that on my side.

The fear I have is a lot of Senators will retire and it may take a little longer than usual to get them to the floor. Let me explore that and I will look into it further.

Mr. METZENBAUM. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. METZENBAUM. Mr. President, is the Senator from Ohio correct on the assumption that before the majority leader will ask unanimous consent for a time certain in connection with this measure the majority leader will tell us what his program is with respect to the gas tax, what motion he intends to make in order that we may know whether we will indeed be here for a short period or a lengthy period.

Mr. BAKER. Mr. President, I am not going to stand here and try to outline every contingency and choose among options at this moment.

Mr. METZENBAUM. I did not mean

Mr. BAKER. I want the Senator from Ohio to know that I am not trying to pull the wool over his eyes. If I were I would not have said that we were going to perhaps lay this down.

I discussed this extensively with the minority leader. I have gone out of my way to make sure that the minority side was aware of the opportunities and the options that I think are available to me.

But surely the Senator will bear with me in saying that I have not yet chosen those and I am not prepared to say how I will proceed in that respect.

Mr. METZENBAUM. I was not pressing the majority leader to say. I was only hoping when he does ask for unanimous consent, at that time he will be willing to apprise us of what the future plans are.

Mr. BAKER. I thank the Senator.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. HATFIELD. Mr. President, I thank the leadership for this effort to try to bring this to a conclusion.

I shall ask on our Republican side of the aisle two members of our Appropriations Committee staff are in the cloakroom ready to take down a listing of proposed amendments. If Senators will go into the cloakroom to give that to the two staff people we can then proceed here on the floor and not waste longer time on this.

I also wish to indicate again to the Senate that we received the continuing resolution from the House of Representatives on Tuesday of this week. Appropriations Committee marked it up on Wednesday. It began consideration on the floor on Thurs-

So I would think that everyone should be reminded that we have expedited this beyond really the normal human capability of expediting it from the time we first received it until the time that it first appeared on the floor.

I think the Senator from Louisiana has made a very excellent point, and I wish to say to the Senator from Louisiana I think we probably have been a little bit too unobservant of the points of order that will lie against these amendments and should be raised.

I think in order to try to expedite the conclusion of this we will take a closer look at some of these, and I at least will be willing to raise points of order or other matters that will show to the Senator from Louisiana and others that we are not in the business of trying to take over the jurisdiction of other committees as far as the Appropriations Committee is concerned.

Mr. LONG. Mr. President, if the Senator will yield, let me assure the Senator I know the chairman of the Appropriations Committee is not trying to invade the jurisdiction of other committees, and I am trying to help him do his job.

Mr. HATFIELD. That is right.

Mr. LONG. But the point I have in mind is that if we want to get out of here and we want to serve the Nation, we should quit playing politics with this bill. We should quit offering amendments that Senators know have no chance of becoming law or that they know are subject to a point of order. They should not try to get the Senate to stultify itself and say that an amendment is germane when it is clearly not germane, or try to say it is not legislation on an appropriations bill when it clearly is. We could be here forever if we do that. We could be here this time next year if we are going to let Senators just continue to bring in amendment after amendment and try to offer them on an appropriations bill where that is not in order at all, and then try to overrule the Chair and engage in fine points and other maneuvers to try to consider a measure that should be on a bill from some other committee.

Mr. HATFIELD. I thank the Senator for his remarks and I join him in the same sentiment.

I again repeat my invitation to Members of this side to make known to the staff persons in the cloakroom the amendments that they have and the times that they would be willing to try to restrict the amendment's consideration.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader indulge me further for a question?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. This is perhaps a clarification. There is no question that the Senate will be in tomorrow.

Mr. BAKER. Mr. President, there is some question. I will try. There is a 90percent chance the Senate will be in tomorrow but if we stall down on this. I have to say we need to consider whether we are going to be in tomorrow or Monday. It is my intention to be in tomorrow, but that is based on consent that we could finish this bill

Now, I suppose that there is a high likelihood we will be in tomorrow, and I would advise Senators to assume

that.

Mr. ROBERT C. BYRD. I hope I am not being obtuse, but if we do not finish this bill tonight, why should the Senate not be in session tomorrow in an attempt to finish it? I think we will finish it tomorrow certainly if not tonight.

Mr. BAKER. Frankly, the only reason would be if we stay in all night tonight.

Mr. ROBERT C. BYRD. I hope we do not stay in all night tonight.

Mr. BAKER. I do not feel inclined to ask the Senate to be in again all day tomorrow.

Mr. President, let me try to put that in perspective. It is my intention to ask the Senate to remain in session tonight until we finish this bill. I hope that does not mean all night. I think we are getting to the place where we are running into dangerous waters from a physical and health standpoint. It may be possible that we can conclude at an earlier hour tonight and finish tomorrow. If we finish tonight we will certainly have to be in session for the purpose of taking up the highway bill and for Members to go to conference with the House of Representa-

So I do not know that there is any uncertainty about that, I think, except for a late all-night session tonight in which case I will not ask the Senate to be in session all day tomorrow and Senators certainly will be in session Monday.

Mr. ROBERT C. BYRD. I have two additional questions.

One, if the Senate were to complete action on this measure tonight what is the earliest moment that the distinguished majority leader or the manager of the bill feels based on their conversations with the House of Representatives that they might be able to go to conference on this amendment.

Mr. BAKER. I yield to the Senator from Alaska who may have a better view of that.

Mr. STEVENS. Mr. President, it was my understanding that the earliest time we could do that would be 10 a.m. in the morning if we were ready. It is also my understanding that it will take a period of hours to get this document ready so that we may translate the action of the Senate into a conference document that we can work with, with the House of Representatives.

So we would have to have this bill at the very latest by midnight to be able to go to conference at 10 keeping in mind that our staffs and the rest of us would be working late.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader entertain one further suggestion?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. That is that both sides do our best to be prepared at the end of the next rollcall vote to present our list for possible unanimous consent. We can work strictly on our side, and we will be glad to present that to the majority leader.

I say this only that Senators may be on notice that when we have another rollcall vote they should stick around and hear the request and be prepared to protect themselves.

Mr. BAKER. I agree with that.

Mr. President, I may say that the staff of the Appropriations Committee confirms what the Senator from Alaska said. If we finish no later than midnight tonight they estimate it will be 10 o'clock tomorrow before they can go to conference. So if we finish much after midnight it is going to be very late on Saturday before we are able to go to conference.

Mr. STEVENS. Assuming the House of Representatives will appoint confer-

ees by that time.

Mr. BAKER. Yes; Mr. President, we are going to try to canvass amendments on this side and as the chairman of the Appropriations Committee indicated those who have amendments should identify them and suggest the minimum time that they are willing to accept to the clerk in the cloakroom on this side of the aisle, as the minority leader has done on his side of the

After the next rollcall vote, I will renew a request and will try to establish time limitations.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BAKER. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, the able majority leader will recall that I called him about the PIK bill. Would he be willing to propound a unanimous consent now or later on that?

Mr. BAKER. Yes.

Mr. President, indeed, the distinguished Senator from North Carolina, who is chairman of the Agriculture Committee, gave me a unanimous-consent request.

Mr. HELMS. I believe I gave the Senator the wrong one.

Mr. BAKER. And I cannot find it. Has he a copy?

Mr. HELMS. We will get the majority leader another copy.

Mr. BAKER. All right.

Shortly, Mr. President, I shall put another request with respect to the Agriculture PIK bill supplied by the Senator from North Carolina.

Mr. HELMS. I thank the Senator. Mr. BAKER. I yield the floor.

Up Amendment 1517

(Purpose: To modify the provisions that would otherwise be applicable to the procurement of foreign produced specialty metals and chemical warfare protective clothing produced outside the United States)

Mr. TOWER. Mr. President, on behalf of myself and Senator Heinz, in addition to Senator Percy, Senator ROBERT C. BYRD, Senator WARNER, Senator Thurmond, Senator Hum-PHREY, Senator COHEN, Senator Spec-TER, and Senator Nunn, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. Tower) for himself and Mr. Heinz, Mr. Percy, Mr. ROBERT C. BYRD, Mr. WARNER, Mr. MOND, Mr. HUMPHREY, Mr. COHEN, Mr. SPEC-TER, and Mr. NUNN proposes an unprinted amendment numbered 1517.

Mr. TOWER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 2, strike out the period and insert in lieu thereof a colon and the following: "Provided further, That the first proviso in section 723 of such Act (S. 2951) shall be deemed to read as follows:

"Provided, That to the extent necessary to comply with agreements with foreign governments, except in the case of specialty metals containing nickel from Cuba, nothing in this section shall preclude the procurement of (1) foreign produced specialty metals used in the production of defense items, or parts or components of defense items, which items, parts or components are manufactured outside the United States, or (2) chemical warfare protective clothing produced outside the United States:'

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. Before the Senator proceeds may we have order. The Senate must come to order. Those Members in the rear of the Chamber who are talking, please leave.

Mr. DOMENICI. Mr. President, will the Senator from Texas yield for a parliamentary inquiry?

The PRESIDING OFFICER. The Senate will be in order.

Mr. TOWER. I yield.

Mr. DOMENICI. Mr. President, parliamentary inquiry. Is there a time agreement on this amendment?

Mr. TOWER. I am about to ask for it. I am prepared to agree to 10 minutes to a side. I have discussed this with Senator Heinz and it is agreeable to him and we might even be able to yield the time back.

addressed the Several Senators Chair.

The PRESIDING OFFICER. Is the Senator from Texas offering a unanimous-consent request for time of 10 minutes on each side?

Mr. TOWER. I further ask unanimous consent, Mr. President, that the amendment not be subject to further amendment.

The PRESIDING OFFICER. Is

there objection?

Mr. STEVENS. Mr. President, we would support this amendment. The time will be handled by the Senator from Wisconsin and I will sak him whether he has objection to a time limit.

The PRESIDING OFFICER. there objection to the unanimous-consent request?

Mr. ZORINSKY. Objection.

The PRESIDING OFFICER. The

Senate must be in order.

Mr. STEVENS. Mr. President, will the Senator reserve the right to object? I think I know what he wants to do.

Mr. ZORINSKY. Yes; I will reserve my objection, with a unanimous-consent request negating any modification or having any other amendment.

Mr. TOWER. I am prepared to agree to that, as will the Senator from Pennsylvania.

Mr. RANDOLPH. Mr. President, may I be added as a cosponsor?

Mr. TOWER. I would be delighted to add the Senator as a cosponsor.

The PRESIDING OFFICER. there objection to the unanimous-consent agreement propounded by the Senator from Texas? If not, it is so ordered.

Mr. HEINZ. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator from Pennsylvania is absolutely correct. The Senate is not in order. It will come to order. Those Senators to my right please cease conversation. Senators please cease conversations. Those Senators who require to converse please retire from the Chamber. We will not proceed until we have order.

Will the Senators to the left please retire.

Mr. TOWER. I yield 1 minute to the Senator from Alaska, and ask unanimous consent that the Senator from Texas retain the floor.

Mr. STEVENS. Mr. President, want to say that we are looking for a room for members of the staffs who amendment. I am not saying the staff is causing all the noise, because I think we are all tired enough not to know who is causing the noise, but there are too many bodies out here and having too much confusion. So as soon as we locate that room I will make that request that the Chair instruct members of the staff to leave the floor if they are not directly involved in the amendment pending before the Senate.

UP AMENDMENT NO. 1517

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows: The Senator from Texas (Mr. Tower) proposes an unprinted amendment numbered 1517.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 2, strike out the period and insert in lieu thereof a colon and the following: "Provided further, That the first proviso in section 723 of such Act (S. 2951) shall be deemed to read as follows: 'Provided, That to the extent necessary to comply with agreements with foreign governments, except in the case of specialty metals containing nickel from Cuba, nothing in this section shall preclude the procurment of (1) foreign produced specialty metals used in the production of defense items, or parts or components of defense items, which items, parts or components are manufactured outside the United States, or (2) chemical warfare protective clothing produced outside the United States:"

Mr. TOWER. Mr. President, I yield myself 3 minutes.

Mr. President, this amendment is proposed in behalf of myself, Mr. HEINZ, Mr. ROBERT C. BYRD of West Virginia, Mr. PERCY, Mr. SPECTER, Mr. WARNER, Mr. THURMOND, Mr. HUM-PHREY, Mr. COHEN, Mr. NUNN, and Mr. RANDOLPH.

Mr. President, I rise on behalf of an amendment to House Joint Resolution 631. The amendment is to the specialty metals "Buy-America" provision of S. 2951, the fiscal year 1983 Department of Defense appropriations bill.

I understand that this amendment is acceptable to the floor managers of the bill.

The specialty metals provision of S. 2951 will seriously trouble U.S. relations and defense cooperation with numerous allies and friends, particularly NATO member nations, Israel, Australia, and Switzerland.

It would also adversely affect U.S. trade relations and put at risk substantial economic benefits for the United States.

The language in S. 2951 allows DOD to purchase only "weapons or weapons systems" manufactured outside the United States and containing specialty are not involved in the pending metals of non-U.S. origin. However,

the United States does not buy weapons or weapons systems from overseas. For the most part, we purchase foreign made components, subassemblies, and defense equipment from our European allies. Under the provision of S. 2951 DOD would be prohibited from buying such items.

The amendment we propose will allow DOD to purchase defense items, and parts and components of defense items which are manufactured outside the United States.

This amendment attempts to strike a balance between preserving the viability of the U.S specialty metals industry and protecting U.S. relations with European member nations of NATO and other friends and allies. I am hopeful that it will strike such a balance.

In addition, of course, and this is very important, Mr. President, when you consider that the Europeans buy nine times as much military hardware from us as we do from them, we are also acting in our own economic selfinterest.

This amendment will insure that the market for defense materiel in Europe will remain open to U.S. contractors.

I yield such time-

The PRESIDING OFFICER. The Chair must inform the Senator from Texas that his amendment amends an amendment already agreed to and, therefore, without unanimous consent his amendment is not in order.

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. there objection? Hearing no objection, it is so ordered.

Mr. TOWER. Mr. President, I yield such time as may be required to the Senator from Pennsylvania.

Mr. HEINZ. First, Mr. President, I want to thank a number of Senators who participated in fashioning this change in the specialty metals clause that is in the Appropriations Committee bill. Senator STEVENS, in my judgment, quite correctly put into that bill, in an effort to try to preserve a vital defense industry, namely the specialty steel industry, without which it would not be possible for us to have the capability of having a strong national defense, this provision.

Senator Tower and I, Senator Byrd of West Virginia, Senator RANDOLPH, Senator Percy, Senator Specter, have been looking for a formulation that will accommodate the most pressing problems of sheltering the U.S. specialty steel industry from what are largely a series of unfair trade practices involving subsidized imports and dumping on specialty steel itself, and yet permit the United States to obtain the kind of defense relationships with our NATO allies that are important to military cooperation.

The amendment pending before us, I believe, strikes such a balance, and will not only preserve workers' jobs in this country but will allow us to stay on good terms with our NATO allies.

Finally, it is my hope that now that this issue has been resolved with members of the Armed Services Committee that we, having established a policy that we believe is balanced and fair, will not be in the future called upon to constantly revisit the issue and take the time of the Senate to do so.

So I want to thank Senator Tower and all the colleagues who have engaged in helping us fashion this amendment, which is good policy, and I hope our colleagues join us in adopting it.

Mr. TOWER. I want to thank my colleague from Pennsylvania for his splendid effort. It is my understanding that the managers of the bill are prepared to accept it. I had given consideration, because of the widespread support for this amendment, of asking for a rollcall vote to reinforce our conferees in the conference with the House. In the interests of time I will not do so, with an assurance from the managers of the bill that they will make every effort to insist that the Senate position prevail in the conference with the House.

Mr. PROXMIRE. Mr. President, will the Senator from Texas yield?

Mr. TOWER. I yield.

Mr. PROXMIRE. Mr. President, I know of no objection to this amendment on this side. I inquired to the extent I could, and I do not know anybody on our side who has any objection, and I think we can do our very best to insist on the amendment.

Mr. STEVENS. I want to assure the Senator from Texas, this was my amendment, which was deleted on the floor. We have rewritten it, and I am grateful to have the help of the Senator from Texas and the Senator from Pennsylvania in perfecting it. We will defend it to the best of our ability. I know of no objection to it and I am prepared to accept it.

Mr. PROXMIRE. I yield back our

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 1517) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1518

(Purpose: To limit the use of appropriated funds for full flight testing of the MX missile)

Mr. HART. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1518.

Mr. HART. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I of the joint resolution insert the following:

. In addition to the limitation set forth in section 101(c) of this Act, none of the funds appropriated in the joint resolution may be obligated or expended for full flight testing of the MX missile until a basing mode is approved by both Houses of Congress in a concurrent resolution, as specified in such section 101 (c); Provided further, that none of the funds made available by this joint resolution may be obligated or expended for any site-specific facilities for the MX missile until all terms, conditions and requirements of the National Environmental Policy Act (42 U.S.C. 4332) are met.

Mr. HART. Mr. President, if I might have the attention of the floor managers of the bill as well as the distinguished chairman of the Armed Services Committee, to whom I have made copies of this amendment available, I think it might be possible to reach agreement on it fairly quickly, I would hope, if I might just summarize what the amendment does.

Mr. TOWER. Mr. President, will the Senator from Colorado yield?

Mr. HART. I yield.

Mr. TOWER. We are still looking at the possibility perhaps of offering some language or a slight modification and see if the Senator will accept it.

I wonder if he would mind withholding that amendment for a moment, perhaps let Senator Cohen proceed with an amendment he has which should not take much time, and we will try to get back to the Senator from Colorado.

Mr. HART. Mr. President, I ask unanimous consent that the amendment be temporarily set aside but following the Senator from Maine.

Mr. STEVENS. Mr. President, serving the right to object, I think the Senator from Maine has two amendments. I do not have objection if it is on the basis of RDF.

The PRESIDING OFFICER. Hear-

ing no objection-

Mr. ZORINSKY. Mr. President, reserving the right to object, would that unanimous-consent agreement also state a provision that no amendment

to the amendment and no modifications will occur? Does the Senator-

Mr. HART. I so modify the request. The PRESIDING OFFICER. Is there objection to the request of the

Senator from Colorado?

Mr. STEVENS. May we assure the Senator from Nebraska, so that he will not be this nervous and with the attention of the lady from Florida that an amendment that he is worried about will not be offered without notice to him, and I give him that personal commitment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Colorado? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Reserving the right to object. Will the Chair state

the request?

The PRESIDING OFFICER. The request is the Senator from Colorado wants to temporarily set aside his amendment with no amendment in the second-degree being in order or modification and that it will be automatically the pending business after the amendment of Senator COHEN.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER, Hearing no objection, it is so ordered.

UP AMENDMENT NO. 1519

(Purpose: To permit the use of Department of Defense funds to be used to establish or operate the Rapid Deployment Joint Task Force as a unified comand)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WALLOP). The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. Cohen), for himself and Mr. Tower, Mr. Percy, Mr. Thurmond, Mr. Warner, Mr. Quayle, Mr. LUGAR, Mr. HUMPHREY, Mr. LEVIN, and Mr. Exon, proposes an unprinted amendment numbered 1519.

At the end of title I insert the following new section:

"Sec. . Notwithstanding the restriction contained in section 792 of the Department of Defense Appropriation Act, 1983 (S. 2951), funds appropriated by this joint resolution for use by the Department of defense may be used to estalish or operate the Rapid Deployment Joint Task Force as a unified command.".

Mr. COHEN. Mr. President, I rise to offer an amendment on behalf of myself and Mr. Tower, Mr. Percy, Mr. THURMOND, Mr. WARNER, Mr. LEVIN, Mr. Exon, Mr. Quayle, Mr. Lugar, and HUMPHREY. Our amendment would allow the use of funds, without increasing any appropriated dollar amounts, to establish and operate a new unified command for the Persian Gulf region. There is language currently in the fiscal year 1983 Senate defense appropriation bill that would prohibit this key initiative.

Mr. President, the real issue is how the United States can best protect her interests in the region. The President, the Secretary of state, the Secretary of Defense, and all the cosponsors of this particular amendment believe that our interests would be best advanced by activating a new command, to be entitled the U.S. Central Command

Frankly, this is not a new idea. The concept of a separate unified command for that area has been debated for the past several years. In fact, Secretary Weinberger responded to an initiative from the Senate Armed Services Committee, developed during the course of its deliberations about the Rapid Deployment Joint Task Force, requesting the Pentagon to develop a separate unified command. You may recall that the Rapid Deployment Force was a concept offered by Secretary Brown under President Carter in response to the volatility of the Persian Gulf are, following a number of events such as the chaos that took place in Iran, the invasion of Afghanistan by the Soviets, the identification of the Persian Gulf area being within our interests, and because of the distinct structure of the European Command and Pacific Command, with overlapping jurisdiction.

The effort was to develop a Rapid Deployment Force that could help protect our interests in that region. It was the Senate Armed Services Committee that recommended having the straight line of communication, having someone in charge with as clean a line of communication as possible within

that region.

The most fundamental reason is simply the area demands the full attention of a senior military commander and not the existing arrangement as it now stands between the European Command and Pacific Command, the commanders of which both have their hands full with areas outside the Persian Gulf region. It was through this process of the 18-month examination that the President recently approved activating a new Persian Gulf Command as of January 1, 1983.

This is not a layering of military bureaucracy or a depository for head-quarters personnel. It is the most rational approach toward the effective management and control of our military forces which might have to be used in that vital region of the world. No additional personnel are requested to man the new command.

It really kind of boils down to an assessment, Mr. President. Do we have a vital interest in the Persian Gulf region? Do we have an interest in seeing to it that oil continues to flow through the Persian Gulf? Do we have an interest in seeing to it that small nations like Oman, Bahrain, the so-

called moderate nations, are able to

have a stable society with the aid at

least of the United States in time of crisis being available to them. If you believe we have a vital interest in that region of the world, it seems to me we want to develop the most comprehensive and straight line command setup that we can offer.

That is basically the reason why a seperate unified command was recommended by the Armed Services Committee, why it was adopted by the Secretary of State, the Secretary of Defense, and ultimately the President.

I might say it does not go far enough, as far as I am concerned. This is not the configuration upon which I would insist. I would like to see more of a forward command element. Because we do not have anything available on land in that part or region of the world, at least not yet, I would even recommend that we go to some sort of sea-based forward command structure. That, however, is not the proposal before the Senate. I would think evolving into a separate unified command is in the best interest of this country and I urge that this proposal be adopted.

Mr. STEVENS. Mr. President, the Defense Appropriations Subcommittee held 2 days of hearings on the proposal to change the Rapid Deployment Force into a new unified command limited to Southwest Asia. I hope that those people who are concerned about the increasing costs of the Defense Establishment will listen, whether they are here or in their offices, wherever they may be. This is one of the recommendations of the committee.

I want you to know that this year we probably held more hearings, more days of hearings, than the subcommittee has held in many years. When we heard that the Rapid Deployment Force, which is a worldwide concept, is planned to be changed to a new command, the U.S. Central Command, to be limited to Southwest Asia. The committee reported a recommendation that the unified command not be established, and that we be given further opportunity to examine it.

Notwithstanding that request and the restriction that is in the report, the Department announced on December 7 that this new command would be created on January 1, 1983. It will add another 1,000-man bureaucracy to the Department of Defense.

This action is an abandonment of the concept of the Rapid Deployment Force as a global strike force, and a refocusing to a specific theater of the world. It will be a new theater of commitment of defense by the United States as a unilateral assumption of responsibility for the world in the Southwest Asia area.

Additional headquarters personnel are planned to handle a more limited mission. The increase in the headquarters staff alone will be from 263 people to 1,000 people in this fiscal year.

When we were in Europe, we asked the NATO Commander what he thought, and he told us, "Give us 80 people and we will handle the same planning that will be involved in that same concept."

The Joint Chiefs of Staff were not entirely in agreement that the RDF should become a new command. If Congress endorses the change from the Rapid Deployment Force to the new U.S. Central Command, it is, in effect, making the same commitment that we made to NATO years ago which has led to an annual expenditure of \$133 billion to meet the NATO commitment.

This is a geographical sector important to other nations of the world. Only 8 percent of the U.S. oil needs come from this region. By contrast, 50 to 70 percent of the European and Japanese imports come from the Persian Gulf. The United States has not gone forward with a request that other nations assume a portion of this military and financial burden.

We are not opposed to the concept that we should announce to the world that we are ready to assist in the defense of the Southwest Asia region. But we should at this time, in my opinion, and in the opinion of our committee, reinforced by the full committee, not permit the unilateral assumption of the responsibility for the defense of this area at the expense of rescoping the Rapid Deployment Force, which was created by the Congress to meet the global defense of this Nation's needs.

I would urge the Senate to think about what this means if we make this commitment. I understand the attitude of the authorizing committee. We are not saying that ultimately we would not see fit to fund increased responsibilities in Southeast Asia. But I plead with the Senate, do not permit this change to take place without asking our allies for their support to begin with.

We have already been literally sucked into the position where we are paying substantially all of the cost for the NATO defense. If you really look at the total cost of that defense, we are assuming most of the costs.

I am not saying that other nations are not doing most of what they said they would do, but our increases in technology, in weapons systems, in the modernization of sealift, of airlift, and of our strategic missile force, have been so fast and so great that we are increasing, Mr. President, at the rate of \$55 billion in 2 years for the NATO commitment.

If we unilaterally assume this commitment in the most volatile area in the world today, I think the United States has stepped off the bridge. This is not the time to do it.

I understand what the Senator is saying. I ask only that we be given the time to fully contemplate what is being suggested. We see no reason why we should abandon the RDF.

You should understand that this restructures the RDF and changes it into a theater command called the

U.S. Central Command.

The readiness command is still there, but its defined role is still uncertain. We think Congress needs more time and the people of the United States need more time to think about the commitments that are being made here.

Furthermore, Mr. President, until we complete our modernization and have a new airlift capability, and a sealift capability, I would state that we do not have the ability to meet the commitment we are announcing to the world

It is not something we should undertake unilaterally, because it will severely strain our NATO forces should we have to pull them down in order to meet this commitment. It would strain our worldwide forces to do that.

I admit there are other people in this body who have served on the Armed Services Committee much longer than I have been chairman of this subcommittee, but I state that to my knowledge, no one who has been on this subcommittee disagreed with our position. No one had any advance knowledge that this change was to be made. I think we should not allow this additional command to be created.

During our hearing, the defense witnesses were in disarray. They were unable to answer basic, fundamental questions about the proposed bureaucracy. There was no satisfactory explanation as to why the RDF had been converted into this Persian Gulf theater command force and why there was no clear definition of the future role of the readiness command.

I understand the Senator's amendment, and the time is late. I only say to the Senator again that there was no dissent among those of us who sat through the hearings on this issue that the Department of Defense had not justified the abandonment of the RDF and the creation of a new central command which would unilaterally assume the defense obligation in terms of the Persian Gulf region.

Mr. SCHMITT. Will the Senator yield?

Mr. STEVENS. I do yield to my friend.

Mr. SCHMITT. I merely want to say the Senator's characterization of the hearing and the unanimity about those hearings, the discord and the disarray shown by Defense Department witnesses were not what one would have liked or even chose. It is clear that what was once, I think, recognized as a modern concept of strategic mobility that came out of the later

stages of the Carter administration—that is, a rapid deployment force that was deployable, was rapid, and was a force—was being abandoned in favor of concentration on one theater. And they used the word.

The Senator recalls that, under questioning, it became very clear what the Department of Defense—particularly the Department of the Army and the Department of the Air Force—had clearly had in mind for this new command was a theater force in absentia.

As an aside, I think that is one of the reasons why we are seeing so much emphasis on purchasing the C-5. But we shall leave that aside.

The original concept of a strategically mobile force that can move anywhere on this globe where our national interests are threatened with the appropriate response to that threat has apparently been abandoned—at least at the higher levels of the Defense Department.

I do not think this should be done without much more careful scrutiny of the consequences of such an act. It does not make good sense to me, nor do I think it made sense to the rest of

the subcommittee.

Mr. TOWER. Mr. President, I support the amendment offered by the Senator from Maine. I simply want to note two points: That is, another military bureaucracy is not being created. The existing military organization, the Rapid Deployment Joint Task Force, will simply transition to a more effective, regionally oriented unified command, the U.S. Central Command. There will be no increase in military manpower end strength to create this new command.

Mr. President, this amendment will enable the Department of Defense to create—with existing manpower—the most efficient and effective organizational arrangement for protecting U.S. interests in the vital Persian Gulf region.

The President of the United States made the decision to establish this command and I believe we should support him. I urge my colleagues to do so.

I might note further that we are not alone in the Indian Ocean-Persian Gulf area. British ships are very regularly deployed there and the French have occasionally maintained a large number of ships there than we do; so two of our Western friends and counterparts are making their presence known in that area.

Mr. COHEN. Mr. President, the Senator indicated that this was without any notice whatsoever. I point out that for the past 2 years, the Committee on Armed Services has endorsed the concept.

In this year's report, the committee stated:

The focus of U.S. force projection plans and programs has centered on the Rapid

Deployment Joint Task Force which will transition on January 1, 1983 to a separate unified command for the Southwest Asia region. The committee fully supports the creation of this new command.

Second, it is my understanding the RDF has been conducting joint exercises with the troops in Egypt, and also with those in Oman. We have already been trying to create a rapid deployable force to work in conjunction with those countries who feel most threatened.

Let me deal with this issue about the Joint Chiefs of Staff. There was, of course, discord among the Joint Chiefs. That is the reason we had hearings in our subcommittee, to deal with the problem of what should the Rapid Deployment Force do? You had the traditional conflict and competition between the services that we see sometimes, time and time again. That, by the way, was one of the reasons I did not want to get into this initially.

When we had that rescue mission in Iran to get our hostages back, one of the things we found out was an overlapping command and control structure, confusion, chaos, and ultimately

tragedy.

That is one of the reasons we are trying to eliminate that competition between the Joint Chiefs—not to say it has to be Army-Air Force, or Navy-Marine Corps, but let the President, the Commander in Chief, decide what is the most effective, cleanest, simplest line of command so we do not have another Iran rescue mission failure.

That is the reason we recommended going to a unified command, because it is in our vital interest and we recognize it. Those who want to oppose this right now say we do not have a vital interest. If there is conflict tomorrow, if there is internal subversion tomorrow and the Omanis or the Bahrainis call on us for assistance, we might find the overlapping jurisdiction we found in the past between Pacom and Eucom.

I suggest to the Senator from Alaska that this was carefully thought through by the Commander in Chief, and the President adopted this to end the conflict between the Joint Chiefs, to end the interservice rivalry, and to produce something that makes military sense.

Mr. ANDREWS. Mr. President. The PRESIDING OFFICER. The

Senator from North Dakota.

Mr. ANDREWS. Mr. President, I think we all want the same thing; that is probably the most efficient use of our military manpower in time of increasing budgetary restraint. The thing that amazes me is how my good friend from Texas and my good friend from Maine, my good friend from Alaska and myself, sit on two separate committees dealing with the military and seem to get two entirely different concepts.

The goals that the Senator from Maine has pointed out and the Senator from Texas has pointed out are goals we all share, Mr. President. But the facts that we have been given show that this is, again, may I restate, a whole new bureaucracy.

Let me add one other thing to have our colleagues think over for a minute.

Mr. President.

The cost in the military is not the MX system, it is not the B-1 bomber, it is not the weaponry with the M-1 tank, the weaponry that we hope always will give the American fighting man and woman the edge over whatever the enemy might throw against us. That is the way you preserve freedom.

The cost is in the duplication of forces that we have in personnel and particularly in high staff cadres that set up a group for this and a group for that and a group for something else.

One of the things that concerns those of us on the Defense Appropriations Subcommittee is the fact that the RDF that is being set up is now being tied down to one area and solidified into a chain of command right there, with these extra people.

The other thing that bothers me— Mr. COHEN. Right where, Mr. Presi-

dent?

Mr. ANDREWS. In the centralcom, as they call it.

Mr. COHEN. Mr. President, where are they situated? Right at MacDill Air Force Base in Florida.

Mr. ANDREWS. In the United

States, right at MacDill. Mr. COHEN. That is right.

Mr. ANDREWS. The point I would like to make, Mr. President, to my colleague and good friend from Maine, is that we are going to have to take a darn close look at the active strength commitments we have in Europe. We are going to have to take a realistic look at the fact that if we are going to have a RDF, let us have an RDF. Let us not assign it to one portion of the world and one portion of the world alone. If we could take 30,000 troops out of Europe and assign that troop strength to an RDF and get credit for it in Europe, everybody in this troubled world would know if there is conflagration in Europe, that the RDF would go there; if there is conflagration someplace else, they would go there. But we should not have a group that is responsible to this area, and another group that is responsible to yet another area. It is not good defense practice, and it certainly is something we cannot afford. Had the Department made an offer to truly strengthen our combat readiness and get away from these extraneous costs, it would have been allowed to stay in the bill.

Mr. STEVENS. Mr. President, I call the attention of the Senate to the fact that there was a request for a 37,600 increase in the end strength of the Armed Forces from the Department of Defense. The Armed Services Committee's authorization bill reduced that by 17,600. The increase in strength, then was 20,000.

In other words, there will be 22,400 fewer troops available to the Department of Defense than originally con-

templated.

Let me point out to the Senate that the Japanese are almost totally dependent on this region as a source of oil. They contribute only 1 percent of their gross national product for defense. We will be committing our taxpayers' money to a total defense support of an area to protect their oil routes.

Mr. President, they are our allies, but they should come forward and find a way to support this defense if they want to defend that area, too.

Mr. COHEN. Is the Senator suggesting that we just ignore the area?

Mr. STEVENS. No, Mr. President, I am saying we should keep the Rapid Deployment Force, we should use it if it is in our national interest to do so in the Persian Gulf region, but we should not change the RDF so it is limited to one theater, so that it has only one role. That is what this does. This eliminates the Rapid Deployment Force.

If you approve this amendment, there will no longer be a rapid deployment force in the United States. We will have a force committed to defense of the Persian Gulf only, an increasing

commitment year by year.

Incidentally, no forces would be stationed in that theater. Everything, including an asphalt plant, is planned to move in there by air to defend this area for the purpose of protecting 9 percent of our supply and 99 percent of the Japanese supply of oil, with not a dime being committed by the Japanese.

Mr. LEVIN addressed the Chair. The PRESIDING OFFICER. The

Senator from Michigan.

Mr. LEVIN. Mr. President, I could not agree more with my friend from Alaska that the Japanese could do more, and there is a number of efforts going on in this body to get them to do more. But the question is not whether or not taxpayers dollars are going to be out there in the Middle East, in the Strait of Hormuz and the Persian Gulf. They are there. Our taxpayers dollars are out there. The problem is that they are completely uncoordinated.

I stood on the Strait of Hormuz and on my right were ships coordinated by the Pacific Command to the east, and on my left were ships which were coordinated by the European Command. That does not make any sense. It is one coordinated, unified area, and we have to have one coordinated, unified command. It does not make any sense for our AWACS planes in Saudi

Arabia to be part of the European Command and the ships which they coordinate a few hundred miles away to be part of the Pacific Command.

The question is not whether we are going to have taxpayers dollars out there. They are out there, my friends. The question is whether they are going to be coordinated, cohesive, unified, in one logical, sensible command.

Having taken a trip for that purpose, among others, to look at that command, having landed on the aircraft carrier outside the Strait of Hormuz, knowing that it was being coordinated by something inside the Strait, I absolutely came to the conviction it made no sense whatsoever.

We need a central command in that area, and the Joint Chiefs have to be given this kind of product.

We heard testimony on this issue I think probably longer in the Appropriations Committee. I hope that finally we would just cut this knot and have a new unified, central command with one Commander in Chief instead of two. We have two chiefs right now. We have a European chief and we have a Pacific chief, and the darned line goes right doen the most critical jugular in the world, the Strait of Hormuz. That is the dividing line.

Mr. SCHMITT addressed the Chair. The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I think the Senator from Michigan and the Senator from Main: have pointed out the very real problem in joint operations. There is no question that if we are to have a rapid deployment force, wherever it is deployed, there are many examples of lessons, not just those in Iran, that show you have to have a unified command structure and it has to be inception to termination. There has to be a unified command structure.

But that does not mean that there has to be a centralized bureaucratic command in the United States dedicated to having the theater force placed under certain circumstances in the Middle East.

The rapid deployment structure of this country has been in the past, and I think is still today, based on the existence of our Naval, Marine, and our airborne forces.

It does not take much imagination to see that we can have a truly rapid deployment force built on that foundation with each operation under a unified command, but that does not mean the entire force is under unified command or that it is dedicated to one part of the globe. Strategic mobility is going to be the name of the game in the future, and it is going to be the name of the game eventually even embracing Europe. We have to move away from the idea of a centralized theater command in Europe. It is

going to take a long time, but we are going to tie up too much money and manpower when one looks at the kind of threat to our national interests that exists in this world, and I hope that the Senate will not agree to the amendment before it.

Mr. COHEN. Mr. President, there are several Senators who wish to offer some remarks on this particular measure, Senator Percy and Senator Lugar, and they are in a Foreign Relations Committee meeting right now and have asked for the opportunity to speak on this.

I make a recommendation that we hold this matter over because I believe we represented to Senator Harr that his matter, which was going to be resolved quickly, would be considered in a few moments. We have been going on some time now.

I propose, under unanimous consent, that we defer continuation of this debate until such time as Senator Harr concludes his amendment, which I am told will not be long and will take only a few minutes, and then we will go back to the next order of business.

Mr. STEVENS. Mr. President, we are ready to vote.

Mr. COHEN. Senators Percy and Lugar would like to speak on this matter.

Mr. PRYOR. Mr. President, if the Senator will yield, I think also Senator HART and myself yielded to the Senator.

Mr. EXON. Mr. President, I was about to object to what I thought was a unanimous-consent request, but that has been withdrawn.

Mr. PRYOR. I wish to ask the manager of this bill. I thought about 45 minutes ago we had some sort of an arrangement or agreement that we were going to attempt to limit debate on all these amendments. I understand that there was no time limitation. I have an amendment that I wish to talk on for a very long time but I agreed to 10 minutes on the side.

We have been 45 minutes on this amendment.

Mr. STEVENS. That is correct. But we took care of another amendment in the Senator's absence and time was yielded back before that time was all used. So we got two amendments in 45 minutes.

Mr. PRYOR. Mr. President, is there any idea when we might vote on this and dispose of this measure?

Mr. EXON. Mr. President, will the Senator from Arkansas yield?

Mr. PRYOR. I am delighted to yield. Mr. EXON. Mr. President, the point of my question and the reason I am about ready to offer an objection is that I totally share the sentiments of the Senator from Arkansas. I have an amendment that I have agreed to table that can be 10 minutes equally divided.

I will tell the Democratic staff that I have now decided I want to up that to an hour equally divided.

It seems to me that we are seeing a great deal of selfish actions on the part of this body, not recognizing that we have been here for so many hours that I do not understand.

Mr. STEVENS. Is the Senator ready to vote? This Senator is ready to vote when the Senator wishes.

Mr. EXON. Traditionally each and every time those of us who wait patiently to the end have 1 minute equally divided before we vote. It seems to me it is about time that the leaders of this body get out here on this floor and get some time arrangements so we can orderly hopefully conduct the business of the Senate.

I have been here almost all day long and I object to the amount of time that is taken on some amendments and the minimum amount of time which is going to be taken on others.

Mr. STEVENS. Mr. President, we accept the criticism. However, in the course of working these out we eliminated three other amendments that the Senator will learn about in a few minutes. We have not been idle. We did stay here this afternoon for 40 minutes waiting for someone to come over to offer an amendment to this section.

We are ready to vote. I am ready to vote. Is the Senator ready to vote?

Mr. COHEN. Mr. President, I say to the Senator from Nebraska that I sat here last night. I did not offer any comment. I wanted to hear what he had to say during an important debate. I could have arisen and made my speech as well. I let my remarks go unsaid last night.

I do not particularly appreciate the fact I am going to be cut off at this point. I am through on this issue. But there are two Senators who wish to say, perhaps 2 or 3 minutes each, remarks about the subject matter.

In the meantime, I am trying to accommodate Senator Harr whom I think we misled into thinking we would come immediately back to his amendment. He has been sitting here the last 40 minutes himself.

Mr. STEVENS. Mr. President, I ask unanimous consent again that this amendment be temporary set aside and we return to the Hart amendment and then complete the debate on the Hart amendment which will be accepted for the information of the Senate, and we will have made progress.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1518

Mr. HART. Mr. President, the pending amendment was set aside under a unanimous-consent agreement which precluded its modification.

If I could have the attention of the Senator from Nebraska, I could ask unanimous consent that it would be in order to modify that amendment with language pending at the desk that applies to the subject matter only of that amendment and nothing else.

The PRESIDING OFFICER. Is there objection?

Mr. ZORINSKY. No.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is so modified.

The modified amendment follows:

At the end of title 1 add the following new section:

SEC. ( ). Notwithstanding any other provision of this joint resolution, no initial flight test of the MX missile may be conducted until after both Houses of the Congress have agreed, in accordance with the provisions of section 101(o), to a concurrent resolution approving the obligation and expenditure of funds for the procurement and full-scale engineering development of a basing mode for such missile.

Mr. HART. Mr. President, this amendment seeks to expand in one degree the so-called fence that was established with relation to the production of the MX missile last night in the debate over the committee amendment as amended by the Jackson amendment. That degree is to include in the defense operations the conduct of a full flight test of the MX missile prior to the time when Congress approved the basing mode as established in the committee amendment as modified by the Jackson amendment.

I have discussed this matter with the distinguished chairman of the Armed Services Committee. I believe we are in substantial agreement over the effect of this amendment, and I will be prepared to respond to any question or comments the Senator from Texas might have.

Mr. TOWER. Mr. President, I suggest to my colleagues that they accept the amendment offered by the Senator from Colorado. I have discussed it with others who were involved in the formulation of the Jackson-Tower-Nunn-Warner-Stevens, et al, amendment, and I think that everyone is satisfied that it is consistent with the spirit of the amendment.

Therefore, for my part I am prepared to support it and I yield to my good friend from Alaska for any comment he has on it.

THE SALT II TREATY AS UNRATIFIED

Mr. SYMMS. Mr. President, I rise to oppose the Hart-Tower amendment which would in effect defer MX ICBM flight-testing in order to comply with the unratified SALT II Treaty. The United States has already constrained our strategic forces unilaterally in compliance with the unratified SALT II Treaty in at least eight significant cases. The Hart-Tower amendment would be case No. 9.

Mr. President, it is correct that under the second agreed statement to paragraph 9 of article IV of the unratified SALT II Treaty the United States should not flight test a new ICBM type that has a different number of stages than that of the first new ICBM type to be flight tested. In other words, once the United States launches the first MX—with its four stages—in February, we could not under SALT II then test launch a second new ICBM type with, say, three stages, which would probably be the number of stages on a small mobile ICBM. But the United States has not ratified the SALT II Treaty.

In sum, I oppose the Hart-Tower amendment because it would defer MX flight testing in compliance with the unratified SALT II Treaty. This is case No. 9 of U.S. unilateral SALT II compliance. The evidence is growing ever greater that the constitutional treatymaking power and prerogatives of the Senate are being circumvented. Someday soon, Senators may begin to challenge U.S. SALT II compliance directly.

Beyond the above constitutional legal, and political problems, the Hart-Tower amendment would also have the following deleterious programatic effects:

First, It will delay MX R&D, which the Congress, administration, and Joint Chiefs of Staff all agree should go forward as soon as possible on top priority.

Second. It will increase the cost of

the MX program.

Third. Delay of MX testing and deployment will reduce U.S. leverage at the START talks.

The specific results of the Hart-Tower amendment will be that the first MX flight-test will probably now be delayed from January 1983 to at least March 1983, a 2-month slippage at least. The Senate has thus agreed to another serious delay in the MX program.

Mr. STEVENS. Mr. President, it is my understanding that this amendment will prevent the full testing of the missile prior to the decision on the basing mode, while it does not delay the continued R&D short of the full testing. Is that correct?

Mr. HART. That understanding is

correct.

Mr. STEVENS. Then I have no objection and am prepared to accept the amendment.

Mr. TOWER. I might add that the time for the test has slid now to mid-March so we are not looking at really much of a delay.

Mr. HART. The Senator is correct.
Mr. SYMMS. Mr. President, reserving the right to object for a question, I just wish to make it clear. Is the purpose for this amendment in any way dealing with the fact to make us in compliance with SALT II?

Mr. TOWER. The primary thing is to enable us to preserve our options.

Mr. STEVENS. Yes. In view of what the Senator from Texas said it really

has the impact the Senator from Colorado wishes. At the same time, it really does not limit our options because that flight test will be delayed at most 30 to 45 days and it should not complicate the decision on the basing mode. So we are literally moving that issue beyond the basing mode decision.

Mr. TOWER. Nor would it delay the IOC.

Mr. SYMMS. I appreciate the concern. I would just say it would be this Senator's concern that we should not be concerned about treaties that have to be ratified.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. STEVENS. I would be happy to yield to the Senator from New Mexico.

Mr. SCHMITT. I might say that it would be proper to say that in the context of the MX, keeping this new system purely as a weapons delivery system, I say to my colleagues that it has far more than that, and I hope in the manipulations to deal with it as a weapons system we do not forget it is a new large solid propellant booster system that provides rapid access to Earth orbits of several thousand pound payloads. It is something that we need in our inventory whether or not it ever has a warhead on it.

I just hope as you proceed through this kind of a brain dance on trying to defense this or that that you keep in the back of your mind a little bit that there are other kinds of purposes for this kind of booster system besides weapons delivery, and it is in our national interest in many different ways to have additional options that are provided by boosters of this kind as we deal with problems we know about and problems we do not know about.

So I presume this amendment is going to be accepted under the assuances we heard. But I do detect a tendecy here to forget that MX as a booster has values well beyond those that would be served as a weapons system.

Mr. STEVENS. I merely state to the Senator from Colorado that the executive branch, the President's advisers, state this is consistent with the compromise we reached. We are grateful to the Senator for keeping that consistency, and we are ready to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado.

The amendment (UP No. 1518) was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. It is my understanding that we now revert to the amendment of Senator Cohen.

EIS ENVIRONMENT IMPACT STATEMENT

Mr. HART. If I may just have one additional moment, concern has been expressed about the last paragraph of the so-called Jackson amendment of modification having to do with the environmental protection process, so-called EIS environmental impact stastement in the Jackson amendment.

I just wonder, may I ask the distinguished chairman of the Armed Services Committee, whether in his judgment that language we adopted last night in any way restricts or limits the effects of the so-called NEPA process of the environmental study process on actual deployment?

Mr. TOWER. In the view of the Senator from Texas it does not, and once a site is selected the provisions of NEPA would be fully complied with.

Mr. HART. Given that understanding in a common interpretation of that language, and given the fact that the Senate seems to be in agreement that is its interpretation, I will not seek to clarify it further.

Mr. STEVENS. I would say that the intent, as I understand it, was to make certain that the President's recommendation to Congress is not under the NEPA requirement, but we did not attempt to remove anything else but for that language.

Mr. HART. Well, that is my understanding and in the process of looking at alternative basing modes that each of those does not have to comply with

Mr. STEVENS. That is right.

Mr. TOWER. Obviously, any mode recommended to Congress which it authorized would be subject to NEPA.

Mr. HART. Unless Congress dictated otherwise.

Mr. TOWER. Unless Congress made an exception.

Mr. HART. Which we are not doing in the amendment.

Mr. TOWER. That is correct.

Mr. STEVENS. It is my understanding that the Senate automatically reverted to the amendment of the Senator from Maine.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I might address a question to the assistant majority leader.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The question is in order.

Mr. DANFORTH. Mr. President, it seems to me on these defense matters we are proceeding at a reasonably leisurely pace. Many of us have amendments to offer to the bill in which we would be prepared to accept time agreements, which would be very, very short.

In my case it would be 5 minutes. I wonder if it would be possible to get into some of these other matters and take up some very brief questions?

Mine may or may not require a rollcall vote, depending on the disposition of the committee, but the debate itself

would be very, very brief.
Mr. STEVENS. Mr. President, I will state to the Senator there is no commitment as to the order of recognition. This Senator tried yesterday, as the Senator will recall, to establish a priority so that we could get the defense matters out of the way early, and that we would try to get to the others second in line and were unable to do so. We have just now come back to defense matters after having not been involved with them. I now yield the floor to the Senator from Maine, if I have answered the questions, so that we can get on with it.

Mr. TOWER. Mr. President, will the Senator yield to me? While we have been at this leisurely pace we have been disposing of amendments and doing it by voice vote, and we only

have two or three more.

It appears most of the amendments addressed to the bill were defense amendments, and we were trying to

get them behind us.

Mr. COHEN. Mr. President, I can terminate this debate rather quickly. Senator Percy has indicated that he and Senator LUGAR cannot come to the floor because of pressing business before the Foreign Relations Committee.

Let me just say, in conclusion, Mr. President, what has taken place with this recommedation coming from the President and Secretary of Defense is they have taken the decision out of the hands of the Joint Chiefs of Staff.

it is as simple as that.

They have taken the decision away from the JCS. Is that good or bad? Well, you have the former chairman of the Joint Chiefs who, upon his retirement, said that it was a mess, it needs reform, too much interservice rivalry preventing any kind of coordination, cohesion, coherency. The Secretary of Defense took the bold step to say, "Let us put an end to this fighting. Let us do what is right for this country. Let us recognize that we have a national interest, and let us have a decision that makes rational sense.

They did that. That is what we have before us, an affirmation by the President of the United States of a decision made by the Secretary of Defense, and upon the prompting of the members of the Armed Services Committee.

I see the distinguished Senator from Illinois is here, and I yield to him.

Mr. PERCY. Mr. President, I thank

my colleague.

Mr. President, I fully accept the military rationale for establishing the new U.S. Central Command. I was concerned, though, that in setting up this new command arrangement we be sensitive to the adverse political reactions that could be raised were a large, permanent U.S. military presence to be

deployed on land in this region. For this reason, I was gratified to receive a letter from Secretary of Defense Weinberger assuring me that the Departments of Defense and State would give special attention to this consideration and consult with the Congress, and the Foreign Relations Committee in particular, prior to establishing a forward headquarters element in the region for the U.S. Central Command.

With this assurance, I support the

adoption of the amendment.

Mr. President, I ask unanimous consent that the text of Secretary Weinberger's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE, Washington, D.C., December 9, 1982. Hon, CHARLES H. PERCY.

Chairman, Committee on Foreign Relations,

U.S. Senate, Washington, D.C. DEAR MR. CHAIRMAN: I want to follow up on a point regarding our efforts to activate a new unified command for Southwest Asia

as of January 1, 1983.

Although the headquarters for U.S. Central Command will be at MacDill Air Force Base in Tampa, Florida, in the future we would like to locate a forward element of the headquarters somewhere in Southwest Asia. We understand the sensitivities of this. Accordingly, the Department of Defense will work closely with the Department of State on this matter and I assure you that we will consult with the Congress, and your committee in particular, prior to establishing a forward headquarters element for U.S. Central Command.

I believe initiatives such as the new unified command are crucial for the protection of U.S. interests in Southwest Asia. I thank

you for your support.

Sincerely.

CASPAR WEINBERGER.

Mr. President, I would also like to indicate that it is my belief that the U.S. Naval Task Force which is now in the Arabian Sea should eventually be incorporated into this new Central Com-

This would further enhance the effectiveness of this new command. I hope that the Armed Services Committee will consider this suggestion next year.

UP AMENDMENT NO. 1519

Mr. COHEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Senator Pryor has one more defense amendment and Senator Cohen has one more, and to my knowledge-

Mr. COHEN. Two more.

Mr. STEVENS. The Senator from Maine has two more.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine. The clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Gold-WATER) and the Senator from California (Mr. HAYAKAWA) are absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced-yeas 73, nays 25, as follows:

[Rollcall Vote No. 441 Leg.]

YEAS-73

Armstrong	Dodd	Matsunaga
Baker	Durenberger	Mattingly
Baucus	Eagleton	Metzenbaum
Bentsen	East	Mitchell
Biden	Exon	Moynihan
Boren	Ford	Nickles
Boschwitz	Glenn	Nunn
Bradley	Gorton	Packwood
Brady	Grassley	Pell
Bumpers	Hart	Percy
Burdick	Hatch	Pryor
Byrd,	Hawkins	Quayle
Harry F., Jr.	Heflin	Randolph
Byrd, Robert C.	Helms	Riegle
Cannon	Huddleston	Roth
Chafee	Humphrey	Sarbanes
Chiles	Jackson	Simpson
Cochran	Jepsen	Specter
Cohen	Johnston	Symms
Cranston -	Kassebaum	Thurmond
D'Amato	Kennedy	Tower
Danforth	Laxalt	Tsongas
DeConcini	Leahy	Warner
Denton	Levin	Zorinsky
Dixon	Lugar	

NAYS-25

Kasten Abdnor Sasser Schmitt Andrews Long Mathias Dole Stafford Domenici McClure Stennis Garn Hatfield Melcher Murkowski Stevens Wallop Pressler Heinz Weicker Proxmire Hollings Rudman

NOT VOTING-2

Havakawa Goldwater

So Mr. Cohen's amendment (UP No. 1519) was agreed to.

Mr. STEVENS. Mr. President, I yield to the Senator from Maine to make a motion to reconsider the vote.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

The PRESIDING OFFICER (Mr. ABDNOR). The Senator from Alaska.

# FEDERAL ANTI-TAMPERING ACT

Mr. STEVENS. Mr. President, in order to clear the Tylenol bill, I ask that the Chair now lay before the Senate Calendar No. 981, S. 3048.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 3048) to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drugs, cosmetics, and other products with intent to cause personal injury, death, or other harm.

there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

#### UP AMENDMENT NO. 1520

(Purpose: To amend S. 3048 to alter the penalty for willfully and maliciously imparting false information)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senator LEAHY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for Mr. LEAHY, proposes an unprinted amendment numbered 1520.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 2 of the bill is amended by striking Section 1211(b) thereof and substituting therefor the following text:

"(b) Whoever, with willful and malicious intent, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would constitute a violation of subsection (a) shall be punished-

"(i) if personal injury or death results to another, by imprisonment for any terms of

years or for life;

'(ii) if such conduct causes any person to be in sustained fear for his or another person's safety, causes any government agency or authority to direct a sale prohibition against, or recall of, any food, drug, device, or cosmetic, or causes any individual, partnership, corporation, or association to implement such prohibition or recall in response to such conduct, or causes other serious disruption to the public, by imprisonment for not more than 20 years or by a fine of not more than \$20,000, or both."

Mr. THURMOND. Mr. President. the legislation which is before us now, S. 3048, the Federal Anti-Tampering Act, is a response to recent events which have brought fear and disgust into the hearts and minds of us all. I am referring, of course, to the numerous cases of tampering with products intended for human consumption. The vulnerability of the public was dramatically and tragically brought home to us recently in Chicago, where cyanide was inserted into Tylenol capusules, placed on drug store shelves, and purchased by innocent consumers. This incident resulted in the death of several persons, including three from the same family.

The Chicago poisonings were rapidly followed by a series of "copycat" tamperings involving such things as acid in eyedrops and razor blades in packaged foods. The most recent serious incident reportedly occurred around Thanksgiving and involved serious

The PRESIDING OFFICER. Is injury from cyanide-laced Anacin capsules. There have also been reports of individuals fraudulently alleging that products have been adulterated in order to bring harm upon the manufacturers or sellers of the products who are forced to recall the merchandise and remove it from store shelves.

Mr. President, the heinous conduct which we have witnessed demands prompt action by the Federal Government. In order to deter this conduct and bring the full resources of the Federal Government to bear in apprehending and prosecuting the individuals who perpetrate these despicable crimes, I, along with the distinguished Senator from Delaware (Mr. BIDEN) introduced S. 3048, and 50 other Senators to date have cosponsored this measure.

This legislation invokes the broad commerce jurisdiction of the United States to make it a serious Federal crime to tamper with or adulterate foods, drugs, cosmetics, hazardous substances, or any other commodity designed for personal use, with the intent to harm individuals or businesses. Currently, adulteration is punishable by a maximum prison sentence of only 1 year or by a fine of \$1,000, or both, for a first offense and only by a maximum sentence of 3 years or by a fine of \$10,000, or both, for any subsequent offense. By making this crime a felony and by increasing the maximum penalties significantly, we hopefully will be able to deter those who contemplate such conduct.

The amendment of the able Senator from Vermont (Mr. LEAHY) is an improving amendment that is acceptable. It provides a more rational penalty structure for the crime of making malicious false statements concerning acts of tampering prohibited by other

parts of the bill.

By expanding the scope of Federal law in these areas, we will be better able to address the full range of product tampering conduct which the recent cases have demonstrated. In particular, we will be able to reach those situations where the tampering is undertaken or alleged in order to do harm to the public health and safety or to the reputation and goodwill of businesses.

Further, this legislation establishes severe penalties for violators. Those who engage in actual or attempted malicious product tampering or those who willfully convey false information about such tampering will face imprisonment of up to 20 years, or a fine of up to \$20,000, or both, and even a life sentence if death or injury results from the prohibited conduct.

By expanding the Federal antitampering laws and increasing the penalties for violations, we will be providing maximum protection to consumers throughout this country. The reprehensible poisonings which have occurred must be prevented if possible, but certainly punished severely. Only by increasing the deterrence factor can we hope to succeed in realizing this objective.

This legislation also is important in that it encourages the use of Federal resources in appropriate cases to capture and prosecute tampering criminals. Almost all of the products which are subject to possible tampering are manufactured for and shipped in interstate commerce. Because of this, it might be extremely difficult for one State to adequately investigate and prosecute a course of conduct carried out in one or more State, prior to the product being shipped to another State for distribution or final sale to consumers. Therefore, by assuring that the investigatory and prosecutorial resources of the Federal Government are available in all tampering cases, we will improve our ability to bring product tampering criminals to justice expeditiously.

Mr. President, surely all of my colleagues will agree that the product tampering activity which has occurred in recent weeks is a very serious problem. It can and has led to death, serious personal injury, and huge financial and intangible losses to the makers and sellers of the victimized products. It has brought fear and uncertainty to almost all of us who, up until recently, had great faith that the products we purchasd were fit for consumption. Because of the devastating impact that these events have had on consumers and businesses alike, it is imperative that the Congress take whatever action is necessary to protect consumers and restore their confidence in the safety of the products they purchase. S. 3048 will help achieve these results. I therefore urge my colleagues to join me and the distinguished cosponsors in voting for passage of this legislation with the Leahy amendment so that we may fulfill our responsibility to the Nation's consumers before this session of Congress expires.

Mr. President, although this legislation has previously passed the Senate and has been sent to the House as an amendment to H.R. 4481, the urgency of the need for this legislation prompts me to ask the Senate to pass S. 3048, as amended, by itself. In this fashion we can be assured that the House has every opportunity to join with us in enacting this badly needed legislation in this Congress.

Mr. President, the urgency of this matter was the subject of an editorial appearing in the December 14, 1982, issue of the Washington Times. I ask unanimous consent that a copy of the article be reprinted in the Congres-SIONAL RECORD following these remarks.

was ordered to be printed in the RECORD, as follows:

PASS THE THURMOND ANTITAMPERING BILL

The lame duck session will have turned out to be a stupid bird indeed if Congress doesn't pass Sen. Strom Thurmond's product-tampering bill. It comes in the wake of the Tylenol poisonings and the ensuing rash of copycat tampering with drugs. But this isn't the most important reason for the bill.

In fact, we generally oppose cluttering the books with new laws when old laws, if properly enforced, will do the job. True, it's only a misdemeanor under federal law to tamper with products. But this and other laws are enough to let the feds, with their vast resources, get involved in such cases. Which can then be turned over to the state authorities for prosecution under state laws against murder, attempted murder, intent to do serious injury, and so on.

But the Tylenol poisonings have sparked a nationwide wave of other serious acts that are costly to manufacturers (and therefore to consumers) and to everyone's peace of mind: People who do such things as stick razor blades in hot dogs and then sue the sausage maker for injury. Or who tamper with the eyewash or orange juice in order to give the maker a bad name. Or who falsely claim tampering or threaten to tamper with products for the "joy" of spreading panic.

Federal law doesn't touch such people. The Thurmond bill would let federal judges throw such convicted frauds into jail for 20 years and fine them \$20,000. The only problem we have with this is it isn't stiff enough. But it'll do for now.

. Mr. LEAHY. Mr. President, the antitampering bill before the Senate fills a large gap in the protection of consumers against purposely adulterated food, drugs, and cosmetics. The crimes that have prompted our immediate attention to this problem do more than threaten and harm individuals. They eat away at the trust between members of our society. They threaten our sense of community.

I commend Senators Thurmond and BIDEN for their fast and thorough work on this bill. I am proposing an amendment that would create separate and appropriate penalties for those who disseminate false information leading to personal injury or death and those whose false information causes product recalls and disruption, but no death or injury.

An earlier draft of my amendment had created a third category for those whose lies did not result in direct and palpable harm, with a smaller penalty to accompany such offenses. While I still believe that maliciously inspired false information about tampering should be penalized, even if the perpetrator is lucky enough not to be believed, I have struck this language from my amendment, because of concern on the House side about limiting the false information offense. Under my present amendment language, only maliciously inspired information that causes death, injury, or property loss criminalized. The reasoning is almost exactly the same as the reason

There being no objection, the article turning in a false fire alarm is illegal everywhere in the country.

> This amendment should answer potential critics of the bill in the House or the Senate who might have regarded the penalties in the original text as excessively harsh where false information is transparently false and results in no harm.

> I believe that Senators of both parties concerned with this bill have cleared this amendment, as have the industry groups supporting its pas-

> I hope that the Senate and the House take prompt action on this legislation. Our lives and peace of mind are at stake.

> Mr. BRADLEY. Mr. President, earlier this year, this Nation was terrorized by a series of incidents involving tampering with various over-the-counter drug products. What began as one bizarre series of deaths in Chicago sadly spread throughout the country. Such tampering is reprehensible. Alteration of a drug product obviously threatens the health and safety of anyone using that product. In addition, such tam-pering creates widespread fear and undermines public confidence in all overthe-counter drugs. The wave of drug tampering that swept the country threatened an important part of our health care system. We must try to prevent any recurrence.

> The industry has done its part. Manufacturers have redesigned their drug packages to insure that they cannot be easily opened or opened. The Food and Drug Administration has also done its part by establishing Federal for requirements tamper-resistant packaging of most over-the-counter drug products. Now we must do our part by approving the Federal Anti-Tampering Act so that drug adulteration becomes a Federal crime carrying strict penalties.

> The freedoms of our open society require all individuals to act in a responsible manner. Those who would abuse these freedoms should have no doubt that such abuse will be punished and punished severely.

> Mr. STEVENS. Mr. President, I move the adoption of the Leahy amendment.

> Mr. LONG. Mr. President, may we have an explanation of this matter?

> Mr. STEVENS. This is the Tylenol bill, a Federal antitampering act, in order to deal with the situation that resulted concerning Tylenol. It has been cleared on a unanimous-consent basis.

> Mr. President, I ask for consideration of the Leahy amendment.

> The PRESIDING OFFICER. The question is on agreeing to the Leahy amendment.

> The amendment (UP No. 1520) was agreed to.

Mr. STEVENS. Mr. President, I ask for immediate consideration of the bill, as amended.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Anti-Tampering Act.'

"SEC. 2. Title 18, United States Code, is amended by adding the following new chap-

#### "Chapter 56-ADULTERATION

# "8 211. Malicious injury by adulterating a product

"(a) Whoever, with intent to injure, kill, or endanger the health or safety of any person, or with intent to cause damage or injury to the business reputation of an individual, partnership, corporation, association, or other business entity (1) does any act which results in a food, drug, device, or cosmetic being adulterated or attempts to do any such act or (2) tampers or attempts to tamper with any hazardous substance or any other article, product, or commodity of any kind or class which is produced or distributed for consumption by individuals or use by individuals for purposes of personal care or in the performance of services rendered within the household, if such act of adulteration or tampering occurs before the food, drug, device, cosmetic, hazardous substance or other article, product or commodity is introduced or delivered for introduction into interstate commerce, while such item is in interstate commerce, while such item is held for sale (whether or not the first sale) after shipment in interstate commerce or if such act of adulteration or tampering otherwise affects interstate com-merce, shall be punished by imprisonment for not more than twenty years or fined not more than \$20,000, or both, or, if personal injury or death results to another, by imprisonment for any term of years or for life.

'(b) Whoever, with willful and malicious intent, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would constitute a violation of subsection (a) shall be punished-

'(i) if personal injury or death results to another, by imprisonment for any terms of

years or for life;

'(ii) if such conduct causes any person to be in sustained fear for his or another person's safety, causes any government agency or authority to direct a sale prohibition against, or recall of, any food, drug, device, or cosmetic, or causes any individual, partnership, corporation, or association to implement such prohibition or recall in response to such conduct, or causes other serious disruption to the public, by imprisonment for not more than 20 years or by a fine of not more than \$20,000, or both.

"(c) As used in subsection (a), 'food,' 'device,' 'cosmetic,' and 'adulterated' shall have the meanings ascribed to those terms in the Federal Food, Drug, and Cosmetic

Act, as amended (21 U.S.C. 301-392); 'hazardous substance' shall have the meaning ascribed to the term in the Federal Hazardous Substances Act (15 U.S.C. 1261(f)).

SEC. 3. If any provision of this Act is held invalid, all valid provisions that are severable shall remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision shall remain in effect in all of its valid applications that are severable.

SEC. 4. The analysis of part I of title 18, United States Code, is amended by adding the following:

'56. Adulteration ...... 1211".

Mr. STEVENS. Mr. President, move to reconsider the vote by which the bill passed.

Mr. JEPSEN. I move to lay that

motion on the table.

The motion to lay on the table was agreed to.

# FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate resumed consideration of the bill.

Mr. STEVENS, Mr. President, to my knowledge, there are two amendments left in the defense area.

The PRESIDING OFFICER. Will the Senator suspend for one moment? The Senate will be in order so every-

one can hear

Mr. STEVENS. Mr. President, to my knowledge, there are but two amendments in the defense area. We have two of them that have been combined and worked out. I would like to yield to the Senator from Texas for the purpose of his amendment, which we will accept, and then yield to the Senator from Arkansas for his amendment, which, to my knowledge, will be the last one in the area, unless the Senator from Maine wished to raise the battleship amendment.

Mr. COHEN. Will the Senator with-

hold that just for a moment?

Mr. STEVENS. The Senator reserves that right.

CANNON. Will the Senator yield?

The Senator is bypassing me now. I certainly have an amendment in the defense area

Mr. STEVENS. I say to the Senator, I made a list and his name was not on the list. I apologize. We have been dealing with this list we made some time ago and-we have incorporated, I understand, the F-16 matter that the Senator was going to raise in the amendment that we will accept.

Mr. CANNON. That is fine. If the

Senator is willing to incorporate it and accept it, I am all for it. Otherwise, I

want to be protected.

Mr. STEVENS. I say to the Senator and to the Senate that by virtue of a series of reductions in the bill and a series of increases, which the Senator from Texas will explain, we are prepared to take this amendment as one that does not alter the balance of the bill budgetwise.

But again, Mr. President, I yield to the Senator from Texas for the purpose of offering an amendment.

Mr. TOWER addressed the Chair. The PRESIDING OFFICER. The Senator from Texas.

UP AMENDMENT NO. 1521

(Purpose: To modify amounts available for Department of Defense activities)

Mr. TOWER. Mr. President, this should not take long. As I indicated earlier. I intended to offer an amendment that would delete from the bill all of the funds and programs not authorized or in every instance where the appropriation was greater than what was authorized by the Senate in the defense procurement bill.

I have had some discussions with the distinguished Chairman of the Defense Appropriations Subcommittee, and I understand his problem very clearly in having to maintain some negotiating position and some negotiating leverage with the committee in the House. Therefore, I am offering an amendment that will result in total net savings of \$356 million, because this money will come from items for which there was no authorization or in which the appropriation was in excess of the authorization.

I think that represents a substantial savings. I hope the Senate will accept it. We have added two items that some Senators are interested in-leadtime for the F-16 and money for the HARM missile, which is the only antiradiation missile that both the Air Force and the Navy have. It is the only thing they can use to defeat enemy radar. We feel it was an oversight that that money was not includ-

ed.

The net savings will be \$356.6 million. As I say I intended earlier to address my amendment to all matters where appropriation was in excess of authorization because I believe that the authorization process should be the principal guide for the Appropriations Committee. I think this is a matter that the Senate is going to have to address itself to, not just from the standpoint of defense appropriations but other appropriations as well.

But I do not think on the floor tonight is the appropriate time or place to get into a discussion of this issue.

Mr. STEVENS. Will the Senator

yield at that point?

Mr. TOWER. I yield. Mr. STEVENS. Mr. President, I want to thank the Senator for that attitude. We have tried to work out a dispute between the two committees. Essentially, what we have done is we have deleted from the Senate bill the items that were in the House bill and maintained the items that were in the Senate bill so they will be in conference with a couple of exceptions, one of which we have changed \$100 million on the C-17. We had \$200 million for the C-17. We are advised that \$100 million is the maximum rate that they could spend, and we have taken the amendment of Senator Cannon and folded it into this so that we in effect use up the money that has been deleted by the amendment of the Senator and shifted it to the amendment of Senator Cannon, which we were prepared to accept anyway. So I endorse this amendment.

Mr. BUMPERS. Will the Senator from Texas yield?

Mr. TOWER. I yield.

Mr. BUMPERS. The Senator alluded to a missile which is a radar-destroying missile. I did not get the name of it.

Mr. TOWER. HARM. It is called HARM. It is an anachronym that stands for high-speed antiradiation missile. It is a missile that hones in on the anti air defense area.

Mr. BUMPERS. Is that missile now deployed?

Mr. TOWER. That missile is not deployed

Mr. BUMPERS. It is still in the research and development stage?

Mr. TOWER. It is still in the R&D stage. The only deployment is for test and evaluation purposes.

Mr. BUMPERS. I thank the Senator.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. LONG. Will the Senator yield? Mr. TOWER. I yield.

Mr. LONG. Mr. President, I should like to know what the amendment is. I have inquired at the desk. There is no copy of it. Could I see a copy of it?

Mr. TOWER. The amendment was sent to the desk.

Mr. LONG. I would like to see it.

Mr. TOWER. I will hand it to the Senator from Louisiana.

Let me tell the Senator what it does. It deletes some \$64.2 million for C-2, some \$328.3 million for A-10, some \$100 million for C-17. It adds \$82 million for the F-16 and then adds \$53.9 million for the HARM missile. And what it does is to add in some items for which there is no appropriation, but for which there is an authorization and takes out some items for which there is an appropriation, but no authorization.

Mr. LONG. I will take it on faith. I thank the Senator.

Mr. TOWER. I appreciate that, and I know that the Senator from Louisiana is a man of deep faith. Indeed, most people living in Louisiana do have very great faith in a number of things.

The PRESIDING OFFICER. The amendment will be stated by title.

The bill clerk read as follows:

The Senator from Texas (Mr. Tower) proposes an unprinted amendment numbered 1521.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. It has been explained.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 20, after the word "law", insert the following:

"Provided, That, expenditure for the following program for the fiscal year 1983 shall not exceed the amounts specified for such programs below:

Aircraft procurement, Navy-funds for C-2 aircraft, \$203,600,000.

Aircraft procurement, Air Force-funds

for A-10 aircraft, \$29,000,000.

Aircraft procurement, Air Force-funds for F-16 aircraft, \$2,016,900,000.

Missile procurement, Air Force—funds for AGM-88A HARM missile, \$112,500,000. Weapons procurement, Navy—funds for AGM-88A HARM missile, \$127,000,000.

Research, development, test and evaluation, Air Force—funds for C-17 aircraft, \$100,000,000.

Provided further, That the amounts available for obligation and expenditure for the following accounts in the Department of Defense Appropriations Act, 1983 (S. 2951) shall not exceed the amounts specified for such accounts below:

Aircraft procurement, Navy, \$10,585,900,000.

Aircraft procurement, Air Force, \$17,329,200,000.

Missile procurement, Air Force, \$5,926,500,000.

Weapons procurement, Navy,

\$3,537,500,000. Research development, test and evalua-

tion, Air Force, \$10,735,468,000.

Provided further, That funds made available by this joint resolution for operation and maintenance, Navy, shall be available in such amount as may be necessary, not in excess of \$29,000,000 for the operation of five additional naval vessels of the Landing Ship Dock (LSD)-28 class of ships."

Mr. CANNON addressed the Chair. The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, Senator Goldwater and I were cosponsoring the amendment as a part of this proposal to increase advance procurement funding for the Air Force's F-16 fighter aircraft. That amendment was directed to what we both perceived to be a central problem with the fiscal year 1983 defense program.

Even though spending overall for defense will show substantial real growth in 1983—and much of this real growth is in the procurement accounts—the actual number of Air Force fighter and attack aircraft bought will be less than that bought in every year since fiscal year 1974.

Mr. President, our tactical air forces do not fight with budget authority. They fight with hardware. But, unless something is done, they will continue to receive fewer airplanes than they need to replace losses from accidents and to retire obsolete aircraft. The Air Force needs to procure about 250 fighter and attack aircraft each year just to maintain its current force level

at an acceptable level of moderniza-

Mr. President, the Air Force has not procured that number in many years, and for next year, fiscal year 1984, they forecast a procurement level of only 180 such aircraft. This is simply not acceptable if the United States is to maintain the position of world leadership it enjoys with its tactical air forces.

Mr. President, I propose that \$82 million be added to the bill now before us for advance procurement funding for the F-16 fighter aircraft to allow the Air Force to change direction in its procurement of fighter aircraft in fiscal year 1984. This investment makes sense. It is directed toward the Air Force's low-cost fighter so that more aircraft can be obtained for the dollars spent—to increase the projected fiscal year 1984 procurement level for the F-16 to 150 aircraft rather than 120.

Mr. President, the House and Senate conferees on the fiscal year 1983 Defense Authorization Act specifically endorsed higher production rates for the F-16 through increased funding for advance procurement for fiscal year 1983. Further, the leadership of the Air Force, recognizing the adverse implications of current procurement levels of fighter aircraft for the future well-being of its tactical forces, fully supports this investment.

Mr. President, I ask my colleagues to support this initiative simply because it is a sensible way to attack a problem that threatens an area where the United States now enjoys a clear military advantage. We should not lose this advantage before we act.

# THE HARM MISSILE PROGRAM

I may say, Mr. President, that I also support the proposals that the distinguished Senator made insofar as the Harm missile is concerned. I think it is a very key asset to provide our tactical air forces a modern weapon to engage hostile surface-to-air defenses.

Mr. President, Gen. Kelly Burke, former Deputy Chief of Staff of the Air Force for Research, Development and Acquisition, writing in the December issue of the Armed Forces Journal, stated:

The central theme—the very core—of the decisive air battle in Lebanon was electronic combat. The destruction of the Syrian SAM sites in the Bekaa Valley, followed by the wholesale devastation of the Syrian Air Force, was accomplished with minimal loss of Israeli aircraft—surely, an air battle that will be a textbook example for years to come.

Mr. President, electronic combat is the combat of the future, and I want to insure that our tactical air forces are equipped to prevail against the surface-to-air missile defenses that today are the most serious threat an enemy can pose to our fighter and attack aircraft. To that end, we propose a partial restoration of appropriations for the high-speed antiradiation (HARM) missile that will provide our tactical air forces a modern weapon to engage hostile surface-to-air defenses.

The Navy and the Air Force jointly requested \$336.6 million to procure 414 of these missiles and to establish a second source of production to control production costs. The Armed Services Committees supported the requested level because of the importance of this program.

Mr. President, I recognize that the Appropriations Committee has had the difficult and unenviable task of having to make cuts to authorized levels in the fiscal year 1983 defense program in light of budget ceilings, but I believe that this is the wrong place to make cuts. The Appropriations Committee cut \$150 millionover 40 percent of the \$337 million requested and authorized-from Harm procurement for fiscal year 1983. I propose that \$52.9 million-about onethird of the cut-be restored to allow this missile to be procured at an efficient rate of 20 per month. Specifically, \$31.2 million would be added to Weapons procurement, Navy" and \$21.7 million would be added to "Missile procurement, Air Force."

In urging the adoption of this amendment, I would like to close by quoting once more from General Burke's article:

A successful battle is the product of many parts, and it is easy to be misled by focusing narrowly on any single factor. Nevertheless, it is instructive to contrast the overwhelming success of the Israeli Air Force in 1982 with the enormous difficulties that same Air Force experienced in the Yom Kippur war of 1973—a war in which the Israelis lost 150 aircraft in the first 3 days alone. \* \* It's clear that the major improvement to the Israeli Air Force in the intervening years was in its ability to wage electronic combet.

I support my chairman and I hope the Senate will approve this proposal.

-Mr. TOWER. Mr. President, I think this would be the appropriate time for me to express my deep gratitude to the distinguished Senator from Nevada for the splendid work that he has accomplished on the Armed Services Committee.

As the ranking member, at one time chairman of the Tactical Air Systems Subcommittee, he was the person who organized these systems. He has been one of the most knowledgeable men we have had on the committee, not just in tactical air systems but other systems as well. He has been enormously helpful to me. I appreciate his letting me steal his amendment and offer it tonight as mine.

Mr. CANNON. I thank my chairman.

Mr. STEVENS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP amendment

No. 1521) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. TOWER. I move to lay it on the table.

The motion to lay on the table was agreed to

Mr. STEVENS. Mr. President, there is one other amendment that I know of, one by Senator PRYOR.

#### UP AMENDMENT NO. 1522

(Purpose: To delete funds appropriated to Air Force for procurement of the AGM-65D Maverick missile)

Mr. PRYOR. Mr. President, I have an amendment that has just been sent to the desk. I ask for its consideration.
The PRESIDING OFFICER. The

amendment will be stated. Mr. STEVENS. Mr. President, we would be glad to have a time agree-

ment on this.

The PRESIDING OFFICER. The amendment attempts to amend an amendment that was already agreed to, so it will take unanimous-consent to consider it.

Mr. RUDMAN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The

Senator will state it.

Mr. STEVENS. Mr. President, if that happened, it has happened in error. We did give assurance to the Senator from Arkansas when he stood aside before that his amendment would be considered, I ask unanimous consent that it be in order.

The PRESIDING OFFICER. Is

there objection?

Mr. LONG. Mr. President, reserving the right to object, could I know what the amendment is, please?

Mr. STEVENS. It is a Maverick mis-

Mr. LONG. Then I shall not object, Mr. President.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR) proposes an unprinted amendment numbered 1522.

On page 10, line 2, strike out the period. and insert in lieu thereof a colon and the following: Provided further,

(1) the sum appropriated for Missile Procurement, Air Force is \$5,659,500,000;

(2) none of the funds appropriated in this joint resolution may be obligated or expended for the procurement of any AGM-65DD Maverick missile.

Mr. RUDMAN. Mr. President, may I inquire of my friend from Arkansas if we may have a time agreement?

Mr. PRYOR. I suggest we have 10 minutes on a side, a total of 20 minutes. I also suggest, though, that may be a leadership suggestion, that we have a 10-minute rollcall. Maybe that can come later.

Mr. PROXMIRE. Would the Senator also add that there be no secondary amendment in order?

Mr. PRYOR. I also ask that there be no secondary amendment allowed.

The PRESIDING OFFICER. there objection?

Mr. CANNON. Reserving the right to object, may we know something about what the amendment is before we make a decision as to whether or not we will object to it?

Mr. PRYOR. I am getting ready to

explain it, Mr. President. Mr. CANNON. The Senator can make the request after he explains it.

Mr. PRYOR. I say to my friend this is an amendment to leave \$5 million in the program for research and testing for the Maverick missile and to take out \$245 million for the actual production of that missile. That is the gist of this amendment that I am now pro-

PRESIDING OFFICER. Is The there objection to the time limitation

agreement?

Without objection, it is so ordered. Mr. RUDMAN. A parliamentary inquiry.

The PRESIDING OFFICER. Is there objection to the time agreement? If not, it is so ordered to that also.

Mr. PRYOR. Mr. President, I do ask unanimous consent that the time just preceding not be deducted from either

Mr. ZORINSKY. Mr. President, reserving the right to object-

CANNON. Mr. President, should have to object to that request right now. All I want is some fair opportunity to respond to that proposal.

Mr. PRYOR. Mr. President, I would be pleased for the Senator to respond, but I do think I have to explain the amendment first. I am prepared to do that now. I just did not want all this preliminary discussion to be charged to my side.

Mr. CANNON, I just want to be sure I have some opportunity to respond.

Mr. PRYOR. I certainly-

ZORINSKY. Reserving the right to object. Mr. President, could the Senator include that there be no amendments in the first or second degree?

Mr. PRYOR. I ask unanimous consent that there be no amendments in

the first degree.

The PRESIDING OFFICER. That would be part of the agreement. It has been agreed to.

Who yields time?

Mr. PRYOR. Mr. President, I hope you can bear with me one more time on the continuing resolution. I shall be very brief, and I shall entertain any questions that any of my colleagues have.

We have heard a great deal about the MX missile. But there is one missile we do not hear a great deal about.

This is because it has been in the planning and research stage for a number of years. I am referring the Maverick missile. It is a missile whose purpose is to serve as an air to ground antitank missile. Its early development came during the latter stages of the Vietnam war. At the conclusion of that war or nearing the end of that war, there was testimony, if I am not mistaken, before one of the committees of the Congress, which urged this country not to go forward with production of the early Maverick missile.

That was what they called the Maverick TV missile. The one under question today is the one called the IR missile, missile with an infared seeker.

I say to my colleagues I am not on the Armed Services Committee nor on the Appropriations Subcommittee on Defense, and I am not an expert. But I have seen the General Accounting Office report on this missile. It attracted my attention, and I have tried to do some study on my own. In fact, I became so interested in the Maverick missile that on November 15, I took the opportunity of going to Eglin Air Force Base in Florida. I met the test pilots, had lunch with them, met the manufacturer of this missile, the company with the contract. I must say that after a very enjoyable day at Eglin, looking at the development of this missile, I came away from there concluding nonetheless that I did agree with the General Accounting Office report that this missile is not ready for production.

Mr. President, for some time, I have been concerned about the Defense Department's failure to adequately test, under realistic conditions, its expensive new weapons systems. I have also been concerned that when weapons fail even the limited and often unrealistic tests that are performed, there are efforts, usually successful efforts, to go ahead and produce the weapons system anyway.

As many of my colleagues know, I introduced legislation earlier this year to establish a new operational testing office at the Pentagon to improve weapons testing activities and assure greater accountability for procurement decisions and weapons performance.

My concern is not an abstract philosophical principle-I am concerned about the lives of Armed Forces personnel who rely on our exotic new weapons. I am concerned about pilots, soldiers, sailors, and marines whose lives are jeopardized when unreliable weapons are sent into combat.

One clear example of a weapon system that is too flawed for production is the IR Maverick.

If we had unlimited funds, then perhaps it would be worth the time and dollars necessary to fix this troubled weapon. But time and money are limited—as is the patience of taxpayers and the only responsible step now is to do as the House has done in cutting out production funds.

I am introducing an amendment to delete the production funding for the IR Maverick, not because I don't think that we have a need for such a weapon system, but rather because I am not satisfied that this system works well enough to meet the need. I am not the only one who is not satisfied. The GAO in a report that was issued earlier this year stated that the Maverick had many operational problems that have not been answered. Evidently the GAO concerns convinced the House of Representatives of the flaws in this system because the negative House Appropriations Committee report specifically cited the GAO report.

I regret that this issue must be raised in the context of a continuing resolution. Unfortunately, since this resolution continues for the entire 1983 fiscal year, I have no alternative. Otherwise, Congress may go ahead and fund production activity that has been deleted by the House and never considered by the full Senate. And this is a \$6 billion program. I wonder how many other programs like the Maverick are "slipping through the cracks" with this continuing resolution.

In its report the House Appropriations Committee said:

IR Maverick has been in development since 1974. In June 1982, GAO issued a report with the self-explanatory title: "Critical IR Maverick Issues Remain Unresolved after Five Years of Operational Testing." Committee is aware that technical problems are being addressed, and that attempts are being made to effect cost reductions. Nevertheless, the Committee notes that it was a series of test failures which led to program restructuring and to postponement of a production decision. It notes further that the 200 pilot production missiles will be used for follow-on test and evaluation under operational conditions, and for an operational utility evaluation. Results of these efforts will not be available until 1984. Under these circumstances, the Committee concludes that additional procurement of IR Maverick at this time is unjustified, and recommends that no funds be provided.

Last May I asked the General Accounting Office to conduct a study of Department of Defense operational testing. The GAO separated the inquiry, and released a report dealing solely with the Maverick. The report entitled "Critical IR Maverick Issues Remain Unresolved After Five Years of Operational Testing," was released June 25, 1982. The GAO Conclusions and Recommendations are quoted here in full:

# CONCLUSIONS AND RECOMMENDATIONS

Evidence is lacking that the IR Maverick missile system can be successful in missions it is proposed for—namely, situations of close-air support and preplanned interdiction. In particular, the operational tests of the IR Maverick have revealed a number of deficiencies that should be corrected. The

following questions must be answered if we are to be assured that the IR Maverick program is worth the more than \$4.9 billion it is estimated to cost:

Can the IR Maverick pilots navigate to an initial point over enemy territory at low altitude, at night, and in poor weather?

Is the IR Maverick pilot workload in

Is the IR Maverick pilot workload in single-seat aircraft flown in poor weather a problem?

Can pilots find valid targets in unfamiliar

Can pilots find targets in the absence of unique visual cues, as happens in poor weather?

Does the IR Maverick's long employment range seriously handicap the differentiation of enemy tanks from friendly tanks given the differences in their thermal signatures?

Can the problems of breaklock known to be caused by inadvertent and intentional countermeasures under test conditions be corrected?

We believe that the results of the operational testing of the IR Maverick do not yet show sufficient success to warrant moving from development to even limited procurement of the missile. It is by no means clear that this weapon is ready for effective use by U.S. military personnel in combat. We recommend that more testing be done to solve the problems that our questions raise regarding deficiencies in the operational capabilities of the IR Maverick. Even limited procurement requires more evidence of success in testing and evaluation than is currently available with respect to this missile.

The Department of Defense's written response 4 months later acknowledged that "several operational issues remain unresolved." In the meantime, on September 29, DOD approved spending \$160 million to produce 200 missiles.

The GAO report contained several criticisms of testing procedures. At one particular test the pilots were briefed in advance and knew what to look for. At many tests the pilots flew in a small, familiar target area. At other testing areas the same pilots flew repetitive training and testing missions. again in small and unique target areas. Often there were unique visual and thermal cues. The same pilots often participated in different tests. Most test scenarios included no friendly tanks, only enemy tanks, despite the fact that the Maverick may be used in proximity to friendly forces.

The GAO report also contains many questions about use of the missile itself. It is not clear, for example, that pilots relying on the missile can find the target area at night or in adverse weather. The tests had not shown that the missile could not be deceived and defeated by objects such as sunwarmed rocks or burning battlefield wreckage. It is not clear that pilots can distinguish a friendly tank from an enemy tank. Test results do not show the effect of deliberate countermeasures on the plane or the missile. The workload involved in operating the systems might be too great for a single pilot. The ability of pilots to navigate to a launch point over enemy territory at low altitude, at night, and in poor weather had not been tested. The recognition system had not been finetuned for problems. In general, some potentially serious handicaps to the pilots' ability to successfully deploy the missile under realistic battlefield conditions exist. These unanswered questions mean that further testing is necessary before the Maverick can be considered operational.

After the release of the GAO report, other potentially serious concerns relating to engineering design changes have been raised. I understand that as the program enters production, some major design changes are being introduced. Several serious questions related to these proposed changes should be addressed before any full-scale procurement decisions are made.

Satisfactory answers to these questions may be possible and I have asked GAO to do a followup study to see whether new tests or corrections have adequately responded to the weaknesses. Until these questions are answered, the full-scale production decision scheduled for February 1, 1982, should be postponed.

The cost growth of Maverick presents another strong reason to dolay further production decisions. In May the Air Force was planning to pay \$2.97 billion for 42,275 Maverick antitank missiles in fiscal years 1984-88. Revising the plan in September, the Air Force foresaw paying the same \$2.97 billion but for 12,025 fewer Mavericks. This makes the cost of the entire program rise from \$4.9 billion to \$6.2 billion, a cost increase greater than any other major weapon system.

The Maverick has not shown the ability to be a reliable, cost-efficient addition to our weapons arsenal. We need to be sure that the Maverick will be operationally suitable and effective before producing significant quantities. Today, we have no such guarantee. Therefore the production must be delayed pending further test results and production funds deleted.

We should concur in the position stated by the House Appropriations Committee:

When documented test and analysis results are available which prove the utility of IR Maverick as a cost-effective tactical weapon system, the Air Force may wish to restate a request for production funds.

Somewhere between here and Albuquerque, N. Mex., is the most recent Air Force Test and Evaluation Center—AFTEC—report on the Maverick missile. I am told that this report contains the same information that Dr. DeLauer used to make his decision to go ahead with limited production the Maverick. That report was due to be made available before the expiration, December 15, 1982, of the current continuing resolution. Unfortunately, it has not yet arrived.

I recently made a trip to Eglin Air Force Base to take a first-hand look at a TV Maverick and a GBU-15, a glide bomb that has the same kind of seeker that a Maverick missile has. I can not tell you how impressed I was with the officers and the technicians that I met there. They are a group of totally dedicated people, real professionals who believe in their job and believe in their country. That trip left me with a renewed feeling of security about the men and women who make up our Armed Forces.

But I want to tell you a little story about what happened with the equipment during this trip. A special demonstration of a TV Maverick and a GBU-15 glide bomb had been set up for me. When we got out to the two F-4 aircraft we discovered that the TV Maverick was not functioning correctly. At least I was able to get in the back seat of an F-4 and take a look at how the IR seeker on the glide bomb worked. However, the actual flight test had to be scrubbed because of an hydraulic failure on one of the F-4's. When things like this happen, I get concerned that we are so willing to fund enormous sums of money for untested and unproven weapons systems, and yet, at the same time, we ignore fundamental operational and maintenance funding to keep our forces and equipment in proper operating condition.

Again, I'm not questioning the need for an antitank system. All I want to be sure is that we end up with one that works. And if there are questions about a weapons system that need to be answered, then why are we going ahead with the production of this system? Why are we all so willing to put into the field a system that may not work and may in fact endanger

the lives of our men?

Why can we not get some solid answers out of the Department of Defense to the concerns that the GAO has raised about this particular weapons system?

The first and last responsibility that we owe is to the men and women who will use this system; the human factor is this equation, the factor that you cannot put a dollar figure on.

I urge you to give my amendment your most careful consideration.

The other body, the House of Representatives, took this report and the reports of some of the test pilots who actually flew and deployed this particular missile and in their wisdom decided that, yes, they would include \$5 million for research, but they would delete \$244.9 million for its production.

So, Mr. President, here is what we have. We have a missile that is, I think, inferior, that has been operationally tested to the dissatisfaction of some of the pilots, and a missile which I do not think meets the test of a good operational test situation. We have very substantial evidence to back up this whole concern.

We also are concerned today about another aspect of this missile, that we are looking not at just the \$250 million program that we see in the fiscal 1983 budget.

Mr. President, could I please have order?

The PRESIDING OFFICER. The Senate is not in order.

The Senate will be in order so everyone can hear.

Mr. PRYOR. I thank the President. We are not just looking at a \$250 million program. We are looking at a \$6.1 billion program over a period of 5 years, representing the research and the production of this particular missile.

We are also looking at a missile which attracts itself to heat but cannot distinguish between an American tank on the ground and a Russian tank on the ground. Oftentimes, in these tests the missile was attracted to a heat source that could have been a burnt object which could have been one of our own tanks, or a bonfire, or a rock still warm from the afternoon

We are now awaiting a report which was due to Congress by December 15 from the Air Force Test and Evaluation Center.

So on this particular evening, one of the last evenings of our session of Congress, I hope, we are about to commit ourselves in this production money to a \$6.2 billion program, knowing full well that the evidence supports the concern evidenced by the operational tests that this missile is not ready for production.

Mr. President, I do have other facts and a few more thoughts that I will add at a later time. I have consumed, I think, around 5 or 6 minutes.

I am glad to yield at this time to the manager of the bill.

The PRESIDING OFFICER. The Senator has used 61/2 minutes.

Mr. RUDMAN. Mr. President, I yield myself 5 minutes.

Mr. President, I think in order to discuss the matter within the time that we have agreed we have to cover a few salient points so we understand what we are all talking about because the Maverick missile to those people in this Chamber not involved in defense appropriations or armed services probably is only a name. The Maverick missile is an antitank weapon carried by tactical fighter aircraft designed to penetrate well into enemy lines and fire conventionally. That is the way it is operated now.

Obviously land war is conducted at night. It is conducted in bad weather. It is conducted in fog.

So the idea was set forth with the improvement in infrared cursors to incorporate some of those devices into this missile and to see whether or not it in fact could work.

I agree with the Senator from Arkansas that the test results had been spotty over some period of time. As a matter of fact, the chart of those test results is very interesting, and I wish we had an overhead projector, but it essentially shows what most test results show and that is a great number of failures and a new system which was under R&D at the beginning of that system. Unfortunately, here in Congress we quite often go after these weapon systems based on information that is stale.

I submit that although the Senator from Arkansas raises some interesting points, the points to some extent are contradicted by current information.

Mr. President, let me give you an example of what I am speaking to.

In August 1982 the Air Force ran tactical tests with 26 launchers, under all adverse night and day conditions at extreme altitudes and extreme ranges. Twenty direct hits were scored. Four hundred and fifty hours of operational and development flight testing against many high valued targets were conducted. The misses were identified as those misses were caused by hardware and software problems which have been corrected and verified in flight tests.

Now, the fact of the matter is that there is nothing particularly high tech about hooking an infrared sensor on the front of a projectile and directing it to a target. That is technology which is 20 years old. To mate it with this particular missile had other technical problems.

I am satisfied from the information that our committee has received that this missile is now ready for limited production and all we are talking about is moving out on a production rate of somewhere, I believe, correct me if I am incorrect, somewhere about 200 missiles under pilot production and if, in fact, those problems have been ironed out, then we will move to 150 per month.

Why do we feel it is important not to delay further? The first line of attack against Soviet armor is tactical air. Tank to tank is the second line of defense. And the last line of defense is the small light antitank weapon such as a Viper which this Senate and we hope the House of Representatives has now zeroed because it, in fact, is a

This particular weapon, it seems, is moving along nicely, and it is the position of the Defense Appropriations Subcommittee that we should go forward and obviously I would say to the Senator from Arkansas if after the production of the 200 over the next 6 to 8 or 9 months we continue to have problems, I would be the first to say let us put a halt to the program. But I really believe and I say this in all sincerity that the test results on which the Senator from Arkansas—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. RUDMAN. Mr. President, I yield

myself 1 additional minute.

That the test results that the Senator from Arkansas is directing his comments to, although very valid, have been superseded in recent months, and it seems to me that we should give them a chance to prove that it works.

One further point: the Senator from Arkansas is absolutely correct. An infrared missile cannot tell an American tank from a Soviet tank. It never will be able to. However, the way they are employed, if they are in that proximity to each other the weapon that will be used will be tank against tank, not IR missile against tank. These planes will fly into the rear areas, into the main fly routes and attack vehicles coming on those routes. They will never be used unless by pure accident in the vicinity of American armor or other heat-giving vehicles.

Mr. President, I reserve the remain-

der of my time.

The PRESIDING OFFICER. Let me say to the Senator that the Senator from New Hampshire used 6 minutes. Mr. PRYOR. Mr. President, I wish to respond for a moment if I might.

First, apparently I do not have the same information that the distinguished manager of the bill has, and I would only say that if there is information that we have not been able to acquire at this point, that this measure or at least this production money should be moved to a later supplemental appropriation bill so that we can see where these contradictions might

Second, I wish to say that we are about to advance ourselves into a procurement project and buy a faulty system that we are going to be unable to correct. There is no way back. We are going to start spending a half billion or maybe a billion dollars in production and then stop in midstream and come back. What we have, I am afraid, I say to my friend, is another M-1 tank situation where we get in so deeply and cannot find our way back.

Third, we have seen in 4 months a 23-percent rise in the cost of the production of this missile. This is one of the highest cost escalations of any weapons system this country is now at-

tempting to purchase.

Finally, Mr. President, we are saying that this particular missile, because it has not been tested or has not met the standards of the proper testing procedure may end up killing not the Soviets, but our own men. I say to my good friend, the manager of the bill, I would like to quote from another section of the General Accounting Office report in response to the Senator's comments about the successful tests:

The results would have been worse if the tests had not been structured to ensure favorable results:

The pilots were briefed in advance and knew what to look for.

The pilots flew in small, familiar target areas.

The pilots flew repetitive training and testing missions.

There were unique visual and thermal clues at test sites.

The same pilots often participated in different tests.

I ask unanimous consent to insert further elaboration on these points about the Maverick missile.

There being no objection, the points were ordered to be printed in the RECORD, as follows:

POINTS FOR MAVERICK MISSILE AMENDMENT

1. The newspaper articles criticizing the Maverick are inaccurate.

The GAO report says it has not performed adequately.

Five years of operational testing of missile has failed to show that it can be used effectively by the U.S. military personnel in combat.

DOD must have considered the GAO comments.

DOD made the \$160 million procurement decision before even responding to the striking revelations of the GAO report.

The DOD response was 2 months late and acknowledged that "several operational issues remain unresolved."

3. Why did DOD not make a timely response?

We do not know. That is one of the reasons I have asked GAO to conduct a follow-up study to examine the reasons DOD disregarded the GAO comments.

4. But the Maverick test results are not terribly bad.

The results would have been worse if the tests had not been structured to ensure favorable results.

The pilots briefed in advance and knew what to look for.

The pilots flew in small, similar target areas

The pilots flew repetitive training and testing missions.

There were unique visual and thermal clues at test sites.

The same pilots often participated in different tests.

Most test scenarios included no friendly tanks, only enemy tanks.

5. The missile has not been proven unreliable.

Neither has it been proven reliable.

There are many concerns that testing has not resolved.

It is not clear that pilots relying on the missile can find the target area at night or in adverse weather.

The missile can be deceived by objects such as sun-warmed rocks or burning battle-field wreckage.

It is not clear that pilots can distinguish a friendly tank from an enemy tank.

Test results do not show the effect of deliberate counter-measures on the plane or missile.

The workload may be too great for a single pilot.

The ability of pilot to navigate to a launch point has not been tested.

The recognition system has not been fine tuned for problems.

The Air Force has been trying to develop an alternative recognition system to help the missile.

6. Isn't the Air Force making some design changes to help the system?

Yes, but these major engineering design changes are being made as the program enters production, before they have been tested.

Several questions relating to the changes should be addressed before production.

Will the changes effect the missile's opertional capability?

Will the changes effect the maintainability or reliability of the missile?

How will the changes improve the producibility of the missile?

7. We have no other weapon in our arsenal which can do what this weapon can.

There are about a dozen anti-tank weapons in the Administration defense budget.

The M-1 tank is supposed to be a formidable threat to Soviet tanks.

The LAW is an effective weapon with a range of 100 yards which does not cost much.

The Viper is an effective anti-tank weapon.

The Dragon carried by one man with a range of 1,000 yards.

The Rattler is a newer version of the Dragon with a greater range.

TOW perhaps the best anti-tank weapon. It can be lethal to tanks from 1000 to 3500 yards and can be mounted on several vehicles.

A laser-guided anti-tank weapons system, the Hellfire missile.

The anti-armor cluster munition (ACM).

8. Are there cost overruns?

Yes, in May the Air Force was going to buy 42,275 of the missiles at a cost of \$2.97 billion.

By September the cost estimates were such that the Air Force was planning to buy only 30,000 Mavericks for the same amount.

The cost per missile had risen 23 percent over 4 months.

The Maverick is far superior to other weapons systems because it can operate at night and during adverse weather.

That is supposed to be its main advantage over other weapons.

But in a 1982 Systems Acquisition Report, the wording "adverse weather" was changed to "limited adverse weather" without explanation or definition.

 Undersecretary DeLauer must have good reasons to have confidence in this program.

In a Washington Post article February 25, 1982 he was asked to identify the person who instilled in him this confidence.

He said he was referring to Malcolm Currie, a vice-president for missile at Hughes Aircraft Co., a Maverick's manufacturer.

Currie was also a promoter of the Maverick when he held DeLauer's job at the Pentagon from 1973 to 1977.

Mr. PRYOR. So what we see is a faulty testing program, and we are committing ourselves to a \$6 billion or \$7 billion project, when we believe that these missiles are going to be inferior.

I reserve any time I have left.

Mr. RUDMAN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. RUDMAN. Mr. President, I yield myself 2 minutes, and I would like to yield 2 minutes to the Senator from Nevada if he is still interested in speaking.

Mr. President, let me say to my friend from Arkansas I apolgize for not originally giving him this additional information which I had in front of

me and did not use.

The AVTEC report, of which you speak, is due tomorrow. That is no coincidence. It is not here today, if is due tomorrow. We do know the following: That it will reiterate the findings of last September which I just cited, that it is now operationally suitable.

Let me further point out to my friend from Arkasas that the laser Maverick is an operational missile used by the Navy. The TV Maverick is an operational missile used by the Air Force, and the IR Maverick has simply been a problem of marrying the IR sensor to the missile itself, and I will assure the Senator from Arkansas, because he knows my feelings on weapons, weapons that do not work-we have talked about it-that if, in fact, this report proves to be untrue I will be in the forefront of freezing those funds and finding a way to make sure they are not spent.

I yield 2 minutes to the Senator

from Nevada.

Mr. CANNON. I thank the distinguished Senator for yielding to me.

Mr. President, despite a reliability of only 64 percent against a goal of 90 percent, the Air Force believes that the Maverick remains the most effective weapon available in the near term for attack of armored vehicles at night and in adverse weather.

The Senator made the point that this missile cannot distinguish between Russian and U.S. tanks. I served as a fighter pilot for many years in the Air Force, and I cannot distinguish between them in most cases. You have got to know where they are and what the battle position is rather than try to distinguish between a particular tank on the ground when you are trying to attack it and one of your own tanks on the ground. So I do not think that is a very significant point.

The position of the Air Force's Tactical Air Command, which represents the pilots who would have to use this weapon in combat, is that the capabilities provided by the Maverick completely overshadow its limitations. Let me say that again, completely over-

shadow its limitations.

It is true that the General Accounting Office released a report on the Maverick in June of 1982 which stated the performance of the Maverick in operational testing does not warrant its entering production.

The House, of course, the House Appropriations Committee, noted the findings of that GAO report and eliminated all procurement funding for the

Maverick for fiscal year 1983. But funds were appropriated for fiscal year 1982 to procure a limited production run of 200 missiles.

As the Senator pointed out, it was only a 200-missile limitation there. Yet this year the request is for 1,335. It think this is an improvement in our capability, and I think we need to do everything we can to try to move ahead in these areas and find out areas that we can progress in rather than say, "Well, this doesn't do as much as we anticipated it would do and, therefore, we ought to wash it out."

I thank the Senator for yielding.
Mr. PRYOR. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Arkansas has 1 minute.

Mr. RUDMAN. Mr. President, how much time do I have?

The PRESIDING OFFICER. One minute, thirty seconds.

Mr. RUDMAN. I will not use all of

One other bit of information which might in some way allay the fears of the Senator from Arkansas and other Members of the body who are concerned about what has been an ongoing problem with the Department of Defense, and that is putting units into production at full production rate before they are ready, and we have seen all kinds of problems, and the Senator from Arkansas is precisely correct.

In this particular case, the Secretary of Defense has written to the Secretary of the Air Force, and I would read you this from it:

The Secretary of Defense,
Washington, D.C., September 29, 1982.
Memorandum for Secretary of the Air
Force.

SUBJECT: Imaging infrared (I 2 R) Maverick.

Based on the review of the I <sup>2</sup> R MAVER-ICK on 21 September 1982 by the DSARC Principals, I approve the release of the balance of FY 82 funds in the amount of \$160.2M to begin the low rate pilot production of 200 missiles and to continue the reliability and maintainability validation program (RMVP) and ECP 604, for improving the producibility of the missile.

An additional review of the program will be held by the DSARC Principals after com-pletion of the RMVP. This follow-on review is tentatively scheduled for 1 February 1983 and will review the results of the RMVP, the acquisition strategy for the Segment II buy (including support equipment) and the progress toward second source and Followon Test and Evaluation/Operational Utility Evaluation (FOT&E/OUE) planning. In preparation for the 1 February 1983 review, the Air Force, within 60 days, will provide a plan for conduct of FOT&E/OUE using test missiles which incorporate RMVP, IOT&E and ECP 604 changes. The acquisition strategy for the Segment II buy will limit the production rate to the 43 missiles per month achieved in the first year buy with flexibility to increase the production rate. The production rate decision to ramp up will be based on a subsequent review by the

DSARC of the reliability and support test data and of FOT&E data. The February 1983 review will also address the status of the integration of producibility engineering changes into the Segment II buy.

The second source program plan should be provided to OUSDR&E for review as soon as available but not later than 1 February 1983. This program should be based on the options discussed in ASAF (RD&L) memorandums of 14 September 1982 and 9 September 1982. The plan should also enable placing a second source contract immediately following approval of the Segment II procurement and should include a contractor incentive approach to improve storage reliability.

CAP WEINBERGER.

So it seems to me the Defense Department has maybe learned its lesson and they are walking before they run, and I would hope we might have a successful program here and allay the fears of the Senator from Arkansas

I yield back the remainder of my time.

Mr. PRYOR. Mr. President, in conclusion in the last 60 seconds, I will say to my distinguished colleague from New Hampshire I am not trying to kill the Maverick program. I am trying to prevent a massive blunder that I am afraid we are about to commit. We have not seen this report. It is ironic that this report would be coming into this Congress a day after we make this very vital decision. We are talking about \$6 billion or \$7 billion here, and we are talking about actually going forward with a program that has not worked and that can find very, very little enthusiasm for. It seems we are not learning the lessons of the past. We are not going to make a good decision, I think, regarding this particular missile until we are sure that this missile is going to accomplish its mission and its goal.

Mr. President, that is all I have. If the Senator needs some extra time I have 10 seconds and he may have it.

Mr. RUDMAN. I believe I yielded back all my time.

The PRESIDING OFFICER. All time has expired.

Mr. RUDMAN. Mr. President, I move to table the amendment offered by the Senator from Arkansas and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Hampshire to lay on the table the amendment of the Senator from Arkansas. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. Bentsen)

and the Senator from Massachusetts (Mr. Kennedy) are necessarily absent.

The PRESIDING OFFICER (Mr. Heinz). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 27, as follows:

[Rollcall Vote No. 442 Leg.]

#### YEAS-70

Abdnor	East	McClure
Andrews	Exon	Murkowski
Armstrong	Garn	Nickles
Baker	Glenn	Nunn
Biden	Gorton	Packwood
Boschwitz	Grassley	Pell
Brady	Hatch	Pressler
Byrd,	Hatfield	Quayle
Harry F., Jr.	Hawkins	Randolph
Byrd, Robert C.	Hayakawa	Rudman
Cannon	Heflin	Schmitt
Chafee	Heinz	Simpson
Chiles	Helms	Specter
Cochran	Humphrey	Stafford
Cohen	Jackson	Stennis
D'Amato	Jepsen	Stevens
Danforth	Johnston	Symms
DeConcini	Kassebaum	Thurmond
Denton	Kasten	Tower
Dixon	Laxalt	Wallop
Dodd	Long	Warner
Dole	Lugar	Weicker
Domenici	Mathias	Zorinsky
Durenberger	Mattingly	

#### NAYS-27

Hollings	Moynihan
Huddleston	Percy
Inouye	Proxmire
Leahy	Pryor
Levin	Riegle
Matsunaga	Roth
Melcher	Sarbanes
Metzenbaum	Sasser
Mitchell	Tsongas
	Huddleston Inouye Leahy Levin Matsunaga Melcher Metzenbaum

#### NOT VOTING-3

Bentsen Goldwater Kennedy

So the motion to lay on the table,
UP amendment No. 1522, was agreed

to.
Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. RUDMAN. Mr. President, I move to lay that motion on the table.
The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Florida is recognized.

#### UP AMENDMENT NO. 1523

(Purpose: To set aside funds already authorized for the International Communications Acts for a currently authorized purpose)

Mrs. HAWKINS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Florida (Mrs. Haw-KINS), for herself and Mr. CHILES, proposes an unprinted amendment numbered 1523.

Mrs. HAWKINS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President-

The PRESIDING OFFICER. The Senator will withhold while the Cham-

ber comes to order. The Senate is not in order. Senators will take their seats or retire to the cloakroom.

Mr. LONG. Mr. President-

The PRESIDING OFFICER. I am sorry, the Senator will withhold. The Senate is not in order. We will not continue until Members take their seats and Senators who are conversing, and others who are conversing, remove themselves to the appropriate place.

Does the Senator from Louisiana reserve the right to object?

Mr. LONG. Mr. President, I reserve the right to object. Let me say that amendments we have been voting on all evening have not been available to me. They have not been available to others. On some amendments, I have gone to the desk and even the desk did not have a copy of the amendments.

Mr. President, who is supposed to know, other than the author, what the amendment is? I would like to agree to all these unanimous-consent requests, but I do not want to agree unless I know what the amendment is. Someone ought to be responsible enough to be able to let us see a copy of it. That should be before we receive a unanimous-consent request.

The PRESIDING OFFICER. There is no unanimous-consent request.

Mr. LONG. Then I withhold.

Mr. HAWKINS. Mr. President, I ask unanimous consent that the amendment be read.

The PRESIDING OFFICER. Without objection, it is so ordered.

The legislative clerk read as follows: On page 10, after line 20, insert the following: International Communications Agency: \$7,000,000 for operation of Radio Marti".

Mr. LONG. Thank you very much.

Mrs. HAWKINS. Mr. President, the amendment at the desk provides for a set-aside of \$7 million of funds appropriated for the Board of International Broadcasting for a radio station known as Radio Marti.

The PRESIDING OFFICER. The Senator will withhold. The Senate is not in order. Senators will please take their seats.

The Senator from Florida.

Mrs. HAWKINS. Mr. President, the Senate has already debated this issue earlier in this lameduck session. I do not lightly take up valuable floor time now. However, both the administration and many Senators consider it essential that this idea be put into effect as soon as possible because we feel keenly about the welfare of the Cuban people. Except for a brief interlude, from the late sixties to the early seventies, the Cuban people have been denied reliable information about events that have occurrred in their own country for over 20 years.

I believe that Radio Marti like Radio Free Europe and Radio Liberty, represent the very highest of American ideals. Of all people, we Americans, who pride ourselves on our freedom and liberty, should understand that freedom and liberty are hollow words if a people do not have the necessary information to make the choices that freedom affords. Broadcasting accurate information to the people of Cuba is in keeping with the finest ideals espoused by our Founding Fathers and embodied in the U.S. Constitution. When we enact this legislation into law, for the first time in a long time, the Cuban people will be able to turn on their radios and listen to an alternative to government-censored news and programs. The people of Cuba will finally hear the truth. Access to accurate news reports and varied opinions is something that, I fear, we in the United States take for granted. We forget sometimes that the truth is a precious and rare commodity in countries where the government censors every broadcast and every news report.

What the people of Cuba need is a Spanish-language broadcast with a clear signal to alert them to events involving Cuba internationally or domestically. They do not get such information now. For instance, shortly before President Reagan's inauguration, Jamaica's Prime Minister, Edward Seaga, closed his country's Embassy in Cuba. This was but one of many recent actions taken by Castro's neighbors in response to hostile activities directed at other nations. The people of Cuba deserve to know about this.

Local disinformation is also a problem. For example, the Cuban Government claims an increase in the number of physicians in Cuba as one of its successes. In fact, though, the number of physicians as a percentage of the population has not increased appreciably under the Castro regime. More importantly, infant mortality—a function of illiteracy, poor nutrition, and a rising birth rate—has increased since Castro's revolution.

I believe that the people of Cuba need to know the actual outcome of Castro's programs. Radio Marti will accomplish this. It will encourage the Cubans to draw their own conclusions about Castro's regime.

Since the fifties, the United States has provided the peoples of East Europe and the Soviet Union with radio broadcasts that have kept them informed of events that affect them. These broadcasts have developed a reputation for reliability and accuracy. They have become an important source of information in countries whose governments systematically attempt to limit the information available to their citizens. For three decades, the United States has been able to point proudly at the service these radio stations have provided for the deprived peoples of East Europe and the Soviet Union. These totalitarian governments have sought to suppress

their citizenry by restricting their access to information at odds with that provided by the government. In so doing, these governments have tried to put their people in mental strait-jackets. Since restricting the thoughts of their people is impossible, they instead strive to limit them by keeping their people ignorant. I for one am proud that the United States has had the courage and the moral strength to provide an alternative for the peoples of Eastern Europe and the Soviet Union to government propaganda.

I would like to remind my colleagues here tonight that Cuba is exactly 90 miles away from the shores of Florida. It is my hope that the Senate will today show the same courage and moral strength with regard to the broadcasting of accurate news to the people of Cuba.

Some may have heard about threatened radio interference from Cuba in retaliation for the establishment of Radio Marti. However, the people of south Florida have lived with such interference for the past 13 years. Therefore, it is a mistake to suppose that this is related to Radio Marti. Long before Radio Marti was announced, Cuba declared its intention to construct two one-half million-watt transmitters and later announced plans to massively expand its radio broadcasts. Cuba began this aggressive buildup of its radio broadcasting power before Radio Marti was announced. Radio Marti is not the cause of Castro's interference. Radio Marti is only an excuse for Castro to try and blackmail the United States.

I believe we have a right, even an obligation, as a Nation to decide our foreign policy independently, regardless of the threats of a foreign dictator. We also have the right to expand international radio broadcasts in conformity with international law. It appears to me that some critics of radio broadcasting to Cuba believe that, somehow, Castro might be justified by interfering with U.S. domestic radio broadcasts in retaliation for U.S. broadcasts to Cuba.

However, Radio Marti is a peaceful foreign policy alternative for the United States. In fact, the broadcast plans for Radio Marti have been made in keeping with all international agreements to which the United States is a party. Furthermore, the United States has obtained approval to establish Radio Marti from all appropriate regional international communications organizations. In other words, our plans to establish Radio Marti are in full accord with both domestic and international law. There is absolutely no justification for any retaliation by the Cuban Government for broadcasts from Radio Marti. Any such steps would be in clear violation of international law, and further erode

the standing of the Cuban Government in the international community.

I believe that the people of Cuba will soon learn to rely on Radio Marti for information about the world-and especially about their own country-in the same way that the people of Eastern Europe and the Soviet Union rely on Radio Free Europe and Radio Liberty. As it stands now, the Cuban people learn the news from either the government-controlled media or by word of mouth. Both of these sources are inadequate and unreliable. True, there are broadcasts that reach Cuba from Florida, but these are for the most part in English and are designed for an American, not a Cuban, audience.

This new station gets its name from Jose Marti, the leading figure in the Cuban independence movement. He is Cuba's greatest hero and a man held in high regard throughout the Caribbean. By adopting the name "Marti" we have set a high performance. We have set a high performance standard for ourselves for truthfulness and integrity. I am sure we can meet this standard

Radio Marti is an important foreign policy initiative for this great country. I believe this is clearly reflected by the almost 2-to-1 margin by which this legislation was passed in the House of Representatives and by the support that is accorded it by the President of these United States and by the AFL-CIO. I urge my colleagues to echo the resounding vote of the House and to give their full support to this legislation.

Mr. President, I yield to my senior colleague from Florida (Mr. CHILES).

Mr. CHILES. Mr. President, I thank my distinguished colleague. I wish to associate myself with her remarks.

Mr. President, I support this important and necessary amendment.

In the past few weeks the Senate has heard a great deal about Radio Marti. I do not believe that we need more discussion of this issue, we need to take action. The Senate needs to express itself on whether it wants the truth broadcast to the people of Cuba who live under Communist domination. I believe the Senate will declare itself on the side of truth and support the funding of this vital initiative.

We all know the current situation in Cuba. It is a nation with severe economic problems and a declining standard of living for its citizens. It is a nation which is completely dominated by the Soviet Union. It is a nation that has been a pawn to the Communists in their efforts to sow discord around the world.

The Cuban people lack much in their lives. They lack an economy in which they can make a living. They lack control over their political destiny. And they lack the truth about their country and about the world.

This lack of truth is one problem that we can address and in essence that is the purpose of Radio Marti.

Radio Marti is intended to supply what the Cuban public is missing: Reliable news about Cuban life and the world at large. It is to provide an alternative to the present state monopoly on all communication to the Cuban people.

Radio Marti is a proposal that seeks to give Cubans the means to know what their society is; To find out what really happens in their country; to give them some basis on which to judge why their sons are sent to fight in foreign lands and why their nation's meager resources are wasted on foreign adventures. It is not a platform for propaganda but a chance for these people to have the information to form their own opinions.

We have only to look at the experience of Radio Free Europe and Radio Liberty to know that this is an effort that is worthwhile and which has served a very important purpose. Radio Free Europe has expanded to the point that approximately 70 percent of the Polish radio audience listens. Can there be doubt that the fresh wind that has swept that nation is related to the news and information that the Polish people received from Radio Free Europe?

Some might say that we should not provoke Castro, that somehow Castro has moderated his policies. I vehemently disagree. Castro continues to work hand in glove with the Soviet Union. To consistently oppose the policies and efforts of the United States. The Castro government has remained in the forefront of the world's troublemakers and has indeed caused a great deal of trouble. The Castro regime has played a leading role around the world in fomenting armed conflict and terrorism.

I am convinced that Castro is not moderating or curtailing his violent destructive action in any way. Rather the evidence becomes clearer and clearer that Castro is intensifying his efforts and enlarging his role as the stalking horse of the Soviet Union. Cuba's reckless and provacative behavior, which appears to know no limit, mandates that addressing the Cuba problem be brought to the forefront of our foreign policy agenda. We must be firm in our policy toward Cuba. Radio Marti is one opportunity to show that we are going to be firm.

Many are concerned that Cuba will retaliate against Radio Marti by interference against U.S. broadcasters. This is a very legitimate concern which must be addressed. However, our response cannot and should not be to knuckle under to Castro's threat. That can only serve to encourage Castro.

Mr. President, since 1959 the Cuban people, under Castro, have been

denied a basic human need-access to information on the events and actions that shape their lives. Perhaps at this time we cannot resolve some of the other deprivations the Cuban people experience. However, we can do something about freedom of information. That something is Radio Marti. The truth is a powerful weapon. It is also an essential ingredient to our ability to function as complete human beings. If we can insure that the truth is available to the Cuban people we do them a great service. If we fail to provide that opportunity we will do a grave injustice.

Jose Marti was known to his people as the "apostle." An apostle is a witness to the truth. Through Radio Marti, the name Marti will once again serve to open the path to freedom

through the truth.

I urge the adoption of this amendment.

I know the hour is late. I know that many of us have many things on our minds, but I do want to raise a couple of points. I hear two principal objections by those who have objected to the establishment of Radio Marti.

The first objection seems to be that by this bill we might antagonize Castro and we should be careful. It is suggested we do not want to do something to antagonize Castro since maybe he is going to be a good citizen. How many times have we talked about that? How many times have we heard that since 1959? Did we antagonize Castro? Is that why he committed troops to Angola? Was it our antagonism toward Castro that put his advisers into Yemen? Was it our antagonism toward Castro that put his advisers into Ethiopia and caused most of the problems in Somalia? What have we done to Castro that caused Cuba to send arms to Nicaragua and terrorists into Guatemala and Honduras?

We now see Costa Rica raising alarm. The President of Costa Rica came to this country and talked about terrorists coming into his country.

We now see that a grand jury in south Florida has indicted two high officials of the Castro government on the basis of a conspiracy to bring drugs into the United States. How

were they doing that?

Drug boats would go into safe harbor in Cuba where they could be replenished, where the Cubans were giving them the signals that they could put out and fly the Cuban flag. where they would give them radar for use against our Coast Guard, where they would give them money, where they would deliver the drugs, this poison, into our country, with what it does to our children, and on the return trip they would carry guns. They would purchase guns, and they would carry those back to Colombia, to Venezuela, and Honduras. They went to cause death and destruction. It is a grand jury of the United States that has indicted those high Cuban officials, members of the Cuban government.

So how in the world is a radio station that is going to speak the truth going to antagonize Castro? No way in the world. The question is, Are we going to sit back forever and not be a

Castro has a radio station now in Grenada sending out propaganda into all of the Caribbean. And you can imagine what that propaganda says about the United States. You can imagine the content of that propagan-

They have set up a station in Nicaragua, and that station again is causing problems in Costa Rica and throughout the hemisphere.

We are talking about a station in Radio Marti that is going to submit the truth to the Cuban people. It is also going to be able to submit the

truth to all the Caribbean.

Is this a harebrained idea? This is an idea that is sponsored by the President of the United States. It has passed through the House after due consideration by its committees. It passed by a 2 to 1 vote in the House. It has been before the Foreign Relations Committee of the Senate. It has been reported out of that committee. It has received a Budget Committee waiver. So we see that the idea certainly has merit.

Now, the other argument that I have heard is a fear on the part of some of radio stations that there might be retaliatory jamming.

Some Senators that I have heard make that argument are the same people I hear standing on the Senate floor saying we are not going to be cowed by the Russians. They say we are going to tell the Russians that we will match them missile for missile, plane for plane. Whatever they want to spend, we are also going to spend because we are not afraid of them. But, do not jam our radio station. It is where our farmers get their news, and we are worried that Castro might be able to jam that radio station.

What in the world is the power of the United States if we do not have the ability to protect ourselves against this dictator? Are we worried that he is going to be able to seriously disrupt the United States? Our State Department has told us that we are not without means, if Castro wants to get into some kind of a jamming war. Certainly he has done that before, as has been brought out by my colleague. He has been in the jamming business for a long time.

I can tell Senators our radio stations in Florida have had Cuban interference for years. In the bill that we are working on, in order to try to quell those fears, provisions were put in that there would actually be compensation. And when that happened, we heard there would not be any problem with the bill.

Of course, that item went in, and then starts the calls going to Senators, "Hey, look out, watch that bill. Do something about it. There might be some problem."

How in the world can we expect to be the leader of freedom for the rest of the world? How are we going to stand against the Soviets and their might when we will not stand against the pawn of the Soviets who carries arms into Angola, carries the poison of illegal narcotics into this country, carries weapons and terrorism into Central America?

Are we afraid to put in a radio station that is going to tell the truth because we are worried about what Castro is going to do?

The hardest thing that I have to do. I really want to tell Senators, is to explain to some of the Cuban-Americans what is going on up here in Washington. These are people who voted with their feet that they wanted freedom. They left Cuba and they came to this country. They have worked and hewn their way in this country. Every one of them is fervently anti-Communist. Of course, they are anti-Castro because they see him as the person who has taken over their island, subjugated their people, held their countrymen in

They say to me, "We don't understand this, Senator. You have a proposition that the Democratic House has passed 2 to 1, the Republican President sponsors, it has gone through all of your committees, and yet we hear that there is a Senator or two Senators or three Senators who have kept this from becoming law."

How do I explain to them that we have a proposition that we cannot even get up for a vote in the Senate?

These are people who studied for their freedom, took their citizenship test, spoke for this country every place and every time they could, and now what they want is a glimmer of hope that we are going to say something to their brothers that are still in Cuba, to their kinfolk that are still in Cuba, to the people, to the land that they still have an affection for, to try to tell them something about what is going on in Cuba. But I have to tell them that we probably cannot get it up this time because somebody is going to filibuster and not let the Senate vote on

I can tell Senators it is very difficult to explain.

I think we have an opportunity tonight, without taking a great deal of time, to have the majority of the Senate, that I think feels very strongly on this matter-over 60 Senators have expressed themselves that they are for this-to say that we should establish Radio Marti, we should beam

the truth to Cuba, we should beam the that it is a good approach. It may be truth to the rest of the Caribbean.

I think we have the opportunity to do that.

We are not afraid of Mr. Castro. We are not afraid of what he will do in regard to retaliation. We are not a country that is without means to take care of ourselves and to protect ourselves in that regard.

We mention that this is named after Jose Marti. Jose Marti was called the Apostle by his people. An apostle is a witness of truth. I think that is what this station could be. It could be a wit-

ness for the truth.

I thank my distinguished colleague for yielding.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, shall speak very briefly on this

Radio Marti is something these

people understand.

We know how to go to another nation and spend millions and sometimes hundreds of millions of dollars to try to buy their loyalty. Sometimes in this Nation's history we have gone into other nations and we have done more than spend our money. We have used our military manpower and sometimes at the cost of thousands of American young boys.

Radio Marti is a different kind of an approach. Radio Marti says that if you tell the people the truth, maybe you are going to be able to cause them to react in a manner that maybe they will be able to solve their own prob-

lems.

Here we have a little neighboring island of Cuba, unquestionably subjugated by Castro, with no free elections, no free newspapers, no free information. And Radio Marti for a few million dollars provides an opportunity for the people of Cuba to learn more about what is happening in this country and throughout the world.

Some people are saying, "Oh, no, we cannot do that. If we do that Castro

may react."

I could not agree more with the Senators from Florida, the senior Senator as well as the junior Senator, when they talk about the fact that what kind of a backing down. If we have Radio Marti, Castro may jam some of our radio stations. So what?

Many times in our international policy we have seen fit to take a step and it has caused a counterstep to be taken. But the great United States of America does not want to have a radio station beamed into Cuba because Castro may react and beam his radio

waves into our country.

I think it is time we passed on this legislation. I am not at all certain it will solve the problem. In fact, I have doubts that it will. But it seems to me an effective approach.

I think we have a tremendous amount to win and very little to lose.

I think the sooner we move on about our business and enact this legislation the better off it will be for the people of Cuba, probably the better off it will be for the people of this Nation.

Mr. SYMMS. Mr. President, will the Senator yield on that point?

Mr. METZENBAUM. I yield.

Mr. SYMMS. I thank the Senator for yielding.

I wish to associate myself with his remarks. I could not agree with him more.

I would hope, I say to my dear colleague, that we will recognize that the truth and the ideas that we can project to the people of Cuba through Radio Marti will have consequences that Fidel Castro and his dictatorship will not be able to withstand.

It will be a peaceful way for us to increase the cost of Cuban adventurism.

I praise my colleagues for offering this amendment and their persistence. I hope that we have deliberated on this for days and days in the Senate. that, Mr. President, we could bring this to a rapid vote and decide this once and for all.

On that, Mr. President, I ask for the

yeas and nays.

Mr. HATFIELD. Mr. President, will the Senator withhold just for a few moments until the chairman of the Foreign Relations Committee has had an opportunity to make a comment?

Mr. PERCY. Mr. President, I think we should move to a vote at the earli-

est possible time.

The PRESIDING OFFICER. Does the Senator withhold his request for the yeas and nays?

Mr. SYMMS. I withhold.

Mr. HATFIELD. Mr. President, in order to expedite and try to bring this matter to a close and the others that we have yet and certainly with good notice to the authors of this amendment, I do reluctantly, but I must move now to table.

Mr. BAKER. Mr. President, will the Senator withhold for a moment?

Mr. HATFIELD. Yes.

Mr. BAKER. Mr. President, let me say I also regret that the manager of the bill, the chairman of the committee, must make this motion and all I can say to those who have supported it is that I understand their deep concern and I can assure them that this matter will go forward and will be a matter of urgent priority in the next session of Congress.

Mr. PERCY. Mr. President, I thank the majority leader for that assurance.

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Illinois?

Mr. HATFIELD. I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I express appreciation to the majority leader.

The committee did vote this out by a 12 to 4 vote, but this is not probably the right vehicle at all. It should go in the regular normal orderly process, but I do feel very strongly with the committee that this voice of truth must be eventually at the right time taken to Cuba and give the encouragement to the Hispanic-Americans that we will let that voice in truth get through.

Mr. HATFIELD. I thank the Sena-

Mr. President, I now move to table the amendment offered by the Senator from Florida.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from Florida. (Putting the question.)

The motion was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table. The motion to lay on the table was

#### ORDER OF PROCEDURE

Mr. HATFIELD. Mr. President, if I may have the leader's attention for one moment, I wish to try to outline a procedure here and then I wish to yield to the majority leader to outline the procedure for the remainder of this evening and perhaps tomorrow.

Mr. BAKER. Mr. President, earlier today the minority leader and I went over a list of amendments that he knew of on his side and I set in process the compilation of a list of amendments that we could ascertain on our side with the hope that we could get a unanimous-consent agreement for the time for final passage of this measure.

Mr. President, it is going to be a pretty good-sized job. There are 21 amendments on this side. Not many of them will require much time, but there are 21 of them.

On the Democratic side, according to the list that I have been given by the minority leader and his staff, there are either 12 or 13 amendments left.

Mr. President, I am reluctant to proceed further unless the minority leader is available to consider this matter with me, and I do not see him on the floor at this moment.

Perhaps there is some other matter the manager of the bill can take up briefly while I communicate with him.

Mr. METZENBAUM. Mr. President, if the majority leader will yield, we have a list. We do not know what some of them are. I wonder if he could help us with some of them that are unidentified.

Mr. BAKER. Yes. Mr. President, I think we will be able to identify all of them, but rather than do it twice, let me wait until the minority leader reaches the floor.

Mr. HATFIELD. Mr. President, here is the minority leader now.

Mr. BAKER. Mr. President, I wonder if the minority leader is in position to consider these items at this time.

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, perhaps since he went over his list earlier I should go over my list at this time and we can see where we are.

Mr. President, the first item on my list is the amendment to be offered by the Senator from Missouri (Mr. Danforth) dealing with energy conservation on which he is willing to accept a 5-minute time limitation equally divided

The second one is a Pressler amendment dealing with Alzheimer's disease with a time limitation of 5 minutes equally divided.

Then there are four Helms amendments of 20 minutes equally divided. Those are the pay cap, IDA, IRS regulation dealing with private schools, and law of the sea.

There is a Percy amendment with 2 minutes equally divided on State Department counsel; a Schmitt amendment on White House productivity conference with 2 minutes equally divided; a Stevens amendment, the distinguished assistant majority leader, who is not on the floor, and I have not been able to identify the nature of that amendment but I shall.

A Thurmond amendment, 3 minutes equally divided, funds to convert Army, Air National Guard positions to full-time military positions; a Bradley-McClure SPRO amendment, 2 minutes equally divided; a Kasten-McClure IAEA, 5 minutes equally divided; a Quayle amendment which we have not yet identified the subject matter, but we will; a Cohen amendment-Quayle is dislocating workers, \$50 million, and I do not have a notation as to time he is willing to accept-5 minutes equally divided; next is a Cohen amendment discretion of State spending on weatherization, 2 minutes equally divided; a Cohen-Armstrong amendment social security disability, 10 minutes equally

Mr. ROBERT C. BYRD. What does he mean by social security?

Mr. BAKER. I believe it was a bill previously passed in the House.

Mr. ARMSTRONG. There is a strong likelihood that we will not offer that amendment. We will work it out—if we could leave it on the list.

Mr. DOLE. That is correct, if we can get conferees appointed we will not have the necessity for bringing it up.

have the necessity for bringing it up.
Mr. BAKER. A Tower amendment
which may or may not be offered, a
defense cut; two Dole amendments,
Mr. President, on which I do not have
a description. Can the Senator from
Kansas tell me what they are?

Mr. DOLE. There are two amendments which the Senator from Kansas is not certain he will offer. There is no opposition. One admits curios and relics, and I am not sure I will offer that one; the Gun Control Act. We are trying to clear these amendments and if there is opposition they will not be offered.

Mr. BAKER. I thank the Senator.

Mr. President, the next amendment is a Specter tax deduction of Members' living expense; next is a Gorton Pantages Theater amendment 1 minute equally divided. Mr. President, that is a lot of items but not many of them are very long items.

Mr. President, before we get into the business of trying to clear the items one at a time, could I inquire of the manager of the bill, the chairman of the committee, and the ranking member if they have some arrangement in mind as to what sequence these amendments would be offered?

Mr. HATFIELD. Mr. President, I would respond by saying it is our hope to take up these brief amendments as we have previously when they have been cleared by both sides of the aisle.

Mr. PROXMIRE. We would have to have an explanation of these before we agreed to a time limitation.

Mr. HATFIELD. I said it would be on the basis of how we have handled about 20 of them today already where they have been fully cleared on both sides of the aisle and do not require a record vote. We want to take those up first.

Then it would be our tradition to alternate sides, either side of the aisle, to alternate Republican with Democrat, Republican with Democrat, so that we do not get into any kind of a preference situation, and go right down the list as they have been given to us by both sides.

We would start at the top of the ones that will take a little more time and just go down the list as given by the minority and majority leaders.

Mr. BAKER. Mr. President, if I could go through the Democratic list for a minute to make sure I have it correct, I have here an Exon amendment dealing with the pay cap, 10 minutes equally divided; a Bumpers agricultural deficiency payments amendment.

Mr. ROBERT C. BYRD. He wanted an hour, he may have changed his mind

Mr. EXON. I would think, to expedite things, 10 minutes equally divided

Mr. BAKER. I thank the Senator.

Next, Mr. President, is a Dodd amendment dealing with Central America restrictions on certain types of operations, 20 minutes equally divided; a Boren amendment on monetary policy resolution, 20 minutes equally divided. Mr. President, I have a notation on my side that we cannot

agree to a time agreement there unless a qualified second-degree amendment to be offered by Senator GARN is permitted; a Boren amendment, 20 minutes, FHA-SBA loan deferral; a Bradley amendment, 10 minutes equally di-vided, veterans' hospitals repair and maintenance; a Bradley amendment, strategic petroleum reserve, 5 minutes equally divided; a Dixon-Percy OMB study of sole source contract awards for a German camera company, 10 minutes equally divided; a Dixon amendment, employment centers, 10 minutes equally divided; a Glenn amendment, Arms Export Control Act sales procedures, 40 minutes equally divided: a Glenn amendment, transfer of sensitive U.S. military equipment to foreign nations, 40 minutes equally divided; a Ford amendment, railroad employees unemployment compensation, 20 minutes equally divided; and then I have a question mark on a Heflin amendment dealing with land trans-

Mr. President, the reason I will not offer the list in its entirety is because a unanimous-consent request I would like to formulate would provided for these time agreements, and would provide that only these amendments would be in order, and would provide for a time certain for final passage of this bill.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. BAKER. Yes.

Mr. BUMPERS. Would the Senator also add that amendments in the second degree not be in order?

Mr. BAKER. Yes. In the formulation I would put I believe it would accomplish that. It would be that other amendments, except the amendments listed, would not be in order. I am advised by the Parliamentarian that that would include second-degree amendments or modifications. The Garn amendment, of course, which is a second-degree amendment, would be included in the list of those specified and would thus qualify.

Mr. METZENBAUM. Is the majority leader in position to tell us what the Stevens amendment is?

Mr. BAKER. As soon as I find Stevens. Can he identify the amendment? Mr. STEVENS. Not yet.

Mr. BAKER. I sense a certain tension developing, Mr. President. [Laughter.] And I observe that I am squarely in the middle of it. [Laughter.]

Mr. President, what I would like to do is to urge both my good friends on both sides of the aisle try to come together and work that out. Could I inquire if there is any other—I am now advised, Mr. President, and I believe that completes the list, and that we have identified all the amendments, at least with a few words, as has been done on the Democratic list, and this

would be a good time if Members have further questions to address them to the author of the amendments or the distinguished chairman of the committee or the ranking member.

Mr. METZENBAUM. Would the majority leader want those of us to have some reservations about a few of the measures but not all of them, indicate that and at what point.

Mr. BAKER. What I want you to do

is not to indicate objection.

Mr. METZENBAUM. Until we know more about the four Helms amendments I cannot agree to a time agreement on that, and until we know what the Stevens amendment is I cannot agree to a time agreement on that, and I understand there is an objection, if I understood, to the two Dole amendments which the Senator from Ohio would make as to a time limit agreement on behalf of Senator KENNEDY. If I understand those are two Garn amendments?

Mr. DOLE. Relics.

Mr. BAKER. I suppose that would not let us get a time agreement for final passage, and I would like to continue to work on that. But if the minority leader is prepared for me to do so, I would like to put a unanimous-consent request on others that would not be objectionable.

Mr. PROXMIRE. Mr. President, I would object to the Specter amend-

ment.

Mr. BAKER. Let me put it.

First, the request I am about to put does not signify the order in which these amendments will be offered but rather made to establish time limitations and to include a proviso that no other amendment, no second-degree amendment or substitute, will be in order. It is my hope, Mr. President, that we can get an overall request subsequently that will provide that no other amendments are in order.

Mr. President, first a Danforth amendment as previously stated on energy conservation, 5 minutes equally

divided.

Mr. LONG. Mr. President, reserving the right to object, I would have to

know more about it.

Mr. DANFORTH. This is not energy conservation; it is an additional appropriation for the low-energy assistance program.

Mr. LONG. I would not object.

Mr. PROXMIRE. How big an appropriation?

Mr. DANFORTH. \$200

The PRESIDING OFFICER. Without objection, it is so ordered. Mr. BAKER. I thank the Chair.

Next, Mr. President, the Pressler amendment dealing with Alzheimer's disease, 5 minutes equally divided. Mr. President, without repeating, I include in my request that no amendments to the amendments would be in order, whether a modification or a seconddegree amendment, and I need not repeat that for each request.

Mr. JOHNSON. Mr. President, reserving the right to object, are all of these appropriations matters or are some of these legislation on appropriations?

Mr. BAKER. I really cannot tell the Senator. I will refer that to the author of the amendment or the chairman or the ranking member of the committee.

Mr. HATFIELD. So far as the Pressler amendment is concerned, it is an

appropriation measure.

The Danforth is an appropriation measure, but I would hate to start applying that criterion at this point in the game because we can go back and really disqualify an awful lot of amendments that already have been acted on.

Mr. BAKER. Mr. President, suffice it to say that on the one that we have before us and the one we just finished, they are both appropriation measures.

Mr. HATFIELD. Yes.

Mr. BAKER. I thank the chairman. I put the request on the Pressler amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, did I understand the Senator from Ohio wishes to consider further on the

Helms amendments?

Mr. METZENBAUM. Yes: the Senator from Ohio would like to know exactly what they are. And the Senator from Ohio would also like to inquire of the majority leader if he is correct in his assumption that by agreeing to a time limit that a Senator is waiving his or her right to make a point of order that it is legislation on an appropriations bill.

Mr. BAKER. Mr. President, I put that in the form of a parliamentary inquiry. Does the unanimous-consent request limiting time on an amendment in the form put constitute a waiver of any right any Senator has to make a point of order against that amend-

ment?

The PRESIDING OFFICER. It would make the amendment in order. Mr. ROBERT C. BYRD. Mr. Presi-

dent, on time agreements usually that is the case. If that amendment is specified, then that amendment is included whether or not it is germane. But we are talking about appropriations bills. Does the mere order limiting time waive a Senator's right to raise the question of legislation on an appropriations bill?

Mr. BAKER. I think it does not. Let me clarify the situation this way. Mr. President, I ask unanimous consent that in each case a point of order that might be made against the amendment, except for a germaneness qualif-

ication, will not be waived.

The PRESIDING OFFICER. there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I will skip over the Helms amendment until I can gain more information and perhaps a consultation with the Senator from Ohio and the Senator from North Carolina.

Next is the Percy State Department counsel amendment, 2 minutes, equal-

ly divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Next is the Schmitt White House productivity conference amendment, 2 minutes, equally divid-

Mr. LONG. Mr. President, until I see the amendment, I object. I do not think I will object, but I want to see it.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Next is the Stevens amendment. I will pass over that for the time being, unless the Senator is prepared now to describe it further.

Next is a Thurmond amendment dealing with funds to convert Army and Air National Guard positions to full-time military positions, 3 minutes, equally divided.

The PRESIDING OFFICER. Is

there objection?

Mr. ROBERT C. BYRD. My list says 20 minutes.

Mr. BAKER. Yes. I should have advised the minority leader but the Senator from South Carolina advised me that 3 minutes was adequate for his purposes. I will do it either way.

Mr. ROBERT C. BYRD. I do not know what the amendment does.

Mr. BAKER. Mr. President, I will put the request at 20 minutes, if that will be helpful. Mr. President, I put the request at 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Next, Mr. President, is a Bradley-McClure SPR amendment, 2 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, that is duplicated on the Democratic list, I believe, as a Bradley amendment. It is number 2 on page 1. The Bradley amendment is the same one, is that not correct?

Mr. BRADLEY. That is correct. It is the same amendment.

Mr. BAKER. It is 5 minutes on the Democratic list. I revise my request to make it 5 minutes, equally divided.

The PRESIDING OFFICER. there objection? Without objection, it is so ordered.

Mr. LONG. Mr. President, I will reserve until I see the amendment. After I see it, I do not think I will object. I object until I have seen it.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, next is a Kasten-McClure IAEA amendment, 5 minutes, equally divided.

The PRESIDING OFFICER. Is

there objection?

Mr. METZENBAUM. Reserving the right to object, and I would object only until I know what the amendment contains. I know that it is the Atomic Energy Administration, but I do not know what it says about it.

Mr. KASTEN. Will the Senator

yield?

Mr. BAKER. Yes.

Mr. KASTEN. I am happy to give a brief description. The IAEA is the agency from which the U.S. delegate walked out. We are putting in some language to put restrictions on the money going to IAEA, as well, until it is clear that they will recognize all democracies.

It is similar to the Moynihan resolution that we passed and it is a compromise that has been reached with Senator Percy, Senator McClure, and

myself.

Mr. METZENBAUM. I have no ob-

jection.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised now that the Bradley-McClure SPR amendment is not objected to. Could I ask the distinguished Senator from Louisiana if that is correct?

Mr. LONG. That is correct. Mr. BAKER. I reput the request. The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. BAKER. Next, Mr. President, is a Quayle amendment dealing with dislocated workers, 5 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I will object until I see what the amendment is.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Next, Mr. President, is a Cohen amendment, discretion of State spending on weatherization, 2 minutes, equally divided.

The PRESIDING OFFICER. Is

there objection?

Mr. ROBERT C. BYRD. Reserving the right to object. Does anybody

know what this is about?

Mr. DANFORTH. Mr. President, this amendment would increase the percentage that States could spend out of the low-income energy assistance program for energy conservation from 15 percent to 25 percent.

Mr. JOHNSTON. Is that legislation

on an appropriations bill?

Mr. DANFORTH. I am not the Parliamentarian, but I know that is the point of the amendment.

The PRESIDING OFFICER. Is

there objection?

Mr. JOHNSTON. Mr. President, reserving the right to object, at this hour of night, the fact that we have let a few horses out of this pen should not mean that we ought to just open up the barn door and let any matter go through.

Mr. BAKER. Mr. President, I withdraw the request.

Mr. President, next is the Tower defense cut amendment. I do not put that one at the moment. There is no time limit associated with it.

Mr. President, next would be the two Dole amendments, which I do not now

put.

Next is the Specter tax deduction/ Members living expense amendment.

Mr. PROXMIRE. Mr. President, I would have to object to that. That would be legislation on an appropriations bill. It is the jurisdiction of the Finance Committee. We have had hearings and I hope we would defer it.

The PRESIDING OFFICER. Objec-

tion is heard.

Mr. BAKER. Next, Mr. President, is the Gorton Pantages Theatre in Washington.

Mr. METZENBAUM. Could we get word as to what that is all about?

Mr. GORTON. It allows a leaseback arrangement on a theater which would benefit the city.

Mr. METZENBAUM. Which city? Mr. GORTON. It is Tacoma, Wash., not Washington, D.C., I say to the Senator.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, did the leader skip 13 or did I miss it?

leader skip 13 or did I miss it?
Mr. BAKER. Yes; I skipped it acci-

dentally.

Mr. President, No. 13 is the Cohen-Armstrong social security disability amendment, 10 minutes, equally divid-

ed.
Mr. LEVIN. That is the same as the bill we passed, the so-called Levin bill, and sent to the House. Senator Armstrong is on that, along with a number of other Senators. We may want to add that on this, but that is still in limbo.

Mr. DOLE. Mr. President, the Senator from Colorado is also here. We would hope we could have conferees appointed this evening.

The PRESIDING OFFICER. The Senator will withhold. The Senate is

not in order.

The majority leader is recognized.

Mr. BAKER. Mr. President, I understand that that amendment has been withdrawn from the list.

Mr. President, I understand that the Quayle amendment, No. 11, is cleared. I now renew the request on the Quayle amendment dealing with dislocated workers, 5 minutes, equally divided.

The PRESIDING OFFICERS. is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, I understand that No. 5, the Schmitt White House productivity conference, 2 minutes, equally divided, may have been cleared. I renew that request.

Mr. ROBERT C. BYRD. Mr. President, 2 minutes on the amendment?

Mr. LONG. That has to do with the White House conference.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. BAKER. Mr. President, I yield to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, this program for a White House conference on productivity was authorized near the end of our session which ended in September. This is to provide \$1.5 million to conduct that conference.

Mr. METZENBAUM. \$1.5 million?

Mr. SCHMITT. Yes.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Another amendment on the Democratic list, 10 minutes equally divided dealing with the pay cap.

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. FORD. A point of information. If an amendment is basically legislation on an appropriation bill, you have a right to go to germaneness. If you have it in the agreement, does that leave it to be germane or leave the point of order that it is not germane because it is legislation on an appropriation bill?

Mr. BAKER. We are talking about two different kinds of germaneness. Germaneness on a House bill, I believe, is the one that the Senator is referring to. It would be my judgment that the request just made would not waive that point of order, if that point of order is made. The germaneness that is waived on the question I put for all of these amendments is whether it is germane to this bill.

Mr. ROBERT C. BYRD. What about legislation on an appropriation bill?

Mr. BAKER. I believe I included in the request previously that that point of order would not be waived.

To continue, the Bumpers amendment is next on the Democratic list, 15 minutes equally divided, agricultural deficiency payments. I have no further elaboration of that.

The PRESIDING OFFICER. (Mr. Cochran). Is there objection? Without objection, it is so ordered.

Mr. BAKER. Next to Dodd amendment, 20 minutes equally divided, restrictions on certain types of operations.

Mr. CHAFEE. We have no objection to the time limitation but we would like to have the privilege of offering a substitute.

Mr. DODD. If the majority leader will yield, I would suggest that there might be two amendments rather than making one second degree. If the Senator from Connecticut senior wants to offer an amendment, there is no reason that it could not be considered separately and not as a substitute.

Mr. CHAFEE. Do you mean if we acted on yours and then acted on ours? The vice chairman of the Intelligence Commitee is not here, Senator MOYNIHAN. At this time I will not waive our right.

Mr. BAKER. Let us pass over that one for a moment, Mr. President.

The next one is the Boren amendment, 20 minutes equally divided on monetary policy resolution, with the understanding that there would be a Garn amendment to this amendment. I will insert 15 minutes on that equally divided.

Mr. ROBERT C. BYRD. Is the Garn amendment germane to the Boren amendment?

Mr. BAKER. I must say to the minority leader that I am told that it is. I have not seen the amendment. I cannot vouch for it personally.

Mr. PROXMIRE. I have seen the amendment. I understand it is germane. It provides for an inflationary element to be attached to the resolu-

Mr. METZENBAUM. Could we have in the unanimous-consent request that it must be germane?

Mr. BAKER. The Senator from Wisconsin has seen it and I have not. I would depend on his representation.

Mr. ROBERT C. BYRD. Back to the Boren amendment, Mr. President. With 20 minutes on the Boren amendment, how much time would there be on the Garn amendment?

Mr. BAKER. Twenty minutes on the Boren amendment equally divided and I have proposed 15 minutes on the Garn amendment equally divided.

Mr. ROBERT C. BYRD. I think we better pass over that for the moment.

Mr. BAKER. Very well.

Next is another Boren amendment. FHA-SBA loan deferral.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object on that one.

Mr. BAKER. Next a Bradley amendment, 10 minutes equally divided, veterans hospitals repair and maintenance.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Next, Mr. President, is another Bradley amendment, 5 minutes equally divided, strategic petroleum reserve. I believe that has been folded into the request on the prior list; is that correct?

amendment.

Mr. BAKER. Mr. President, next is a Dixon-Percy OMB study of a solesource contract award to a German camera company, 10 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. A Dixon amendment, 10 minutes equally divided, on employment centers.

Mr. PROXMIRE. Can we get an explanation on that?

Mr. BAKER. Not from me. It is on your list.

Mr. DIXON. May I inform the leaders that there may be a colloquy on that. I have given the material to Senator SCHMITT and he should let me know shortly, I hope to be able to accommodate the Senate on that.

Mr. PROXMIRE. A colloquy, not an

amendment?

Mr. DIXON. That is correct. It will be one sentence read on each side. Very short, I would like to not waive the amendment until such time as I hear from Senator SCHMITT, which will be momentarily.

Mr. BAKER. I pass over the amendment for a moment. Next a Glenn amendment, 40 minutes equally divided, Arms Support Control Act sales procedure.

Mr. LONG. I must object until I see the amendment, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. I will pass over both Glenn amendments but I have been asked to make a notation of 20 minutes divided instead of 40 minutes.

Then, Mr. President, the Ford amendment, railroad employees unemployment compensation, 20 minutes equally divided.

Mr. DOLE. Mr. President, I believe that is a Finance Committee matter.

Mr. LONG. I believe it is an Appropriations Committee matter. It is actually a Labor Committee matter.

Mr. DOLE. I would like to look at the amendment.

Mr. BAKER. I will pass over that. I have a Heflin amendment on land transfer. There is no time suggested. Can I inquire of the minority leader if he is willing to suggest a time?

Mr. ROBERT C. BYRD. I am not in a position to suggest a time agreement. Skip over that one.

Mr. BAKER. Very well.

Mr. President, that concludes both lists.

Mr. ROBERT C. BYRD. There is an amendment by Kennedy dealing with Federal law enforcement compensation on death benefits. We have no proposal as to time as yet.

Mr. BAKER. Mr. President, we have a good number of agreements and perhaps that will expedite deliberations on this measure. We do not have all of them. Therefore, it is not possible for

Mr. BRADLEY. It is the same me to ask that no other amendments be in order and I will not make the request now, nor will I make a request for time certain for final passage.

> Mr. President, let me say that I want to do that and I hope we can complete that sequence before this evening is

> Mr. President, I am advised that we wish to add to our list, and I now propose, a request for an amendment by Hatch-McClure-Kennedy dealing with the National Endowment for the Humanities, 5 minutes equally divided.

> Mr. LONG. Mr. President, I object until I have seen it.

> The PRESIDING OFFICER. Objection is heard.

> Mr. BAKER. Mr. President, I hope we can consult with our respective officials and see if we can identify the subject matter of the other amendments.

> Mr. ROBERT C. BYRD. Could the distinguished majority leader indicate how much longer the Senate will run this evening?

Mr. BAKER. Mr. President, I had hoped we would be out by now or 10 o'clock, but the only way we can do that with any degree of safety, considering the fact that this resolution expires tonight, would be if we have a time certain for final passage. I would hope that we would continue with our efforts to get this nailed down. I am ready to go out without any other action tonight, as soon as we can get a time for final passage tomorrow and get a list of amendments nailed down so that no other amendments are in order. Maybe we cannot get that. If we cannot get that, it may be that the two managers would want to continue

Mr. HATFIELD. We would.

Mr. BAKER. I would like very much to get that and nail it down with the minority leader.

Mr. METZENBAUM. Will the majority leader yield for a question?

Mr. BAKER. Yes.

Mr. METZENBAUM. Assume that we have a time set and some amendments have not been agreed upon or called up. What will be the status of those amendments? Will they be automatically called up and debated?

Mr. BAKER. As I understand it, Mr. President, in the usual configuration, when time is reached for passage and there are amendments that have not yet been disposed of, there will be no further time for debate. They would not automatically be laid before the Senate, I believe, but Senators would be privileged to call up their amendments without debate and they would be entitled to a vote.

Mr. STEVENS. Will the majority leader yield for a question?

Mr. BAKER. Let me complete this

Mr. METZENBAUM. I would like to point out to the majority leader that a few of these amendments are extremely controversial and it makes it very difficult to agree to a time certain, particularly on one that I know of, the IRS regulation and the private schools.

Mr. BAKER. Mr. President, let me say in all fairness that I do not put the request for a time certain, simply because we do not have those agreements yet. I really hope we can get it, though, because we are really straining to keep the Senate operating and straining human endurance to finish this bill. I hope we can work this out, but I do not now put that request for a time certain for passage.

I yield now to the Senator from New

Jersey.

Mr. President, I understand the Senator from New Jersey wishes to offer an amendment. It is not my business to manage the bill. I yield the floor.

Mr. HATFIELD. Mr. President, moving on the lists that we have made on these time agreements, I would like to ask unanimous consent that we may alternate from these lists so that Members on both sides of the aisle will have an equal opportunity to present their amendments and only on those matters that we have reached a time agreement on. We have to arrive at some kind of orderly procedure and I would like to be able to have the Chair or however else it should be done appropriately, follow that on the recommendation of the two managers.

I make that in the form of a unani-

mous-consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I would like now to yield to the Senator from New Jersey and the Senator from Idaho, who have cosponsored an amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

UP AMENDMENT NO. 1524

(Purpose: To allow the Interior Appropriations Conference Report language to control SPR funding by deleting Section 118. H.R. Res. 631)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. Brad-Ley) proposes an unprinted amendment numbered 1425: On page 36, line 24, insert the following: Delete Section 118 and renumber accordingly.

Mr. BRADLEY. Mr. President, there may be an inadvertent problem with the continuing resolution's treatment of the SPR.

While the continuing resolution references the Interior appropriations

conference report, which appropriates the President's request for the SPR off-budget account—\$2.074 billion—a later section 118 refers to the SPR off-budget account in section 167 of EPCA and implies that funds are available only to maintain the current level of operations which may mean only 182,000 barrels per day.

The fiscal year 1982 carryover—over \$2 billion—plus the President's fiscal year 1983 request for SPR are sufficient to fill the SPR at a rate well in excess of the current level of operations, about 200,000 barrels per day or less depending on the timeframe chosen.

The Energy Emergency Preparedness Act of 1982 (EEPA) mandates an SPR fill rate "at the highest practicable fill rate achievable with available funds."

Section 118 might be construed by OMB as limiting the "available funds" to that necessary to achieve the current level of operations. This would undercut the Congress effort in EEPA to require the President to spend all available funds to fill the SPR.

Because of this inconsistency, this amendment would move to delete section 118 from the continuing resolution.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. BRADLEY. Yes, I yield.

Mr. McCLURE. The Senator is correct and I thank him for calling attention to the ambiguity. Section 118 was placed in the House bill. Then when we referenced in the action taken in the House legislation, we had overlapping and inconsistent provisions. The Senate provision which is referenced in is the appropriate one and section 118, carried in the House bill, is the inappropriate one.

I concur in the action, and I move that the amendment be adopted to strike section 118.

Mr. HATFIELD. Mr. President, this is one of those amendments that has been checked on both sides of the aisle and it is acceptable to the committee.

The PRESIDING OFFICER. Is all time yielded back?

Mr. BRADLEY, I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP 1524) was agreed to.

Mr. BRADLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from South Dakota.

UP AMENDMENT NO. 1525

(Purpose: To require the National Institute on Aging to spend no less than \$6.5 million for research on Alzheimer's disease in 1983)

Mr. PRESSLER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota (Mr. Pressler) for himself, Mr. D'Amato, and Mr. Levin proposes an unprinted amendment numbered 1525.

At the appropriate place in the resolution, insert the following language: "Of the amount available under this joint resolution for programs of the National Institute on Aging, no less than \$6.5 million shall be made available for research on Alzheimer's disease."

Mr. PRESSLER. Mr. President, my amendment would require the National Institute on Aging to spend no less than \$6.5 million for research on Alzheimer's disease in 1983. This amount represents an increase over the amount devoted to this type of research last year. I feel it is very important to build on the progress researchers have already made in this area against this much misunderstood disease.

This tragic illness affects between 500,000 and 1,500,000 older Americans. For its victims and their families and friends, there is very little help. Alzheimer's disease can cause memory loss, speech impairment, confusion, and personality changes. To watch a loved one suffer from these debilities is heartbreaking. In its later stages, the disease may often result in lower resistance to pneumonia and other illnesses. As a result, some estimate that as many as 50 percent of the victims of Alzheimer's disease die of pneumonia. According to the Alzheimer's Disease and Related Disorders Association, 120,000 die each year as a result of Alzheimer's disease, making it the forth leading cause of death in this country.

The National Institute on Aging has done some very promising research on Alzheimer's. The committee report acknowledges the fact that one of the main objectives of NIA is to address and resolve the devastating problem of senile dementia, especially the dementia known as Alzheimer's disease. I ask only that this body affirm its belief in the importance of finding treatment for this disease which strikes down so many of our older Americans.

My amendment would provide modest increase for important additional efforts to conquer this illness and I urge its adoption.

Mr. LEVIN. Mr. President, although Alzheimer's disease was first discovered many years ago, only in relatively recent years have we realized the extent of this incurable ailment.

For up until modern research discovered the extent of this illness it was often misdiagnosed and thought simply to be a normal occurrance afflicting the aged.

Now we know that its effects-loss of memory, inability to store new information and speech disturbances-are not symptoms of senility but of a disease of the nervous system that may begin to afflict people in their fifties adn sixties.

As the diagnosis of this ailment improves, we are finding more and more people who are sufferings from this ailment.

I commend my colleague for his initiative. It is an important and sensitive

HATFIELD. Mr. President, would the Senator from New Mexico like to be recognized on this amendment?

Mr. SCHMITT. Just very briefly, Mr. President.

Mr. HATFIELD. I yield to the Sena-

tor from New Mexico.

Mr. SCHMITT. Mr. President, the subcommittee and the full commitee have recognized for many years the critical nature of this disease as well as other diseases affecting the aged, and we have continually increased the funding for and we have also encouraged the Institute to move forward in building a base for research on Alzheimer's disease specifically. My only concern with the Senator's amendment is that when you earmark research funds, you have to spend them whether there are people out there ready to do research or not.

I guess we will give this one a shot and see what it looks like, review it again in the hearings next year. I strongly recommend to the committee to be receptive to any reprograming that might be necessary, if in fact the money can be spent usefully in this

area of research.

I come from the field of scientific research myself, and I can guarantee the Senator that at times you just cannot spend all the money given, at least cannot spend it wisely.

But I would be happy to recommend to the committe and the Senate that

they take this amendment.

Mr. HATFIELD. Mr. President, with those expressed concerns, the committee will accept the amendment of the Senator from South Dakota.

The PRESIDING OFFICER. Is all

time yielded back?

Mr. HATFIELD. All time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (UP No. 1525) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PRESSLER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT NO. 1526

Mr. HATFIELD. Now, Mr. President, let me inquire if the Senator from Washington State has a 30-second amendment.

The PRESIDING OFFICER. The

Senator from Washington.

Mr. GORTON, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an unprinted amendment numbered 1526.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SEC. . Upon request of the City of Tacoma, Washington, the Secretary of Commerce shall authorize such City to sell or lease to any person the Pantages Centre for the Performing Arts building, without affecting the Federal assistance provided under the Public Works and Economic Development Act of 1965 (project number 07-11-02513), if such transfer documents provide for the operation of such facility as a performing arts center for at least twenty-five (25) years after such transfer.

Mr. GORTON. Mr. President, the people of Tacoma, Wash., with an EDA grant have refurbished the magnificent Pantages Theater which will be opened on February 15 of next year. Because it will incur considerable operating losses, they discovered that those losses can be cut significantly by a lease-back arrangement with private parties under which all of the conditions of the EDA grant will be met.

Nevertheless, it is technically illegal, and the EDA grant would be asked for in full return by EDA under the present circumstances. This will obviate that necessity while protecting the nature of the theater through its entire useful life.

The Pantages Theater is an historic building located in the heart of downtown Tacoma, Wash. The theater was constructed early in Tacoma's history but in recent years it fell into disuse and serious disrepair.

Several years ago the citizens of Tacoma launched a campaign to restore the old theater as a public performing arts center. It netted more than \$1.5 million in private contributions. Other funds were raised by Tacoma and by the State of Washington but that project was still \$1.5 million short of the \$5.6 million needed for the theater's renovation and rehabilitation.

The theater's furture seemed assured when the Economic Development Administration approved a \$1.5 million grant of the costs of renovation. Central to EDA's decision to award the grant was the theater's importance to downtown Tacoma as a central focal point and as a project essential to maintaining the city's current redevelopment momentum.

Rehabilitation of the Pantages Theater has proceeded on schedule and within budget. A formal opening is scheduled for February 15, 1983.

#### THE PROBLEM

At the time the city of Tacoma applied for the \$1.5 million EDA grant, it understood that the theater would incur modest operating deficits and that, as with nearly all public performing arts centers, some sort of municipal subsidy would be required.

Since those initial estimates were made, however, the projected gap between expenses and revenues has increased dramatically. At the same time the city of Tacoma's ability to fund theater operating deficits from its own revenues has substantially eroded. The likely result is that although renovation may be completed, the theater may not meet the city's expectations as a center available to a wide spectrum of performing arts groups.

#### A SOLUTION

As soon as the growing problem with the theater's operating deficit was identified, the city of Tacoma began to explore ways of reducing it. In this investigation, it was determined that if the theater were owned privately, its operational costs could be lower even though the theater would be utilized for the same public performing arts purposes as under city ownership.

In brief, it has been determined that after the Economic Recovery Tax Act of 1981, the Pantages Theater has real economic value to private investors that could be realized by a sale or long-term lease from the city, even though the facility would be used for the purposes specified in the EDA grant for the full length of the 25 year period required by that grant. Similar sales or leases of public buildings have already occurred in a number of States including a sale and long-term lease back of the Oakland Public Art Museum in the city of Oakland, Calif.

The proceeds of the Tacoma sale or lease, estimated to be approximately \$1.4 million, would be placed by the city in a trust fund. The income from this fund would be utilized to offset the theater's operating deficits. Without this income, the theater's longterm future is in doubt.

# THE NEED FOR THIS AMENDMENT

Under EDA regulations, its approval is required for any transfer of property funded in whole or in part by that Agency. When the city of Tacoma

sought such approval, however, EDA responded that it was unable to do so.

I understand that EDA officials are satisfied that the theater would continue to be used for the purposes specified in the grant and that EDA understands the need to obtain additional operating revenues. I also understand that EDA officials agree that under their regulations the agency appears to have the discretion to approve the transfer. The problem arises from general regulations of the Office of Management and Budget which EDA interprets as requiring Tacoma to retain ownership interests in the theater or repay the \$1.5 million to EDA. Because a sale or lease of the theater must be effected before its opening on February 15, there is insufficient time to pursue amendment of the OMB regulations or obtain a determination that they do not apply.

To solve this dilemma, a legislative solution is needed to authorize a transfer. This amendment would authorize EDA to approve the transfer without requiring repayment of the grant. Under the terms of the city's proposal to EDA, the theater's use would be restricted to exactly the same purposes for the same period of time as it would if the city retained full ownership.

It is imperative that this amendment be adopted. Without it, the city of Tacoma may well lose a cultural centerpiece for which its citizens have worked so hard. Without it, EDA, ironically, may well see the failure of a public performing arts project that it originally deemed important for funding.

This amendment does no more than remove a technicality to permit an important public project to proceed to completion and operation on a self-sustaining basis. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, both sides of the aisle have approved of this and the committee will accept it.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATFIELD. All time is yielded back.

The PRESIDING OFFICER. All time having seen yielded back, the question is on agreeing to the amendment of the Senator from Washington.

The amendment (UP No. 1526) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1527

(Purpose: To provide funding for the White House Conference on Productivity)

Mr. HATFIELD. Mr. President, I wonder if the Senator from New Mexico would handle his White House Productivity Conference that has been agreed to for 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Mexico (Mr. Schmitt) proposes an unprinted amendment numbered 1526.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

For activities of the White House Conference on Productivity, including the conduct of regional and local conferences throughout the United States, as authorized by Public Law 97-367, \$1,500,000.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, this amendment, as I indicated earlier, provides the appropriations necessary to put into being previously authorized White House Conference on Productivity. This conference was authorized under Public Law 97-367 signed into law by President Reagan on October 25, 1982.

The Conference is intended to provide a national forum for the discussion of methods for improving productivity performance in the American economy. A series of local and regional conferences similar to those conducted under the White House Conference on Small Business will maximize the opportunity for widespread public participation in the solution of the productivity growth problem. This amendment is intended to provide the necessary funds for the administration of the White House Conference on Productivity.

I ask its immediate adoption.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, this has been approved on both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. All time yielded back on the amendment?

All time is yielded back. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (UP No. 1527) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### UP AMENDMENT 1528

(Purpose: To establish the annual rate of pay for Members of Congress at the rate of pay paid for Members on September 30, 1982, until superseded by law or by action under section 225 of the Federal Salary Act of 1967)

Mr. HATFIELD. Mr. President, in alternating, the comanager of the bill has suggested that we recognize Mr. Exon for the purpose of presenting an amendment.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank the managers of the bill. I yield myself 3 minutes.

Mr. President, I referenced the beginning of this discussion with House Joint Resolution 631, page 43, beginning on line 9, wherein the committee has struck the pay raise matter brought up by the House of Representatives.

Mr. President, the amendment that Mr. Heflin, Mr. Zorinsky, and I will be offering is nearly the same as S. 3042 to set salaries of Members of Congress at the current level and to repeal current law which provides for automatic increases in salaries from a permanent appropriation.

My colleagues will recall it was slightly more than 1 year ago, October 1981, that the Senate agreed to the current devious way of raising congressional salaries. It was accompanied on a continuing resolution just like the one before us. It was, therefore, legislation on a continuing resolution.

The key vote was taken on September 30, 1981, at a time when the Senate was under great pressure to complete the conference agreement with the House on a continuing appropriations resolution.

I now want to afford my colleagues an opportunity to correct that error. My amendment, if adopted, will require that future pay increases be adopted in a straightforward manner to reflect the votes of each individual Member.

There has been a lot of talk these last few weeks about Members having the courage on a pay raise question to stand up and speak their piece. For those who admire Members who are willing to do this, my amendment is suited to them to a tee.

Regardless of what happens with the congressional salaries this year or any future year, let us adopt my amendment now so that were move the cloud of deviousness and suspicion which, unfortunately, hangs over our heads because of our ill-advised actions of last year. The PRESIDING OFFICER. Does the Senator have an amendment to send to the desk?

Mr. EXON. I have an amendment to send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Nebraska (Mr. Exon) proposes an unprinted amendment numbered 1528.

Mr. EXON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) Section 601 (a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31) is amended—

(1) in paragraph (1)—

(A) by striking out "(1)";
(B) by redesignating clauses (A), (B), and (C) as clauses (1) (2), and (3), respectively; and

(C) by striking out ", as adjusted by paragraph

(2) of this subsection": and

(2) by striking out paragraph (2).

(b) (1) For the purposes of this subsection, the term "Member" means each individual referred to in clause (1) of section 601 (a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31 (1)) as amended by subsection (a) other than any individual described in clause (2) or (3) of such section.

(2) (A) Notwithstanding any other provision of this joint resolution or of any other law (except as provided in subparagraph (B)), the annual rate of pay payable for a Member, the Speaker of the House of Representatives, the President pro tempore of the Senate, the majority or minority leader of the Senate, or the majority or minority leader of the House of Representatives shall be the annual rate of pay actually payable for such office, respectively, on September 30, 1982, under all applicable law.

(B) Each annual rate of pay established by subparagraph (A) shall remain in effect until superseded by a law enacted after the date of enactment of this Act or by action pursuant to section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.).

(C) The first sentence of section 130 (c) of Public Law 97-51 (95 Stat. 966; 2 U.S.C. 31 note) is amended by striking out "Effective beginning with fiscal year 1983, and continuing each year thereafter," and inserting in lieu thereof "For fiscal year 1983,".

Mr. EXON. Mr. President, I agree with the statement I have frequently heard that there never is a good time to raise congressional salaries. This is true, but I submit that under the current economics most would agree that there could not be a worse time to raise salaries than now. I congratulate the committee for at least knocking out that portion of the Senate pay raise that would otherwise have gone into effect.

The amendment would keep the salaries of Members at their current level, in both the House and the Senate.

I simply say that I hope we would address this matter now and repeal the law that was passed last year that allows automatic increases.

The PRESIDING OFFICER. The

Senator from Alaska.

Mr. STEVENS. Mr. President, the amendment of the Senator from Nebraska would attempt to repeal a portion of the law that was attached to the legislative section of the continuing resolution last year. There is nothing in this bill that pertains to that matter with the exception of a provision that specifically deletes the portions inserted by the House in connection with the increase in pay for members of the executive, legislative, and judicial branches.

I believe that there is no reason to deal with this section. This section treats Members of Congress the same as the members of the judiciary or members of the military, members of

the executive branch.

If there is a pay raise, it is funded out of existing funds until there is a specific appropriation for that purpose.

Mr. EXON. May we have order, please? It is difficult for me to hear the assistant majority leader.

The PRESIDING OFFICER. The

Senate will be in order.

Mr. STEVENS. I realize that we have very little time to review this. I have just received it in my hand. The impact of the amendment, though, is as

I indicated.

Mr. President, the effect of the amendment is to do what we have already done. We have already capped the salaries of the Members of the House of Representatives, the Speaker, the President pro tempore, and the majority leader, and the remaining members. Beyond that, it is not appropriate to consider this matter on the continuing resolution. It purports to prevent the enactment of future laws by Congress.

Mr. PROXMIRE. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I do not have much time, but I do yield to my good friend.

Mr. PROXMIRE. Mr. President, as I understand it, what the Senator is saying, and I think it is correct, what the committee already did was to simply knock out what the House did on the pay raise. As far as we are concerned, we knocked out the congressional pay raise; is that right?

Mr. STEVENS. That is right.

Mr. PROXMIRE. Eliminated it. It is out.

Mr. STEVENS. I will state here again there will be no attempt in the conference committee to return with any provision in the conference report which would attempt to raise the pay of Senators.

Now, we made that commitment, but the House of Representatives is an independent body. They do set their al-

lowances and other things independently. It is normally done in a legislative appropriations bill.

But the Senator here is attempting to say that in the event there is a further enactment after the enactment of this act that deals with the Federal Salary Act it cannot take place.

I say respectfully to my friend that there is nothing in this bill to which that should attach. We can make points of order and everything else, but at this time of night after the Senator has used his time I shall ask to table this amendment and I believe firmly that we must maintain our position that we have as much right as the other body to set what rates of compensation or allowances we will get and that they have that right for themselves. They will determine that in conference. We may have to return here with something that is a different consideration, but again I say to my friend from Nebraska we have made a pledge to the Senate that we will not return with a bill that would attempt to change the pay of Senators.

The PRESIDING OFFICER. Is there further debate?

Mr. EXON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes and 6 seconds remaining.

Mr. EXON. Mr. President, I yield the remainder of my time to myself.

Mr. President, I have listened with interest and I expect that my able friend from Alaska has stated the case correctly, except the fact that, as I emphasized in my opening remarks, the essence of the amendment that I have proposed, for which I ask for the yeas and nays at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, when the time expires I shall move to table. The PRESIDING OFFICER. The time has not yet expired.

Mr. EXON. Mr. President, as I said in my opening statement this amendment addresses directly the fact that incorrectly, in my opinion, we through a continuing resolution just like this one last year worked a system into where we would automatically have an increase in salary each year without voting on it and, furthermore, it was nicely handled; in addition thereto, we would not have to appropriate the money for the automatic increase that we would be entitled to.

Now we always have the option, as has been indicated, to cap it, and that is essentially what the committee did in this case, to cap the pay of the

I can see that what I am attempting to do here primarily is to repeal that section of the law that we passed on a continuing resolution just like this last year that set up the scheme where we would get a raise a year unless we turned it down.

I am trying to reverse it and say that if we need a salary increase, we should not get it automatically; we should stand on the floor of the Senate and vote whether or not we get it up or down

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. STEVENS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Alaska has 53 seconds remaining.

Mr. STEVENS. Mr. President, I believe the Senate will agree with me that the amendment should be tabled. If we put this on the bill, some people will say take the amendment and take it off in conference. We have to meet the House. That means we will have all kinds of complications in this bill.

I urge the Senate, let us just table this amendment. We have been open and above board about what we are doing. The House will determine its of compensation. We have rate pledged we will not affect the Senate rate of compensation by that decision.

Mr. President, I move to table the amendment and ask for the yeas and nays.

PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were offered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. SCHMITT (after he had voted in the negative). Mr. President, on this vote I have a live pair with the Senator from Arizona (Mr. GOLDWATER). If he were here and permitted to vote he would vote "yea." I have voted "nay." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. Goldwater), is necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Califorina (Mr. CRANSTON), the Senator from Hawaii (Mr. INOUYE), and the Senator from Mississippi (Mr. Stennis), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to be recorded?

The result was announced-yeas 24, nays 71, as follows:

[Rollcall Vote No. 443 Leg.]

YEAS-24

Brady D'Amato Baker Chafee Bentsen

Gorton	Laxait	Proximire
Hatfield	Lugar	Quayle
Hayakawa	Mathias	Rudman
Heinz	Moynihan	Stafford
Kasten	Murkowski	Stevens
Kennedy	Packwood	Tower
	NAYS-71	
Abdnor	Eagleton	McClure
Andrews	East	Melcher
Armstrong	Exon	Metzenbaum
Baucus	Ford	Mitchell
Biden	Garn	Nickles
Boren	Glenn	Nunn
Boschwitz	Grassley	Pell
Bradley	Hart	Percy
Bumpers	Hatch	Pressler
Burdick	Hawkins	Pryor
Byrd,	Heflin	Randolph
Harry F., Jr.	Helms	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Huddleston	Sarbanes
Chiles	Humphrey	Sasser
Cochran	Jackson	Simpson
Cohen	Jepsen	Specter
Danforth	Johnston	Symms
DeConcini	Kassebaum	Thurmond
Denton	Leahy	Tsongas
Dixon	Levin	Wallop
Dodd	Long	Warner
Domenici	Matsunaga	Weicker
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PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORED-1

Zorinsky

Mattingly

Schmitt, against.

Durenberger

## NOT VOTING-4

Inouye Goldwater Stennis

So the motion to lay on the table Mr. Exon's amendment was rejected.

Mr. STEVENS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. What is the situation with regard to time on the principal bill?

The PRESIDING OFFICER. There is no time agreement on the bill.

Mr. STEVENS. So a Senator could speak on the bill for quite some time?
The PRESIDING OFFICER. The

Senator is correct.

Mr. LEAHY. Could we have order so we could hear the Chair's ruling?

The PRESIDING OFFICER. The

Senate will please be in order. Mr. STEVENS. Has the Chair recognized the Senator from Alaska?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Mr. President, I am happy to speak on the bill. I think you all ought to take your seats. I want to ask you to listen to me for just a few minutes.

The effect of the amendment that you just refused to table, which amendment really can get us into real difficulty-

Mr. KENNEDY. Mr. President, may

we have order? The PRESIDING OFFICER. The point of order is well taken. Senators will please take their seats. Staff mem-

bers will be in order. Mr. METZENBAUM. Parliamentary

inquiry.
The PRESIDING OFFICER. The Senator will withhold 1 moment. The Senate will be in order.

Mr. STEVENS. I do not yield for any purpose.

The PRESIDING OFFICER. The Senate will please be in order. The Senator from Alaska.

Mr. METZENBAUM. Parliamentary inquiry. Are we not under a time limit?

Mr. STEVENS. Mr. President, I do not yield for any inquiry. There is no time limit on the bill and I am entitled to address this bill as long as the Chair and the Good Lord will let me do so.

Mr. President, the impact of what we have done is to force the House to vote for a third time on whether the House will get a pay increase. This is not proper for the Senate to force that.

Do the Members of this Senate want to go home this year? This is an important provision for the Members of the House. They have voted.

We have every right to deny ourselves a pay increase, but how about the members of the executive branch and the members of the judiciary and the members of this staff that are around here? They are affected by this

The only reason I get involved in this every time-and every 2 years I say I am not going to do it again-is I am still chairman of the subcommittee that has jurisdiction over civil service matters. I am concerned about the impact of our continual failure to give ourselves increases when the effect of that is to cap the people in the civil service, in the judiciary, our own staffs.

We have excepted this year to the decision. We took whip checks; we know what you feel. And the feeling here is the Senate should not get a pay increase.

But why should the Senate take action to force the House to vote again as to whether it should get a pay increase? What about those people out there in the executive branch? They are going to get 4 percent. We voted before. We budgeted that they are going to get a 4-percent pay increase.

Did you realize, by voting not to table the Senator's amendment, that you are reversing that decision? The impact of that decision is, as I said, going to force a vote in the House.

Now, I plead with you to return to the idea of comity. Let the other House decide what its fate will be. Let us decide what the fate of this House

will be.

If you disagree with the prior action of the Congress that these other people should get this 4-percent pay increase, let us act on that. But let us not act in a manner that forces the House to reconsider its pay increase and, in effect, when it does it will restore the pay cap that will affect all of the judiciary, all of the executive branch and all of the members of the employees of the legislative branch.

For the life of me, I do not understand this. That was not a veto on a pay increase for the Members of the Senate, and most of you thought it was. And the very fact that we have been in session for 36 hours is leading to judgments that, in my opinion, are wrong. Unless we can find some way to return to some sanity, I think probably it is time for us to return to our homes.

I say to the Members of the Senate and my good friends, I do not like to get in this position, but we have. I said categorically to the Members of the Senate Appropriations Committee that it was our intent to go to the conference and allow the House to determine whether it wanted itself to have

a pay increase.

If it did, we would lift the pay cap for the judiciary, for the members of the executive branch who are entitled to a pay increase, and the employees of the Congress. But we would deny it to ourselves. We would not return there in any way to try to embarrass a Member of the Senate. All of you decided we should not have our own pay increase.

Mr. KENNEDY. Will the Senator vield?

Mr. STEVENS. I yield.

Mr. KENNEDY. Mr. President, i agree with the Senator from Alaska on this issue. What is very much at risk here is the respect of the American people for this institution.

A few days ago, the Senate voted to remove any ceiling on outside earnings from honorariums and other activities. That represents a substantial and undeserved back-door pay increase—far more than the House of Representatives voted for itself in the form of a direct pay increase.

I have voted consistently for reasonable pay increases in the past. But I have voted against back-door increases, because I think Members of this body should have the courage to vote directly for the pay they want.

At the same time, we all know that this is a very difficult time in our Nation's history and economy. Millions of our people have lost their jobs, and millions more are suffering. I do not think we were called back into a lameduck session to vote ourselves a backdoor pay increase. But it is sheer hypocrisy for this body now, after we have only just removed the limit on our own earnings from outside speeches, to refuse to respond to the Members of the House of Representatives and other Federal employees, who do not have access to all those handsome honorariums. When the country understands the hypocrisy and the inconsistency of the Senate's position, we are going to be the laughing stock of the Nation.

Tonight's vote is not going to end this issue for any of us who are part of this institution. If we think it is, we are making a great mistake. I urge the Senate to accept the position of the Senator from Alaska.

Mr. STEVENS. Do I still have the

floor, Madam President?

The PRESIDING OFFICER (Mrs. Hawkins). The Senator has the floor. Mr. STEVENS. I ask that I can yield to the majority leader without losing my rights to the floor.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. BAKER. Madam President, I made a remark once and I may live to regret it. I said once that I thought the Congress was institutionally incapable of adjusting its own salary. That is a shame. It is irresponsible.

I do not like this arrangement that we have of changing the cap so that it applies in one House and not in the other, but that is the way it is and

that is the way it has to be.

Madam President, this is not a perfect world and it is not a perfect solution, but it is the best that can be done. In my judgment, it will be highly irresponsible for us to upset an extremely delicate set of negotiations that led to this result. Procedurally, there is not much left we can do. The tabling motion failed and that is too bad. We will have a vote now on the amendment up or down. There are certain other things that might be done, but the cleanest most straightforward way is simply to defeat the amendment. I urge all Senators to understand that we are dealing not only with our own situation and with the House of Representatives, but we are dealing with the fundamental and basic question of whether we have courage to do what the Constitution charged us with doing. That is setting our own salary, which is difficult, politically embarrassing, politically explosive, but essential and necessary and we have to do it.

SEVERAL SENATORS addressed the

Mr. STEVENS. Madam President, I know better than to think that I can hold this floor very long on an issue like this. I have had several suggestions as to what could be done. One suggestion is that this bill is still open to amendment and I could file an amendment which would, in effect, nullify the Senator's amendment when it is adopted.

If that is adopted, neither one of them becomes law unless the House votes on them, which means that there is forced in the House another vote on the question of pay raise. I state that is unfair, for us to force the Members of the other body to another vote when they have voted twice already.

We could move to reconsider the matter. A Member who has already voted could move to reconsider. It would not be debatable, as I understand that. The bill itself is a matter

still subject to debate. But as a practical matter that would depend on the will of the Senate.

I want to thank the Senator from Massachusetts for his assistance, and the distinguished majority leader for his assistance.

All I can say is this means a great deal to a great many people, not just the Members of the House. It means whether the people who are working down to about the level 14 will get their increase or whether they are capped because we cap our own salaries.

If the House cap comes off, then the cap comes off for all of these other people, too. That is their decision. The Congress has made the decision time and time again if we cap our own salaries that automatically caps the rest of civil service, the judiciary, and the legislative branch.

I do not think that is fair. That is why I tried to arrange ways that we can avoid that cap. I am honest about it.

If I had my way we would vote the pay increase to Members of the Senate. But that issue was decided. Members told us not to do that. As I said, we took whip checks on both sides and it would not be approved. But why should our decision in this body affect so many people when it is so wrong?

Madam President, I do hope that there will be a reconsideration, that someone who voted the other way will move to reconsider.

SEVERAL SENATORS. Will the Senator yield?

Mr. STEVENS. I yield to the Senator from Massachusetts without losing my right to the floor, temporarily.

Mr. TSONGAS. Madam President, we have been on this bill for 36 hours and we are all complaining, and yet we get ourselves into this situation. I served in the House for 4 years. They went down to the well and voted. We are presumptuous to tell them what to do.

There is a difference. I did not have access to outside income as a Member of the House. I do as a Senator. The hypocrisy is outrageous. If I were a House Member standing back there, I would be very upset.

I took the position back home that I was against a salary increase for the Senate because we have access to outside income. I was for the increase for the House Members. I think that is the consensus here.

The problem with the amendment, and no one was very careful about drafting it, was that that which reflects the will of the Senate cannot be expressed.

The question is, how do you fashion a vehicle, a mechanism, to allow the consensus to be expressed? I for one would be willing, if I may say to my friend from Alaska, on reconsideration to vote with the Senator on the condition explicitly stated that it is the intent of the conferees to turn down the Senate pay increase and to accept the House increase. That being stated before the vote I think would give me the justification for that move.

Otherwise, we are going to be here for a long time. My family just left for Massachusetts. I would rather be with them than with some of the people I am here with. I hope people would

follow me.

Mr. STEVENS. Madam President, I shall state to the Senate or any Members of the Senate who were not here that I made the statement the Senator from Massachusetts wanted me to make prior to that vote. Unfortunately, that agreement for a time limitation was made when I was not on the

Does the distinguished Senator from West Virginia wish me to yield to him? Mr. ROBERT C. BYRD. Madam President, I seek the floor in my own

Mr. STEVENS. Madam President, I

yield to him.

Mr. ROBERT C. BYRD. Madam President, I have been through this baptism of fire. To those of you who remember the 29-percent pay raise around here, I led the fight. I tied it to the ethics bill. If we were going to have a pay raise of 29 percent, I felt we should have an ethics bill. But I stood up for that increase right up front, and went right down the cannon barrel. Of course, in the past campaign, my opponent reminded the voters of that.

I do not find anything wrong with the Senator's amendment per se. It makes the annual salaries payable on September 30, 1982, remain in effect until affirmatively changed by law. I see nothing wrong with that. The Constitution provides that Members of the Congress shall be paid a compensation by law. Those are not the exact words, but it is provided in the Constitution that the Members of Congress shall, by law, determine their compensation.

I am on record as being against a pay raise for Members of the Senate as of right now because of the high unemployment. I find it difficult when the Members of the House have taken a stand-openly, publicly, right above board, had two rollcall votes, and voted to raise their own pay. The House is acting in accordance with the Constitution of the United States.

They can and will answer to their own constituents. If their constituents do not like it because the House Members voted to increase their pay, their constituents will take care of that. Why should the Senate deny the other body the pay increase for its Members that it voted for openly? They did not have a voice vote, as I understand it, they had a RECORD vote.

It is all right if we want to deny Senators a pay raise, but House Members have voted to increase their own pay and I do not think we ought to interfere with the decision that they made with respect to their own compensa-

It will not be any precedent. In the early days of the Republic, Members of the Senate elected to pay themselves \$3 a day and pay the House \$2 a day for its Members over there. That arrangement did not last very long, because the House was indignant.

In any event, Senators were paid more than House Members and the House Members did not like it.

I hope that we would at least let the House Members be responsible to their own constituents for their own votes, which have been made in accordance with the Constitution, and that the Senate would not vote to take away the pay increase from the House Members which they have already stood up and openly voted for themselves. Senators are not affected and will not get an increase.

We do not have to vote ourselves a pay increase, but I do not think we should deny the House a pay increase

it has twice voted for.

Those Members who have to go to conference on this bill are going to have a lot of problems. I want to tell a little story. My senior colleague and I passed a bill through the Senate the other day that would make a few changes in the northern and southern judicial districts of West Virginia. We have one-and-a-half judges in the north and four-and-a-half judges in the south. We want two judges in the north and four judges in the south. When that little bill went to the House, it was held up. Why? Because Mr. DINGELL wanted to know whose bill it was. When they said it was Senator Byrn's of West Virginia, there was an objection to it. Why? Because 2 or 3 years ago, when I was majority leader, I opposed a 5-percent pay increase for all of us-not just for House Members, but for Senators also.

They have been taking it out on me ever since. They took it out on me on that little judgeship bill. They have shafted me before. They took it out on me a year or so ago, when I had an amendment adopted here in the Senate which would have allowed for accelerated depreciation on antipollution equipment for industries converting to coal. They remembered the little 5-percent pay increase for Senators and House Members which I had blocked.

The fact that I led the Senate in approving a 29-percent pay increase for Members of both Houses in 1977 is something that a few House Members choose to forget. They only remember the subsequent 5 percent which I helped to block, as majority leader,

and, as a result, some of my West Virginia projects have suffered.

But I did not just deny the House only a pay increase. I also denied Senators an increase on that occasion. In this instance, we would be denying House Members an increase that they stood up and openly and above board voted for. As the Senator from Massachusetts has already said, we have already taken action to lift a pay cap on our honoraria. I supported a cap on our outside earned income for Senators.

Madam President, I hope that we would think in this instance of the Members of the other body. Let their constitutents make the verdict as to whether those Members voted right or wrong or are entitled to the pay increase they voted for themselves. If a Member of Congress does not think he is worth \$60,000 annually to the Nation, he can turn his money back to the Treasury. He does not have to keep the money. He can turn it back.

So I shall make a point of order. I hesitate to make the point of order that the amendment is legislation on an appropriation bill, but it is. I hesitate because it is the amendment offered by my good friend, JIM EXON. But we ought to find some way of letting the House have its own pay increase and let the people in the congressional districts vote their own judgments on the matter. I am about ready to make the point of order.

Mr. RIEGLE. I wonder if the minority leader, while he has the floor, would yield to me just long enough to pose a question to the Senator from Alaska. I will be very brief about it because I think a lot of comonsense has been expressed by the remarks of the Senator from Alaska and the others who have spoken. One of the concerns that I heard rattling around the floor before the vote was that even though the intent as it was stated here was that the Senate would not get the pay raise and the House who voted for it would get the pay raise, somehow out of the conference something would be done to end up sending a package back here that would in some way include a pay raise for the Senate-not that that would be the intent of the Senator from Alaska but that somehow or another beyond our ability to prevent it that would happen.

I would say to the Senator, if the Senator can give an assurance here, an ironclad assurance that whatever comes back out of conference would not have a pay raise in it for Senators, I think the chance for achieving his result here is much better.

Mr. STEVENS. I say, if the Senator would yield to me-

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that I may yield a moment without losing my right to the floor.

Mr. STEVENS. Madam President, I thank the Senator from West Virginia. As the chairman of the committee points out, we had a vote in the committee on the issue in reverse. I made the statement in the Appropriations Committee, that was a pledge that we were prepared to enter into, that nothing could come from the conference committee which could in any way alter the compensation of Members of the Senate, and we intend to keep that commitment.

Every member of the Appropriations Committee who is here, I am sure, would reaffirm that that statement was made in the committee, and it was understood. We had one member who disagreed with the whole concept because of the honorarium mentioned, but we all made the commitment to one another that nothing would be done. The vote was 22 to 1 in committee. In effect we committed ourselves that we would take this back to the House with the pay cap restored. We merely in this bill continue the pay cap which has been in effect from October 1 until today. We continue that to September 30. But I announced to the Appropriations Committee that it was our intention to permit the House to make its judgment as to whether it wanted the pay increase, and if it did we would lift the cap for all members of the Government other than ourselves and nothing could possibly affect our salary.

I am pleased the Senator has given me the opportunity to restate that. It is a pledge I think not only of myself but of every member of the Appropria-

tions Committee.

Mr. RIEGLE. Will the Senator yield just 1 more minute? So to make it clear you are saying it is the pledge of all the members-maybe perhaps except one-on the Appropriations Committee on our side that nothing would come back from the conference with a pay raise in it. But let me ask the second question.

Is there any way that that could happen on the insistence of the House over the objection of our appropriation conferees? I assume the answer is no, but I think it is important that if that is the case it be stated so that it is crystal clear that there will not be a bill come back here with any pay raise.

Mr. STEVENS. It is absolutely certain it could not happen. We would

not accept such amendment.

We have already told the House and I might say to the Senator before we went to the Appropriations Committee with the suggestion I made I had conferred with the Members of the House, told the Members of the House it was impossible for the Senate to vote a pay increase for itself but in my judgment it was going to be the policy of the Senate that the House could make up its own mind concerning its own salary and that was the report I

brought to the Senate Appropriations Committee, that the House under-stood that and understood why we were placing the cap back on across the board. I thank the Senator.

Mr. LEAHY addressed the Chair. Mr. STENNIS. Madam President. the minority leader has the floor.

Mr. LEAHY. Will the minority leader yield to me just for a couple moments?

Mr. ROBERT C. BYRD. Yes, I yield. Mr. LEAHY. I thank our leader. Madam President, it is amazing with all the major issues that we have covered literally life and death issues and the defense budget and the human services budgets have been covered in just a few minutes' time. Here at the end of 36 hours or so of continuous nonstop session we seem tied up in this. I hope somebody will keep in mind that there is more to this than just salaries of the Senator, the salaries of the other body. This also, make no doubt about it, will ultimately carry the day with thousands of people in the senior civil service as well as members of the senior staff in both the House and the Senate.

Let me speak for just a moment as vice chairman of the Senate Select Committee on Intelligence. Without divulging areas that are of necessity classified, I see the salary scales in there. I know of instances where we spend enormous amounts of money, enormous amounts of money to develop the bases, sometimes the cover of people within our intelligence service, and then they leave because having spent such enormous amounts of money we can still pay them only about \$57,000 a year and they still have kids in college and they still have all these other expenses and they leave.

I know of the instances where we have developed expertise in handling multimillion dollar satellite systems, collection systems and then the people who have developed the expertise over the years run it, who can utilize in some instances hundreds of millions of dollars that we have spent in taxpayers' money, the people who have the knowledge to use it, they leave because we have frozen their salaries. I know in the area of law enforcement, right within the public record, look at the number of extremely good people, dedicated people who leave with experience that goes with it. Talk about the National Institutes of Health, talk about NASA, talk about our scientists and watch them leave. Look at our foreign service, look at our language experts, look at all these people who have developed skills that are highly marketable and watch them leave after we have invested in some instances literally millions and millions of dollars in developing their expertise and their positions and they then leave because we freeze them at

\$57,000. I am not suggesting that any of us are supposed to match dollar for dollar for the private sector, but let us not make idiots out of the U.S. Government. I yield back.

Mr. ROBERT C. BYRD. Madam President, I do not intend to hold the floor very much longer. I want the distinguished Senator from Nebraska to have an opportunity to respond.

May we have order in the Senate? I quote from section 6 of article I of the Constitution:

The Senators and Representatives shall receive a compensation for their services to be ascertained by law.

Now, who passes the law? The Members of the House and Senate. The distinguished Senator from Nebraska is doing what he thinks is right. He is trying to stop any back door, indirect approach, a raise in our salaries. That is what he is trying to get at, and he is to be lauded for that. But the effect of this language is going to be to make the House Members go back and vote a third time on a matter on which they have already taken an open stand. I do not believe we intend for them to do that or want them to do that. So I would shortly make the point of order that the amendment constitutes legislation on an appropriation bill, which is obvious on its face. I hope that Members will not raise the question of germaneness or attempt to overturn the ruling which the Chair will make.

But in saying this, I say it without any criticism toward the Member from Nebraska. I have been around here quite a while, 24 years in this body and 6 years in the other body, and I look upon him as one of the most courageous and most dedicated Members I have seen in 24 years of service in this body. He works hard and he does what he thinks. He has a mind of his own, he has a very strong will. I commend him for what he is trying to do here. His amendment is a commendable one per se. I am going to yield to him and then I want to make my point of order. I yield to the able Senator from Nebraska. I ask that the Chair protect my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Madam President, I thank my friend from West Virginia, I thank the Chair, and I thank my colleagues and for what it is worth I would have done just what I did a few moments ago all over again despite the fact that I know that many of my colleagues are keenly disappointed in me.

I did not come here to represent my colleagues. I came here to represent

Mr. ROBERT C. BYRD. We are not disappointed in you. We are proud of you.

Mr. EXON. I thank you. I thank my friend.

I am here representing my constituents in Nebraska, and some of the things that I heard on the this floor tonight, attacking this outcome, was quite startling to me, and sometimes I wonder how close some of the people here in Congress are back home.

It is true that the people back in Nebraska are not going to feel too bad about the Federal employees only getting a 4-percent increase. The farmers who are going broke, with the highest unemployment rate that we have ever had are not going to be crying their eyes out in Nebraska. They are also not going to be very concerned about whether the House of Representatives gets an increase over their \$60,000 salary.

Let the RECORD show that it was not this Senator from Nebraska who said, "Do we look like a laughingstock?" No, it was not me. It was not the Senator from Nebraska who said, "What do we look like to the people?" It was not me who said that. But I heard it.

I also heard about the 29-percent pay increase, and I remember that. I was not here then, but I remember reading about it, that Senator Byrd, my friend from West Virginia, referred

that he led the fight on.

If my memory does not fail me—correct me if I am wrong—one of the reasons that he was able to get that courageous act through and probably it was needed at that time was that I believe that he put a very low cap on honoraria at that time. If I am wrong I stand corrected.

Let it also be said that it was not the Senator from Nebraska who brought up honoraria for the first time on this

floor in this regard.

It just seems to me, my friends, that we may be making a fundamental mistake. We are subscribing to the fact that our counterparts over in the House of Representatives, whether they make \$60,000 or \$160,000 for the year should be paid more and differently than the base salary of those of us who serve here in this body. Maybe that has been done before. I do not disagree with the argument that has been advanced here that they got the courage to get up and vote themselves a salary increase.

But I always thought, at least from my limited study of the Constitution, I thought this was two coequal bodies. You know it is not the lower and the upper House. It is equal. And I thought we should be paid equal.

One other thing I might say in regard to the honoraria, if we are really and truly concerned about those people over there on the other side making more money and if, as I kind of read between the lines, that was said here that if we somehow give them more money then evidently they will not complain about the more money that some of us can make here through honoraria.

If we really want to be fair with them, and I have a bill—I do not suppose I will have a chance to get recognized after this—but I have a bill that would take all honoraria and rather than retained by the honoraree at the special interest group dinner, it would all be pooled and then at the end of the year we take 565, that is the Members of the Senate and Members of the House of Representatives, and we just divide it up and everyone gets the same amount.

If we are really concerned about our colleagues over there fine and dandy.

Let me just say in closing it seems to me that we are not sure what the people think. It is very courageous for those to get up and say how courageous it was for those people to vote themselves a salary increase, and I agree that it was, and I salute them.

But I do not necessarily believe, my friends, that just because they voted themselves a salary increase we should say that is their right and let us let it go at that.

Madam President, I yield the floor.

Mr. ROBERT C. BYRD. Madam President, I did upon the occasion of fighting for the 29-percent pay increase also fight for a cap on the honoraria and, as I said a few moments ago, a few days ago I voted to retain that cap.

Mr. GARN. Mr. President, will the minority leader yield for a clarification quickly?

Mr. ROBERT C. BYRD. I yield.

Mr. GARN. I appreciate it. This is just a clarification because constantly in the press and this body we talk about honoraria, and I simply wish to remind the body and the press those limitations, the \$25,000 were limitations on all outside earned income.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. GARN. That is a very big distinction for this body and it would have gone to \$9,000 on January 1, not just on speechmaking—that is a separate issue that Senator Exon and others may feel differently about—but to impose limitations on all this group where there is no limitation on unearned income let us remember that not just limitations were on honraria. There were strict limitations on all outside earned income. You could not have a Washington Post paper route, a part-time job at Dart Drug or anything else—all outside income.

I just want to once more try to get us to understand that, that it was not just honoraria but all outside earned income.

Mr. ROBERT C. BYRD. The Senator is correct, and I am glad he so stated it for the Record, even though some of us in this body fall into the practice of referring to it as only honoraria. The Senator is precisely correct.

I again say that the Senator from Nebraska has done what his conscience has directed him to do. The language that he has here conforms with the language in the Constitution. But on this particular bill I believe it is legislation offered on an appropriatons bill.

I therefore, make that point of order.

The PRESIDING OFFICER. His amendment is legislation on the appropriations bill and therefore falls.

Mr. HATFIELD. Madam President, I wish to now ask Senator Percy—is he present—and Senator McClure to offer his amendment at this time in keeping with our routine that we have been following.

Mr. McClure and Mr. Kasten will offer their amendment and that is a 5-minute amendment.

#### UP AMENDMENT NO. 1529

Mr. KASTEN. Mr. President, I have an amendment on behalf of Mr. McClure and myself and I send it to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Kasten) for himself and Mr. McClure proposes an unprinted amendment numbered 1529.

Mr. KASTEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I add the following new section:

SEC. Notwithstanding any other provision of law or this joint resolution, \$10,000,000 in additional funds are made available for "International Organizations and Programs" to carry out the provisions of section 301 of the Foreign Assistance Act of 1961; Provided, That these funds are made available only for payment to the International Atomic Energy Agency; Provided further, That these funds or any other funds in this joint resolution may not be made available for payment to the International Atomic Energy Agency unless the Board of Governors of the International Atomic Energy Agency certifies to the United States Government that the State of Israel is allowed to participate fully as a member nation in the activities of that Agency, and the Secretary of State transmits such certification to the Speaker of the House of Representatives and the President of the United States Senate.

The PRESIDING OFFICER. The Senate is not in order. Those persons who wish to carry on conversations, please retire to the cloakrooms.

Mr. KASTEN. Mr. President, in an effort to try to resolve the matter of funding for the International Atomic Energy Agency, Senator, McClure and I have an amendment which I believe will satisfy the concerns of all. The committee's position as it now stands, and which was agreed to in the record-

ed vote in the foreign aid section last night, provides no funding for IAEA pending resolution of the action whereby Israel was denied its credentials at the IAEA conference last fall.

The committee recommended this action in accordance with the concurrent resolution which passed the Senate in April by unanimous vote-a concurrent resolution which had 54 cosponsors-and which passed the House of Representatives on a recorded vote of 401 to 3. This resolution stated that if Israel or any other "democratic state is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in the General Assembly of the United Nations or any specialized agency of the United Nations" funding would be denied until "this illegal action is reversed."

The committee felt that to do otherwise would be completely contradicto-

Because of the concern of my good friend from Idaho, we are suggesting an amendment which would be added at the end of the joint resolution making funds available for the IAEA subject to the following proviso:

That these funds or any other funds in this joint resolution may not be made available for payment to the International Atomic Energy Agency unless the Board of Governors of the International Atomic Energy Agency certifies to the United States Government that the State of Israel is allowed to participate fully as a member nation in the activities of that Agency, and the Secretary of State transmits such certification to the Speaker of the House of Representatives and the President of the United States Senate.

Therefore, with this amendment the money is there and will go forward to IAEA if Israel is otherwise a fully participating member of that organiza-

Mr. President, Senator McClure and I believe this alleviates the concerns of the committee in upholding the concurrent resolution which passed in April, and also the concerns of the De-

partment of State.

Mr. President, I have also cleared this amendment with the ranking member of the Foreign Operations Appropriations Subcommittee, the distin-

guished Senator from Hawaii.

Essentially what we have done is compromise on the original language. Madam President, and made it possible for IAEA to recognize that Israel is, in fact, participating in that Agency on a day-to-day basis.

I would like to thank the Senator from Idaho and the Senators from New York, Ohio, and Hawaii for their help and work in finding a compro-

mise on this issue.

# IAEA FUNDING

Mr. McCLURE. Mr. President, my purpose in offering this amendment is to restore money to international organizations and programs for the purpose of funding the contribution of the United States to the International Atomic Energy Agency. Adoption of the amendment would result in a total of \$230.2 million for voluntary contributions to international organizations and programs.

In its report, the Appropriations Committee recommended that the funding for the U.S. contribution to the IAEA for fiscal year 1983 be reduced to zero. The administration's budget request for fiscal year 1983 was \$14.5 million. The funding for the previous fiscal year was \$12.75 million. which is the amount approved by the House for fiscal year 1983. Thus, the amendment would restore the amount contained in the House bill, and it would continue last year's level of funding.

Mr. President, the action of the Committee on Appropriations apparently was prompted by a concurrent resolution, passed by the Congress earlier this year. The resolution expressed the sense of the Congress regarding how the United States should respond if the State of Israel were illegally denied its rights to participate in the U.N. General Assembly or any agency of the United Nations. The resolution provided that if such an action were taken by a United Nations agency, the United States should, among other things, withhold its assessed contribution to the agency involved until this illegal action is reversed. In its report on S. 3075, the Committee on Appropriations stated that under the circumstances, "the committee does not believe it has any other choice but to zero the funding for the IAEA."

Without arguing as to whether or not this conclusion is correct, let me

examine the consequences.

Mr. President, if the United States were to withdraw its financial support for the IAEA, the consequences would be extremely damaging to our national security interests. The loss of this funding would cripple our efforts to improve the IAEA safeguards program. It would also seriously undercut the firm U.S. policy of supporting and strengthening IAEA safeguards, a policy established by the Congress in the Nuclear Non-Proliferation Act of

If the level of funding were retained at last year's level, approximately \$5.3 million of the contribution would be directly applied to the IAEA safeguards program and related nonproliferation efforts. Under the program, the United States also provides costfree experts to work with IAEA in developing procedures used in the IAEA program. The United States provides training at Los Alamos for IAEA safeguards inspectors. U.S. contributions represent 25 percent of the total IAEA safeguards budget. The balance of the funds-\$7.4 million-would be used for other IAEA activities, primarily in the area of technical assistance, fellowships training, and cost-free experts.

I would also like to point out that a cutoff of our IAEA contribution would have a substantial negative impact on our nuclear-related exports. The IAEA purchases much of its equipment from U.S. suppliers. In fact, the IAEA spends more in the United States on equipment than we contribute voluntarily to IAEA. Moreover, if IAEA safeguards were ultimately judged inadequate by the U.S. Nuclear Regulatory Commission, our nuclear exports across the board would be jeopardized, most probably frozen. That result would occur because the Nuclear Non-Proliferation Act of 1978 requires an NRC finding of adequate safeguards.

Mr. President, I cannot emphasize too greatly the importance of the IAEA to this country's and indeed the world's nuclear nonproliferation programs. IAEA safeguards are the critical element of over 100 nations' adherance to the Nuclear Non-Proliferation Treaty. Even this Nation utilizes IAEA safeguards for domestic nuclear reactors under the 1980 U.S. IAEA Treaty, to which this Senate gave advice and consent in the last Congress.

What signal on nuclear nonproliferation does the Senate and the United States give to the world if we now abandon our funding and support for the IAEA? How do Iraq, Pakistan, India, and other nations with advanced nuclear power programs assess our continued commitment to U.S. nuclear nonproliferation policy if we now reject the very international agency which we helped create in the mid-1960's to foster the safeguards necessary for the civilian nuclear power programs under the Atoms for Peace program. The answer, Mr. President, is quite apparent. Neither this Nation nor the world can afford to allow such a catastrophic abandonment of our three-decade commitment to internationally safeguarded nuclear power.

For these reasons, Mr. President, a continuation of the funding would clearly be in our national interest.

I want to thank my friend, the distinguished Senator from Wisconsin for meeting me part way in making it possible to avoid these consequences. Certainly, if IAEA should expel Israel, the funds would lapse and we then would face the necessity of finding other solutions. But, Mr. President, I don't believe this will happen.

I thank Senator Kasten.

Mr. GLENN. Madam President, will the Senator yield 1 minute?

Mr. KASTEN. I would be pleased to vield.

Mr. GLENN. I rise in support of this amendment. One of the earliest amendments I put in in the Senate when I came here 8 years ago was to raise enough money to get inspectors for IAEA. We have all been critical of IAEA. However, it is the only game in town. If I had any criticism at all I believe it was in the fiscal level of funding. It was \$12.7 million, and we are only putting in \$10 million on this.

I would say the language also says "fully," that Israel should be restored fully. I would have preferred that maybe it should be "with full and unimpeded participation," so that there could not be any doubt whatsoever about their participation. But I do rise in support of the amendment. I think it is good it was put in and I compliment the cosponsors of the amendment.

Mr. KASTEN. I would like to thank

the Senator from Ohio.

Mr. MOYNIHAN. Madam President, may I join in commending the Senator from Wisconsin and the Senator from Idaho. It is a very statesmanlike resolution of a difficult matter. It happens, and not by happenstance, that the IAEA was chosen as the target of the anti-Israeli move because it is the agency which we wish all countries to be part of, and which we would most wish to support.

I think we have made our point. I think the matter is understood in Vienna, and we certainly keep very close attention to the developments. I

thank the Senator.

The PRESIDING OFFICER. All

time is yielded back.

Mr. HATFIELD. All time is yielded back. We are willing to accept the amendment.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (UP No. 1529) was

agreed to.

Mr. KASTEN. I thank the Chair.

Mr. HATFIELD. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that

motion on the table.

The motion to lay on the table was

Mr. HATFIELD. I would like to yield now to the majority leader momentari-

The PRESIDING OFFICER. The majority leader.

# STATUS OF AMENDMENTS

Mr. BAKER. Madam President, I thank the distinguished chairman. I would invite the intention of Senators to the fact that we made good progress since we tried to get a unanimous-consent agreement on these amendments. According to my count, we have five amendments on which we have time agreements that we have not disposed of yet. None of them is long. We have not gotten time agreements on several others, and I would like to renew my request there, if I might.

To begin with, Madam President, I understand there may be some reason

to think we can agree on a time limitation of 20 minutes each in respect to three Helms amendments-there are four of them but this would apply only to three of them; that is, the pay cap, IDA, and law of the sea.

Mr. PELL. Mr. President, what does the law of the sea amendment do?

Mr. BAKER. I regret to say I cannot tell the Senator that.

Let me pass over the Helms amendments for the moment. I thought they were worked out, and let me go beyond those.

Madam President, there is a Cohen amendment, discretion of State spending on weatherization. I put that earlier and withdrew the request proposal the distinguished Senator from Maine, which is for a 2-minute time limitation, and I would like to repeat that request at this time.

OFFICER. The PRESIDING there any objection? Without objection, it is so ordered.

Mr. BAKER. Madam President, the

Mr. ROBERT C. BYRD. Madam President, may I say to the distinguished majority leader I believe Senator Long raised a question about that earlier.

Mr. BAKER. That is right. I ask unanimous consent that action on that be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Madam President, the two Glenn amendments, I believe, have been cleared now.

Mr. GLENN. That is correct. Senator Long looked at those amendments and we agreed to 20 minutes on both of those, on each one of them.

Mr. BAKER. Then I ask unanimous consent that on two Glenn amendments, one dealing with Arms Export Control Act sales procedures and one dealing with the transfer of sensitive U.S. military equipment to foreign nations, that there be a time limitation of 20 minutes each to be equally divid-

Mr. ROBERT C. BYRD. Madam President, reserving the right to object, will the majority leader reinstitute the language he used earlier?

Mr. BAKER. That is correct. The earlier request included the proviso that this would not include any point of order that would lie against the amendment, that no amendment would be in order to the amendment.

Mr. ROBERT C. BYRD. In each in-

Mr. BAKER. Yes, as I did previously, I ask that that condition extend to each amendment on the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Could I inquire if the Dodd amendment dealing with Central America has been cleared?

Mr. DODD. Mr. Majority Leader, I believe it has been. I would like to make an exception to the general unanimous-consent request in that there will be a substitute offered to that amendment that I will offer. We have an understanding to that degree and our unanimous-consent request would be the same as all the others. with that exception that in this case there would be an amendment in the second degree.

Mr. MOYNIHAN. An amendment in the nature of a substitute.

Mr. DODD. Yes.

Mr. BAKER. Madam President, I put that request under the same terms and conditions, that is, on the Dodd amendment, 20 minutes equally divided and that a second-degree amendment in the nature of a substitute will be in order but to be included within the 20 minutes.

Mr. DODD. Mr. President, will the majority leader yield? Can we make that a request for 30 minutes, given the fact there are two amendments?

Mr. BAKER. Yes, I amend the request to that extent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Chair.

I wonder if we can clear the Hatch-McClure-Kennedy amendment dealing with the arts and humanities. That was withdrawn earlier because there was not a time limitation suggested on it. Madam President, I do not see the principals involved on the floor at this time so I withdraw the request.

Madam President, I have a notation here that there was to be a Chafee amendment in the second degree to

the Dodd amendment.

Mr. CHAFEE. I have withdrawn that.

Mr. BAKER. Madam President, I see the Senator from Idaho on the floor and I ask him whether or not we can get a time agreement on Hatch-McClure-Kennedy, an amendment dealing with the National Endowment for the Arts?

Mr. McCLURE. I think that matter would be relatively simple. It would be an add-on for some money for some activity that is supported by the two other Senators involved. Senator HATCH, as you know, because of a foot injury has not been able to stay on the floor, and I am really doing this primarily for the opportunity he would have to aprovide that add-on.

Mr. PELL. Add-on.

Mr. McCLURE. Yes. To the best of my knowledge it is either something that would be worked out and accepted quickly or something that would not even be offered.

Mr. BAKER. Madam Pesident, the Senator from Idaho suggests 5 minutes equally divided, and I put that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Madam President, there are other amendments as follows: Two Boren amendments, one dealing with monetary policy resolution and the proposal is for 20 minutes, equally divided and a qualified Garn second-degree amendment germane to the first-degree amendment on which there will be 15 minutes, equally divided. Could I inquire of the principals if that is agreeable?

Mr. BOREN. If the majority leader would yield, that would be agreeable to me.

Mr. ROBERT C. BYRD. Mr. President, could we do both of those amendments, rather than one in the second-degree, do them separately? I have a little problem with the amendments myself. I would like to have votes on the two amendments separately and Mr. Garn would probably prevail on his.

Mr. BOREN. The Senator from Utah says he would not be willing to enter into a separate vote on the two.

Mr. BAKER. Madam President, it might be better to cancel that request.

Mr. BOREN. Madam President, I have an amendment relating to the Federal Home Administration and the Small Business Administration loan deferral. Teh only objection to that was raised on this side by the Senator from Ohio who now informs me that is now cleared, as far as he is concerned. So I think we could enter into a 20minute time limitation, equally divided, on that.

Mr. BAKER. That is the notation I have. Let me put the request for the benefit of all Senators.

I ask unanimous consent that on a Boren amendment dealing with the FHA-SBA loan deferral, there be a time limitation of 20 minutes to be equally divided.

Mr. DOMENICI. Might I inquire, Mr. Leader, how much does that amendment cost?

Mr. BOREN. I was not present during some of the discussions about that. The Senator from New Mexico may have more information than I have. I think it is very difficult to say how much it would cost.

Mr. DOMENICI. If I did, I would have stood up and said that this is what it costs. I am really interested in it. When we have these loans, they run anywhere from \$100 million to \$1 billion. I would like to know if we need a little bit of time. If it is going to be too costly, I would appreciate knowing. Unless we find out, I would object.

Mr. BOREN. The policies stated are exactly the regulatory policies of the Farm Home Administration. I assume if they are following the policies, it have negligible financial would impact. But that is just my own personal opinion and I cannot cite that as an authority.

may I suggest we pass that amendment.

Mr. BAKER. I agree with the suggestion of the Senator from Mississippi. Madam President, I withdraw that request.

Madam President, I state to the distinguished chairman of the committee and the ranking member and the minority leader, it is now 5 minutes to 11. I think we have made good progress on this measure. We are within striking distance, in my opinion. There are other amendments that we could try to get agreements on tonight, but, judging by the attitude of the Senate, I think we are going to be able to resolve the remaining issues.

I had hoped not to go out tonight unless we could get a time certain for final passage, but I think it is worth the risk now. I think there is such a burden of fatigue in the Senate that I really believe we ought to go out until tomorrow.

Could I inquire of the distinguished chairman of the committee if that is agreeable to him?

Mr. HATFIELD. Madam President, I wish to suggest that we have two very brief amendments that I would like to finish tonight, one by the Senator from Missouri (Mr. Danforth), who has been patiently waiting and has been taken out of turn a number of times, which has a time limitation of 5 minutes, and the other an amendment by the Senator from Illinois (Mr. PERCY), which is about 1 minute. No record votes are anticipated on either one. These are ones that already had time agreements reached.

Mr. BAKER. Can the distinguished chairman of the committee advise me whether record votes will be required on these amendments?

Mr. HATFIELD. Not on the amendment of Senator Percy, and I do not believe on the amendment of Senator DANFORTH.

Mr. BAKER. Madam President, I wish to announce that there will be no more record votes tonight.

## ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m. tomorrow.

The PRESIDING OFFICER. With-

out objection, it is so ordered. Mr. BAKER. Madam President, may

we have order? The PRESIDING OFFICER. Order

in the Chamber, please.

Mr. BAKER. Madam President, there are three appointments of conferees that I would like to do at this time. If the minority leader can approve them, I would like to state them

Mr. COCHRAN. Madam President, now for the consideration of the Senate.

The PRESIDING OFFICER. The Senate will be in order so the conferees' names can be heard.

Mr. BAKER. I thank the Chair.

#### ORDER OF PROCEDURE

Mr. BAKER. Madam President, I ask unanimous consent that the pending measure be temporarily laid aside and recur as the pending business after the disposition of three measures that I am about to present and that the time consumed therein shall not exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. And that no proposal be the subject to amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TECHNICAL CORRECTIONS TO CERTAIN TAX ACTS

Mr. BAKER. Madam President, I ask that the Chair lay before the Senate a message from the House on H.R. 6056.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved, That the House agree to the amendments of the Senate numbered 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, 19, 20, 21, 22, 23, 25, 28, 29, 32, and 35 to the bill (H.R. 6056) entitled "An Act to make technical corrections related to the Economic Recovery Tax Act of 1981, the Crude Oil Windfall Profit Tax Act of 1980, and the Installment Sales Revision Act of 1980."

Resolved, That the House agree to amendment of the Senate numbered 1 to the aforesaid bill with amendments as follows:

(1) Page 1, line 4, after "1981)", insert: ", as amended by section 206(b)(1) of the Tax Equity and Fiscal Responsibility Act of

(2) Page 4 of the House engrossed bill, after line 14, insert:

(aa) AMENDMENT RELATED TO SECTION -Clause (ii) of section 102(b)(1)(B) of the Economic Recovery Tax Act of 1981 is amended by striking out "qualified net capital gain" and inserting in lieu thereof 'qualified net capital gain (or, if lesser, the alternative minimum taxable income within the meaning of section 55(b)(1) of such Code)".

(3) Page 8 of the House engrossed bill, line 12, strike out ["(12)"] and insert: "(13)"

(4) Page 11 of the House engrossed bill, after line 7, insert:

(aa) AMENDMENT RELATED TO SECTION 202.—Subsection (d) of section 179 (relating to election to expense certain business assets) is amended by adding at the end thereof the following new paragraph:

"(10) RECAPTURE IN CERTAIN CASES. Secretary shall, by regulations, provide for recapturing the benefit under any deduction allowable under subsection (a) with respect to any property which is not used predominantly in a trade or business at any time before the close of the second taxable

year following the taxable year in which it is placed in service by the taxpayer.

(5) Page 19 of the House engrossed bill, in the matter following line 18, strike out [1371(g)], and insert: "1361(d)".

(6) Page 40 of the House engrossed bill, strike out line 23 and all that follows over to and including line 4 on page 41, and insert:

(8) TREATMENT OF ANNUITIES.—Clause (ii) of section 2056(b)(7)(B) is amended by adding at the end thereof the following new sentence: "To the extent provided in regula-tions, an annuity shall be treated in a manner similar to an income interest in property (regardless of whether the property from which an annuity is payable can be separately identified)."

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill with the following amend-

ment:

Page 5, strike out lines 19 and 20, and "such determination occurs or the insert: month in which the hiring date occurs".

Resolved, That the House agree to the amendment of the Senate numbered 14 to the aforesaid bill with an amendment as follows

In lieu of the matter stricken and inserted by said amendment, on page 53 of the House engrossed bill, strike out line 1 and all that follows over to and including line 2 on page 54, and insert:

(A) CASH SETTLEMENT CONTRACTS.—Subsection (b) of section 1256 (defining regulated futures contract) is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2),

respectively. (B) FOREIGN CURRENCY CONTRACTS.—Subsection (b) of section 1256 (as amended by subparagraph (A)) is amended by adding at the end thereof the following new sentence: "Such term includes any foreign currency

contract."

(C) FOREIGN CURRENCY CONTRACT DEFINED. Section 1256 is amended by adding at the end thereof the following new subsection:

"(g) FOREIGN CURRENCY CONTRACT DE-FINED.

"(1) FOREIGN CURRENCY CONTRACT.-FOr purposes of this section, the term 'foreign currency contract' means a contract

"(A) which requires delivery of a foreign currency which is a currency in which positions are also traded through regulated futures contracts,

"(B) which is traded in the interbank

market, and

'(C) which is entered into at arm's length at a price determined by reference to the

price in the interbank market.

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of paragraph (1), including regulations excluding from the application of paragraph (1) any contract (or type of con-tract) if its application thereto would be inconsistent with such purposes.'

Resolved, That the House agree to the amendment of the Senate numbered 16 to the aforesaid bill with the following amend-

Page 8, strike out lines 14 through 23, and insert

(iii) ELECTION BY TAXPAYER WITH RESPECT TO POSITIONS HELD DURING TAXABLE YEARS ENDING AFTER MAY 11, 1982.—In lieu of the election under clause (ii), a taxpayer may elect to have the amendments made by subparagraphs (B) and (C) applied to all positions held in taxable years ending after May 11, 1982, except that the provisions of sec-

tion 509(a) (3) and (4) of the Economic Recovery Tax Act of 1981 shall not apply.

Resolved, That the House agree to the

amendment of the Senate numbered 17 to the aforesaid bill with the following amend-

Page 9, after line 16, insert:

(e) AMENDMENT RELATED TO SECTION 507 .-Section 1234A (relating to gains or losses from certain terminations) is amended to read as follows:

"SEC. 1234A. GAINS OR LOSSES FROM CERTAIN TER-MINATIONS

"Gain or loss attributable to the cancellation, lapse, expiration, or other termination

of—
"(1) a right or obligation with respect to personal property (as defined in section 1092(d)(1)) which is (or on acquisition would be) a capital asset in the hands of the taxpayer, or

"(2) a regulated futures contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer,

shall be treated as gain or loss from the sale

of a capital asset." Resolved, That the House agree to the

amendment of the Senate numbered 26 to the aforesaid bill with the following amendment:

In lieu of the matter inserted by said amendment, insert:

(f) CERTAIN LONG-TERM PROJECTS .clause (I) of section 46(a)(2)(C)(iii) is amended to read as follows:

"(I) before January 1, 1983, all engineering studies in connection with the commencement of the construction of the project have been completed and all environmental and construction permits required under Federal, State, or local law in connection with the commencement of the construction of the project have been applied for, and"

Resolved, That the House agree to the amendment of the Senate numbered 30 to the aforesaid bill with the following amend-

Insert the matter inserted by said amendment; and on page 73 of the House engrossed bill, after the matter following line 3. insert:

(c) AMENDMENT RELATED TO SECTION 421 OF THE REVENUE ACT OF 1978.-The last sentence of section 55(b)(1), as in effect on the day before the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) (and in determining the sum of itemized deductions for purposes of subparagraph (C)(ii))".

(d) AMENDMENTS RELATED TO SUBCHAPTER S

REVISION ACT OF 1982.

(1)(A) Section 6 of the Subchapter S Revision Act of 1982 is amended by adding at the end thereof the following new subsection:

'(f) TAXABLE YEAR OF S CORPORATIONS .-Section 1378 of the Internal Revenue Code of 1954 (as added by this Act) shall take effect on the day after the date of the enactment of this Act. For purposes of applying such section, the reference in subsection (a)(2) of such section to an election under section 1362(a) shall include a reference to an election under section 1372(a) of such Code as in effect on the day before the date of the enactment of this Act."

(i) after October 19, 1982, and on or before the date of the enactment of this Act, stock or securities were transferred to a small business corporation (as defined in section 1361(b) of the Internal Revenue Code of 1954 as amended by the Subchapter S Revision Act of 1982) in a transaction which section 351 of such Code applies, and

(ii) such corporation is liquidated under section 333 of such Code before March 1,

1983.

then such stock or securities shall not be taken into account under section 333(e)(2) of such Code.

(2) Subsection (e) of section 1368 (relating to distributions) is amended by adding at the end thereof the following new para-

"(3) ELECTION TO DISTRIBUTE EARNINGS FIRST

"(A) In general.—An S corporation may, with the consent of all of its affected shareholders, elect to have paragraph (1) of subsection (c) not apply to all distributions made during the taxable year for which the election is made.

"(B) AFFECTED SHAREHOLDERS .- For purposes of subparagraph (A), the term 'affected shareholder' means any shareholder to whom a distribution is made by the S corporation during the taxable year.

(3) Subsection (d) of section 1374 (relating to determination of taxable income) is amended by striking out "subsections (a)(2) and (b)(2)" and inserting in lieu thereof 'this section".

(4) Subparagraph (B) of section 221(b)(1) is amended by striking out "(9).".

(5) The last sentence of section 4975(d) is amended by striking out "section 1379" and inserting in lieu thereof "section 1379, as in effect on the day before the date of the enactment of the Subchapter S Revision Act

(e) AMENDMENT RELATED TO MISCELLANEOUS REVENUE ACT OF 1982.—Subsection (c) of section 105 of the Miscellaneous Revenue Act of 1982 is amended by striking out "the amendment made by subsection (a)" and inserting in lieu thereof "the amendment made by subsection (b)"

Resolved. That the House agree to the amendment of the Senate numbered 31 to the aforesaid bill with amendments as follows

(1) In lieu of the matter inserted by said amendment, insert:

SEC. 306. TECHNICAL AMENDMENTS TO THE REVE-NUE PROVISIONS OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982.

(a) AMENDMENTS RELATED TO TITLE II .-

(1) AMENDMENTS RELATED TO SECTION 201 .-(A) Section 201 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended-

(i) by redesignating the second subsection (c) as subsection (d), and

(ii) by striking out "subsection (c)(1)" in subsection (e)(2) and inserting in lieu thereof "subsection (d)(1)".

(B) Clause (ii) of section 55(e)(5)(B) (defining qualified investment income) amended by striking out "net capital gain" and inserting in lieu thereof "capital gain net income".

(C) Subparagraph (B) of section 55(d)(2) (relating to adjustments to net operating loss computation) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)".

(2) AMENDMENT RELATED TO SECTION 201. Paragraph (1) of section 291(a) (relating to 15-percent reduction for certain preference items) is amended by adding at the end thereof the following new sentence:

"Under regulations prescribed by the Secretary, the provisions of this paragraph shall not apply to the disposition of any property to the extent section 1250(a) does not apply to such disposition by reason of section 1250(d).

- (3) AMENDMENT RELATED TO SECTION 205 .-Paragraph (3) of section 48(q) (relating to basis adjustment to section 38 property) is amended by striking out "paragraphs (1) and (2)" and inserting in lieu thereof "paragraphs (1) and (2) of this subsection and paragraph (5) of subsection (d)".
- (4) AMENDMENTS RELATED TO SECTION 208 .-(A) Subsection (d) of section 208 of such Act is amended-
- (i) by striking out "described in section 1381(a)" in paragraph (3)(E)(i) and inserting in lieu thereof "engaged in the furnishing of electric energy to persons in rural areas", and

(ii) by inserting", or section 168(f)(8)(J) of such Code, as added by subsection (b)(4)" after "as added by subsection (a)(1)" in

paragraph (5) thereof.

- (B) Subsection (d) of section 208 of such Act (relating to effective dates) is amended by adding at the end thereof the following new paragraph:
- (7) COORDINATION WITH AT RISK RULES. Subparagraph (J) of section 168(f)(8) of the Internal Revenue Code of 1954 (as added by subsection (b)(4)) shall take effect as provided in such subparagraph (J)."

(C) Subparagraph (C) of section 208(d)(3) of such Act (defining transitional safe harbor lease property) is amended to read as follows:

(C) PROPERTY USED IN MANUFACTURE OF AUTOMORILES -

(i) In general.-Property is described in

this subparagraph if-

(I) such property is used by the taxpayer directly in connection with the trade or business of the taxpayer of the manufacture of automobiles or trucks,

(II) 50 percent or more of the motor vehicles produced by the taxpayer during calendar year 1981 are passenger automobiles and light-duty trucks,

"(III) such property is automobile manu-

facturing property, and

"(IV) such property would be described in subparagraph (A) if 'October 1' were substituted for 'January 1'.

"(ii) AUTOMOBILE MANUFACTURING PROPER-TY.-For purposes of this subparagraph, the term 'automobile manufacturing property means machinery, equipment, and special tools of the type included in the former asset depreciation range guideline classes 37.11 and 37.12.

"(iii) TREATMENT OF CERTAIN VENDORS .- For purposes of this subparagraph, any special tools owned by a taxpayer described in subclauses (I) and (II) of clause (i) which are used by a vendor for the production of component parts for sale to the taxpayer shall be treated as automobile manufacturing property used by such taxpayer."

(5) AMENDMENT RELATED TO SECTION 211. Paragraph (2) of section 211(e) of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for foreign tax credit for taxes on oil and gas income) is amended to read as follows:

"(2) RETENTION OF OLD SECTIONS 907(b) AND 904(f)(4) WERE TAXPAYER HAD SEPARATE BASKET FOREIGN LOSS .-

"(A) In GENERAL.-If, after applying old sections 907(b) and 904(f)(4) to a taxable year beginning before January 1, 1983, the taxpayer had a separate basket foreign loss,

such loss shall not be recaptured from income of a kind not taken into account in computing the amount of such separate basket foreign loss more rapidly than ratably over the 8-year period beginning with the first taxable year beginning after December 31, 1982.

"(B) DEFINTIONS.-For purposes of this

paragraph-

"(i) The term 'separate basket foreign loss' means any foreign loss attributable to activities taken into account (or not taken into account) in determining foreign oil related income (as defined in old section 907(c)(2)).

"(ii) An 'old' section is such section as in effect on the day before the date of the en-

actment of this Act.'

(6) AMENDMENTS RELATED TO SECTION 222.-(A) The last sentence of paragraph (2) of section 222(f) of such Act is amended by inserting ", except that in applying such section both direct and indirect ownership of stock shall be taken into account" before the period at the end thereof.

(B)(i) Paragraph (3) of section 321(j) (relating to earnings and profits of foreign investment companies) is amended by striking

out "in partial liquidation or"

(ii) The heading for paragraph (3) of section 321(j) is amended to read as follows:

'(3) REDEMPTIONS.

(7) AMENDMENT RELATED TO SECTION 223.-Subparagraph (B) of section 223(b)(2) of such Act (relating to effective date for changes in tax treatment of distributions of appreciated property in redemption of stock) is amended to read as follows:

"(B) either before October 21, 1982, or within 90 days after the date of such

ruling.

(8) AMENDMENTS RELATED TO SECTION 224 (A)(i) Subsection (h) of section 338 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(8) SALE TREATED SEPARATELY FOR CONSOLI-DATED RETURN PURPOSES .- Except to the extent otherwise provided in regulations, the target corporation shall not be treated as a member of an affiliated group with respect to the sale described in subsection

(ii) If-

(I) any portion of a qualified stock purchase is pursuant to a binding contract entered into on or after the date of the enactment of the Tax Equity and Fiscal Responsibility Act of 1982, and on or before the date of the enactment of this Act, and

the purchasing corporation establishes to the satisfaction of the Secretary of the Treasury or his delegate that such contract was negotiated on the contemplation that, with respect to the deemed sale under section 338 of the Internal Revenue Code of 1954, the target corporation would be treated as a member of the affiliated group which includes the selling corporation.

then the amendment made by clause (i) shall not apply to such qualified stock pur-

(B)(i) Subsection (d) of section 224 of such Act is amended by adding at the end thereof the following new paragraphs:

"(4) EXTENSION OF TIME FOR MAKING ELEC-

TIONS; REVOCATION OF ELECTIONS.

'(A) Extension.-The time for making an election under section 338 of such Code shall not expire before the close of Febru-

ary 28, 1983. "(B) Reve "(B) REVOCATION.—Any election made under section 338 of such Code may be revoked by the purchasing corporation if reveked before March 1, 1983.

"(5) RULES FOR ACQUISITIONS DESCRIBED IN PARAGRAPH (2) .-

"(A) In general.—For purposes of applying section 338 of such Code with respect to any acquisition described in paragraph (2)-

"(i) the date selected under subparagraph (B) of this paragraph shall be treated as the

acquisition date.

'(ii) a rule similar to the last sentence of section 334(b)(2) of such Code (as in effect on August 31, 1982) shall apply, and

"(iii) subsections (e), (f), and (i) of such section 338, and paragraphs (4), (5), (6), and (8) of subsection (h) of such section 338. shall not apply.

"(B) SELECTION OF ACQUISITION DATE BY PURCHASING CORPORATION.-The purchasing corporation may select any date for purposes of subparagraph (A)(i) if such date-

"(i) is after the later of June 30, 1982, or the acquisition date (within the meaning of section 338 of such Code without regard to this pargraph), and

"(ii) is on or before the date on which the election described in paragraph (2)(C) is made.

(ii) Subparagraph (A) of section 224(d)(2) of such Act is amended by striking out "under paragraph (1)" and inserting in lieu thereof "(within the meaning of section 338 of such Code without regard to paragraph (5) of this subsection)".

(9) AMENDMENTS RELATED TO SECTION 231 .-(A) Clause (ii) of section 263(g)(2)(B) (defining interest and carrying charges) is amended striking by out "section 1232(a)(4)(A)" and inserting in lieu thereof 'section 1232(a)(3)(A)".

(B) Section 1232 (relating to bonds and other evidences of indebtedness) is amended by redesignating subsection (d) as subsection (c).

(C)(i) The next to the last sentence of section 1232(b)(2) (defining issue price) is amended by striking out "(other than a bond or other evidence of indebtedness or an investment unit issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) or an insolvency reorganization within the meaning of section 371

(ii) Subsection (b) of section 1232 is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR EXCHANGE OF BONDS IN REORGANIZATIONS.-

"(A) IN GENERAL.-If-

"(i) any bond is issued pursuant to a plan of reorganization within the meaning of section 368(a)(1) for another bond (hereinafter in this paragraph referred to as the 'old bond'), and

"(ii) the fair market value of the old bond is less than its adjusted issue price,

then, for purposes of the next to the last sentence of paragraph (2), the fair market value of the old bond shall be treated as equal to its adjusted issue price.

"(B) Definitions.-For purposes of this paragraph-

"(i) BOND .- The term 'bond' includes any other evidence of indebtedness and an investment unit.

"(ii) ADJUSTED ISSUE PRICE.—The adjusted issue price of the old bond is its issue price, increased by any original issue discount previously allowed as a deduction.'

(iii) For purposes of paragraph (4) of section 1232(b) of the Internal Revenue Code of 1954 (as added by clause (ii)), any insolvency reorganization within the meaning of section 371 or 374 of such Code shall be treated as a reorganization within the meaning of section 368(a)(1) of such Code.

"(iv) The amendments made by this subparagraph shall apply to evidences of in-debtedness issued after December 13, 1982; except that such amendments shall not apply to any evidence of indebtedness issued after such date pursuant to a written commitment which was binding on such date and at all times thereafter.

(10) AMENDMENT RELATED TO SECTION 235. Section 235(g)(5) of such Act is amended by striking out "section 253" and inserting in lieu thereof "section 242".

(11) AMENDMENT RELATED TO SECTION 236. Subsection (c) of section 236 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date) is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF CERTAIN RENEGOTI-

ATTONS -If-

"(A) the taxpayer after August 13, 1982, and before January 1, 1983, borrows money from a government plan (as defined in section 219(e)(4) of the Internal Revenue Code of 1954).

'(B) under the applicable State law, such loan requires the renegotiation of all outstanding prior loans made to the taxpayer

under such plan, and

'(C) the renegotiation described in subparagraph (B) does not extend the duration of or change the interest rate on any such outstanding prior loan,

then the renegotiation described in subparagraph (B) shall not be treated as a renegotiation, extension, renewal or revision for pur-

poses of paragraph (1)."

(12) AMENDMENT RELATED TO SECTION 237.-Paragraph (2) of section 401(d) (as redesignated by section 237 of the Tax Equity and Fiscal Responsibility Act of 1982) is amended by striking out "paragraph (9)(B)" and inserting in lieu thereof "paragraph (1)(B)".

(13) AMENDMENT RELATED TO SECTION 266. Section 266(c)(3) of such Act is amended by striking out "section 103(f)(2)(C)" and in-"section lieu thereof in

serting in 101(f)(2)(C)".

- (14) AMENDMENT RELATED TO SECTION 283.-Section 283(b)(2)(B) of such Act (relating to liability for tax and method of payment) is amended by striking out "January 18" and inserting in lieu thereof "February 17"
- (b) AMENDMENTS RELATED TO TITLE III.-(1) AMENDMENTS RELATED TO SECTION 302.-(A) Subsection (d) of section 31 (relating to year for which credit allowed) is amended

to read as follows:

'(d) YEAR FOR WHICH CREDIT ALLOWED .-"(1) Wages .- Any credit allowed-

"(A) by subsection (a) shall be allowed for the taxable year beginning in the calendar year in which the amount is withheld, or "(B) by subsection (c) shall be allowed for

the taxable year beginning in the calendar year in which the wages are received.

For purposes of this paragraph, if more than 1 taxable year begins in a calendar year, such amount shall be allowed as a credit for the last taxable year so beginning.

(2) INTEREST, DIVIDENDS, AND PATRONAGE DIVIDENDS.-Any credit allowed by subsection (b) shall be allowed for the taxable year of the recipient of the income in which the amount is received."

(B) Paragraph (4) of section 3(i) of the Subchapter S Revision Act of 1982 is hereby

repealed.

(2) AMENDMENT RELATED TO SECTION 310. Subsection (d) of section 310 of the Tax Equity and Fiscal Responsibility Act of 1982 (relating to effective date for requirement

that obligations be registered) is amended by adding at the end thereof the following new paragraph:

'(4) EFFECTIVE DATE FOR TAX-EXEMPT OBLI-GATION.-In the case of obligations the interest on which is exempt from tax (determined without regard to the amendments made by this section)-

(A) under section 103 of the Internal

Revenue Code of 1954, or

"(B) under any other provision of law (without regard to the identity of the holder).

the amendments made by this section shall apply only to obligations issued after De-

cember 31, 1983.'

(3) AMENDMENT RELATED TO SECTION 336 .-Section 7701(a) (relating to definitions) is amended by redesignating paragraph (38) added by section 336(a) of the Tax Equity and Fiscal Responsibility Act of 1982) as paragraph (39).

(4) AMENDMENT RELATED TO SECTION 339. Subparagraph (B) of section 6038A(c)(2) (defining controlled group) is amended by inserting ", (b)(2)(C)," after "(a)(4)".

(5) AMENDMENT RELATED TO SECTION 354 .-Paragraph (23) of section 501(c) (relating to exempt organizations) is amended by striking out "25 percent" and inserting in lieu thereof "75 percent".

(c) AMENDMENTS RELATED TO TITLE IV.

(1) AMENDMENTS RELATED TO SECTION 402.-(A) The second sentence 6226(g) (relating to determine of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With respect to the partnership, only".

second sentence of The 6228(a)(6) (relating to determination of court reviewable) is amended by striking out "Only" and inserting in lieu thereof "With

respect to the partnership, only".

(2) AMENDMENTS RELATED TO SECTION 405.—
(A) Subsection (b) of section 405 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended to read as follows:

(b) PENALTY.—Subsection (a) of section 6679 (relating to failure to file returns as to organization or reorganization of foreign coporations and acquisition of their stock), as amended by section 340(b)(1), is amended by striking out 'section 6035 or 6046' and inserting in lieu thereof 'section 6035, 6046, or 6046A

(B) Paragraphs (2) and (3) of section 405(c) of such Act are amended to read as

"(2) The section heading of section 6679, as amened by section 340(b)(2), is amended to read as follows:

'SEC. 6679. FAILURE TO FILE RETURNS, ETC, WITH RESPECT TO FOREIGN CORPORATION OR FOREIGN PARTNERSHIPS."

"(3) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6679 and inserting in lieu thereof the following:

SEC. 6679. FAILURE TO FILE RETURNS, ETC., WITH RESPECT TO FOREIGN CORPORATIONS OR FOREIGN PARTNERSHIPS."

(2) page 26, line 5 of the House engrossed bill, after "105(d)", "165(c)(3),".
(3) Page 41, after line 8 of the House en-

grossed bill, insert:

(10) CLARIFICATION OF EFFECTIVE DATE .-Paragraph (2) of section 403(e) of the Economic Recovery Tax Act of 1981 is amended by striking out "and parapraphs (2) and (3)(B) of subsection (d)" and inserting in lieu thereof "paragraphs (2) and (3)(B) of subsection (d), and paragraph (4)(A) of subsection (d) (to the extent related to the tax imposed by chapter 12 of the Internal Revenue Code of 1954)".

Resolved, That the House agree to the amendment of the Senate numbered 33 to the aforesaid bill with an amendment as fol-

Page 28, lines 17 and 18, strike out [of the

Internal Revenue Code of 1954]

Resolved, That the House agree to the amendment of the Senate numbered 34 to the aforesaid bill with an amendment as fol-

Page 31, after line 15, insert:

(11) Section 278(d) of such Act is amended-

(A) by amending paragraph (1) to read as

"(1) In general.-For purposes of sections 226, 226A, and 1811 of the Social Security Act, in the case of any individual who performs service both during January 1983, and before January 1, 1983, which constitutes medicare qualified Federal employment (as defined in section 210(p) of such Act), the individual's medicare qualified Federal employment (as so defined) performed before January 1, 1983, for which remuneration was paid before such date, shall be considered to be "employment" (as defined for purposes of title II of such Act), but only for the purpose of providing the individual (or another person) with entitlement to hospital insurance benefits under part A of title XVIII of such Act.";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2) and striking out "or (2)" in subparagraph (A) thereof.

Resolved, That the House agree to the amendment of the Senate numbered 36 to the aforesaid bill with an amendment as follows:

In lieu of the section number named in said amendment, insert: "311".

Resolved, That the House agree to the amendment of the Senate numbered 37 to the aforesaid bill with an amendment as fol-

(1) In lieu of the matter inserted by said amendment, insert:

(3) The amendment made by subsection (c) of section 305 shall take effect as if included in the amendments made by section 421 of the Revenue Act of 1978.

(4) The amendments made by subsection (d) of section 305 shall take effect on the date of the enactment of the Subchapter S Revision Act of 1982.

(5) The amendment made by subsection (e) of section 305 shall take effect on the date of the enactment of the Miscellaneous Revenue Act of 1982.

(d) FOR SECTION 306.—The amendments made by section 306 shall take effect as if included in the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 to which such amendments relate.

(2) Amend the title so as to read: "An Act to make technical corrections in the Economic Recovery Tax Act of 1981 and certain

other recent tax legislation."

Resolved. That the House disagree to the amendments of the Senate numbered 9, 15, 18, 24, and 27 to the aforesaid bill.

Mr. BAKER. Madam President, move that the Senate insist on its amendments numbered 9, 15, 18, 24, and 27, and disagree to the House amendments numbered 1, 10, 14, 16, 17, 26, 30, 31, 33, 34, 36, and 37, and agree to the House request for a conference and the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Dole, Mr. Packwood, Mr. Roth, Mr. Long, and Mr. Harry F. Byrd, Jr., conferees on the part of the Senate.

# TAX RATE ON VIRGIN ISLANDS SOURCE INCOME

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7093.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 1 to the bill (H.R. 7093) entitled "An Act to amend the Internal Revenue Code of 1954 to reduce the rate of certain taxes paid to the Virgin Islands on Virgin Islands source income", with the following amendment:

In lieu of the matter proposed to be inserted by said amendment, strike out all after the enacting clause of the House engrossed bill and insert in lieu thereof the following:

SECTION 1. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

(a) In GENERAL.—Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions) is amended by inserting after section 934 the following new section:

"SEC. 934A. INCOME TAX RATE ON VIRGIN ISLANDS SOURCE INCOME.

"(a) GENERAL RULE.—For purposes of determining the tax liability incurred by citizens and resident alien individuals of the United States, and corporations organized in the United States, the Virgin Islands pursuant to this title with respect to amounts received from sources within the Virgin Islands—

"(1) the taxes imposed by sections 871(a)(1) and 881 (as made applicable to the Virgin Islands) shall apply except that '10 percent' shall be substituted for '30 percent', and

"(2) subsection (a) of section 934 shall not apply to such taxes.

"(b) Subsection (a) RATES NOT TO APPLY TO PRE-EFFECTIVE DATE EARNINGS.—

"(1) In GENERAL.—Any change under subsection (a)(1), and say reduction under section 934 pursuant to subsection (a)(2), in a rate of tax imposed by section 871(a)(1) or 881 shall not apply to dividends paid out of earnings and profits accumulated for taxable years beginning before the effective

date of the change or reduction.

"(2) Ordering Rule.—For purposes of paragraph (1), dividends shall be treated as first being paid out of earnings and profits accumulated for taxable years beginning before the effective date of the change or reduction (to the extent thereof)."

(b) WITHHOLDING.—Subchapter A of chapter 3 of such Code (relating to withholding of tax on nonresident aliens and foreign corporations) is amended by adding at the end thereof the following new section:

"SEC. 1444. WITHHOLDING ON VIRGIN ISLANDS SOURCE INCOME.

"For purposes of determining the withholding tax liability incurred in the Virgin Islands pursuant to this title (as made applicable to the Virgin Islands) with respect to amounts received from sources within the Virgin Islands by citizens and resident alien individuals of the United States, and corporations organized in the United States, the rate of withholding tax under sections 1441 and 1442 on income subject to tax under section 871(a)(1) or 881 (as modified by section 934A) shall not exceed the rate of tax on such income under section 871(a)(1) or 881, as the case may be."

(c) TECHNICAL AMENDMENT.—Subsection (a) of section 934 of such Code is amended by inserting before the period at the end there-

of "or in section 934A".

(d) CLERICAL AMENDMENT.-

(1) The table of sections for subpart D of part III of subchapter N of chapter 1 of such Code is amended by inserting after the item relating to section 934 the following new item:

"Sec. 934A. Income tax rate on Virgin Islands source income."

(2) The table of sections for subchapter A of chapter 3 of such Code is amended by adding at the end thereof the following new item:

"Sec. 1444. Withholding on Virgin Islands source income."

(e) EFFECTIVE DATES .-

(1) In GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts received after the date of the enactment of this Act in taxable years ending after such date.

(2) WITHHOLDING.—The amendment made by subsection (b) shall apply to payments made after the date of the enactment of this Act.

this Act.

SEC. 2. CONTINUED PAYMENT OF DISABILITY BEN-EFITS DURING APPEAL.

Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection: "Continued Payment of Disability Benefits During Appeal

"(g)(1) In any case where-

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, is pending with respect to the determination that he is not so entitled.

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and selfemployment income (including benefits under title XVIII), continued for an additional period beginning with the first month beginning after the date of the enactment of this subsection for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (i) the month preceding the month in which a decision is made after such a hearing, (ii) the month preceding the month in which no such request for a hearing or an administrative review is pending, or (iii) June 1984.

"(2)(A) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1), and the final decision of the Secretary affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months

in such additional period) shall be considered overpayments for all purposes of this title, except as otherwise provided in subparagraph (B).

"(B) If the Secretary determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under paragraph (1) shall be subject to waiver consideration under the provisions of section 204.

"(3) The provisions of paragraphs (1) and (2) shall apply with respect to determinations (that individuals are not entitled to

benefits) which are made-

"(A) on or after the date of the enactment of this subsection, or prior to such date but only on the basis of a timely request for a hearing under section 221(d), or for an administrative review prior to such hearing, and

"(B) prior to October 1, 1983.".

SEC. 3. PERIODIC REVIEWS OF DISABILITY CASES. Section 221(i) of the Social Security Act is amended—

(1) by inserting "(1)" after "(i)";

(2) by inserting ", subject to paragraph (2)" after "at least every 3 years"; and (3) by adding at the end thereof the fol-

lowing new paragraph:

"(2) The requirement of paragraph (1) that cases be reviewed at least every 3 years shall not apply to the extent that the Secretary determines, on a State-by-State basis, that such requirement should be waived to insure that only the appropriate number of such cases are reviewed. The Secretary shall determine the appropriate number of cases to be reviewed in each State after consultation with the State agency performing such reviews, based upon the backlog of pending reviews, the projected number of new applications for disability insurance benefits, and the current and projected staffing levels of the State agency, but the Secretary shall provide for a waiver of such requirement only in the case of a State which makes a good faith effort to meet proper staffing requirements for the State agency and to process case reviews in a timely fashion. The Secretary shall report annually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the determinations made by the Secretary under the preceding sentence."

(b) The amendments made by subsection (a) shall become effective on the date of the

enactment of this Act.

SEC. 4. EVIDENTIARY HEARINGS IN RECONSIDERATIONS OF DISABILITY BENEFIT TERMINATIONS.

(a) In General.—Section 205(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where-

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

"(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Secretary not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Secretary (before

any hearing under paragraph (1) on the issue of such entitlement) of his determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Secretary where the finding was originally made by the State agency, and shall be made by the Secretary where the finding was originally made by the Secretary. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Secretary of a finding described in subparagraph (B) which was originally made by the Secretary, the evidentiary hearing shall be held by a person than the person or persons who made the finding described in subparagraph (B).

(h) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event such date shall not be later than January 1, 1984.

SEC. 5. CONDUCT OF FACE-TO-FACE RECONSIDER-ATIONS IN DISABILITY CASES.

The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act (as added by section 4 of this Act). For this purpose the Secretary

(1) provide for the establishment and implementation of procedures for the conduct of such reconsiderations in a manner which assures that beneficiaries will receive reasonable notice and information with respect to the time and place of reconsideration and the opportunities afforded to introduce evidence and be represented by counsel; and

(2) advise beneficiaries who request or are entitled to request such reconsiderations of the procedures so established, or their opportunities to introduce evidence and be represented by counsel at such reconsiderations, and of the importance of submitting all evidence that relates to the question before the Secretary or the State agency at such reconsiderations.

SEC. 6 REPORT BY SECRETARY.

Section 221(i) of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof

the following new paragraph:

"(3) The Secretary shall report semiannually to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives with respect to the number of reviews of continuing disability carried out under paragraph (1), the number of such reviews which result in an initial termination of benefits, the number of requests for reconsideration of such initial termination or for a hearing with respect to such termination under subsection (d), or both, and the number of such initial terminations which are overturned as the result of a reconsideration or hearing.".

SEC. 7. OFFSET AGAINST SPOUSES' BENEFITS ON ACCOUNT OF PUBLIC PENSIONS.

- (a) In General.—Subsections (b)(4)(A). (c)(2)(A), (e)(8)(A), (f)(2)(A) and (g)(4)(A) of section 202 of the Social Security Act are each amended-
- (1) by striking out "by an amount equal to the amount of any monthly periodic benefit" and inserting in lieu thereof "by an amount equal to one-third of the amount of any monthly periodic benefit": and
- (2) by adding at the end thereof the following new sentence: "The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next lower multiple of \$0.10."
- (b) Effective Date.-The amendments made by subsection (a) of this section shall apply with respect to monthly insurance benefits payable for months in the 60month period beginning December 1, 1982. After the close of such 60-month period, the provisions of the Social Security Act to which such amendments relate shall read as they would if this section had not been enacted.

Resolved, That the House disagree to the amendments of the Senate numbered 2, 3, and 4 to the aforesaid bill.

Resolved. That the House agree to the amendment of the Senate to the title of the aforesaid bill.

Mr. BAKER. Madam President, I move that the Senate insist on its amendments numbered 2, 3, and 4, that the Senate disagree to the House amendment to Senate amendment 1 and request a conference with the House and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. Dole. Mr. Packwood, Mr. Armstrong, Mr. Long, and Mr. HARRY F. BYRD, JR., conferees on the part of the Senate.

## TAX TREATMENT OF CERTAIN PAYMENTS FOR DAMAGES

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5470.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the text of the bill (H.R. 5470) entitled "An Act to amend the Internal Revenue Code of 1954 with respect to the tax treatment of periodic payments for damages received on account of personal injury or sickness", with the following amendment:

In lieu of the matter proposed to be inserted by the said amendment, insert:

SECTION 1. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I-INCOME TAX PROVISIONS

Sec. 101. TREATMENT OF RECIPIENT OF SETTLMENT PERIODIC PAYMENTS

(a) TREATMENT OF RECIPIENT.-Paragraph (2) of section 104(a) (relating to compensation for injuries or sickness) is amended by striking out "whether by suit or agreement" and inserting in lieu thereof "whether by suit or agreement and whether as lump sums or as periodic payments"

(b) TREATMENT OF ASSIGNEE-PAYOR -

(1) In general.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 130 as section 131 and by inserting after section 129 the following new section:

"SEC. 130. CERTAIN PERSONAL INJURY LIABILITY ASSIGNMENTS.

"(a) In General.-Any amount received for agreeing to a qualified assignment shall not be included in gross income to the extent that such amount does not exceed the aggregate cost of any qualified funding

"(b) TREATMENT OF QUALIFIED FUNDING Asser.-In the case of any qualified funding asset-

"(1) the basis of such asset shall be reduced by the amount excluded from gross income under subsection (a) by reason of the purchase of such asset, and

(2) any gain recognized on a disposition of such asset shall be treated as ordinary

income.

"(c) QUALIFIED ASSIGNMENT.-For purposes of this section, the term 'qualified assignment' means any assignment of a liability to make periodic payments as damages (whether by suit or agreement) on account of personal injury or sickness-

"(1) if the assignee assumes such liability from a person who is a party to the suit or

agreement, and

"(A) such periodic payments are fixed and determinable as to amount and time of pay-

"(B) such periodic payments cannot be accelerated, deferred, increased, or decreased by the recipient of such payment,

(C) the assignee does not provide to the recipient of such payments rights against the assignee which are greater than those of a general creditor,

'(D) the assignee's obligation on account of the personal injuries or sickness is no greater than the obligation of the person who assigned the liability, and

"(E) such periodic payments are excludable from the gross income of the recipient under section 104(a)(2).

"(d) QUALIFIED FUNDING ASSET.-For purposes of this section, the term 'qualified funding asset' means any annuity contract issued by a company licensed to do business as an insurance company under the laws on any State, or any obligation of the United States, if-

"(1) such annuity contract or obligation is used by the assignee to fund periodic payments under any qualified assignment.

'(2) the periods of the payments under the annuity contract or obligation are reasonably related to the periodic payments under the qualified assignment and the amount of any such payment under the contract or obligation does not exceed the periodic payment to which it relates,

"(3) such annuity contract or obligation is designated by the taxpayer (in such manner as the Secretary shall by regulations prescribe) as being taken into account under this section with respect to such qualified assignment, and

"(4) such annuity contract or obligation is purchased by the taxpayer not more than 60 days before the date of the qualified assignment and not later than 60 days after the date of such assignment."

"(2) CONFORMING AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 130 and inserting in lieu thereof the following new items:

"Sec. 130. Certain personal injury liability assignments.

"Sec. 131. Cross references to other Acts."

(c) Effective Date.-The amendments made by this action shall apply to taxable years ending after December 31, 1982.

SEC. 102. EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS.

(a) In GENERAL.-Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income), as amended by section 101(b), is amended by redesignating section 131 as section 132 and by inserting after section 130 the following new section: "SEC. 131, CERTAIN FOSTER CARE PAYMENTS.

"(a) GENERAL RULES.—Gross income shall not include amounts received by a foster parent during the taxable year as qualified foster care payments.

"(b) QUALIFIED FOSTER CARE PAYMENT DE-

FINED.—For purposes of this section—
"(1) IN GENERAL.—The term 'qualified foster care payment' means any amount-

"(A) which is paid by a State or political subdivison thereof or by a child-placing agency which is described in section 501(c)(3) and exempt from tax under section 501(a), and

'(B) which is-

"(i) paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home, or

"(ii) a difficulty of care payment
"(2) QUALIFIED FOSTER CHILD.—The term 'qualified foster child' means any individual

who-"(A) has not attained age 19, and

"(B) is living in a foster family home in which such individual was placed by-

'(i) an agency of a State or political subdi-

vision thereof, or

"(ii) an organization which is licensed by a State (or political subdivision thereof) as a child-placing agency and which is described in section 501(c)(3) and exempt from tax under section 501(a).

(c) DIFFICULTY OF CARE PAYMENTS .- For

purposes of this section-

"(1) DIFFICULTY OF CARE PAYMENTS.—The term 'difficulty of care payments' means payments to individuals which are not described in subsection (b)(1)(B)(i),

"(A) are compensation for providing the additional care of a qualified foster child

which is-

'(i) required by reason of a physical, mental, or emotional handicap with respect to which the State has determined that there is a need for additional compensation,

"(ii) provided in the home of the foster parent, and

"(B) are designated by the payor as com-

pensation described in subparagraph (A). "(2) LIMITATION BASED ON NUMBER OF CHILDREN.-In the case of any foster home, difficulty of care payments for any period to which such payments relate shall not be ex-

cludable from gross income under subsection (a) to the extent such payments are made for more than 10 qualified foster chil-

(b) CLERICAL AMENDMENT.-The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 131 and by inserting in lieu thereof the following items:

"Sec. 131. Certain foster care payments 'Sec. 132. Cross references to other Acts."

(c) Effective Date.-The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

TITLE II-AMENDMENTS OF EMPLOY-EE RETIREMENT INCOME SECURITY **ACT OF 1974** 

SEC. 201. TREATMENT OF HAWAII PREPAID HEALTH CARE ACT UNDER EMPLOYEE RETIRE. MENT INCOME SECURITY ACT OF 1974.

EXEMPTION FROM PREEMPTION.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) Except as provided in subparagraph (B), subsection (a) shall not apply to the Hawaii Prepaid Health Care Act (Haw. Rev. Stat. §§ 393-1 through 393-51).

"(B) Nothing in subparagraph (A) shall be

construed to exempt from subsection (a)-'(i) any State tax law relating to employ-

ee benefit plans, or

"(ii) any amendment of the Hawaii Prepaid Health Care Act enacted after September 2, 1974, to the extent it provides for more than the effective administration of such Act as in effect on such date.

"(C) Notwithstanding subparagraph (A), parts 1 and 4 of this subtitle, and the preceding sections of this part to the extent they govern matters which are governed by the provisions of such parts 1 and 4, shall supersede the Hawaii Prepaid Health Care Act (as in effect on or after the date of the enactment of this paragraph), but the Secretary may enter into cooperative arrrangements under this paragraph and section 506 with officials of the State of Hawaii to assist them in effectuating the policies of provisions of such Act which are superseded by such parts.".

(b) TREATMENT OF OTHER STATE LAWS. The amendment made by this section shall not be considered a precedent with respect to extending such amendment to any other State law.

(c) Effective Date.-The amendment made by this section shall take effect on the

date of the enactment of this Act. SEC. 202. TREATMENT OF MULTIPLE TREATMENT OF SEC. 202. PLOYER WELFARE ARRANGE-UNDER EMPLOYEE RE-MENTS TIREMENT INCOME SECURITY ACT OF 1974.

(a) DEFINITION OF MULTIPLE EMPLOYER

WELFARE ARRANGEMENT.-Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002), relating to definitions, is amended by adding at the end

thereof the following new paragraph: "(40)(A) The term 'multiple employer welfare arrangement' means an employee welfare benefit plan, or any other arrangement (other than an employee welfare benefit plan), which is established or maintained for the purpose of offering or providing any benefit described in paragraph (1) to the employees of two or more employers (including one or more self-employed individuals), or to their beneficiaries, except that such term does not include any such plan or other arrangement which is established or

"(i) under or pursuant to one or more agreements which the Secretary finds to be

collective bargaining agreements, or "(ii) by a rural electric cooperative.

"(B) For purposes of this paragraph-

"(i) two or more trades or businesses, whether or not incorporated, shall be deemed a single employer if such trades or businesses are within the same control group.

"(ii) the term 'control group' means a group of trades or businesses under common

control,

"(iii) the determination of whether a trade or business is under 'common control' with another trade or business shall be determined under regulations of the Secretary applying principles similar to the principles applied in determining whether employees of two or more trades or businesses are treated as employed by a single employer under section 4001(b), except that, for purposes of this paragraph, common control shall not be based on an interest of less than 25 percent, and

"(iv) the term 'rural electric cooperative'

means.

"(I) any organization which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 and which is engaged primarily in providing electric service on a mutal or cooperative basis, and

"(II) any organization described in paragraph (4) or (6) of section 501(c) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of such Code and at least 80 percent of the members of which are organizations described in subclause (I)."

(b) LIMITATION ON PREEMPTION OF STATE LAW WITH REGARD TO WELFARE PLANS WHICH ARE MULTIPLE EMPLOYER WELFARE ARRANGEMENTS.—Section 514(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)), as amended by section 201 of this Act, is further amended by adding at the end thereof the following new paragraph:

"(6)(A) Notwithstanding any other provi-

sion of this section-

"(i) in the case of an employee welfare benefit plan which is a multiple employer welfare arrangement and is fully insured (or which is a multiple employer welfare arrangement subject to an exemption under subparagraph (B)), any law of any State which regulates insurance may apply to such arrangement to the extent that such law provides

"(I) standards, requiring the maintenance of specified levels of reserves and specified levels of contributions, which any such plan, or any trust established under such plan, must meet in order to be considered under such law able to pay benefits in full when

due, and

"(II) provisions to enforce such standards, and

"(ii) in the case of any other employee welfare benefit plan which is a multiple employer welfare arrangement, in addition to this title, any law of any State which regulates insurance may apply to the extent not inconsistent with the preceding sections of this title.

"(B) The Secretary may, under regulations which may be prescribed by the Secretary, exempt from subparagraph (A)(ii), individually or by class, multiple employer welfare arrangements which are not fully insured. Any such exemption may be granted with respect to any arrangement or class of arrangements only if such arrangement or each arrangement which is a member of such class meets the requirements of section 3(1) and section 4 necessary to be considered an employee welfare benefit plan to which this title applies.

"(C) Nothing in subparagraph (A) shall affect the manner or extent to which the provisions of this title apply to an employee welfare benefit plan which is not a multiple employer welfare arrangement and which is a plan, fund, or program participating in, subscribing to, or otherwise using a multiple employer welfare arrangement to fund or administer benefits to such plan's participants and beneficiaries.

"(D) For purposes of this paragraph, a multiple employer welfare arrangement shall be considered fully insured only if the terms of the arrangement provide for benefits the amount of all of which the Secretary determines are guaranteed under a contract, or policy of insurance, issued by an insurance company, insurance service, or insurance organization, qualified to conduct

business in a State.".
(c) Effective Date.—The amendments made by this section shall take effect on the

date of the enactment of this Act. Resolved, That the House agree to the Senate amendment to the title of the bill.

Mr. BAKER. Madam President, I move that the Senate disagree to the House amendment to the Senate amendment and request a conference with the House, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. Dole, Mr. Packwood, Mr. Wallop, Mr. Long, and Mr. HARRY F. BYRD, JR., conferees on the part of the Senate.

Mr. BAKER. Madam President, I thank the chairman for yielding to me to transact this business.

### FURTHER CONTINUING APPROPRIATIONS, 1983

The Senate continued with the consideration of the joint resolution (H.J. Res. 631)

Mr. HATFIELD. Madam President, I vield to the Senator from Illinois (Mr. PERCY) for 2 minutes.

UP AMENDMENT NO. 1530

Mr. PERCY. Madam President, send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1530.

Mr. PERCY. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I, add the following new section:

## COUNSELOR

(a) The second sentence of section 2(a) of the Act of May 26, 1949 (22 U.S.C. 2653(a)) is amended by striking out "The Counselor of the Department of State and the Legal Adviser, who are" and inserting in lieu thereof "The Legal Adviser, who is'

(b)(1) Section 5315 of title 5, United States Code, is amended by striking out "Counsel of the Department of State.".

(2) Section 5314 of title 5. United States Code, is amended by inserting after the item providing for four Under Secretaries of State the following:

"Counsel of the Department of State."

Mr. PERCY. Madam President, the White House personnel office, OMB and the Department of State have all asked that the position of counselor be raised from executive level IV to executive level III.

The counselor's access to and use by the Secretary is equivalent to that of the Under Secretaries, who are level

The counselor is a principal officer of the Department, serving the Secretary as a special advisor and consulton major problems of foreign policy, and providing guidance to the appropriate bureaus with respect to such matters.

The counselor conducts special international negotiations and consultations, and also undertakes special assignments from time to time, as directed by the Secretary.

Such a change will not affect the size of the counselor's staff. The actual cost will be \$1,000, which is the salary difference.

Executive level IV now receives \$58,500. Level III receives \$59,500.

Madam President, I believe this matter has been cleared on both sides.

Mr. HATFIELD. Madam President, the Senator is correct. This has been approved on both sides. The committee is willing to accept the amendment.

The PRESIDING OFFICER (Mr. NICKLES). The question is on agreeing to the amendment.

The amendment (UP No. 1530) was agreed to.

Mr. HATFIELD. Mr. President, a while ago, when I indicated that we wanted to try to complete work on two amendments that have been cleared and had time agreements which had been reached, the Percy amendment and the Danforth amendment, I indicated then that I knew of no desire for a rollcall. The Senator from Alabama evidently was seeking recognition to make a request for a rollcall

In order to accommodate him, I would like to ask unanimous consent that we proceed to debate the area of the Danforth amendment which has been reached by agreement and, if the Senator from Alabama wishes to, call for a rollcall and that rollcall be set over until tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. DENTON. Madam President, I know of no objection. We did send a staff member to the chairman's staff to indicate that we did intend to ask for a rollcall vote. I tried to get the attention of the Chair to indicate that there was a mistake made.

If I may, I would ask that rather than having the discussion tonight, with no one here, if Senator Danforth would consent to having the debate commence on tomorrow.

Mr. DANFORTH. Madam President, since 2 o'clock this afternoon, approximately, I have been trying to get this amendment in. If we were to do that, it would be satisfactory to me. I would like to have a unanimous-consent request offered and responded to on the exact timing when this amendment would be offered and when it would be voted upon.

Mr. HATFIELD. Madam President, I would like to suggest, to resolve this, that I will ask unanimous consent that the Senator from Missouri be the first one to offer an amendment after we convene tomorrow to accommodate all parties involved.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Madam President, may I call for the yeas and nays at this time in order to have that locked

The PRESIDING OFFICER. At this point, it would take unanimous consent to do that.

Mr. HATFIELD. I ask unanimous consent to request the yeas and nays at this time on the Danforth amend-

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATFIELD. Mr. President, I am now looking for the majority leader or the assistant leader. I yield the floor at this time.

# INTERNATIONAL ATOMIC **ENERGY AGENCY**

Mr. PERCY. Mr. President, at the September meeting of the International Atomic Energy Agency's general conference, several Middle East states, acting with the support of a number of nonalined nations, illegally and unjustifiably moved to deny Israel's credentials for the general conference. In response to this deplorable act, the United States, together with a number of other responsible nations, walked out in protest at this attempt to politicize this U.N. technical body. In my view, politics has no place in this important organization which served both national and global interests through its safeguards on nuclear facilities around the world.

In walking out of this meeting and in conducting a reassessment of the American role in the IAEA and of the IAEA program of safeguards management, the administration has acted appropriately. IAEA cannot be allowed to become a political hostage and our actions have effectively delivered this message to the international community. This important signal helped to defuse similar efforts to eject Israel from the International Telecommunications Union and the U.N. General Assembly. I should note that Israel remains active in all these organizations, including the IAEA.

Mr. President, Senate Concurrent Resolution 68, passed by the Senate earlier this year, expressed the sense of the Congress that the United States should withhold its contributions from any U.N. specialized agency which illegally denied the credentials of Israel "unitl this illegal action is reversed." I will ask unanimous consent that a copy of that resolution appear in the RECORD at the conclusion of my remarks. The actions of IAEA amounted, in effect, to a denial of Israel's credentials on the last day of the session only. That was a highly offensive, illegal, and unjustified action and called for a strong response from the United States. But it is not an action that is ongoing or continuing. We have made our point by withholding funds to date. I do not think it is in Israel's interest or in our own to continue this policy and inflict serious damage on the ability of the IAEA to carry out its important work.

Mr. President, I ask that Senators act responsibly to restore U.S. funding allocated to the IAEA.

There being no objection, Senate Concurrent Resolution 68 was ordered to be printed in the RECORD, as follows:

#### S. CON. RES. 68

Whereas the United Nations was founded on the principle of universality of membership; and

Whereas the charter stipulates that United Nations members may be suspended by the General Assembly only "upon the recommendation of the Security Council";

Whereas any move by the General Assembly that would illegally deny Israel or any other democratic state its credentials in the Assembly would be a direct violation of these provisions of the charter: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That if Israel or any other democratic state is illegally expelled, suspended, denied its credentials, or in any other manner denied its right to participate in the General Assembly of the United Nations or any specialized agency of the United Nations, it is the sense of Congress that the United States should—

- (1) suspend its participation in the General Assembly or such United Nations agency; and
- (2) withhold its assessed contribution to the United Nations or to the specialized agency involved until this illegal action is reversed; and be it further

Resolved That it is the sense of the Congress that the Secretary of State should communicate to the member states of the General Assembly of the United Nations what the Congress has herein resolved.

# HARLEY-DAVIDSON MOTOR COM.

Mr. PROXMIRE. Mr. President, last month I submitted testimony to the International Trade Commission in support of Harley-Davidson Motor Co.'s petition for relief from the damage suffered by this outstanding Wisconsin firm from foreign competition

Harley-Davidson is fully prepared to compete with any motorcycle manufacturer in the world providing it can compete in a fair and equitable marketplace. That fair and equitable marketplace does not exist at the present time

Mr. President, I believe that the situation surrounding the crisis facing Harley-Davidson must be clearly understood and I ask unanimous consent that my testimony be printed in the Record.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

#### TESTIMONY SUBMITTED TO THE INTERNATIONAL TRADE COMMISSION

Members of the International Trade Commission, my name is William Proxmire, United Senator from the State of Wisconsin. Today, I would like to talk with you regarding the petition submitted by Harley-Davidson under Section 201 of the 1974 Trade Act.

Let me make clear at the outset that I strongly oppose unwarranted government intervention in the free market system. In my opinion, unwarranted intervention is not the issue here.

Harley-Davidson faces a unique situation which involves violation of one of the fundamental principles that makes our free and open market system work. That principle is fair and equitable competition.

Let's look at the facts.

Harley is a fine company that has recognized that the American people and world market demand new standards of excelence. Years ago, they began a comprehensive program to meet those new expectations and have succeeded in creating a prototype for American businesses eager to compete with foreign manufacturers both here at home and overseas.

Harley was one of the first companies in this country to implement an extensive approach to manufacturing they call "Material As Needed", or what the Japanese call kanban.

Harley also is a leader in the Quality Circles movement and has instituted a comprehensive quality management program that involves everyone from the shop floor right up through its chairman of the board.

Because of the success of those efforts—they've doubled their shipment of defect free products in the last two years, for example—Harley was the only small, closely-held manufacturer cited by the American Society for Quality Control in a recent Business Week special section (November 8, 1982.) Harley was in the company of such well regarded American companies as IBM, Westinghouse and General Dynamics. I believe they deserve that recognition.

In short, I believe that Harley now is in a position to compete with any motorcycle manufacturer in the world providing—and this is an important provision—Harley can

compete in a fair and equitable market-

That fair and equitable marketplace does not exist at the present time.

Four of Japan's major manufacturers have taken direct aim at Harley's heavy-weight motorcycle market. That attack hurt Harley, deprived the company of needed resources to complete its revitalization program on schedule and forced the company to layoff 1,600 Americans.

That situation has become increasingly ominous as Japanese motorcycle manufacturers deliberately have built up greater and greater supplies of unsold motorcycles in this country. It is reasonable to assume that they intend to wage an all out market war based on price, and aimed at driving competitors out of business.

In this case, those competitors primarily turn out to be the Japanese manufacturers themselves and Harley-Davidson, the last United States manufacturer of motorcycles. And the fact is that Harley probably would be the first casualty if the Japanese are allowed to launch an all out attack in the American market.

I want to point out that Harley, the more than 700 independent dealers who represent Harley and the company's suppliers would not be the only casualties. Many dealers who currently represent Japanese motorcycle manufacturers will find it economically impossible to accept a steady torrent of new machines they must sell at massive discounts.

I am told that many dealers are already hard pressed and that many more are going out of business. These small businesses are no more equipped to deal with an onslaught of built up Japanese inventory than is Harley-Davidson.

Members of the Commission, I believe we have to face the fact that the success of a free and open market system depends on the participating parties playing by the same rules. Our concept of an open market—a concept embodied in our law and beliefs—is that competition must be carried out by individual companies acting alone, without government subsidies nor direction, and that we will not create artificial barriers to shield competitors from the realities of the marketplace.

Harley-Davidson's individual actions to help itself provide a clear example of how an American company competes in the United States. Just as clearly, the threat they face from Japanese motorcycle imports clearly demonstrates the unfair and inequitable market pressures that the Japanese can bring to bear and the damage that can be done to American industries.

Despite the damage that Harley already had suffered because of Japanese imports, Harley-Davidson's massive efforts have put them in a potentially strong competitive position. They have achieved these results on their own. They have not asked for a government bailout, and they are not asking for a bailout today.

for a bailout today.

Harley is simply asking that the government ensure that it has a fair and equitable market in which to compete.

I urge the Commission to support Harley's

### AL QUIE STEPS DOWN AS GOVERNOR OF MINNESOTA

Mr. DURENBERGER. Mr. President, next month a person who is well known to many of my colleagues in

the U.S. Senate and especially to those in the House will be retiring from public life. Al Quie will step down as Governor of my State of Minnesota.

For the last 28 years Governor Quie has served in public office. Everyone who knows him will agree with my wish that after some well-deserved time for himself and his family, Al Quie comes back to public service for another 28 years.

In areas ranging from education to agriculture, Al Quie has made his mark. His contributions to public policy have made life better for a generation of Minnesotans and all Ameri-

Earlier this week Al Quie gave his farewell address as Governor. His comments—typical of the way he conducted himself while in office—are especially relevant to Congress today.

Governor Quie had a vital message for all officeholders:

My argument is not with firmly held beliefs, as I urge conviction, not timidity. My argument, rather, is with unorthodoxy based on pettiness.

Mr. President, the closing days of the 97th Congress and certainly the issues coming before us in the 98th Congress will test us on our conviction and our timidity.

I hope all of us will follow the example Al Quie set in his 28 years. I ask unanimous consent that two articles from the December 14, 1982, St. Paul Pioneer Press be included in today's RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

QUIE A TRUE CLASS ACT AS HE MAKES HIS EXIT

# (By John Camp)

Retiring Gov. Al Quie has shown us a class act the last few weeks.

In the face of the most bitter partisan exchanges, he's managed to patch together state finances with at least a semblance of balance and justice. We had neither catastrophic service cuts nor massive tax increases.

And after it was done—he put his name to the financing bill late Monday afternoon, the last bill he'll sign as governor of Minnesota—he admitted he was relieved.

"Getting it done will give (Gov.-elect Rudy) Perpich an opportunity to solve some pretty tough problems without the acrimony and finger-pointing there would have been if he'd had to do this." Quie said a few minutes after he signed the bill.

If Quie had chosen to be just a good Republican, rather than a good governor, he could have figured out ways to let the financial crisis drift for a couple of weeks, until DFLer Perpich was in office.

Perpich would have then been faced with an even larger problem than the state had this week—he would have had to cut the same amount of money, or raise the same amount of taxes, but over a shorter time. To do that, the tax increases would have been sharper, cuts deeper.

Why would anybody want to do that? Because if action had been delayed, the Republicans could have pointed at the DFLers as responsible for the simultaneous tax increase and service cut.

Quie didn't permit that.

"We had an opportunity to get (the financing package) in place on Jan. 1. Perpich didn't have that opportunity. Even with this bill, I have to say his problems are tremendous.

"The surtax on the income tax and the sales tax will sunset (end) in July, and he's going to come up with something to cover that. And the Legislature saw fit to remove a limitation on welfare that we put in, so he's going to have to deal with that. I expect welfare costs to mushroom unless they put some kind of a lid on it. That's going to be a serious political problem for him," Quie said.

To push the emergency financing bill through the Legislature, Quie threatened to unilaterally slash state spending. If he had done that, layoffs would have been massive and immediate.

"I told them (the legislators) that if they didn't approve the bill, I'd unallot. I told them they wouldn't make it back to their districts ahead of the news, and I wasn't bluffing. The way I read state law, I had no choice. I had (the unilateral reductions) already laid out. I had the information on my desk from Finance Commissioner (Allan) Rudell and I had written out my response.

"I was serious. If they had failed to pass a bill on Friday, they would not have gotten home before the news reached their constituents." he said.

Although his time as the state's chief executive is running out, Quie remains deeply interested in Minnesota's future. He is not optimistic about the possibilities facing the Perpich administration.

"His (Perpich's) problem, everybody's problem, is the economy, and I don't see it turning around enough to bail him out. Everything you look at is down. Agriculture is one of the most important segments of our economy, and agriculture is way down. It's going to be a long pull before the farmers can get out. Some farmers who've made it this far won't make it to the end of this

year...

"And I don't think taconite will ever be what it used to be. It might get to be 75 or 80 percent of what it was, but it'll never come all the way back, and the trend is down. The general economy should show some recovery, but a lot of that's in service jobs and these 'information society' jobs, where the pay just isn't as good as it was in the older industries. Steel workers got very good wages. When you lose that, you lose a lot." he said.

I got the impression that Quie would have preferred a different exit from office, one free of partisan snarling and manuevering.

"I know in my heart that this was the right thing to do," he said.

And I got the impression that he would have liked to keep doing it.

"But I've got no regrets for myself. I've enjoyed this last year (since he announced he wouldn't seek re-election), or most of it, anyway, and I think I know what to do as governor. But that was not to be. So, I really have no regrets for myself."

## QUIE BLASTS PARTISAN POLITICS FOR STIFLING DEBATE OF ISSUES

#### (By Bill Salisbury)

In his farewell address after 28 years in public office, Gov. Al Quie Monday night sharply criticized the growth of extreme partisanship in Minnesota politics, saying it results in shallow debate of public issues. Quie, 59, who plans to retire from politics when he leaves office Jan. 2, took a parting shot at both his own Independent-Republican Party and the DFL for fostering partisanship.

"Politics in Minnesota suffers an excess of it, and I deplore it," Quie said in a speech at the University of Minnesota, under the auspices of the Reflective Leadership Program of the Hubert H. Humphrey Institute of Public Affairs. Quie established a scholarship fund for the program.

"My argument is not with firmly held beliefs, as I urge conviction, not timidity" he said. "My argument, rather, is with orthodoxy based on pettiness."

The biggest difference in state government between now and when he first was elected to the Minnesota Senate in 1954, Quie said, is "the often unbending partisanship of politics that has developed in Minnesota"

For instance, he said, budget deliberations last December were "dreadful" because he and legislative leaders were "all drawn—some of us obliviously, some of us eagerly, none of us wisely—into dogmatic bunkers which we defended as if they were safeguarding the very honor of our parties.

"We were able to overcome this silliness only when I decided not to seek re-election, when the gravity of our problem finally took hold, and when legislators realized it was better to be any place other than St. Paul if they wanted to return to St. Paul."

Elected officials serve themselves and their responsibilities poorly when they engage in political gamesmanship, he assert-

Saying he has grown "increasingly disenchanted with the shallowness of our debate on public issues," Quie faulted state leaders for doing little to enhance public understanding of the complexity of the state's economic situation and for failing to tap the state's most imaginative thinkers.

"We do not lack in Minnesota for studies, proposals and inquisitiveness," he said. "What we do lack is participation by elected and other officials in substantial discussion of public issues. And nowhere is this shortcoming more pronounced than within our two major political parties."

Quie asserted that the parties have become "more extraneous than integral to most people. They are viewed by many of their leaders as ends in themselves when they are not, and their grasp on the issues of the day is only randomly firm."

As a result, he said, the defeat in the Sept. 14 primary of both parties' endorsed candidates for governor was not surprising.

He urged the parties to become "catalysts of policy ferment and intellectual leader-ship," adding they might better fill this role if they "borrowed some intellectual curiosity and discipline from the academic world."

Quie recently has come under fire from both parties. DFLers blamed him for the state's budget problems, and I-R party and legislative leaders criticized him for recommending tax increases to help avoid a budget deficit.

He served in the state Senate for four years, represented southeastern Minnesota in Congress for 21 years and has been governor since 1978.

Quie said he is particularly proud of twaccomplishments during his term as goven

One is indexing, which inflation-proofs income taxes. "Because indexing prevents tax revenues from rising faster than inflation, politicians have less room to hide," he

said. "Public officials should be put on the spot, not only when it comes to determining the services their constituents receive, but also when the taxes they pay are increased."

Selection of judges based on merit is the second accomplishment in which he takes great pride. He said his system of having lawyers, judges and laymen recommend candidates for judgeships "assures the selection of superior individuals, free of disproportionate partisan consideration."

Quie said he would like to have done only a few things differently during his term as

governor.

"I would have been more aggressive earlier in working for a sounder job climate," he said. "I misread how intractable a mountain needed to be moved. The big three that spell poor job climate still loom in front of us: workers' compensation, unemployment insurance and commercial-industrial property taxes."

He said he also should have advocated fundamental reforms in the way the state funds elementary and secondary schools.

"We must give school districts the tools to do more for their children if that is their wish. We must encourage their eagerness to do more, and we must provide means by which any district, not just the affluent, can exceed the norm for program and funding."

exceed the norm for program and funding."

Despite current problems, Quie said he is optimistic about the state and nation's

future.

"I've enjoyed my public career immensely," he said. "For all the criticism directed at people in politics . . . there is honor and integrity in this service. I have been honored to be part of it.

"I leave office and public life confident, strong, happy and at peace," he concluded.

## HARRY F. BYRD, JR.

Mr. WARNER. Mr. President, as the 97th Congress draws to a close, we continue to pause in doing the Nation's business to pay tribute to Senators who will not be with us when the next Congress convenes. Although I have had the privilege of placing other articles in the Record on my retiring senior colleague, I once again wish to call to the Senate's attention an interview with him, printed recently in the fall issue of a relatively new magazine, the Southern Partisan.

This interview captures much of the philosophy of Senator Harry Flood Byrd, JR., which is a philosophy long shared by the majority of Virginians—that "\* \* \* it's extremely important that we remain militarily strong \* \* \* (and) economically (strong) as well." Senator Byrd also comments, in light of the heavy population growth in the South and Southwest, that southerners can play an even greater role in government than they have in the past. He says: "I think the southern philosophy, the southern way of doing things in government, is becoming more prevalent these days and more popular nationwide." To that, I say, "Amen."

Mr. President the interview was conducted for the magazine by a native Virginian and a friend of mine as well as of Senator Byrd, Mr. Donald Bald-

win. Mr. Baldwin, who lives in Alexandria, is a consultant here in the Nation's Capital where his firm, Donald Baldwin Associates, specializes in government relations.

I ask that this article be printed in the RECORD.

The article follows:

[From the Southern Partisan, fall issue, 1982]

## BYRD OF VIRGINIA: A CLOSE LOOK (By Donald Baldwin)

Senator Harry Flood Byrd, Jr., will step down January, 1983, when the new Members of the Senate are sworn in, after eighteen years in the United States Senate and seventeen years as a member of the state senate of Virginia, combining thirty-five years service as an elected public servant.

What is so unique about this southern gentleman "of the old school," is that he has maintained consistently the philosophy of government supported by his father, Harry Byrd, Sr., and perhaps first expressed by Thomas Jefferson when he said: "That government which governs least governs

best."

The Byrds' service to the Commonwealth of Virginia began over 300 years ago in 1671 when the first Byrd, William Byrd, I, landed with the early settlers at Jamestown. For most of the years since the first Byrd came to America in 1671 there has been a Byrd active in the affairs of the state and the nation. William III helped found the city of Richmond, and many of the subsequent Byrds were active in the development of the state's government, contributing continually to the growth of the state up through the present century. Harry Byrd's grandfather was speaker of the Virginia House of Delegates, and a prominent Virginia lawyer. His uncle, Richard Evelyn Byrd, was the famous Arctic explorer, Harry Byrd, Sr., developed what was at one time called the "largest independent apple orchard in the world" while at the same time founding a publishing business in the valley of Virginia and the neighboring West Virginia counties. Harry Byrd, Sr., served as a state senator, Governor, and United States Senator.

Harry, Jr. established his own record after being elected in a special election for the unfinished term of his father, and went on to be elected to three full terms in the Senate of the United States. In each race

his margin of victory increased.

In an era of dramatic changes in lifestyles, philosophy, and morals, Harry Byrd, Jr. gives the impression of what many admiring Senate colleagues still refer to as "the proper southern gentleman."

So it goes. The end of an era. The end of a family service in the United States Senate, fifty years, father and son. A unique record

of service.

Following is transcript of a recent conversation given exclusively to The Partisan by Senator Byrn.

Partisan. Do you have any regrets about having served as an independent in the United States Senate, and do you recommend serving as an independent for other Southern politicians?

Byrd. I have no regrets. I feel comfortable as an Independent. As to recommending it to others, I guess the only thing I can say is it is a somewhat difficult way to be elected; and, as evidence of it, in the long history of the U.S. Senate, only two of us have ever been elected as an Independent. The first, was George W. Norris of Nebraska. He was

in the Senate for three terms, two terms as a Republican. In 1936 he felt that the Republicans were too conservative and he wanted FDR that year for President. So, Senator Norris ran as an Independent and was elected in 1936.

PARTISAN. How would you compare present-day members of the Senate with those of your father's and your career in

the United States Senate?

Byrd. That's awfully difficult to do. I'm looking back over a period of 50 years. First, when my father came over 50 years ago, I was of course quite young at the time and the men of that era impressed me as being very outstanding individuals. One becomes more closely associated with one's colleagues. One doesn't have the same viewpoint necessarily when looking at it from afar. So, I find it very difficult to judge. I must say I'm very well impressed with the younger members of the Senate who were elected two years ago and four years ago. I think that we have a very, very good group.

Partisan. Personally I'm not convinced that many of the elected officials today will stand on the same kind of principles that you and your father have during the 50 combined years that the two of you have served the Commonwealth of Virginia.

Byrn, My father's hallmark, and I try to follow it, was that he was very reluctant to make commitments, but once he made a commitment he always adhered to it. I've tried to follow that same philosophy. I think it's important for those of us in public life to have a consistent philosophy. That doesn't mean that one cannot change one's views from time to time as a result of a different era. But, I do think it's important that citizens, whether they be lobbyists or whether they be individual citizens, that they have some assurance that we will vote our own philosophy. Now, all senators don't take that same view and I have no criticism of them for doing that. I think it's important that individual citizens have some assurance that there is consistency in viewpoint in their elected representative.

Partisan. Those of us from Virginia were pleased that your father was the "watchdog of the Treasury." Do you think it's too late to stop or turn back what I feel is a definite

socialistic trend in recent years?

BYRD. No, I do not. I think it is going to be difficult to do but I do not think it is too late. President Reagan has made a determined start in that direction and I think that the last year has been very beneficial. It was only because of the determination of President Reagan that the Congress was willing to slow down the rate of increase in Government spending. I don't think it has been slowed down enough. But, at least the trend is in the right direction. In regard to other policies of government, government regulations, government controls, there again President Reagan has taken the leadership in attempting to reverse that-and I think progress has been made in that regard.

Partisan. Do you think that the President should give up on his position of maintaining the tax cuts for the next two years—the individual, and corporate tax cuts that are on the books now? Do you think he ought to back a Democratic proposal to cut those back?

Byrn. I think the emphasis should be on spending. Many persons feel that spending has been reduced. Well, actually spending has not been reduced. As you know, it is the rate of increase in the cost of government that has been closed down but the amount

of money being spent this year will be greater than last year. And, the upcoming year will be greater than this year. So, spending has not been reduced. If we are going to get spending under control, if we are going to balance the budget we must hold the increase in the cost of government to 4 or 5 percent for at least 3 or 4 years. You mentioned specifically the Reagan tax program. Of course part of it went into effect last October-a 5 percent reduction on personal income taxes—another 10 percent to take effect this year. I don't think that ought to be disturbed. On the second 10 percent which is due to take effect July 1, 1983, I have an open mind. I prefer that it continue as was planned, but it might be necesary to make a change in that proposed reduction in 1983. I would not rule that out. My great fear is these tremendous deficits-and I just think it is vitally important-to have those deficits substantially, not cosmetically, but substantially reduced. It may be necessary in order to do that, not only to curtail spending but also to delay or to defer temporarily those tax reductions.

PARTISAN. Do you mean we should hold the government budget to no more than 4-5 percent increase in expenditures a year?

Byrd. We need to hold the increase in expenditures to no more than 4-5 percent a year. It would still provide for an increase but a substantially reduced increase. Members of the Boilermakers Union came to see me not long ago and they insisted that Government spending had been reduced and had been very harmful to everybody. Well, the first thing people need to do is get their facts straight. Government spending has not been reduced. The spending this year will be 10 percent greater than last year. For the upcoming year, it will be substantially greater than this year. So, spending has not been reduced. What has been reduced has been the rate of increase in spending.

Partisan. Who are the 5 greatest men you have met during your political life?

Byrd. Well the one who had the greatest influence on me was my father. He was not only my father but was my closest and dearest friend and also we share the same philosophy—the same concept of Government—so I would put him at the top. I'm a bit prejudiced in that regard. I would put my father's longtime colleague, Senator Carter Glass of Virginia as one of the ablest and most outstanding public officials I have met. I'd put President Eisenhower very high on that list. Several other senators who come to mind I feel were outstanding. I think Senator Taft of Ohio was one of the Senate's all time greats. Winston Churchill I regard as the greatest man of the 20th century.

Partisan. You thought a lot of Senator Richard Russell, of Georgia, I also remember.

Byrd. Senator Richard B. Russell was my closest friend in the Senate when I first came here. I looked to him for guidance and advice. He had served 30 years with my father. I had known him through most of those years. We became very close after I came to the Senate. I put him right near the top. I am confining my comments on Senators to those who are deceased.

Partisan. I recall also that during your career in the United States Senate you never endorsed anybody for President prior to this campaign. You did endorse Ronald Reagan for President. Do you feel that he's doing a good job given the problems he has with a divided Congress and taking on this

revolutionary effort to turn the country around?

Byrn. Yes, I think he is doing a good job. I did support him for President. I'm glad I did. I think he's one of the few presidents, maybe the only president in recent years who made a determined effort, and a sustained effort, to get government spending under control.

Partisan. Did your father have as much influence on you as many have thought and some have observed, Senator Byrd?

Byrd. Yes, yes, he did. We were very close throughout his entire life. He was elected Governor when I was a little boy of about 10 years old. He would take me on almost every occasion that he would attend. As a result, by the time I was 14 years old I had been in every county and city in the State. Because of my close contact with him and because I shared his own philosophy I assume I gained basically from him. He did have a great influence on my own views. We didn't agree on everything, of course, but on hasic philosophy we did agree.

basic philosophy we did agree.

Partisan. Since 1671 when William Byrd I came to this country there has been a Byrd active in the affairs of the State of Virginia and in the affairs of the country. Your retirement at the conclusion of this term in the United States Senate will at least temporarily end the Byrd "reign," so to speak. Do you have any misgivings about the fact that there isn't anyone, at least at the present, to step in and carry on the Byrd

Byrd. After 50 years maybe it is as well that some other name come into the picture, temporarily, at least.

Partisan. The new occupant for the seat that you hold in the Senate is going to be decided in November. Will you take any position in that campaign?

BYRD. I don't know. I haven't made a decision on that. I'm certainly not going to make any statement for the time being. I don't know what I may do the latter part of the campaign.

PARTISAN. Do you have any advice for Southerners coming into public life now? I'm speaking of candidates for State legislature or for the House of Representatives, or United States Senate or Governor?

Byrd. I'm not much on giving advice. I would encourage sound-thinking individuals to take an interest in government and politics. After all, politics is the art and science and government and we need good people in political life. It's a tough life in many respects. But we need good people in political life and I would hope that more and more individuals would find it desirable to participate.

Partisan. We've talked about the need to cut the spending of the federal government and the need to balance the budget. You commented also that you didn't think it was too late to turn back the socialistic philosophy that many of us feel is influencing our government. Do you think Southerners can continue to play a prominent role as they have through the history of this country? Southerners have been strong in states rights and for more conservative handling of our fiscal responsibility. Do you think southerners can still play a role in that?

Byrd. I do. Absolutely. I think Southerners.

Byrd. I do. Absolutely. I think Southerners can play a tremendous role. In fact the South and the Southwest, because of the heavy population increases, will have even greater influence on government than it has had in the past. I think the southern philosophy, the southern way of doing things in government, is becoming more prevalent these days and more popular nationwide.

PARTISAN. Many of us believe that our country's future hinges on being militarily strong as well as fiscally strong. How would you, as a member of the Armed Services Committee, suggest that we rectify this impasse on spending?

Byrd. Well, I think it's extremely important that we remain militarily strong. Handin-hand with that is being strong economically as well. I don't see how, in the long run, we can have adequate military strength unless we have good economic strength. I do believe that the proposed increase in defense spending can be curbed to a degree without in any way jeopardizing national security.

Partisan. How much can be cut?

Byrn. That's a little difficult at this point to give a precise figure. But, if I had to do it, I would say we could reduce spending for the year 1983 by something like 10 billion dollars without jeopardizing national defense.

# SUPPORT FOR JACKSON-TOWER AMENDMENT

Mr. COHEN. Mr. President, my statement on the Jackson-Tower amendment was inadvertently omitted from yesterday's Record. I ask unanimous consent that it be included in the permanent Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I support the Jackson-Tower amendment as one who has serious misgivings about the proposal to place the MX missile system in a closely spaced basing [CSB], or Dense Pack, basing mode.

The Dense Pack proposal only invites skepticism, and it only increases credibility problems for a system about which there is already much doubt. But that fact should not be allowed to abscure the reality that if we eliminate procurement funds for the MX today we will have done so in a peremptory fashion, denying President Reagan and his top advisers the opportunity to make their case to us in Congress and to the American people.

I feel some measure of responsibility for the vote we are casting today. It was the amendment Sam Nunn and I introduced a year ago—an amendment approved by a 90 to 4 vote of the Senate—which required the President to put forward a recommendation for basing the MX.

I have very strong doubts about the recommendation he has made, to place 100 MX missiles in 100 superhardened capsules spaced 1,800 feet apart in alternating rows of twos and threes in a 20-square-mile strip at F. E. Warren Air Force Base in Wyoming. At the same time, however, I do not deny him the chance to convince me—and all of us in Congress—that there is an MX approach which is workable and which will enhance our deterrent capability.

If we vote today to eliminate funds for the first five missiles, or if we vote to allow those funds to be eliminated by a provision which could kill the MX simply through congressional inaction, we will have fairly treated the MX issue on its merits. Such approaches are not, in my view, the proper way to conduct public policy and to make decisions on issues of this magnitude.

I have not hidden my dissatisfaction with the handling of the MX issue, both by the Carter administration and by the Reagan administration. In private conversations with administration officials, in committee hearings, and in debate on the Senate floor, I have attempted to make my concerns clear and to look for solutions for what is increasingly looking like a perhaps in-

soluable problem.

The reason Sam Nunn and I proposed our amendment a year ago was that we were frustrated with what we perceived to be an intention to move forward with an interim basing modeplacing the initial missiles in superhardened silos-that was not survivable, but was costly and probably in violation of terms of SALT I and II. We specified that the MX funds could not be used for that purpose, and we placed into our amendment the December 1 deadline which is responsible for the vote today. That deadline was selected because of our frustration over the failure of our Government to reach a final resolution on the MX basing question.

This irresolution is, I believe, at the heart of the dissatisfaction which is being expressed today. For nearly a decade, we have been hearing a range of highly inconsistent testimony from Air Force, Defense Department, and White House officials about the MX. As recently as this past March, the Armed Services Committee was told by Pentagon officials that dispersion and mobility were the keys to a successful MX program; today we are hearing

the opposite.

One of the questions which personally frustrates me is that of superhardening. Last year, officials told us that there were questions about the ability to superharden to levels adequate to withstand a Soviet attack. The levels being talked about then were in the 5,000 to 6,000 pounds per square inch range. Today, we are told that the intention is to superharden to levels fare greater than that, but I have heard no good explanation of what has happened in the past year to give us the capability to achieve those much higher levels.

What I have heard is that Charles Townes, the man who headed the commission asked to review the MX basing question, is skeptical about the ability to achieve sufficient levels of hardness. And he is not alone in his doubts. Three of the five members of the Joint Chiefs of Staff recommended against proceeding with Dense Pack at this time, we were told at the December 8 hearing. That information alone should give us pause about proceeding

immediately on MX in the absence of closer review.

Having said that, I must say that I think we need to look at some larger issues before we determine exactly what our best course is today. We cannot ignore the implications of our action in terms of the START AND INF/TNF negotiations in Europe. And we cannot ignore the reality that, in the absence of a meaningful arms control agreement, it is necessary for us to modernize our strategic forces.

The vote we are casting today is not a vote on Dense Pack. If it were, I would be voting against it. But our vote is on the question of whether we are going to give the President the opportunity to convince us, and all Americans, that the MX missile system is needed. If he cannot convince us of that by mid-April of next year, we will have the opportunity under the Tower amendment to vote against proceeding with the initial five missiles.

In weighing what I believed to be the fairest, most judicious means of dealing with this most difficult issue, I came personally to the conclusion that we needed the kind of amendment Senator Tower has put forward. The amendment strikes the appropriate balance to insure that both proponents and opponents of MX will have their day in court and that the issue can be debated in an atmosphere far better than the one we have in the rushed spirit of a pre-Christmas lameduck session.

What I like most about the Tower approach is the positive fence which it offers. Before the money can be spent, both the Senate and House will have to vote in favor of having it spent.

My feeling was that we needed more than simple resolutions of disapproval. Resolutions of approval, the positive fence, insure that before we can proceed with spending the MX funds, we will have the kind of consensus to do so that is essential if we are to prevent further fractious debate and uncertainty about the program.

At the same time, I concluded that a time limit was critical to insure that an up-and-down vote would actually be taken. It would be unfair to allow an issue of this magnitude to be filibustered away, preventing a vote. The procedure for expedited consideration will guarantee that there will, indeed, be a vote.

To those who say we are only deferring a decision, I cannot challenge their assertion. But I would only say that this makes far more sense to me—postponing that decision until we have had the opportunity to hear the case which the administration believes it can make—than does rushing to judgment and killing the MX outright, as we could do if we do not support the Tower amendment.

Let me reiterate. I do not support Dense Pack. I will not support Dense Pack. The administration seriously eroded its credibility by even putting this proposal forward.

If the Tower-Jackson amendment is approved, the President will have a responsibility to salvage that credibility—and the MX program itself. He must also use that period to prove to the American people that his administration does have a credible, cohesive arms control policy.

Over the past several months, I have received hundreds of letters from constituents concerned about our nuclear arms policy and about the possibility of nuclear conflict. With them, I have wrestled with the question of how we can "defuse the monster" which the arms race represents.

While I do not agree with those who would freeze the nuclear arsenals of the United States and the Soviet Union at present levels, I am in accord with them on the position that something must be done to reduce the level of nuclear arms and the danger they represent to stability and world peace.

This is an issue which I have devoted a lot of time to over the past few years. During the Senate Armed Services Committee's consideration for the SALT II treaty, I had an opportunity to immerse myself in the intricacies of arms control policy—as well as the more arcane matters of throw weight and megatonnage.

I was troubled then—and I am troubled now—about how easily the arms control process can be inverted. As I said in the additional views I filed with the committee report:

It has been argued that we were but two apes on a treadmill stepping relentlessly into the stratosphere of pure science where the only morality is the art of the technologically possible.

As I look for solutions, for ways to get both the United States and the Soviet Union off that treadmill, I conclude that we are stymied by the absence of an overall framework for limiting the escalation of the arms race. It is the absence of that framework which, in my views, has generated the nuclear freeze movement, while at the same time frustrating efforts to achieve a meaningful arms control agreement.

In looking for possible solutions to this problem, I find myself more and more convinced that a fresh approach is needed to deal effectively with the issue. It is my personal judgment that we have to devise a formula that will accommodate the need to modernize our systems to insure that they remain a credible deterrent, while at the same time forcing a reduction in the actual numbers of nuclear weapons being produced.

One idea which I have been giving some thought to—one which I intend

to discuss at greater length in this forum over the next several months—would require that for every new weapon added to the force by either side, two older, less stabilizing weapons must be eliminated. In other words, the price of modernization would be reductions.

This guaranteed build-down of United States and Soviet strategic forces would thus be accomplished at the same time that balance and deterrence are assured. It would insure that force levels would decrease, not increase. And, I believe, it would, more effectively than any other means, improve the prospects of lessening world tensions and raising the nuclear threshhold to a safe level.

I want to give more thought to this approach, but it is one which I intend to broach with others who are concerned about the arms race and are looking for possible solutions. There are, I recognize, no easy answers, but it strikes me that this kind of step might meet the dual goals of maintaining an effective deterrent force, while at the same time providing for smaller nuclear arsenals and, I hope, lessening world tensions.

# ARE ENVIRONMENTAL ORGANIZATIONS MINDFUL OF THEIR PUBLIC RESPONSIBILITY?

Mr. SYMMS. Mr. President, I am pleased to include in today's RECORD an article by Dr. Richard Lesher, President of the U.S. Chamber of Commerce. As a Member of the Senate who has been involved in many environmental issues. I am appreciative of Dr. Lesher's recognition of the important responsibility that environmental organizations owe their trusting readership and the general public. That public trust is a heavy obligation. one not to be taken lightly, or used manipulatively. I realize that the truth often does not make for interesting fund-raising material, and that controversy, exaggeration, and sensationalism are much more successful for sparking contributions. The distortions to which Dr. Lesher refers, however, may eventually backfire on their propagators and discredit their organizations.

The environmental movement at its onset was a just reaction to some admittedly abusive treatment of our land in the late 19th century. Heightened awareness and sensitivity about environmental considerations, particularly over the last two decades, has resulted in a plethora of environmental statutes and regulations, many of which were political "solutions" to complex issues that still mystify even the scientific community. The ultimate brainchild of that environmental sensitivity was a \$1.3 billion budget and some 10,000 permanent employees, commit-

ted to the task of insuring compliance with the Nation's environmental laws.

I am concerned however, that despite our tremendous progress with environmental problems, the environmental movement is heading in a direction that is contrary to the interests of most Americans. As Erik against Kuehnelt-Leddihn comments in a National Review article entitled. "The Greening of Germany," the environmental or "green" movement in that country has as its primary goal the prevention of the destruction of nature. That goal has been extended to rejection of not only nuclear technology, but of all technology. As Mr. Kuehnelt-Leddihn states, "Nature mustn't be violated by any means, be it nuclear radiation, smoke from steel mills, chemical fumes, or coal-burning plants \* \* \* What is really at the bottom of this trend? \* \* \* What is certain is that they (the Greens) are Edenists, naifs who would like to turn the clock back to some Eden-like, pretechnological age."

Environmental groups today are highly organized, and extremely wellfunded. In fact, Fortune magazine recently listed 14 organizations with total budgets of \$92 million under the title "Green Lobby." I sincerely hope, however, that in pursuing their objectives, they keep in mind that the public, as shown in a recent survey commissioned by the continental group, believes that maintaining a strong national economy is among their top priorities (8 out of 10), that their local communities should grow economically (60 percent, that Government regulation of business usually does more harm than good (7 of 10), and that pollution control measures have created unfair burdens on indus-

try (51 percent). All of us want clean air to breathe and clean water to drink, but we all realize that our jobs and our economy are dependent upon our continued access to the resources that lie within the Earth. Our duty for the future is to insure a reliable supply of these assets to fulfill the demands of our growing citizenry, while simultaneously protecting our environment for the safety and enjoyment of future generations. Improved technology is an integral part of that effort, and as a result, we are getting better at more efficiently using our resources and at handling the waste and by-products of our industrialized society. I commend. Dr. Lesher's fine article to the Members of this body.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HAVE ENVIRONMENTALISTS VIOLATED THEIR PUBLIC TRUST?

(By Richard L. Lesher, President, U.S. Chamber of Commerce)

Last December, the U.S. Chamber commissioned an Opinion Research poll to probe the public's attitudes on clean air legislation and other environmental issues. Among other findings, the survey revealed that next to the Environmental Protection Agency, the group or institution most trusted to make suggestions for changing the Clean Air Act is the environmentalists.

How have environmentalists handled this impressive vote of confidence from the American people? Unfortunately, the current congressional debate over reforming and renewing the Clean Air Act offers ample evidence that many are abusing their public trust. Through scare tactics and outright distortions, they have turned an already complex issue into a political football. This may be a good fund-raising strategy, but it is hardly the way to affect good environmental legislation.

Those who have been working to pass a better Clean Air law that maintains health standards without sacrificing needed construction, jobs and economic growth—including businesses, labor unions, state and local officials, the Reagan administration and a bipartisan coalition in Congress—have been vilified in a vicious letter-writing campaign.

For example, the Sierra Club asserts flatly that "the Reagan adminstration and a host of its big business allies are working to destroy the Clean Air Act... They want the Act dismantled and are pinning their hopes on a 'dirty air bill' now moving through Congress."

The Wilderness Society echoes this charge in its fund-raising letters: "Powerful special economic interests, polluting industries and the Reagan administration are working together to dismantle the Act." The Environmental Defense Fund states that if this effort succeeds, "the health of thousands of people could be affected, and parts of our environment could deteriorate beyond the point of possible future recovery."

The National Audubon Society carried this charge even further in a recent "study" and press release. It accused the Congress and the administration of proposing to weaken the Clean Air Act in a manner that could result in 2,000 excess deaths each year west of the Mississippi.

As off base as they are, it is difficult to refute such extreme charges, because they present no rational basis for constructive discussion and debate. This in itself is a disservice to a public that obviously depends on these organizations for information and insight.

Yet, these letters fare no better when they do focus on specifics. For example, the Wilderness Society asserts that the clean air reform bill sponsored by House Democrats John Dingell and Thomas Luken (and backed by the administration) would:

"Eliminate stringent protection of air quality in most of our national parks." (Not true)

"Repeat or relax 115 provisions of the Clean Air Act, involving every major part of the law." (No basis whatsoever for this claim.)

"Eliminate the requirement that states must meet national air quality standards as quickly as possible." (The basic deadlines do not change in the Luken bill.)

I realize that the leaders of these and other environmental groups may not look too kindly upon counsel from the president of the U.S. Chamber of Commerce. But as one who has had to grapple head on with the cynicism and distrust that often confront members of the business community, let me make a suggestion to our environ-

mental leaders: The public trusts you. Don't abuse that trust further by reducing the clean air debate to hysterics and unprovable charges—or by accusing those who happen to disagree with your particular proposals of wanting to destroy the environment and send people to an early grave. Your organization, your country and our environment will all be better off if you play it straight with the American people.

#### SENATOR NICK BRADY

Mr. PRYOR. Mr. President, when the 97th Congress finally comes to an end, one of our most outstanding colleagues will be leaving us to return to civilian life. In this instance, however, the decision to leave has not been prompted by the ire of the voters but by prearrangement. I am referring to Senator Nick Brady of New Jersey, who was appointed 8 months ago to fill the unexpired term which ends with this Congress.

Senator Brady cannot succeed himself and thus has been in the enviable position of not having to campaign every weekend as the rest of us do. Because of his singular situation and his extraordinarily successful business background, Senator Brady brings a special insight to the workings of the Senate. He shared his impressions of this body recently in a Wall Street Journal article and made a number of very pertinent observations which I hope my colleagues will consider very carefully.

I ask unanimous consent to insert at this point in the Record the profile of NICK BRADY by Al Hunt which appeared in the Journal on December 16.

There being no objection, the profile was ordered to be printed in the RECORD, as follows:

[From The Wall Street Journal, Dec. 16, 1982]

AN EXECUTIVE'S INSIDE LOOK AT U.S. SENATE
(By Albert R. Hunt)

Washington.—When Wall Street pals of businessman Nick Brady ask about his experience as a U.S. senator, they may be surprised by some of his answers.

"The people here are of a higher caliber than I imagined in my fondest dreams," says Sen. Brady, a New Jersey Republican. "But the place doesn't work very well. It is very frustrating."

Nicholas Brady's expertise, as he is quick to concede, is limited; he only arrived here in April to fill the eight months left in the term of Sen. Harrison Williams, who was forced to resign over his involvement in the Abscam scandal. Still Sen. Brady notes that his non-political future has been "liberating" in helping him serve in and evaluate the Senate.

Moreover, Mr. Brady's background—he was a managing director of the securities firm of Dillon, Read & Co. and chairman of Purolator Inc. before coming to the Senate—offers an unusual opportunity for a major business leader to participate first-hand in the legislative process.

In a leisurely hour-long conversation, Sen. Brady seems surprised at the intelligence and competence of some of his fellow law-makers. Many of these senators are as

bright, perhaps brighter, than anyone I've known on Wall Street," says Mr. Brady, who expects to return next month to Dillon, Read.

He cites Senate Majority Leader Howard Baker (R., Tenn.) as "one of the most capable leaders" he has encountered in any field. Of the Senate Finance Committee chairman, Robert Dole (R., Kan.), he says, "Watching Bob Dole manage legislation, it's hard to think of any job he couldn't handle." And the Senate Budget Committee chairman, Pete Domenici (R., N.M.), impresses Mr. Brady as a man of "enormous capability" and prodigious work habits.

He also has been highly impressed with several Democrats. He says he often seeks advice from Louisiana Democratic Sen. Russell Long, "who is so knowledgeable about the (legislative) process." On military matters—Sen. Brady serves on the Armed Services Committee—he admits to sometimes being dazzled by the complexities and says he often looks to Sen. Nunn (D., Ga.) for guidance. And he speaks well of the senior New Jersey senator, Democrat Bill Bradley: "I think we've really worked very well together."

#### MISUSE OF TIME CITED

Probably more out of politeness than politics, Sen. Brady is reluctant to criticize his colleagues by name. But he has little use for the tactics of the New Right, hard-core conservatives. He recalls with dismay the weeks spent debating abortion and school prayer as part of the debt-limit bill. "As important as those issues are, that was time we could have used on the economy," he declares.

But misuse of time and an inability to focus on significant matters is commonplace in the Senate, Mr. Brady believes. "I have voted over 300 times since April," he notes. "You shouldn't vote on more than 20 or 30 things in a whole year. We waste a lot of time."

The New Jersey Republican concedes that the process is so hectic that he hasn't been able to think carefully about necessary changes. But he has formed some tentative conclusions.

First, he thinks both House members and senators should be limited to 12 years of service. "I know that would lose the valuable experience of the Scoop Jacksons"—Democratic Sen. Henry Jackson, the 30-year veteran from Washington state—"but the reelection business is such a problem here."

#### FINANCING CAMPAIGNS

He thinks a panel ought to be named to study Senate Processes, including committees and workloads and allocation of time. He says Majority Leader Baker has told him that some former senators already are preparing to undertake this task.

Sen. Brady, a mainstream Republican, also thinks the system of campaign financing needs overhaul. "It's incredible how costly and time-consuming it is to finance a campaign today," he says. He would support requiring federally licensed TV stations to make time available for campaign messages and allowing the use of some public money for congressional campaigns.

Not surprisingly, the Wall Street executive is horrified by the pay here—members of Congress earn \$60,662.50 a year—and thinks salaries ought to be "significantly" increased. "We pay corporate executives and baseball and basketball players and rock stars \$1 million and don't worry about it. But we hold our national legislators to \$60,662.50. That's very shortsighted, and if it continues we'll end up with either only

millionaires or people who can't get any other job."

Sen. Brady is amazed at how little the business and political worlds seem to understand one another. "Senators will come up to me and ask, 'Why doesn't Wall Street lower interest rates,' "he says. "And people on Wall Street ask, 'Why doesn't the Senate balance the budget.' "he doesn't offer any solution to these misunderstandings, but he wishes that financial and political leaders would spend more time learning about each other.

On economic matters, he continues to support the basics of Reaganomics, though he favors more emphasis on reducing the budget-deficit than on cutting taxes. And he supports Washington's favorite new whipping boy, Federal Reserve Board Chairman Paul Volcker. "I've told anyone at the White House who will listen that Paul Volcker ought to be reappointed next year," he says. "I don't agree with everything he has done, but overall he has done a great job and his reappointment would be a good signal." Mr. Volcker's term as Fed chairman expires Aug. 1

While his Senate stint has had its share of frustrations, Sen. Brady will return to Wall Street with very favorable memories of Washington. "I'm not looking to stay," he notes, "but I wouldn't trade my eight months here for any other experience I've had in my life."

# TRIBUTE TO SENATOR S. I.

Mr. DOMENICI. Mr. President, I rise today to pay tribute to Senator S. I. HAYAKAWA, a legislator and a statesman, who has accomplished a great deal in the 6 years he has served the State of California and the Nation. I am sure my own poor words will be inadequate to describe the deeds of this internationally known semanticist, but I will do my best.

Senator Hayakawa served on three committees, the Senate Committee on Agriculture, Nutrition, and Forestry, Foreign Relations, and Small Business, and was a strong voice in fashioning legislation which rose from all three committees.

On the Agriculture Committee, he fought for reforms in the food stamp program, to help more people benefit, while cleaning up waste, fraud, and abuse. He was instrumental in working the legislation for the Reclamation Reform Act of 1982, and worked to insure that public land was utilized for the benefit of all.

On the Small Business Committee, he was one of the leading supporters and cosponsors of the Small Business Innovation Research Act of 1981, which strengthened the role of our Nation's small businesses in research and development for agencies of the Federal Government. His insight showed that we could tap this relatively unused segment of our Nation's economy for future growth.

He also was influential in getting through legislation to prevent waste, fraud, and abuse in the low-income energy assistance program. This insured that those who needed that assistance to pay their utility bills would have the money available to them.

But more than all this, Senator Ha-YAKAWA will be noted in the Senate for the new and better defined perspective he brought to this body in the area of Foreign Relations, especially in our relations with the Far East. As subcommittee chairman of East Asian and Pacific Affairs, he brought a new insight into problems as diverse as Korean military preparedness, U.S. military presence in the Far East, and the plight of the Cambodian refugees. Without his experienced voice speaking out on these matters, I am sure that the Senate would have been much less prepared to deal with these problems and to find solutions that not only were in the best interests of the United States, but senstive to the needs of our allies in the Far East.

In short, Senator Hayakawa has given us in the Senate a wealth of knowledge and has left his mark here as a legislator and a statesman. As he returns to private life with his wife, Margedant, I wish both of them the best and hope that he can continue to give us his wisdom and his experience as he has done over the past 6 years.

TRIBUTE TO SENATOR HOWARD CANNON

I rise today to pay tribute to Senator HOWARD CANNON of Nevada, whose record of service to this Nation as a legislator and a statesman is notable over the period of four decades of our Nation's history.

Senator Cannon is a veteran of World War II. His courage as a pilot in the European Theater during some of the most fierce fighting there is evidenced by the numerous awards which include Distinguished Flying Cross, European Theater Ribbon with Eight Battle Stars, and the Purple Heart.

What Senator Cannon brought to the Senate was his expertise and hands-on experience with military aircraft. Senator Cannon has flown the latest state-of-the-art aircraft from the time he became a Senator, all the way to the F-16 fighter which he flew in the Paris Air Show. This hands-on experience served him and the Senate very well as he chaired or served as ranking minority member for the Tactical Warfare Subcommittee.

Senator Cannon also made his mark on bills before the Senate on deregulation when he served as chairman of the Senate Commerce, Science, and Transportration Committee. In 1978, he authored the airline deregulation bill, and worked closely on the trucking and railroad deregulation bill, which passed during the 96th Congress. He was also instrumental as ranking minority member of the same committee in fashioning a broadcast deregulation bill which passed during the 97th Congress.

As chairman of the Rules Committee, Senator Cannon set forth the procedure by which the Vice President can be appointed following the resignation of the elected Vice President. He chaired the hearings which approved the appointment of Vice President Gerald Ford, and again, when Ford became President, to approve the appointment of Vice President Nelson Rockefeller.

These are but a few examples of the accomplishments of this great Nevada Senator over the past 24 years as a Member of this body. Men of lesser accomplishment have been lauded more, and the people of Nevada and of this Nation owe Senator Cannon a debt of gratitude for his lifetime of service. I feel proud to have served with Senator Cannon over the past 10 years and wish he and his wife, Dorothy, best wishes for their continuted happiness when they return to private life.

TRIBUTE TO SENATOR HARRY F. BYRD, JR.

It is with great admiration and respect and, I must say, a touch of sadness, that I rise today in the Senate to pay tribute to Senator Harry F. Byrd, Jr., Senator for Virginia, and statsman for the Nation.

Appointed to the Senate in 1965, and elected three times after that, Senator Byrd has been a prophet's voice crying in the wilderness. He belonged to no party, and was only the second Independent to be elected to the Senate in nearly 200 years and the only one to be elected twice.

But though he worked with both paries, his philosophy of government remained the same, set in stone, never wavering between the fickle nature of party philosophy. He believed that the Federal Government must cease living beyond its means. He believed that excessive Federal spending was eroding the purchasing power of our working men and women and mortgaging the future of our young people. He believed that excessive centralization of power in Washington threatens individual freedom. And he still believes that today.

But beliefs such as Senator Byrd's were rare in the Senate during the mid-1960's and on into the 1970's. Often Senator Byrd found himself fighting alone against an ever-growing torrent of new Federal programs and increased Government spending.

He was one of my best teachers here in the Senate when I came to the Senate in 1973 and, with other freshman Senators, we worked with him to draft and pass the most significant piece of legislation in some time. The Budget Impoundment and Control Act of 1974, which gave birth to the Budget Committees of the House and Senate that set broad targets for spending and taxation. Without this vehicle, there could not have been any chance of reining in uncontrollable

spending which threatened the very economic existence of this Nation.

Still on he fought. In 1978, he introduced and passed a statute which stated simply that starting in fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

In spite of his efforts, we have failed miserably in controlling spending and face record deficits in the years ahead.

Unfortunately, we are losing Senator Byrd at a time when this Nation needs him most. We need his voice on the floor, working the debates with the skill of his many years of legislative expertise. We need his ability to pass 65 percent of his floor amendments, many of these to restrict spending. We need his courage and foresight in calling for a strong national defense, and especially a strong navy, but yet having the good commonsense to call for reforms in military spending, so that each dollar spent for our national security is necessary and accounted for.

We need all this, and more. We have come very far in our beliefs here in Congress, to a point where we are now engaged in serious discussion to make Senator Byrn's ideals a reality. We still have a very long way to go.

I will continue to look up to Senator Byrd as a shining example of an individualist, a legislator, and a statesment as I continue my work as chairman of the Senate Budget Committee. I wish Senator Byrd, and his lovely wife, Gretchen, the best of luck and good fortune as they return to private life. May his legacy guide us in the years to come.

TRIBUTE TO SENATOR NICHOLAS BRADY

History will show that Senator Nicholas Brady was more than just a caretaker Senator, completing the unexpired term of his predecessor. Though he was a Member of this legislative body for only a short time, his advice and influence on issues before the 97th Congress were both timely and helpful.

Two words describe my good friend and colleague, Senator Brady, well. He is a "realist" and a "businessman."

As a realist, Senator Brady assumed office with no lofty goals, no plans for introducing major pieces of legislation and no aims that could not be reasonably achieved. While this meant that he was often overshadowed by the legislative initiatives of others, Senator Brady wisely placed priorities on issues he felt were most important to his constituents and to the Nation as a whole. Particularly, the recovery of our domestic economy.

This is where his experience as a businessman was quite useful. As former chairman and managing director of Dillon, Read, & Co., Inc., and chairman of the board of Purolator, Inc., he drew on his business expertise

and his grasp of marketplace realities to explain to us in the Senate what was really occurring in the Nation's marketplace toward economic recovery.

Senator Brady vigorously supported actions which would reduce deficits and move the Government toward a balanced budget. His primary goal was in helping to promote economic recovery.

He supported the 1982 tax legislation and lobbied hard with his colleagues in the New Jersey delegation of the House for its eventual passage. Even though some of these new taxes applied to business, Senator Brady, as a realist, knew that every sector of the economy must pay a fair share to insure recovery and lower deficits.

As a member of the Senate Banking, Housing, and Urban Affairs Committee, Senator Brady worked hard to get a bill out of committee to help the beleaguered savings and loan institutions. He also proved to be a reliable economic forecaster by predicting earlier this year that interest rates would fall at least four points before January 1.

There is no greater tribute I can give to my decent and humble friend and colleague, Senator Brady, that to say that we will miss him here. To be appointed for such a short time, and yet to leave his influence here, is his greatest honor. I feel privileged to have known Nicholas Brady, and his lovely wife, Katherine. I hope that when he goes back to New Jersey to return to his business, that he will continue to advise us on those issues he took to heart here in the Senate.

I salute Senator Brady as an outstanding human being and a dedicated public servant.

# TRIBUTE TO SENATOR S. I. HAYAKAWA

Mr. INOUYE. Mr. President, I would like to take this opportunity to pay tribute to one of our colleagues, Senator S. I. HAYAKAWA of California.

I know that we shall all miss the gentle presence and good humor which Senator Hayakawa brought to this body during his term here in the Senate. He has served the people of California and the Nation well in his 6 years here, but this was merely one chapter of his distinguished record of accomplishments. Senator Hayakawa came to the Senate as a renowned semanticist, author, and college president, and I am certain that after the 97th Congress draws to a close he will continue to make a valuable contribution in whatever activity he chooses.

Senator Hayakawa has demonstrated consistent interest and concern over the divisiveness of American society, and has worked diligently to forge a more unified America. Though we may have approached many issues

from a different perspective, I have always been impressed by his articulate and thoughful analyses, and the conviction and forthrightness which he has displayed thoughout his public career.

It has been a pleasure working with Senator Hayakawa, and I am certain that my colleagues will join me in wishing him continued success and happiness in the future.

#### CENTRAL AMERICA—THE NEED FOR POSITIVE CHANGE IN U.S. POLICY

Mr. PELL. Mr. President, I wish to express my concern over U.S. policy in Central America and the dangerous path on which I feel we are moving if drastic changes are not made. I am moved to speak at this time because I feel it is my duty to apprise my colleagues of the overwhelming sentiment which I have heard from the people of Rhode Island, from national church figures, and from prominent foreign leaders.

Various factors, including the statements of the President during his Latin American trip, indicate that the administration intends to go forward with military assistance to El Salvador, is about to resume a military relationship with Guatemala, and is increasing military assistance to Honduras. With regard to El Salvador, I find this very distressing given the fact that the President gave the indication of additional military assistance 2 months before he is due to make the certification to the Congress and in the light of continuing violence, disappearances, and arrest of moderate political leaders. I am becoming increasingly skeptical that the President will be able to recertify progress on human rights with any credibility. At this juncture, I am concerned at the thought of additional military assistance to El Salvador because the Salvadoran Government has failed to substantially improve the human rights situation or to bring to justice the murderers of the four American churchwomen and the two land reform specialists.

Likewise in Guatemala, the administration, specifically again the President, indicated that U.S. military assistance will soon be flowing. I have great problems with the administration's assessment of great human rights improvement in Guatemala, which is in direct contrast to reports of international observers such as Amnesty International and the Americas Watch which charge the military with a violent campaign against the Indians in the name of the war against the guerrilla left.

The situation in Honduras and on the Honduras-Nicaragua border is becoming increasingly dangerous, giving rise to the fear of an escalating regional war in Central America. I believe that we must give all support possible to the democratically elected government of President Suazo Cordoba, especially coming after years of military rule. But we are doing President Suazo no favor by increasing military assistance which increases Honduras' potential for becoming more deeply involved in the Central American turmoil. Furthermore, this was one of the reasons that I opposed the U.S. military's project to modernize the airfields in Honduras when I took to the floor against that measure this past summer. The airfield project, increased military assistance, and now increasingly credible reports that the United States is involved in covert operations to overthrow or destabilize the Government of Nicaragua by supporting forces operating from Honduras, threatens the very democracy that we want to uphold and defend in Hon-

The United States must not be involved in covert actions against the Government of Nicaragua. Our national honor and international credibility are at stake on this issue. I am a cosponsor of the measure that Senator Dodd is planning to introduce in these final days of the session, which prohibits funding in support of paramilitary groups or irregular forces operating in Central America. I will stand firm in my support of this legislation and urge my colleagues to do the same.

With regard to Nicaragua, I believe that the administration's policy of pressuring the Government of Nicaragua by one means or another will serve only to self-fulfill a prophecy that Nicaragua is a Marxist regime, firmly in the Soviet camp, and a carbon copy of Cuba. Yes there are problems in Nicaragua, but they are being exacerbated by the pressures from outside, much of it from this country. We must get our relations with Nicaragua back on track by ceasing our negative activities, by opening up a sincere and honest dialog, and by supporting the Mexican and Venezuelan peace initiatives. A turnaround in our policy toward Nicaragua could very well signal the beginning of a positive U.S. policy toward Central America.

The people of Rhode Island, and people throughout this country, are demanding that the administration redirect its policy in Central America. We, in the Congress, must respond to support this tide for positive change.

### INDIAN EDUCATION

Mr. PRESSLER. Mr. President, I rise to commend the Senate for passage of S. 2623, the Tribally Controlled Community College bill. I am

proud to have served as a cosponsor of this most important legislation.

S. 2623 amends and extends Public Law 95-471, the Tribally Controlled Community College Assistance Act of 1978. As a member of the House Committee on Education and Labor in 1978, I had the privilege of sponsoring this original legislation. Since that time, I have had the pleasure of seeing the tribally controlled community colleges assisted by the act make great progress in improving the educational opportunities available to our Indian students.

The Senate's action today will mean the continuation of a stable source of funding for 18 tribally controlled community colleges within this country which represent a unique tribally based approach to community-oriented education.

I am especially proud of my own State's tribally controlled colleges. These schools have become an integral part of South Dakota's higher education efforts and are making excellent strides in helping our Indian students gain the knowledge and skills which they need to function effectively in today's world. With the passage of this legislation, students in South Dakota's tribally controlled community colleges will be given the opportunity to continue their pursuit of the careers and vocations of their choice.

I salute the Senate for taking this action. Education is the best investment which we can make in this country's future and the Senate is to be commended for taking action today on behalf of our Indian students.

#### SURFACE TRANSPORTATION ACT OF 1982

LEVIN-SPECTER AMENDMENT ON FEDERAL SUPPLEMENTAL UNEMPLOYMENT BENEFITS

Mr. PERCY. Mr. President, I am very pleased to be a cosponsor of the Levin-Specter compromise amendment which will allow the States most heavily affected by continuing, high rates of unemployment to pay several more weeks of Federal supplemental unemployment benefits, above and beyond the extra 10 authorized in the tax bill this past summer.

To be unemployed at any time is a tragedy, but it is an especially difficult situation to face during the holiday season, particularly for those with families. My own State of Illinois is experiencing an unemployment rate of 13.2 percent with almost no apparent prospects for a recovery in the near future. Under the provisions of the pending amendment, Illinois would qualify for an additional 4 weeks of Federal supplemental benefits, thereby providing for many of my State's long-term unemployed a maximum of 53 weeks of unemployment benefits. I strongly support this additional assistance and urge my colleagues to do likewise.

UNEMPLOYMENT AMENDMENT

Mr. BRADLEY. Mr. President, I rise in support of the amendment offered by the Senator from Michigan, which will provide additional weeks of unemployment benefits to the long-term unemployed.

In September, we enacted, over the initial objections of the President, the Federal supplemental compensation program, which provides an additional 6 to 10 weeks of unemployment bene-

fits beyond the current level.

The present program is a significantly smaller program than we had in place during the past two recessions. In 1971, with a national unemployment rate of 6 percent, Congress provided a temporary program to provide up to 52 weeks of benefits. In 1976. with a national unemployment rate of 8.8 percent, Congress provided a temporary program to provide up to 65 weeks of benefits. Our unemployment rate presently stands at 10.8 percent, and the maximum number of weeks of benefits stands at only 49. And, in my home State of New Jersey, the unemployed are only eligible for up to 36 weeks of unemployment benefits.

The amendment before us would provide an extra 2 to 6 weeks of unemployment benefits; in other words, instead of 6 to 10 weeks of additional benefits, an unemployed individual would be eligible for 8 to 16 weeks of benefits. This is the least we should do for those hardest hit by the current recession. This provision would help many families get through the holiday season before their benefits run out.

Mr. President, the unemployment rate in New Jersey presently stands at 9.9 percent. Contrary to the view of some people in the administration, these unemployed people in New Jersey need no special incentive to look for work. They are looking, but the jobs simply are not there. The unemployed in my State deserve these minimal additional weeks of protection. I urge my colleagues to adopt the amendment.

Mr. PRESSLER. Mr. President, I support this amendment. This decrease in the heavy use tax, coordinated with an extended phasein period, will make this tax much easier for the small truckers to absorb. I am pleased to cosponsor the amendment.

Last night the Senate voted against delaying consideration of the truck tax portion of this bill until next year. I would prefer to delay a vote on this aspect of the bill until next year when we have a better opportunity to fully assess the impact of this legislation. But if we must move forward in this legislation, I think it is necessary to have this amendment included.

Without a gradual approach to this tax increase, thousands of truckers, es-

pecially small truckers, will be forced out of business because they will not have the time to adjust to the tremendous economic impact of these increases.

The purpose of this bill is to raise revenues to rejuvenate our Nation's highways. The truckers are being asked to bear a huge portion of this bill. If these taxes are increased in a manner that drives truckers out of business, it will do little good to impose any kind of tax increase. No one will be there to pay the taxes needed to repair our Federal highways.

My home State of South Dakota relies heavily on trucks to move goods. Without a gradual and phased implementation of these heavy user fee increases, consumer prices in States like South Dakota will skyrocket. This amendment will help lessen the blow to truckers and consumers alike, while facilitating a much more stable implementation of the tax and user fee basis for our highway improvement effort. For these reasons, I strongly urge my colleagues to support this amendment.

### PROTECTION OF THOSE WHO HAVE THE LEAST

Mr. BRADY. Mr. President, during my 7 months in the Senate I have spoken about our economic problems and the compelling need to reduce the Federal budget and the national debt. I came to Washington believing that Congress has a crucial role to play in redressing past errors and reforming our Government's fiscal policy, and my time in the Senate has only increased my sense of the tremendous responsibility Congress has in setting our economy on the way to recovery.

But it is both an arduous and painful task. We are struggling against the realization that as great as our Nation is, we face limited resources and conflicting priorities as we seek to reconcile the budget and reduce the national debt. Circumstances and commitment to this effort have necessitated that we reevaluate and make cuts in many social programs. Our economic situation leaves us no alternative. But as we do so we cannot lose sight of the importance of individuals-people. If we were to, we would be forgetting the very reason for undertaking this effort to improve our economic situation: The welfare of all Americans, not just those from the business community or those currently in the work force. A healthy economy improves the lives of our elderly and others who live on fixed incomes. A vigorous economy also means there will be the necessary funds available to maintain the social programs which make such important contributions to their recipients' lives. Today I would like to speak about a different governmental and congressional responsibility—a responsibility which is intrinsically interwoven with our efforts to do the Govenment's part to revitalize the economy and thereby improve the lives of all Americans. This duty is the obligation to protect those in society who have the least: minorities, the elderly, the young, the sick, and disabled citizens of our country.

try.
We are a nation which has grown up believing that this is a land of infinite opportunity, where any person by the dint of determination and hard work can rise to the top. As an idea and an ideal this belief has served as an inspiration to countless millions who have carved successful lives for themselves and made great contributions to our society. But this is not universally true. To think otherwise is to ignore

stark realities.

If we in Congress act without consideration of life's realities for many Americans—hunger, poverty, unemployment, inadequate medical care, and deplorable living conditions—we may condemn whole segments of our society to impoverished and hopeless lives. Our economic situation demands that we reevaluate and revise our approach to social programs. But our sense of humanity enjoins us to insure that in doing so we do not abandon those who cannot do without our help.

I would never deny that many social programs have flaws which have allowed abuses of the system. I support efforts to reform and revise entitlements. Such changes, which so closely affect people's lives, will never and should never be made without a full airing of all views. As we have already seen, in such discussions passions run high and acrimony often predominates.

I am rightly counted among those who are convinced that for the sake of our economic recovery entitlements must be controlled. But in arguing this point of view in heated debates I fear we risk losing sight of the higher purpose embodied in these programs. This

must not happen.

As someone who only recently became acquainted with the scope and complexity of Federal entitlements, I do not pretend to be qualified to speak to you with an expert's voice. Others who have worked with these programs since their inception are far better qualified to do this. But it is not necessary to possess an expert's knowledge of these programs to feel their worth.

So important are they, that these social programs have come to describe

and define us as a nation.

There is no better example of this than social security and medicare. Who can deny that these programs have been tremendously successful. But their very success, and the increasing numbers of people eligible to

draw on them, have created severe problems which threaten to collapse the system.

An important review of the system is now under way and undoubtedly some difficult adjustments in funding and payments will be necessary to restore

solvency to social security.

Those who will be charged with revising and reforming social security must look to the future and act to assure that the system remains financially sound without raising taxes beyond reasonable limits or altering payments beyond reasonable expectations.

Social security represents a great public trust which must be protected and preserved, it represents an inviolate contract between individual citizens and their Government. There are currently over 25 million Americans age 65 or older. They make up 11.3 percent of the total U.S. population. They paid into the social security system in good faith and now many of them depend on social security to maintain a decent standard of living. These retired people, our Nation's elderly, have made great contributions to our country. They fought our wars, ran our industries, and raised our generation of Americans. They deserve our respect and concern. And they deserve what they have been promised, the return on the investment they made with their Government. If we in Government do not see that the contract is kept and the moral obligation fulfilled, we will be guilty of unconscionable ingratitude toward the generation to whom we owe so much.

By reestablishing the social security system on a sound foundation, we not only provide for our elderly citizens, but we insure that our children and grandchildren will be able to look forward to the same security at the end

of their working years.

Just as social security offers critical assistance in meeting the needs of older Americans, so too do Federal programs provide infants and children with invaluable assistance in their formative years. If social security represents a debt to our past, these programs represent an investment in our Nation's future.

Since 1946 cost-effective programs such as school breakfast, summer feeding, and the special supplemental food program for women, infants, and children have contributed significantly to providing healthy diets for millions of school children. In recent decades scientific research has established that proper nourishment is essential to children's mental and emotional, as well as physical, development. Children's ability to do well in school, to achieve to the full extent of their potential has been directly linked to nutritional diet.

We should be proud that we have come so far in insuring that our Nation's youth receives a good start in life. In this time of budget cutting and delegation of authority to the States, we must see that we do not undo any of the great strides that have been made. We must never forget that as fellow citizens of the United States their future is also our own.

Though it is an unpleasant fact to face, it is not just some of the youth of this country who can not provide adequate sustenance for themselves.

The opportunity for a life free from hunger belongs to all Americans. In the early years of our Nation's existence foreign travelers remarked upon how healthy and free from hunger were Americans of all economic circumstances. Foreign visitors could not say this today about our society. We should be ashamed that in a country as rich and productive as ours any of our population should suffer from chronic hunger and malnutrition.

The food stamps program provides indispensable aid to those among us who are unable to meet their most basic need. For many, food stamps make the crucial difference to their existence. Unfortunately, the program contains flaws which have allowed for abuse and fraud. Hardly a month goes by that some new case of abuse is not uncovered, and as a result, the food stamps program has received a bad name in many quarters. Granted these abuses are intolerable, reforms to prevent them must be instituted. But the food stamps program and the vital aid it provides must not be withdrawn simply in the effort to eradicate waste and fraud in Government. As long as there are individuals who cannot exist through their own efforts and resources and parents who cannot afford to feed their children in this bountiful country, we must see that they are provided for.

No one among us wants to see dependence upon Government assistance become a way of life for generations of Americans. Compassion for the lives of individuals and dedication to the best interests of our society as a whole would never permit us to accept this.

If we are ever going to act to help the disadvantaged help themselves, clearly now is the time to begin. Evidence that we must act without delay is plainly seen in the current unemployment statistics. We all know too well the 10.8-percent figure for the work force as a whole, but the grim fact is that this figure does not begin to reflect the true depth of the problem. Blacks overall, as well as unskilled laborers, have an unemployment rate of over 20 percent. And while unemployment among white teenagers is a worrisome 21.3 percent, unemployment for black teenagers stands at an appalling 50.1 percent.

The need is too great and too pressing for us to wait and hope that a gen-

eral economic recovery will solve the problem. That is why I believe that the highway/jobs bill-the Surface Transportation Act of 1982-now before the Congress is important. I believe it is time that we create jobs for the unemployed. I do not suggest that this bill, or even this approach to curbing unemployment, will solve all our economic problems. For those things to happen it will take the best efforts of individuals in both the public and private sectors. This is how it should be, as the problem confronts our Nation as a whole. However, the Federal Government has played a crucial role in the lives of the handicapped. the elderly, and many others in our society, and its is now time for the Federal Government to address the needs of the unemployed.

It would be easy to belittle this accomplishment, easy to emphasize the all too obvious fact that these 300,000 jobs do not begin to make a dent in the unemployment of 10.8 percent of our population. But to do so would be to ignore the fact that this bill will make a great difference in the lives of 300,000 Americans. And most importantly, to belittle this endeavor would be to miss its true value: It is a beginning, nothing more, and certainly nothing less. With the passage of this bill we will have taken a crucial step in the right direction. We will have shown the country that we in Congress do understand what must be done and that we have the will to accomplish what we must for the sake of the individuals who make up our Nation and for the Nation as a whole.

I have spoken to you of the value of the social programs which we have created over the years. These programs were born of a compassion for the needs of individuals and a clear-eyed understanding of what was required for our society as a whole to flourish. We must sustain this spirit now as we endeavor to help the unemployed help themselves and to rejuvenate our economy. And ultimately this is the key to preserving individual citizens' capacity to act and to provide for themselves without dependence on Government.

Finally, in meeting this challenge, we will be fulfilling the responsibility of the Federal Government to protect the right to life, liberty, and the pursuit of happiness of all our citizens. And together we can proudly share the precious treasure we all possess: The name of American.

#### LIMITING IMPORTED LIQUEFIED NATURAL GAS

Mr. DIXON. Mr. President, I rise in support of the Imported Liquefied Natural Gas Policy Act of 1982, which my senior colleague Senator Percy introduced yesterday. Help to those with skyrocketing fuel bills is required. Why must the United States continue to import the more expensive natural gas at a time when supplies are readily available domestically? Why when the country is experiencing a drop in the inflation rate should consumers be faced with such huge price increases?

The citizens of this country should not have to choose between heating and eating

Economics tell us supply and demand should determine both the price and volume of a commodity. With regard to natural gas, a Gresham's law has occurred: higher priced gas is pushing lower price gas out of the market. The higher priced gas this country is receiving from Algeria precludes the shipment of lower priced domestic gas to consumers, our consumers. We should correct this problem

While price increases certainly are not limited to Illinois, let me cite a few figures of rate increases citizens in my State are currently experiencing: Springfield, 60 to 65 percent; Tamms, almost 100 percent; Decatur, 60 to 65 percent; Peoria, 50 to 60 percent; Chicago, 17 to 20 percent. But this is a national problem, and it becomes so when people are unable to pay their fuel bill.

The intent of this legislation is different from the amendments offered during this session regarding the takeor-pay contracts and the price freeze. The bill, as the title suggests, affects imported liquefied natural gas (LNG). Our bill would allow the Secretary of Energy to set a just and reasonable rate from which to compare imported liquefied natural gas with domestic fuel rates.

We are flexible in our approach. When a certain region of the country is without an adequate supply of natural gas, the Federal Energy Regulatory Commission (FERC) and the Secretary can allow the importation of liquefied natural gas above the ceiling rate. Where the agreement allows for greater flexibility in both the price and quantity of imports, FERC and the Secretary can allow the importation of liquefied natural gas.

I look forward to working with Senator Percy and other concerned Senators to rectify this problem in this Congress or in the next Congress, until the problem of horrendous natural gas price increases is corrected.

I believe this legislation should be viewed as a piece of the overall natural gas policy. Changes in domestic contracts are needed to relieve the burden put on gas consumers. I hope this body will again consider natural gas when the 98th Congress convenes next month.

Delays must be minimized because the end result of delay is higher prices for consumers, fewer jobs for workers, and more households without heat this winter.

#### SOVIET REPRESSION IN UKRAINE

Mr. PERCY. Mr. President, Ukrainians continue to suffer persistent violations of their human rights as the Soviet Union tries to stamp out their national identity and aspiration for freedom.

The last few years have seen systematic efforts to eliminate the Ukrainian Helsinki Monitoring Group, those brave Ukrainians who attempted to monitor Soviet noncompliance with the terms of the Helsinki Final Act which the Soviets signed in 1975. Members of this group are now in exile or in prison. There remains no organized group able to tell the world of continuing Soviet violations in Ukraine of its pledges made at Helsinki.

It is a chilling thought that Vitaliy Fedorchuk, the Ukrainian KGB chairman who directed this brutal repression in recent years, has now been "promoted" to Moscow to become Chairman of the entire KGB.

When, on January 22, free Ukrainians everywhere commemorate the anniversary of the once-independent Ukrainian national state, Congress may not be in session. I would therefore like to take this opportunity to advance to pay tribute to the enduring courage, free spirit, and national heritage of the Ukrainian people, and to those many Ukrainian Americans who have contributed so much to our own country.

#### SENATOR LARRY PRESSLER REPORT ON ARMS CONTROL SUBCOMMITTEE

Mr. PERCY. Mr. President, as 1982 draws to a close, I want to pay tribute to Senator Larry Pressler who has chaired the Arms Control Subcommittee during the past 2 years. This subcommittee contains not only arms control issues, but also matters relating to oceans, international operations and the environment.

Senator Pressler's subcommittee has been very active during the past year. In fact, it has been one of the most active years for a subcommittee in the history of the Foreign Relations Committee. In addition to many hearings on arms control, it has held careful and studious hearings on the Law of the Sea Treaty, international operations issues, the Canadian-United States acid rain problem, executive appointments, and other matters. In fact, Senator Pressler's subcommittee held the first definitive hearing on testimony from independent witnesses that the Soviets were using toxic chemicals in the warfare in Afghani-

stan and in Southeast Asia. I wish to have printed in the Record a summary of the activities of Senator Pressler's subcommittee during the 97th Congress

Mr. President, Subcommittee Chairman Pressler has in the course of the past 2 years taken a leading role in highlighting the opportunities which exist for meaningful weapons reductions and constraints. He has joined with me in supporting administration action on the signed but unratified Threshold Test Ban and Peaceful Nuclear Explosion Treaties. He has brought a greater awareness to the Senate and to the public of the opportunities that currently exist for preventing a space weapons race and the dangers that will follow a failure to bring space armaments under control.

In advising for movement on these important fronts, Senator Pressler has also sought to highlight the risks that are inherent in arms control accords that are reached in haste or that lack sufficiently strong verification provisions. This risk was highlighted in the subcommittee's hearings on yellow rain, which Senator Pressler chaired in November 1981. Recent reports indicate that despite Soviet ratification of agreements banning such inhuman weapons, the use and/or provision of such weapons by the Soviet Union continues.

Mr. President, I wish to complement Senator Pressur for this report and to thank him for his cooperation and leadership in the arms control area. He conducted the first Senate arms control field hearings outside Washington, D.C., in over 26 years when he chaired hearings in January of this year in Sioux Falls, S. Dak., and in Los Angeles and San Francisco, Calif. These hearings have helped the Committee on Foreign Relations gain a sense of the public mood on arms control issues at a time when pollsters are just beginning to survey the public's concern about nuclear weapons.

It is my view that the Senate and particularly the Committee on Foreign Relations are indebted to the efforts of Senator Larry Pressler. Senator Pressler has skilfully bridged the ideological differences through his management of the work of the Arms Control, Oceans, International Operations and Environment Subcommittee.

In closing, I would like to point out that Senator Pressler offered a successful amendment to expand the responsibilities of the Arms Control and Disarmament Agency to include examination of all antisatellite issues. This amendment is now public law. He also has contributed to public awareness of arms control issues through articles he has written for the Christian Science Monitor, the New York Times, and the Washington Post. In addition, he recently addressed the annual meeting of the Arms Control Association, and I

would like to remind my colleagues that I inserted his keynote speech in the RECORD on December 2, 1982.

Mr. President, I ask unanimous consent that Senator Pressler's subcommittee report be printed at this point in the Record.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT BY SENATOR LARRY PRESSLER

In the course of the Ninety-Seventh Congress, interest in arms control rose dramatically and was transformed from an issue that held the exclusive attention of a small circle of specialists in and close to government to one that holds the attention of every segment of the American public. According to recent opinion polls, public interest in arms control and for an aggressive American policy aimed at strategic stability and significant arms reductions is broadly based. These views are seemingly independent of political party affiliation or aggroup, and are shared from region to region in the United States.

This heightened concern for bringing the weapons of war and mass destruction under control was reflected in numerous events during the past two years. The rise of the nuclear weapons "Freeze" movement is one dimension of this phenomenon. It was also evident in the high public visibility and attention given to the United Nations Second Special Session on Disarmament in which I participated as an Advisor to the American delegation. "Ground Zero Week" held last spring and the Pastoral Letter being drafted by the nation's Roman Catholic Bishops are a further demonstration of the importance attached to the question of preventing nuclear war by Americans. In the November election, referenda calling for a freeze on the testing, production and deployment of nuclear weapons passed in eight of nine states in which they were on the ballot. A pro-freeze vote was also voiced in the District of Columbia.

Well before these concerns became a headline issue, I was of the opinion that Americans strongly favored significant and verifiable arms control agreements. The lack of attention to this public mood represented a failure of officials in Washington to listen, rather than of an inability by our citizens to express their views. It was for this reason that the subcommittee travelled beyond the confines of Washington to stage the first set of arms control field hearings in 26 years. Testimony was received last January in Sioux Falls, South Dakota, Los Angeles and San Francisco, California. Subcommittee Member Senator Alan Cranston played an important role in these hearings. That testimony has since been published by the subcommittee in a volume entitled "The Future of Arms Control." I have also summarized the findings of these proceedings in an op. ed. article published in the New York

The meaning of the growing public awareness of the nuclear dilemma and the support given to the Freeze movement is not simply an endorsement of the freeze proposal per se. Rather, support for the freeze appears to be an expression of a lack of confidence in the process of and progress in arms control negotiations to date. The absence of an Administration position for Strategic Arms Reduction Talks (START) earlier in the year was part of the problem. For this reason, I was pleased that the President announced his proposal for deep cuts in the

strategic nuclear arsenals of the U.S. and the Soviet Union at Eureka College. This announcement came in the days leading to the Committee's hearings on the nuclear arms freeze and reductions proposals held on May 11-13, 1982. The START talks have finally started and reports suggest that they are proceeding in a business-like fashion.

Still another dimension of the public's unease relates to the careless statements by a few Administration officials. The Subcommittee took note of one such incident, the statement by T. K. Jones of the Department of Defense on civil defense. According to Mr. Jones, in a Los Angeles Times interview, given enough dirt, shovels and doors, American taxpayers can learn to live with nuclear weapons and survive the holocaust. After reading this, the Subcommittee asked Jones to appear and explain his ideas on civil defense. At first he declined to appear. He finally testified after the threat of sanctions and then claimed that he had been misquoted. We have since reviewed the verbatim transcript of the Los Angeles Time interview and it appears that Mr. Jones was quoted accurately.

Clearly, more must be done to advance the goals of strategic stability, improved global relations, and providing the American taxpayer and the people of the world with security at the lowest possible risk and cost. The on-going effort to reduce the military threat in Europe through the Intermediaterange Nuclear Forces (INF) talks in Geneva and the talks on Mutual and Balanced force Reductions (MBFR) in Vienna, together with START, are important initiatives which hold promise for improving conditions in the future. Much will of course depend on the willingness of both sides to accept compromise and to seize opportunities for meaningful agreements that may arise. The Foreign Relations Committee as a whole remains in close contact with these negotiations and we have held executive sessions with the key officials involved in the process, including Chief INF Negotiator Paul Nitze and Chief START Negotiator Edward Rowny.

There are actions that can be taken to improve conditions while these talks proceed. In this vein, the Committee on Foreign Relations last spring voted out Senate Joint Resolution 212. This is an important initiative by this Committee, for it not only supports the goal of deep reductions but it calls on both sides to exercise restraint on military programs currently underway. It is important that as we proceed towards deep reductions in the longer run, we should seek to limit the growth of weaponry in the interim.

Following the same logic, we should not let our quest for the best in arms control become the enemy of the good, and, thereby, miss modest but valuable opportunities for enhancing security at reduced costs. The Threshold Test Ban (TTB) and Peaceful Nuclear Explosions (PNE) treaties, negotiated and signed between 1974 and 1976, fall into this category. These accords set important precedents in the areas of military data exchange and on-site inspection. They have a greater impact on the Soviet Union than on the U.S. because the Soviets have an active PNE program and Moscow has a greater interest in developing high yield nuclear weapons than the U.S. Over the course of the 97th Congress, I and other Members of the Foreign Relations Committee, notably our distinguished Chairman Senator Charles Percy, have repeatedly urged that the Administration support ratification of

these signed accords. Numerous witnesses have been questioned on the benefits and drawbacks of ratification. The vast majority of witnesses questioned favor ratification of these accords. Last May, four Members of this Committee, Chairman Percy, Senator Pell, the Ranking Minority Member of the Committee, and Senator Cranston, the Ranking Minority Member of the Subcommittee, joined me in writing to President Reagan on this issue. Since then, the Committee has held a series of consultations with the Administration in executive session. While the Administration claims that the TTB/PNE verification procedures need improvement, I believe that the U.S. should not lose the benefits of these accords through delay or by making unworkable demands in discussion with the Soviets.

As Chairman of this important subcommittee, it is my duty to keep the spotlight on these and other vital war and peace issues. I have, therefore, chaired nearly sixty hours of hearings during this Congress. I have met with and written to many key officials, I have made myself available to and, indeed sought out public groups for discussions. Most recently, I have addressed the annual meeting of the Arms Control Association on November 30, 1982. Writing on arms control for the press is an important way of communication with the public and the Administration on these issues. Therefore, in the course of these two years, I have published articles on arms control questions on the op. ed. pages of the New York Times, the Washington Post and the Christian Science Monitor, among others.

In writing for the Christian Science Monitor I sought to fulfill another important function of Chairman of the subcommittee with responsibility for arms control: highlighting opportunities for enhancing security that are at risk of being lost. This is clearly the case for arms control aimed at preventing the weaponization of space.

After a quarter of a century of space exploration, the U.S. and the Soviet Union are on the verge of a major space weapons competition that could compromise the peaceful uses of space for commerce, science and security. Anti-satellite weapons, that have already been deployed by the Soviet Union and are nearing the testing phase in the United States, could lead to an open-ended weapon race. Such a competition would undermine our ability to conduct important military activities in space, including early warning of strategic attack and command and control of U.S. forces worldwide. This would add greatly to our military budget and would, therefore, add to the taxpayer's already heavy defense burden. Satellite verification capabilities could also suffer. A space arms race would reduce the attractiveness of commercial space ventures. In my home of South Dakota satellites are providing the kind of information that increases farm production. Space weapons could compromise current and future ventures that aid American business and U.S. export leadership.

It is easier to stop an arms race before it gets seriously under way but halting such a contest requires negotiations. Negotiations on space weaponry were conducted in 1978-1979. Terminated in the wake of the invasion of Afghanistan by the Soviet Union, space weapons talks have not resumed. The subcommittee has, therefore, brought attention to the problem through hearings on arms control and the militarization of space.

I have also offered two separate resolutions that aim to ban the deployment of

killer satellites, Senate Resolution 129. which I offered in May, 1981 and Senate Executive Resolution 7, which I offered shortly after the hearing on arms control and the militarization of space, held in September 1982. Space arms control is an urgent problem, there is little time to lose in bringing this situation under control. I, therefore, also offered an amendment to the 1982 Arms Control and Disarmament Amendments Act which authorizes the Arms Control and Disarmament Agency to conduct research, development, and other studies in regard to all aspects of anti-satellite activities. This Act, H.R. 3467, passed the Senate and the House on October 1, 1982. I have since written to ACDA Director Rostow to learn of his Agency's plans in the anti-satellite arms control area. In the new Congress, the Subcommittee will hold further hearings on the space arms control, and I will seek to move a resolution on this area to the Senate floor for action.

Arms Control is not without its dangers. While carefully conceived and executed agreements can make for increased security at reduced costs, agreements that are produced in haste or are reached for agreement's sake can lead to decreased security and may poison the atmosphere for achieving serious accords. This is particularly true for agreements that lack sufficiently strong verification provisions.

This situation is evident in numerous incidents involving the suspected use and/or provision of inhuman chemical agents by the Soviet Union in Afghanistan and Southeast Asia. The use of such agents is outlawed in agreements to which the Soviet Union is a signatory. Unfortunately, these accords lack verification arrangements that would deter the contravention of these accords. Evidence and expert opinion on the use of deadly mycotoxins was presented to the Subcommittee in the "Yellow Rain" hearing in November, 1981. In the year since that hearing was held, the Administration has issued two compilations of evidence on the use of yellow rain, the first appeared in March 1982 and the second was published in November 1982. Incidents involving the use of chemical weapons continue to be reported. Experts who were previously skeptical have reportedly changed their opinion. The use of chemical agents presents an intolerable situation; one that deserves continued attention and investigation. In the Ninety-Eighth Congress, the Subcommittee will hold further hearings to increase awareness of this matter.

Nuclear nonproliferation is an issue that deserves the support of all nations independent of their ideologies since no nation would benefit from the prospect of nuclear weapons spread. During the course of this Congress, hearings were held on the Administration's nuclear nonproliferation in both open and closed session, in which Senator ercy took a leading role. The Committee reviewed developments in high proliferation risk countries and the Subcommittee commissioned a study on the nuclear programs of several of these states. This study was published last year. A second Subcommittee study examining the effectiveness of U.S. nuclear export controls and procedures will be completed this month.

The Subcommittee's mandate is not restricted to arms control. In the areas of oceans, international operations and the environment, I have chaired an on-going series of hearings on the Law of the Seas (LOS) negotiations. The oceans potentially hold the answer to the world's resource short-

ages, but exploiting these assets will entail substantial investments in technology by U.S. companies and free enterprise in other nations. It was my concern for protecting the interests of American taxpayers while at the same time recognizing the legitimate interests of other nations, particularly those in the developing world, that led me to maintain a constant monitoring of this process through hearings. The issue of acid rain, an environmental concern with an international scope, was the subject of still another hearing.

The U.S. Senate lacks both the manpower and facilities to conduct and oversee all aspects of U.S. international policy. Only the Administration is in this position. The subcommittee does have a major role in assuring that competent officials are in charge of the policy in its areas of responsibility through the confirmation process. During the course of this Congress over thirty nominees were the subject of hearings.

The list which follows summarizes the activities of the Committee on Foreign Relations in the areas of responsibility of the Subcommittee on Arms Control, Oceans, International Operations and Environment. For the sake of clarity, our hearings are divided among three major categories: Arms Control; Oceans, International Operations and Environment; and Nominations.

#### ARMS CONTROL HEARINGS

S. 991, Arms Control and Disarmament Agency (ACDA) authorization request. April 8, 1981.

Arms Control Issues (SALT and recent NATO decisions) (Executive Session). May 7, 1981.

Overview of Nuclear Proliferation (Executive Session). May 12, 1981.

Israeli Air Strike and Related Issues (Nuclear weapons and safeguards and non-proliferation). June 9, 11, 18, 19, 1981.

Administration's Position on Nuclear Nonproliferation (Executive Session). July 15, 1981.

S. Con. Res. 24—a proposal to improve the international non-proliferation regime (Executive Session), July 16, 1981.

Foreign Policy and Arms Control Implications of President Reagan's strategic weapons proposals. November 3, 4, 9, 13, 1981.

"Yellow Rain" and Other Forms of Chemical and Biological Warfare in Asia. November 10, 1981.

Intermediate Range Nuclear Force Negotiations (Executive Session). November 24, 1981.

International Atomic Energy Agency (IAEA) and its safeguards programs, December 2, 1981.

Future of Arms Control (field hearings, San Francisco, Los Angeles, Sioux Falls). January 20, 21, 25, 1982.

U.S. and Soviet Civil Defense Programs (Executive Session). March 16, and 31, 1982.

Progress in Intermediate Range Nuclear Force Negotiations (Executive Session). March 24, 1982.

START talks (Executive Session). March 30, 1982.

U.S. Global Strategy, April 29 and 30, 1982.

Nuclear Arms Reduction Proposals, May 11, 12, 13, 1982.

Markup of Nuclear Arms Reduction Proposals, June 9, 1982.

U.S. Capabilities to Monitor Soviet Weapons Tests (Executive Session). July 29, 1982. Arms Control and the Militarization of

Space. September 20, 1982.

START Negotiations (Executive Session).

September 21, 1982. Nuclear Proliferation Risk Nations (Executive Session). September 27, 1982.

U.S. Nuclear Non-proliferation Policy. September 29, 1982.

Export of Helium-3 to South Africa (Executive Session). September 30, 1982.

Intermediate Range Nuclear Force Negotiations (Executive Session). December 13, 1982

START Negotiations (Executive Session). December 13, 1982.

U.S. Strategic Doctrine, December 14,

#### OCEANS, INTERNATIONAL OPERATIONS AND **ENVIRONMENT HEARINGS**

Law of the Sea Negotiations. March 5, June 4, July 21, and September 30, 1981,

and September 15, 1982.
Testimony on Ex. L., 96-2, Reciprocal Fisheries Agreement with Great Britain, and Ex. X, 96-2, Conservation on Antarctic Marine Living Resources. October 27, 1981.

Protocols to International Wheat Agreement (Treaty Doc. 97-9) November 24, 1981.

Acid Rain. February 10, 1982. S. 2675, protection of foreign consular posts located in the U.S., July 29, 1982.

#### NOMINATION HEARINGS

James L. Malone to be Assistant Secretary of State for Oceans and International Environment and Scientific Affairs. March 16 and April 2, 1981.

Charles M. Lichenstein to be the Alternate Representative of the United States for Special Political Affairs in the United Nations with the Rank of Ambassador. March 16, 1981.

Thomas Pauken to be Director of ACTION. March 25, 1981.

Elliott Abrams to be Assistant Secretary of State for International Organization Affairs. April 6, 1981.

Ernest W. Lefever to be Assistant Secretary for Human Rights and Humanitarian Affairs. May 18, 19, and June 4, 1981.

Eugene Rostow to be Director, Arms Control and Disarmament Agency. June 22 and 23, 1981.

Edward L. Rowny to be U.S. Special Representative for Arms Control and Disarmament Negotiations. July 9 and 10, 1981.

Robert J. Hughes to be Assistant ICA Director for Programs. July 23, 1981. Kenneth L. Adelman to be Deputy Repre-

sentative to U.N. with Rank of Ambassador. July 23, 1981.

William Jennings Dyess to be Ambassador to the Netherlands. July 23, 1981.

John L. Loeb, Jr. to be Ambassador to Denmark. July 23, 1981. Keith F. Nyborg to be Ambassador to Fin-

land, July 23, 1981.

Richard J. Bishirjian to be Associate ICA Director for Educational and Cultural Affairs. September 30, 1981. Richard F. Staar to be U.S. Representa-

tive for Mutual and Balanced Force Reductions Negotiations. September 30, 1981. Jean Broward Gerard for Rank of Ambas-

sador as U.S. Representative to UNESCO. October 27, 1981.

Geoffrey Swaebe to be Representative to the U.N. European Office with Rank of Am-

bassador. October 27, 1981.

Mark Goode to be Member, Board of International Broadcasting. October 1981

Frank Shakespeare to be Member, Board for International Broadcasting, November 24, 1981.

Paul Nitze, Head of the U.S. Delegation to the Intermediate Range Nuclear Force Negotiations, March 24, 1982.

Manfred Eimer to be Assistant ACDA Director for Verification and Intelligence, April 30, 1982.

Maynard W. Glitman for rank of Ambassador as Department of State Representative & Deputy Head of U.S. Delegation to Intermediate Range Nuclear Force Negotiations. April 30, 1982.

James Eugene Goody for rank of Ambassador as Vice Chairman, U.S. Delegation to the Strategic Arms Reduction Talks, April 30, 1982.

Louis G. Fields, Jr. for rank of Ambassador as U.S. Representative to Committee on Disarmament. April 30, 1982.

Ronald L. Trowbridge to be Associate ICA Director for Educational and Cultural Affairs. April 30, 1982.

Gregory J. Newell to be Assistant Secretary of State for International Organization Affairs. May 3, 1982.

James L. Malone to be Ambassador at Large, Special Representative to Law of Sea Conference and Chief of Delegation. May 13, 1982.

Robert John Hughes to be Associate ICA Director for Broadcasting. June 15, 1982.

Robert H. Ellis for rank of Ambassador as U.S. Commissioner of the U.S.-USSR Standing Consultative Commission, July 29, 1982. Theodore George Kronmiller for rank of

Ambassador as Deputy Assistant Secretary of State for Oceans and Fisheries Affairs. August 17, 1982.

William Robert Graham to be Chairman, General Advisory Committee of U.S. Arms Control & Disarmament Agency. September 17, 1982.

Edwin J. Feulner, Jr. to be Member of the Advisory Commission on Public Diplomacy. September 21, 1982.

W. Scott Thompson to be Associate Director for Programs. September 21, 1982.

Richard T. Kennedy to be Ambassador-at-Large for Nuclear Nonproliferation, December 7, 1982.

# THE FISHING AGREEMENT AND WHALES

Mr. PERCY. Mr. President, I am pleased to join in support of the comments made by Senator Packwoon concerning H.R. 3942 the governing international fishery agreement with Japan. This agreement is very important to the U.S. fishing industry, and for this reason, I firmly supported its passage.

I remain strongly committed to the policy of the United States regarding whale protection. For over 11 years the U.S. Congress has been on record in support of a moratorium on commercial whaling. This summer, the International Whaling Commission voted to set a zero quota on all commercial stocks of whales to begin with the coastal season of 1985 and 1986. giving those countries engaged in commercial whaling 3 years to phase out their industry. The IWC also called for a study to be submitted to the Commission by 1990 on the ban's impact on whale stocks. Unfortunately, Japan, the Soviet Union, Chile, Norway, and Peru filed objections to the IWC decision and have given no indication that they will cease whaling after the 1985/86 deadline.

I encourage the State Department to use every diplomatic and legal means at their disposal to convey to the governments concerned that the United States will back up its commitment to whale protection. The objection from Japan was a particular disappointment to me since I have been urging the Japanese Government to accept and abide by the IWC decision. Bringing an end to the disagreement over this issue will be to the advantage of all parties and will strengthen our efforts to work for common goals in the future.

#### SERVICES THE LEGAL PRO-GRAM: BARELY ALIVE UNDER SIEGE

Mr. CRANSTON. Mr. President, as this session of Congress draws to a close, it is an appropriate time to review what has happened to the legal services program during the past 24 months and take a few moments to assess where we might be headed with respect to this program in the next Congress.

#### HISTORY

As my colleagues well know, I am deeply committed to the legal services program. I believe that it is a cornerstone in our national commitment to the principle of equal justice under the law—a truly fundamental concept in our society. The legal services program breathes life into and gives meaning to this concept and to the notion that every person, regardless of wealth, is entitled to access to the halls of justice and to the protection of the laws of this land. Without such a program, these noble principles can become hollow rhetoric, devoid of substance for those who cannot afford legal representation.

The legal services program was begun in the midsixties as part of the war on poverty. After a turbulent initial period within the OEO structure, the program as we know it today-the Legal Services Corporation-was created in 1974 as part of a concentrated effort to insulate the program for political manipulation and pressures. The Congress—and the Republican administration in the White House at that time-recognized that a program like legal services for the poor would inevitably involve conflicts with vested interest and litigation against State, local, and Federal Government agencies, and give rise to deep controversy over the outcome of efforts to protect the constitutional and statutory rights of low-income individuals.

I am proud to have been one of the principal architects of the 1974 Legal Services Corporation Act—the act which created the Legal Services Corporation as an independent entity, outside of the executive branch, to administer the program. By establishing this independent corporation, we sought to remove the legal services program from the political maelstrom which had plagued it and create a structure which would allow the program to devote its time and energies to the task of protecting the legal rights of low-income clients, free from fear of political reprisals and harassment.

In 1977, when Congress considered the reauthorization of the Legal Services Corporation Act, there was a strong feeling that those efforts had been successful. The program appeared no longer to be deeply immersed in political controversy. The Board of Directors, selected by then President Ford, and most ably led by Roger Cramton, the first chairman, had, with the excellent assistance of the Corporation's first President, Thomas Erhlich, the former dean of the Stanford Law School, guided the program through its early stages. That is not to say that the program was without problems—no program of these dimensions or responsibilities could ever realistically be expected to be totally free from controversy-but overall the new structure appeared to be working well.

Unfortunately—tragically, I believe—that is no longer the case.

#### THE PAST 2 YEARS

For the past 2 years, we have witnessed a sustained assault upon this program by the current administration, an assault which has thrust the legal services program in a major way back into the political arena and destroyed much of the progress that had been made in depoliticizing the program. President Reagan took office with the avowed intention of dismantling the legal service program. His longstanding hostility toward this program is well known, dating back to the successful lawsuits brought by legal services attorneys on behalf of lowincome clients to stop the unlaw acts of State officials during his tenure as Governor of the State of California. The administration has tenaciously adhered to its goal of abolition of this program, despite the views of the Congress to the contrary.

The administration's persistent efforts to abolish the program directly, however, were stopped by the strong, bipartisan support for the legal services program both in the Congress and throughout the country. Whatever concerns might exist about the propriety of a particular action by a particular legal service program or the correctness of the outcome of a particular case, those concerns have generally been dwarfed by the continuing commitment of the Congress of the United States to this program.

That commitment has, I am proud to say, been mirrored by public officials and private citizens throughout the Nation. I have heard, as I know my colleagues have as well, from

public officials at every level of government, expressing their support for continuation of the legal services program. Members of the judiciary, the private bar, and the general public have written in support of the program. Editorials in newspapers from all over the country have urged continuation of the program.

Mr. President, I have been particularly impressed by the flood of letters I received which began with phrases like, "I have frequently been on the other side of cases handled by legal services attorneys, but \* \* \*" These letterwriters have gone on to attest to the importance, the vital importance of continuing the legal services program. I have also been deeply impressed by the correspondence I have received from member of the judiciary who have expressed overwhelming support for the program and have described in graphic detail the contributions made by these programs to the cause of justice.

Mr. President, what controversies there have been about the legal services program have been far outweighed by the recognition of the tremendous good that is done by the legal services program and the dedicated individuals working in the local programs throughout the country. Overworked and underpaid, these legal service employees have made immeasurable contributions to making the concept of equal justice under the law a reality for low-income Americans.

#### BIPARTISAN CONGRESSIONAL SUPPORT

It is important to stress that the deep commitment to this program transcends party lines. The legal services program has always enjoyed strong bipartisan support in the Congress because the concept of equal justice under the law is not a partisan matter. Members on both sides of the aisle in the Senate and in the other body have repeatedly joined together to make sure this program continues. Presidents of both parties have supported the program in the past.

The hostility of the present administration toward this program has no precedent in either party. It is fed, however, by a small cadre of individuals and organizations who have worked persistently for years to deny low-income individuals access to effective legal representation. Their goal has been to destroy the legal services program by whatever means possible.

#### RESENT THREAT FROM BACK DOOR

Mr. President, despite the strong bipartisan upport in the Congrss for continuation of the legal services program—exemplified by the numerous votes in this body over the past 2 years rejecting proposals to emasculate the program—it is no exaggeration to say that the legal services program stands today under the most dire threat in its lifetime to its continued existence. The foes of the legal services program

within the administration, repeatedly thwarted in their frontal attack upon the program, began last year a cynical and devious effort to destroy the program from within. They have attempted to orchestrate a carefully designed plan to do indirectly what they could not achieve directly—seize control of the program and dismantle it.

Over the past year, we have witnessed a flagrant abuse of the recess appointment power by the President, having used that power to place in control of the Corporation individuals who flaunt the express congressional mandate that the Board of Directors of this program act independently, free from the control or influence of the executive branch. One of these individuals-William Olson-candidly admitted during his confirmation hearing earlier this year that plans to take control of the Corporation and halt the 1982 grants—an effort unsuccessfully undertaken by the "recess" appointees—were developed in the White House. When it appeared that the administration-selected Board was unwilling to adhere to the administration's goals on critical matters, including the selection of a Board chairman, additional "recess" appointments were made by the White House on the eve of an important Board meeting, in order to insure that the administration crafted and engineered game plan was not derailed.

Mr. President, to understand fully the abuse of the program by the administration, it is important to understand the statutory requirements relating to the qualifications for members of the Board of Directors of the legal services program.

### CRITERIA FOR LEGAL SERVICES DIRECTORS

Mr. President, the positions on the Board of Directors of the Legal Services Corporation are not ordinary, executive branch positions. Members of the Board of Directors of the Corporation do not serve as advisers or counselors to the President. Nor are they charged with the responsibility of carrying out the President's policies with respect to the administration of the legal services program. Quite to the contrary, as I have indicated, the Legal Services Corporation was established as an independent entity for the specific purpose of removing the legal services program from political control and interference.

The legislative history of the Legal Services Corporation Act sets forth specific criteria to be applied by the Senate in exercising its advise-and-consent responsibilities with respect to these nominations. These criteria are as follows: Each nominee must be committed to the Corporation's freedom from political control—the touchstone of the Legal Services Corporation Act. The Senate must also satisfy itself that each nominee understands and is

fully committed to the role of legal assistance attorneys and supports the underlying principle of the Legal Services Corporation Act that it is in the national interest that the poor have full access under law to comprehensive and effective legal services. The Senate also must assess whether the Board of Directors, taken as a whole, is representative of various specified groups concerned with the provision of legal services to the poor.

Thus, Mr. President, the specific role and responsibilities of the Senate regarding these nominations go beyond the customary advise-and-consent role where considerable deference is traditionally given to the judgment of the President in selecting men and women to fill positions in the executive branch. In judging these nominations, the Senate has a responsibility to assure that the statutory requirements and legislative intent regarding the qualifications and commitment of the nominees have been met.

Mr. President, the administration, by its utilization of the recess appointment power, has effectively subverted congressional intent that individuals serving on the Board of Directors of the Legal Services Corporation meet these requirements. The result has been to place the Legal Services Corporation under the control of individuals who have not been-and may well never be-confirmed by the Senate as meeting the qualifications set forth in the law. The issue of whether the President has the power to exercise recess appointment power with respect to these unique positions is before the courts and will ultimately be decided there. Nevertheless, it seems quite clear to me, as one of the authors of Public Law 93-355, that what has been accomplished by the Reagan administration in this instance is totally contrary to what we intended when we created an independent entity and established the special criteria for individuals to serve as directors of this new corporation. As I indicated earlier, these are not run-of-the-mill executive branch appointees who serve as advisers to the President or are responsible for carrying out his policies. To allow the use of "recess" appointments to avoid Senate confirmation is a violation of congressional intent.

Mr. President, the adverse consequences of permitting this abuse of process is readily apparent from the actions which have been taken by certain of the Reagan nominees—particularly William Olson and William Harvey—since they assumed power.

REAGAN NOMINATIONS AND APPOINTMENTS

Mr. President, let me review briefly the events of the past year with respect to these nominations. The Legal Services Corporation Act provides for staggered terms for the 11 positions on the Board of Directors. Normally, the opportunity to fill only a portion of the positions would have been available when the Reagan administration took office. However, because the previous administration had not filled the "vacanciers" which arose during 1980, the terms of all 11 members sitting on the Board had expired in 1981. Section 1004(b) of the act provides that such individuals continue to service until their successors have been appointed and qualified.

The Reagan administration took no action to fill those vacancies until late December when, in a dramatic New Year's Eve move, it made a number of recess appointments. The names of all but one of those recess appointees were subsequently submitted to the Senate subject to advice and consent for regular appointments. Nine names were submitted on March 1, and a 10th name shortly thereafter. One of the ten individuals, Marc Sandstrom, subsequently asked that his name be withdrawn. In July, the Labor and Human Resources Committee ordered the nominations of eight of the remaining nominees favorably reported to the Senate, with the committee vote divided with respect to the Olson and Harvey nominations. At the request of the White House, no action was taken with respect to the nomination of George Paras. Presumably the Whiter House's request was based upon its vote count which indicated that if the committee voted on that nomination it would not be approved.

Thus, eight nominations were placed upon the Senate calendar on July 15. There was, however, opposition in the Senate to consideration of these eight nominations until the status of the other three vacancies, in particular, the status of the Paras nomination, was clarified.

Mr. President, as I will indicate in a few moments, the unwillingness of Members of the Senate to take up a partial slate of nominations was entirely appropriate and consistent with prior Senate precedents with regard to the Corporation's Board of Directors.

The White House, however, refused to clarify its intentions with regard to the Paras nomination or the other two vacancies. There then began to develop within the Senate a desire to move ahead with the six nominations which appeared to be noncontroversial, and a time agreement to that effect was entered into shortly before the Senate recessed in October. At that point the White House indicated that it did not wish to see any nominations confirmed unless the Olson and Harvey nominations were considered at the same time. As a result, the stalemate continued until the White House, in what might fairly be characterized as a final gesture of disdain toward the confirmation process, withdrew all nine nominations.

Mr. President, since the Harvey and Olson nominations were withdrawn, I

would normally not wish to take up the Senate's time discussing these nominations. However, it is not yet clear whether the President intends to continue his efforts to place these individuals on the Legal Services Corporation Board. This week's revelations about the extent to which these individuals have profited financially from their participation on the Board of Directors would-it is hoped by this Senator-be sufficient to put an end to such a possibility. Nevertheless, I believe that the actions of Mr. Harvey and Mr. Olson have been so hostile to the legal services program and contradictory to the very reason for being of the Corporation itself that I am compelled to state my objections to these particular nominations in the strongest possible terms.

#### THE HARVEY AND OLSON NOMINATIONS

Mr. President, there have been concerns about the qualifications of Mr. Olson and Mr. Harvey since their names were first proposed. Both men have had relationships with organizations which have had adverse interests to the program. Serious questions have consistently been raised about their commitment to the legal services program. Their nominations have been opposed by a number of organizations involved with the provision of legal services to low-income individuals, and there were votes against both individuals—seven votes against Mr. Olson and three votes against Mr. Harvey-in the Labor and Human Resources Committee.

For me, however, the essential failing which operates to disqualify Mr. Olson and Mr. Harvey is the violation of the basic requirement that members of the Legal Services Corporation Board must remain independent of the administration in the discharge of their duties. That commitment to the Corporataion's freedom from political control is essential; it is the touchstone of the act.

The most serious charge against Mr. Olson relates to his actions in calling an extraordinary meeting on last New Year's Eve of those to whom the President purported to give "recess" appointments. Mr. Olson candidly admitted during his confirmation hearing that he called this meeting after consultation with White House staff and that a resolution attempting to block the award of the 1982 grants to legal services programs was developed in the office of a White House staff member.

At his confirmation hearing, Mr. Olson told the Labor and Human Resources Committee that he did not think it would be proper "in the future" for the White House to "dictate" any action taken by the Board of Directors. However, he failed entirely to acknowledge that the actions he had already taken were highly improp-

er in compromising, as the new nominees' very first act, the independence

of the Corporation.

Mr. President, I find these actions on Mr. Olson's part and his subsequent failure to understand their gross inappropriateness, disqualifying in and of themselves. Not only has he demonstrated a clear lack of understanding of the statutory independence of the Corporation and its freedom from political control, but these actions display a cynical willingness to subject the Corporation to the control of a President and a White House staff that is avowedly and persistently dedicated to the abolition of the Corporation.

Since those initial disqualifying actions, Mr. Olson has followed a stead-fast pattern of taking actions hostile to the legal services program and has consistently allied himself with Mr. Harvey in what appears to be a concerted effort to carry out the goals of the White House in destroying this program.

The recent "Harvey/Olson alternative proposals," published on November 8, for regulation virtually eliminating all possibility of programs bringing class actions and removing fair process in refunding decisions, are patent ex-

amples of this alliance.

With respect to Mr. Harvey, at the time of his confirmation hearing, there did not appear to be any evidence of a direct link between Mr. Harvey and the White House in the development of a strategy to take over the Legal Services Corporation-in contrast to the admissions of Mr. Olson regarding such ties on his part. Substantial concerns were expressed, however, by members of the Labor and Human Resources Committee regarding Mr. Harvey's prior association with the Pacific Legal Foundation, an organization with a history of opposing the interests of low-income individuals, as well as concerns regarding his refusal to provide forthright answers to questions about the legal services program. Nothing Mr. Harvey has done with respect to the legal services program since the confirmation hearings has done anything to allay these fears; indeed, precisely the opposite is true. Mr. Harvey has repeatedly and consistently taken actions indicative of a plan to alter radically the nature of the legal services program. The November 8 regulations are a ready example of this.

There are also substantial reasons to believe that when it became apparent that Mr. Harvey did not have a working majority on the Corporation's Board of Directors to carry out his program of radical change, he delayed calling Board meetings until the White House could send him support in the form of two additional "recess" appointees, neither of whom had any apparent qualification to serve on the

Legal Services Board of Directors. These two appointees provided the necessary votes to secure Mr. Harvey's election as Chairman and bestow the Presidency of the program upon Mr. Harvey's hand-picked candidate, a former law school student of his.

Although the Senate has not been afforded the opportunity of having Mr. Harvey testify about his contacts with the White House regarding these two new appointments, there is concrete evidence available to show that Mr. Harvey makes his decisions with respect to the Legal Services Corporation with a close eye toward the ad-

ministration's policies.

Specifically, Mr. President, I have received a copy of a letter dated August 30, 1982, from Mr. Harvey to Board member Harold Demoss, in which Mr. Harvey, in the context of urging that Mr. Demoss refrain from putting a resolution on the agenda of the next meeting of the Board, specifically refers to administration policies regarding the program. The resolution, in essence, would have expressed, among other things, the Board's support for an increase in funding for the Corporation, opposition to further reductions in funding, and support for the House-passed reauthorization bill, H.R. 3480. In urging that the DeMoss resolution not be placed on the agenda, Mr. Harvey stated:

Legislation is being reviewed, I am told, in the Administration. Clearly, support in some form is required from the Administration, if any or all of H.R. 3480 is to be adopted. I suggest that parts of your resolution might be offensive, or might be seen that way, to the Administration. I do not think you intend that or want it.

Mr. President, I ask unanimous consent that the full text of this letter, along with the proposed resolution that Mr. Harvey found so undesirable, be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. With-

out objection, it is so ordered.

Mr. CRANSTON. Mr. President, I have also obtained a copy of a letter dated June 5, 1982, from Mr. Harvey to another Board member, Howard Dana, in which Mr. Harvey makes explicit reference to having Corporation business at the White House.

It seems fairly clear to me that what we have is a Board member—far worse, the Chairman of the Board—who has failed to comprehend his responsibility to exercise independent judgment regarding this program—his responsibility to carry out the purposes and adhere to the provisions of the Legal Service Corporation Act and not to serve as an agent of the administration.

Mr. President, there are other charges against Mr. Olson and Mr. Harvey which I have not discussed. For example, Mr. Olson's role on the Reagan administration's legal services transition team has been a source of

continuing concern. It has been alleged that Mr. Olson advocated abolition of the program. He refused to provide the Labor and Human Resources Committee with a copy of that report or to discuss its contents in detail.

Mr. Olson's contention may have been quite proper that the contents of the transition report are not his, but rather the President's, to disclose. However, given the heavy cloud of doubt over his nomination, I believe it was incumbent on him to work out some arrangement with the White House whereby he could address and seek to remove the understandable concern over this report. The burden was upon Mr. Olson to refute the allegations made regarding his role on the transition team: He failed to carry this burden satisfactorily.

Similarly, Mr. Olson made no effort to dispel concerns about his relationship with Howard Phillips, chairman of the National Committee To Defeat Legal Services. He failed to state that he did not share Mr. Phillips' dedication to the destruction of the legal services program. This is particularly disturbing when coupled with his responses to certain confirmation questions. For example, in response to a question I submitted in writing to him regarding whether he was committed to opposing the abolition of the Legal Services Corporation, Mr. Olson declined to give an affirmative response, stating only that "My only commitment is to fulfill my fiduciary duties to the Corporation as a member of the Board."

Mr. President, I believe that the record is clear that neither Mr. Olson nor Mr. Harvey has demonstrated the commitment to the continuation of the legal services program that is required by the act and neither understands or complies with the fundamental requirement that Directors of this Corporation not serve as agents of the administration.

# ADMINISTRATIVE EXPENDITURES BY THE REAGAN BOARD

Mr. President, my original opposition to these two nominations has been compounded by the facts which were revealed at the hearing held in the other body on Tuesday, where it was brought out that the Reagan "recess" appointees had taken approximately \$250,000—a quarter of a million dollars—from the legal services program for their time and expenses over the last 11 months.

I am deeply disturbed, as were the House Members, by this diversion of legal services funds into the pockets of these Board members. When legal services programs are cutting back vital assistance to low-income individuals all over the country and millions of Americans are unemployed, this type

of behavior is simply inexcusable and

a breach of public trust.

Mr. President, I find particularly distressing that Mr. Olson, in attempting to justify billing the Legal Services Corporation for some \$19,00 for "his time" over the past 11 months, claimed that he had been forced to spend substantial time in connection with protracted confirmation proceedings in the Senate. The idea that an individual has billed an agency for the time he has expended in trying to get himself confirmed is simply outrageous

The rest of the story brought out at the hearing-the lucrative contract of employment Mr. Harvey personally negotiated for his former student which included a year's severance pay, unlimited personal living expenses, free trips back home, and membership fees in a private club-appears to have embarrassed even the White House. I ask unanimous consent that the series of articles describing the degree to which these two and other of the Reagan nominees have drawn funds from a program designed to help poor people which appeared in the Washington Post on December 15 and 16, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCOMPLETE BOARD OF DIRECTORS

Mr. CRANSTON. Although the withdrawal of all nine nominations has made the issue moot in this instance, I would also like to share with my colleagues my views on the impropriety of the Senate considering a partial slate of nominations.

Although I did not object to the time agreement which had been entered into with respect to Senate consideration of the other six nominations, I had indicated to the minority leader and the ranking minority member of the Labor and Human Resources Committee, my intention to vote against the so-called noncontroversial six nominations, as well as the Harvey and Olson nominations, because of the improper process being followed with respect to those nominations. I ask unanimous consent that a copy of the December 10 letter I sent to the minority leader regarding this matter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, as I have indicated, the Legal Services Corporation Act and its legislative history make it quite clear that the Board of Directors, as a whole, is to be constituted so as to be broadly representative of the various groups concerned with the provision of legal services to poor persons.

Since the time that President Ford submitted to the Senate the first panel of Legal Services Corporation Board nominees, in 1975, the Senate has never acted upon a partial slate of nominees. Indeed, the Senate position on this issue was expressed at the opening of the 1975 confirmation hearings when the then chairman of the Labor and Public Welfare Committee observed that President Ford had accepted the committee's recommendation that all nominees be presented to the Senate together because the act obligated the Members of the Senate to "ascertain the range of interests represented by the nominees as a group, as well as to inquire into their individual qualifications." (Nomination hearings before the Committee on Labor and Public Welfare, U.S. Senate, 94th Congress, May 14, 1975, p. 15.)

It is particularly significant that in 1975, although the committee reported the individual nominations at various times between May 14 and July 9, no action was taken by the Senate until all 11 nominations had been reported by the committee to the Senate. Indeed, the situation in 1975 was quite similar to that today. Shortly before the confirmation hearings actually began, one of the original 11 nominees, former Congresswoman Edith Green, had requested that her name be withdrawn. Marc Sandstrom, one of President Reagan's original nominees, did the same thing earlier this year. A second nomination in 1975, that of William Knecht, was indefinitely postponed by the Labor and Public Welfare Committee. A similar action was taken with respect to the nomination of George Paras. In 1975, recognizing that the Knecht nomination was not going to be approved, the White House withdrew his nomination and concurrently submitted the names of the final two nominees-former Senator Marlow Cook and Melville Broughton.

It was not until these last two names had been submitted and approved by the committee that the Senate acted on July 9, 1975, on the other nominees—then taking up the full slate of nominees.

Each subsequent time—in 1978 and 1979—that legal services nominations came before the Senate, the White House submitted nominations to fill all of the vacancies and the Senate therefore acted on the nominees with knowledge of the prospective nature of the entire panel.

The practice of not acting until the President has proposed the full composition of the Board not only allows the Senate to judge the representative nature of the full panel but permits the Senate to avoid being faced with the situation of not agreeing to a particular nominee because the full Board will not meet statutory criteria of representativeness if he or she is confirmed.

Mr. President, I raised these issues on these nominations and discuss them now not merely because of the improper procedure that was being proposed to the Senate for floor consideration, but because of my substantial concerns about the composition of the slate of nominees to be considered by the Senate as it relates to the requirements of the Legal Services Corporation Act. Although the deficiencies in the slate might have been corrected by the selection of the final nominees, it would have been virtually impossible for the Senate to assess what the final Board would have looked like and whether the representation provided for by the Congress would have been achieved.

# FAILURE TO MEET STATUTORY REQUIREMENTS REGARDING REPRESENTATIVENESS

My concerns were principally in four areas: First, compliance with the statutory requirement regarding representation of eligible clients; second, compliance with the statutory requirement regarding representation of attorneys providing legal services to eligible clients; third, compliance with the statutory requirement regarding the limit on representation from one political party; and fourth, the insufficient representation of women and minorities among the administration's nominees.

The Legal Services Corporation Act explicitly requires, as a result of the 1978 amendments in Public Law 95-222, that there be more than one person on the board who is an eligible client. The Reagan administration's slate of candidates fell short of this statutory requirement. Only one of the eight nominees was a nonattorney who might even arguably be a client representative.

My concern about the failure of the administration to meet the requirement of appointing more than one eligible client to the board was heightened by the recent "recess" appointment of Dan Rathbun, a 23-year-old college student. The administration apparently has argued that Mr. Rathbun satisfies the client representation requirements, although reports have appeared in the press and not been denied that he was claimed as a dependent last year by his parents, whose income—reported to be over \$30,000-would not qualify them as eligible clients. Although Mr. Rathbun's name was not submitted for a permanent position on the board, the fact that the administration seems to view this individual as filling one of the positions intended by the Congress to be filled by someone from the low-income client community is indicative of a lack of concern for meeting the statutory requirements.

I was also not satisfied that any of the eight nominees was adequately representative of attorneys providing legal services to eligible clients. Although several nominees had described themselves as having represented eligible clients or provided pro bono services, none has anything approaching the experience of a fulltime legal services attorney. Again, although this deficiency could be corrected by the nomination to one of the remaining seats of an individual with substantial legal services experience, there has never been any indication that the administration intended to do this. Indeed, the other last-minute recess appointee, Frank Donatelli who was apponted along with Mr. Rathbun, certainly has no experience as a legal services staff attorney.

In like manner, we would not be able to tell whether the final composition of the Board would have satisfied the statutory directive in section 1004(a) of the Legal Services Corporation Act that "No more than six (members of the Board) shall be of the same political party." Five of the eight nominees are Republicans.

Fourth, Mr. President, in terms of the general representativeness of these nominations, I was deeply concerned about the lack of women and Hispanics among the eight nominations. There was only one woman among the eight individuals nominated to the Board, although women represent 68 percent of the clients served by the Legal Services Corporation and although two out of three poor adults in this Nation are women. There were no Hispanic representatives at all in this slate of nominees, although the Hispanic population represents 10 percent of the clients served by legal services programs and over one-fourth of the eligible population.

Mr. President, the first Board of Directors consisted of an 11-member, allmale, all-attorney panel. I strongly objected to that composition in 1975, and I authored a resolution unanimously adopted by the Labor and Public Welfare Committee expressing the committee's concern that "future nominations should take account of the need for the inclusion on the Board of nonlawyers, women, and members of the client community."

The nominations to this Board made by the Carter administration made dramatic and appropriate changes in the Board's composition. The Board which was in place when President Carter left office was composed of four women-one of whom served as the Chairman of the Board-two client representatives, a former legal services attorney, two Hispanics, two blacks, and one native American. Although there were two black nominees included in the recently withdrawn slate, the overall contrast is striking between the panel proposed by the Reagan administration and the diverse panel proposed to be replaced.

Mr. President, in 1975, when I did not object to the last two Ford nomiwhite, nees-also male attorneys making the entire Board all white, attorneys-the distinguished Senator from New York, Senator Javits, then the committee's ranking minority member and one of the best friends the legal services program has ever had, noted on the Senate floor that I had "swallowed hard" in concurring in the confirmation of the Ford panel because of its lack of women, non-attorneys, and clients.

I am not willing to "swallow hard"

I am not willing to "swallow hard" again. I will not vote for a panel which is not representative, and I will continue to oppose any effort to ask the Senate to confirm partial slates of nominees to the Board of Directors of the Legal Services Corporation.

#### CONCLUSION

Mr. President, the fact that the legal services program exists today, after nearly 2 years of continuous attack by the current administration, is a testament to the strength of this program and the depth of the commitment of the Congress to the program. I believe that the strong bipartisan support for the legal services program will continue in the 98th Congress and that the cause of justice exemplified by this fine program will continue to be served.

An editorial appeared in the Washington Post on December 16 describing the legal services program as a program truly worth saving. I hope that the administration sometime in the not too distant future will accept this fact.

Mr. President, I ask unanimous consent that the Post editorial, along with two Post articles which appeared on December 12, also be printed in the Record following the material I previously received unanimous consent to insert.

The PRESIDING OFFICER. Without objection, it is so ordered.

The material ordered to be printed in the Record follows:

[From the Washington Post, Dec. 15, 1982] LEGAL SERVICE APPOINTEES GET FAT FEES

# (By Mary Thornton)

President Reagan's appointees to the board of the Legal Service Corp., the program that provides free legal help to the poor, have been collecting large consulting fees for their part-time jobs, at least twice as large as those paid to any previous board in the program's history.

in the program's history.
"I must tell you that it has a bad appearance," Rep. M. Caldwell Butler (R-Va.) told a congressional oversight hearing yesterday. "I'm a Republican, and we bring in Republicans to reform [the program], and it sounds a lot like the first thing they did was put all four feet and a snout in the trough."

Rep. Harold S. Sawyer (R-Mich.) said, "It really offends me that you people are doing this." He noted that board Chairman William F. Harvey submitted consulting bills for \$25,028 in the first 11 months of this

"Here the board members are making a substantial amount of money for just a part-time thing," he said. "I know there are top-flight lawyers in the U.S. . . who would devote pro bono [free] time without taking kind of money out of the program." Sawyer added that the president of the American Bar Association serves a one-year term which is virtually full-time with no payment besides expenses.

Documents provided by Legal Services to the House Judiciary subcommittee on oversight indicate that the 11-member Reagan board collected \$156,201 in consulting fees in the first 11 months of 1982, compared to \$72,029 for the pervious board in a year.

In fact, the overall budget for the board of directors has grown from \$113,721 on Sept. 30, 1981, under the old board, to \$273,731 on the same day this year, according to Legal Services Corp. figures.

Since the program was created in 1975, directors have been entitled to reimbursement for expenses and to a consulting fee for the time they work.

But in most cases those fees have been small. Last year, for example, former board chairman William McCalpin, who was appointed by President Carter, collected \$4,704 in consulting fees.

William Olson, a Reagan board member who testified yesterday, rejected a suggestion by Butler that the \$221-a-day consulting fee be limited, suggesting that this board may be working harder than previous ones.

Olson, 33, a Washington lawyer, collected \$19,721 in consulting fees, but he said he considers his work on the board to be "pro bono work" because the \$29-an-hour consulting fee is less than he earns at his law firm.

Reagan twice has tried unsuccessfully to persuade Congress to abolish Legal Services. Last week, he withdrew all his formal nominations for the board when he received word from the Senate that neither Harvey

nor Olson would be confirmed.

The board has been serving all year in recess appointment that will expire when Congress adjourns for the year, possibly by the end of this week.

Legal Services payment records obtained by the Washington Post indicate that Harvey, who does not like to travel on airplanes, frequently billed the corporation the \$221-a-day rate for his driving time. Under Legal Services guidelines, board members are allowed to charge as consultants for the time they spend traveling.

In some cases, the 615-mile trip each way from Indianapolis to Washington was billed for two days in each direction, in addition to automobile expenses, lodging expenses and meals on the trips.

Harvey also had some substantial expenses during his trips on official business.

On a trip to Washington in late October and early November for a two-day board meeting and related business, Harvey was rembursed for \$194.22 in postal expenses and \$55.85 in taxi expenses.

He tried to charge the program for his four nights at the Watergate Hotel at \$131.80 a night, but the corporation paid only \$69.78 a night.

On another trip in May in which he spent five nights in Washington, Harvey spent \$147.05 on taxis and \$63 on long-distance phone calls. On a six-day trip in March, he collected on a long-distance phone bill of \$118.28, in addition to other travel expenses.

Harvey, who did not return telephone calls yesterday, is not the only board member with large consulting fees or ex-

Daniel Rathbun, 23, an undergraduate student who ws added to the board by Reagan in late October, collected \$1,032.07, not including his travel expenses, by working for 35 hours over six days.

Another board member, Clarence McKee,

has flown first-class several times.

he said yesterday that he needs the larger seats because he suffers from sciatica, back condition, and that he had submitted letters from his doctor tothe board to justify the expense.

A source at Legal Services said yesterday that the doctor's note was not turned in until last week, after Congress requested the travel records. McKee collected \$15,757 in consulting fees.

[From the Washington Post, Dec. 16, 1982] LEGAL SERVICES HEAD'S CONTRACT SWEET

(By Mary Thornton and Juan Williams)

The new president of the Legal Services Corp. has negotiated a contract with his former law professor, now the chairman of the board, that gives the president extensive government-financed fringe benefits, including paid membership "in a private club of This 1 choosing.'

The board of the corporation was attacked earlier this week for collecting large consulting fees. As criticism mounted yesterday President Reagan said it is "highly unfortunate" that his appointees have been billing the corporation-the federal program of legal assistance to the than twice the rate of \* \* \* board. · more

We think the expenses are high," said White House spokesman Larry Speakes.

"We'd like to know why."

Speakes said White House counselor Edwin Meese III had asked the Office of Management and Budget to review the matter.

However, Meese told NBC Tuesday night, "I think if people have been working or have special responsibilities where they donate a lot of time and the law provides consulting fees . . . then they should take consulting fees."

Meanwhile, documents obtained by The Washington Post indicate that Donald P. Bogard, who started Monday as president of the Legal Services Corp., has been given substantial benefits in addition to his \$57,500 annual salary.

The contract was negotiated by board chairman William F. Harvey, a former law professor of Bogard, without the participation of the other 10 board members, board members said.

Besides the club membership, the contract contains a severance clause that would entitle Bogard to a full year's pay, benefits and

expenses if he were fired.

In addition, since Bogard's family prefers not to move to Washington until the end of the school year, the corporation will pay an unlimited amount for his food and lodging, plus two trips a month to Indianapolis until June 15. Round-trip, tourist-class air fare to Indianapolis is \$350.

Bogard said yesterday that private club membership has been standard in the con-

tracts of previous Legal Services presidents.
Asked if he will join a club, he said, "I haven't thought about it." Bogard also said he had no comment on Reagan's statement.

Bogard, 41, is an Indianapolis lawyer who spent eight years in the Indiana attorney general's office and then moved to Stokely-Van Camp Inc., where he defended the firm against lawsuits brought by Legal Services Corp. attorneys on behalf of migrant farm-

On Oct. 29, the Legal Services Corp. board voted to authorize a three-man committee of Harvey, board member Howard Dana, and acting president Clint Lyons to negotiate Bogard's contract. Instead, Harvey negotiated it himself, board members said.

Rep. Barney Frank (D-Mass.), a member of the House Judiciary oversight subcommittee, said, "I think that was clearly a violation. . . The terms of that contract were negotiated improperly—in violation of an explicit vote of the board."

Reagan has twice tried to persuade Congress to eliminate all funding for the Legal Services Corp., saying that the private bar would handle these cases at no charge and at no cost to the government. He named the board members only after Congress rejected his efforts to eliminate the program.

Meanwhile, the corporation has been operating on a reduced budget-25 percent

below 1980.

The board is scheduled to meet today to consider changes in regulations to limit the kind of cases that Legal Services attorneys

may hring

According to Legal Services records, Reagan's board members charged consulting fees of \$29 an hour, totaling \$156,201 for their part-time work for the first 11 months of the year, more than twice the \$72,029 that the previous board charged for all of 1981.

Speakes said yesterday that the White House was not aware of the fees until Tuesday, when the matter came up in a House hearing. He said Reagan "expressed the view this morning that he believes it to be highly unfortuante that expenses for the board have apparently doubled over the past year, and it is his hope that future expenses could be reduced to an absolute minimum '

In another matter affecting the corporation, U.S. District Court Judge Norma Holloway Johnson yesterday refused to block Friday's scheduled Legal Services board meeting. A group of former board members had sought to prevent the meeting on grounds that Reagan had withdrawn the nominations of nine recess appointees to the board.

But Johnson said that if the Senate's rights to confirm the appointees "are being abridged . . . there is no reason why the Senate cannot file suit on its own behalf."

Moreover, she said, the president's withdrawal of the nominations does not affect the validity of the recess appointments, which will expire when the lame-duck session of Congress ends.

> LEGAL SERVICES CORPORATION, August 30, 1982.

Re Letter and Resolution dtd. August 23, 1982 to Chairman and Members of L.S.C. Board of Directors.

Mr. Harold R. Demoss, Jr. South Tower, Pennyoil Place, Houston, Tex. DEAR HAROLD: Thank you for your communication of the 23rd. You have requested that your Resolution be placed on the agenda of the next Board meeting, which would be in late September.

I suggest in turn that you not place it on the agenda of the next Board meeting. Because of the nature of what you want to say, I feel that you should receive and consider the comments and views of the other Board members and, eventually, reform what you have said.

I shall attempt to initiate some thoughts here, with a few short statements, and if you receive them and they are well received, then perhaps they too might develop more discussion before you present your Resolution.

My thoughts are:

(1) There is no historical connection between our appropriation of \$241,000,000. and the provisions of H.R. 3480. There is none in the Congress, and the L.S.C. establishment knows there is none. I suggest that that should not be said.

(2) Our approach, that is, mine, other Board members, President Caplan, and the Corporation's staff, on the Hill, is to get what we can get of H.R. 3480, hopefully the more the better, and especially that which deals with present Section 1011. The Resolution seems, unintended no doubt, to de

facto reject that approach.

(3) Legislation is being reviewed. I am told, in the Administration. Clearly, support in some form is required from the Administration, if any or all of H.R. 3480 is to be adopted. I suggest that parts of your Resolution might be offensive, or might be seen that way, to the Administration. I do not think you intend that or want it.

(4) My desk seems covered over with letters expressing very great concern with L.S.C. and its activities. You have received. I think, the letter from Mr. M. Gregg Smith, on the conditions in Oregon public housing. which is dated August 13, 1982. There are many like that, as well as reports from the Comptroller General and the House of Representatives.

In my judgment major changes in L.S.C. should be effected if it is to represent the best interests of persons who do have counsel. I am not certain that this is the spirit of your Resolution or that you see L.S.C. in that way. I would prefer to discuss this with you, and perhaps we can when we are together at one of our meetings.

Meanwhile, I suggest that your Resolution, in its present form might be self-defeating. Hence, I request that you hold placing it on the Agenda.

Very cordially,

WILLIAM F. HARVEY, Chairman of the Board.

#### RESOLUTION FOR BOARD OF DIRECTORS OF LEGAL SERVICES CORPORATION

Be it resolved by the Directors of the Legal Services Corporation that, in order to communicate to the President and to the Congress its views as to the various issues now facing the Corporation and to state publicly its position on such issues, the Board does hereby adopt the following statements of principle, policies and posi-

1. The program for providing civil legal representation for the poor as presently funded and administered by the Corporation is a needed and worthwhile program which serves the national interest and should be continued.

2. The Board is aware that this program, as is the case with many government pro-grams, suffers from certain flaws, abuses and irregularities. Such imperfections, however, constitute a relatively small part of the total operation; and are far outweighed by the good which the program otherwise provides. The Board pledges to the President and to the Congress that it will diligently exercise every power under existing statutes and regulations to reduce and ultimately eliminate all such abuses; and where necessary, it will request amendatory legislation by the Congress to give this Board additional authority to deal with such problems.

3. The Board urges the Congress to adopt and the President to approve an appropriation for the Corporation for Fiscal Year 1983 at the level of \$265,000,000.00 as requested by the Corporation. This request a modest increase from the constitutes \$241,000,000.00 level at which the Corporation has operated during Fiscal Year 1982; and is needed to cover the increase in costs resulting from inflation. The Board recognizes and commends the efforts of the President and the Congress to achieve a balanced budget and to reduce the federal deficit. However, the Board would point out that the Legal Services Corporation has already sustained a 25 percent reduction in its appropriation from the level of Fiscal Year 1981; and in the Board's view, this Corporation has already made its contribution toward balancing the budget.

4. Any substantial reduction in the level of appropriations for the Corporation below the level of \$241,000,000.00 at which the Corporation is presently operating will cause significant loss in the ability of the Corporation to deliver legal services to the poor on a fair and equitable basis; and will make it impossible for the Corporation to comply with the standard of "equal access" contemplated by the Legal Services Corpo-

5. The Board urges the Senate to pass and the President to sign H.R. 3480 as adopted by the House of Representatives. This bill contains many provisions which will provide the statutory framework for elimination of some of the operational problems in the program which have been the subject of

complaint and criticism.

6. The Board urges all organizations and individuals in the Legal Services Community to join the Corporation in seeking the appropriation and the passage of H.R. 3480 as referred to herein. The Board recognizes that some may desire a higher level of funding than the appropriation requested by the Corporation; but in the Board's view, and request for funds in excess \$265.000.000.00 would be unrealistic in the face of the overriding necessity for bringing the federal budget into balance. The Board recognizes that some may not favor all of the provisions of H.R. 3480; but in our view, the changes contemplated by H.R. 3480 are the price which must be paid for the continuation of the program at current levels.

7. For the foreseeable future, the goals of the Legal Services Corporation should be:

A. To maintain itself and its programs at substantially current levels as the nucleus of all programs aimed at providing civil legal representation for the poor; and

B. To encourage the development of various private and locally funded programs as supplementary means of providing civil legal representation for the poor.

Achievement of such goals will require:

(a) Concentration of the human and financial resources of the Corporation and its grantees in those areas of civil legal representation which are expressly authorized by statute and regulation;

(b) Cooperation between the Corporation and its grantees in defining those areas of civil representation which can more efficiently be provided by supplementary programs; and

(c) An attitude of mutual respect and confidence between the Corporation, its grantees and all organizations involved in the delivery of legal services to the poor.

DECEMBER 1, 1982.

Hon. ROBERT C. BYRD, Minority Leader.

U.S. Senate, Washington, D.C.

DEAR ROBERT: In the event that an effort is made to bring up the eight Legal Services Corporation (LSC) Board of Directors nominations which were reported by the Labor and Human Resources Committee last July. it is my intention to object to any time agreement with respect to the nominations of William Harvey and William Olson. My objections to Mr. Harvey and Mr. Olson are based primarily upon the actions they have taken with respect to the legal services program during the past year under their "recess" appointments to the Board. These actions have demonstrated a flagrant disregard for the Congressional mandate that the program be operated as an independent entity, free from political control and manipulation by the Administration. I thus believe they lack the basic qualification to serve on the LSC Board.

Regarding the other six nominees on the Senate calendar—Howard Dana, Robert Stubbs, Harold DeMoss, Clarence McKee, Annie Slaughter and William L. Earl—with respect to whom a time agreement has already been entered into, I will not request a roll call vote; however, I do intend to oppose these nominations on the basis of the process under which they have been brought

before the Senate.

As I will spell out in detail in a floor statement, I believe that the Legal Services Corporation Act and its history make it clear that the Senate is charged with the responsibility of assessing whether the nominations to the Board of Directors of this Corporation, taken as a whole, meet the statutory requirement of representativeness. I believe that the Senate cannot properly fulfill this responsibility unless the full 11-member slate is known. In 1975, nine nominations were held on the Senate calendar for several months until President Ford submitted the final two names.

I believe this precedent should have been followed with respect to these nominations.

With warm regards,

Cordially,

ALAN CRANSTON.

#### [From the Washington Post, Dec. 16, 1982] SABOTAGING LEGAL SERVICES

Even opponents of the administration's efforts to abolish the Legal Services Corporation must give the administration credit for ingenuity. The strategic attacks and counterattacks, the creative use of the recess appointment power and the bold regulatory assaults at the last minute illustrate the determination and resolve of the corporation's foes. But while these efforts have confused and frustrated backers of legal services for the poor, they have not succeeded in convincing Congress or the public that we can do without this program.

The courts have guaranteed free legal services to the indigent in criminal, but not civil cases. Until the creation of the corporation in 1974, attorneys to represent those who could not afford to pay were provided by volunteers, often through local legal aid societies. The corporation was created to supplement this fragile and fragmented system with a permanent corps of federally paid lawyers, based in neighborhoods, who could assist the poor. In some areas of the country, most notably California, the legal services lawyers went far beyond providing standard individual legal services and brought class action suits on behalf of the

poor against businesses and state and local governments. The man who was then governor of California—and feeling the brunt of much of this activity—is now president of the United States, and he wants to abolish the Legal Services Corporation altogether.

Because Congress will not go along, and stubbornly keeps appropriating money for the corporation's work, another lateral attack was devised: load up the corporation's board with those who can be counted on to subvert its work. That's what the president thought he had done, but last week be withdrew eight nominationsboard has 11 members-that have not yet been confirmed by the Senate and indicated some of them would be replaced by individuals who are even more zealous in opposition to the program. The president can make a new set of recess appointments as soon as Congress adjourns, and these people will continue to serve, even though unconfirmed by the Senate, until the next Congress adjourns. Thus, even a board that has not a single member who has been confirmed can continue to make decisions binding on the corporation.

This week, four proposed regulations will come before the current lame-duck board of directors. They would, if adopted, prohibit class actions, the most efficient and effective means of vindicating the rights of large numbers of citizens, and severely hamper the work of poverty lawyers in a number of other ways.

Perhaps it is asking too much of such an avowed foe of the Legal Services program, but the president could mend some fences with Congress and help the poor in a time when they need all the help they can get by putting an end to all this fooling around with the program. Accept the fact that Congress will not let it die, find some people who are conservatives but who see merit in it, and put them in charge. There is broad support in Congress for some changes that would clarify the rules for class actions and set guidelines for this important work. But there is also a determination to save the program, because it is truly worth saving. Killing it by bits and pieces, regulations and recess appointees just won't work. There's a real need for poverty lawyers out there in a country savaged by recession and unemployment, and all who are concerned abut the fate of those who suffer will not let the program die.

As a footnote to the above, we give you a quotation from Rep. Caldwell Butler, the Virginia Republican who is retiring this year: "It sounds like the first thing they did was put all four feet and a snout in the trough."

Mr. Butler was speaking of the administration's appointees to the Legal Services board and the consulting fees they have billed the government. Chairman-designate William Harvey, for example, has submitted \$25,028 in consulting bills for the first 11 months of this year. Overall, the 11-member board collected \$156,201 in consulting fees through November. Members are entitled, we should add, to reimbursement for expenses and consulting fees for the time they work. But previous members billed the government far, far less.

Do these men have to give the impression that they're getting rich in the process of cutting programs for the poor? (From the Washington Post, Dec. 12, 1982) More Needy Clients Face Less Legal Help (By Mary Thornton)

Every time she answers the phone, there is a new horror story: people crying and begging for food, cancer patients with no money for treatment and no place to turn, people who threaten to commit suicide and sometimes do.

"We're turning many of them away," said Elena Ackel, a legal services lawyer in Los Angeles. "We try to find private lawyers to refer them to, but there are so many. We've had to close half of our offices, and we're down to six lawyers covering 250,000 poor people. It's impossible. It's depressing, but there's nothing we can do."

Ackel is on the front lines in a battle that has raged over the future of the Legal Services Crop., the government-funded program that provides free legal assistance for the poor, since President Reagan took

office.

With a reduced budget, she and other poverty lawyers have tried to cope with steadily increasing volume of clients created by soaring unemployment and administration cut-

backs in social programs.

Reagan has twice tried to abolish the program and been rebuffed by Congress. But last year, Congress did agree to cut the budget by 25 percent of the 1980 level, to \$241 million, and it has stayed there for two

years.

Last week, Reagan withdrew his nominations to the Legal Services Crop. board of directors when the Senate sent word that it would not confirm two of the most conservative nominees. But the board, which still holds recess appointments, will meet this week to try to adopt regulations limiting the cases the program's attorneys can handle.

William F. Harvey, chairman of the board and one of the nominees the Senate said it would reject, said recently that he is satisfied with the board's work in the last year. "When I get 50 miles from Washington, I get substantial support for our board and what we've been doing . . . . We get commendations, congratulations and pleading that we stick with it "he said."

that we stick with it," he said.

During the first year of the Reagan budget cuts, the Legal Services Corp. lost 1,773 lawyers, nearly 28 percent and closed about 20 percent of local offices providing help to the poor. Although figures have not yet been tabulated, there have been further

reductions this year.

Legal services lawyers across the country say there have been dramatic reductions in the caseloads they can handle. In Indiana, for example, state director Norman Metzger says the progam is accepting only half of the number of clients it did last year. What happens to the others? "Who knows?" he said. "They're just faceless people out there. No one knows what happens to them."

Jonathan Stein, a Philadelphia legal services lawyer, says that because of cutbacks and the huge increase in the number of clients, his program is turning away all but life-or-death cases. "We have to help people who have their survival at stake. Those who would lose merely money or possessions, we can't put the resources into," he said. Perhaps most distressing to poverty law-

Perhaps most distressing to poverty lawyers has been the necessity to turn away eligible poor people who have been cut from Social Security disability rolls. An estimated 225,000 have been cut since March, 1981, and many are eligible for legal services. Some have become life-or-death cases.

Sen. Howard M. Metzenbaum (D-Ohio) has begun keeping a "death list" of persons who died of their disabilities after benefits were cut off and has documented 35 such cases. Last week, he asked the General Accounting Office to begin an investigation. Nearly a year ago, Sen. Carl Levin (D-Mich.) announced he had documented 11 suicides among persons whose benefits were cut off.

Ackel says she is urging private lawyers to take the disability cases. Of the 50 percent nationwide who appealed cutoff of their benefits, two-thirds were reinstated. But fees in such cases are not large, and most private lawyers have little or no experience in Social Security law.

"They're denying people with terminal cancer, people who obviously can never work again," Ackel said. "In those cases, it's not that they were not going to die eventually. It's that the government is making the last year or so of their lives the most horrible imaginable by not giving them enough

money to have anything to eat."
"The worst thing of all is that there's just

nothing we can say to them," she said.

Legal services law is not glamorous. Lawyers start at \$17,700 and spend virtually all of their time on the everyday problems of poor, often desperate people. They deal with evictions, divorces, child custody, family violence, disputes over bills and questions of eligibility for welfare, Social Security and other government payments. They deal only with civil cases. In criminal cases, the Supreme Court has ruled that courts must provide lawyers for poor people.

must provide lawyers for poor people.

The program dates to 1965 and President Johnson's war on poverty. It started in the Office of Economic Opportunity with the blessings of the American Bar Association, which recognized that the private bar could not donate enough time to handle the needs of the poor and that many of the nation's ablest lawyers had no experience in dealing

with problems of the poor.

The program, which tended to attract young, liberal lawyers, had its detractors. Some conservatives were enraged by successful class-action suits brought by poverty lawyers against government agencies in such areas as conditions in mental hospitals and prisons, rights of migrant workers and rights of the poor to welfare or food stamps.

Among those critics in the late 1960s was Ronald Reagan, then governor of California. The California Rural Legal Assistance program, funded by OEO, had successfully sued to extend the rights of farm workers, to restore Medicaid cuts and to protect rights of Spanish-speaking state residents.

In 1970, Reagan attempted to veto federal funding for the program in his state. The issue was handled for him by Edwin Meese III, then his executive assistant and now White House counselor. The OEO eventually overrode Reagan's veto, but Reagan and Meese remain foes of the program.

Because of that incident and later efforts by the Nixon administration to destroy the poverty law program, a bipartisan Senate group led by Walter F. Mondale, then a senator from Minnesota and later vice president, proposed a bill to insulate the program from politics. In 1974, Congress enacted the Legal Services Corp. as a semi-independent agency to provide free legal services to the poor.

For nearly the first year of his administration, Reagan ignored the Legal Services Corp. board. White House sources have said he believed Congress would approve his plans to dismantle the program and saw no need to make appointments.

When it became clear that Congress would not acquiesce, Reagan rushed last New Year's Eve weekend to take over the board before funding for 1982 went out to the 326 programs across the country. He was too late. Contracts had been settled more than a month earlier.

Critics have charged that Reagan is trying to do through the board what he could not

accomplish in Congress.

Dan J. Bradley, who resigned as president of the Legal Services Corp. board last March, said in a recent interview, "I don't think there's any doubt the Reagan administration would like to totally dismantle the legal services program and return responsibility . . . to the states. I think that has always been their plan. There's no question they're trying to do indirectly through the board what they cannot do directly through Congress."

Steven L. Engelberg, a member of the Legal Services Corp. board under President Carter, asks, "How many issues do they have where they can really deliver for the far right? They view legal services as the embodiment of left-wing activism—hard-core lefties running around organizing demonstrations and sit-ins—and it fries their ass that the government is paying them to do

Few of the appointees to the 11-member board have any experience in poverty law. Some are past enemies of the program, and several have been criticized as insensitive to

needs of the poor.

Last October, the board chose as its new president, Donald Bogard, 41, an Indianapolis lawyer. He spent most of his career in the Indiana attorney general's office and more recently served as head of litigation for Stokely-Van Camp, defending the company in suits brought by legal services lawyers for migrant farmworkers.

Harvey, an Indiana University law school professor who once taught Bogard, says he wants to see the program "substantially re-

formed."

Harvey blames legal services attorneys for the program's problems, and his main target is class-action suits. If lawyers were not bringing such suits, he has said, they would have time to attend to problems of the poor. Legal Services Corp. statistics, however, show that less than 0.2 percent of cases in recent years have been class-action suits.

Harvey accuses the lawyers of bringing class actions to engage in "ideological joyriding [to] reform society in their image. They're using the poor and class actions [to do that]." And he added that the days of the class-action suit are over. "It's done, over, not going to happen. . . ."

Metzger disagrees: "What's ironic in classaction suits is that we're alleging that government agencies are violating the law. It's no surprise they don't like us . . . but the problem is not that we file class actions. The problem is that we get gray-haired old men to agree with us. We don't decide class-

action suits. Judges do."

When the board holds its last meeting this week, Harvey will push for a regulation that would severely limit class actions. It would prohibit Legal Services Corp. involvement in any class-action suit requiring expenditure of tax money by a government agency and would require lawyers to identify and obtain consent of every person involved in the suit. That could prove difficult, for example, in a case to improve conditions in a mental hospital.

Bradley charges that by moving to limit class-action litigation, "they're trying to reduce the controversial nature of the lawsuits we've been involved in. They would like a program where poor people sue only other poor people and nobody else." But he is convinced that even though the program is going through a difficult time, Congress will not let Reagan dismantle it.

"The history of legal services since 1965 has been similar to a roller coaster ride. We've had our peaks and our valleys. It's bad now, but I'm convinced the pendulum will swing the other way... We will weather the storm," he said.

While politicians debate the future of legal services, the caseload grows, and attorneys continue to struggle for their clients.

In Pennsylvania, for example, Stein worried last week about a new policy to drop all able-bodied persons between ages 18 and 45 from the \$172-a-month general assistance program after three months. With a state unemployment rate of 12.1 percent and 100,000 people expected to be cut from the rolls last week, Stein was anticipating a new onslaught on his Philadelphia office.

"The cuts are coming at the time when people are in their greatest need," he said. "There's enormous homelessness, soup kitchens, emergency shelters. We all know they're inadequate. We have issues affecting hundreds of thousands of people when there's virtually no advocacy for them."

In Indiana, Metzger has been forced by budget cuts to shut down the Muncie office in an area where unemployment tops 20 percent. In rural areas throughout the country, offices have been closed. It may now take up to several hours to drive to the nearest legal services office, a major consideration for those without car and money.

Ackel, meanwhile, is trying to keep track of Kimberly Bailey, a middle-aged mentally ill woman who lost Social Security disability benefits in June, 1981. A former legal services attorney helped Bailey reapply but, because of the backlog of cases, she did not get a hearing until last summer. She won

but has received no money.

Ackel said she last heard that Balley was living without heat or electricity in an open wooden lean-to in the hills above Santa Barbara, not far from Reagan's Rancho del Cielo. But no one has heard from her since the recent severe weather that ravaged California's coast.

[From the Washington Post, Dec. 12, 1982] Recess Board Set to Hold Its Final Session

# (By Mary Thornton)

Last week, President Reagan withdrew all eight of his nominees as directors of the Legal Services Corp. when he received word from the Senate that two of his leading appointees would be rejected.

Reagan had formally nominated nine board members, and a Senate committee approved all but one. But the eight nominees had languished for months on the Senate calendar without action.

Meanwhile, a full board of 11 members has served for nearly a year as "recess appointees" under a little-used procedure in which the president can make appointments while Congress is out of session, allowing those nominees to serve in their full capacity throughout the next session of Congress without Senate confirmation.

That uncomfirmed board has chosen Indianapolis lawyer Donald Bogard, 41, to be president of the corporation and will meet this week to decide on proposals to limit severely the activities of legal services lawyers.

Then, except for two new recess appointees named in October, the board will cease

to exist as soon as Congress adjourns for the year, possibly at the end of this week. However, Reagan is expected to name new recess appointees, and there has been widespread speculation that William F. Harvey and William J. Olson will be renamed.

liam J. Olson will be renamed. The 11-member board consists of:

William F. Harvey, 50, chairman, one of the two men the Senate said it would reject. A law professor and former dean at the Indiana University School of Law, Harvey is a consultant to the conservative Pacific Legal Foundation, with which White House counselor Edwin Meese III was previously associated.

Harvey has been criticized by legal services advocates because of his positions against affirmative action and court-ordered busing for school desgregation. He represented parents fighting a busing plan in the Indianapolis area and has supported federal legislation limiting court jurisdiction in school desegregation cases.

school desegregation cases.

Howard H. Dana Jr., 42, a Portland,
Maine, lawyer, seen as one of the board's
moderates. Dana ran Reagan's 1980 presidential campaign in Maine and views himself as a staunch conservative, but he is the
only board member with actual legal services experience and one of the few to insist
that the board enforce the Legal Services

Act as approved by Congress.

William J. Olson, 33, of Falls Church, who headed the Reagan transition team on the Legal Services Corp. He is said to have favored abolishing legal services but has refused to release the transition team's report and would not answer questions about it in his Senate confirmation hearing. He was the other nominee who did not have the votes for Senate confirmation.

Currently a lawyer here, Olson was a White House intern under President Nixon. A former chairman of the Fairfax County Republican Committee, he is a member of the Virginia Republican Central Committee and was coordinator of the Fairfax County Reagan/Bush campaign.

George E. Paras, 58, of Sacramento, the only formal nominee not approved by the Senate committee and labeled a "14-carat bigot" by Sen. Thomas F. Eagleton (D-Mo.) during his confirmation hearing.

The controversy arose over a letter Paras sent last year to Cruz Reynoso, first Hispanic judge nominated to the California Supreme Court. It said: "Your problem is that you feel it your obligation to be a professional Mexican rather than a lawyer. Thus you must remain true to the ideals consistently tossed about by leaders of the so-called Mexican movement.

"You must ever champion the 'oppressed,' meaning those who so designate themselves, such as criminals, handicapped, welfare recipients, demonstrators, 'minorities' and miscellaneous other have-nots," he wrote.

Paras later clarified the letter: "There are such things as professional blacks, professional Greeks, professional Dagos, professional Jews, people who put their ethnic origin ahead of everything else. That's what I meant."

Paras, who practices business law in Sacramento, served as a judge from 1969 to 1981 in Sacramento County Superior Court and then a state appeals court. He was appointed to both positions by Reagan, then California governor.

California governor.

He resigned from the bench in 1981, angry about liberal opinions of the California Supreme Court, which he charged "rules our state like a little junta."

Annie L. Slaughter, 57, of St. Louis, who heads operations for the Annie Malone

Children's Home there and has been active in programs to aid victims of crime. Viewed as a moderate, she is the only woman on the board and one of two blacks.

Clarence V. McKee, 40, a lawyer here who specializes in communications and was finance chairman of Reagan's campaign here. He headed the Reagan transition team on the Federal Home Loan Bank Board and says he advised Attorney General William French Smith on civil rights and affirmative action issues during the transition.

McKee, the board's other black member, worked in a local legal services program one summer while he attended Howard University Law School. Asked in a questionnaire whether he favors continuation of the program, McKee said, "I will have to look at the [Legal Services] Act and see what's going on."

Robert S. Stubbs II, 60, of Waleska, Ga., executive assistant attorney general of Georgia who has directed the state's defense against many legal services lawsuits, including one on conditions in Georgia state prisons. A former law professor at Emory University in Georgia, his only involvement in legal services was in the 1965-66 school year as a faculty supervisor of the Emory Legal Services Center. He is a Democrat.

William L. Earl, 39, a Miami lawyer. Although formally nominated to the board, he was not a recess appointee and has not participated in board actions.

David E. Satterfield III, 62, who holds the recess appointment for Earl's position on the board and represented the Richmond congressional district as a Democrat for 16 years until he retired in 1980. In Congress, he opposed the establishment of the Legal Services Corp. in 1974 and voted in favor of legislation to restrict or abolish the program.

Harold R. DeMoss Jr., 51, of Houston, a practicing lawyer who worked 10 years in admiralty law and now concentrates on law involving real estate and oil and gas issues.

Asked in a questionnaire about his legal services experience, he said, "I'm registered with the Houston Legal Foundation's probono referral program but have not been referred any cases, I guess, because my areas of specialty are not ones that are often needed by poor persons."

Frank Donatelli, 33, a lawyer here and a former official of Young Americans for Freedom and the National Conservative Politicial Action Committee. Donatelli, a recess appointee not formally nominated, was a regional political director in Reagan's 1980 campaign.

Dan Rathbun, 23, also a recess appointee, is a full-time undergraduate at Christendom College, a 95-student religious college in Front Royal. Reagan named Rathbun to one of the board positions reserved for poor persons eligible for free legal assistance.

The White House justified the appointment by saying Rathbun had declared financial independence from his parents. But Rathbun's parents told the St. Louis Post Dispatch that they had claimed him as a tax deduction last year.

#### SELECTIVE SERVICE REGISTRATION

Mr. HAYAKAWA. Mr. President, the November 15 California U.S. District Court decision to throw-out the selective service draft registration law irresponsibility and needlessly questions a law essential to this Nation's security and defense. U.S. District Court Judge Terry J. Hatter Jr.'s ruling on the Wayte case has further confused America's law abiding and conscientious citizens. It is no wonder that the registration requirement is not being taken seriously. The executive and judicial branches can't seem to make up their minds whether or not they should require men to register.

That men between the ages of 18 and 21 feel no strong compulsion to comply, or simply reject registration altogether, is partly a result of arbitrary decisions such as this one. Unlawful behavior is now being endorsed by the Federal courts—a U.S. district court has given its approval to break the law! Inconsistent actions such as this encourage lawbreakers, make a mockery of the entire registration requirement and seriously jeopardize the defense readiness of this Nation.

Because this travesty of justice has already done great damage, it is essential that the appellate courts act justly and expeditiously to put an end to this new upsurge of uncertainty about the selective service registration law. It is imperative that the Government clearly shows the public that registration is

extremely important.

Thus far 13 men have been indicted for refusing to register with the Selective Service System, six have been prosecuted and four of the six convicted. The judges hearing these cases addressed the same arguments, found them deficient, and convicted these men who publicly scoffed at the law. It was ruled that the program proceeded in a proper manner.

Congress time and time again has shown its strong support for the registration law. I hope the courts will carry out their responsibility to prosecute those who consciously and willfully violate this vital law.

Unfortunately far too many young Americans need to be reminded of their obligation to register. Thus it has become this Government's responsibility to coordinate their actions and stop thwarting the primary objective—compliance with the law.

A most insightful article appeared in the November 17, edition of the Washington Post—"Selective Registration." This article rightly questions the Federal Government's wishy washy history on the registration law. It's time we all got together on this vital issue.

I ask unanimous consent that this article be printed in the Congression-

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Wednesday, Nov. 17, 1982]

SELECTIVE REGISTRATION

Sometimes statistics point straight to what is in people's minds. Such a statistic is

this: 400,000 of the 9 million young Americans required by a 1980 law to register for the draft have not done so. Consider how improbable that would have seemed 20 years ago, before Vietnam, in an America as close in time to D-Day as we are today to the Gulf of Tonkin resolution. Then, it was taken for granted that society had a legitimate right to conscript young men and that the armed forces had a legitimate use for their services. Today, apparently, these things are no longer taken for granted—at least by large numbers of the group of Americans most directly affected, young men age 18 to 21.

One reason is that our highest officials themselves have been hesitant in defining and enforcing society's interest. The draft registration law was passed at the urging of President Carter, as one response (the now defunct grain embargo was another) to the Soviet invasion of Afghanistan, Candidate Ronald Reagan in 1980 attacked the law as immoral, and President Reagan in 1981 said he would not enforce it. Only this year did the administration change its mind and announce that it would prosecute violators, beginning, appropriately, with those who proclaimed their defiance. In the circumstances, one can understand why many young men might conclude that the registration requirement was anything but urgent—a vast change from 20 years ago when it was unheard of for a young man not to register.

Another reason for the change in attitudes is, of course, Vietnam. One of the most affecting things about last week's Vietnam veterans' march was the fact that it was one of the first celebrations of those who heeded their government's call and served. For many American, the heroes of Vietnam are those who refused to serve, those who protested rather than those who complied. Many young men born between 1960 and 1964—those who are supposed to register now—must have drawn the lesson from recent history than it is honorable not to obey but to protest.

They may draw another lesson that without the existence of large conscript armies you will not have wars. This is not the only lesson that one can draw from history, but each generation inevitably draws lessons mostly from what it has seen firsthand. If Mr. Reagan and others, who remember how lack of vigilance can also lead to war, want young men to understnd that, they are going to have to take the trouble to educate them more than they have.

In the short run, that means continuing prosecutions under the draft registration law, not only of whose who have proclaimed their violations. but also, as the administration is beginning to do, going after the many others who have not. The draft registration law cannot achieve its full purpose-demonstrating resolve to potential aggressors-if it is not enforced and if hundreds of thousands continue to ignore it. The decision by a Los Angeles judge Monday that the law is invalid and that the government has used invalid selective prosecution to enforece it shold be appealed and wil likely be speedily overturned. The law is clearly constitutional and the First Amendment protects the right to protest, but not the right to violate, a

Beyond that, our leaders have a more important duty. If society is to assert a claim to young men's services—even through as unintrusive a means as a requirement to register— it needs to make plain to them why that claim is legitimate.

#### **IMMIGRATION IGNORANCE**

Mr. HAYAKAWA. Mr. President, I have spoken out repeatedly on the floor of the Senate about the need for an agricultural guest worker program. I rise again to enlighten my colleagues on this western problem of tremendous proportions. The fact that the problem of which I speak is unique to our Western States makes it extremely difficult to garner the attention of my fellow Senators. I am very frustrated, Mr. President, that this body has displayed a geographic and cultural bias which tarnishes our commitment to the Nation as a whole.

This body's fundamental indifference toward labor intensive agriculture, and particularly western agriculture, is a disgrace. The truest display of the mindset of the Senate was displayed last August when we passed the Immigration Reform and Control Act of 1982.

This bill is completely insensitive to the needs of western agriculture. It is cruel and punitive in its treatment of our neighbors to the south-the people of Mexico. I attempted to address these problems but my amendment to provide an agricultural guest worker program was defeated on a 16to-83 vote. Yes, Mr. President, I am being a sore looser. And I am still mad, damn mad, at the failure of the Senate to look beyond the rhetoric that so naively proclaims we must "get control of our borders." The Immigration Reform and Control Act of 1982 will do no such thing. It is a blind stab, an angry gesture of frustration, at a most complicated and emotional problem. If anything, I feel the bill will increase the amount of illegal immigration because of the fear outside of our borders that something might really change. As the Mexican economy teeters on collapse, the economic necessity for Mexican agricultural workers to migrate to the fields of California is increasing. We cannot turn our backs on the nation, or the people who live to the south of us.

If the proponents of "getting control" of our borders are serious, they have only one choice: militerize our borders. Build a 12 foot wall with electrified barbed wire, complete with 10,000 Marines carrying machine guns and you will "get control." Short of that, we have the option of dealing realistically with the migratory flow of workers a cross our border with Mexico. We must be generous, and we must be humane in our treatment of the Mexican people. If we wish to bring order to our immigration poli-

cies, if we wish to harmonize our relationship with the people of Mexico, then we need to legalize and regularize the flow of temporary agricultural workers into and out of our nation. We need to establish a program that is simple, free from the burdensome redtape which now stangles the H-2 temporary workers program. Obviously, agricultural employers would benefit from such a program, but I feel most strongly that we would be doing a tremendous service to the Mexican workers. We would elevate them to a legal status and be able to protest them under our fair wage, hour, and working condition laws. We could see that these migrants are protected and treated with the respect they deserve.

Many of my colleagues will argue that alien workers displace domestics and elevate our unemployment level. While this may be true in some urban labor markets it is not true in agricultural areas. It is far from the truth Mr. President. Farmers in California, Arizona, Oregon, Washington, Idaho, and Texas would go out of business in hordes if they were deprived of the 500,000 temporary alien workers they rely on annually. I use 500,000 but I think the number is very, very conservative-it could be up to 1 million. In the Central Valley of California, we have a number of rural communities with a 15 percent unemployment level, yet last summer farm jobs went begging. Domestic workers were too comfortable living off the fat of the public dole. The simple fact is that American workers will not meet the demands of labor-intensive agriculture, at the same time 50 percent of the work force was made up of so-called illegal aliens. I think this represents an interesting picture in darwinistic terms.

The Senate was told that the H-2 temporary worker program and the amnesty provisions of the bill were designed to meet the needs of agricultural employers. That is totally false. The H-2 program is a relic of the mentality which brought us the Bracero program. It is inhumane, in that it gives the worker the same freedom as a slave-none. It is a paperwork nightmare for the employer, and unnecessarily expensive. I will admit the H-2 program does have a place in the East, say in the sugarcane fields of Florida, where the work is so difficutl that a form of bondage is the only way a work force can be maintained. We in the West have progressive farming, and very competitive wages, for example the minimum wage in the vegetable fields of the Salinas Valley starts at over \$6 per hour.

If we had taken the path which I proposed, we would have achieved the objective of bringing order to our immigration policies and at the same time we would have eliminated the regrettable situation of having a huge illegal population within our borders. I

trust the Immigration Reform and Control Act of 1982 will fail and the 98th Congress will have a responsibility to address the needs of the Mexican workers and western farmers in a more humane, and sensible manner. I plead with you to take the time to understand the cultural and economic situation of the Mexican worker. To get a clearer picture of the farmers perspective, I ask unanimous consent that an outline I prepared for the Judiciary Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To: Senate Judiciary Committee From: S. I. Hayakawa Re: Immigration Law Reform

I. PROBLEMS WITH S. 2222 (SIMPSON) THE WESTERN PERSPECTIVE

1. The measure fails to meet the labor market needs of Western agriculture.

A. Farmers in the West currently rely on illegal aliens to make up in excess of 50 per-

cent of their work force.

B. Western agriculture has legitimately grown to rely on the services of alien workers. At the same time they have been unable to attract domestic workers to do farm work, primarily for two reasons; (1) The work is hard and the pay relatively low, especially when compared to income from welfare, food stamps, et cetera, and; (2) The seasonal demand for large numbers of workers is highly variable, job tenure brief, and potential for advancement minimal within the realm agricultural employment.

2. S. 2222 is based on the belief that the legalization (amnesty) provision and the H-2, temporary worker program will satisfy those employers who currently rely on illegal aliens to make up their work force.

A. Legalization will only take care of urban illegals who are employed year-round and have been in the United States continually.

B. Legalization may be of temporary benefit to agriculture but:

 Once legalized, rural workers will migrate to cities where year-round employment is available.

2. Most of the illegals working in agriculture are migrants. They come to the United States for only a few months out of the year, thus, they will not qualify for permanent resident status. More significantly, they have little or no desire to stay in the United States, their hearts, their families and their allegiance remain in Mexico.

3. The H-2, temporary worker porgram has been available for several years but has been of little help to agriculture.

A. H-2 has brought in only about 13,000 agricultural workers a year, the bulk of which have gone to the sugar cane fields of Florida and the apple groves of New York.

B. Simply in terms of complying with the Department of Labor rules and regulations, the program has been very expensive to deal with . . . a red tape nightmare . . . a lawyers dream.

4. The H-2 program simply cannot be transferred to the West.

A. Western farmers demand large nubmers of workers for relatively short periods of time. The workers must have the freedom to move from employer to employer, from crop to crop, and from country to country. Problem: H-2 workers are contracted to work with a single employer (or association of employers) and transferring H-2 workers between employers is cumbersome. The lack of freedom for workers is not only impractical, it is abusive of their basic rights and of their dignity.

B. It is difficult to predict actual dates of need and numbers of workers required because of weather and market variability. The long leadtime required for the application process is onerous. And the requirement that workers be guaranteed pay for three-quarters of the contract period is a tremendous liablity for farmers.

C. The short harvest season for many of the labor intensive, highly perishable crops grown in the West results in employers demanding large numbers of workers for short periods of time (less than 1 month). Such brief employment makes the requirements that employers provide transportation from the country of origin, housing and food impossible to justify.

D. The certification process which requires a finding that there are insufficient numbers of domstic workers available and willing to work is complicated, costly and time consuming. In addition, the institutional bias of the Department of Labor is difficult to deal with.

E. The adverse wage effect considerations of the H-2 program will artifically drive up the prevailiong wages in farm communities.

5. The employer sanctions for hiring ille-

gal aliens are unacceptable.

A. Given the tremendous reliance of farmers on illegal aliens and lacking a workable program to bring alien workers into the country on a temporary basis—we must oppose sanctions. They will punish farmers for something which is beyond their control. Realistically, without an ample supply of alien workers, farmers will have no choice but to hire whomever is available. The alternative of allowing their crops to go unharvested is unthinkable.

6. The push factors which compel Mexican workers northward cannot be legislated away. The bill is based on the faulty assumption that by taking away the opportunity to work, the flow of illegals will be stopped.

A. There are major structural problems with the Mexican economy. 45 to 55 percent of the working age population is unemployed or underemployed. The recent 40-percent devaluation of the Peso makes dollar earnings more attractive than ever.

B. The population of Mexico is over 70 million and will double by the year 2000. The working age population is growing at 600,000 to 800,000 a year and, at best, only about 450,000 new jobs are likely to be created each year?

C. Given the above considerations, Mexican Nationals will have no choice but to come to the United States in search of jobs, jobs which will pay them up to ten times the amount they would earn at home for the same work.

D. S. 2222 will simply drive them further underground; false identifiers will abound and illegal aliens will continue to be a subclass within our society.

7. One of the driving assumptions of the bill is that the H-2 program is transitory and ultimately we must end our dependence on alien workers.

A. This assumption is faulty. We will rely on alien workers as long as we have such generous relief programs for those people who would most likely take the low paying, low status jobs that aliens most often take. The incentives to not work are simply too great and the alternative, hard work, is undesirable.

B. Not only will aliens do work for which it is near impossible to get domestic workers . they are harder workers and more reliable. This is simply because their motivation to work comes from their desire to earn money to support their families back home. While the motivation of many domestics is to show up for work in order to satisfy welfare requirements.

C. Demographers tell us that there will be a labor shortage in the Southwest by the year 2000. Especially in the "undesirable," physically demanding, manual occupations.

II. WHAT SHOULD BE DONE TO IMPROVE S. 2222 (SIMPSON)

1. An agricultural guest worker component

must be added to the bill. A. Western agriculture needs a relatively free flowing, flexible labor supply.

B. The current labor supply system works well, is efficient and is mutually agreeable to both employers and employees. However, the current system is illegal.

C. We need to legalize, regularize and direct, to a limited extent, the flow of temporary workers into and out of our country.

D. Farmers have adequately demonstrated that the domestic workforce is unwilling to perform, and meet the needs of the agricul-tural employers. Thus, the guest workers will not displace domestics.

The SIH proposal has a provision for excluding guest workers from a given worksite if it can be demonstrated that domestics are being displaced.

F. An agricultural guest worker proposal is comparable with the H-2 program. H-2 will continue to be of importance to the east

G. The authorization for guest workers to seek employment only in agriculture, combined with employer sanctions, should keep the temporary workers from moving into cities and competing with unemployed domestics.

# WELFARE PROGRAMS

Mr. HAYAKAWA. Mr. President, as many of my colleagues have observed, expenditures on welfare programs have spiraled over the past two decades. This increase has traditionally distressed hard-working taxpayers across the Nation. However, with the country facing a trillion dollar debt, there is no better time for us to reexamine the issues surrounding income support programs.

One of the principal causes of the unprecedented growth in such programs is the inherent work disincentive created by guaranteed incomes. Government programs which provide a living to unemployed persons tend to foster a permanent dependency on such programs. The great irony is that, although they are designed to aid the poor, welfare programs in the long run may actually lower the standard of living for many by discouraging them from entering the labor market. Only as participants in this market can persons obtain the experience and self-esteem necessary to lift themselves out of poverty.

For this reason, it is imperative that

Congress make work-and work re-

quirements, a stonger component of welfare programs. Fortunately, the approved outgoing Congress has moves in this direction, including my own legislation authorizing pilot programs designed to determine the effects of removing the long-term voluntarily unemployed for the food stamp program. Furthermore, Congress has given States the option of implementing workfare as a component of this program.

One of my regrets about leaving the Senate is that I will no longer be able to contribute to efforts aimed at making workfare a required part of the food stamp program. However, as this issue is likely to resurface in the next Congress, I would like to take this opportunity to submit for the RECORD, the following summary and analysis of workfare.

#### WHAT IS WORKFARE?

The term "workfare" is used to describe programs in which employable recipients of public assistance are required to perform public service jobs without pay. Its basic objective is to promote financial independence by allowing persons to maintain the self-respect obtained from being a productive member of society while developing the work habits necessary to appeal to private employers. Because it is a most effective way of offsetting problems associated with the work disincentive inherent in guaranteed income programs, workfare is a crucial element for insuring that programs such as food stamps do not become a trap for its employable recipients.

Although the specific criteria applied in administering workfare may vary, the basic structure is generally consistent. The number of hours a participant must work is determined by taking the grant and dividing it by a predetermined hourly wage, usually the minimum wage. The number of hours worked a week, however, is restricted by an upper limit allowing individuals time to actively engage in job search. Those failing to meet their assigned work requirements are terminated from the rolls.

State and local governments have been able to require workfare for the food stamp program for just over a month now, since November 8, 1982. The availability of this option was made possible through the Food Stamp and Commodity Distribution Amendments of 1981. Certain refinements to this law were made in the

#### Food Stamp Act Amendments of 1982. THE PILOT PROJECTS

Before Congress decided to give State and local jurisdictions the option of requiring workfare, the concept was tested in a number of pilot projects. The demonstration has been conducted in two phases, beginning in 1979. By 1981, there were 14 projects in full operation.

While the record of these projects is mixed, careful analysis indicates that workfare can and will succeed in achieving the goals for which it is designed. Numerous recommendations were made by workfare pilot project jurisdictions and the general accounting Office which monitored the demonstration projects. Many of these recommendations influenced the legislation adopted by Congress when the program was made an option in 1981 and again when changes were made in 1982.

Thus, problems which have impeded the success of workfare have been attended to. For example, the number of maximum weekly workfare hours has been increased to 30 hours while retaining the 30-hour maximum when combined with other employment. This change eliminated an inequity which gave more lenient treatment to those who were employed.

Penalties for noncompliance under the demonstration projects proved bo be too weak to serve as sufficient deterrent. Sanctions now stipulate that for rule infraction a 2-month denial of food stamps for the entire household would result, as opposed to the previous 1-month sanction for the delinquent individual.

During the projects, participating jurisdictions were required to give new referrals a 30-day search period before they would be assigned to workfare jobs. As a result, new referrals automatically avoided workfare participation for at least 30 days. To address this problem, Congress eliminated the mandatory "grace period," making it optional for the agency operating the workfare program.

Furthermore, the 1982 legislative requires the Secretary to establish the regulations which will enable a State or local government to operate a workfare program which is compatible and consistent with similar workfare programs operated by the jurisdiction. Specifically, the governments can "piggyback" their food stamp workfare into the operation of AFDC pro-

It also became apparent that local jurisdictions needed to receive some kind of Federal reimbursement for the associated administrative expenses. The 1982 legislation provides that 50 percent of the money saved-from reduced food stamp allotments of discontinued participation in the program-will be made available to the operating agency to help defray the remaining administrative costs of workfare. This will boost incentive on the part of the local and State jurisdictions to administer successful workfare programs.

#### WHY AMERICA NEEDS WORKFARE AS PART OF THE FOOD STAMP PROGRAM

Within the last 10 years, food stamp costs have skyrocketed from \$2.1 billion to \$11.3 billion annually. Nearly 1 American in 10—or 22 million people—receive food stamps each month. Compounding the problem, according to verified USDA information, is the estimate that at least 10.5 percent of all food stamp benefits are overissued. By this estimate, over \$1 billion was lost last year to fraud or error.

After serving 6 years on the Senate Agriculture Committee, I feel I have come to understand the food stamp program fairly well. During this period, I have come to believe that the program would greatly benefit from mandatory national workfare.

The concept of workfare is based on the assumption that there are people in this country who are voluntarily unemployed. There are some who have questioned this assumption, and this is understandable. We like to believe that the work ethic overrides all, that an unemployed American will take any job he or she can find. But, unfortunately, this is not the case.

A study published in the Federal Reserve Bank of Richmond's Economic Review looked at the long-term unemployed in Baltimore-people unemployed for 6 months or more. The study found that "almost half-43.4 percent—of those surveyed acknowledged that they would not accept some of the jobs av:llable to them." In fact, 35 percent of the respondents thought that they could get a job, but would not want it because it either 'paid too little, was menial, was too demanding physically, or was simply not of the respondent's liking." The study concludes that the responses "indicated that a number of unemployed workers could get some sort of job, yet chose instead to remain unemployed."

All too often people turn down lowpaying jobs because it makes more sense financially to be on assistance. I recently had the food stamp division of the California Department of Social Services conduct a study for me, and the results show that it makes more sense for the parent of a four-person household receiving public assistance to stay at home rather than work a minimum wage job full time.

In this study of an average welfare household, the unemployed parent is eligible to receive monthly, \$601 in AFDC, aid to families with dependent children, and \$90 in food stamps for a total net monthly income of \$691. And this figure does not even consider any housing assistance or medical benefits for which the family would be eligible.

However, if this parent worked a minimum wage job 40 hours a week, then his or her gross pay would be \$589 per month. The expenses a working parent would incur according to the Department of social services would result in costs of at least \$24 a month for transportation, \$54 a

lion to \$11.3 billion annually. Nearly 1 month for withholding taxes, and \$195 American in 10—or 22 million people— for day care for the children.

After these expenses are tallied, the parent is left with \$316. But then we must add his or her allotments of government assistance. AFDC would come out to be \$87 a month, and food stamps would be \$122 a month. This would leave the household of a working parent with a net income of \$525 a month, which is \$166 less than the net income for the household with an unemployed parent. Even if the working parent did not incur any child care expenses, there would still only be \$29 a month incentive for the parent to go to work.

When it makes more sense to sit at honme than work a low-paying job, it is easy for a person to become dependent on public assistance. Even more disconcerting, it encourages the unemployed person who is searching for a job to abandon the honest effort and join the ranks of the voluntarily unemployed. Restoring incentives to work for even low-paying jobs instead of welfare can begin with a workfare

program. However, some people contend that the administrative costs associated with workfare make it an inefficient addition to the food stamp program. Such persons point to the high program costs reported by some of the pilot projects. Yet, there is reason to believe that costs for an ongoing program would be less than those of such pilot projects. It is from these projects that we have learned how to make workfare more efficient, and with this in mind, a number of changes were made in the program when it was made an option in 1981, and afain when it was reviewed earlier this year. In addition, the cost problem will mitigate as administrators gain more experience in implementing the program.

There are those who say that workfare programs are simply administratively unfeasible, suggesting that State and local jurisdictions would not cooperate. This argument is based on the assumptions that localities would not be provided with sufficient Federal funds to operate workfare, would balk at taking on the additional administrative workload and would lose continuity because of high staff turnovers.

Increased Federal reimbursement will help address this by supporting the costs of operation. In addition, Congress should give States more of a financial stake in food stamps, providing them with the incentive to run a tighter program. Running a tighter food stamp program naturally leads to the implementation of an efficient workfare program.

Some opponents of workfare fault the requirement for not involving job training. The work created by the projects, such persons complain is merely "busy work" which is of no value to the recipient. However, pilot projects which have considered a recipient's educational or occupational background reported greater success with their projects, including improved receptivity by workfare participants. For example, San Diego county, which had the largest workfare pilot program, placed a librarian in the local department of human services where she updated the library, and an economist in a position with the county government utilizing his skills. A participant with a clerical background reorganized the files for the Department of General Services.

Even if recipients are placed in jobs with no relation to their educational or professional backgrounds, the work is beneficial to them. The required service to the community keeps them in the habit of working regularly, and also enables them to maintain the self-esteem gained from being a productive member of society.

And the work is especially beneficial to those who have never been employed. Through the required workfare assingnments, recipients become aquainted with a work environment. They learn how to keep regular hours, how to relate to fellow workers and how to deal with supervisors. Workfare will provide its recipients with the opportunity to improve their skills and gain self-confidence, making them more marketable. In this way workfare can open doors to opportunities which would be unavailable to those who never work and simply live off of government assistance.

Some persons fault workfare for producing work which is of no measurable benefit to the community. While it is difficult to measure the value of the services produced in assigned workfare jobs, the work does create tangible benefits in the end product. This is work that in all probability would not have been attended to in light of the fiscal constraints under which most communities find themsevles. And it does not make much sense that a community which undertakes implementing a workfare program would not want to develop work programs aimed at making their efforts worthwhile.

It appears as though we talk about food stamps every year. The reason for this, I imagine, is because the progam is one of the most unpopular of all Federal programs. Its unpopularity stems from the high visibility of the programs and its abuses. One of the things which outrages people most is seeing benefits provided to the voluntarily unemployed.

There are millions and millions of Americans out there who work hard to make their paychecks stretch through the end of the month and are outraged because we spend their money to support people who don't want to work. They are tired, simply tired of seeing their hard earned money wasted.

By implementing workfare, however, we can calm this outrage. We can put an end to the voluntarily nonworking, able-bodied food stemp recipient, thus solving a priblem which has plagued this program for years. Workfare will make the food stamp programs stronger and less susceptible to attacks from the public. It will insure the integrity of the program, and allow it to continue to deliver benefits to those who really need them.

The thing to remember about workfare, however, is that it has been proven to operate to the benefit of both recipients and the community. This can best be illustrated by my State's experience with the program. San Diego ran the largest of the original workfare pilot projects. As part of this project, over 500 able-bodied food stamp recipients worked each month for their benefits. An almost equal number were removed each month from the food stamp rolls as a result of their refusal to work. San Diego agencies participating in workfare during 1981 received the equivalent of \$349,756 in free labor. In addition, the penalties applied in San Diego for refusal to work saved the Federal Government \$253,499 in food stamp bene-

It was discovered that workfare does deter people who are able to work in return for food stamps but choose not to. The number of nonassistance food stamp households in San Diego County decreased from 20,166 in December 1980, to 17,498 in November 1981, a decrease of about 13 percent.

Mr. President, mandating workfare as a component of the food stamp program would be a most progressive move on the part of Congress. By requiring that able-bodied recipients work for their benefits, we could reduce Government expenditures. At the same time, we could help recipients to either maintain their work habits, or experience the working world for the first time. We could provide labor to fiscally strapped communities and can assure the public that we do not intend to use their money to subsidize able-bodied persons who do not want to work. Mandating workfare would indeed be a bold step, but, in effect, it would help both the program and its recipients. It is an action I hope this body takes in the next Congress.

### SPECIAL PERSONS

Mr. GLENN. Mr. President, the special plight of learning disabled children and adults is only recently receiving the widespread recognition it deserves. There are millions of bright, capable people in this Nation whose lives have been complicated by difficulties in school.

"Learning disabled" students can and do learn, but the way they learn is different from the majority.

One school for learning disabled students has done a great deal to bring about public understanding that these students have unlimited potential. That school is the Lab School of Washington, here in the Nation's capital. It has set standards of quality education for children with "the hidden handicap."

Colman McCarthy, a widely syndicated columnist, has written an admirable and sensitive article about the Lab School

I was particularly drawn to this article, Mr. President, not only because it reflects so favorably on Mrs. Ann Mathias, wife of our friend and distinguished colleague Mac Mathias, the senior Senator from Maryland, but also because her forthright and courageous approach to this problem can be an example which will encourage many others to approach their own difficulties in a similar manner. Ann deserves much credit for the leadership role she has assumed with the Lab School, as does Sally Smith, founder of the school. As Colman McCarthy says, Ann's sharing of her thoughts "is a generous Christmas gift we can all share."

Since at least 2 million American children and untold numbers of adults have learning disabilities, I ask unanimous consent that this article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Philadelphia Inquirer, Dec. 14, 1982]

#### A Special Person Tells of a Handicap (By Colman McCarthy)

Washington.—Every Christmas, the boy put in requests to his father for toys that made noise, went fast and roused parental cringes. The father—a writer, a man of reflection and content to live in the slow lane—shudders when telling about the call one year for the Zenithal in sound and speed a Honda motorcycle.

speed, a Honda motorcycle.

This Christmas is different. The son, now 18 and a junior in high school, has asked for

a typewriter, a tool of the mind.

He'll get it. For the father, the typewriter symbolizes the gifts of love, patience and confidence that he has been offering his son all along. The boy has what is called "the hidden handicap," a learning disability. His wanting a typewriter, to be used for school assignments, is being taken by his father as a message: Thanks for keeping faith in me.

This Christmas story is best understood by the families of other learning-disabled citizens. But with researchers and teachers continuing to broaden the field of study that begun only 15 years ago, the handicap still needs to be better understood by more than the specialists. The learning disabled—in numbers ranging from three million children to a possible 10 million—live among all of us, and our obligation is not to be self-disabled in learning about them.

Few are better teachers, both in her classroom and in the national forum, than Prof. Sally Smith, who runs the learning disabilities program at American University and who founded and directs the Lab School in Washington. Smith, who believes that uncounted millions of adults are also learning disabled, says that at least a few children in every classroom have the handicap. In every classroom, too, it is likely that a few well-meaning theories on "curing" the handicap are floating about.

In "No Easy Answers: the Learning Disabled Child at Home and at School" (Bantam Books), Smith writes that sudden cures shouldn't be sought. Instead, "each teacher must be a detective of sorts to determine how each child learns best, what modalities or channels of learning are a child's strongest ones, what interests can be built on, what specific disabilities are there to remediate."

In reading Smith's gripping book, and spending time with her the other afternoon, I came to feel that she is the Maria Montessori of our day. Her idea of matching the method to the child is like Montessori's call that a school be "a pleasant environment where the children felt no restraint." Also like Montessori, Smith has been successful in her theories of education. In 16 years of teaching several thousand children, all but one have graduated from high school and most have gone on to college.

The learning disabled, whose symptoms include lack of concentration, poor speech, reading problems, clumsiness, immaturity and left-right confusion, have a history of going on to higher things. Their ranks have included Einstein, Nelson Rockefeller, George Patton, Amy Lowell and Yeats. But none has succeeded without wise teachers or without parents—though pained by seeing their children pained—who refuse to become defeatists.

At a gathering last week of friends of the Lab School, one of those parents, Ann Bradford Mathias, rose to share the fact that she herself, in her mid-50's, is learning disabled. "I was one of those classrooms statistics, one of those intelligent children who could not learn—or as I prefer to put it, one of those intelligent children who learned differently. A heavy dash of New England contrariness and a little bit of luck and a lot of patience on the part of others are the ingredients I suspect that enabled me to survive in a world that then, as now, measured success by how well one did in school . . .

"I did graduate from school, eventually, though it took longer than considered normal. I did astound my parents and every teacher who had known me when I was finally accepted by one of the Seven Sisters (Vassar College) as a risk... But this success was not without its tribulations. And it is because of this tribulation that I say I wish there had been a Lab School in my life, for I would have been helped to discover sooner the giddy excitement of academic accomplishment."

Ann Mathias, chairman and president of the board of trustees at the Lab School, is married to Maryland's senior U.S. senator. She rarely speaks this personally in public about her learning disability. That she did now is a generous Christmas gift we can all share.

### ROUTINE MORNING BUSINESS

(During the day routine business was transacted and additional statements were submitted, as follows:)

#### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate pro-

ceedings.)

#### BUDGET RESCISSION AND DE-FERRALS—MESSAGE FROM THE PRESIDENT—PM 202

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred, pursuant to the order of January 30, 1975, jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, and the Committee on the Judiciary:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report a proposal to rescind \$2,000,000 in budget authority previously provided by the Congress. In addition, I am reporting two new deferrals totaling \$18,464,000 and a revision to a previously reported deferral, increasing the amount deferred by \$4,408,812.

The rescission proposal is for the Department of Commerce's National Oceanic and Atmospheric Administration. The deferrals affect programs in the Departments of Agriculture and Justice and the Pennsylvania Avenue

Development Corporation.

The details of the rescission proposal and deferrals are contained in the attached reports.

RONALD REAGAN.
THE WHITE HOUSE, December 16, 1982.

REPORT ON THE 1981 OPER-ATION OF THE AUTOMOTIVE PRODUCTS TRADE ACT-MES-SAGE FROM THE PRESIDENT-PM 203

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with the Automotive Products Trade Act of 1965 (Public Law 89-283), I transmit herewith the sixteenth annual report relating to developments during 1981.

RONALD REAGAN.
THE WHITE HOUSE, December 16, 1982.

#### MESSAGES FROM THE HOUSE

At 12:52 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5133. An act to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes.

#### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 6758. An act to authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Thurmond).

#### ENROLLED BILL SIGNED

At 2:12 p.m., a message from the House of Representatives delivered by Ms. Goetz, announced that the Speaker has signed the following enrolled bill:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Thurmond).

At 4:37 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5002. An act to improve fishery conservation and management.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 435. Concurrent resolution correcting the enrollment of H.R. 5447.

At 7:45 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7019) making appropriations for the Depart-

ment of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 16, 18, 28, 55, 69, 77, 91, and 92, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 2, 6, 11, 15, 17, 43, 45, 46, 47, 53, 56, 59, 66, 72, 93, 96, 97, 98, and 101, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 1965. An act to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area", as a component of the National Wilderness Preservation System.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3191. An act to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions.

At 12:40 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has agreed to the amendment of the Senate to the bill (H.R. 6458) to amend the Public Health Service Act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 816. An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

The enrolled bill was subsequently signed by the President pro tempore (Mr. Thurmond).

At 7:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, announced that the House has passed the bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of

1978, and for other purposes; with an amendment, it insists upon its amendment to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. Perkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Andrews, Mr. Simon, Mr. Weiss, Mr. Kildee, Mr. Peyser, Mr. Williams of Montana, Mr. Eckart, Mr. Erlenborn, Mr. Coleman, Mr. Erdahl, Mr. Denardis, Mr. Craig, and Mr. Bailey of Missouri as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5027. An act to designate the building known as the United States Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman United States Courthouse;"

H.R. 5029. An act to designate the Federal Building in Fresno, California, as the "B.F. Sisk Federal Building";

H.R. 6538. An act to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building":

H.R. 7397. An act to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin

H.R. 7406. An act to designate a certain Federal building in Springfield, Illinois the "Paul Findley Building"; and

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project as the Don H. Clausen Fish Hatchery.

#### ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes:

H.R. 6204. An act to provide for appointment and authority of the Supreme Court

Police, and for other purposes;

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes; and

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. Thurmond).

At 9:23 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other ac-

tivities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes; and recedes from its disagreement to the amendments of the Senate numbered 4 and 6 to the bill, and agrees thereto; and it recedes from its disagreement to the amendments of the Senate numbered 3, 7, 17, 23, 33, 34, 35, 39, 40, and 41 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendments of the Senate to the amendment of the House to the amendment of the Senate numbered 4 to the bill (H.R. 1952) authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes.

The message further announced that the House agrees to the amendment of the Senate to the amendment of the House to the bill (S. 1986) to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the U.S. Court of Claims, and for

The message further announced that the House has passed the following bills, without amendment:

S. 1340. An act to provide for the use and distribution of Clallam judgement funds in docket numbered 134 before the Indian Claims Commission, and for other purposes;

S. 2611. An act to amend the Peace Corps

Act; and

other purposes.

S. 3073. An act to provide for the distribution within the United States of the United States Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson".

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 131. Concurrent resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 86. Concurrent resolution supporting an expansion of the advisory opinion jurisdiction of the International Court of Justice:

H. Con. Res. 423. Concurrent resolution expressing the full support of the Congress for the Republic of Costa Rica and its democratic institutions as that country responds to the current economic crisis, and for Costa Rica's efforts to contribute to the peaceful resolution of conflicts in Central America; and

H. Con. Res. 434. Concurrent resolution condemning all forms of religious persecution

#### HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 3191. An act to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions; to the Committee on Finance.

H.R. 5027. An act to designate the building known as the U.S. Post Office and Courthouse in Norfolk, Virginia, as the "Walter E. Hoffman U.S. Courthouse"; to the Committee on Governmental Affairs.

H.R. 5029. An act to designate the Federal Building in Fresno, Calif., as the "B. F. Sisk Federal Building"; to the Committee on Environment and Public Works.

H.R. 5133. An act to establish domestic content requirements for motor vehicles sold in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 6538. An act to designate the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building"; to the Committee on Environment and Public Works.

H.R. 7397. An act to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; to the Committee on Finance.

H.R. 7406. An act to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building"; to the Committee on Environment and Public Works.

H.R. 7420. An act to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the Don H. Clausen Fish Hatchery; to the Committee on Environment and Public Works.

#### HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were read, and referred to the Committee on Foreign Relations:

H. Con. Res. 86. Concurrent resolution supporting an expansion of the advisory opinion jurisdiction of the International Court of Justice:

H. Con. Res. 423. Concurrent resolution expressing the full support of the Congress for the Republic of Costa Rica and its democratic institutions as that country responds to the current economic crisis, and for Costa Rica's efforts to contribute to the peaceful resolution of conflicts in Central America; and

H. Con. Res. 434. Concurrent resolution condemning all forms of religious persecution

# ENROLLED BILL PRESENTED

The Secretary reported that on today, December 17, 1982, he had presented to the President of the United States the following enrolled bill:

S. 816. An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

#### REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on

Foreign Relations, without amendment: S. 3107. An original bill to amend the Board for International Broadcasting Act of 1973 to authorize additional appropriations for fiscal year 1983 (Rept. No. 97-685).

S. 3066. A bill with regard to Presidental certifications on conditions in El Salvador.

By Mr. STAFFORD, from the Committee on Environment and Public Works, with an amendment:

H.R. 7159. An act to amend the Federal Water Pollution Control Act to allow modifications of certain effluent limitations relating to biochemical oxygen demand and

pH (Rept. No. 97-686).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 126. Concurrent resolution calling upon the U.S. Government to support the people of Afghanistan with material assistance in their struggle to be free

from foreign domination.

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S.J. 271. Joint resolution to make technical corrections in certain banking and related statutes.

By Mr. DOMENICI, from the Committee

on the Budget, without amendment: S. Res. 502: Resolution waiving section 402(a) of the Congressonal Budget Act of 1974 with respect to the consideration of S. 2941

By Mr. DOMENICI, from the Committee on the Budget, without recommendation without amendment:

S. Res. 504: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2863.

S. Res. 505: Resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5858.

By Mr. DOMENICI, from the Commitee on the Budget, without amendment:

S. 2258: A bill to discontinue or amend certain requirements for agency reports to

By Mr. THURMOND, from the Commit-

tee on the Judiciary, without amendment: H.R. 4350, An Act for the relief of Arthur

By Mr. STAFFORD, from the Committee on Environment and Public Works:

S. 2845. A bill to amend section 202(7)(C) of title 3, United States Code (Rept. No. 97-

#### EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. WARNER, from the Committee on Armed Services:

Thomas Edward Cooper, of Virginia, to be an Assistant Secretary of the Air Force.

By Mr. TOWER, from the Committee on Armed Services:

Mr. TOWER. Mr. President, from the Committee on Armed Services, I report favorably the following nominations: In the Air Force there are 50 appointments to the grade of brigadier general (list begins with Marcus A. Anderson), Vice Adm. Kenneth M. Carr,

U.S. Navy, to be reassigned to a position of importance and responsibility designated by the President and Lt. Gen. Robert C. Kingston, U.S. Army, to be reassigned to a position of importance and responsibility designated by the President. I ask that these names be placed on the executive calendar.

In addition, in the Marine Corps there are two permanent appointments to the grade of lieutenant and below (list begins with Stephen P. Freiherr) and in the Navy there are 424 permanent appointments to the grade of chief warrant officer (list begins with Anthony P. Battaglia). Since these names have already appeared in the Congressional Record on December 10 and 15 and to save the expenses of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. THURMOND, from the Committee on the Judiciary: Sam H. Bell, of Ohio, to be U.S. district

judge for the northern district of Ohio.

By Mr. HATCH, from the Committee on-

Labor and Human Resources:

Richard B. Backley, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988, to which position he was appointed during the last recess of the Senate;

L. Clair Nelson, of Virginia, to be a Member of the Federal Mine Safety and Health Review Commission for a term of 6 years expiring August 30, 1988, to which position she was appointed during the last recess of the Senate;

Betty H. Brake, of Oklahoma, to be Deputy Director of the ACTION Agency;

David L. Slate, of California, to be General Counsel of the Equal Employment Op-portunity Commission for a term of 4 years; Edmund T. Dombrowski, of California, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985;

Nanette Fabray MacDougall, of California, to be a Member of the National Council on the Handicapped for a term expiring

September 17, 1984;

John E. Jurgensmeyer, of Illinois, to be a Member of the Commission on Libraries and Information Science for a term expiring July 19, 1987;

Jerald Conway Newman, of New York, to be a Member of the Commission on Libraries and Information Science for a term expiring July 19, 1987;

Julia Li Wu, of California, to be a Member of the Commission on Libraries and Information Science for a term expiring July 19,

Byron Leeds, of New Jersey, to be a Member of National Commission on Libraries and Information Science for a term expiring July 19, 1986;

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982;

Wallie Cooper Simpson, of New York, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985;

Paul Cooperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982;

Paul Cooperman, of California, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985;

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1982;

James Harvey Harrison, Jr., of Virginia, to be a Member of the National Council on Educational Research for the remainder of the term expiring September 30, 1985.

The following-named persons to be members of the National Council on Educational Research for the terms indicated:

For the remainder of the term expiring September 30, 1982:

Donald Barr, of Connecticut, vice Helan S. Astin.

For the remainder of the term expiring September 30, 1983;

Carl W. Salser, of Oregon, vice Maria B. Codda.

For terms expiring September 30, 1983:

J. Floyd Hall, of South Carolina, vice Alonzo A. Crim, term expired.

Donna Helene Hearne, of Missouri, vice Catherine C. Stimpson, term expired.

George Charles Roche III, of Michigan, vice Harold Howe II, term expired.

For terms expiring September 30, 1984: M. Blouke Carus, of Illinois, vice Barbara

S. Uehling, term expired.
Onalee McGraw, of Virginia, vice Jon L. Harkness, term expired.

Penny Pullen, of Illinois, vice Tomas A. Arciniega, term expired.

Elaine Y. Schadler, of Pennsylvania, vice Harold L. Enarson, term expired.

For terms expiring September 30, 1985: Donald Barr, of Connecticut. (Reappointment.)

Charles E. Hess, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988;

John H. Moore, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988;

Norman C. Rasmussen, of Massachusetts, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988;

Roland W. Schmitt, of New York, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988;

Robert F. Gilkenson, of Pennsylvania, to be a Member of the National Science Board for a term expiring May 10, 1988;

William F. Miller, of California, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1988;

Willaim A. Nierenberg, of California, to be Member of the National Science Foundation, for a term expiring May 10, 1988;

Richard J. Fitzgerald, of Illinios, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1985;

Truman McGill, of Alabama, to be a Member of the Board of Trustee of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1985;

Margaret Truman Daniel, of New York, to be a Member of the Board of Directors of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1987; Gloria Ann Hay, of Alaska, to be a Member of the Board of Trustees of the

Harry S. Truman Scholarship Foundation for a term expiring December 10, 1987;

The following candidates for personnel action in the regular corps of the Public Health Service subject to qualifications therefor as provided by law and regulations, for appointment to be assistant surgeon;

David W. Anderson, James M. Erskine, Martha J. Wunsch, John S. Yao, Kevin

Manuel J. Justiz, of New Mexico, to be Director of the National Institute of Education.

The following to be Members of the National Council on the Arts for the term ex-

piring September 3, 1988:

Allen Drury, of California; Celeste Holm, of New York; Raymond J. Learsy, of New York; Samuel Lipman, of New York; George L. Shaefer, of California; Robert Stack, of California; C. Douglas Dillon, of New California; C. Douglas Dillon, of New Jersey; and William Laurens Van Alen, of Pennsylvania.

(The above nominations were reported from the Committee on Labor and Human Resources, with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. Packwoop, from the Committee on Commerce, Science, and Transportation: The following officers of the United

States Coast Guard for promotion to the next higher grade (to paygrade 0-7):

Capt. Theodore J. Wojnar, USCG. Capt. Joseph A. McDonough, Jr., USCG. Capt. Arnold M. Danielson, USCG.

#### INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PACKWOOD:

S. 3106. A bill to implement the Convention for the Conservation of Salmon in the North Atlantic Ocean, signed at Reykjavik, Iceland, on March 2, 1982.

By Mr. PERCY:

S. 3107. An original bill to amend the Board for International Broadcasting Act of 1973 to authorize additional appropriations for fiscal year 1983; from the Committee on Foreign Relations; placed on the calendar.

By Mr. BENTSEN (for himself and

Mr. Tower):

S. 3108. A bill to clarify the eligibility of small agricultural cooperatives for assistance under section 7(b)(2) of the Small Business Act; to the Committee on Small Business.

By Mr. NUNN (for himself and Mr.

ARMSTRONG):

S. 3109. A bill to improve Federal criminal sentencing by imprisoning dangerous and violent offenders and by diverting non-violent offenders from imprisonment to restitution of community programs; to the Committee on the Judiciary.

By Mr. HOLLINGS (for himself and

Mr. PRYOR):

S. 3110. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DECONCINI:

S. 3111. A bill to amend title 5 of the United States Code to prohibit ambassadors and ministers from making political contributions and taking part in political campaigns; to the Committee on Governmental Affairs

By Mr. PELL (for himself and Mr. STAFFORD):

S. 3112. A bill to establish an Art Bank; to the Committee on Labor and Human Re-

By Mr. QUAYLE: S. 3113. A bill to make certain minor and technical amendments to the Job Training Partnership Act; considered and passed.

By Mr. ROBERT C. BYRD (for Mr.

DECONCINI):

S. 3114. A bill to amend the Act of March 3. 1869, incorporating the Masonic Mutual Relief Association of the District of Columbia, now known as Acacia Mutual Life Insurance Co., and acts amendatory thereto; considered and passed.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TOWER: S. Res. 518. Resolution authorizing expenditures by the Committee on Armed Services for the training of professional staff;

considered and agreed to.

By Mr. PERCY: S. Res. 519. Original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3107; from the Committee on Foreign Relations; to the Committee on the Budget

By Mr. BAKER (for himself and Mr.

ROBERT C. BYRD):

S. Res. 520. Resolution to authorize the testimony of Senator Larry Pressler and representation by the Senate Legal Counsel in the case of United States of America vs. Joseph Silvestri, Cr. No. 80-00291 (3); considered and agreed to.

By Mr. MOYNIHAN:

S. Res. 521. A bill to preserve Food Stamp benefits; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS (for himself, Mr. Hub-DLESTON, Mr. COCHRAN, and Mr. ZOR-

INSKY):

S. Con. Res. 134. Concurrent resolution expressing the sense of the Congress that the National Food and Agriculture Exposition is a significant development that will contribute to expanded exports of United States agricultural products; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. STEVENS (for Mr. SIMPSON (for himself and Mr. DOMENICI)):

S. Con. Res. 135. Concurrent resolution instructing the clerk to make corrections in the enrollment of H.R. 2330; considered and agreed to.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN (for himself, and Mr. Tower):

S. 3108. A bill to clarify the eligibility of small agricultural cooperatives for assistance under section 7(b)(2) of the Small Business Act; to the Committee on Small Business.

EQUITY FOR AGRICULTURAL COOPERATIVES

Mr. BENTSEN. Mr. President, I am pleased to be joined by my distinguished fellow Senator from Texas

(Mr. Tower), in introducing legislation to make a minor change in the Small Business Act in order to correct a discriminatory situation which has just recently arisen. It has come to my attention that under the Small Business Administration's section 7(b)(2) loan program, the economic injury disaster loan program, there are instances in which a small business cannot qualify for this loan program simply because it is organized as a cooperative rather than a corporation.

The SBA requires, as a condition for eligibility for these loans, that the small business corporation meet SBA's size standards. This requires documentation through submission of SBA's form 355. In addition the officers and directors of the corporation must also meet SBA's size standards and must submit form 355's to show that they are small businesses.

However, in the case of a cooperative, SBA requires that each member of the cooperative submit a form 355 to show that they are a small business. There is no requirement that each stockholder or customer of the corporation submit a form 355 and qualify as a small business. This is clearly discriminatory, and for no good reason.

This discrimination is not just an inconvenience. It effectively bars the cooperative from any eligibility for an SBA disaster loan. To illustrate this, consider the case of a cotton gin in the Texas Panhandle. Much of this area qualifies for 7(b)(2) disaster assistance from SBA because of the severe weather earlier this year which inflicted massive damage on the crops in the region.

This cotton gin has 25 farmers who are members and who gin their cotton there. These 25 farmers own part of their farmland and rent part of it through the crop-share leases which are standard in the area. Under a cropshare lease the landlord gets part of the crop, and of course the landlord's share is also ginned at that gin. Let us assume that a total of 50 landlords are involved. Let us also assume that the gin has three officers and two direc-

If this gin is organized as a corporation with each farmer owning an equal share, then the corporation and the five officers and directors would all have to qualify as small businesses under the SBA standards and would have to submit form 355's to prove it. If the gin is organized as a cooperative, then the cooperative, all 25 farmers, and the 50 landlords-who would also be members of the cooperativewould have to meet SBA size standards and submit form 355's to prove it. In reality it would be impossible to get all of these, especially absentee landlords, to fill out the form 355 with its detailed financial information.

I have been working with Congressman Charles Stenholm of Texas, who is a member of the House Small Business Committee, and other members of the Texas congressional delegation to try to resolve this issue. The problem has arisen because of SBA regulations, not because of legal requirements, but SBA has refused to change their interpretation and end this discrimination. Thus we must correct this inequity through legislation before it is too late for these small agricultural cooperatives.

Mr. President, I see no justification at all for this discrimination, and I urge passage of this corrective legislation. I ask unanimous consent that a copy of the bill be placed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 3108

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 3 of the Small Business Act is amended by adding at the end thereof

the following new subsection:

'(j) For the purposes of section 7(b)(2) of this Act, the term 'small agricultural cooperative' means an association (corporate or otherwise) acting pursuant to the provisions of the Agriculture Marketing Act (12 U.S.C. 1141j), whose receipts from operation do not exceed the size standard established by the Administration for other agricultural small business concerns. In determining such receipts, the Administration shall regard the association as an entity and shall not include the income of any member or shareholder of such cooperative: Provided, That such an association shall not be deemed to be a small agricultural cooperative unless each member of the board of directors of the association, or each member of the governing body of the association if it is not incorporated, also individually qualifies as a small business concern.'

SEC. 2. Section 7(b)(2) of the Small Busi-

ness Act is amended-

(1) by striking out "small business concern" and inserting in lieu thereof "small business concern or small agricultural cooperative"

(2) by striking out "small business concerns" and inserting in lieu thereof "small business concerns or small agricultural co-

operatives", and
(3) by striking out "the concern" and inserting in lieu thereof "the concern or the

cooperative"

SEC. 3. The amendments made by this Act shall apply to any disaster with respect to which a declaration has been issued after September 1, 1982, under section 7(b)(2)(A), (B), or (C) of the Small Business Act or with respect to which a certification has been made after September 1, 1982, under section 7(b)(2)(D) of such Act.

> By Mr. NUNN (for himself and Mr. ARMSTRONG):

S. 3109. A bill to improve Federal criminal sentencing by imprisoning dangerous and violent offenders and by diverting nonviolent offenders from imprisonment to restitution or community service programs; to the Committee on the Judiciary.

SENTENCING IMPROVEMENT ACT

. Mr. NUNN. Mr. President, on behalf of myself and Senator Armstrong, I am today introducing the Sentencing Improvement Act of 1982. The prison system in the United States no longer accomplishes what it is supposed to accomplish. Rather than rehabilitate the more than 394,000 prisoners in State and Federal prisons, the system merely warehouses them. While it is true that our prison systems do keep offenders off the streets and out of society, it is equally true that, as the President's Commission on Law Enforcement and the Administration of Justice reported in 1976:

A substantial percentage of offenders become recidivists; they go on to commit more, and \* \* \* often more serious crimes.

Estimates of the rate of recidivism vary widely, from a low of 33 percent to a high of 90 percent, depending on the kind of prison involved and the method used to study the problem. But however the estimates vary, there appears to be a general consensus that our prison systems rehabilitate only a very small number of the hundreds of thousands of prisoners.

At least part of the problem can be attributed to prison conditions themselves. As the 1976 President's Com-

mission reported:

[l]ife in many institutions is at least barren and futile, at worst unspeakably brutal and degrading. \* \* \* [T]he conditions in which prisoners live are the poorest possible preparation for their successful reentry into society, and often merely reinforce in them a pattern of manipulation and destructive-

Among one of the worst conditions is overcrowding. As of May 31, 1982, our total Federal prison population was over 24,000. With our Federal prisons now operating beyond capacity, the continuing yearly increase in our prison population is especially alarming. Last year the national prison population jumped by a record 12.1 percent, the largest yearly increase since the Government began keeping prison statistics in 1926. The increase in the Federal prison population was even greater, at 16 percent.

As for State prison systems, the Attorney General's task force on violent crime reported in August 1981 that a clear majority of the State prison systems were either operating under court order or involved in litigation relating to overcrowding. That same cited overcrowding as the number one problem facing corrections officers. We cannot escape the unfortunate fact that our prisons are now overcrowded and that their populations will continue to rise. A recent Justice Department study predicts that in the future our national prison population will increase by an annual rate of more than 14 percent.

It is unmistakably clear that we are marching inexorably to a crisis point.

Stronger sentencing practices more effective law enforcement have increased the number of convicts in our prison system. I applaud better law enforcement and stricter sentencing. But we must recognize that it would be impractical for us to continue to urge Federal law enforcement agencies and Federal courts to carry on with the efforts against crime and at the same time fail to perceive and remedy our growing prison problem. The Attorney General's task force estimated that some \$10 billion would be needed to fund the construction needed to adequately accommodate the prison population in 1981. even when new prisons are built, the costs continue. The Bureau of Prisons reports that it costs over \$13,000 to incarcerate just 1 person for just 1 year.

We need to seek out other answers to this problem, answers that will be less burdensome to the taxpayers and yet still protect society from dangerous, violent criminals. One answer to the problem is to reexamine our sentencing practices and to develop alternatives to incarceration for some criminals as the normal means of punishment. That very point was only recently reemphasized in a report issued by the North Carolina Citizens Commission on Alternatives to Incarceration. The report recommends that-

As North Carolina's prison population expands and the cost of incarcerating so many offenders in State prison rises sharply, the State should reassess its policies that favor incarceration as a penalty. \* \* \* Communi-ty-based penalties as an alternative to prison are feasible for many nonviolent offenders.

In support of that recommendation, North Carolina Attorney General Rufus L. Edmistein commented that-

There must be some alternatives to prison. Prison for many people is self-defeating. It makes them a nonproductive

In the November 9, 1982, issue of USA Today, an editorial on needed prison reform concluded that-

"[t]he greatest single challenge to the administration of justice is to find an intelligent means of separating those who must be imprisoned for society's safety from those who could be trusted with alternative, minimum-security sentences

The bill which Senator Armstrong and I are introducing today attempts to meet precisely that challenge. Enti-tled the "Sentencing Improvement Act of 1982," this legislation is intended to insure, in the face of severe prison overcrowding, that "scarce Federal prison resources are available to house dangerous and violent criminals." The bill accomplishes that purpose by providing for the use of restitution and community-service sentences in cases of nonviolent and nondangerous offenders. Based upon 1981 Bureau of Prisons estimates, this legislation would have created nearly 7,500 more

prison spaces for violent criminals with potential annual savings to our Federal Government of over \$97 million.

This bill affirms that dangerous, violent criminals must be locked up in prison to protect society, but that society does not necessarily need the same protection from nondangerous offenders. The bill creates a presumption that imprisonment is inappropriate for nondangerous offenders. In such cases, the bill provides that defendants shall be sentenced to pay back their victims for property damaged or lost or for medical expenses, as well as to provide free service in their communities through volunteer work.

The bill specifically states that certain offenders are ineligible for alternative sentencing, including: those who committed violent crimes; those who committed crimes endangering the national security; professional or habitual criminals; narcotics traffickers; those convicted of certain illegal firearms or explosives trafficking violations; and those convicted of misuse of public office. The bill also provides that the court may imprison any offender if it finds substantial and compelling reasons to do so.

Mr. President, there are three reasons why this bill is needed. First, we need to insure that scarce available prison space is used to lock up the dangerous criminals. This bill makes it clear that Congress wants violent dangerous offenders put in jail. It also makes it clear that Congress does not want our prisons filled with nondangerous criminals if that means the dangerous ones will walk the streets.

Second, this bill recognizes the rights of victims of crime to be reimbursed for their losses. Too often they are not only not reimbursed, but they end up as taxpayers paying to feed, clothe, and house in prison those very nondangerous offenders who have victimized them.

Third, this is a much less expensive and equally effective way of punishing nondangerous offenders. Instead of paying over \$13,000 per year to jail such a person and force him to spend his time unproductively, that person can remain in society, repay his victim and work for the community in a community-service program. The cost per person of diversion throug alternative sentencing is only about 10 percent of the cost of incarceration or about \$1,300 per year, according to the U.S. Courts Administrative Office.

Restitution and community service as alternatives to incarceration work. We have seen their proven success in several of the States that have instituted such programs. Such projects have been used with increasing frequency in some of our Federal courts. A 1979 survey conducted by the U.S. Courts Administrative Office found that 53 districts used such alternatives

on a case-by-case basis, and that 17 had formal community-service programs.

Evaluation of such alternatives have demonstrated that public safety is not harmed. In fact, the recidivism rates of persons diverted from jail to such programs are in many cases lower than persons sent to jail. Moreover, these sanctions are much less expensive than incarceration and victim response to such programs has generally been positive.

I want to point out that this bill does not in any way create new sanctions not now available to sentencing judges. Alternative sentences of restitution and community service are currently within the reach of sentencing judges. As I mentioned earlier, they have and are being used. Only this year Congress, in the Victim and Witness Protection Act, again named restitution as a sentencing possibility for criminal offenders. We have incorporated the restitution procedures set forth in that bill to apply where restitution is ordered under this legislation. What is new about this bill is an express congressional directive that the use of those alternatives be increased in cases of nonviolent offenders, in order to insure that sufficient prison space remains available for truly violent offenders.

In drafting this legislation, we have been careful to anticipate and examine in advance those legitimate questions and concerns which this approach to sentencing reform may generate. At first blush, some may suggest that this bill will unfairly and substantially increase the burden of imprisonment on economically underprivileged or minority offenders.

To answer that concern, I have closely examined the most current population statistics from the Bureau of Prisons. I have divided those statistics for white and nonwhite inmates into two categories of offenses pertinent for purposes of our bill: Violent offenses-imprisonment drug cases-and other offenses-nonimprisonment cases. In 1981, 37 percent of Federal prison inmates were classified as nonwhites. When considering only those inmates committed for violent and drug offenses, the percentage for nonwhites is 40 percent. Based on those statistics, our bill, in the year 1981, would have increased the total percent of nonwhite Federal prisoners only slightly, by approximately 3 percent.

I suggest that such a slight increase would be far outweighed by the increased fairness and objectivity in sentencing which this bill would insure for underprivileged and minority offenders. A sentence of imprisonment or nonimprisonment will turn less on economic status and the quality of legal representation. Rather, the sentencing decision will rest on the nature

of the offense itself and the real danger which the offender, regardless of race or economic wealth, poses to our society. With such objective criteria firmly in place, the bill will, in no way, undercut the rights of underprivileged and minority offenders in our criminal justice system.

Turning to another aspect of the bill, there are those who may say that alternative sentencing will eliminate the deterrent effect of imprisonment. In response to that concern, we have drafted the bill to preserve that deterrent effect even where alternative sentencing is used. Even in cases of nonviolent offenders, the bill allows a judge the discretion to impose a minimal prison sentence of up to 60 days, to be followed by restitution and community service. Second, the bill provides that a community service may include a residence requirement at a community treatment center, or halfway house. Finally, should an offender violate the conditions of the alternative sentence, he may be sentenced to any term of imprisonment permitted under law for his offense. With those provisions in place, alternative sentences can and will deter further criminal conduct by nonviolent offend-

It is time for Congress to address the overcrowded prisons. We must act now before we reach the crisis which is so clearly on the horizon. This bill provides a safe, effective, and inexpensive method of addressing the issue now. I point out that in drafting this bill we have welcomed and incorporated the suggestions of many of those at the heart of our criminal justice system, including the Department of Justice, the Bureau of Prisons, Federal judges, prosecutors, and probation officers. The bill I introduce today presents, I believe, a well-reasoned vehicle for much needed sentencing reform. I urge Congress to speak to the problem of our overcrowded and scarce prison resources by the prompt and thorough consideration of this bill.

Mr. President, I ask unanimous consent that the text of the bill as well as a section-by-section analysis of its provisions be inserted in the Record at this point.

There being no objection, the material was ordered to be printed, as follows:

#### S. 3109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Sentencing Improvement Act of 1982".

SEC. 2. Title 18, United States Code, is amended by adding immediately after Chapter 231 the following new chapter:

# CHAPTER 232—RESTITUTION AND COMMUNITY SERVICE

"Sec

"3671. Short title; Congressional declaration of purpose and policy.

"3672. Offenses for which restitution and commu-

nity service should be imposed.
"3673. Nature of sentence and restitution "3674. Nature of sentence of community service.

"3675. Modification or waiver.

"3676. Considerations in determining restitution and community service.

"SEC. 3671. SHORT TITLE: CONGRESSIONAL DECLARATION OF PURPOSE AND POLICY

"(a) This chapter may be cited as the 'Sentencing Improvement Act of 1982.'

"(b) Due to the increasing problem of rison overcrowding, available federal prison prison space must be treated as a scarce resource in the sentencing of criminal defendants. Sentencing decisions should be designed to insure that those resources are, first and foremost, reserved for those dangerous and violent criminals who pose the most serious threat to society. In cases of non-violent offenders, the interests of society as a whole as well as the individual victims of crime can continue to be served through the imposition of alternative sentences, such as restitution and community service.

"It is the purpose and policy of this chapter to insure that scarce Federal prison resources are available to house dangerous and violent criminals by the increased use of restitution, community service, and other alternative sentences in cases of non-violent and non-dangerous cirminal offenders.

"SEC. 3672. OFFENSES FOR WHICH RESTITU-TION AND COMMUNITY SERVICE SHOULD BE IMPOSED.

"(a) Imprisonment is the appropriate sanction for those offenders who, by their offense or criminal history, have demonstrated that they present an ongoing danger to society.

"(b) Imprisonment is an inappropriate sanction where the court finds that the offense does not involve the threat or use of force, endanger national security, or threaten or cause serious physical harm to others, and that none of the following circumstances is present:

"(1) the defendant has been convicted of a felony in federal or state court within the past five years. In calculating the five years period, periods of incarceration shall not be included; however, convictions for offenses committed while incarcerated shall be counted as prior convictions under this paragraph, or

"(2) the defendant committed the offense as part of a pattern of conduct which was criminal under applicable laws of any jurisdiction, which constituted a substantial source of his income, and in which he manifested special skill or expertise, or

(3) the defendant received or expected to receive compensation for committing the offense (other than when receiving compensation was, in itself, the offense), or

'(4) the offense involved the illegal manufacture, importation, exportation, distribu-tion or dispensing of, or possession with the intent to manufacture, import, export, distribute, or dispense, a controlled substance,

"(5) the defendant was convicted of an offense involving explosives in violation of Title 18, United States Code, Sections 844 (d), (e), (f), (h), or (i); an offense involving firearms of ammunition in violation of Title 18. United States Code, Sections 922 (d), (g), or (h); 924(b) or (c); or Title 18 Appendix, United States Code, Section 1202(a) or (b); or an offense involving firearms in violation of Chapter 53 of Title 26, United States

"(6) the defendant was convicted of an offense involving the misuse of public office or other violation of the public trust, or

"(7) there are specified substantial and compelling reasons for imposing a sentence of imprisonment.

(c) In cases where the presumptions for or against imprisonment in paragraphs (a) and (b) of this section do not apply, the court may, in its discretion, sentence a defendant to any sanction permitted under the law

'(d) If a defendant is convicted of conspiracy, attempt, or is punishable as a principal under 18 U.S.C. section 2, he shall be treated as a principal for purposes of this chap-

"(e) The probation service of the court shall include in each presentence investigation and report findings and recommendations as to a defendant's eligibility for sentencing pursuant to the provisions of this chapter. Prior to sentencing, both the government and the defendant shall be given notice and the opportunity to be heard regarding the merits of those findings and recommendations. Nothing in this section shall affect the confidentiality of other portions of the presentence investigation and report. as provided for under law.

(f) When imprisonment is an inappropriate sanction under the provisons of paragraph (b) of this section, and when the circumstances of the offense demonstrate that a fine and/or probation are inappropriate sanctions, the court shall suspend imposition of sentence and require a defendant to make restitution or perform community service, or both. If the court has determined that there are substantial and compelling reasons under subsection (b)(7) for imposing a sentence of imprisonment, the court may, at its discretion, impose any sentence of imprisonment permitted under law, or, in the alternative, impose any sentence of imprisonment permitted under law, suspend execution of that portion of the sentence in excess of up to sixty days, and require the defendant to make restitution or perform community service, or both. In its discretion, the court may impose a fine in addition to a sentence of restitution and/or community service.

"SEC. 3673. NATURE OF SENTENCE OF RESTITUTION. "(a) When the victim or victims of an offense are ascertainable, the court may order the defendant to make restitution payments as provided under section 3579 of this chap-

"(b) When there is no ascertainable victim of the offense, the court may order the defendant to contribute an amount not exceeding the value of the defendant's gain from the commission of the crime to the Treasurer of the United States. The Treasurer shall hold such monies in a Victim Fund, which shall be distributed quarterly to all states with victim compensation funds in amounts proportional to the population of those states.

"(c) If a sentence of restitution is imposed on an organization, it is the duty of each individual authorized to transfer property for the organization or to make disbursement of assets of the organization to return such property or to pay restitution from assets of the organization as required by such sentence.

"SEC. 3674. NATURE OF SENTENCE OF COMMUNITY SERVICE.

"(a) A defendant may be sentenced under this chapter to perform a specified number of hours of free service to a governmental, charitable, or volunteer agency.

"(b) The court may, in its discretion, require that a defendant, sentenced to perform community service under this chapter, reside at a residential community treatment center for part or all of the duration of the sentence.

"(c) The court shall require, as a condition of a sentence of community service, that the defendant perform said community service within a specified period, but such period shall not be greater than the maximum term of probation or imprisonment for the offense, whichever is greatest.

"(d) Failure of a defendant to adhere to the schedule of community service performance shall be treated as a violation of probation by that defendant. It shall be a defense that the default or failure of the defendant was not attributable to an intentional refusal to obey the sentence of the court or to a failure on his part to make a good faith effort to comply.

"SEC. 3675, MODIFICATION OR WAIVER.

"A victim or a defendant at any time may petition the sentencing court to adjust or otherwise waive payment or performance of any ordered restitution or community service or any unpaid or unperformed portion thereof. Upon a prima face showing by the petitioner of a change in circumstances or other unfairness, the court shall schedule a hearing and give the victim and the government notice of the hearing, date, place, and time and inform the victim that he will have an opportunity to be heard. The burden of proof at such hearing shall rest upon the petitioner. If the court finds that the circumstances upon which it based the imposition or amount and method of payment or performance ordered no longer exist or that it otherwise would be unjust to either party to require payment or performance as imposed, the court may adjust or waive the remaining portion thereof or modify the time or method of restitution or community service. The court may extend the restitution or community service schedule, but not beyond the maximum term provided in Section 3674 or 3579 of this chapter

"SEC. 3676. CONSIDERATIONS IN DETERMINING RESTITUTION AND COMMUNITY SERV-

"(a) In determining the amount and method of restitution payments, the court shall consider the factors specified in section 3580(a) of this chapter.

"(b) In determining the amount and method of community service performance, the court shall consider the relative seriousness of the offense, the defendant's criminal history and the defendant's employment obligations

"(c) The probation office in each district shall compile and maintain a list of all public, charitable, or volunteer agencies in the district which will accept community service placement of offenders, and shall maintain accurate and complete records of community service performed and restitution payments made by persons sentenced pursuant to this chapter. It may contract or agree with private agencies to oversee placement and supervision of offenders sentenced to community service.

"(d) On request of the court, the government, or the defendant, the presentence investigation shall also contain proposed alternative sanctions to incarceration which may include any combination of some or all of the following elements: community service; restitution; employment; psychological treatment, counseling, and therapy, etc.;

education; vocational training or rehabilitation; medical or physical treatment; residence; reporting and supervision."

SEC. 3. The table of chapters for Part II of title 18, United States Code, is amended by adding the following new item immediately after the item relating to Chapter 231: "232. Restitution and Community

#### THE SENTENCING IMPROVEMENT ACT OF 1982: SECTION-BY-SECTION ANALYSIS

The bill will improve current federal criminal sentencing procedures by providing flexible guidelines for the courts in the imprisonment or other alternative forms of punishment on offenders. The basic principle underlying the guidelines is that prison is the appropriate punishment for violent, habitual or professional offenders, but that alternative forms of punishment may be appropriate for non-violent offenders.

Section 3671(a) states the title of the statute as the Sentencing Improvement Act of 1982.

Section 3671(b) lays out the Congressional findings that there is presently a problem with overcrowding in federal prisons. It also establishes that these scarce prison resources should be used for only the violent and dangerous criminals and that the interests of society can be served through the imposition of alternative sentences, such as restitution and community services, for non-violent, non-dangerous offenders.

Section 3672(a) establishes the presumption that certain offenders should be imprisoned for the protection of society. Generally, these are persons who, either by the offense for which they were convicted, or by their criminal history, have shown themselves to be an ongoing danger to society.

Section 3672(b) establishes the converse presumption that for certain types of offenses alternative forms of punishment should be used and that imprisonment is inappropriate. This presumption does not apply to a variety of offenses, including involving national security, those causing serious physical harm to others, and those involving the use or threat of force. In addition, the court may find that the presumption against imprisonment does not apply where: the defendant is an habitual criminal, having been convicted of a felony within 5 years; the defendant engages in criminal conduct as a livelihood; the defendant expected to be or was paid for commission of the crime; the offense involves narcotics trafficking; the defendant was convicted of specified firearms or explosives offenses; the defendant was convicted of misusing his public office; or if "there are other substantial and compelling reasons for imposing a sentence of imprisonment." this last exception, a judge could, for example, sentence to imprisonment a trusted pension official who embezzles millions from the fund. In such a case no violence has been done, but the financial and economic injury done to hundreds or thousands may be enormous. Moreover, restitution of such a vast sum would be impossible. In such a case, imprisonment may well be the only appropriate punishment, given the circumstances surrounding the scope of the offense and its impact.

Section 3672(c) states that where the presumption for imprisonment in Sec. 3672(a) and the presumption against imprisonment in Sec. 3672(b) do not apply, a court is free to sentence a defendant to any sanction permitted under law.

Section 3672(d) states that a defendant convicted for conspiracy, attempt or aiding

and abetting shall, for purposes of this Act, be treated as a principal. Thus one who merely aids a Presidential assassin in his violent task will not escape imprisonment merely because he, himself, did not pull the trigger.

Section 3672(e) states that prior to sentencing, the probation department must detail findings and recommendations as to sentencing under this Act. Both the Government and the defendant are then given an opportunity to argue the merits of these findings.

Section 3672(f) states that in those cases for which imprisonment or a fine or probation alone are inappropriate, the court shall suspend the imposition of sentence and require the defendant to accept alternative punishment. The alternatives are restitution, performance of community service, a fine, or all three. If the court has previously determined that special and compelling circumstances for imprisonment exist, but it nonetheless wishes to impose a sentence of restitution and community service, it may impose a sentence of imprisonment, suspend execution of all but up to sixty days, and require the defendant on release to make restitution or perform community service, or

Section 3673(a) describes the nature of restitution as an alternative form of punishment. When the victim or victims of the offense is ascertainable then Section 3579's provisions would apply. Section 3579, in part, provides that in appropriate cases the court may, with due consideration of the defendant's resources, require him to pay the vicitm's medical expenses, repay the value of lost or damaged property, or return said property. That section of Title 18 also specifies procedures to be followed when a civil suit has arisen out of the same injury or loss.

Section 2673(b) specifies that when no victims are ascertainable, the restitution will be paid into a special fund of the Treasury. This fund will on a quarterly basis distribute said monies to state victim compensation plans on a per captia basis.

Section 3673(c) provides for restitution by organizations as opposed to individuals.

Section 3674(a) describes the nature of community service as an alternative form of punishment. The sentencing court is to order a specified number of hours of free work for a governmental, charitable or volunteer agency.

Section 3674(b) gives the court the discretion of requiring a defendant to reside at a community treatment center during his sen-

Section 3674(c) requires that the community service be made or performed on a specific schedule established by the court.

Section 3674(d) states that intentional default by the defendant shall be treated as a violation of probation. Insofar as the imposition of sentence was originally suspended, upon default the court may sentence the defendant to imprisonment for the maximum term allowable for the offense committed by the defendant.

Section 3675 allows for the modification or waiver of payment of performance of an alternative sentence upon the petition of the victim or the defendant. The petitioner, who can be either the victim or the defendant, has the burden of showing that a change in circumstances or other unfairness have rendered it unjust to continue the sentence as imposed. No modification may be made without notice to the government, the defendant and the victim and without pro-

viding them the opportunity to be heard. Restitution and community service may be extended or reduced, but in no case may it be extended beyond the maximum term of imprisonment allowable for the offense committed by the defendant.

Section 3676 establishes the considerations the sentencing court should consider in determining restitution or community service. These include the victim's loss, the defendant's ability to pay, the seriousness of the offense, the defendant's criminal history, and the defendant's employment obligations. It also requires each probation office to prepare a list of appropriate agencies for public service. It requires that the probation department supervise any public service done by a defendant. It also permits the combination of community service with counseling, therapy and vocational or medical rehabilitation.

• Mr. ARMSTRONG. Mr. President, there is a crisis coming in American prisons. Dozens of States are currently under court order because of overcrowding amounting to cruel and unusual punishment. A recent Federal study concluded that nearly two-thirds of all prisoners are housed in overcrowded facilities. The same study showed that even new prisons filled to capacity within 2 years and reach 130 percent of capacity within 5 years.

Since 1969, the U.S. prison population has increased by 68 percent. At the end of 1981, there were 369,000 prisoners in State and Federal facilities; that year witnessed a 12.1 percent increase in the American prison population-the greatest since we began keeping statistics on this subject in 1925. The prison population is growing nearly 15 times faster than the Nation as a whole. We have reached a point where more than 1 in every 600 Americans is in prison; 1 out of every 100 black males is incarcerated. If this Nation's prison population were a country, it would be more populous than 18-member countries of the United Nations. In fact, the United States has a higher incarceration rate than any nation in the world, except South Africa and the Soviet Union.

We spend a fortune every year to maintain this shameful rank. In 1980, for example, the total budget for State and Federal correction services was nearly \$5.5 billion. It costs a minimum of \$30,000 per bed to build a medium security facility, and up to \$70,000 per bed for a maximum security prison. The Attorney General's Task Force on Violent Crime has estimated that more than \$10 billion is urgently needed for new prison construction just to accommodate the current prison population. The average annual cost of maintaining an inmate of the Federal prison system has been estimated at over \$13,000-more than the cost of tuition, room, and board at our most expensive universities.

And these facilities are a far cry from academies of the liberal arts, Mr. President. Indeed, they have become the graduate schools of crime, with advanced courses in assault, theft, vandalism, forced homosexuality, gang war, racial violence, drug abuse, and insanity.

As Judge Frank Johnson said while reviewing an Alabama prison in 1976.

The physical facilities were dilapidated and filthy, the cells infested with roaches, flies, mosquitoes and other vermin. Sanitation facilities were limited and in ill-repair. emitting an overpowering odor; in one in-stance over 200 men were forced to share one toilet. Inmates were not provided with toothpaste, toothbrush, shampoo, shaving cream, razors, combs and other such necessities. Food was unappetizing and unwholesome, poorly prepared and often infested with insects, and served without reasonable utensils. There were no meaningful vocational, educational, recreational or working programs, A United States health officer described the prison as "wholly unfit for human habitation according to virtually every criterion for evaluation by public health inspectors." Perhaps worst of all was the rampant violence within the prison. Weaker inmates were repeatedly victimized by the stronger; robbery, rape, extortion, theft and assault were every day ocurrences among the general inmate population.

This is not to say that all prisons are this bad; nor would I argue that prisons should be a comfortable and interesting experience for the inmate. But it is clear that reform is desperately needed. Anthony Travisono, executive director of the American Correctional Association, has said: "There are time bombs ticking away in our prisons and jails." Unless we act decisively and soon, there seems little doubt that the American prison system is within only a few years of collapsing from its own weight.

It is notorious by now that our prisons do not reform or rehabilitatethey brutalize and harden. The fact is that we manufacture dangerous criminals in our prisons-too often from the raw material of nonviolent offenders. In recent years, however, there has developed a dramatic change in American attitudes toward imprisonment. It is widely perceived that our prisons are cruel and violent places, and outstanding failures as reformatories; but people seem generally content with the idea that at least they keep a criminal away from society. The goal of rehabilitation has given way to the expedient of separation and punishment. As a nation, we need to ask ourselves whether this policy serves the long-term interests of law and order.

As Napoleon once observed, "The contagion of crime is like that of the plague. Criminals collected together corrupt each other. They are worse than ever when, at the termination of their punishment, they return to society." Those who graduate from these advanced schools of violence do, in time, return to live among us; thousands are released every year. Norman Carlson, Director of the Bureau of Prisons, has said "Jails are tanks,

warehouses. Anyone not a criminal when he goes in, will be one when he comes out." Recidivism, the rate of rearrest of released prisoners, is already high and climbing higher; Chief Justice Warren Burger has called this "a disaster."

If we are to depart from the current policy, as I think we must, our options are somewhat limited. We could spend many billions of dollars building new facilities and, indeed, there are already bills pending in the Senate which propose to do just that. In a time of fiscal restraining, however, this approach is not realistic. Moreover, the separateand-punish school of penology can only provide our society with a temporary and limited kind of safety.

An obvious and simple alternative would be to place greater reliance on fines and probation instead of incar-Indeed, in many States ceration. where the prison systems are already under court order for overcrowding, this is a common alternative sanction. The fact is that fewer and fewer offenders-in many cases even dangerous ones-are actually going to jail. Society as a whole suffers greatly from this alternative. Victims go uncompensated, law-abiding citizens have dangerous criminals living among them and offenders learn to hold our criminal justice system in contempt. This alternative only teaches that crime actually does pay.

There is a third alternative, Mr. President, and this is my purpose in speaking today. Basically, this is a proposal that American prisons and jails should be regarded as a scarce resource with a highly specialized purpose—namely, confining only those offenders who pose a threat to society. This proposal consists of two alternatives to incarceration that, in the case of a nondangerous offender, are much more effective and just than imprisonment.

A program of restitution would require the offender to repay his victim for property loss and other damages. Many public opinion surveys indicate that a high percentage of Americans would prefer to have a nondangerous offender repay his victim directly, rather than serve time in prison at public expense. This is also clearly preferable to having the Government compensate crime victims with scarce tax dollars. Victim restitution has gone far beyond the theory stage in dozens of American communities and States; so far, the results have been very encouraging.

Earlier this year, Congress passed the Victim and Witness Protection Act and went on record as favoring restitution for victims of crime. The restitution procedures of that act will apply where restitution is ordered under our new bill, which for the first time directs judges to increase the use of these more constructive sentences for nondangerous offenders.

Community service is the second part of this proposal. A community service order would provide that, instead of being sent to prison, nondangerous offenders would be required to work in areas of great public need either for a very modest salary or for nothing. State and local jurisdictions are well ahead of the Federal Government in this area as well. Present community service programs around the country provide useful work opportunities for skilled and unskilled workers alike. California, for example, is operating dozens of community service programs for nondangerous offenders and the community service order has been widely used for years in England with tremendous success.

Evaluations of the community service and restitution projects in diverse areas and conditions around the country have demonstrated that public safety is in no way compromised. In fact, the recidivism rates of people going through these programs are generally better than those going to prison. This is partly because they are spared the brutalizing effect of prison conditions and partly because the programs provide a direct connection between an offender and his victim or community. These sanctions are also considerably less expensive than incarceration. Victims have been pleased with the restitution programs, because they allow compensation where before there was none. Finally, the social service agencies have responded very well to the community service programs and the extra help they pro-

We have the opportunity-and, because of the overcrowding crisis, an urgent need-to revise our views on crime and punishment. In my opinion, the best policy is one that protects the safety of the law-abiding citizens, punishes offenders swiftly and humanely, compensates victims and establishes an individual offender's responsibil-ities to his victim and his community. Only by putting the nondangerous offenders to work for those he has victimized can he ever "pay his debt to society." No such debt is paid, and no benefit is gained, by putting the nondangerous offender behind bars. It is a waste of tax dollars that we can illafford and is a terrible waste of human resources.

Attorney General William French Smith has told Congress that he supports the concept of restitution and community service for convicted felons placed on probation instead of being put in prison. This is an idea that is generating strong public support from all quarters of the country. Not the least of the benefits that would flow from this program would be the additional space created in Federal facili-

ties. This space could then be sold or leased at a full or subsidized rate to individual States, in order to solve their overcrowding problem and make sure that the dangerous offender goes straight to jail where he belongs.

Mr. President, for all these reasons, Senator Nunn and I today are introducing the Sentencing Improvement Act of 1982. This measure affirms that dangerous criminals must be locked in prison to protect society. It also alters the Federal criminal code and allows judges to sentence nondangerous offenders to restitution and community service programs. To assure that lawabiding citizens are adequately protected, this bill defines "nondangerous offender" very carefully and narrowly. This class of offender would not include:

Those who commit violent crimes or crimes that cause serious physical injury;

Those who misuse a public office;

Repeat offenders, drug traffickers or those who endanger national security:

Those who are paid to commit their crimes or make a living from criminal activity that requires special skill or expertise; or

Those convicted under certain fire-

arms trafficking laws.

As a further safeguard, the definition contains a catch-all clause that allows a judge to send an offender to prison if he feels there are other substantial and compelling reasons for his incarceration.

The principal benefits to be derived from this bill are that it would:

Focus Federal resources intensively on violent crime.-Imprisonment is far and away the most expensive criminal punishment. By our rough calculations, this measure will save the Federal Government over half a billion dollars in the next 3 years. Some \$244 million of this would be due to a reduction in the Federal prison population by around 25,000 inmates who would be diverted into the alternative punishment programs of restitution or community service. An additional amount of around \$284 million would be saved by avoiding otherwise necessary prison construction over that same period. Finally, something like \$14 million would be gained in the form of community service benefits. benefits Total combined would amount to around \$542 million and this does not include the value of restitution payments, since these benefits would fluctuate according to the value of damage to the victims and the capacity of an offender's ability to pay. In addition to these financial benefits, the Bureau of Prisons would be able to accept upwards of 5,000 prisoners from those States whose prisons are under court order because of overcrowding; this Federal space could be leased or sold to the States and would help insure that dangerous offenders currently going scot-free on probation would be put behind bars where they belong.

Benefit the victim and the community.-Victims will be financially compensated through direct restitution payments; they will also have the satisfaction of seeing first-hand that those who did them harm are now working to make them whole. The restitution program will put an end to the institutional alienation that has become the hallmark of our impersonal criminal justice system. The community service program will be a boon to charitable organizations and local agencies that are already facing severe fiscal problems and cannot otherwise obtain volunteer workers. Together, the two programs will demonstrate that every member of the community has moral and social responsibilities to his other members. While protecting the society, these improvements will help to foster a healthier respect for a more personalized criminal justice system; and

Appropriately punish the offender.-Studies have shown that nonincarceration sentences are as effective a deterrent as imprisonment. They are also considerably cheaper-usually costing no more to administer than a parole program. Typically, recidivism rates are lower-probably because these programs require the offender to assume responsibility for the consequences of his criminal acts. Moreover, this program will exempt the non-dangerous offender from the brutalizing circumstances found in our overcrowded prisons. Such an approach punishes cheaply, swiftly, and constructively, and without transforming nondangerous offenders into violent ex-cons.

Mr. President, this is a complex issue in which every law-abiding citizen has an enormous stake. The legislation Senator Nunn and I submit today is not intended as a finished product but as a starting point for public discussion of crime and punishment. I believe that we are no more than a few years from a law enforcement crisis in this country that is truly frightening. We must begin immediately to regard our prison facilities as scarce resources that need to be wisely and deliberately managed. I urge my colleagues to consider this proposal with great care and to join with us in this important national discussion. Along with my colleague, Senator Nunn, I am seeking suggestions for improvement of this proposal and for assistance in assuring its adoption.

> By Mr. HOLLINGS (for himself and Mr. PRYOR):

S. 3110. A bill to establish a Reconstruction Finance Corporation; to the Committee on Banking, Housing, and Urban Affairs.

RECONSTRUCTION FINANCE CORPORATION ACT OF

Mr. HOLLINGS. Mr. President, I am introducing today a bill to establish a new Reconstruction Finance Corporation (RFC).

The orginal RFC was signed into law in January of 1932 by President Herbert Hoover, and came to life under Franklin Roosevelt. It was created at a time of great economic peril in the United States, and, by the time its business was finished in 1957, it had performed veomen service in assisting the revitalization of America. It was a large force in helping commerce and industry sustain themselves through periods when necessary financial help was difficult to find.

Many of our cities and much of our industry face serious financial problems today. In the first 28 weeks of 1982, there were 12,672 business failures, compared with only 8,772 failures for the comparable 1981 period. We are looking at the highest level of business failures since the early 1930's.

As bad as things are for business, they have been scarcely any better for our cities. Last month, the National League of Cities reported the findings they reached after sampling 43 cities across the Nation. They found that the general fiscal condition of cities is poor, and many have serious problems maintaining public works. For exam-

Milwaukee suffered 180 water main breaks in January alone.

Nearly half of the 1,087 public school buildings in New York are at least 50 years old, and in various states of decay.

In Houston, it is estimated that it costs motorists \$800 a year in wasted time and gasoline because of snarled traffic.

These few examples are multiplied in various ways all across the Nation in cities in need of repair and help to maintain service, but without the resources to get the job done.

With interest rates fluctuating, but not falling dramatically, neither troubled cities, nor overburdened business can find the means to finance growth or continue basic service at top quality levels.

We simply cannot permit this situation to continue. We must not permit our basic industries—the foundation upon which we have built the world's dominant economic power-to wither and die. To abdicate the role we have established, to let it pass to the hands of other nations because we made a conscious decision to let it happen, would mark one of the sorriest episodes in our economic history.

The United States and the world are in a period of transition. The United States is challenged by new technologies from abroad. We are tested by growing commerce from around the world, and I am afraid in too many cases, we have become the passive buyer rather than a dynamic seller of goods.

So our challenge is manifold, and if we are to remain competitive abroad while strong at home, we must be aggressive in the quest to strengthen our cities and our businesses. We can take a bold step in that direction by reestablishing a Reconstruction Finance Corporation.

The purpose of this new RFC would be to provide limited, temporary, and repayable assistance to cities and businesses. It would have the advantage of being outside the mainstream of practical politics, while providing stable and professional financial planning services. Its goals would be to assist in the rebuilding of the public infrastructure, and to help restructure basic industries. By accomplishing those goals, it will promote the competitive American spirit, while fostering long-term economic growth.

The RFC is not intended as a cureall. But neither should it be mistaken as a band-aid. We need a sound and safe financial management group, able to offer both loans and capital information expertise to businesses and municipal institutions who have nowhere else to turn.

Felix Rohatyn, the chairman of the Municipal Assistance Corp. recently addressed the U.S. Conference of Mayors. In his speech, he underscored a number of themes I have noted today. It is a thoughtful speech and deserves wider circulation. I ask unanimous consent that the Rohatyn remarks and the complete text of my Reconstruction Finance Corporation bill be included at this point in the Record.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### S. 3110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE.

This Act may be cited as the "Reconstruction Finance Corporation Act of 1982." SEC. 2. DECLARATION OF PURPOSES.

The Congress declares that-

in order to-

(a) rebuild the national infrastructure and restructure and revitalize basic industries;

(b) promote and facilitate short-term and long-term economic growth; and

(c) ensure the ability of the United States to compete in the world economy,

It is essential to-

 provide financial assistance to business entities and municipalities in emergencies, and

(2) make available to business entities and municipalities adequate amounts of capital. SEC. 3. CREATION OF CORPORATION.

There is established on the date of enactment of this Act as an independent instrumentality of the United States the Reconstruction Finance Corporation (hereinafter referred to as the "Corporation"). The prin-

cipal office of the Corporation shall be located in the District of Columbia. There may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the Board of Directors of the Corporation.

SEC. 4. BOARD OF DIRECTORS.

(a) Composition of the Board.—The management of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board") consisting of seven members, three of whom shall be the Secretary of the Treasury (or, in his absence, the Under Secretary of the Treasury), the Chairman of the Board of Governors of the Federal Reserve System, and the Chairman of the Council of Economic Advisers, who shall be members ex officio. Four other individuals shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DIRECTORS APPOINTED BY THE PRESI-DENT .- Of the four Directors appointed by the President, one shall be a representative of labor, one shall be a representative of business, and two shall be representatives of the general public. The term of each Director shall be three years, but a Director may continue in office after the expiration of his or her term until a successor has been appointed and confirmed. Whenever a vacancy occurs among the Directors so appointed, the individual appointed to fill such vacancy shall hold office for the unexpired portion of the term of the Director he or she is selected to fill. No more than two of the Directors appointed by the President shall be members of the same political party. Each Director so appointed shall receive a salary at the rate provided for under section 5315 of title 5, United States Code, for level IV of the Executive Schedule.

(c) Conflicts of Interest.—No Director, officer, attorney, agent, or employee of the Corporation shall participate, directly or indirectly, in the deliberation upon or in the determination of any question affecting his or her personal interests, or the interests of any corporation, partnership, or in which he or she is directly or indirectly interested.

SEC. 5. GENERAL POWERS OF THE CORPORA-TION.

The Corporation shall have the power—
(1) to adopt, alter, and use a corporate seal;

(2) to make contracts:

(3) to sue and be sued, to complain and defend, in any court of competent jurisdiction, State or Federal;

(4) to appoint by its Board of Directors such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation, without regard to the provisions of other laws applicable to the employment and compensation of officers or employees of the United States, to define their authorities and duties, to fix their compensation, to require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents;

(5) to prescribe, amend, and repeal, by its Board of Directors, bylaws, rules, and regulations governing the manner in which its general business may be conducted and the powers granted to it by law may be exercised:

(6) to make use of the United States mails in the same manner and upon the same conditions as the executive departments of the Federal Government; and

(7) to do all other acts and things which are necessary to the conduct of its business

and the exercise of all the rights and powers granted to it.

SEC. 6. SPECIAL POWERS OF THE CORPORATION.

- (a) FINANCIAL AID TO ELIGIBLE BUSINESS CONCERNS.—
- (1) The Corporation is authorized to provide assistance, in the forms and under the terms and conditions described herein and in section 7, to any eligible business concern. For the purpose of this Act, the term "business concern" means any individual, corporation, company, association, firm, partnership, society or other concern which is engaged in the manufacture or production of goods or services in the United States, or a bank, savings bank, trust company, building and loan association, insurance company, mortgage loan company, credit union, Federal land bank, Federal intermediate credit bank, agricultural credit corporation, livestock credit corporation, or other financial institution, organized under the laws of any State or of the United States

(2) A business concern is eligible for assistance under this section only if the Board has certified that the concern is likely to become insolvent without such assistance, that its closure would adversely and severely affect the economy, and that credit is not otherwise available to the concern on terms and conditions that are conducive to its survival

(3) The Corporation may make loans or guarantee the payment, in whole or in part, of interest, principal, or both on loans made by non-federal lenders to any eligible busi-

ness concern only if-

(A) the Board has obtained or developed a plan of reorganization and recovery which, in the judgment of the Board, is reasonably certain to restore such concern to profitability within the period for which credit or other assistance is extended. The plan must specify all actions to be taken, including reductions and other economies, sources of revenue and other credit, any necessary internal reorganization, and the contributions to be made by all interested parties. The Board shall review such plan periodically, and from time to time make such revisions as shall be necessary to keep the plan realistic and feasible; as

(B) where no such plan or reorganization and recovery can be obtained or developed, the Board has obtained or developed a plan of gradual liquidation which, in the judgment of the Board, will lead to the closing of the concern in as brief a period as possible without having an adverse and severe effect on the economy, but in no case longer than three years.

(4) Whenever, in the judgment of the Board, such action would reduce the risk or avert a threatened loss to the Corporation and would facilitiate a merger or consolidation of an eligible business concern with another business concern, or facilitate the sale of assets and the assumption of liabilities of an eligible business concern by another business concern, the Corporation may purchase any such assets, or lend money or guarantee the payment in whole or in part, of interest, principal, or both, on a loan by a non-Federal lender to another business concern. Any assets acquired by the Corporation under this paragraph shall be sold by the Corporation as soon as practical, but in no case less than two years after acquisition.

(b) Financial Aid to Eligible Municipalities.—

(1) The Corporation is authorized to extend aid, under the terms and conditions described herein and in section 7, to any eli-

gible municipality. For the purpose of this Act, the term "municipality" means a city, township, or any other political subdivision of a State which is a unit of general government, including the District of Columbia.

(2) A municipality is eligible for aid if the Board has certified that the municipality is making an adequate revenue effort, but is still effectively unable to bring all of its expenditures, other than capital items, into balance with its revenues and to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the municipality's financing needs.

(3) The Corporation may, in the discretion of its Board, lend money or guarantee the payment, in whole or in part, of interest, principal, or both, on loans made by non-Federal lenders to any eligible municipality

only if-

(Å) the State (except in the case of the District of Columbia) has created an agency, board or other entity authorized by the law of the State to control the fiscal affairs of such municipality during the entire period for which assistance under this section will be outstanding (hereinafter referred to as the "independent fiscal monitor"):

(B) the State (except in the case of the District of Columbia) has created an agency, board or other entity authorized by the law of the State to act on behalf of or in the interest of the muncipality as its financing

agent; and

- (C) the municipality has submitted, with the approval of the independent fiscal monitor, a recovery plan which, in the judgment of the Board, will enable the municipality to bring all of its expenditures other than capital items into balance with its revenues, in a budget reported in accordance with accounting principles established under State law, and to resume borrowing for itself to the full extent required, within a reasonable period of time, but in no case more than five years.
- (4) Interest on certain guaranteed obligations to be taxed.—Section 103(f) of title 26, United States Code, is amended by inserting; "or under section 6 of the reconstruction Finance Corporation Act of 1981," Immediately after "New York City Loan Guanantee Act of 1978."
- SEC. 7. SPECIAL POWERS; LIMITATIONS AND CON-DITIONS.

(a) LIMITS ON THE AMOUNT OF AID.-

(1) The amount of assistance provided by the Corporation to an eligible business concern or municipality under section 6 shall be based on an independent determination by the Board of the need of any such concern or municipality.

(2) In no case shall the aggregate amount of assistance given under section 6 of this Act to, or in connection with, any one business concern and its subsidiary or affiliated business concerns or any one municipality—

(A) exceed at any one time 5 per centum of the sum of (i) the authorized capital stock of the Corporation, plus (ii) the aggregate amount of bonds of the Corporation authorized to be outstanding when the capital stock is fully subscribed;

(B) exceed, in the case of an eligible business concern with a plan of reorganization and recovery, 50 per centum of the amount of aid required by such plan (without regard to any subsequent revisions to it); and

(C) exceed, in the case of an eligible municipality, 50 per centum of the deficit in the operating budget of such municipality during the period covered by its recovery plan.

(3) The aggregate of the principal amount of the loans outstanding at any one time

with respect to which guarantees have been made, and of the loans that the Corporation has made directly shall not exceed 10 times the sum of the subscribed capital stock of the Corporation.

(b) TERMS AND CONDITIONS FOR LOANS AND

LOAN GUARANTEES .-

(1) Each loan or loan guarantee made under section 6 of this Act may be made for a period not exceeding 10 years, though in no case shall the period exceed the useful lives of any physical assets purchased with such loan.

(2)(A) Each direct loan shall bear interest at a rate not less than the current average market yield (as certified by the Secretary of the Treasury to the Corporation on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, adjusted to the nearest one-eighth of 1 per centum.

(B) Each loan to be guaranteed shall bear interest at a rate determined by the Board to be reasonable taking into account the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the ma-

turity of such loan.

(3) Each such loan shall be fully and adequately secured, except that the requirement of this paragraph may be waived by the Board for a loan made pursuant to a plan of gradual liquidation. The Corporation, under such conditions as it shall prescribe, may take over or provide for the admininstration and liquidation of any collateral accepted by it as security for such loan. Each such loan may be made directly upon promissory notes or by way of discount or rediscount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the Corporation may approve, except that no loan or advance shall be made upon foreign securities or foreign acceptances as collateral or for the purpose of assisting in the carrying or the liquidation of such foreign securities and foreign acceptances.

(4) The Corporation may not guarantee a loan unless it determines that the terms, conditions, and security (if any), and the schedule and amount of repayments with respect to the loan, are sufficient to protect the financial interests of the Corporation and are otherwise reasonable, including a determination that the rate of interest on such loan does not exceed such rate as the Corporation determines to be reasonable, taking into account the range of interest rates prevailing in the private market for

similar loans.

(5) The Corporation shall be entitled to recover from an applicant for a loan guarantee under section 6 which is a business concern the amount of any payment made by the Corporation pursuant to such guarantee upon the failure of the applicant to pay when due the principal of and interest on the loan with respect to which the guarantee was made, unless the Corporation for good cause waives the right of recovery; and the Corporation shall be subrogated to all the rights under such loan of the recipient of such payment.

(6) Any loan guarantee by the Corporation under this Act shall be incontestable (A) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (B) as to any person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

- (7) The Corporation may guarantee shortterm obligations incurred for the purpose of obtaining temporary funds with a view to refinancing from time to time so long as the entire term does not exceed that specified under paragraph (1) and the borrower continues to be eligible for assistance.
- (8) Loans and guarantees of loans and of municipal debt shall be subject to such further terms and conditions as the Corporation may prescribe to carry out the provisions of this Act.
- (c) Prohibition Against Fees.—No fee or commission shall be paid by any applicant for a loan or guarantee under this Act in connection with any such application or any loan or a guarantee made under this Act, and the agreement to pay or the payment of any such fee or commission shall be unlawful.
- (d) Federal Financing Bank.—Notwithstanding the provisions of section 6 of the Federal Financing Bank Act of 1973 or any other provision of law, none of the loans guaranteed under this Act shall be eligible for purchase by sale or issuance to, the Federal Financing Bank or any other Federal agency or department or entity owned in whole or in part by the United States.
- SEC. 8. CAPITALIZATION OF THE CORPORATION; OTHER FINANCIAL PROVISIONS.
  - (a) AUTHORIZED CAPITAL STOCK .-
- (1) The Corporation shall have capital stock of \$5,000,000,000, subscribed by the United States of America, payment for which shall be subject to call in whole or in part by the Board of Directors of the Corporation.
- (2) Effective October 1, 1983, there is authorized to be appropriated \$5,000,000,000 for the purpose of making payments upon such subscription when called.
- (b) Funds on Deposit With Treasury or FEDERAL RESERVE BANK .- All moneys of the Corporation not otherwise employed may be deposited with the Treasurer of the United States subject to check by authority of the Corporation or in any Federal Reserve bank, or may, by authorization of the Board of Directors of the Corporation, be used in the purchase for redemption and retirement of any notes, debentures, bonds, or other obligations issued by the Corporation, and the Corporation may reimburse such Federal Reserve banks for their services in the manner as may be agreed upon. The Federal Reserve banks shall act as depositories, custodians, and fiscal agents for the Reconstruction Finance Corporation in the general performance of its powers conferred by this Act.
- (c) Issuance of Notes, Debentures, and Bonds.—
- (1) The Corporation is authorized, with the approval of the Secretary of the Treasury (hereinafter referred to as the "Secretary") and subject to section 11 of this Act. to issue, and to have outstanding at any one time in an amount aggregating not more than the sum of ten times its subscribed capital stock, its own notes, bonds, or other such obligations (hereinafter referred to as "obligations"). Obligations of the Corporation shall mature not more than twelve years from their respective dates of issue, shall be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations, and shall bear such rate or rates of interest as may be determined by the Corporation.
- (2) The Corporation, with the approval of the Secretary, may sell on a discount basis

short-term obligations payable at maturity without interest.

The obligations of the Corporation may be secured by assets of the Corporation in such manner as shall be prescribed by its Board of Directors. Obligations of the Corporation may be issued in payment of any loan authorized by this Act or may be offered for sale at such price or prices as the Corporation may determine with the approval of the Secretary.

(4) Obligations of the Corporation shall be fully and unconditionally guaranteed both as to interest and principal by the United States and such guaranty shall be expressed on the face thereof. In the event that the Corporation shall be unable to pay upon demand, when due, the principal of or interest on obligations issued by it, the Secretary shall pay the amount of such principal or interest, which amount is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated. To the extent of the amounts so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations

(d) Sales of Corporation Obligations to THE TREASURY; PUBLIC-DEBT TRANSACTIONS.

(1) The Secretary is authorized, subject to section 11 of this Act, to purchase any obligations of the Corporation to be issued under this section.

(2) The Secretary may, at any time, sell any of the obligations of the Corporation acquired by him under this section.

(3) Obligations of the Corporation shall not be eligible for discount or purchase by any Federal Reserve bank.

(e) Exemption From Taxation .-

(1) Any and all obligations issued by the Corporation shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing author-

(2) The Corporation, including its franchise, its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the Corporation shall be subject to State, territorial. county, municipal, or local taxation to the same extent according to its value that

other real property is taxed.

(f) FORMS OF OBLIGATIONS; PREPARATION BY THE SECRETARY OF THE TREASURY.-In order that the Corporation may be supplied with such forms of obligations as it may need for issuance under this Act, the Secretary is authorized to prepare such forms as shall be suitable and approved by the Corporation to be held in the Treasury subject to delivery. upon order of the Corporation. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith, shall remain in the custody of the Secretary. The Corporation shall reimburse the Secretary for any expenses incurred in the preparation, custody, and delivery of such obligations.

(g) CORPORATION AS A DEPOSITARY OF PUBLIC MONEY: OBLIGATIONS CONSIDERED PUBLIC INVESTMENTS .-

(1) When designated for that purpose by

the Secretary, the Corporation-

(A) shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary:

(B) may be employed as a financial agent of the Government; and

(C) shall perform all such reasonable duties, as depositary of public money and fi-nancial agent of the Government, as may be required of it.

(2) Obligations of the Corporation shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof.

#### SEC. 9. ADMINISTRATIVE PROVISIONS.

(a) Cooperation With Other Federal Agencies.

(1) In order to enable the Corporation to carry out the provisions of this Act, the Treasury Department, the Comptroller of the Currency, the Federal Reserve Board, the Federal Reserve banks, the Interstate Commerce Commission, the Internal Revenue Service, and all other executive departments, agencies, boards, commissions, and independent establishments of the Federal Government, are hereby authorized, under such conditions as they may prescribe, to make available to the Corporation, in confidence, such reports, records, or other information as they may have available relating to the condition of business entities or municipalities with respect to which the Corporation has had or contemplates having transactions under this Act, or relating to individuals, associations, partnerships, or corporations whose obligations are offered to or held by the Corporation as security for loans to business entities or municipalities under this Act, and to make through their examiners or other employees for the confidential use of the Corporation, examinations of such business entities and munici-

(2) Every applicant for a loan or a guarantee under this Act shall, as a condition precedent thereto, consent to such examinations as the Corporation may require for the purposes of this Act and that upon request, reports of examinations by constituted authorities may be furnished by such authorities to the Corporation.

(b) REPORTS BY THE CORPORATION .- The Corporation shall make and publish a quarterly report, the first of which shall be made not later than January 1, 1984, of its operations to Congress. Each such report shall include a statement of-

(1) the aggregate loans and guarantees made to each borrower:

(2) the number of borrowers and amount borrowed segregated by States;

(3) the assets and liabilities of the Corpo-

(4) the names and compensation of all individuals employed by the Corporation compensation exceeds whose \$1.500 month.

(c) AUDIT OF FINANCIAL TRANSACTIONS; REPORT OF AUDIT.

(1) The account of the Corporation shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State of other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made

available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) A report of each such independent audit shall be included in the appropriate quartely report submitted to Congress under subsection (b) of this section. The report of each such independent audit shall set forth the scope of the audit and shall in-

(A) such statements as are necessary to present fairly the Corporation's assets and liabilities and surplus or deficit;

(B) an analysis of the changes therein during the year:

(C) a statement in reasonable detail of the Corporation's income and expenses during the previous year:

(D) a statement of the sources and applications of funds; and

(E) the independent auditor's opinion of such statements.

SEC. 10. CRIMINAL PROVISIONS.

(a) WILLFUL MISREPRESENTATIONS TO THE CORPORATION.—Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$10,000 or by imprison-ment of not more than five years, or both.

(b) Counterfeiting and Other Mishandling

of Obligations.-Whoever-

(1) falsely makes, forges, or counterfeits any obligation or coupon in limitation of or purporting to be an obligation or coupon issued by the Corporation;

(2) passes, utters or publishes, or attempts to pass, utter, or publish, any false, forged, or counterfeited obligation or coupon purporting to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited:

(3) falsely alters any obligation or coupon issued or purporting to have been issued by

the Corporation:

(4) passes, utters or publishes, or attempts to pass, utter, or publish, as true any falsely altered or spurious obligation or coupon issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious; or

(5) willfully violates any other provision

of this Act:

shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(c) DEFRAUDING THE CORPORATION, AUDITORS, OR THE PUBLIC.—Whoever, being connected in any capacity with the Corpora-

(1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to the Corporation or pledged or otherwise entrusted to it;

(2) with intent to defraud the Corporation or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or, without being duly authorized, draws any order of issues, puts forth, or assigns any obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof;

(3) with intent to defraud, participates, shares, receives directly or indirectly any money profit, property or benefit through any transaction, loan, commission, contract, or any other act of the Corporation; or

(4) gives any unauthorized information concerning any future action or plan of the Corporation which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Corporation;

shall be punished by a fine of not more than \$10,000 or by imprisonment of not more than five years, or both.

(d) USE OF WORDS "RECONSTRUCTION FINANCE CORPORATION" BY OTHERS.—No individual, association, partnership, or corporation shall use the words "Reconstruction Finance Corporation" or a combination of these three words, as the name or a part thereof under which he or it does business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$1,000 or imprisonment not exceeding one year, or both.

(e) Section 433 of title 18, United States Code, is amended by inserting "of 1981" immediately after "the Reconstruction Finance Corporation Act."

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated for ten fiscal years beginning on October 1, 1983, such sums as may be necessary to carry out the provisions of this Act. Not withstanding any other provision of this Act, the authority of the corporation issue notes, debentures, bonds, or other obligations under Section 8 of this Act, and the authority of the Secretary of the Treasury to purchase any such notes, debentures, bonds, or obligations, under Section 8 of this Act shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 12. SEPARABILITY OF PROVISIONS.

The right to alter, amend, or repeal this Act is hereby expressly reserved. If any part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of the Act.

## Address Given by Felix G. Rohatyn

For more than a year now, we have both witnessed and participated in this country's most radical economic and social experiment since the New Deal. Its aims were impeccable. Lower taxes and lower government spending, reduced inflation, reduced regulations, a stronger defense. But the application of the program was incoherent and the results, so far, are rather frightening. Even though changes in direction were clearly required, in our consumption and investment patterns, in our runaway social costs, and in our dismal productivity record, the remedy, in some respects, has turned out to be worse than the disease. Interest rates have remained prohibitive while unemployment has soared, federal deficits have risen higher and higher and the financial structure of states, cities and of entire industries and regions of the country has become dangerously fragile. A dramatic lowering of the inflation rate has indeed been achieved but mostly by creating a steep recession and as a result of luck with food and energy prices. How to create growth without inflation remains as elusive as ever.

Many of our most serious chronic prob-lems will continue to deteriorate unless a different government philosophy is applied. Supply-side economics and monetarism both foster the notion that abstract and impersonal market forces can turn our economy around and resolve our many problems. But "hands-off" government is not an accepta-ble or effective policy for troubled times. For the first time since WWII, we have a world-wide economic contraction, together with real deflationary forces superimposed on fragile financial structures. Industries, financial institutions and a host of governments find themselves overburdened with debt and without sufficient cash flow to service their obligations, much less for investment in the future. The effects are being felt by millions of individuals, their families, their communities and whole regions of the country.

A "hands-off" government cannot revive the economy, keep inflation down, deal with our regional and industrial problems, our chronic poverty and education problems, or reduce interest rates. These objectives can only be achieved by governments actively involved in a process of cooperation with

businesses and labor.

Business-labor-government cooperation coupled with courageous political leadership saved New York City. I believe this can apply to the nation as well, even though the current theology is just the opposite.

## FIRST STEP: AGREEMENT TO REDUCE DEFICITS AND INTEREST RATES

Any program of national recovery must start with an accord among the President, the Congress and the Federal Reserve that will credibly balance the budget over a finite time period and result in significantly lower interest rates quickly. We need decisive leadership from the President, and cooperation in the Congress, and on the part of the Fed. I believe there will be a budget resolution, but that is not enough. The budget package must be credible and longrange. There must be a credible slow down in entitlement growth, slow down in defense growth and recurring, growing revenue measures such as energy taxes. Neither the Senate nor the House resolution have realistically addressed any of these issues. The financial markets are not illiterate; we will need better than just a set of numbers which ignore the real world.

Taking Social Security out of the budget negotiations, without concrete action, is a copout on both sides of the aisle. Both the President and the Congress have avoided the issue. Nonetheless everyone knows the system needs reform. Waiting for the election will not make it change. A real alternative might be to make the system self-sustaining by taxing some of the benefits of the better-off, and by slowing benefit growth. That is the difference between form and substance and it need not wait until No-

vember. It should be faced now.

A similar lack of candor colors the debate over defense. No one opposes an improvement in our national defense. Under the Administration's plan, the defense share of the Federal budget would increase to 34 percent in FY 1985 from 24 percent in FY 1981. This is an increase of \$300 billion over the present levels. Although the House and Senate Budget Committee versions are somewhat less generous, it is clear that we will spend substantially more for defense in

the next few years. but we must not repeat the mistake of Vietnam by having a wartime military budget without paying for it. If the country feels it needs this level of defense, it should be willing to pay for it with the equivalent of a War Tax. A 50¢ per gallon increase in the gasoline tax should be segregated and earmarked for defense; such a defense tax would raise about \$50 billion per annum and would finance almost completely the increase in the defense budget. It would also reduce the budgetary deficit over the five-year period by \$250 billion and would go a long way to restore financial stability to our markets.

I would like to make a more general statement about defense. Regardless of one's judgment about the size of the defense buildup or the call for a nuclear freeze. It is time that we recognized a fundamental truth: The world cannot afford to spend on weapons what it is spending today. The U.S. and the Soviet Union have to take the lead in deescalating these levels not only from the perspective of physical survival, but also from the perspective of economic survival.

We are witnessing the same pursuit of form over substance on a grander scale with the call for a Constitutional amendment for a balanced budget. The idea of providing Congress with a plausible excuse to do the right thing is obviously appealing. However, distracting the country over the next few years with such a proposal is too high a price to pay for an illusion. Because it is only an illusion. NYC has always had a balanced budget requirement; it never stopped anyone until the money actually stopped.

What we need first, however, is an accord among the President, the Congress and the Fed. It will not solve all of our problems, but it could avoid imminent disaster.

## NEXT STEPS: FACING BASIC PROBLEMS

Once we have stopped the current dangerous downward slide we can turn to more basic problems. We must restructure our basic industries, we must rebuild our cities, and we must dispel our current illusion that the energy crisis is over.

Some terribly destabilizing tides are running in this country, regionally, socially, industrially. The danger in relying solely on the market system to provide adjustments is that the market system does not provide the leadership to act until it is too late. The automotive industry, both management and the UAW, waited until Chrysler was effectively bankrupt, the rest of the industry on its knees, and 300,000 people laid off, before beginning—and it is only that—a new relationship.

New York City lost 500,000 manufacturing jobs, one million taxpayers, had an operating deficit of \$1½ billion annually and \$6 billion of short-term debt before we restructured the City. And New York is not alone.

During the last decade, Chicago lost 12 percent of its population, Baltimore 14 percent, Cleveland 24 percent, and St. Louis 28 percent. The proportion of taxpayers moving out was undoubtedly greater.

During the same period some of the most important American industries have been falling badly. American Motors lost \$137 million last year. Chrysler and Ford together lost a total of over \$1.5 billion. International Harvester and Kaiser Steel lost nearly a half billion dollars each.

The industrial locomotives that have driven this country for the last century are in the throes of a self-eviscerating cycle. Racked by high interest rates and continued weak demand, beset by harsh foreign competition, unable to raise the vast amounts of capital needed to modernize, they live from hand to mouth, short-changing the future in order to survive today. They are affected by deep structural shifts not only in regional prosperity, but in the basic nature of American work.

We are deluding ourselves it we believe this erosion will be limited to our older industries. From computers to microchips, from aircraft to video games, we are going to be subjected to fierce attacks from Japan and elsewhere. Even today, we might see distress in certain areas of electronics not dissimilar to our older industries, if companies like Fairchild Semiconductor and Mostek had not been acquired by giant companies such as Schlumberger and United Technologies.

Allocating blame for all these trends is easy—there is enough for everyone. Government policies and programs have been costly and ill-advised, particularly with respect to energy, especially the cowardly avoidance of taxing gasoline at much higher rates. Weak mana ments and short-sighted unions have collaborated in the development of inefficient organizations whose costs are high and productivity low.

It is no coincidence that the cities under the greatest strain are tied to the industries in the most severe difficulty, particularly in the region extending today from Baltimore to St. Louis, but elsewhere as well. The dismal performance of the economy, together with last year's tax and budget cuts, have created enormous fiscal pressures on local governments in practically all but energy-producing regions of the country. The State of Ohio, which recently passed a tax increase of \$1.3 billion together with budget cuts to close its budget gap, now faces a new additional deficit of about \$1 billion as a result of the recession; New York City, coming off a \$250 million surplus in the current fiscal year, is raising taxes and freezing employment levels to cope with a potential \$800 million gap next year. The State of New York is proposing similar actions for the same reason. Whereas four years ago, the Municipal Assistance Corporation was selling long-term bonds to finance New York City's capital budget at 71/2 percent interest, we are doing so today, with increasing difficulty, at over 14 percent free of city, State and Federal income taxes. This situation is repeated in city after city. state after state.

This is not just a "Snow Belt/Sun Belt" phenomenon. The State of California now faces a budget deficit estimated by some at \$1 billion or more. Many cities in the Sun Belt suffer fully as much from unemployment, poor housing, poverty and limited economic opportunities as the cities in the Northeast and Midwest. In an analysis published recently in The New York Times, seven of 19 sunbelt cities had worse hardship ratings than New York. The Sun Belt's golden glow cannot hide the difficulties faced by New Orleans, Miami, Birmingham, Atlanta and other cities within its midst. Their problems are national.

Existing trends are likely to aggravate rather than attenuate this situation; the

rather than attenuate this situation; the result of another decade like the last one will be to divide individual cities and the country as a whole into "have" and "havenot" regions, with unpredictable but probably highly unpleasant consequences. Other than 11 energy-producing states, every state in this country is facing budgetary difficulties. In these trends is the making of social

At the same time, with much of state and local government in terrible straits, the Administration brought forth a proposal for a new Federalism that could not be accepted; it was a plan that burdened our budgets with billions of dollars in additional programs, but without permanent new revenues. Coming on top of proposed Federal budget cuts in support for state and local government from \$15 billion in fiscal 1981 to \$41 billion in fiscal 1985, it was simply to

#### LONG-TERM GOALS

This country's goals must be twofold: First, to have a functioning economy, with stable growth and emphasis on the creation of private sector jobs; and second, to have all elements of our society, and all regions of the country participate in that growth as fully as possible.

The United States today in its basic industries needs a second industrial revolution. The notion of "backing the winners instead of the losers" is as facile as it is shallow. The thought that this nation can function while writing off basic industries—automotive, steel, glass, rubber and others—to foreign competition is nonsense. Nothing is more inhuman than unemployment, nothing is ultimately more inflationary than unemployment.

But we must be realistic about how badly our basic industries have slipped when judgements are made about such issues as protectionism, government regulations, tax relief, and management and labor agreements. Realism, however, must not bean excuse for inaction. The motto cannot be "back the losers" but rather "turn the losers into winners".

This kind of economic revitalization is obviously essential to healthy cities, but they are tasks as well for government. Government at all levels is the nursery of industry: It must provide the healthy economic environment and the economic infrastructure—the roads, the ports and harbors, and the communications and transportation networks that enable business to function.

### A FAIR FEDERALISM

First, we need a fair Federalism.

It should provide for Federal assumption for the financing of all poverty programs (welfare, medicaid, food stamps) and transfer funding and full authority to the states those programs the states already administer or are capable of managing (education, transportation, etc.). But administration and funding are different matters. Permanent revenues should be provided to the states to make up any net loss resulting from such a swap and local tax reduction should be an objective. Revenue sharing should be increased, not cut. Too many states are going through an endless cycle of service reductions and tax increases. They cannot be forced to pay for programs in which there is an important national interest-programs like economic development. education and supporting the poor-from local tax bases, some of which are ample and others not. A new and fair federalism is needed, it should be done right and it should be done soon.

A NEW RECONSTRUCTION FINANCE CORPORATION

Second, to redevelop the parts of the nation that need help, as well as to provide a safety net for any of our major financial institutions in a sudden emergency, a Reconstruction Finance Corporation should be created for the 1980's. The original RFC was created by Herbert Hoover in 1918. Under Franklin Roosevelt, it was run by the

Texas businessman, Jesse Jones. The RFC of the 1930's saved numerous banks, some cities and many businesses and prevented much larger dislocations from taking place. It financed a vast number of defense plants as well as the development of synthetic rubber during WWII. And, it made money for the taxpayer.

In order to see that an RFC is justified, we need only look at how government works without one. The case of Chrysler is an example of how not to proceed. Providing government-guaranteed loans at close to 20 percent interest to a company which has too much debt and no net worth can buy some time, but nothing else. Companies like Chrysler need permanent equity capital in the form of new common stock. Only equity capital can help make a company's survival credible, and impel other participants (the unions, the lenders, the suppliers) to make the major efforts and sacrifices that have to be made if they are going to be put back in shape.

#### THE RFC AS SAFETY NET

Chrysler is hardly an isolated case. A good many large industrial companies, airlines, savings and loan associations and possibly banks could be in serious difficulties if we cannot break out of our current economic straitjacket of high interest rates, low growth and low productivity. Instead of improvising expensive half measures in the heat of crises and politics, we should have a safety net to deal with an economic emergency affecting a number of large organizations at the same time.

We have to be realistic about the fragility of many of our larger financial institutions. They are cause for serious concern. We do not know how much of the capital of the FDIC or the FSLIC has been committed to the rescue of those savings institutions effected so far. We do know that the number of savings institutions which may have to be rescued down the road is several times in excess of what has been done so far, and the amounts required may be considerable.

The international financing situation creates other types of risk, an unexpected defualt by a large debtor like Argentina, caused by political rather than economic events, could create both liquidity and capital problems for some of our large banks. The Federal Reserve Bank could handle the liquidity problem but only an RFC-type institution could handle the capital problem by purchases of preferred stock or other similar instruments.

Those of us who have been involved in major financial problem situations know how critical it is to contain a financial crises before it spreads. We need an RFC as a financial insurance policy, which was the basis for its reactivation in 1932.

#### THE RFC AS AID TO URBAN POLICY

An RFC could also play a major part in an urban capital reconstruction policy. Throughout the country, city after city faces budgetary problems and crumbling infrastructure. The Boston Transit System was recently shut down for lack of funds; the New York MTA operates a subway system so old that it poses physical dangers, and it will need \$15 billion over ten years to provide adequate service. Across the country bridges and sewers, sanitation and mass transit, schools and firehouses have all been allowed to deteriorate. The RFC could provided low-interest, long-tern loans to enable municipalities to maintain their physical plants. By improving the quality of city life, such investments could help to retain tax-

payers while providing jobs to help the existing tax base. As in the case of industrial investments, the RFC could ask for participation by other parties: The various states, business and labor, the local unions and banks. As with industry, reform and restructuring would, in many cases, have to be the quid pro quo for receiving capital on favorable terms.

One of the unexpected effects of last year's tax legislation was to destroy one of the traditional subsidies to local governfinancing—the municipal market. By last December, the advantages of the tax exemption on interest had shrunk to the point that municipal bonds were yielding only one percentage point less than long-term treasury bonds. To balance a federal approach that already requires local governments to bear a larger burden of operating costs, there must be means to reduce the cost and increase the availability of capital. Capital is needed to reduce the cost in public services just as it is needed to reduce costs in private industry. The RFC could

But RFC assistance must be temporary. It should act as a revolving fund which can be used when necessary, and whose holdings should be sold in the marketplace when it has done its job. The RFC is not a permanent dole; it is a temporary bridge. It should self-destruct after a maximum of ten years.

The RFC, of course, will be said to interfere with the free market system. But, at present, the price of our energy is not freely set, nor is the price of our food, or the price at which we must borrow money. Free markets are clearly desirable, but we do not in fact live in a free market economy and never will; we live in a mixed economy in which prices and capital are, and will be, subject to government influence and to agreements between labor and business

The RFC could continue this tradition. Like MAC, its board would include representatives of labor, business and the public, and its decisions would reflect the same process of negotiation and consensus.

### THE ROLE OF GOVERNMENT

The United States today is a country in transition. It is in transition from being the world's dominant military power to sharing that power with the Soviet Union; it is in transition from an industrial to a service society; from being a predominantly white, northern European society based in the Northeast and Midwest to being a multiracial society with its center of gravity in the Sunbelt. A society in transition cannot be governed by a rigid dogma; on the contrary, it requires a government which is flexible, pragmatic, even sometimes deliberately ambiguous. Shared values must be clear, but the means to the end cannot be

The critical issues we face today are not simply the levels of interest rates or what kind of package finally comes out of budget negotiations. These things are important, but they must not obscure the real issues. They are, in no particular order:

(A) The rapid growth of a permanent underclass in America. The residents of innercity ghettos, black and hispanic, undereducated, underskilled, without real hope of participating in the future of the country;

(B) The regional split between Sunbelt and Frostbelt, which is accelerating and which will leave the northern half of the U.S. in serious difficulty while, simultaneously, creating major problems for the Sunbelt.

(C) The decline of our traditional manufacturing sectors and the automation which will create long-term unemployment in the hardest hit part of the country; the illusion that we have resolved our energy problems;

(D) Illegal immigration in great numbers, especially from Mexico, which will create additional social tensions unless we produce enough jobs to absorb our own unemployed along with new arrivals;
(E) The decay of our cities and the decline

in the quality of urban life;

(F) The roller-coaster of an economy which knows only inflation or recession, or both, but cannot produce stable non-inflationary growth;

(G) The mountains of debt presently

crushing every level of society;

(H) Nuclear proliferation and the need to control and reduce the level of nuclear weapons while being realistic about Soviet power;

(I) The decline of the written press and the dominance of TV in the political dia-

logue of the nation.

Today's conservative experiment will fail because it has no relevance to the world we live in, just as yesterday's liberalism failed for somewhat different reasons. The appropriate role of government remains the major unanswered question and we are soon going to run out of time for experiments.

Today, we are all looking for permanent and perfect answers to excruciatingly complicated problems. In Government and public life, there may not be any such thing as the right answer. There may, at best exist a process whereby trends can be affected and the direction of social and economic behavior temporarily influenced. This is the antithesis of the planned, central domination of government, but it means government committed to oppose destabilizing trends before they became floodtides. It is a permanent but ever changing process.

And it is a process that must include the major institutions and constituencies of our society-political, labor and business. The changes we will undergo will demand effort and sacrifice by many, a sacrifice they will not make unless they have a stake and a chance to participate.

The answers to our problems, imperfect and temporary that they may be, must come from such a process. Such a rational middleground, however, need not be wishy-

There is no reason why a hard-headed liberalism cannot live with the reality that we

cannot spend ourselves into bankruptcy. There is no reason why an economy geared mostly to private sector growth, cannot at the same time, permit limited government intervention where needed, such as a modern version of the Reconstruction Finance Corporation.

There is no reason why limited and temporary protection for our hard hit industries cannot be conditioned on restrained wage and price behavior by labor and management; this might become the model for an incomes policy where wage and price behavior could be linked to productivity.

There is no reason why savings and investment cannot be encouraged while energy use and other consumption are taxed at higher rates, to produce growth and jobs. Some of these jobs could be directed, with government assistance but under private-sector management, to inner city ghettos to provide a future where none currently

There is no reason why large savings cannot be effected in defense, and particularly in reducing nuclear delivery systems, if we are willing to pay the price of larger standing conventional forces and the distasteful possibility of a peacetime draft.

There is no reason why our tax system cannot be improved, simplified and made more equitable by a flat tax on all income at significantly lower rates or some variant thereof such as the proposal of Senator Bradley and Congressman Gephardt. The present tax system is a disgrace, both intellectually and equitably.

One must admit, however, that although there is no reason why these results cannot be achieved, we must be realisite about the political difficulty of bringing this about. Without the active support of the American people and a process which encourages the active cooperation of business/labor/and

government it cannot happen.

An active partnership between business labor and government strikes the kinds of bargains-whether on an energy policy, regional policy, or industrial policy-that an advanced western democracy requires to function, and that, in one form or another, have been made for years in Europe or Japan. This partnership will have to be as indigenous to our culture and traditions as those of Germans and Japanese have been to theirs, and it will have to be competitive. Much is at stake in making such a partnership work: Our ability to protect ourselves, and to deter our enemies; depends on maintaining a stable, solid economic, industrial and social base at home. Our national security, our industrial power, the strength of our social system itself, are all tied to one another and to their need for a new pattern of cooperation to emerge.

### By Mr. DECONCINI:

S. 3111. A bill to amend title 5 of the United States Code to prohibit ambassadors and ministers from making political contributions and taking part in political campaigns; to the Committee on Governmental Affairs.

PROHIBITING MINISTERS AND AMBASSADORS FROM MAKING POLITICAL CONTRIBUTIONS AND TAKING PART IN POLITICAL CAMPAIGNS

 Mr. DECONCINI. Mr. President, I introducing today legislation which would amend the Hatch Act to prohibit ambassadors from making political contributions and taking part in political campaigns.

Currently, ambassadors and Cabinet members are exempt from the limitations on political activity which the Hatch Act applies to the vast majority of Government employees. I am not a supporter of the Hatch Act in terms of its broad implications—in my view, Federal workers—except in the case of sensitive Justice Department, intelligence agency, and Internal Revenue Service positions-should have the same political rights as other citizens. However, if the intent of the Hatch Act is to prevent partisan politics from interfering in the way Federal workers do their jobs, it seems particularly important that this proviso be applied to the position of ambassador. Our ambassadors' main function is to convey a certain image of the United States-an image that is as consistent and clear as possible. Professionalism is a highly

prized attribute of an ambassador. Unfortunately, when an ambassador engages in partisan politics, campaign rhetoric combined with the expediency of the moment, tends to lead to the distortion of American foreign policy.

The State Department's official policy frowns upon such partisan activity by ambassadors, but this does not seem to deter some ambassadors who are willing to sacrifice professionalism for the sake of grinding a particular political axe or for the sake of pleasing political superiors. An ambassador to a foreign country serves as a vital link between our Government and the government of the country to which he or she is accredited. Statements the ambassador may make are carefully scrutinized by the government of the host country as reflections of the policies of the government the ambassador represents. An ambassador becomes an almost totally public personna who cannot afford to make offhand comments or to engage in partisan politics.

During my recent reelection campaign, one particular individual accredited as an American ambassador to a Latin American country came to Arizona and interjected himself in the campaign. He made commercials endorsing my opponent on the basis of a series of statements about Central America that ran counter to official American policy. Frankly, I found the behavior startling and terribly damaging to our Central American policy.

I was equally amazed to discover that while a lowly clerk in the bureaucracy whose participation in politics carries with it absolutely no implications about Government policy is forbidden to do so by the Hatch Act, an ambassador whose every word and action conveys to foreigners the views and attitudes of the American Government is under no such structure. Surely, this must be an oversight resulting from the simple fact that the situation has never arisen. I believe most of us, Mr. President, assume that ambassadors would have better sense than to embroil themselves in a political campaign. It certainly requires an incredible lack of judgment to do so.

The legislation I am introducing will eliminate the loophole which presently allows ambassadors to engage in overt political activity. I urge my colleagues on the Governmental Affairs Committee to give this matter their attention as soon as possible. I also ask unanimous consent that the text of the bill be printed in the Record at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

#### S. 3111

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7323 of title 5, United States Code, is

amended by inserting "(other than an ambassador or minister)" after "Senate".

(b) Paragraph (3) of section 7324(d) of such title is amended by striking out "in its relations with foreign powers or".

By Mr. PELL (for himself and Mr. Stafford):

S. 3112. A bill to establish an art bank; to the Committee on Labor and Human Resources.

#### ART BANK

• Mr. PELL. Mr. President, today I am introducing legislation that would establish a national art bank. I ask unanimous consent that the text of the bill be printed in the RECORD

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

#### S. 3112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Art Bank Act of 1983".

#### PURPOSE

SEC. 2. It is the purpose of this Act to assist and encourage artistic creation through the purchase and display of works of art, to beautify public places by increasing the availability of works of art for exhibition, and to foster appreciation and understanding of art by making it more accessible to the public.

SEC. 3. (a) The National Foundation on the Arts and the Humanities Act of 1965 is amended by adding after section 11 the following new section:

#### "ART BANK

"Sec. 12. (a) There is established, within the National Endowment for the Arts, an Art Bank, which shall be headed by a Direc-

"(b)(1) The Director of the Art Bank shall be appointed by the Chairman of the National Endowment for the Arts and report to the Chairman with respect to the activities of the Art Bank.

"(C) The Director of the Art Bank is authorized to-

"(1) appoint periodically ad hoc juries of artists and art experts for the purpose of assisting in the selection of visual works of art:

"(2) select visual works of art for the Art Bank with the assistance of juries and enter into agreements to purchase at fair market value:

"(3) provide for the safe and secure storage, transportation, and insurance of such

"(4) make such works available on loan to Federal supervisory authorities, including the Administrator of the General Services Administration, the Architect of the Capitol, and the Director of the Administrative Office of the United States Courts, who shall supervise the loan of such works to the Federal facilities and activities under their respective jurisdictions for display;

"(5) make such works available on loan to museums;

"(6) require those who receive fellowships in the visual arts from the National Endowment for the Arts to donate one of their own works to the Art Bank, which work can be of the artist's own choosing:

"(7) sponsor exhibitions of works from the Art Bank:

"(8) select periodically works from the Art Bank for sale by public auction or otherwise;

"(9) encourage and provide technical assistance to State and local governments and nonprofit institutions for the establishment of art banks; and

"(10) promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

"(d) Members of juries appointed pursuant to subsection (c)(1) of this section who are not regular full-time employees of the United States shall receive, while serving on such juries, compensation at a rate equal to an amount fixed by the Chairman of the National Endowment for the Arts but not to exceed \$125 a day including traveltime, and, while so serving away from their homes or regular places of business, they may be allowed travel expenses including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5103(b) of title 5, United States Code.

"(e)(1) In selecting works of art for purchase under subsection (c)(2) of this section, the Director shall consider—

"(A) the quality of such works;

"(B) the need to encourage artists who are not well known to the public; and

"(C) the need to encourage artists from all sections of the United States.

"(2) Not more than \$15,000 may be expended for the work of any one artist in any one fiscal year.

"(f) Notwithstanding any other provision of law, amounts received by the National Endowment for the Arts from the sale or lease of works from the Art Bank under subsection (c) of this section may be used in the fiscal year in which such amounts are received and for succeeding fiscal years to carry out the provisions of this section.

"(g) For the purpose of carrying out the provisions of this section, there are authorized to be appropriated \$1,500,000 for fiscal year 1984, \$2,000,000 for fiscal year 1985, and \$3,000,000 for fiscal year 1986. Not more than \$200,000 of the amounts appropriated in any fiscal year may be used for administrative costs."

(b) Section 5316 of title 5, United States Code, is amended by adding at the and thereof the following new section:

"Director, Art Bank, National Endowment for the Arts.".

#### ADDITIONAL COSPONSORS

#### S. 1256

At the request of Mr. Exon, the name of the Senator from Kentucky (Mr. Huddleston) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and endusers.

#### S. 3043

At the request of Mr. Stafford, the name of the Senator from Alaska (Mr. Murkowski) was added as a cosponsor of S. 3043, a bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes.

S. 3048

At the request of Mr. Thurmond, the name of the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of S. 3048, a bill to amend title 18, United States Code, to combat, deter, and punish individuals who adulterate or otherwise tamper with food, drug, cosmetic, and other products with intent to cause personal injury, death, or other harm.

S. 3053

At the request of Mr. D'AMATO, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3053, a bill to amend the Agriculture Act of 1949 to modify the dairy price support program.

S. 3065

At the request of Mr. PRYOR, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 3065, a bill to establish in the Department of State the position of Under Secretary of State for Agricultural Affairs.

SENATE JOINT RESOLUTION 215

At the request of Mr. HATCH, the name of the Senator from Maine (Mr. COHEN) was added as a cosponsor of Senate Joint Resolution 215, a joint resolution to provide that the week beginning March 6, 1983 shall be designated as "Women's History Week."

SENATE JOINT RESOLUTION 263

At the request of Mr. Thurmond, the name of the Senator from Arkansas (Mr. Bumpers) was added as a cosponsor of Senate Joint Resolution 263, a joint resolution to authorize the President to issue a proclamation designating the week beginning on March 13, 1983, as "National Surveyors Week."

SENATE CONCURRENT RESOLUTION 132

At the request of Mr. CRANSTON, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of Senate Concurrent Resolution 132. a concurrent resolution expressing the sense of the Congress that the United States should maintain effective programs to assist in providing disabled persons with opportunities for full, productive lives and to protect such persons from unfair discrimination in Federal and Federal-assisted programs and activities and that disabled persons should receive fair treatment in the administration of disability benefits.

SENATE RESOLUTION 406

At the request of Mr. Kennedy, the names of the Senator from Kentucky (Mr. Huddleston), and the Senator from Maine (Mr. Cohen) were added as cosponsors of Senate Resolution 406, a resolution to assure Israel's security, to oppose advanced arms sales to Jordan, and to further peace in the Middle East.

SENATE RESOLUTION 516

At the request of Mr. Grassley, the names of the Senator from Pennsylvania (Mr. Heinz), the Senator from

Florida (Mrs. Hawkins), the Senator from Utah (Mr. Garn), the Senator from South Carolina (Mr. Hollings), the Senator from Illinois (Mr. PERCY), the Senator from Massachusetts (Mr. Tsongas), the Senator from Wisconsin (Mr. Kasten), and the Senator from Missouri (Mr. Danforth), were added as cosponsors of Senate Resolution 516, a resolution expressing the sense of the Senate on urging Presidential action pursuant to section 103 of the Act of 1971-section Revenue 48(a)(7)(D) of title 26, United States Code, to disqualify certain Japanese manufactured, numerically controlled machine tools from the U.S. investment tax credit.

#### AMENDMENT NO. 4978

At the request of Mr. Cranston, the name of the Senator from Connecticut (Mr. Weicker) was added as a cosponsor of amendment No. 4978 proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

#### AMENDMENT NO. 4995

At the request of Mr. Cranston, the names of the Senator from Maryland (Mr. Mathias), the Senator from Arkansas (Mr. Pryor), and the Senator from Wisconsin (Mr. Proxmire) were added as cosponsors of amendment No. 4995 intended to be proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

#### AMENDMENT NO. 5011

At the request of Mr. Cranston, the name of the Senator from Connecticut (Mr. Dodd) was added as a cosponsor of amendment No. 5011 intended to be proposed to H.R. 6211, a bill to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

SENATE CONCURRENT RESOLU-TION 134-RELATING TO THE NATIONAL FOOD AND AGRI-CULTURE EXPOSITION

Mr. HELMS (for himself, Mr. Huddleston, Mr. Cochran, and Mr. Zorinsky) submitted the following concurrent resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 134

Whereas, the substantial growth in United States agricultural exports during the past decade has been highly beneficial to the entire economy of the United States in

terms of jobs, better income, and improved balance of trade; and

Whereas, further increases in the volume and value of United States agricultural exports is an essential factor in assuring the future profitability of American agriculture, the existence of jobs in agriculture and related industries, and the economic wellbeing of many related businesses that depend on a healthy agricultural sector; and

Whereas, there is great potential for dramatic growth in the volume of processed or value-added food products exported from the United States, which, if realized, is capable of generating thousands of new jobs and stimulating all sectors of our economy; and

Whereas, the National Association of State Departments of Agriculture and the United States Department of Agriculture are sponsoring the first nationwide agricultural export exposition in the United States, to be held on May 17-19, 1983, in Atlanta, Georgia, and this exposition has the potential of generating increased export sales of United States value-added agricultural products; and

Whereas, the commissioners, secretaries, and directors of agricultural agencies in the fifty States and four United States territories are working diligently to promote the participation of United States firms—including many small and medium-sized firms which have never before engaged in export marketing; and

Whereas, Secretary of State George Schultz and Secretary of Agriculture John Block have requested United States diplomatic and trade posts throughout the world to encourage and recruit participation by potential foreign buyers in the export exposition: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that the National Association of State Departments of Agriculture National Food and Agricultural Exposition—

(1) is a significant development in the area of international trade that is consistent with the efforts of both government and private industry to expand United States exports of value-added agricultural products;

(2) presents a timely opportunity to promote the exportation of United States agricultural products and to develop new markets for these products;

(3) will make a valuable contribution to the future prosperity of United States agriculture and related industries; and

(4) deserves the full support and encouragement of the American people, Congress, and the Federal Govenment.

• Mr. HELMS. Mr. President, on behalf of Senators Huddleston, Cochran, Zorinsky, and myself, I introduce a concurrent resolution expressing the sense of the Senate that the National Association of State Departments of Agriculture National Food and Agriculture Exposition deserves the support of this body and the agricultural community.

The world trading system is seriously threatened unless we can increase our agricultural trade with other countries. This effort by producers and related firms will provide momentum toward increased agricultural trade at a time when the development of new markets is essential to the future of American agriculture.

The exposition will feature over 600 food exhibits from all 50 States and between 1,500 and 2,000 foreign buyers from all over the world. The exposition could create over \$100 million in additional food sales abroad next year.

The National Food and Agriculture Exposition will provide an opportunity for the promotion of U.S. agricultural products and the developments of new markets for value-added exports.

#### SENATE RESOLUTION 519— BUDGET WAIVER

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution; which was referred to the Committee on the Budget:

#### S. RES. 519

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 3107, a bill to amend the Board for International Broadcasting Act of 1973 to authorize an amended appropriation for fiscal year 1983. Such waiver is necesary to allow the authorization of \$13,283,000 to enable Radio Free Europe/Radio Liberty, Inc. (RFE/RL) to enhance programming, improve audio quality, and renovate broadcast facilities, in accordance with the President's announcement of July 19, 1982 "to move forward . . . with a program to modernize our primary means of international communication, our international radio system

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982 deadline because the Administration failed to submit this request until November 23, 1982.

#### SENATE RESOLUTION 520—RE-LATING TO THE TESTIMONY OF SENATOR LARRY PRES-SLER

Mr. BAKER (for himself and Mr. ROBERT C. BYRD) submitted the following resolution, which was considered and agreed to:

## S. RES. 520

Whereas, is the case of *United States of America* v. *Joseph Silvestri*, Cr. No. 80-00291(S), pending in the United States District Court for the Eastern District of New York, the defendant has issued a subpoena for the attendance and testimony of Senator Larry Pressler,

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave.

Whereas, Title VII of the Ethics in Government Act of 1978, Public Law 95-521 establishes the Office of Senate Legal Counsel and provides that the Senate may direct its Counsel to represent the Senate, its committees, Members, officers, or employees: Now, therefore, be it

Resolved, That Senator Larry Pressler is authorized to testify in the case of United States of America v. Joseph Silvestri, Cr. No. 80-00291(S), except when the Senate is in session.

SEC. 2. That the Senate Legal Counsel is directed to represent Senator Larry Pressler

in connection with the subpoena for his testimony in the case of *United States of America v. Joseph Silvestri*, Cr. No. 80-00291(S).

#### SENATE RESOLUTION 521—RESO-LUTION RELATING TO FOOD STAMP BENEFITS

Mr. MOYNIHAN submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

#### S. RES. 521

Whereas the United States Congress established the Food Stamp program in 1964 to provide a minimally nutritious diet for low-income households; and

Whereas appalling examples of malnutrition and hunger were once common in America; and

Whereas the Congress has significantly reduced instances of hunger and malnutrition in this country through a national plan; and

Whereas the 97th Congress has enacted legislation reducing Food Stamp costs by about \$2.5 billion a year; and

Whereas increases in energy, housing and health care costs have left the elderly with fewer resources with which to feed themselves; and

Whereas changing the definition of "elderly" under the Food Stamp program, from those over 60 years of age to those over 65, would reduce benefits for 400,000 now needing and receiving food stamps; and

now needing and receiving food stamps; and Whereas the Congress has already acceded to the President's request to limit this program to the truly needy; and

Whereas such a reduction would take away the very resources the elderly need to

survive: Now, therefore, be it

Resolved, That it is the sense of the
Senate that the Congress should reject any
proposal to reduce food stamp benefits for
those now eligible between the ages of 60
and 64 years old.

• Mr. MOYNIHAN. Mr. President, in early October, a report published by the New York Times revealed that the Food and Nutrition Service, through budget documents, was recommending that food stamp eligibility for the elderly be severely curtailed. Today, I am introducing a resolution to put the Senate on record as rejecting any such change in eligibility.

The administration proposal is to reduce benefits for those people between 60 and 64 years old. This group would no longer be considered elderly, and would have their benefits reduced from the current monthly average of \$46 by \$14.40, or 31 percent. This would affect 400,000 elderly persons now needing and receiving food stamps. When questioned on this proposal, Samuel J. Cornelius, Administrator of the Food and Nutrition Service, said that he was sure the change would be viewed as antielderly:

. . . Nobody in their right mind is antielderly. The question is what we can pay for. There are some people between 60 and 65 who are millionaires.

This may be so, but they are not the ones receiving food stamps. The people in this country who reached the age of 60 have worked most of

their lives and have likely collected some assets. For those now eligible for food stamps between the ages of 60 and 64, these assets amount to very little. For households with elderly or disabled members, eligibility requires that liquid assets not exceed \$1,500, or \$3,000 in the case of households of two or more with an elderly member. This liquid assets limit excludes the value of a residence, a portion of the value of motor vehicles, business assets, household belongings and certain other resources. Households with elderly or disabled members can be eligible with gross incomes ranging from roughly 120 percent to 200 percent of poverty income, even though their countable incomes must be below poverty. How much should the elderly be expected to sell or give up of these few things so that they can eat?

Finally, the 97th Congress has already passed legislation reducing food stamp costs by about \$2.5 billion a year. The Congress has acceded to the President's request to limit this program. To cut this program further is to threaten the means by which some of the elderly survive. For all of the reasons I have stated, I urge the adoption of this resolution.

## AMENDMENTS SUBMITTED FOR PRINTING

## SURFACE TRANSPORTATION ACT OF 1982

AMENDMENT NO. 5601

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to his pending amendment No. 5600 to the bill (H.R. 6211) to authorize appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NOS. 5602 THROUGH 5605 (Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted four amendments intended to be proposed by him to amendment No. 5386 to the bill H.R. 6211, supra.

AMENDMENT NOS. 5606 THROUGH 5609
(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted four amendments intended to be proposed by him to amendment No. 5388 to the bill H.R. 6211, supra.

## AMENDMENT NO. 5610

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to amendment No. 5389 to the bill H.R. 6211, supra.

AMENDMENT NO. 5611

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to amendment No. 5391 to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5612

(Ordered to be printed and to lie on the table.)

Mr. MELCHER submitted amendment intended to be proposed by him to the pending amendment No. 5600 to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5613

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE (for himself and Mr. BRADLEY) submitted an amendment intended to be proposed by them to an amendment to the bill H.R. 6211,

#### AMENDMENT NO. 5614

(Ordered to be printed and referred to the Committee on Finance.)

Mr. COHEN submitted an amendment intended to be proposed by him to the bill (S. 2051) to amend the Internal Revenue Code of 1954 to deny the deduction for amounts paid or incurred for certain advertisements carried by certain foreign broadcast undertakings.

Mr. COHEN. Mr. President, as an original cosponsor of S. 2051, legislation to retaliate against a discriminatory Canadian tax policy, I fully support the efforts of the broadcast industry in seeking redress through this bill. The Canadian tax law, which denies Canadian businesses a tax deduction for advertisements placed with U.S. stations is designed to reduce the dominance of American culture in Canada. The result of this policy, however, has been devasting losses in revenue for U.S. broadcasters estimated at \$20 million per year. Indeed, stations operating in my own State of Maine have been severely hurt.

The purpose of S. 2051, to mirror this provision of Canadian law, is laudable. I feel, however, that my colleagues should be aware of an inequity in the legislation as it is currently structured. While the Canadian law. C-58, includes the newspaper media in its scope, our bill is restricted to the broadcasting industry only. amendment I am introducing today would correct that inequity by including the newspaper media under the

provisions of S. 2051.

The plight of the border broadcasters is well known and has been widely reported in the press. Few are aware, however, of the no less damaging revenue losses suffered by the newsprint industry all along our border with Canada. In Maine, for example, the Calais Advertiser, a weekly newspaper serving a border region with Canada. was forced to discontinue a special section of the newspaper designed for the

needs of neighboring St. Stephen, New Brunswick. In past years, advertising revenue from Canadian customers was sufficient to finance the section, but since the passage of C-58, the paper could no longer support this enter-

The amendment I am introducing today would improve the provisions of S. 2051 in significant ways. First of all, my amendment would result in a more effective response to the Canadian law. Although the Canadian policy has been estimated to cost border broadcasters \$20 million annually in lost revenues, S. 2051 would only mean a loss of \$5 million for the Canadians. By including the newspaper media in the bill, the Canadians would be faced with more severe sales losses. Threatened with an even more serious retaliatory U.S. policy, Canada might concede to repeal the law, which is out ultimate goal.

Second, the administration has given a high priority to eradicating barriers to U.S. trade in services, I believe that we should take advantage of every opportunity to help reduce these barriers. Including the newspaper industry under the terms of S. 2051 would give a stronger signal to Canada that we are serious about this goal by providing an incentive for removal of their barriers.

In sum, our own Government has acknowledged the discriminatory nature of C-58. The State Department has tried repeatedly-without success-to negotiate with Canada for the removal of this law. The Presidential finding sent to Congress recommending S. 2051 as a remedy found the Canadian law to be a burden to U.S. commerce. S. 2051-known as the mirror bill-implies that our goal is to copy the provisions of the Canadian law. I fail to see how S. 2051 can be truly called the mirror bill unless the newspaper media is included in its coverage.

I urge my colleagues to support this important amendment.

#### AMENDMENT NO. 5615

(Ordered to be printed and lie on the

Mr. BOREN (for himself and Mr. Matsunaga) submitted an amendment intended to be proposed by them to the amendment No. 4998 proposed by Mr. Baker to the bill H.R. 6211 supra.

## AMENDMENT NO. 5616

(Ordered to be printed and lie on the table.)

Mr. McCLURE (for himself, Mr. KENNEDY, and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill H.R. 6211

## CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

AMENDMENT NO. 5617

(Ordered to be printed and lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to the joint resolution (H.J. Res. 631) making further continuing appropriations for the fiscal year 1983.

ENERGY CONSERVATION AND EMPLOYMENT

Mr. HART. Mr. President, this amendment I intend to offer to the continuing resolution would appropriate an additional \$2.45 billion for a combination energy conservation/employment program. The amendment would fund the Department of Energy's low-income residential weatherization program at \$1.5 billion for the remainder of fiscal year 1983-compared to the fiscal year 1982 appropriation of \$144 million-and would fund the Solar Energy and Energy Conservation Bank at \$1.12 billion for the remainder of fiscal year 1983—compared to \$20 million for the Bank by the HUD-Independent Agencies Appropriations Act.

There are three reasons why these programs should be expanded in the

continuing resolution.

First, increasing these programs is a highly effective way to create desperately needed additional jobs. Making houses more energy efficient is exlabor-intensive. tremely Spending \$2.45 billion on these two programs would create 212,200 new jobs-half again as many jobs per Federal dollar as the expanded highway construction program now before the Senate.

These new jobs would be well-suited to meet our current economic needs. The new energy jobs would be for both low-skilled and highly trained workers in the construction trades, one of the most depressed of the Nation's industries. The jobs would be created primarily in urban areas, espelow-income neighborhoods where they are most needed. These would not be make-work jobs; they would fulfill a pressing national need, while providing training in transferable job skills.

These energy programs will also produce an additional multiplier effect on employment, an effect not achieved by any other jobs programs. Reduced home fuel bills will make possible increases in other consumer spending. Since providing other goods and services is more labor-intensive than providing energy supplies, this shift in consumer spending will create additional jobs-41,520 more jobs per year, according to projections using Bureau of Labor statistics employment factors. Since the energy savings will occur every year, this indirect increase in employment will be cumulative. Over a 20-year period representing the average lifetime of the energy conservation investments, 830,400 additional work-years of employment would be created by this multiplier effect. (Assuming fuel costs remain at 1981 levels; at the higher prices we will actually experience, the consumer savings and the resulting multiplier effect will be substantially greater.)

This energy conservation and employment program therefore produce over 1 million work-years of additional employment-more than seven times as many jobs per Federal dollar as under the highway/jobs program.

The second compelling reason for making this energy conservation and employment appropriation is to provide relief to consumers facing high fuel bills. Rather than responding to constituent anger over rising energy costs with such measures as emergency, piecemeal amendments to the Natural Gas Pricing Act or sense-of-the-Senate resolutions on energy costs, we should take effective action to help consumers keep down their energy costs. The quickest and easiest way to do that is to improve residential energy efficiency; experts tell us we can cut in half the energy consumed in our homes through investments with half the lifetime costs of continuing current levels of consumption.

The low-income weatherization program and the Solar Energy and Energy Conservation Bank are designed to help consumers overcome the primary obstacle to improved energy efficiency-the initial costs of

energy conservation investments. The weatherization program fully funds the costs of insulating the homes of Americans with incomes below the official poverty line. Homes which have been weatherized under the program reduce their energy consumption by 27 percent, saving \$250 per household each year. The Solar and Conservation Bank subsidizes energy loans from private institutions at below-market rates for families not qualifying for the weatherization program. Funding the Bank at \$1.12 billion in 1983 would finance energy conservation or renewable energy retrofits of 2.8 million homes, with savings of more than \$200 per household each year. Together, the two programs would reduce home heating bills by more than \$18 billion over 20 years (at 1981 fuel prices).

The third reason for the amendment is to help reduce our dangerous dependence on foreign oil. Residential energy use accounts for more than 20 percent of our total national energy consumption. Much of this energy is wasted, and can be saved if we make our houses more energy efficient. The measure which would be funded by the amendment would save the equivalent of about 400 million barrels of oil. Achieving these energy savings is a far more rational and cost-effective way of increasing our energy security than expanding the Rapid Deployment Force for a possible (and inevitably foolish) military mission to keep our oil flowing from the Middle East.

I realize some will criticize amendment for exceeding the budget resolution. Although the amendment does not include any offsetting provisions, this expenditure of \$2.45 billion makes far more sense than a wide variety of other elements of the budgetwhether viewed in terms of its positive effects on economic recovery, consumer well-being, or national security. The expenditure represents only a fraction of the revenue which would be lost by leaving in place the July 1983, tax cut. The \$2.45 billion represents two-thirds of the cost of a new Nimitz-class aircraft carrier or onethird of the cost of the Clinch River breeder reactor. Further, by creating more than 1 million work-years of new employment, the amendment will increase Federal revenues by about \$5 billion over the next 20 years.

I urge my colleagues to join me in supporting the energy conservation/ employment amendment. Let us put Americans to work insulating our homes, as well as pouring concrete.

Any Senators wishing to cosponsor the amendment, or having questions about it, should contact me, or have his or her staff contact Stephen Saunders in my office at 224-5852.

Mr. President, I ask unanimous consent to include in the RECORD at this point a chart showing the effects of the energy conservation/employment program.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	Projected savings cumulative: 1983- 2003 <sup>1</sup>		Projected job creation 4						
			1983			Cumulative: 1983-2003			
	Energy (million BOE) <sup>3</sup>	Consumer spending (billions) <sup>2</sup>	Primary impact s	Multiplier effect s	Total	Primary impact s	Multiplier effect a	Total	
Fiscal 1983 appropriation of \$1.5 billion for DOE's low-income weatherization program.	135	\$6.1	61,600	7,000	68,600	61,600	280.000	341.600	
Fiscal year 1983 Appropriation of \$1.12 billion for Solar Energy and Energy Conservation Bank.	266	12	150,600	13,760	164,360	150,600	550,400	701,000	
Total	401	18.1	212,200	20,760	232,960	212,200	830,400	1,042,600	

#### SURFACE TRANSPORTATION ACT

AMENDMENT NOS. 5618 AND 5619

(Ordered to be printed and to lie on the table.)

Mr. BOREN submitted two amendments intended to be proposed by him to the bill H.R. 6211, to authorize appropriations for construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and rural areas, and for other purposes.

AMENDMENT NO. 5620

(Ordered to be printed and to lie on the table.

Mr. BOREN (for himself, Mr. Hup-DLESTON, Mr. BAUCUS, Mr. Exon, Mr. DECONCINI, Mr. PRYOR, and Mr. KEN-NEDY) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

#### AMENDMENT NO. 5621

(Ordered to be printed and to lie on the table.)

Mr. BOREN (for himself and Mr. ROBERT C. BYRD) submitted an amendment intended to be proposed by them to the bill H.R. 6211, supra.

#### **AUTHORITY FOR COMMITTEES** TO MEET

SUBCOMMITTEE ON BUDGET AUTHORIZATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on budget Authorization of the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, December 16, at 9:30 a.m., to meet in closed session for the purpose of receiving a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

The average/life-time of the energy investments.

Assumes 1981 average home heating cost of \$7.78/million Btu, the weighted average of end-user costs of petroleum products, natural gas, and electricity used to heat houses in the United States.

Parrels of oil equivalent.
In work-years; I work-year is one full-time job for 1 year.

Uses Bureau of Labor Statistics employment factors.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management of the Committee on Governmental Affairs be authorized to meet during the session of the Senate on Thursday, December 16, at 9:30 a.m. to conduct a hearing on oversight of computer matching programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Small Business be authorized to meet during the session of the Senate on Thursday, December 16, at 9:30 a.m., to hold an oversight hearing on the Small Business Investment Company program.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ADDITIONAL STATEMENTS

#### CLEAN AIR DEADLINE **EXTENSIONS UNNECESSARY**

• Mr. STAFFORD. Mr. President, I know there are concerns over the possible effect of not extending the Clean Air Act's December 31, 1982, deadline for certain areas which have not attained the national ambient air quality standards. I would like to share with other Members my view of what this deadline means and what the law

The Clean Air Act was amended in 1977 to extend the law's deadlines for achieving the primary-health-protective-air quality standards. A new deadline of December 31, 1982, was established, although extensions to 1987 can be granted for pollutants originating from automobiles.

The Congress also amended the law to establish sanctions, including a Federal funding cutoff and a construction moratorium, but these sanctions are not for failing to achieve the standards on time. Instead, they are for areas which fail to develop, implement or enforce plans for cleaning up their air

This is an important distinction, but one which is very clear after a careful reading of the law. The Clean Air Act specifically refers to a failure of the 'plan" to meet the law's requirements and to those cases where "the Governor has not submitted an implementation plan" or is not "implementing any requirements." It is admittedly easy for a person unfamiliar with the law's intricacies to leap to the erroneous conclusion that sanctions come into effect when a deadline is reached with an area still in nonattainment. But as a matter of fact and law, the Clean Air Act sanctions attach only to failure to submit and implement adequate plans. Thus, in January 1983, and even well into mid-1983, there should not be a dramatically different state of affairs than prior to December 31, 1982.

This is all discussed in much greater detail in a memorandum of law prepared at my request by the legal staff of the Committee on Environment and Public Works.

If there is no objection I ask that this memorandum be printed in the RECORD. I also ask that a letter from the distinguished Senator from West Virginia (Mr. RANDOLPH), and myself be printed as well.

The memorandum and letter referred to follow:

#### MEMORANDUM OF LAW

To: Senators Stafford and Randolph From: Committee Staff

Re: Nonattainment Area Sanctions: Effect of the December 31, 1982 Deadline

The purpose of this memorandum is to review the legal and practical consequences of the arrival of the Clean Air Act's December 31, 1982, attainment deadline.

Background: The 1970 amendments to the Clean Air Act 1 established the requirement that the primary (health-related) national ambient air quality standards (NAAQSs) be attained throughout the United States not later than mid-1975, or in some cases, mid-1977. However, by mid-1975 it became apparent that many areas could not attain the standards on time. Accordingly, Congress, in the 1977 amendments to the Clean Air Act,2 set out to achieve two things:

First, the deadline for attainment of the primary NAAQS was pushed back to December 31, 1982.3 However, extensions to December 31, 1987, were allowed for two autorelated pollutants (ozone and carbon monoxide) if a State satisfied the Administrator of the Environmental Protection Agency that attainment of the standards for these pollutants was not possible by December 31,

Second, Congress sought to assure that the new deadlines would be met by requiring implementation of all "reasonably available control measures" in nonattainment areas as expeditiously as practicable, and "reasonable further progress" in the interim.5 For areas granted an extension to 1987, still other measures-including the motor vehicle inspection/maintenance programsare required.6

Third, to assure that these attainment deadlines were met, Congress included in the 1977 amendments a carefully prescribed series of other deadlines: States were to submit SIP revisions required by Part D (the nonattainment provisions of the Act) no later than January 1, 1979.7 States seek-

some persons assert that arrival of December 31, 1982, brings the sanctions automatically into place in areas which continue to be nonattainment. A more detailed discus-

of air pollution.

sion of the Act's language and its implementation follows.

ing an extension to 1987 were to make the

required impossibility showing in their Jan-

uary 1979 submission (imposing all reason-

Finally, the law was amended to authorize

certain sanctions. These sanctions were of

two sorts: one consisted of cutting off funds for certain activities; the other consisted of

a limited ban on construction of new sources

The language authorizing these sanctions

links them to the submission and enforcement of plans, not the deadlines which the

plans are designed to achieve. However,

ably available control measures).8

Permit Restrictions: Section 110(a)(2)(I) requires that State implementation plans "provide that after June 30, 1979, no major stationary source shall be constructed or modified in any nonattainment area. the emissions from such facility will cause or contribute to concentrations of any pollutant for which a national ambient air quality standard is exceeded in such area, unless such plan meets the requirements of Part D (relating to nonattainment areas).

Thus, section 110(a)(2)(I) provides on its face several constraints on the Agency's ability to prohibit or restrict permitting:

First, the authority to impose sanctions is not triggered at all unless "such plan" fails to meet the requirements of Part D.

Second, the proposed new source must be one which is "major"

Third, the emissions from the proposed source must be of the same "pollutant for which a national ambient air quality standard is exceeded".

Fourth, the sanctions may apply only within "such (nonattainment) area", not the state as a whole.

The statutory language does not completely dispose of the question as to whether arrival of the attainment date automatically causes this sanction to apply. Those asserting that it does insist that since the purpose of the SIPs is to achieve the standards by December 31, 1982, the existence of an area which is nonattainment is a per se violation of 110(a)(2)(I): that is, the plan by definition "fails to meet the requirements of Part D" since one of those requirements is "attainment of each such national ambient air quality standard . . . not later than December 31, 1982" 9

The contrary position is that the language must be taken at its clear meaning. If the Act were intended to sanction nonattainment per se, it would say exactly that, and not refer to "such plan".10

<sup>1</sup> Public Law 91-601.

<sup>&</sup>lt;sup>2</sup> Public Law 95-95. Public Law 95-190 makes various technical amendments to 95-95.

<sup>3</sup> CAA § 172(a)(1).

<sup>\*</sup> CAA § 172(a)(2). Thirty States included in their 1979 plan revisions requests that the deadline for meeting one or both of the auto-related standards be extended to 1987 for all or portions of the State.

<sup>\*</sup> CAA § 172(b) (2) and (3).

<sup>\*</sup>CAA § 172(b)(11). \*Public Law 95–95, § 129(c) (uncodified).

<sup>\*</sup>Id., CAA § 172(b)(2). Section 172(b)(11) lists other requirements for January 1979 submissions in extension areas.

<sup>&</sup>lt;sup>9</sup>CAA § 172(a)(1). <sup>10</sup> Indeed, section 117 of the recently reported Senate amendments to the Clean Air Act (S. 3041), propose changes to the law to specify that sanc-tions apply at the attainment date. In order to implement this policy change, the Committee found it necessary to change the law's language. This is a persuasive indication of the Committee's view of what the current language means and which it does not: what it does mean is that the sanctions were triggered only by a late or unacceptable plan, hence, the law had to be amended to cause the sanctions to come into play because of nonattainment on or after a date certain.

This reading of section 110(a)(2)(I) is affirmed by an examination of the Act's other provisions and of the legislative intent shown by the context in which these sanctions were adopted. In Brown v. EPA and other cases, the Federal courts had said the Agency would not order States to implement control strategies such as vehicle inspection and maintenance programs. The Congress chose instead to establish sanctions if a State refused to adopt or to carry out necessary control strategies. The sanctions are all intended to relate to the process of considering and implementing desirable control strategies, not to the actual attainment of the ambient air quality standards.

It seems probable that when the Congress extended the deadlines in 1977, it anticipated attainment by either 1982 or 1987. Thus, there is little discussion of what action should be taken with regard to new source growth in nonattainment areas after December 31, 1982. However, the Senate Committee's report does shed some light. In explaining the Committee's bill, the report said

If application for a permit is made after July 1, 1979, approval may be granted if the State meets either of the two following conditions, (A) the state is enforcing all requirements of a revised implementation plan which was approved by July 1, 1979, and which provides for attainment of the standard within three years; or (B) the State has demonstrated in a revised plan submitted by January 1, 1979, that it cannot attain the standard in three years, but is complying with other applicable requirements of law.<sup>11</sup>

This language still fails to explain whether "provides for" requires actual attainment or not. However, other language indicates that the Committee had no intention of shutting down new source permitting altogether.

When a region exceeds a national air quality standard after the deadline for attainment, a question arises as to what new sources of that polllutant, if any, are permitted, by law, in the region. The Environmental Protection Agency attempted to deal with this question in its Interpretative Ruling of December 21, 1976. Believing that a statutory clarification of the question is needed, the Committee has developed a comprehensive scheme which extends some deadlines for attainment of national air quality standards, sets out requirements for approval of implementation plan revisions, and imposes stringent requirements as conditions for growth in areas not meeting national standards. These provisions supercede the EPA administrative approach. (Emphasis Added).

A major weakness in implementation of the 1970 Act has been the failure to assess the impact of emissions from new sources of pollution on State plans to attain air quality standards by statutory deadlines. States have permitted growth on the assumption that a deadline was sufficiently distant so that future emissions reductions could be made to compensate for the initial increases. It can now be seen that these assumptions were wrong. Some mechanism is needed to assure that before new or expanded facilities are permitted, a State demonstrate that these facilities can be accommodated within its overall plan to provide for

attainment of air quality standards. 12 (Emphasis added)

Other provisions of the Act would clearly allow for and support such an alternative interpretation.

Section 110(a)(2)(H) requires that every State implementation plan provide for its revision "whenever the Administrator finds on the basis of information available to him that the plan is substantially inadequate to achieve the national ambient air which it implequality . . standard which it imple-." Section 110(c)(1) requires the ments Administrator to "prepare and publish proposed regulations setting forth an implementation plan" if the State fails to do so.

Thus, section 110 provides at least one alternative to a broadscale prohibition on permitting: a finding by the Administrator that State implementation plans are "substantially inadequate", coupled with a concurrent requirement that each such plan be revised to achieve the ambient standard as soon as practicable. This alternative could lead to both a dramatically different course of events and outcome than an outright ban on new source permitting.

First, States would be required to prepare, based on the procedures contained in the law, SIP revisions which had as their objective the attainment of the ambient standards. These revisions would be subject to the public comment, judicial review and other provisions of the Clean Air Act. They would be prepared individually, thus taking into account varying State and local circumstances. Finally, they would maintain as the objective of attaining the respective standards in air where the quality of the air is, by definition, unhealthful.

In contrast, the prohibition on new source permitting would serve only the narrow and perhaps self-defeating purpose of halting the construction of new sources. As the Assistant Administrator for Air, Noise and Radiation commented.

This (a construction ban) means that you cannot put in new, efficient, relatively less polluting plans in place of the old, dirty polluting ones which are producing air pollution problems.<sup>13</sup>

Thus, one alternative would serve the purpose of Part D and the Clean Air Act as a whole—the attainment of healthful air quality—through the use of procedures and methods required by the Clean Air Act, while the other alternative would do neither. Given the fact that the alternative interpretations of the Act's language are equally plausible, the sensible approach would be to choose an alternative which is consistent with the goals of the Act, not inconsistent.

Finally, should the Agency nevertheless choose to impose a blanket prohibition of new source permitting, aggrieved parties could assert estoppel in actions by the United States Government to enforce the ban. Each State implementation plan in question has been reviewed and approved by the Administrator as one which "meets the requirement of Part D."

Clearly, some of these disagreements amount to lawyers' arguments which can be settled ultimately only by a judge. Hence, the secondary and perhaps more important issue is whether the permitting sanctions can be imposed in a flexible and realistic

12 Legislative History of the Clean Air Act

fashion even if the "trigger" itself is inflexi-

Administration of the Permitting Sanctions: That the permitting sanctions need not lead to economic catastrophe is confirmed by the fact that during July 1979 they were in place throughout virtually the entire United States. States had failed to submit their SIP revisions on time (or the proposals had not been approved by EPA) and only one of the 50 was not subject to the permitting sanctions. There were few if any untoward effects. This was due in large part because the Agency officials interpreted the law in a way which allowed State, local, and Federal flexibility in dealing with difficult and diverse problems. Presumably, this same flexibility still exists in the following areas.

First, since the permitting restrictions apply only to proposed "major" sources, a large number of new plants would be exempted from a ban. Only those sources with emissions exceeding 1000 tons per year for carbon monoxide and 100 tons per year for other pollutants would be covered.

Second, the restrictions apply only to sources of the specific pollutant for which the area is in violation of Federal standards. For example, if an area is in violation of the standard for sulfur dioxide, major sources of sulfur dioxide may be restricted. But sources of other pollutants (e.g., hydrocarbons or carbon monoxide) cannot be restricted.

Third, many nonattainment areas are quite small in their official designations, covering as small an area as a few city blocks. Only sources which increase pollution levels within the official nonattainment area may be restricted. Thus, even though the particulate standard is violated in one area of a city, construction could proceed elsewhere in the same city.

Fourth, and most importantly, the permit restrictions do not apply to sources applying for a permit prior to the restriction being imposed. This means that even in those areas where EPA lawfully imposed permit restrictions the impact should not be felt for many months because the Agency must go through a lengthy administrative process.

This Administrative process is as follows: First, EPA must notify each Governor by letter that it is considering imposition of a permit restriction. Second, EPA must publish a notice of proposed rulemaking in the Federal Register for each area. Third, EPA must invite and accept public comment on its proposals. Finally, having considered public comment the Agency may take final action.

The elapsed time from proposal of rules to final action at EPA is normally a minimum of several months and often twelve to eighteen months. Thus, even if the Agency were to act as hastily as possible, the permit restrictions realistically could not be in effect before the summer of 1983, at the very earliest.

Funding Restrictions: In addition to its permitting restrictions, the Clean Air Act contains three funding sanctions. Some of the issues raised by these sanctions are similar to those raised by the language in section 110(a)(2)(1). The funding sanction provisions are as follows:

Highway Aid: Section 176(a) prohibits the approval of any projects or the award of any grants for highway construction in any air quality control region where—

<sup>&</sup>lt;sup>11</sup>Legislative History of the Clean Air Act Amendments of 1977, v. 3, p. 1428 (or, Report 95-127, p. 54).

Amendments of 1977, v. 3, p. 1429.

13 "Congress likely to Ignore Reagan's Request for Clean Air Act Passage," National Journal, November 27, 1982, p. 2028.

(1) any primary standard has not been at-

(2) transportation control measures are required to achieve this standard 15 and,

(3) the Administrator determines that either (a) the Governor has not submitted "an implementation plan which considers each of the elements required by Section 172) or (b) that "reasonable efforts" toward submitting such a plan are not being made.16

Section 172 requires a SIP to "provide for attainment . . . as expeditiously as practicable, but . . . not later than December 31,

Since this language is similar to that contained in section 110 it raises many of the same difficulties. However, the sanction contains two important qualifications:

First, it explicitly exempts grants or awards for "safety, mass transit, or transportation improvement projects related to air quality improvement or maintenance";18 and,

Second, it requires the Administrator to find that the State is not making "reasonable efforts" toward submitting a qualifying plan. 19 In the past the "reasonable efforts" test has been construed generously, so funding restrictions have been imposed in only parts of two States.

The latitude available to the Administrator in imposing this sanction was graphically and dramatically described in a Senate floor colloquy between Senator Gravel and others. Senator Gravel had just offered the language which was ultimately to become the current law and described it as follows:

Mr. STEVENS. I just wanted to ask a question, to make sure I understand this.

I have an amendment which would go partially in this direction. Do I correctly understand my colleague's amendment means that if you have an implementation plan, whether you implement it or not, there will be no loss of highway funds?

Mr. GRAVEL. That is right. Not even that, but if you are making an effort to arrive at an implementation plan, there will be no loss of highway funds.

There is a terminal effect: If you do not make any effort at all by 1979 to come up with a plan, if there are no best efforts, then we stick it to you in a very surgical

Mr. STEVENS. I am sure the Senator knows that Fairbanks has a problem, and it is a naturally caused problem. I do not know of any solution to it yet.

Mr. GRAVEL. The fact that we are thinking of a solution and working on one will give it coverage under this amendment.

Mr. STEVENS. But if we cannot find a way by 1979 to solve it-

Mr. GRAVEL. If we cannot find a way by the year 2000, we still will not get hurt.

Mr. STEVENS. This means that the State of Alaska will not lose those funds if we cannot solve the ice-fog problem?

Mr. GRAVEL. If that happens, I will come to the floor of the Senate and slash my wrists.

Mr. STEVENS. I do not want the Senator to slash his wrists. I just want to make sure that he will not slash my wrists.20

Air Pollution Control Grants: Section 176(b) prohibits grants under the Clean Air Act to State or local governments which are not "implementing any requirement of an approved or promulgated plan." 21 By definition, the issue here is arrival of the attainment date, not implementation of a SIP. Thus, imposing this sanction is discretion-

ary.
Sewage Treatment Grants: Finally, section 316 allows the Administrator to restrict sewage treatment grants if a State fails to adopt a plan which will accommodate the growth in pollution that might be stimulated by a plant's construction. This sanction is

wholly discretionary.
Summary: Some argue that the Clean Air Act requires an immediate and massive imposition of harsh penalties after December 31, 1982, But this position is not supported analysis of the law. This is not to say that it could not happen. Courts often pay great deference to the legal interpretations and actions of administrative agencies. Thus, the Environmental Protection Agency could choose to construe the Act in a narrow fashion and, if so, this apporach might be upheld by a Federal court. Clearly, however, this is a strained interpretation of the Clean Air Act. The law supports other interpretations which make a good deal more sense. Indeed, if the rigid view of the law is adopted and then sustained by a court, it will be because of deference paid to Agency interpretations, not because the Clean Air Act compels an automatic and inflexible imposition of sanctions.

Most importantly, even if the law is read to require the funding and permitting bans to take effect on or soon after January 1, 1983, the Agency indisputably has the latitude to implement such a requirement in a flexible and realistic fashion. There is absolutely no need to force an immediate and unyielding freeze on growth or construction.

> U.S. SENATE. COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS.

Washington, D.C., December 10, 1982. Hon. ANNE M. GORSUCH. Administrator. Environmental Protection Agency, Washington, D.C.

DEAR MRS. GORSUCH: We are deeply concerned over recurrent reports in the press and elsewhere that you interpret the Clean Air Act as requiring you to impose an automatic prohibition on new source permitting and on highway and State air pollution control program funding in nonattainment areas for failure to attain standards by December 31, 1982. A State which is now properly carrying out an approved implementation plan, and which, when notified by EPA, proceeds within a reasonable time to revise and then implement its plan to attain the standards as expeditiously as practicable, should not be subject to restrictions on new source permits or funding.

With respect to restrictions on funding for highways and air pollution control programs, the Act very clearly does not contemplate immediate imposition of those sanctions in areas that are implementing approved implementation plans but that are found, after December 31, 1982, to exceed one or more of the ambient standards. The highway funding sanctions are, of course, applicable only to those areas that are nonattainment for motor vehicle-related pollutants. Withholding of highway funds is to take place only where a State implementa-

tion plan did not consider those elements prescribed for such a plan by the Act. If a plan was approved by EPA, it presumably did include all the required elements.

Grants for a State's air pollution control program must be withheld either under the same circumstances that require withholding of highway funds or where an area is failing to implement the requirements of an approved plan. Where an area that is implementing all the requirements of an approved plan is found to exceed an ambient standard, imposition of the funding sanction is not appropriate unless the State fails to revise its implementation plan within a reasonable time and include in the revised plan all the elements specified in the Act.

With respect to new source permits, we agree with those who say that the Act is not explicit as to the requirement for a prohibition in areas that have received approval of a State implementation plan, that are carrying out the provisions of such a plan, but that nevertheless fail to attain a national ambient air quality standard by December 31, 1982,

While the several provisions of the Act that relate to this question do not provide a clear and incontestable guide, the purposes for which Congress adopted the prohibition on new source permits in 1977, together with the very clear fact that the objective of the Clean Air Act is to improve air quality, compel us to conclude that the immediate and automatic imposition of the prohibition on new source permits is contrary to the requirements of the Act.

The moratorium on new construction was adopted to ensure that those areas not meeting national primary ambient air quality standards and not operating a program in accordance with an approved implementation plan, could not allow additional emissions from new major sources of the pollutant for which the area was nonattainment. Once an area began operating under an approved plan-which must require continued reductions in total emissions, taking new source growth into account—the prohibition on new sources was to be lifted.

Those areas that have been operating under plans approved by the Environmental Protection Agency, that is, plans that, among other requirements, were found at the time of approval to provide for attainment of the ambient air quality standards by the statutory deadline, have been complying with the law. If such an area is determined to exceed one or more of the ambient standards after December 31, 1982, you, as Administrator, are charged with notifying the State that the plan is inadequate to achieve the standard or standards, and the State must, within a reasonable time, revise its plan to provide for attainment as expeditiously as practicable, using all reasonably available control measures. If a State follows this course, it is, we believe, complying with the requirements of the Act and is not subject to the prohibition on issuance of new source permits.

From the foregoing discussion, we hope it is clear that we do not believe the law compels immediate or automatic restrictions on permitting and funding for areas that, in spite of implementing the requirements of approved State plan, do not achieve ambient standards by the statutory deadline. We urge you to adopt an approach for such areas that achieves the Act's objective of

<sup>14</sup> CAA § 176(a)(1).
15 CAA § 176(a)(2).
16 CAA § 176(a)(3).
17 CAA § 172(a)(1).
18 CAA § 176(a).
19 CAA § 176(a).
19 CAA § 176(a).
19 Legislative History of the Clean Air Act Amendments of 1977, v. 3, p. 1063.

<sup>21</sup> CAA § 176(b).

clean air while providing for continued and orderly growth.

Sincerely yours,

JENNINGS RANDOLPH. Ranking Minority Member. ROBERT T. STAFFORD,

Chairman.

#### LOSING GROUND

. Mr. ARMSTRONG. Mr. President, the October issue of Rural Electrification contains a very thoughtful article on soil erosion that every Senator should read. This piece, written by Sharon O'Malley, is a good explanation of the various ways farmers are using to combat severe erosion problems in different parts of the country.

But it is also a very compelling account of the severity of the problem. We simply cannot continue to stand idly by while millions of acres of our best crop-producing soil washes and blows away. Part of the problem is that Government continues to pay financial incentives for crops grown on newly plowed fragile grasslands-lands that are not suitable to sustained cultivation and are very vulnerable to erosion.

My bill to stop such payments on newly plowed lands passed the Senate by an overwhelming vote-69 to 29-on September 28 as an amendment to the agriculture appropriation bill, H.R. 7072, but it was eliminated by the House conferees. It is essential that Congress recognize the importance of this provision if we are to stop making such payments before another full year of plowing can take place.

In order to continue the vital discussion on this matter, I commend this article to the attention of my colleagues and ask that it be printed in

the RECORD.

The article referred to follows:

[From Rural Electrification, October 1982] LOSING GROUND: NEW FARMING METHODS COULD HELP SOLVE OUR NATIONAL EROSION PROBLEM

## (By Sharon O'Malley)

Bob Cerven alway worried about soil erosion, even 33 years ago when he and his new wife took over his parent's farm in Montgomery County, Iowa. From his first days in farming. he constructed terraces and watched his neighbors' rich black soil wash away while his stayed put.

Then about four years ago, unusually heavy rains began to wash away the earth between the neatly cultivated rows of corn and soybeans on his 700-acre crop and livestock farm, leaving ugly stripes of rill erosion and silt and debris at the bottom of slopes

That's when Cerven stopped tilling his soil and invested in a planting machine that slips seeds into the soil through the stalks roots remaining from the privious year's crop. Traditionally, after the harvest,

the earth is turned over with a moldboard plow, which buries this residue.

No-till, or conservation tillage, is a relatively new practice that insures the soil on a farm will be constantly covered, lessening the chances that it will wash away during a heavy rain. A no-till farmer plows only 10 percent or less of his cropland before plan-ing. Practicing other variations of conservation tillage, a farmer would plow a field only once instead of two or three times, or would cultivate only if extra dousings of herbicides failed to kill weeds in the field.

The practice is being promoted by the U.S. Department of Agriculture's Soil Conservation Service and some state governments. But farmers have been slow to adopt it either because of the costs involved in changing over their operations or for reasons of pride: No-till farms look unkempt, suggesting a lazy farmer. Cerven has felt this criticism: "There's been a lot of coffee shop talk about me."

Iowa farmers have become the country's leaders in soil conservation. The efforts of Cerven and his neighbors are much needed in a state that 100 years ago had 16 inches of rich, productive topsoil and has allowed all but eight inches of that to wash or blow away. At the same rate of erosion, estimates Ernest Hintz, the U.S. Department of Agriculture's agronomist in Iowa, the state will be left with no productive topsoil in about 120 years—unless conservation practices become commonplace. General practice of no-till farming could reduce the state's annual soil loss of 260 million tons aby 75 percent, Hintz says.

In the meantime, the soil on Iowa's 26 million acres of farmland is washing away at a rate of 9.9 tons per acrea per year, almost double the USDA-approved "tolerance value" of five tons per acre per year, the "tolerance amount which agronomists say can be re-

placed by natural processes.

Nationally, cropland losses average-between five and nine tons of soil per acre, or 6.4 billion tons annually, according to various studies. But in areas such as the Palouse, where Washington, Oregon and Idaho come together and where some of the highest yields of wheat in the country are grown on steep slopes, the erosion rate runs as high as 50 to 100 tons per acre. The average on the Palouse's million acres of cropland is a frightening 17 million tons a year. Most of this erosion occurs in the spring when melting snow and heavy rains carve rivulets and gullies into hillsides and send great chunks of soil sliding down the slopes, reducing the fertility of the upper slopes and burying new crops below.

Perhaps half of the eroded soil ends up in streams and rivers, filling channels, causing flooding and then more erosion. The cycle goes on, year after year, varying only in in-

During 1977, sheet erosion, a uniform sweeping of surface soil caused by water runoff, and rill erosion, channels carved in hilly land by runoff, claimed 2 billion tons of cropland. The USDA estimates that gully erosion, defined as rills deeper than one foot, took another 450 million tons. About 1.4 million acres were damaged by wind erosion alone in 1979. During the winter of 1980-81, 12.5 million acres of Great Plains farmland were damaged by wind.

USDA's national agronomist, Gerald Darby, estimates that without serious conservation, erosion will rob this country of all its productive farmland within 100 to 200 years, washing so much topsoil from farms that bedrock or heavy clay will be all that

remains

With the country's richest farm regions losing as much as an inch of topsoil every 15 years, the topsoil layer in some places has thinned to six inches, the minimum needed for commercial farming.

Agriculture Secretary John Block has pre dicted that during the next 50 years, soil damage on 141 million acres of cropland could reduce yields to less than half and perhaps to as little as one-fifth of what that acreage would produce today. Despite his apparent concern, however, Block, in keeping with the Reagan Administration's New Federalism program, is aiming at having more conservation programs taken over by the states. Block so far has given the expansion of farm exports a higher priority than soil conservation, a policy his critics say is an indication of his real feelings about erosion control.

Some soil conservationists claim that our national erosion problem is worse than during the Dust Bowl days of the 1930s. Then, 282 million acres of Great Plains farmland were ruined by wind erosion in just a few years. The problem ws so severe in 1935 that the two-year-old Soil Erosion Service, which had been formed as a temporary agency of the Department of the Interior, was renamed the Soil Conservation Service and made a permanent part of the Department of Agriculture. In 1937, the SCS, which today has branch offices throughout the country, established a system of conservaton districts which now govern, through local boards, soil and water conservation policies in most U.S. countries. More than 40 years later, \$15 billion has been spent on soil and water conservation.

Despite SCS's efforts, however, during the 1970s soil loss increased dramatically as world demand for U.S.-produced grains skyrocketed. Anticipating hefty profits from booming exports, American farmers began to overwork their land, planting crops on hills and on river banks and turning pastures and forestlands into neat rows of soybeans, corn and wheat. As their incomes rose, their land slid into streams and rivers.

Concern over the worsening problem led in 1977 to passage by Congress of the Soil and Water Resources Conservation Act, which required the Department of Agriculture to come up with a plan directing the government's money and manpower to specific areas where erosion is most threatening. A draft of the USDA study, which will be released in its final form this fall, shows that 54 percent of the country's rill and sheet erosion is concentrated on only 10 percent of the land.

Soil scientists pinpointed critical problems in the Corn Belt; the Palouse; southeastern Idaho, where intense summer rainstorms have caused erosion as severe as 16 tons per acre per year; the southern Mississippi Valley, including parts of five states, where annual soil losses on much of the land, which is steep, sloping and highly erodible, reaches 20 tons an acre or more; and hilly Aroostook Country, Me., whose potatoes are famous but declining in quality because of bad soil conditions resulting from the loss of two feet of topsoil since cultivation began in the mid-19th century.
Five decades after the Dust Bowl, wind

erosion remains a problem in another critical area: the Great Plains states. There, the climate is erratic, creating near-desert conditions in some areas, some years, Land, usually planted with corn, sorghum, cotton, soybeans and wheat, is left barren during especially dry years when crop production isn't possible. The dry, uncovered soil becomes an easy target for the wind.

Texas, where cotton is the prominent crop, claims almost half of all wind erosion in the 10-state Great Plains area, with wind erosion damaging soil on more than 13,000 acres a year. "The only practical way to reduce erosion [in the Great Plains] to an acceptable level," according to a USDA study, "... is to establish a permanent plant cover." But cotton farmers in the Texas Blackland Prairie, plagued by boll weevils that infest their plants, shred or burn the crop residue after harvest in order to kill off the pest. Plant cover, which would hold the dry soil in place so the wind couldn't blow it away, would provide the small beetle with hidden living quarters.

While new research shows promise that chemicals and genetic engineering may help limit erosion in the future, farmers and scientists agree that for now, age-old conservation methods such as crop rotation, contouring, terracing and setting aside acreage are the most reliable ways to prevent erosion.

On Bob Cerven's farm, corn is never planted on the same acreage two years in a row, as he rotates soybeans to those fields every other year. All his sloping fields are terraced and the terraces are underlain with tiles (drain pipes) that carry away excess surface water. "I had the first bench terraces in Montgomery County," Cerven hoasts

But even with 28 miles of terraces and 20 miles of tile on his land, four years ago Cerven's corn and soybean crops were damaged by rilling. "A lot of people have the concept that when you have terraces, you've got your erosion under control," says agronomist Hintz. That's not true, he explains, but adds that rilling between terraces can be controlled with conservation tillage.

Perhaps the second Montgomery County farmer who dated to experiment with terracing was Deane McCunn. He built his first terrace 23 years ago. Even so his corn and soybean fields began washing away between terraces during heavy rains in the spring of 1979. That's when he realized that "if you've got your ground torn lose and you get that kind of rain, you're going to have excessive erosion." So he stopped tearing up the soil.

From a distance, the fields on McCunn's 450 acres look neatly cropped, with tall, green stalks of corn and lush fields of soybean plants. A closer look, however, reveals small pieces of stubble between the corn and a few dried-out corn cobs from last year's crop on the ground beneath the soybeans.

McCunn has tilled that soil only one time in three years. His yields are as high as they were when plowed and disked in the traditional way. And he found that no-till has benefits he never knew about before he began experimenting: It saves time and

Despite the added expense of \$5.50 an acre (some no-till farmers pay up to \$30 an acre) for extra herbicides to kill weeds that grow when fields are not tilled, McCunn says no-till can "save you time, save you from working as hard, save you diesel fuel and best of all it'll save you soil. The technology's there, the machinery's there and just think of the soil erosion we could prevent if everybody would do it," he says.

McCunn says that during the 1978 season he used between 1,700 and 1,800 gallons of fuel for cultivating, planting and harvesting his crops. But in 1980, with no-till, he used only between 800 and 900 gallons, because he didn't have to make as many trips across his fields on his tractor.

McCunn and Cerven, by their enthusiasm, have converted other farmers to conservation tillage. They give talks to groups of farmers and have made an educational slide

show about no-till. Both farmers practice conservation tillage even on flat land, where erosion generally does not occur, because this saves them money.

But a tour of Montgomery County makes it clear that most farmers do not practice soil conservation, despite the obvious and severe soil erosion that is stealing their land. One explanation given for this is that 57.2 percent of Iowa's cropland is rented and renters have less incentive to conserve soil than owners. Another explanation that many farmers give is that they can't afford to change the way they farm; they can't afford not to plant on steep slopes and they can't afford to invest in terracing and other erosion controls. Hintz is sympathetic to these farmers. "There's just not enough cash flow for them to use conservation practices," he says.

Prevalent, too, is the attitude that soil is like money—you can't take it with you. So you're better off spending while you're alive and enjoying any prosperity it brings you and letting future generations take care of themselves.

Cerven, on the other hand, believes the age-old notion that "we don't inherit our land from our ancestors, we borrow it from our children." He says it "burns him up" to see farmers destroying what might have been rich, productive soil for their grand-children's use. And McCunn, who discovered the financial benefits of conservation tillage after being forced into saving his own soil, says he can't understand why everybody doesn't do it. "It looks to me like if anybody would take a good hard look at the economics of it in these times when we need to save what we can, they would do it." He adds, "I think it's coming, but it's going to be slow coming, just like it's been slow coming to this point."

A good look at the economics was all it took for Ben Kern to realize that he couldn't afford to begin farming if he didn't practice no-till. After earning a degree in agriculture from the University of Iowa in 1979, Kern returned to Warren County, Iowa, to take over operation of his family's 450-acre corn and soybean farm.

By the farming no-till, Kern was able to arrest the erosion problem that was eating up the farm's profits and not "be stuck with a lot of machinery that would be technologically outdated in a few years." Kern has saved enough money on fuel and expensive cultivators to install at least one terrace next year. And he harvests 188 bushels of corn per acre on the average, while his neighbors are only getting about 140 bushels using conventional methods.

Still, many farmers remain unconvinced. When terracing can cost as much as \$300 to \$500 an acre—many times the average profit at today's corn prices, even with a 50 percent subsidy from USDA's Agriculture Stabilization and Conservation Service—and setting aside acreage for conservation purposes can reduce revenue, there is little incentive to stop practicing proven farming methods that always produce good crops.

methods that always produce good crops.

Conservation "is a whole new concept," says Bill Brune, USDA's conservationist in Iowa. "You have to convince people and that takes time." Until recently, Brune says, even the Department of Agriculture sponsored plowing contests, which rewarded farmers for what is now considered a threat to conservation. Now the Government offers money to farmers who are willing to experiment with conservation.

But the Government has limited funds, and soil programs haven't escaped the Federal budget-cutting ax. In fiscal year 1982, the ASCS was appropriated \$220.1 million for four conservation programs. The Administration's proposal for fiscal year 1983 is to combine all four functions and fund the new Agriculture Conservation Program at \$56 million, a 75 percent reduction.

Likewise, the Administration hopes to trim the Soil Conservation Service's budget by \$58.7 million to \$515.8 million, reducing funding for watershed and flood control, resource and conservation development and the special Great Plains Conservation Program.

Any cutting should slow the progress being made in soil conservation. Iowa's Hintz doesn't think "any of the government units are doing enough" now. And Gerald Darby of the SCS says the Federal soil conservation budget is only "a drop in the bucket compared to what's needed."

Since the early 1970s, state governments have assumed some of the financial responsibility for erosion control; a number of states, including Iowa, now pay farmers to take conservation measures. At least 10 states are encouraging or requiring farmers to develop conservation plans for their land. The goal of Iowa's legislation, adopted last year, is to have a conservation plan for every Iowa farm by 1958.

Iowa has another new law that makes a farmer liable for damages if sediment from the farmer's eroding land carries to a neighbor's property. And justices of the state Supreme Court have discussed the need for some kind of malpractice law that would discourage farmers from using their land carelessly.

Fear that state and Federal governments will move to adopt laws requiring erosion control practices is one reason farmers have turned to conservation tillage in recent years. Even farmers who have already given up their moldboard plows would rather see erosion control worked out locally and voluntarily through soil conservation districts.

Private groups, such as the Washington, D.C.-based National Association of Conservation Districts, promote programs and provide assistance to encourage farmers to take care of deteriorating land. "Who we look to to put soil conservation on the line are the private people," not the government, says R. Neil Sampson, the association's executive vice president and author of "Farmland or Wasteland: A Time to Choose."

The government, says Sampson, should provide more money to encourage soil conservation and fewer funds to support abusive practices, such as erosion-producing plowing of grassland in Colorado that enables landowners to cash in on government-endorsed tax breaks.

The government, Sampson says, should "quit underwriting the abuse of land," fund more research and "sort out the policy situation for American agriculture." Although the 1981 farm bill for the first time mentions the problem of soil erosion, Sampson says current farm policy and the faltering agricultural economy often prevent farmers from investing in terraces or tractors modified for conservation tillage.

The National Association of Conservation Districts plans to organize by December a national information center for conservation tillage, which would serve as a clearing-house and telephone hotline for soil conservation information. The Iowa National Heritage Foundation in Des Moines is encouraging the agriculture industry to refrain from showing potentially erosive farming practices in farm equipment advertisements.

And the newly formed National Endowment for Soil and Water Conservation is attempting to raise \$500,000 to spend on putting into practice innovative ideas in the areas of soil and water conservation. "There's a lot of innovation out there that really has never been recognized and disseminated," according to Clifford Ouse, NRECA's legislative representative for agriculture issues, who is the group's vice president.

Even as those projects are in the works, farmers like Cerven, McCunn and Kern are spreading the word about conservation through community meetings and visits to schools. "Study it, listen to other farmers, take their advice and give it a try," suggests Kern. "A lot of farmers have made it work." McCunn agrees: "I know one thing. I'm not going back to the other system."

#### NATIONAL CONFERENCE OF STATE LEGISLATURES EN-DORSES MORTGAGE REVENUE BOND PROGRAM

 Mr. SASSER. Mr. President, passage of the Mortgage Subsidy Bond Tax Act of 1980, intended to clarify regulations affecting the mortgage revenue bond program, virtually ground it to a halt with vague and con-

flicting provisions.

Within the past 2 years, many of the technical problems associated with the mortgage bond program have been cleared up, both by regulation and by legislation. The Internal Revenue Service's increasing responsiveness to the program, coupled with provisions of the Tax Equity and Fiscal Responsibility Act of 1982 making further corrections, have helped to create a productive and smooth-functioning program for providing housing assistance to low and moderate income first time home buyers. State and local bond issues have increased, monitoring has improved, and hundreds of families across the country are improving the quality of life for themselves-and improving the quality of State and local economies-by moving into their first

The irony is that, after years of debate and multiple refinements, the mortgage bond program is scheduled to be sunsetted on December 31, 1983. Just at the point where the real value of the program is being realized, there is a possibility that it may be halted.

The National Conference of State Legislatures has echoed my own view that this very effective program should be extended beyond next year's cutoff date, and I am looking forward to working with them to see that the extension is made a reality during the next session of Congress. I ask that the NCSL statement be printed in the Record.

The statement follows:

MORTGAGE REVENUE BOND EXTENSION

The Mortgage Subsidy Bond Tax Act of 1980 passed by the Congress placed significant restrictions on the use of single-family mortgage revenue bonds and additional restrictions on the use of multi-family bonds. As a result, the targeting of these mortgages

has been enhanced and the volume of these bonds significantly lowered. Although issuances of these bonds have slightly increased following technical amendments by Congress as part of the Tax Equity and Fiscal Responsibility Act, the loss to the federal treasury has not significantly risen in recent years.

Use of single-family mortgage revenue bonds is scheduled under the Mortgage Subsidy Bond Tax Act to sunset December 31, 1983. NCSL believes that first-time home-buyers and other low- and moderate-income families as defined by individual state laws remain unable to purchase homes at reasonable financing rates and calls for the permanent extension of the ability to use these bonds.

NCSL also wishes to support the continued ability of states and localities to provide multi-family housing for low- and moderate-income families using tax-exempt bonds and calls upon Congress to place no further restrictions on these bonds.

#### GOVERNOR ROBERT D. RAY

• Mr. GRASSLEY. Mr. President, a great man and an outstanding leader is stepping down as Governor of Iowa in January 1983. Gov. Robert D. Ray has been a rare leader, one who is recognized for both pubic achievement

and personal integrity.

While many public officials struggle to maintain pubic trust and acceptance, Governor Ray has earned the confidence of Iowa's citizens and national respect by heading an administration that achieved its goal withut corruption. He realized, as Cicero did over 2,000 years ago, that "the administration of the government, like the office of a trustee, must be conducted for the benefit of those entrusted to one's care, not of those to whom it is entrusted."

First and foremost Governor Ray has honored the responsibility of maintaining the public trust. According to Washington Post columnist David Broder, Ray and severa colleagues also retiring this year have political ambitions second behind their responsibility to build government instruments of which they are a part." Broder added, "In a time when many view politicians with deep suspicion, the integrity, ability and durability of these men are a powerful rebuttal to cynicism." These words exemplify Iowan's perception of their Governor.

It is no wonder then that Governor Ray's popularity actually increased with each term. Iowans first expressed their confidence in Bob Ray by selecting him as Iowa's 38th chief executive in 1968, and went on to reelect him to 2-year terms in 1970 and 1972, and to 4-year terms in 1974 and 1978. He earned an average of 59 percent in the latter three elections. The Iowa poll conducted by the Des Moines Register shows that 62 percent of Iowans approved of Governor Ray's job performance after 1 year in office, and almost

80 percent approved of his work during his most recent term.

Perhaps the greatest legacy left by Governor Ray is the stability maintained by the State. Through his effectual leadership, Iowa became highly regarded across the country as a prudently managed, clean, moderate and stable government. This was achieved not only because of Governor Ray's excellent leadership style, but because he cared about Iowans.

This concern for the people of his State allowed Iowa to weather the Nation's turbulent economic times of the latter 1970's and early 1980's. Money was spent wisely to maintain the State's excellent educational system, preserve valuable natural resources and continue many critical human services programs—all without going into debt.

Governor Ray also managed to run a stable, consistent government while avoiding large tax increases. He blocked several attempts to increase Iowa's major taxes and was cited by Time magazine for his work in limiting property taxes. The Governor introduced and expanded the elderly tax credit and successfully pushed for repeal of the sales tax on food and drugs—a real help to all Iowans.

Constantly working to promote Iowa and its products, Robert Ray recognized that new markets for agricultural and manufactured goods meant jobs for Iowans. Governor Ray led several trade missions of Iowa businessmen, including visits to the People's Republic of China in 1980 and to China, Japan and other Asian nations in 1982.

The Governor established Governor's economy committees in 1969 and again in 1979. Management experts from Iowa companies recommended ways to further streamline State government. Many of their proposale have since been implemented saving tens of millions of tax dollars.

One Governor's economy committee item was a merged Department of Transportation. Iowa's DOT is now a national model, and our States's railroad branchline program has upgraded more miles of track then all other States combined.

Governor Ray pushed for adoption of the bottle and can deposit law to save energy and clean up the environment. He encouraged thousands of Iowans to volunteer for the "Great Iowan Cleanup" in May 1979, and thousands more to plant trees as part of the popular "plant Iowa program."

A strong advocate for Iowan agriculture, Governor Ray has testified before congressional committees and traveled on "fine Iowa meats" promotions. In 1979, he received the Honorary Master Pork Producer Award from the Iowa Pork Producers Association. In January 1980, Ray announced traditional increases in funding for Iowa's

first inthe nation" soil conservation cost-share program.

In the late 1970's, Governor Ray proposed and signed into law a sweeping urban revitalization plan for Iowa cities and towns. Earlier, the Governor initiated State revenue sharing with communities, propoed an Iowa tuition grant program for private college students, appointed the innovative iowa 2000 futures committee, reformed Iowa's outdated judicial system, and began the Iowa Citizen's Aid Office.

Governor Ray's leadership ability has been demonstrated well beyond Iowa's borders. He has aerved as chairman of the National Governor's Association, the Republican Governors Association, and the Midwear Governors Conference. Governor Ray has served as chairman of the Education Commission of the States and as president of the Council of State Governments. The Governor also chaired the platform committee at the Republican National Convention in 1976.

Thanks to Governor Ray, Iowa is considered to be a pacesetter among the States in coping with the energy crisis. Good example of Iowa's efforts include the fule set aside, coal and solar research, and energy conservation and weatherization programs. Governor Ray's promotion of gasohol has helped made Iowa the No. 1 State in American in consumption of the energy alternative.

Governor Ray has represented the United States on several key diplomatic and goodwill missions, including independence ceremonies for the new nation of Papua, New Guinea in 1975, and the inauguration of the President

of the Philippines in 1981.

The Governor was appointed a member of the American delegation to the Special United Nations Conference on Refugees in Geneva, Switzerland in 1979. Later that year, he led a Christmas season appeal that raised \$500,000 to help feed starving people in Cambodia and Thailand.

During his 14 years as Governor, Bob Ray has established a record of dedication and service that reaches from Des Moines to points around the globe. Our State will, indeed, be losing a great Governor, yet gaining an honest and caring citizen. The love, concern, and sensitivity for all people projected over the past 13 years exhibits the special place Iowa holds in his heart. And for this, we the citizens of Iowa are grateful.

## PROJECT ORBIS

• Mr. MATHIAS. Mr. President, Project Orbis, a flying ophthalmological teaching hospital, will land in Colombo, Sri Lanka on December 23, 1982. In the succeeding days, it will introduce Sri Lankan physicians to the latest techniques in preventing and curing blindness and then fly on to repeat the process in the United Arab Emirates. We in Government can take pride in the fact that the Agency for International Development (American schools and hospitals abroad program) has supplemented Orbis's mostly private funding. This small investment will save the sight of thousands, and eventually millions, worldwide.

Project Orbis exemplifies charity in the best sense of the word. The ophthalmological community, led by Dr. David Paton of Baylor College of Medicine, has organized an effective international volunteer program to share medical advances. The Federal Government with a relatively small infusion of funds, has helped the project over initial obstacles. Orbis has quickly proved its ability to bring sight to the blind of the world.

Forty-two million people in the world are blind. Another half a billion have eye diseases and disorders which can lead to blindness. Recent technological breakthroughs which can be copied anywhere make possible the prevention of two-thirds of all blindness. The sight of millions would be restored if these medical advances were shared with all ophthalmologists.

Dr. Paton realized that improving ophthalmological skills around the globe would require personal instruction by teaching physicians. Textbooks, manuals, and standard training films are not adequate substitutes. To accomplish this miracle, Dr. Paton founded Project Orbis, a DC-8 jet airliner refitted to contain a classroom and fully equipped opthalmological operating room and treatment facilities. An audio-visual system allows doctors to observe operations in detail as well as to participate themselves. The plane is ready to begin its work within a few hours of arrival at an airport.

Orbis began operations early in 1982, first in Houston and then in extraordinarily successful missions to Colombia, Ecuador, Jamaica, Panama, Peru, Germany, England, Turkey, the Philippines, Malaysia, Thailand, Indonesia, Pakistan, and the People's Republic of China. Future plans call for visits to the Middle East, and Africa. So far, more than 75 physicians, including such world-renowned specialists as Drs. A. Edward Maumenee and Ali Khodadoust from John Hopkins, have served on Orbis' staff as volunteers, training, and often learning from, over 1,000 doctors of host countries. After each visit, the local doctors may take edited tapes home to instruct others, multiplying the benefits. The best measure of the success of Orbis is that it has been invited back to every country visited. It hopes to return eventually to all of them.

Everywhere Project Orbis goes, its accomplishments in teaching and performing the latest treatments of eye diseases win lavish praise. Newpapers throughout Latin America gave extensive coverage to Orbis' inaugural visits, with headlines such as "A Project Which Seeks to Save the Eyes of the World" and "From the U.S.' The Flying School, a Helping Hand for the Vision-Impaired." President Belaunde of Peru was so impressed by a visit to the plane that he immediately pushed for legislation to establish Peru's first eye bank. Chancellor Helmut Schmidt of West Germany declared:

The Orbis project . . . shows that idealism andf private initiative continue to play a valuable and indispensable role in the field of medicine.

Orbis is simultaneously assisting thousands of blind people worldwide and acting as an ambassador of goodwill from the United States.

The citizens of other nations see in Orbis the generosity for which the United States and the people of the United States have long been known. John Youle, Charge D'Affaires at the American Embassy in Ecuador, wrote this spring:

I cannot overemphasize the tremendous impact which Orbis has had in projecting the best of the United States: its concern for the peoples of the world and the dynamism and philanthropy of its private enterprise.

Amidst all the bad news these days, it is a joy to have something pleasant to comtemplate. I am sure my colleagues join me in wishing continued success to Project Orbis.

## JOHN H. FANNING

• Mr. PELL. Mr. President, it is with a deep sense of gratitude and pride that I wish to recognize Mr. John Fanning, an old friend and fellow Rhode Islander, for his outstanding service as a member and Chairman of the National Labor Relations Board.

It is also with some sense of sadness that I must report to the Senate that Mr. Fanning is today retiring after a quarter-century of service on this Board. As a member of the Senate Labor and Human Resources Committee, I will miss the insight he has presented at nominations hearings on matters of mediation between labor and management. I am sure that his experience and expertise will be missed not only by the other members of the Board, but by the labor-management community as a whole.

Mr. Fanning was the first person to be named to the NLRB by Presidents of both political parties. He was first appointed to the NLRB in 1957 by President Eisenhower, and reappointed by President Kennedy in 1962, President Johnson in 1967, and President Nixon in 1972. He served as Acting Chairman for a short period under President Ford, and in 1977 President Carter designated him as Chairman.

In his tenure with the NLRB, John Fanning has been involved in deciding approximately 25,000 cases on unfair labor practices and employee representation. Throughout these decisions, John Fanning has evidenced his outstanding personal commitment to the principle of collective bargaining and employee-management relations. He has filed roughly 2,000 dissents, and his dissenting position was upheld four times by the Supreme Court, in: Brown Food Store, 137 NLRB 73 (1962); Fibreboard Paper Products Corp., 130 NLRB 1558 (1961); I.B.E.W. and its Local, 134 (Illinois Bell Tel. Co.), 192 NLRB 85; and NLRB v. Drivers Local 639, (Curtis Bros., Inc.), 362 U.S. 274 Sup. Ct.

During hearings before the Senate Human Resources Committee on his nomination to the Chairman of the NLRB, Mr. Fanning cited expeditious review of cases as one of the most pressing problems he would tackle as Chairman of the Board. He worked vigorously to attack this problem, and during his first 2 years as Chairman, more decisions on cases were made than during any other comparable period in history. Furthermore, the Board was able to return unspent money to the Treasury in each year that he was Chairman, ranging from \$2.4 million in 1978 to \$0.9 million in 1981.

In recognition of his outstanding public service contribution to labormanagement relations, the John F. Fanning Conference on Labor-Management Relations was established in 1974 by the Quirk Institute of Industrial Relations of Providence College. This conference was established to provide an opportunity for an open exchange of ideas regarding issues which affect the collective-bargaining process, and is tremendous testament to Mr. Fanning's wisdom and justice.

Mr. Fanning is a graduate of Providence College in Providence, R.I. He received his law degree at Catholic University of America, Washington, D.C., and is past national president of the Catholic University Law School Alumni Association. He is a member of the Rhode Island and Supreme Court bars. He practiced law in the city of Pawtucket, R.I., before entering Federal Government service in 1942. In 1956 the National Civil Service League selected him as 1 of the 10 outstanding civilian employees in the Federal Government.

In his remarks of the June 11 conference sponsored by the Industrial Research Unit and the Labor Relations Council of the Wharton School of the University of Pennsylvania, Edward B. Miller, former Chairman of the NLRB, said of John Fanning:

He deserves the respect of all of us, whether or not we agree with his views and philosophy with respect to a proper interpretation of the NLRB. He is a dedicated, hardworking man with a very long history of putting up with the barrage of criticism, internal and external, that goes with the job of being a member, and particularly Chairman, of the NLRB.

Rhode Island is indeed proud of its hard-working son who has made such a tremendous contribution to labormanagement relations. I wish both him and his family the best of luck in the years ahead.

SELECT COMMITTEE TO STUDY LAW ENFORCEMENT UNDER-COVER ACTIVITIES OF THE DE-PARTMENT OF JUSTICE

MATHIAS. Mr. President. today the Select Committee to Study Law Enforcement Undercover Operations of Components of the Department of Justice released its final report. This report is the result of more than 8 months of intensive study of numerous operations of the FBI and other law enforcement agencies. The focus of our investigation was, of course, the undercover operation codenamed Abscam. The report contains detailed factual findings about many of the controversies which this operation has provoked. It also contains specific recommendations for legislative and administrative action to improve the effectiveness of undercover operations while safeguarding the rights of the citizenry.

The select committee's report will provide food for thought for all of my colleagues. The full report will take some time to digest. However, I think it is important that the Senate be made aware of the basic findings and recommendations of the report as soon as possible. Therefore, I ask that my statement, and that of Senator HUDDLESTON, the vice chairman of the select committee, regarding the release of this report, be printed at the conclusion of these remarks, along with a summary of the highlights of the final report.

Mr. President, I commend this report to my colleagues. I hope that it will receive their close attention. The issues which it discusses will be before us again in the near future. Senator HUDDLESTON and I will be working with our colleagues on the select committee in order to lay the groundwork for the introduction of legislation embodying our recommendations as early as possible in the 98th Congress.

The remarks and summary follow:

STATEMENT OF SENATOR CHARLES MCC. MATHIAS, JR.

Today the Select Committee to Study Undercover Law Enforcement Operations of Components of the Department of Justice releases its final report. This report is the product of more than eight months of intensive investigation into undercover operations of the Federal Bureau of Investigation and other Justice Department agencies.

The Select Committee was established, pursuant to Senate Resolution 350, on

March 25, 1982, in the wake of the most highly publicized undercover operation in the history of the FBI: Abscam. The Senate had just finished wrestling with the uncomfortable responsibility of judging the conduct of one of its members who had been convicted in an Abscam prosecution. It was now determined to investigate the serious allegations of governmental misconduct which had been aired throughout the debate on the motion to expel Senator Williams.

During those difficult days, the picture of Abscam that emerged was one in which reality was distorted by wisps of mist and fog generated by the stagehands. As a result of the investigation conducted by the Select Committee, much of the fog has lifted. We now know more about Abscam that we ever did before.

In this instance, as in so many others, sunshine has proved to be a good disinfectant. The worst fears about Abscam-the chilling vision of an Executive Branch conspiracy against the legislature, with overtones of manipulation and cover-up-have proved to be evanescent. But the light of day has brought into focus some disturbing mistakes which must not be allowed to recur.

The Select Committee has compiled an extensive factual record on this controversial operation. Dozens of key witnesses have been interviewed, or have testified under oath. Tens of thousands of pages of documentary evidence have been perused, including many confidential FBI files never before made available to any investigative body or tribunal. Numerous audio and video tapes have been studied and re-studied. The proceedings in more than a dozen courts have been exhaustively reviewed.

The findings which we have carved out from this mountain of factual detail amount to a mixed review for the performance of the FBI and the Justice Department in the conduct of Abscam.

We found that the men who came before the video cameras to engage in corrupt transactions had not been targeted by the FBI. But we also found that the FBI did far less than it should have done to insure that innocent parties were not also ensnared in the net and brought before the hidden lenses, and that, in a few cases, the undercover operatives did steer the investigation toward a described class of targets.

We found little evidence that the Abscam defendants had been so extensively coached by the chief informant, Mel Weinberg, that their on-camera performances were mere play-acting. But we also found such lax supervision of the informant, and such sloppy management of the whole operation, that other double-dealing by Weinberg could

have gone on undetected.

We found that Weinberg himself was probably not guilty of some of the misdeeds of which he has been accused by Abscam critics. But we also found ample evidence that he did engage in other misconduct, including taking kickbacks from bribes and giving false testimony.

We found no evidence that the Justice Department timed the prosecution or leaked information for political purposes. But we also found serious shortcomings in Justice Department coordination of this complex,

multi-state operation.

Each of these findings is backed up by extensive factual documentation. We know that our findings will not put to rest the controversies which rage around Abscam. The most important questions-those of guilt and innocence-will be finally determined by the courts. But we are confident that the American people have never before had a more detailed and exhaustive factual account of the Abscam operation than the one contained in the pages of our report.

But the dispelling of the fogs of Abscam was not the Select Committee's only mission. Nor, in my view, was it the most important charge we were given. The Senate instructed the Select Committee to look into a broad range of policy questions arising from undercover operations. As I stated at the opening hearing of the Select Committee on July 12, 1982:

is to study in depth the 'Our goal safeguards that the FBI and other components of the Department of Justice have formally placed on themselves, to determine how those safeguards compare to past policies and practices, and to ascertain whether any action by the Congress in this area is necessary or desirable."

I am pleased to report that we have accomplished the goal which we set for our-selves last July. The various Justice Department guidelines on undercover operations, informants, and criminal investigations have been subjected to the closest scrutiny. We have found that the standards embodied in these guidelines represent a marked improvement over the looser past practice as exemplified by Abscam and some other contemporaneous operations. But we have concluded that further action by Congress is needed. And we have recommended legislative and administrative steps which, in our view, will enhance the effectiveness of undercover operations while assuring greater protection for privacy and constitutional

Our legislative recommendations, if enacted, would provide the FBI and other law enforcement agencies with explicit authority to engage in undercover operations. They would help insure that the Congress is more fully advised concerning undercover activities. They would articulate clear standards to which such operations would be held, and would prohibit the initiation of undercover investigations, or the targeting of particular suspects, absent a reasonable suspicion of criminal activity. Where the undercover operation would threaten the exercise of First Amendment rights or privileged relationships, a probable cause standard would have to be met. Finally, we recommend that the law of entrapment be clarified and placed on the statute books.

Justice Department law enforcement agencies, particularly the FBI, have made great progress in recent years in bringing undercover operations under consistent and responsible internal control, through the promulgation of investigative guidelines. The Select Committee encourages the continuation of this process, and its expansion to other agencies, and recommends the clarification of some problem areas in the cur-

rent guidelines.

These recommendations, we believe, address serious problems which today limit the effectiveness of undercover operations, and which leave this powerful investigative technique open to abuse. The legislative recommendations, in particular, should receive thorough consideration by the appropriate committees, beginning early in the 98th Congress.

Congress has another role to play in the regulation of law enforcement undercover activities. The FBI and other agencies have rapidly expanded their use of undercover operations; they are now fully incorporated into the Federal crimefighting arsenal. As

discussed in our report, the undercover technique is potentially a powerful weapon against crime; but it is also one which, through carelessness or abuse, can blow up in the faces of the investigators. Congress needs to exercise its oversight function vigorously and intelligently if the undercover technique is to reach its maximum poten-

The accomplishments of the Select Committee would not have been possible without the hard work and careful thought of many people. The contributions of many of them are acknowledged in the report itself.

Here I will mention only a few.

The labors of the Select Committee staff have been Herculean. In the space of barely seven months, Chief Counsel Malcolm E. Wheeler and former Chief Counsel James F. Neal assembled an exceptionally capable staff, immersed themselves in the minutiae of Abscam and several other complex operations, and articulated both the factual detail and the policy considerations in lucid prose. Without the unflagging efforts of this staff, today's report would never have seen the light of day.

The cooperation of FBI Director William Webster and other FBI and Justice Department officials also aided the Select Committee in the performance of its tasks. As I have already noted, the FBI agreed to make available volumes of documents about Abscam and other underground operations. While we were not always able to agree with the FBI about access to other documents, in general the atmosphere of confrontation between the Executive and Legislative branches which sometimes pervades these endeavors was conspicuously absent in these proceedings.

Finally, the dedication and thoroughness exhibited by Senator Huddleston, our Vice Chairman, and by my other distinguished colleagues on the Select Committee, have contributed immeasurably to the value of our inquiry. The members of this committee took an active and informed interest in this investigation from the very beginning. The fruit of our labors reflects the unique per-

spective of each of them.

All the members of this Select Committee share a very important understanding about the proper role of the Congress in our constitutional system. All of us approached this assignment with a deep concern about the threats to the constitutional Separation of Powers which inhere in an operation such as the Abscam investigation. But all of us have rejected the idea of any form of special dispensation for members of the legislative branch. We agree that the paramount concern of the Congress must be to devise a system for the control of undercover operations which will safeguard the constitutional rights of all the people. Such a system, we believe, will also provide adequate protection for the constitutional prerogatives of the Congress.

To build, in statute and regulation, the framework for such a system is now the task before us. The Justice Department's inter-nal reforms of the past few years, notably the promulgation of guidelines for undercover operations, are a good start. But the essential next step is up to the Congress. If the work of this Select Committee helps us to take that step thoughtfully, but with dispatch, then we will have made a lasting contribution of which we can all be proud.

#### STATEMENT OF SENATOR WALTER D. HUDDLESTON

Over the past ten years, the Federal Bureau of Investigation has enormously ex-

panded its use of undercover operations. Other agencies are planning to increase their use of these methods.

Until now, Congress and the American people did not have a full picture of what was going on. The Justice Department and the FBI acted mostly on their own, with very little policy guidance from Congress.

The report issued today by the Select Committee To Study Law Enforcement Undercover Operations of the Department of Justice changes all of that. Congress now has before it a thorough and detailed examination of one of the most controversial criminal investigations in American history-the Abscam case.

First of all, I want to stress that we do not recommend special safeguards solely for Members of Congress. The system we recommend is designed to prevent abuses of the rights of any law-abiding citizen.

The public must know that Members of Congress are not above the law and that the law will fairly and even-handedly investigate and prosecute wrongdoing at the highest levels.

The report documents both the points and the problems with Abscam. The select committee did not try to make a final judgment on Abscam, but I have no hesitation in stating my own opinion. Looking at the overall record of the FBI and the Justice Department in Abscam, I believe the good points outweigh the bad.

At the same time, however, I am troubled by some of the problems in Abscam. The select committee found that individuals who attended video-taped meetings with FBI undercover agents were not targeted by the FBI. They were named first as being possibly corrupt by middlemen who were not working for the FBI.

On the other hand, at least one individual who did not attend a meeting was targeted by the FBI's informant, without having been named by a middleman as a possible criminal. This happened to Congressman

William Hughes, for example.

It is also clear to me that the FBI and the Justice Department relied too much on the unsupported word of corrupt middlemen as a basis for bringing law abiding citizens like Senator Pressler to these meetings.

Cases like this demonstrate the need for Congress, by law, to provide that no individual may be targeted without reasonable suspicion of possible criminal conduct.

Legislation is also needed to compensate innocent people who are injured as a result of unlawful or negligent government con-

The select committee looked at other operations besides ABSCAM. The report describes four other FBI operations, as well as the use of undercover techniques by the drug enforcement administration and the immigration and naturalization service. The committee also examined current FBI programs and heard from expert witnesses

This record documented the importance of undercover operations for effective law enforcement. Yet, Congress has failed to give the FBI the tools to do the job. On February 1, 1982, legislation designed to clarify FBI undercover authority expired. Since then, the FBI has had to cut back its operations and tailor them to unrealistic legal restrictions on the use of proprietaries, bank accounts, leases, and contracts.

From 1978 to 1982, the authority to waive these restrictions was included in annual Justice Department authorization bill. Since February 1, the Justice Department has operated without an authorization act. The select committee's first recommendation is to give the FBI permanent authority for its undercover operations within a framework of standards and guidelines, so the FBI can act more effectively against serious crimes.

I believe the select committee report makes an overwhelming case that Congress should enact legislation to strengthen FBI law enforcement operations, while protect-

ing the rights of all the people.

The task for Congress is to declare the standards for Federal law enforcement, provide the resources to do the job, and determine how well law enforcement lives up to those standards.

In closing, I want to thank the Chairman, Senator Mathias, for his outstanding leadership of the committee. And I want to thank all the members for their help in struggling with these issues. The two chief councils-Jim Neal and Malcolm Wheeler-and their staff have done a superb job. The entire Senate is greatly in their debt, and we wish

HIGHLIGHTS-FINAL REPORT OF THE SENATE SELECT COMMITTEE TO STUDY LAW EN-FORCEMENT UNDERCOVER OPERATIONS OF THE DEPARTMENT OF JUSTICE

them well as they go on from here.

#### FINDINGS

Undercover operations are "indispensable to the achievement of effective law enforce-' but they create "serious risks to citizens' property, privacy, and civil liberties, and may compromise law enforcement itself." A better system of statutes, guidelines, and rules is needed to avoid "both the tyranny of unchecked crime and the tyranny of unchecked governmental intrusion.

Abscam demonstrates both the benefits and costs of undercover operations. Some of the problems in Abscam "would be less likely to occur under the system now in place." The Committee did not attempt to adjudicate the guilt or innocence of criminal

defendants.

Several allegations of illegality or impropriety in Abscam "are not supported by a preponderance of the evidence.

Individuals who attended meetings with FBI undercover agents were not "targeted by the FBI.

The FBI did not improperly fail to investi-

gate any lead.

None of the defendants was "merely playacting." Several allegations about informant Wein-

berg are unsupported.

There is no evidence of politically moti-

vated "leaks." There were "mistakes and deficencies" in

Abscam that show the need for additional controls on undercover operations.

Mistakes were made in selection and supervision of Weinberg, and the weight of the evidence indicates misconduct by Wein-

Controls over the initial approval of Abscam were insufficient, shifts in investigative focus were not adequately reviewed. and overall management and record-keeping were deficient.

There was undue reliance on corrupt middlemen to bring "at least one (and apparently more) clearly innocent public official . . . before the hidden cameras."

Justice Department supervision was inadequate in several respects, and senior offi-cials made certain "unjustifiable" and "injudicious" statements.

#### RECOMMENDATIONS

New legislation should expressly authorize undercover operations and exempt the FBI from certain legal restrictions that inhibit those operations. The statute should require Attorney General guidelines and annual reports to Congress. It should provide compensation for persons injured as a result of unlawful or negligent conduct. It should prohibit undercover operations conducted without "reasonable suspicion" of a crime and require "probable cause" for techniques threatening First Amendment rights.

Congress should consider providing an entrapment defense when an undercover agent has "induced the defendant to commit an offense, using methods that more likely than not would have caused a normally law-abiding citizen to commit a similar offense.

The Attorney General's guidelines and FBI administrative rules should be revised to clarify current procedures. If the FBI is permitted to conduct as many operations as now underway, Congress should appropriate more funds to ensure sufficient equipment and support for full record-keeping and con-

The Select Committee does not recommend special safeguards solely for members of Congress.

FEDERAL GOVERNMENT SPONSIBILITY FOR CHILD NU-TRITION PROGRAMS-SENATE CONCURRENT RESOLUTION 121

. Mr. HUDDLESTON. Mr. President, would like to commend Senators Dole and Leany for their introduction of Senate Concurrent Resolution 121. This resolution, of which I am a cosponsor, expresses the sense of Congress that the Federal Government should retain primary responsibility for the child nutrition programs.

As they have done throughout the 97th Congress, the chairman and ranking minority member of the Nutrition Subcommittee once again are providing balanced, bipartisan leadership in the vital area of nutrition programs. They have introduced Senate Concurrent Resolution 121 as a simple statement that this is not the time for a major revision of the Federal role in child nutrition programs. Various tentative plans for a reorganization of Government roles currently contemplate a turnback of these programs to States and localities.

In 1981, Federal aid for child nutrition programs was reduced by \$1.5 billion or 30 percent. Since that time, over 2,000 schools have dropped out of the national school lunch program and daily participation has dropped by over 3 million children, including 1 million from low-income families. Major reductions have also occurred in the other programs as well-school breakfast, summer feeding, child care food, special milk, and nutrition edu-

cation. Given the extent of last year's reductions, it hardly seems appropriate to move forward now with sweeping

plans to remove Federal support from these programs. I, for one, cannot imagine voting for a plan that would put the national school lunch program

out of business.

I am pleased to note that the House has already approved a resolution, Concurrent Resolution 384, House which is very similar in content to Senate Concurrent Resolution 121. Senate Concurrent Resolution 121 presently has 56 cosponsors.

Given the widespread bipartisan support for Senate Concurrent Resolution 121, I hope that the Senate will be able to take action on the resolution prior to the adjournment of the 97th Congress.

I ask unanimous consent that the names of the 56 cosponsors of Senate Concurrent Resolution 121 be printed in the RECORD:

Mr. Dole; Mr. Leahy; Mr. Andrews; Mr. Baucus; Mr. Biden; Mr. Boren; Mr. Boschwitz; Mr. Bradley; Mr. Burdick; Mr. Cannon; Mr. Chafee; Mr. Danforth; Mr. Dixon; Mr. Ford; Mr. Gorton; Mr. Hatfield; Mr. Heinz; Mr. Huddleston; Mr. Inouye; Mr. Jackson; Mr. Jepsen; Mr. Johnston; Mr. Kennedy; Mr. Melcher; Mr. Metzenbaum; Mr. Mitchell; Mr. Moynihan; Mr. Riegle; Mr. Roth; Mr. Stafford; Mr. Tsongas; Mr. Weicker; Mr. Zorinsky; Mr. Hollings; Mr. Sarbanes; Mr. Cranston; Mr. Chiles; Mr. Eagleton; Mr. Bumpers; Mr. D'Amato; Mr. DeConcini; Mr. Nunn; Mr. Stennis; Mr. Pell; Mr. Dodd; Mr. Percy; Mr. Sasser; Mr. Levin; Mr. Randolph; Mr. Hart; Mr. Pressler; Mr. Pryor; Mr. Grassley; Mr. Bentsen; Mr. Specter; and Mr. Glenn.

#### REAUTHORIZATION OF THE GENERAL REVENUE SHARING PROGRAM

. Mr. HEINZ. Mr. President, on December 1, the distinguished Senator from Minnesota, Mr. DURENBERGER, announced that on the first day of the 98th Congress he would introduce legislation to reauthorize the general revenue sharing program. This program, which we all know is vital to the Nation's cities, towns, and counties, is scheduled to expire on September 30. 1983, unless reauthorized by the Congress.

As chairman of the Finance Committee's Subcommittee on Economic Growth, Employment, and Revenue Sharing, which has jurisdiction over the general revenue sharing program, wish to announce today that I plan to convene hearings on the program early in the 98th Congress. I commend the Senator from Minnesota making his intentions known at this early stage. Further, I am pleased that the President indicated his support for the program in a recent speech to the National League of Cities.

A simple reauthorization is the minimum that the Senate should expect on general revenue sharing. In fact, I believe that ideally the Senate would consider a substantial strengthening of this program, rightly called the single most important program by our local governments.

I would like to consider, for example, such issues as the adequacy of the program's funding level, \$4.6 billion each year since fiscal year 1977; the distribution formula; and whether additional aid should be provided to the Nation's highly distressed cities, to help them over the severe financial difficulties resulting from Federal budget cuts, unemployment, and the recession.

Mr. President, I look forward to working with my distinguished colleague from Minnesota who has long studied the problems of intergovernmental relationships in our Republic and who has a longstanding interest in the general revenue sharing program. This is a program which deserves the full support of leadership in all branches of Government.

DR. DOUGLAS FENDERSON, DI-RECTOR OF THE NATIONAL IN-STITUTE OF HANDICAPPED RE-SEARCH

 Mr. BOSCHWITZ. Mr. President, I rise today to express my support for Dr. Douglas Fenderson from Shoreview, Minn., who has been nominated to be Director of the National Institute of Handicapped Research. Dr. Fenderson is a native of Minnesota, trained at the University of Minnesota in industrial education, vocational counseling, psychology, and educational psychology. He currently is the director of the Office of Continuing Medical Education at the University of Minnesota Medical School. He also is a scientist in the Center for Health Services Research at the University of Minnesota.

The National Institute for Handicapped Research is charged with researching the many broad problems of rehabilitation of the handicapped. Dr. Fenderson has the qualifications and background necessary to lead this agency. Throughout his career, he has had continual contact with rehabilitation of the handicapped and training of personnel in the health professions. He is well-qualified in that he understands the scope of the problems of the disabled, the problems of training and utilization of personnel, the methods by which resources can be focused for solutions of problems in rehabilitation, and the need for interdisciplinary participation in the attack on these social problems.

I am proud to recommend to my colleagues that they confirm Dr. Fenderson's nomination as Director of the National Institute of Handicapped Research.

#### UNICEF REPORT ON SAVING CHILDREN'S LIVES

 Mr. KENNEDY. Mr. President, yesterday the United Nations Children's Fund (UNICEF) issued a report that reminds us once again how easy it would be for the international community to save the lives each year—I repeat, each year—of at least 20,000 children around the globe.

The UNICEF report echoes the findings of many others, but it suggests that four simple steps—four simple and very inexpensive programs—could save the lives of tens of thousands of infants and children every year, if they were properly funded by governments.

These progams relate to the leading cause of death and to stunted development among the poor children of the world; they involve: Oral rehyration therapy for children suffering from diarrhea; promotion of breast-feeding of infants; the use of child growth charts to detect malnutrition; and immunization against childhood diseases.

Mr. President, as I noted in the speech I was privileged to deliver at the World Health Organization's Conference on Primary Care, held in Alma Ata in 1978—it is clearly within our grasp ot eradicate childhood diseases that claim the lives of millions of children every year.

Look what can be controlled with already proven techniques that do not cost a great deal. With simple and relatively inexpensive immunization programs the interantional community could control:

Some 72 million cases of measles each year, in which 1.2 million children will die; 800,000 cases of tetanus each year, killing at least 600,000 people, most of them children; the death of 200,000 children by polio; and 8 million children stricken with whooping cough, of which 300,00 will die.

Again, Mr. President, yesterday's UNICEF report confirms, these are all diseases which we can control now with available and proven techniques. It is a crime that we do not adequately fund them.

Mr. President, I commend the UNICEF report to my colleagues, and ask that press reports on it and the text of my 1978 statement to the World Health Organizaiton be printed at this point in the RECORD.

The material follows:

[From the New York Times, Dec. 17, 1982] UNICEF URGES 4 STEPS TO SAVE CHILDREN'S LIVES

## (By Jane E. Brody)

The lives of 20,000 children could be saved each day by adoption of four simple, low-cost health measures that have already proved successful in limited trials in several developing countries, the United Nations Children's Fund said in a report yesterday.

Although health problems among the world's poor children remain enormous and may never be eliminated, fund officials said a significant impact could now be made with existing techniques that could be easily used even by illiterate people who have few hygienic amenities.

Dr. Richard Jolly, deputy director for programs, said at a news conference that if the four measures were "seriously implemented,

half the young children who now die each year would live." He added, "Doubts and skepticism need to be overcome, rather than vested interests."

The fund, known as Unicef, said the measures were designed to reduce deaths and retardation caused by chronic malnutrition and repeated infections. They are oral rehydration therapy for children with diarrhea; breast-feeding of infants; the use of child growth charts to detect hidden malnutrition, and universal immunization to prevent childhood measles, diphtheria, tetanus, whooping cough, polio and tuberculosis.

Without requiring any addition to food supplies, the fund said, the measures would make major inroads against childhood malnutrition, currently the leading cause of death and stunted development among the poor children of the world. These effects of malnutrition are held largely responsible for continued high birth rates and limited opportunities for self-improvement among the poor in developing countries.

Improved mass communications in many areas—principally television sets and transitor radios—was cited as a reason for optimism that the measures would be adopted in areas until now difficult to reach with health improvements.

In a statement issued yesterday, the United Nations Secretary General, Javier Pérez de Cuéllar, appealed to national leaders to support the recommended actions, which he said would demonstrate that even in times of great financial strain "it is possible for the world to take imaginative steps tg heal some of the most tragic wounds of underdevelopment and poverty."

According to James P. Grant, executive director of Unicef, the main obstacles to wide applacation of the proposals are lack of political awareness and commitment, the need to organize community workers and, in some cases, resistance of medical care systems to the use of paraprofessionals to administer vaccines and the use of at-home remedies like the diarrhea treatment.

In its annual report on "the State of the World's Children," Unicef estimated that the total cost of the proposed measures to counter hunger and malnutrition would be \$6 billion a year. It said that no new technological advances were required and that the social mechanisms for applying the techniques—such as doctors, community development workers and transistor radios—already existed in most countries.

While noting the need for long-term changes such as land redistribution and job development to conquer worldwide malnutrition, the children's fund said that its specific short-term proposals could produce significant improvements almost immediately and help to interrupt the cycle of poverty, malnutrition, retarded development and continued poverty.

The cornerstone of the Unicef plan is oral rehydration therapy, the replacement of salts and water lost during extended bouts of diarrhea. The average child in a poor community of a developing country suffers between 6 and 16 bouts of diarrheal infection each year. Diarrheal infections are the single largest killer of children in the developing world, causing one death every six seconds, and a total of five million childhood deaths a year.

Though most diarrheal infections are selfcuring, children die because the rapid loss of water and salts in the stool disrupts the function of vital organs, including the heart and kidneys. Traditionally, these losses are reversed through intravenous feeding, which requires the services of a health professional in a hospital or clinic. At-home attempts to replace water and salt orally failed because most of the salt solution

cannot be absorbed by the gut.
But a decade ago it was shown that adding the sugar glucose to the oral salt solution increased the rate of absorption by 2,500 percent. The Lancet, a leading British medical journal, called this discovery "potentially the most important medical advance this

century. Thus was born oral rehydration therapy, using a mixture of sugar and salt dissolved in a liter of boiled water, which is then drunk by a child with diarrhea. Although boiling water is ideal, ordinary "unclean" water can be used if necessary, since the lifesaving measure is getting needed fluids and salt into the child, officials said.

In Peru, where 26,000 children die each year from diarrheal illnesses, a countrywide campaign to introduce oral rehydration therapy may have cut deaths in half in "just one summer," according to a former Health Minister, Dr. Uriel Garcia Caceres.

[From The Washington Post, Friday, Dec. 17, 1982]

HEALTHTALK: CHILDREN'S PROGRESS (By Sandy Rovner)

The adults in this world who worry about children are more worried than ever.

That, of course, should be no surprise: In hard times when resources are limited and social programs in general are at risk, those for children are even more so. "The payoff," says James R. Grant, executive director of the United Nations Children's Fund, which today celebrates its 36th birthday, much slower."

'Although we're at the end of 35 years of unprecedented progress for children, for the first time in the post World War II era, that

progress is now under challenge.

In response to that challenge, representatives of UNICEF, other U.N. agencies, the World Health Organization, World Bank, World Food Council, among others, have been brainstorming for some months to find a way to continue the progress that has seen "a greater reduction of child mortality, . in the greater improvement of health . last 35 years than in the preceding 500 to 1,000 years."

They think they have found a way even, as Grant puts it, "in these dark times.

Based on a series of medical break-throughs, along with 3½ decades of intense field work and educational programs, UNICEF and its fellow agencies are today unveiling-internationally-a "State of the World's Children" program they optimistically expect to create as great a revolution in worldwide child care as the so-called "green revolution" of the 1960s and '70s did for worldwide agriculture.

The four-pronged program (aimed mainly at developing nations, but also useful in rural and urban areas of the so-called developed) is dependent on a delivery system that has been burgeoning over the past decades: ranging from the training and placement of village health workers-100,000 in India alone—to the proliferation of communication devices as simple as the battery-op-

erated transistor radio.

The program is called GOBI, an acronym for its concerns: growth charts, oral rehydration therapy, breast-feeding and immunization. It is the oral rehydration therapy (ORT) and the immunization that contain the potential for dramatic and immediate medical impact on the most children.

Oral rehydration is a medical term for the restoration of vital fluids lost by infants and young children with diarrhea: the direct cause of about 5 million children's deaths a year, and indirect cause of millions more because of lowered resistance and malnutri-

Within the past decade—borrowing in part from a Southeast Asian folk remedy-medical science has discovered that fluids administered by mouth can be absorbed by the diarrhea-ridden small bodies only when a formulation of salts and sugar accompanies the liquid, restoring both fluid and electrolyte balance. A pre-mixed packet of six parts sugar to one-half part salt, is now available, inexpensive and ready for international distribution. It need only be mixed with water to perform its livesaving function.

Along with the development of the ORT packets come vaccines that no longer require constant refrigeration-until now major deterrent to providing the world's children with immunities to polio, diphtheria, tetanus, whooping cough, measles . .

Those are the contributions of science.

But so simple a thing as a return to breast-feeding—disastrously undermined in the past decade or so by misleading and incomplete information touting the virtues of prepared formulas-can be part of the children's health revolution. An even simpler concept—the individualized growth chart for each baby—can be a tool for modifying the habits of a village mother. It is a lure to bring her into regional clinics where inadevertent malnutrition can be spotted on the

third immunization shots when needed, where the mother can learn about such things as family spacing and proper nutrition. could be, says Grant, "a virtuous

chart, where a baby can receive second and

For reasons only partially understood, as child mortality rates drop, so do birth rates, usually at an even greater rate. Part of this may be attributed to the statistically significant, although only partially effective, contraceptive effect of breast-

In any case, the program is ready to start. You could," says Grant, "cut the death rate of children in low-income countries in half in the next 10 to 15 years for a very low cost-financial or political."

SPEECH AT THE WORLD HEALTH ORGANIZATION CONFERENCE ON PRIMARY CARE ALMA ATA, SOVIET UNION

"Health for all by the year 2000." That is the truly noble goal set for all nations by

the World Health Organization.

I believe that this conference will bring that goal closer to the people of the world. For this is a unique event-nations have been brought together not to discuss high technology, not to discuss bricks and mortar, not to discuss technical ideas-but rather to discuss a basic human right—the right of every man, woman and child to health care. The struggle to achieve that right is one that all nations, developed and developing, are engaged in, and all have a common interest in achieving.

the first special international health conference that W.H.O. has sponsored. Together with the United Nations Childrens Fund they have chosen wisely. For this conference symbolizes in a very important way, a new and common under-standing that primary care is the vehicle to achieve health as a matter of right for every person in the world.

Here in Alma Ata governments of every philosophy are united by the common purpose of realizing that right for all people. This concern and cooperation among na tions is a model of what is best in us and is an example we can be proud to follow in all our interactions with one another.

I particularly want to express my gratitude to Dr. Halfdan Mahler, Director General of the World Health Organization, and Henry R. Labouisse, the Executive Director of the United Nations Childrens Fund, for taking the leadership in organizing this conference. I also want to acknowledge the exceptional work done by Dr. Tejada and Dr. Tarimo of the World Health Organization in putting the details of this conference to-

It is 15 months since I had the honor of addressing the medical society of the World Health Organization in Geneva. At that time I spoke of the shadow cast over all nations by our global inability to deal with the serious challenge of caring for the poor and the sick, the destitute, the downtrodden of the world, the helpless victims whose cries fall on deaf ears. Since that time I have asked myself countless times why it has been so difficult to arouse the people of America to action. Surely they are moved by the magnitude of the problem. No mother can see what is happening to children in many parts of the world without feeling the injustice of it, the inhumanity of it, the outrage of it. 15.6 million children under five years of age will die this year. 15.1 million of these children will be in developing nations. What parent does not understand the horror of that fact?

There are statistics describing the plight of every age group in developing nations. But what is a statistic to some is a face to others. And behind these statistics are the faces of millions of people suffering from symptoms we can alleviate, dying from diseases we can treat, developing diseases we

can prevent entirely.

We would not tolerate wars that take the toll that preventable diseases take each year in developing nations. We would not stand by if nations slaughtered a fraction of the people who are killed each year by treatable diseases. We would call it a moral outrage and at least engage in a vigorous national debate over what to do. Is it not equally immoral to stand by while treatable and preventable diseases continue to take millions of lives, year after year after year.

Why do we tolerate this enormous trage-dy-and allow ¼ of the people on this earth-1 billion men, women and childrento continue to have no access to any health care whatever; and continue to allow millions and millions of these people to die terrible deaths each year from diseases that hold no mystery for modern medicine?

Why have the news media, so ready to report wars and individual tragedies, allowed this crisis to remain a silent one? It seldom intrudes into our living rooms or on our television screens.

I think the answer lies in the very enormity of the problem and the seemingless nature of it. The statistics are too overwhelming to grasp. One can't relate to them unless one can see a glimmer of hope, a way to really make progress, a way to reduce the suffering in measurable terms. I believe what we have been lacking is a vision-a vision that the problem is divisible into actionable parts; a vision that simple approaches, uncomplicated solutions can in fact work and impact on people's lives; a vision that the means exist to win the struggle at some definable point, no matter how far in the future. In short we need a vision that will make our people believe that individual people and individual companies and individual nations can make a difference. If we can dispel the sense of hopelessness; if we can dispel the sense of despair, we can arouse our people, our industries and our nations to action. Without the vision that it can be done there will never be the will to do it.

So the real test is one of leadership—leadership that not only challenges but shows the way to meet the challenge; leadership that not only describes the problem, but shows that it is possible to solve it.

I believe that the World Health Organization has that vision. Conferences like this one can help refine it and serve as a forum to communicate it to the nations of the world. I hope that the message that goes out from this conference is that "it can be done": we can get health for all by the year 2000; we can reach out to the children of the world and offer them better, longer, happier lives. As the Bengali poet Tagore wrote, "Life is given to us, we earn it by helping to give".

Why do I have this confidence?—In part because of what has already been accomplished; in part because the answer lies not in new technology or new research breakthroughs but in the application and delivery of what is already known. This is, in and of itself, a difficult task. But whether we succeed or fail now depends on our ability to organize people in each country to develop their own structure to meet their own needs.

In 1966, 41 countries reported smallpox cases. It was endemic in 32 countries and as many as 4 million people contracted the disease each year. I million of these men, women and children died. Others became blind. Yet today smallpox is virtually eliminated from the face of the earth. A seemingly hopeless problem has been solved. A dreaded disease is eliminated. The control and virtual eradication of smallpox is one of the greatest achievements of the World Health Organization-it had the vision that it could be done; it communicated that vision; and sensing that it was within their grasp, the nations of the world responded with the will to get the job done. Thousands of people participated in the special health networks centered around the world for this purpose.

The techniques used to eradicate smallpox are known: they are simple: they can be applied to other diseases. They include surveillance and vaccination. Look what other diseases we can control with these and other already proven techniques:

There are 72 million cases of measles each year in the world and 1.2 million children will die of the disease this year.

There are 800,000 cases of tetanus each year. 600,000 people, most of them children, will die from it this year.

200,000 children will die of polio, and 1.5 million people suffer from this dread disease.

8 million children will be stricken with whooping cough this year and 300,000 of them will die.

Measles, tetanus, whopping cough, polio we have vaccines for all of them. The smallpox success story can be repeated through immunization programs.

The Center for Disease Control estimates that 2.6 million children die each year from immunizable diseases. It is an enormous human tragedy. But it does not call for despair. It calls for action. Next year is the International Year of the Child. There can

be no more meaningful accomplishment on behalf of the children of the world than to realize the World Health Organization's goal of immunizing all the children of every nation by 1990. It is a goal we can and must achieve. Today, in 42 developing nations, the immunization rate for pollo is 8%, DPT 7% and measles 7%. So there is a long way to go. But we know the way.

There are other, simple technologies that can have enormous impact. Gastroenteritis kills as many as 18 million people each year. Fully half of these deaths could be prevented by improving the water supply. Cholera research has already shown that the use of proper rehydration fluids in treating gastroenteritis can save millions and millions of lives. There is no mystery here. We have an answer. It works. It lends itself to the most elementary primary care structure. It is a matter of developing the structure, getting the packaged fluids to every village. We reached every village in the smallpox drive. We can reach them with the rehydration fluids as well. But the challenge is to build the primary care network.

There are some who say we are overselling the idea of simple solutions for overwhelming problems. I say we haven't given the solutions a chance to work. If communicable diseases, malnutrition and overpopulation are the three major elements contributing to the health crisis in developing nations, then a strategy based on surveillance, immunization, oral rehydration, antibiotic therapy, improved water supplies, child spacing and protein and vitamin supplements make sense. By any modern medical standards these are simple technologies. That is not to say that the task of bringing them to every small village will be easy. It is not. But it does give us a realistic vision that the problem is soluble. It challenges us to have the will to make it happen—to develop primary care structures suited to the needs of each individual country, through which these solutions can be applied.

Is it worth the effort? The Center For Disease Control, extrapolating from data developed in Bangladesh, estimates that half of the deaths of children under five years of age—that is 7.5 million child deaths each year—could be prevented by these very simple techniques. It would be a moral outrage not to make the effort. My brother Robert Kennedy liked to quote these lines written by Albert Camus: "Perhaps we cannot prevent this world from being a world in which children are tortured. But we can reduce the number of tortured children and if you don't help us, who else in the world can help us do this?"

There are 40 million blind people in the world. In some developing nations 4% of the population is blinded by diseases that are largely preventable or easily curable. Simple techniques of administering vitamin A tablets, improving personal hygiene, making antibiotic eye ointments available—can prevent or cure as many as 25 million of these cases each year. Is it worth the effort to restore sight to children, or to prevent them from going blind? We can do it through primary health care networks. It is complicated. It is difficult. But it is doable. Do we have the will?

Sometimes it is hard to sustain the will. Sometimes the problems seem insurmountable. There is an eastern Mediterranean country with 17 million people where there are 23,000 separate villages—some not accessible by roads—; 2.5 million nomads; % of the children dying before age 5; an adult literacy rate of less than 12%; and a per capita

annual income of \$100. To some the goal of delivering primary health care to these people seems hopeless. But that country has just begun a major effort to build a primary care structure on what they have. They are training village health workers, birth attendants, female health workers, nomad health workers. It is a new effort. It is not an effort to import someone else's way of doing business. And that country, and all of us, can take heart from the fact that this type of approach is working elsewhere—that it does make a difference. The people of three tropical countries, which once had overwhelming problems—Sri Lanka, Costa Rica, and Jamaica-now have longer life expectancies than the people of Washington, D.C. Haiti has dramatically reduced the incidence of tetanus. A model primary care center outside of Bombay, India has significantly reduced infant mortality from 67 per 1000 in 1974 to 23 per 1000 in 1977. Neonatal mortality has been reduced from 42 per 1000 in 1974 to 21 per 1000 in 1977. This primary care project has employed the solutions we have already discussed-Rehydration, Immunization, Vitamin A supplementation, Use of local personnel, Health Edu-School Health Programs, Disease surveillance and Family Planning.

There are many individual success stories. They show us what can be done. They show us that to be successful each nation must build on its own strengths. Simple technologies may be transferable from one country to another. But the primary care network for delivering them to the people are not—they must be tailored to the individual country.

What then is the role of developed nations in helping this process? When we met at Geneva I outlined what I thought the United States could do. I'd like to give you a progress report on what has been accomplished since May 1977.

1. We are in the process of increasing our basic research effort into the special health care problems of developing nations. N.I.H. will receive additional research funds in the area of tropical diseases. The Congress is considering legislation to assure a targeted pharmaceutical research effort for diseases of developing nations. The Congress has already completed action on a foreign assistance law which mandates, for the first time, a specific effort in health and disease prevention. The language of the law itself states. "This assistance shall emphasize selfsustaining, community based health programs." In all, the health programs of AID will be authorized to spend \$148.5 million-a sum that remains too small but will at least allow a new beginning under the mandate of this new law.

2. The same new foreign assistance law implements the second suggestion I made in Geneva—that more extensive research efforts be based in developing nations themselves. Support for such research is specifically mandated in the new law.

3. I called for new efforts to develop training programs for health personnel and scientists from developing nations. Next year the Congress will rewrite the health manpower laws. I will propose legislation to help developing nations train health personnel in their own countries. In addition, where necessary, the legislation would make it possible for the training to take place in the United States. I will meet with the deans of the American medical schools to enlist their aid in developing this program.

4. I suggested that a new effort be made to involve the private sector both in solving

the health problems of developing nations and in adapting available knowledge and technology to the special circumstances in them. I would like to expand on this point. The developing nations represent an enormous potential market for the private sector. The interests of the corporations and the health concerns of the local government often coincide. If plants are to be built then the health of the workers is of vital importance to the corporation. There are many examples of significant corporate contributions to the health of the people in developing nations:

In Ghana, Kaiser Aluminum has developed a primary health care program for the area surrounding its operations.

In the Dominican Republic, Alcoa has, in cooperation with the government, developed an integrated primary care program.

In Indonesia, the Weyerhauser Company

In Indonesia, the Weyerhauser Company established a 50 bed hospital and has worked with the local community to control malaria, conduct immunization campaigns and deliver other preventive services.

The Xerox Corporation and the Children's Television Workshop have developed mass media preventive health messages for presentation throughout Latin America.

There is a long list of private industry cooperation with local community efforts to establish primary health care. I would urge all developing nations to involve the private sector—to require their involvement as a price for removing precious resources or developing the expanding markets that they seek.

As I promised to do in Geneva I met with leaders of the United States pharmaceutical industry to see if more resources could be devoted to developing drugs for the special problems in developing nations. As a result a major conference will be held this winter on this problem under the auspices of the Institute of Medicine of the National Academy of Sciences.

5. The Peace Corps has expanded its health component, as I requested. In 1977 only 10% of the volunteer years were spent on health and nutrition. Now that commitment is being increased to 33%.

6. Finally, I am delighted to report that my suggestion of creating an international health service corps has been adopted by President Carter and plans are well in progress to implement the concept. Professional and non-professional volunteers will make up the corps. I am told there is already a significant interest in serving the corps being expressed by young people across the country.

across the country.

I hope that other nations will consider developing parallel efforts. Ideally the International Health Service Corps should transcend national boundaries. It should be composed of people with different skills—physicians, nurses, engineers, community workers. It should tie the young people of different nations together by their common commitment to the people they are serving.

commitment to the people they are serving. Much has happened in the world since May 1977. In many respects there has been more confrontation than cooperation. The one persistent ray of hope has been the continuation of the joint effort to relieve the plight of the 2 billion people who languish in poverty, hunger, and disease.

I said in 1977 that a world that spends 300 billion dollars a year for arms can spend a little more for health. The arms race is a measure of man's inhumanity. The effort to alleviate human suffering is a measure of our humanity.

It is no longer unthinkable to give every child in every nation a fair start in life; it is

no longer unthinkable to promise longer, happier lives to people in developing nations: it is no longer unthinkable to realize every human being's right to health care. We have the vision. We know that the unbelievable human suffering will not be easily or immediately relieved. But we know it can be relieved. We know how to do it. I believe we all join in the prayer written by Stephen Vincent Benet:

"Grant us a common faith that man shall know bread and peace—that he shall know justice and righteousness—not only in our own land, but throughout the world. And in that faith, let us march toward the clean world our hands can make."

#### TRICENTENNIAL ANNIVERSARY YEAR OF GERMAN SETTLEMENT IN AMERICA

• Mr. HEINZ. Mr. President, on October 1, 1982, the Senate passed Senate Joint Resolution 260, a joint resolution to designate the period commencing October 7, 1982, and ending October 6, 1983, as the "Tricentennial Anniversary Year of German Settlement in America." This resolution was then referred to the House Committee on Post Office and Civil Service.

The House of Representatives has passed Senate Joint Resolution 260 with an additional proposal. By the request of the administration, a Presidential Commission for the German-American Tricentennial is to be established. The purpose of the Commission is to plan, encourage, and coordinate the commemoration of the German-American Tricentennial.

The President may appoint members of the public and private sector to serve on the Commission and shall designate a member from the private sector as Chairman. Other members of the Commission shall be appointed by the recommendations of the President of the Senate, Speaker of the House, and the Chief Justice. Members of the Commission shall receive no compensation for their services. However, they may be allowed necessary travel expenses, as authorized by law, to carry out Commission activities.

The Commission is authorized to receive donations of money, property, and personal services from public and private organizations and individuals to assist the Commission in carrying out its responsibilities. All expenditures of the Commission shall be made from donated funds only.

Furthermore, the Director of the U.S. Information Agency (USIA) is authorized to provide administrative services and staff support to the Commission. Reimbursement shall be made from funds of the Commission under the Economy Act (31 U.S.C. 686) in such amounts as may be agreed upon by the Chairman of the Commission and the Director of the USIA. The heads of other executive agencies and departments are also authorized and requested to cooperate with and assist the Commission in fulfilling its responsibilities.

By acting as a clearinghouse for information, a coordinator of activities and as a source of support, the Presidental Commission will make these observances broadly visible. This Commission will insure a successful celebration of the Tricentennial Year.

Our alliance with the Federal Republic of Germany is an important, indeed, an essential one. At a time when many are focusing on the differences between friends, it is important to remind people that our two countries are united in our joint faith in the democratic process and in our mutual commitment to the defense of our freedoms and common values.

President Reagan has extended an invitation to President Karl Carstens of the Federal Republic of Germany to visit our country during the Tricentennial Year. President Carstens has accepted that invitation. Both Presidents of these two great democracies will be taking part in local celebrations planned throughout the United States to honor the important contributions of German Americans to the progress of America.

This resolution will demonstrate our appreciation of the contributions of German Americans to our society, as well as underscore the historic friendship which has existed between our two nations. I believe that this resolution will be an important symbol of the underlying and enduring goodwill between the United States and Federal Republic.

# THE U.S., TRADE, AND THE INTERNATIONAL ECONOMY

• Mr. PELL. Mr. President, less than 1 month ago a highly infrequent meeting of more than 90 of the world's trade ministers convened in Geneva, under the auspices of the General Agreement on Tariffs and Trade (GATT) only the third such meeting in the last 20 years. They met, at the behest of the United States, in order to confer on the ever-growing list of acrimonious trade disputes among the world's trading partners which seriously threatens the stability of the international trading system. They also hoped to agree upon a work program for the 1980's in order to further progress on the expansion of international trade. That meeting concluded on November 29, however the verdict is still out as to whether it was a success or failure. I, for one, hope that at the very least this meeting served to highlight the critical threat to the international economy that mounting protectionism once again poses.

As you know, GATT was constructed out of the ashes of World War II and the fresh memories of destructive "beggar-thy-neighbor" trade policies of the 1930's which had exacerbated and prolonged the devastation of the

Great Depression. For the last 35 years GATT has stood as the central institutional pillar of the postwar international trading system, providing a framework of liberalized and nondiscriminatory trade rules within which, at least until recently, nations participating in the international economy have prospered. In fact, it was the mutual agreement to adhere to these "free trade rules" by all principle trading nations which acted as an important catalyst if not the sole engine for the burst in world trade which resulted in the ensuing years.

The United States has naturally been an important beneficiary of this burgeoning economic activity worldwide, both in terms of expanding job opportunites for Americans, increases in personal incomes, and general wellbeing. But we have not been the sole beneficiary of this 35-fold increase in world trade over the past 30 years, for as President Kennedy noted two decades ago, "a rising tide lifts all the boats." Unfortunately, that tide has ebbed recently and left most "boats" marooned on the shoals of worldwide economic recession and mounting pro-

tectionist pressures. We sometimes forget in the United States that trade plays an integral part in the health and vitality in our economy. Although exports as a percentage of gross national product (GNT) are small relative to many of our allies-slightly less than 8 percent of our GNP-for selected industries and regions jobs related to the production and sale of exports have become the life's blood of many communities. In my State of Rhode Island, for example, some 7.5 percent of total civilian employment comes from jobs related to manufactured exports-this is the highest ratio of any State in the Union. With over 12 million Americans currently unemployed, and some 30 million unemployed in the 24 industrialized countries which make up the Organization for Economic Cooperation and Development (OECD) it has become very difficult for so called internationalists to continue to advocate

an open trading system. The U.S. trade deficit for 1982 is expected to reach \$44 billion, more than 11/2 times greater than our 1981 deficit. European steel and Japanese auto imports appear to be displacing American workers in those industries at the same time that these countries cling to their own protectionist policies thereby inhibiting the sale of U.S. agricultural and manufactured exports. The principles of free trade, which served us so well for over three decades have now been seriously eroded with almost 50 percent of world trade currently transacted outside of the GATT framework, usually through bilateral arrangements which limit exports. Such events seriously test the political will of U.S. policymakers to continue

to be advocates of and adherents to principles of free and nondiscriminatory trade rules.

What is the root of these problems? Some charge that the Government of Japan has acted to explicitly hold down the value of its currency-the ven-in order to maintain a competitive edge for its exports on world markets, while at the same time making U.S. exports prohibitively expensive for its own citizens. It is true that the Japanese economy is not as completely open to the free flow of foreign currencies as the U.S. economy. This is an important determinant of the yen's value on world markets. However, the fact is that Japanese monetary officials have taken a number of steps to liberalize their so called capital markets as is evidenced by an outpouring of yen from Japan of over \$20 billion during the first 10 months of 1982. Nor does it explain why the dollar has risen in value over the past year against almost every major currency.

I believe that we should look a little closer to home to find the roots of our current problems. Much of the economic distress we currently feel is rooted in what I view are the misguided monetary policies which this administration has pursued. A severely constrained money supply, purportedly in order to stem the rise in domestic inflation, has created prohibitively high real rates of interest. This policy has inflicted a deadly blow to our housing industry, the hope of the average American family to own their own home, and the willingness of U.S. companies to make badly needed investments if the economy is to return to health. I fear that our monetary authorities are like surgeons who rave about the success of the operation, failing to mention that the patient has nevertheless died.

In addition, we should not be surprised that foreign investors have sought to purchase U.S. dollars and place those dollars in U.S. money markets since they can receive almost double the interest rates offered on similar deposits in their own countries. This flight to dollars increases the demand for dollars, and like any other commodity, its price goes up. Thus, our own monetary policy is also a primary cause for our overvalued dollar internationally, which has taken otherwise superior U.S. exports "out of the running" in price competitive terms.

This wide interest rate differential between the United States and our other trading partners has required European and Japanese monetary authorities to pursue restrictive monetary policies to keep that differential from widening further and to prevent the flow of their currencies into dollars from becoming a flood. Therefore, they are unable to pursue expansionary monetary policies which they

might otherwise do—policies which would foster increased growth domestically and encourage demand for U.S. exports. This further erodes the purchasing power of foreign consumers who might otherwise still prefer to purchase American goods, even at somewhat higher prices.

I do not naively believe that all of the problems of the world will be solved if U.S. authorities reverse the course of our monetary policy, but I do believe it will set the stage for handling a number of our trade disputes that now seem to be so unmanageable. Our efforts to convince our allies to do away with many of that restrictive trade practices are more likely to succeed in such an atmosphere. So too will it be possible to take temporary steps to assist our domestic industries in distress from imports in accordance with the GATT which provides universally understood and agreed to rules for diverging from nondiscriminatory and open trading practices.

Only in an atmosphere of optimism and economic growth can we begin to repair the damage done to the free trade principles which have served us so well. I believe that with the adaptation of those free trade rules to the realities of the current world economy, trade can once again serve as a catalyst for economic prosperity. As Ralph Waldo Emerson observed in 1844, "the philosopher and lover of man have much harm to say about trade, but historians will see that trade was the principle of liberty, that trade planted America and destroyed feudalism, (and) that it makes peace and keeps peace."

#### REVENUE SHARING

• Mr. PRYOR. Mr. President, I am very pleased to announce my support and cosponsorship of legislation that will be introduced early next year by Senators Durenburger, Sasser, and others to reauthorize the general revenue sharing program.

General revenue sharing was created by the State and Local Fiscal Assistance Act of 1972—Public Law 92-512—and was subsequently extended for 4 years in 1976 by the State and Local Fiscal Assistance Amendments, Public Law 94-488. Once again, in 1980, with the enactment of the State and Local Fiscal Assistance Act Amendments of 1980—Public Law 96-604—the general revenue sharing program was reauthorized for 3 more years. However, authorization of this program will expire on September 30, 1983, unless it is reauthorized.

I believe the general revenue sharing program has been a tremendously important program, providing State and local governments with valuable general purpose fiscal assistance. In fact, passage of revenue sharing marked a fundamental change in intergovernmental relations.

Continuation of the general revenue sharing program is extremely important both in terms of fiscal impact and budgetary planning stability to State and local governments. As the program has withstood the test of time and been reauthorized, many local governments have increased their use of the programs. In fact, according to a recent National League of Cities survey, over 40 percent of all small cities now receive no other Federal aid, and 80 percent of cities surveyed said they would be forced to cut services next year if the program were reduced or eliminated. In addition, 50 percent of such small cities said they felt they would be forced to raise taxes if revenue sharing is not continued.

The success of the revenue sharing program in the State of Arkansas is widely acclaimed. The total amount of general revenue sharing program funds received by all municipalities in the State of Arkansas was \$43,441,575 in fiscal year 1981, \$48,184,041 in fiscal year 1982, and will be approximately \$46,413,653 in fiscal year 1983 if the program is reauthorized. I just recently received a very persuasive letter from Mr. John Frazer, the mayor of Warren, Ark., in support of reauthorization of revenue sharing. I ask unanimous consent that a copy of this letter be printed in the RECORD following my remarks.

Mr. President, I have been a consistent supporter of the revenue sharing program and I strongly support continuation of the program. The legislation, which I have agreed to cosponsor, will be introduced on the first day of the 98th Congress to reauthorize the general revenue sharing program. It will be a simple reauthorization for 3 years at the current level of funding of \$4.6 billion and will employ the same allocation formulas as the present program. I urge my colleagues to join me in calling for early hearings in the 98th Congress on this issue and in supporting the continuation of this vital program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> THE CITY OF WARREN. Warren, Ark., December 10, 1982.

Hon. DAVID PRYOR, U.S. Senate, Russell Building, Washington, D.C.

Dear Senator: As the end of 1982 draws near, the attention of local governments turn to 1983 and annual budgets. The City of Warren is no exception. Realizing the many difficult problems to be faced by the Congress in 1983, it is the desire of the City of Warren to go on record early in favor of the continuation of the General Revenue Sharing Program.

You need not be informed that Revenue Sharing, as currently authorized, will expire at the conclusion of this federal fiscal year and with the tough decisions required to

solve our economic problems, many will spot an easy target in Revenue Sharing to eliminate.

To demonstrate the essence of the Revenue Sharing question as it affects the City of Warren and I know most other municipalities, Revenue Sharing covers a full 15% of Warren's operating budget. In past years, the City of Warren utilized RS to make capital expenditures. Now RS is essential to maintain basic City services like police and fire protection. Rising costs have created this situation.

I realize that all levels of government must be more efficient and stick to basics. Most communities are doing just that. We're not broke but remove RS and a drastic financial condition will exist. Frills to be maintained are not the question, protection of life and property is.

Please support the continuation of General Revenue Sharing to local governments for the benefit of all our citizens. If you have questions concerning RS and the City of Warren, feel free to contact me.

Sincerely.

JOHN B. FRAZER, Mayor.

#### REVENUE SHARING

Mr. SASSER. Mr. President, reauthorization of the general revenue sharing program should, in my view, be the first order of priority for the 98th Congress. Otherwise, this valuable fiscal assistance to local governments will expire next September.

Programs run by local governments have already taken a disproportionate share of the budget reductions made in the 97th Congress. That is why general revenue sharing, with its flexible character, is so important to retain as a supplement to Federal assistance programs which cities and counties must now run with reduced funding.

Since the inception of the general revenue sharing program in 1972, Tennessee local governments have received more than \$700 million in local general revenue sharing funds. Local officials have used these funds to provide for a wide variety of essential public services including police and fire protection, highway maintenance and education.

Mayor William N. Morris, Jr., of Shelby County wrote me the following letter concerning the important role that revenue sharing funds play in the budget of the government he administers. Mayor Morris' letter will be printed at this point in the RECORD.

> SHELBY COUNTY GOVERNMENT, October 27, 1982.

Senator James Sasser. Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR SASSER: Shelby County urges you to support reenactment of General Revenue Sharing at least at current funding levels in the fiscal year 1984 budget.

As you know, the General Revenue Sharing program has been the least costly to administer and the most effective in solving local problems than any other intergovernmental partnership program of the national government.

Shelby County believes the track record of General Revenue Sharing deserves reenactment commitments from national officals prior to the elections on November 2, 1982. In addition, we believe this commitment should include a continuation of General Revenue Sharing as a part of a potential New Federalism program or as a free standing program should a New Federalism program not be enacted.

Your continuing support for the General Revenues Sharing program, as the best example of what a real intergovernmental arrangement should be, is deeply appreciated.

Best wishes for the future.

Sincerely,
WILLIAM N. MORRIS, Jr.,
Shellm Cou Mayor of Shelby County.

Mayor Richard Fulton of Nashville, Tenn., also wrote me regarding the renewal of general revenue sharing. Mayor Fulton speaks on behalf of city governments across the Nation since he is the president-elect of the U.S. Conference of Mayors. Excerpts from Richard Fulton's letter is printed in the RECORD at this point.

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY. August 24, 1982.

Hon. JAMES R. SASSER, Russell Senate Office Building, Washington, D.C.

DEAR JIM: One of the most important issues facing the Congress next year will be the renewal of the General Revenue Shar-Program. General Revenue Sharing (GRS) is the only federal program that helps all communities, large and small, under a distribution formula that is widely regarded as fair to all. It is the most important form of federal assistance to cities for it provides assured funding which enables local officials to plan ahead; there is a minimum of red tape and burdensome regulations; and, most important, it permits discretion to use the funds to meet high-priority local needs.

This year the Metropolitan Government will receive \$9.4 million in GRS funds. While only comprising 2.5 percent of the total operating budget, the use of these funds has ranged from supporting countywide fire protection to supplementing police and emergency ambulance personnel salaries to providing direct relief to the indigent and handicapped.

Although important to all cities, GRS is particularly important to small cities, generally those of less than 25,000 population. According to a National League of Cities' survey, GRS payments comprise about 14 percent of small cities' budgets. Moreover, for many of these cities, GRS is their only source of federal assistance.

I appreciate your time and attention to this matter, and look forward to working with you in the future.

Sincerely,

RICHARD H. FULTON, Mayor of Nashville.

Finally, the National League of Cities recently asked member cities to respond to a questionnaire on the im portance of revenue sharing to them The article from the Nation's Cities Weekly of November 22, 1982, highlighting the responses NLC received from this survey will be printed fol-lowing my remarks in the RECORD. The title of the article is "Cities response to NLC Survey Shows Dramatic Need

for Revenue Sharing."

In sum, general revenue sharing is vital to cities and towns across the Nation. Despite the reliance that so many local governments place on these funds to supplement their operating budgets, the program remains vulnerable due to lack of full-scale administration support. Senator Durenberger is to be commended for preparing this legislation, which I am pleased to cosponsor, to reauthorize funding of the revenue sharing program for another 3 years at its present funding level of \$4.6 billion annually.

This is a program with a 10-year track record which proves its usefulness. The price tag is not high considering that, due to general revenue sharing's low overhead costs, nearly every dollar actually goes into local

services.

Senator Durenberger is today announcing that a large bipartisan group of Senators join him as original cosponsors of this bill to renew general revenue sharing. We will be introducing this bill on January 3, 1983, the first day of the 98th Congress. We know that this will send a strong message to President Reagan that we will oppose any effort to abolish or dismantle this most effective Federal aid program.

[From the Nation's Cities Weekly, Nov. 22, 1982]

CITIES' RESPONSE TO NLC SURVEY SHOWS DRAMATIC NEED FOR REVENUE SHARING (By Francis Viscount)

A vivid picture of the essential need for the continuation of general revenue sharing is emerging from NLC's survey of its direct member cities on the importance of general revenue sharing to their fiscal condition.

An analysis of data collected from 494 cities, provided the following picture of the impact on cities of the \$4.6 billion-a-year

federal aid program:

GRS receipts provide an average of 6.26 percent of the total of locally raised revenues, but as much as 10 percent or more in

some small cities.

To replace a loss of GRS funds, property taxes would have to increase about 25 percent in most cities, but as much as 45 percent in cities under 10,000 population. In the largest cities, over 100,000 population, property taxes would have to go up about 15 percent.

If cities were faced with a loss of revenue sharing funds, few would try to make it up by increasing taxes. The most likely repercussions would be a combination of cuts in capital and operating budgets along with some effort to raise a portion of the lost revenue, but a substantial percentage of larger cities would respond strictly through budget cuts.

Layoffs, ranging from several to several hundred, appeared likely in city work forces if revenue sharing funds were lost.

"This kind of information paints a vivid image of the crucial importance of general revenue sharing for cities," said Alan Beals, NLC executive director.

"While we feel there is a strong reservoir of support in Congress to continue this program, the dismal consequences of losing revenue sharing are useful in driving home the fact that its future cannot be dealt with

lightly," Beals said.

Cities are already experiencing extraordinary fiscal stress due to the compounding factors of a prolonged recession, substantial reductions in federal aid to local governments and the variety of tax and expenditure limitations imposed by both the voters and state legislators.

This combination of factors has caused local government to begin making real reductions in spending, after taking into account inflation, and absolute reductions in

the number of employees.

For the first time in over three decades local government, and state government, are behaving pro-cyclically and contributing to the length and severity of the recession. The spector of the loss of general revenue

sharing magnify all these trends.

Local governments have had the variety of responses to fiscal distress greatly reduced in the recent past. Because of the recession local revenues are down. Because of the cutbacks in state and federal governments, grants from them have been reduced. Because of the continuing deterioration of infrastructure, capital budgets can no longer be reduced.

Therefore, the continued fiscal stress of

Therefore, the continued fiscal stress of cities, and the possible loss of revenue sharing, will force even more severe cuts in the public services which cities provide.

NLC has sent surveys to its more than 1,000 direct member cities and currently has received back approximately one-half. In the initial analysis of the returns, these cities reporting were broken down into population groups. These groups were under 10,000, 10,000 to 50,000, 50,000 to 250,000, 250,000 to 500,000 and over 500,000.

Three major questions were put to the cities. How important is general revenue sharing to you; what do you use general revenue sharing for; and what will you do if

general revenue sharing were ended?

To determine how important general revenue sharing was to cities three different questions were asked, what share of locally raised revenues is general revenue sharing, how much would your property tax have to be increased to compensate for the loss of general revenue sharing; and is general revenue sharing; and is general revenue sharing your only federal grant.

General revenue sharing represents approximately 6.26% of locally raised revenues, exclusive of other federal grants and intergovernmental aid from the states. For the majority of cities, it represented between 1 and 10 percent of the locally raised revenue.

Significantly, however, for smaller cities, general revenue sharing for many of them represented over 10 percent of their locally raised revenue. For the smallest cities, one quarter of them had general revenue sharing equal over 10 percent of their locally raised revenue.

Often it has been asserted that cities would be able to tap property tax to make up for the loss of general revenue sharing. However, the answers to our survey indicate clearly that property tax rates could not be raised at any where near the amounts necessary to compensate.

For the small cities the average rate increase would be 45 percent.

General revenue sharing is particularly

important for smaller cities.

For cities under 10,000, 63 percent indicated it was the only grant they received. For cities under 50,000, 41 percent indicated it was the only grant received.

The significance of general revenue sharing dropped off rapidly as the populations increased to 250,000, and only 6 percent of the cities reporting indicated that it was their only federal grant. For cities over 250,000 none reported GRS as their only grant.

As city size increased, fewer cities used revenue sharing for capital projects only. Also, as city size increased, more cities

Also, as city size increased, more cities used general revenue sharing exclusively for operating programs.

Other than for the very largest cities, approximately 40 percent of cities reporting indicated that they split general revenue sharing between operating and capital activities. This is a clear indication of the value of the flexibility built into general revenue sharing.

The major capital uses for general revenue sharing show, although there were some unique applications, economic development, street repairs, mass transit, most of the spending was for basic public infrastructure. Under this category would come land acquisitions, public building construction and renovation and the purchase of major equipment.

Under the major operations funded with general revenue sharing, the flexibility of use is more evident. A number of cities funded dial-a-ride and alternative local tran-

sit programs.

Many cities supplemented their public health and emergency medical services with general revenue sharing. Recreation programs, surprisingly, were mentioned by a fair number of cities but were not the dominant factor that some critics of the program have suspected.

Senior citizen programs and various social services programs, including funding public service agencies, were an important use of

revenue sharing funds.

However, the fiscal stress that dominate local public finance has forced the cities to allocate the funds to the core municipal functions of public safety, administration, planning, sanitation, and transportation.

The consequences of terminating GRS are

unpleasant.

In many ways they should not shock the reader of the survey report, because these are consequences cities face because of the severity of fiscal stress they are experiencing.

Under the range of broad options which are available to cities, increasing revenues as a sole option was indicated by only 11 percent of the cities reporting.

Most of the smaller cities indicated increasing taxes, while in some of the large cities they would increase fees.

By far the most significant response would be to cut capital and operating expenditures.

Twenty-eight percent of the cities indicated they would reduce capital to compensate for the loss of GRS and 13 percent would compensate solely with reducing operating expenditures.

Forty-three percent of the cities reporting indicated they would do a combination of increasing revenue and cutting spending. However, a few cities indicated they would try to use reserves and increase debt, however, these cannot be permanent solutions to the reductions in GRS.

When pressed further, 28 percent of cities reporting indicated they would have to lay off employees, with almost half of the cities between 250,000 and 500,000 indicating that would have to be the course they would have to take.

The average number of layoffs indicated grows rapidly with city size, and reflects the fact that larger cities receive substantially larger dollar amounts of general revenue sharing.

The results of the survey indicates the importance of revenue sharing and very difficult actions cities would have to take to compensate for the loss of these funds.

Revenue sharing has become in many ways the glue that holds the precarious fiscal situation in many cities together.

Existing resistance to higher taxes would insure that important services would have to be reduced, capital spending for infrastructure postponed and municipal employees laid off.

These initial findings further dramatize how GRS is important to all cities and the need for NLC and its direct member cities to redouble their efforts to insure enactment of the program.

## CITIES' USE OF GRS FUNDS

- 3	In	per	ce	nt
В	1	48		

	Population in thousands					
en so pur l'e	Under 10	10 to 50	50 to 249	250 to 499	Over 500	All
Capital only	37 20 42	26 29 45	17 45 38	10 50 40	0 82 18	24 34 42

Source: NLC

#### CITY ACTIONS TO COMPENSATE FOR LOSS OF GRS

[In percent]

	Population in thousands						
Allors Tills	Under 10	10 to 50	50 to 249	250 to 499	Over 500	Total	
Increase taxes	19	10	8			10	
Increase fees			1	5	9	1	
Reduce capittal							
expenditures	26	33	23	20		28	
Reduce operating			24				
expenditures	3	13	18	15	27	13	
Increase revenue and cut	44			55	**		
spending	44	41	44	23	55	43	
Use reserves	9	- 1	2.				
Increase debt	1		5.			- 2	
Other	3	1.		5	9	- 8	
Total	100	100	100	100	100	100	

Source: NLC

#### MAJOR OPERATIONS FUNDED WITH GRS

[Fiscal year 1982 in percent]

	Population in thousands						
Activity	Under 10	10 to 50	50 to 249	250 to 499	Over 500		
Alternative transit	3	4	2				
Health	2	6	5	17	18		
Recreation	10	8	5		6		
Senior citizens	11	9	8	11 .			
Social services	8	9	10	11	18		
Public safety	40	39	55	50	18		
Other services 1	37	25	16	11	41		

<sup>&</sup>lt;sup>1</sup> Includes administration, planning, sanitation, transportation.

If historical studies are reviewed, an even wider range of GRS uses is

Source- NLC

#### MAJOR CAPITAL USES OF GRS FUNDS

[Fiscal year in 1982 percent]

THE REAL PROPERTY.	Population in thousands						
Activity	Under 10	10 to 50	50 to 249	250 to 499	Over 500		
Economic development Streets Transit Other public works 1	17 28 2 53	9 41 4 46	9 30 6 55	50 17 33	100		

1 Includes parks, land, buildings, major equipment.

THE 175TH ANNIVERSARY OF THE BIRTH OF JOHN GREEN-LEAF WHITTIER

KENNEDY. Mr. President, today is the 175th anniversary of the birth of a giant of American letters and a famous son of Haverhill, Mass., the poet John Greenleaf Whittier.
When Whittier was 18, his older

sister sent one of his early poems to the Newburyport Free Press where it was printed. Soon thereafter, his poetry was published weekly in the Haverhill Gazette, and Whittier became widely known, first throughout New England, and then throughout the Nation.

Whittier is famed today as a perceptive chronicler of New England farm life and an eloquent poet of our new and growing Nation in the 19 century. His works are filled with brilliant images of the changing seasons of New England. As much as any poet in our history, he captured the essence of a region and a way of life. In the century and three-quarters since his birth, millions of American school-children have memorized his verses and learned about their country.

Whittier was also active on the public causes of the day. He helped to found the abolitionist movement in the 1830's, and was one of the great public crusaders of the century for equality and an end to slavery. He once said that the happiest moment of his life was the day President Lincoln issued the Emancipation Proclamation.

John Greenleaf Whittier is not only one of America's greatest poets, but a man who shared the action and the passion of his time. He is an important part of our priceless national heritage, and I am proud to bring the attention of the Senate to this anniversary of his birth.

ARNOLD THE AND MARIE SCHWARTZ COLLEGE OF PHAR-MACY AND HEALTH SCIENCES

• Mr. D'AMATO. Mr. President, on Friday, November 19, Food and Drug Commissioner Arthur Hull Hayes, Jr., delivered an address at the Third Annual Arnold Schwartz Memorial Program. This program marked the beginning of Long Island University's

centennial celebration which will culminate in 1986.

Dr. Hayes' remarks were very pertinent to the issues which face this Congress and this Nation: tamper-resistant packaging, orphan drug developments, and FDA procedures for insuring safe and effective products for the American consumer.

The Arnold and Marie Schwartz College of Pharmacy and Health Sciences is to be commended for sponsoring this most impressive program and I ask that the text of Dr. Hayes' remarks be printed in the Congression-

AL RECORD.

The remarks follow:

REMARKS BY ARTHUR HULL HAYES, JR., M.D., COMMISSIONER OF FOOD AND DRUGS

Mrs. Schwartz, Dr. Yalow, Dr. Axelrod, Dr. Blumberg, and distinguished guests, good afternoon. It is a real pleasure for me to join you today in this program celebrating the memory of Arnold Schwartz. All too often as Commissioner of Food and Drugs, I am called upon to speak during a crisis or to a mixed audience, whose members do not always greet my remarks with joyous unanimity. Today's occasion, however, is mark-edly different. I believe that we can all agree on the great achievements that Mr. Schwartz has made possible. And so this is a special occasion for me, to be with you as we honor a man of vision and dedication.

Mr. Schwartz was a rare man; he was both generous and wise. His seemingly boundless generosity is obvious in his sponsorship of such schools as the Arnold and Marie Schwartz College of Pharmacy and Health Sciences which we are visiting today. The numerous drug research programs and drug information projects which he endowed are many. His unsurpassed willingness to give explains, in part, why we are gathered here

in his honor.

Wisdom is the second virtue I attribute to Mr. Schwartz. Surely this was the guiding force in directing his attention to the fields of health sciences and health sciences education. Because of his farsighted vision and concentrated donations much excellent work has been done, and it will doubtless continue in his memory. He would be proud of what has been accomplished in the last three years, but he would challenge us to do even more. It is appropriate, therefore, for us to meet together in his honor, to talk about common challenges, and to explore how we can work together to improve the public health.

The presence of the three preceding speakers, and the distinguished scientists in the audience, reminds me of a White House dinner several years ago to honor Nobel Prize winners. After an elegant meal, the President reflected upon the guests and commented, "I think this is the most extraordinary collection of talent, of human knowledge, that has ever been gathered at the White House-with the possible excepwhen Thomas Jefferson dined tion of

Obviously, the world of scientific knowledge is far more complex than in Jefferson's time or even when the President compli-

<sup>&</sup>lt;sup>1</sup> Dr. Rosalyn S. Yalow, 1977 Nobel Laureate in Physiology or Medicine; Dr. Baruch S. Blumberg, 1976 Nobel Laureate in Physiology or Medicine; Dr. Julius Axelrod, 1970 Nobel Laureate in Physiology or Medicine.

mented his audience. But the mere presence of Drs. Axelrod, Blumberg, and Yalow attests at one to the vitality and complexity of our scientific endeavor, and I am honored to share the podium with them today.

The theme of this year's program, "Medication: Its Key Role in Today's Health Care," is most appropriate. The discoveries of Nobel Laureates and the great generosity of people such as Arnold Schwartz can achieve their full flowering only when they result in better products and improved health care. In these brief remarks today, I would like to survey FDA's role in this process—what we do to bring promising products to market promptly and to assure their safety and efficacy. In doing so, I want to focus on three specific areas—the packaging of over-the-counter medications, the new drug approval process, and orphan products.

There is no denying the importance of medication. During 1981, Americans spent well over ten billion dollars on prescription drugs in the Nation's pharmacies alone. This figure does not include prescriptions filled in hospitals. And the most recent retail figures for over-the-counter medications show that we buy six billion dollars worth of over-the-counter packaged medications annually—exclusive of vitamin products.

Moreover, consumers are continuously exposed to advertisements on television, radio, and in magazines heralding the miraculous benefits of Products A through Z, and the various brands of similar products. Numerous books now advise people how to monitor their health and, in some cases, prescribe medications for themselves. It comes as no surprise, then, to any of us, that we have become a culture that relies upon drugs and expects a health care system that responds to any problem.

The recent incidents of tampering, in Chicago and elsewhere, with over the counter products only reinforce the concept that medications do play a key role in our lives. The American people expected—and they received—a prompt response to the tragedy.

Over 1200 FDA personnel were mobilized from all levels of the Agency to deal with the ever-changing situation. With the help of state officials, we analyzed over 1.7 million Tylenol capsules and investigated over 280 reports of Tylenol related illnesses or death. Twenty-four hour emergency coverage was provided by FDA staff. I created a formal emergency Task Force which met at least twice daily to review, discuss, and direct the activities of headquarters and field personnel.

After deliberations with Secretary Schweiker, I conferred with The Proprietary Association and suggested the organization of an industry task force to address the problem of package integrity and product security. The Joint Committee on Product Security was formed. A special expert technical committee was appointed to develop standards for tamper-resistant packaging, and various technologies and packaging types were identified.

The need for the development of a Federal standard was recognized immediately, and FDA began the task of drafting just such a rule. We were concerned about the development of conflicting state and local laws or proposals to require tamper-resistant packaging. So we quickly prepared a final rule and published it in the Federal Register on November 5. This final regulation requires tamper-resistant packaging for all OTC drugs except dermatologics, dentifrices, and insulin. Cosmetic products subject to the

rule are liquids used orally, such as mouthwashes, gargles, breath fresheners, and a few other cosmetic products. Ophthalmic device adjuncts, such as contact lens solutions and lubricants are covered by a separate regulation published the same day.

Consumers will be alerted to the specific tamper-resistant feature by a statement on the product container. The tamper-resistant packaging regulation will apply uniformly to all manufacturers of OTC drug products in all geographic areas. It will provide the public health protection the American people need and deserve. At the same time, the national drug distribution system will not be unduly burdened, and health costs will not be raised unnecessarily.

It will take time for these initiatives of government and industry to have their most visible effect. It will take time for industry to get the equipment in place to begin new packaging procedures. And, I must emphasize, these measures will not—they cannot—guarantee the safety of all products. We must recognize that a tamperproof package is not possible.

For these reasons activities by health professionals, industry, FDA, and various civic groups are underway to inform and educate consumers on observing the condition of the products we buy. FDA is building on its existing programs to disseminate information and to impress upon consumers that they have a personal responsibility to be more aware of what they buy and consume. On October 27, I filmed a public service announcement providing advice to consumers for recognizing the signs of tampering, and reminding consumers that no container is tamperproof.

I believe the tragic events of last month have made us all wiser. And the events provide a unique occasion to learn. We must be careful, though, to draw the correct conclusions from what happened. Mark Twain once observed that "We should be careful to get out of an experience only the wisdom that is in it—and stop there, lest we be like the cat that sits down on a hot stove lid. She will never again sit on a hot stove lid—and that is well, but neither will she ever sit down on a cold one."

Our response to the tampering incidents was prompt, yet prudent and reasonable. We have found a way to increase public awareness about the dangers of tampering, and we have done so without undermining public confidence in the Nation's supply of medications. I think Mr. Twain would be satisfied

One cannot consider the role of medications in health care without considering the process through which every drug must go to reach the marketplace. I am referring, of course, to the drug review process; one of FDA's most fundamental responsibilities is to review and evaluate new drug applications. I said in an interview last year that during the 1980's FDA must be sure it has implemented a new drug approval system that permits flexibility in research and fosters innovation. I am happy to report today that we have taken the first major step in making this goal a reality.

making this goal a reality.

On October 19 FDA published, in the Federal Register, its proposed revisions to the new drug regulations. The proposal represents the most significant reform of the new drug approval process since the 1960's. It also represents the culmination of efforts begun in 1979, when FDA's Bureau of Drugs initiated an internal review of the IND-NDA regulations.

This is the project that has become known as the "IND-NDA Rewrite." The improve-

ments announced in our proposal will streamline the drug review process without diminishing the safety and efficacy requirements that drugs must meet before they are approved in the United States.

Please note that I said "Drug Review" and not "Drug Approval" process. I assure you that protection for consumers will not be compromised. Consumers will in fact benefit from an explicit new procedure for periodically updating safety information in new drug applications under review. New requirements for more complete reporting of adverse effects of marketed drugs will also have a beneficial effect.

Let me take a couple of minutes to review, from my perspective, the most important reforms we have proposed:

First, a streamlined format for applications which will facilitate their review. This format would require a summary of the entire application and separate detailed sections to permit concurrent review by each of FDA's reviewing disciplines—clinical, pharmacological, chemical, statistical, and biopharmaceutical.

Secondly, an explicit procedure whereby sponsors would update their new drug applications periodically with safety information learned from on-going investigational use of the drug.

Thirdly, elimination of the submission of copies of routine case report forms on each patient on whom the drug was tested. These records now often total many thousands of pages. In their place, sponsors will submit tabulations of the pertinent data contained in the report forms, a process we believe will facilitate review. The original patient records would, of course, remain available to FDA if a question arose. Case reports of patients who die or drop out of studies becasue of adverse drug effects would, however, still be submitted on a routine basis.

Fourthly, a special appeals process would be instituted to provide sponsors with an opportunity to resolve quickly disputes with FDA without prejudicing their applications. The entire appeal would be handled in less than 60 days.

Next, we propose modifications of FDA's policy on acceptance of foreign data. Under this provision, approval of a new drug may be based solely on foreign clinical studies that are scientifically valid, well-conducted, and meet U.S. testing criteria applicable to the U.S. population.

Finally, we expect to strengthen adverse drug effect surveillance with an "alert report" required within 15 days on the most serious adverse reactions, and with 30-day reporting for the remaining reactions.

We anticipate that these proposed changes should reduce processing time for most applications by an average of six months. Currently, our review averages about two years after testing is complete and a new drug application is submitted.

We do not expect the review time for significant new therapies to decrease appreciably, but management initiatives within FDA will ensure them an expedited review.

I have given this initiative the highest priority as Commissioner, and I am heartened by the progress we have made so far. But no discussion of current medications, or current health care needs, is complete without mentioning orphan products—a subject that I want to review in some detail with you in the time that remains.

Much attention has been directed in recent years to the patient with an uncommon disease for whom a drug or device with demonstrated or potential effectiveness remains unavailable. While the industry has had a very good record in developing these "public service items," it has been generally agreed that additional efforts were needed.

I am pleased to tell you that there is a great deal of interest and activity today, on the part of government and industry alike, in making important orphan products avail-

able.

Before describing in detail the current initiatives, let me define what we mean by orphan products. They are products-drugs, devices, bilogicals, and foods for special diepurposes-that remain inadequately tested or unavailable because of limited commercial interest. They can be useful in uncommon conditions or they may be applicable to common diseases. They can be marketed products with newly discovered potential use in serious uncommon diseases. Whatever else they have in common, they share the unfortunate fate of not being developed or distributed because they are unpatentable or because impending patent expiration discourages research investment or small return on the investment is expected because of a small number of patients.

In the last twenty months or so, the efforts involving orphan products have begun to pay dividends. Four important groups have been established to focus attention to

orphan product development:

The Orphan Products Board, chaired by Assistant Secretary for Health, Dr. Edward Brandt;

The Office of Orphan Products Development, I recently established in my office at FDA:

The Commission on Drugs for Rare Diseases, sponsored by the Pharmaceutical Manufacturers Association;

The Institute for Orphan Drugs, sponsored by the Generic Pharmaceutical Indus-

try Association.

FDA's complete program has a full-time staff in the Orphan Products Development office. This unit is supplemented by additional scientific expertise within FDA. Its primary functions include the following activities:

It identifies and monitors the adequacy of available data for new orphan product candidates. It reviews investigational applications sponsored by independent investigators and firm. It surveys published literature, and it requests nominations of orphan products from professional associations, foreign regulatory agencies, and foreign drug manufacturers.

It reviews published literature for unlabeled uses of approved drugs which may highlight orphan uses for marketed drugs.

It provides appropriate help with protocol development and the compilation of data for evaluation.

The Office also specifies what needs to be

done to obtain FDA approval.

It tailors requirements, as appropriate, for orphan products, and it works with the Public Health Service to obtain limited studies from PHS labs when necessary for approval of high priority orphan products.

Finally, it provides technical assistance in compiling and preparing NDAs, and it assures priority review of orphan product applications.

We have accomplished much this year, including the location of sponsors for 14 drugs useful in rare diseases. One example is Pentamidine Isethionate for pneumocystic carinii, a disease that has recently reached almost epidemic proportions in presumed immuno-compromised individuals.

To aid this cause, FDA's National Center for Toxicological Research will perform

pharmacologic and animal toxicologic studies for orphan products when other sources cannot be found to support such studies. NCTR is also conducting a subacute and reproductive study for a new drug for treatment of patients with Wilson's disease.

There is plenty of work to be done, and the three other groups I mentioned earlier are also busy. The Department's Orphan Products Board was established on the recommendation of the Department's Task Force on Significant Drugs of Limited Commercial Value. The Board is composed of representatives of the research and drug regulatory agencies in the Department as well as the Veterans Administration and the Department of Defense. The Board develops policy initiatives, considers ways to provide incentives for developing and marketing orphan products, and reviews scientific evidence for products presented by FDA. Studies of those chosen for development will be supported by an agency on the board, or referred to an appropriate public or private organization for consideration.

The PMA's Commission on Drugs for Rare Diseases meets every two months to consider proposals for further development of orphan products. It reviews proposals submitted by independent investigators, institutions, and FDA. It does not provide research support, but it will recommend to drug companies that further development be undertaken. The Commission has considered the merits of several drugs and has recommended some for further development. The Commission provides its recommendations, and FDA's requirements, to PMA members and nonmembers.

Finally, the Generic Pharmaceutical Industry Association's Institute for Orphan Drugs provides research and manufacturing support to investigators. Two drugs will be the subject of new drug applications, and grant support and a supply of the drug have

been pledged for a third.

The initiatives I have described do not stop here. The National Institutes of Health can now consider proposals from drug and device companies for orphan product development because of a recently promulgated regulation which permits "for profit" organizations to receive grants. FDA also has its own grants program for orphan product development. The Congress of the United States is considering two orphan drug bills. The bills under review now include a seven-year exclusive license for firms that market nonpatentable orphan drugs, and one of them also provides tax incentives for developers of drugs for rare diseases.

Despite all this activity, there is much left to accomplish in the field of orphan products. What we have done so far is to make a beginning. And when I ponder any project in its infancy, I often recall an encounter between Michael Faraday, who invented the Dynamo, and Benjamin Disraeli. When Faraday showed his Prime Minister the Dynamo, Disraeli looked at the foreunner of all generators and said, "What good is this?" Faraday replied, "What good is a baby, Mr. Disraeli?"

The initiative to make orphan products more available may still be in its infancy, but the pharmaceutical industry as a whole is mature. In fact, many observers are saying that we are standing on the brink of a second pharmaceutical revolution. Unlike the first, which largely depended upon work at the intercellular level, this second revolution is based on intracellular chemistry.

A recent pharmaceutical publication has provided a preview of drugs of the future and theorized that the 21st century will be the Age of Engineered Drugs, the Age of New Dosage Forms, the Age for Commercial Manufacturing of Drugs in Space, the Age of Computer Assisted Drug Design, and the Age of Recombinant DNA Technology. This article, like many of late, describes us today as being on the threshold of a new world of discoveries.

And only two months ago, I spoke before a symposium held in London to examine the scientific, political, economic, and social implications of this second pharmaceutical revolution. I discussed the great significance of the new technologies that are sweeping through the pharmaceutical world, I observed that its nations are becoming increasingly interdependent, and I emphasized the importance of good science in regulatory agencies that will be called upon to reach decisions about the many new products now being developed.

Our meeting today is precisely the sort of gathering we must hold if we to respond to the coming challenges. I am certain that Arnold Schwartz would approve of our assembling here today. To him, and to Mrs. Schwartz, we owe a continuing debt of gratitude. They recognized the importance of pharmaceuticals and health education, and they acted on that recognition. May we hold many more meetings in their honor.

Thank you.

#### HUNGER IN EAST TIMOR CONTINUES

Mr. TSONGAS. Mr. President, for some time I have been deeply concerned over the tragic state of affairs in the former Portuguese colony of East Timor, a predominantly Roman Catholic island territory which was invaded by Indonesia in late 1975 and continues to be occupied by military force in violation of international law. On April 28 of this year, after examining a good many recent accounts of serious human rights violations in East Timor, I introduced a resolution which was subsequently cosponsored by 16 of our colleagues. The resolution called upon President Reagan to encourage the Indonesian Government to allow greater access to East Timor by journalists and international relief. It called for steps to relieve the problems of many East Timorese who have not been permitted to leave the island to join relatives abroad. It also called for moves to bring about a political settlement that would restore peace to East Timor.

One month after I introduced this resolution, there appeared a detailed firsthand account by Philadelphia Inquier journalist Rod Nordland, who spent 11 days in East Timor in May and appears to have travelled widely in the territory. Mr. Nordland's account, which has since received national attention, reported the existence of serious food shortages resulting from Indonesian military operations against timorese resistance. He reported at least some cases in which Indonesian military officials attempted to coerce villagers in an effort to

hide the reality of these food shortages and corroborated previous accounts of serious human rights violations.

Since then, I have seen no convincing account that would contradict the major elements of Mr. Nordland's report. The precise extent of the problems is unclear but there seems to be little doubt that serious problems do exist.

In recognition of these conditions, and together with 17 of my Senate colleagues and 66 Members of the House of Representatives, I sent a letter to President Reagan on the October visit to Washington of Indonesian President Suharto. The reply from the Department of State was singularly uninformative, and did not even attempt to address several of the questions raised.

However, our distinguished colleague from Illinois, Foreign Relations Committee Chairman Charles Percy, has recently announced that hearings would be held on the East Timor situation early in the new Congress. This will provide an excellent opportunity to address all pertinent issues. I commend Senator Percy for his decision.

In the interim, however, I would like to bring to the attention of my colleagues disturbing new information that indicates a turn for the worse in East Timor. An October 28 report from Agence France Presse (AFP) reprinted by the Foreign Broadcast Information Service, for example, speaks of food shortages "from which children were the principal sufferers." Before I continue, it must be emphasized that the East Timorese already suffered a large-scale famine from 1978-80, the overall consequences of which are still unclear. The impact of new food shortages, then, must be seen in light of what these people have endured to date.

The AFP articles go on to report that:

Forcible populations movements in various parts of Timor and those suspected of connections with the FRETILIN independence movement are not allowed to move about freely or cultivate the land.

AFP concludes that these "regroupments" have caused food problems.

On another important matter, the AFP article once again draws our attention to the plight of thousands of Timorese political prisoners being held on the offshore island of Atauro, including "450 children under 5 years of age." The report adds that:

The prisoners live in crowded, unhygienic shanties and suffer from malnutrition and such diseases as gastro-enteritis, cholera and tuberculosis. Some of the internees were said to be reduced to eating roots.

But the December 4 edition of Australia's most respected daily, the Melbourne Age, goes further, stating that the eastern districts of East Timor are facing drastic food shortages. In one location cited, the Baguia area, the

people are said to be "just waiting to die."

The Indonesian Government denies that these conditions exists, while it also denies reports of human rights violations. Amnesty International had its own response to some of these denials in a November 8 letter to the New York Times. I would only say that the fact that both the New York Times and the Washington Post attempted to visit East Timor but were denied entry by the Indonesian Government leads one to believe that Jakarta may have something to hide.

These recent reports portray a state of affairs that we cannot ignore. The means must be found to confince the Indonesian Government to provide full access to East Timor to a wide variety of international agencies, journalists and other investigative bodies. But in the end, it is more clear than ever that a political settlement guaranteeing the rights of all parties is the only way this conflict can come to a humane end.

For the benefit of my colleagues, I would like to include for the Record my letter of October 5 to President Reagan; the State Department response, the account from Agence France Presse and the Melbourne Age, and Amnesty International's letter to the New York Times.

The material follows:

U.S. DEPARTMENT OF STATE,
Washington, D.C., November 4, 1982.
Hon. Paul E. Tsongas,
U.S. Senate.

DEAR SENATOR TSONGAS: The White House has asked me to respond to the letter of October 5 which you and your colleagues wrote to the President on the situation in East Timor.

I understand and appreciate the serious concerns which you have regarding this important issue. I can assure you that the Department of State and our mission in Indonesia share your interest in this matter, and we are doing everything which can practically be done to monitor the situation in East Timor and improve the conditions of the Timorese people.

I would like to take this opportunity to comment on several of the specific points

raised in your letter.

We have been concerned, as you are, about the adequacy of food supplies in East Timor. We have examined this matter, both through firsthand visits to East Timor by officials of our mission and through discussions with others who have visited Timor recently, including other diplomats, journalists and representatives of international organizations. Based on this continued monitoring, we believe that there are adequate food supplies in East Timor, though there are isolated areas where distribution and other problems have led to temporary shortages. It appears that the Indonesian Government has moved swiftly and effectively to meet those shortages which existed or threatened, through the shipment of large stocks of corn from its own food stocks to East Timor.

In regard to the activities of international agencies, as you may know, three such organizations are currently active in East Timor, with the full cooperation of the Indonesian

Government: the International Committee of the Red Cross (ICRC), the United Nations International Children's Emergency Fund (UNICEF) and the Catholic Relief Services (CRS). Each of these organizations, which enjoy routine access to East Timor, are conducting important programs aimed at meeting pressing human needs (including health and nutrition needs) and fostering the economic development of the region. We have recently received Congressional approval to provide \$500,000 to ICRC in response to their special appeal for support of their operations in Timor. We have also always stood ready to support these organizations in any way we usefully could, here or in Jakarta, in planning and obtaining Indonesian approval for their programs.

Concerning the question of outside access to East Timor, the record shows that the Indonesian Government has permitted greatly increased access by outside observers in the past year, including representatives of a number of Western media (including reporters of the Philadelphia Inquirer, the Wall Street Journal and Reuters); the international organization officials already mentioned; and a growing number of Jakartabased foreign diplomats. It is our understanding that the Indonesian Government intends to continue this policy of permitting outside observers to visit the territory.

Regarding the political question which you have raised, it has been the consistent policy of this Administration (and indeed of each of the last three Administrations) to accept the incorporation of East Timor into Indonesia, without acknowledging that an act of self-determination has taken place there. We believe this is the only policy which will permit us to pursue effectively those important humanitarian goals which you and your colleagues have enunciated and which we so strongly share. Our ultimate concern, like yours, is the welfare of the people of East Timor; we are convinced that the policy we have chosen is the best way to meet that concern.

As you are aware, we maintain an ongoing dialogue with the Indonesian Government on this matter. It was discussed at a high level during the recent state visit of Indonesian President Soeharto. Officials of our mission have visited East Timor four separate times this year, and there will be a State Department official visiting there this month, in company with a mission officer.

As we continue our consideration of this matter, you can be assured that we will keep in mind the concerns which you and your colleagues have expressed.

Sincerely,

POWELL A. MOORE, Assistant Secretary for Congressional Relations.

[From the Agence France Presse, Oct. 28, 1982]

FRETILIN GUERRILLAS STEP UP ATTACKS IN E. TIMOR

(By Gilles Bertin)

JAKARTA, Oct. 28.—Nationalist guerrillas in East Timor have stepped up their attacks on police posts, vehicles and other targets in a campaign of violence linked to next month's United Nations debate on the Indonesian annexation of the former Portuguese colony.

At least 15 people have been killed during the past three months by the guerrillas of the Revolutionary Front for the Independence of East Timor (FRETILIN), informed sources said here. About 40 houses were set on fire during the month of August as well as two schools where the teachers were not from East Timor. A group of 20 FRETILIN guerrillas carried out these attacks in the Viqueque District, killing a policeman. On August 21 several people were killed in an attack on a police post. A few days later the occupants of a jeep were killed in an ambush.

Reliable sources said that during August and September guerrillas mounted raids to procure food and weapons in the mountains between Baguia and Los Palos in the east-

ern part of the island.

A Roman Catholic priest familiar with East Timor said that a flare-up of guerrilla attacks was an annual occurrence before the U.N. vote. Informed sources said that during clashes with the guerrillas Indonesian troops seized American weapons dating from the Vietnam war. For the past two months no ship was allowed to dock in Timor until after it had been carefully searched, the sources said.

FRETILIN forces, estimated to be a few hundred strong, have been resisting the Indonesians since they took over East Timor seven years ago. They are mostly armed with weapons left behind by the Portu-

guese

Reliable sources said that the number of internees on the island of Atauro, a few miles off the East Timor capital of Dili, has in the past six months increased from 3,500 to about 4,800. The prisoners are generally FRETILIN sympathisers and their families, including 450 children under five years of age. They live in crowded, unhygienic shanties and suffer from malnutrition and such diseases as gastro-enteritis, cholera and tuberculosis. Some of the internees were said to be reduced to eating roots. The sources said there was considerable tension between the internees and the original inhabitants of Atauro, who number about 4,000.

Experts from international organisations, who have worked in Timor, said that there was no famine there but that there were food shortages, from which children were the principal sufferers. The Indonesian Army has carried out forcible population movements in various parts of Timor and suspects are not allowed to move about freely or cultivate the land. These forcible "regroupments" have caused food problems and a part of the population of East Timor has become dependent on external aid.

Meanwhile, the Roman Catholic Church in East Timor appears to be extending its influence with 60,000 people being baptised in less than one year. Many animists, who account for about half the East Timor population, have chosen Catholicism in preference to the Moslem faith since the Indonesian authorities started putting pressure on them to choose a religion with a single god in line with the Indonesian official ideology,

known as Pancasila.

Indonesian diplomatic efforts at the United Nations before the vote on East Timor, probably on November 9, have been concentrated particularly on West Africa, the Caribbean and Central America to ensure the maximum possible number of favourable votes. The Indonesian Government has sent one of its most distinguished diplomats, Ali Alatas, to New York to plead Jakarta's case. Informed sources here believe that Venezuela, Ecuador and the Gabon, which abstained in 1981, would this year back Indonesia. Three countries which voted against Indonesia last time-Haiti, Iran and Iceland-may abstain. Some other countries like Ruanda, Niger, Kenya, Santa Lucia and Costa Rica are still uncommitted.

In 1981, 54 countries voted for a Portuguese resolution condemning Indonesia, 42 against, and there were 46 abstentions.

[From the Melbourne (Australia) Age, December 4, 1982]

EAST TIMOR CLERICS CLAIM FOOD SHORT (From Ian Davis)

CANBERRA.-People in the eastern provinces of East Timor are suffering drastic food shortages and widespread malnutrition, say four confidential reports from East Timor obtained by "The Age"

According to one report, from a Catholic priest, who has lived in East Timor for more than 10 years, "the food situation is so critical it is the worst I have ever seen."

Three of the reports say the main reason for the food shortages is the continued Indonesian security operations against the East Timor independence movement, Freti-

According to three of the reports, Fretilin, as recently as July, was conducting guerrilla operations involving up to 200 troops in one battle. The information about food shortages, security in East Timor and continued Fretilin operations conflicts with Indonesian Government claims about the East Timor situation.

Two of the reports say the conscription of East Timorese into the Indonesian armed forces in East Timor is preventing people from planting and harvesting crops, causing grain shortages

As well, the Indonesians have forced East Timorese in the eastern half of the province out of the villages and into the larger towns in the area, to isolate them from Fretilin. The towns are so far from the villagers fields that they can not continue farming," one report claims.

The four reports were prepared between April and August this year by Catholic and Protestant church officials. Three of the reports were made by Timorese, Indonesian and Portuguese churchmen, all of whom have spent more than 10 years in East Timor. These reports were sent to relief and aid organizations associated with the Catholic church in Australia and the United States.

The other report was compiled by a sevenmember delegation from the Protestant World Council of Churches which visted East Timor for four days in June. This report has not been released.

The World Council of Churches was given permission by the Indonesian Government in June, 1982, to send a delegation to East Timor. In its report, the delegation says it was accompanied throughout the trip by Indonesian officials. The members of the delegation were Dr. P. D. Lathuihamallo, who co-ordinated the visit, Mrs. Jenny Borden (Christian Aid), Dr. Helmut Gundert (Brot fur die welt), Rev. R. L. Turnipseed (Church World Service), Ms. Nancy Robinson (Church World Service), Dr. K. Y. SeoPark (CICARWS-WCC), and Dr. B. Ables (Interchurch Co-ordination Committee for Development Projects).

"The Age" was given the reports on condition that identities of those making the reports remain confidential because of fears for the safety of those involved.

The reports made independently, paint a consistent picture of food shortages, malnutrition and ill treatment of the Timorese. This contrasts with recent claims about conditions in East Timor made by the Australian and Indonesian Governments and by the former Prime Minister Mr. Whitlam, after a visit to East Timor in February and March.

One report from a churchman living in East Timor says: "There are certain areas that are still, up till August 1982, critically short of food."

A report from another churchman claims: "The kelaparan' (Indonesian for food shortage) truly is a fact. The worst food shortage area is in the eastern districts of East Timor. In the month of April, Baguia had no food at all. Since then they have had nothing at all."

The report says six other regional centres in the east-Laga, Lakluta, Viqueque, Quelicai, Uatulari and Uatucerbau-are suffering food shortages. "All these areas are experiencing real famine, but specially Baguia, where the people are just waiting to die. In the western districts there is a reasonable supply of food and with the exception of some areas there is no crisis.'

According to another of the local churchmen's reports, Mr. Whitlam did not see the real situation in the areas he visited. "Mr. Whitlam during his short visit, in order to please the Indonesians, he travelled with helicopter, he could not see the real situation. Instead of visiting the regions, he has to obey the Indonesian Government, visiting only the localities which the Government wants him to visit."

Mr. Whitlam told the United Nations last

month that he followed an itinerary set by the delegate of the International Committee of the Red Cross. He said he flew in helicopters chartered by the committee to the offshore island of Atauro, three villages in the western region and four villages in the

The reports obtained by "The Age" contrast with the picture of East Timor painted by recent Western diplomatic reports. A report from Jakarta earlier this week, quoting Western diplomats said "fears that famine might be imminent in the area, were exaggerated".

The latest assessment of East Timor prepared by the Australian Department of Foreign Affairs says: "Information to the Government does not support claims of famine or impending famine. There is always a possibility of localised food shortage and distribution problems. However, available infor-mation indicates food stocks held in the province should be sufficient to cope with any emergency."

The Indonesian Government has been keen to paint a picture of East Timor returning to "normalcy" as its incorporation in Indonesia is accepted by the population. This was the basis of Indonesia's argument for removing East Timor from the UN

agenda.

Reports of food shortages and continued large scale security operations in East Timor conflict with the Indonesian Government's claims.

[From the New York Times, Nov. 8, 1982] "EXTRAORDINARY BRUTALITY" IN EAST TIMOR (By Larry Cox)

To the Editor:

In an Oct. 14 news article, "Indonesia Defends Role in East Timor," Foreign Minister Kusumaatmadja is cited as saying that reports of human-rights abuses against residents of East Timor are "untrue."

Amnesty International has followed the human-rights situation in East Timor since the territory was invaded by Indonesian forces in December 1975, and we find the Foreign Minister's comment disturbing.

It has been evident to Amnesty International in investigating the situation in East Timor that human-rights violations occur there within the context of an occupation of extraordinary brutality in which a whole range of fundamental human rights have been denied the population.

We believe that the population of East Timor has been systematically denied the rights to freedom of expression, association, assembly and movement. Persons exercising their right to petition the government for redress of grievances have been arbitrarily detained. Movement and communication within and beyond East Timor has been tightly controlled.

We are also disturbed by the Indonesians' failure to investigate a number of cases of human-rights violations in East Timor.

One case involved "Operation Fence of Legs." Undertaken by Indonesian forces from July to September of 1981 with the aim of eliminating Fretilin forces (the movement for an independent East Timor which resisted the Indonesian invasion), its strategy was to deploy tens of thousands of Timorese to form human fences that converged on and flushed out remaining Fretilin forces.

Reports indicated that civilians enlisted for this operation were required to advance in front of Indonesian forces and were unarmed or armed only with primitive weapons. While it is not possible to gauge the number killed in the operation, it is clear that many did not return to their homes.

We also received extensive reports of torture of detainees during interrogation. Forms of torture described in those accounts include burning with red-hot irons and cigarettes, electric shocks to the genitals and other parts of the body, extraction of finger and toe nails with pliers and slashing with knives.

We have raised these concerns with the Indonesian Government. So far there has been no response.

U.S. SENATE,

Washington, D.C., October 5, 1982. President Ronald Reagan, The White House

Washington, D.C.

Dear Mr. President: We are deeply concerned over the tragic situation in the former Portuguese colony of East Timor, which was invaded by Indonesia in late 1975 and continues to be the scene of tremendous human suffering. As you know, Indonesian President Suharto will be making a State Visit to Washington on October 12 and 13. We believe that it is imperative that the Timor tragedy be accorded priority attention in meetings conducted by you and other United States officials with the Indonesian Presidential Party.

First, let us state that we recognize the strategic importance of Indonesia and United States concerns in this regard are understandable. Indonesia is a strong and close friend of the United States. We commend the Government of Indonesia for its expeditious assistance to many thousands of Indochinese "boat people" who have landed on Indonesian shores in recent years.

However, these important considerations cannot erase the situation in East Timor. Although events in East Timor have received comparatively little attention, that does not make past or present conditions there any less severe. It is widely acknowledged that there has been great loss of life since the Indonesian invasion. In more general terms, Amnesty International stated in

a September 14 report to Congress that "it has become evident in the course of investigation into the situation in East Timor that those violations of human rights which Amnesty International seeks to expose occur within the context of an occupation of extraordinary brutality in which a whole range of fundamental human rights have been denied the population."

A first-hand approach appearing in the Philadelphia Inquirer on May 28 underscored the existence of serious food shortages, in good measure the result of 1981 Indonesian military operations against Timorese resistance. This is an especially important point, we believe, in light of past and possible present use by Indonesian forces of U.S. origin materiel.

Indonesian authorities are clearly reluctant to concede that such problems exist. But food shortages in at least some parts of the territory threaten the well-being of a sizable portion of the Timorese population—people barely recovered from the disastrous famine of 1978-80.

Mr. President, we believe that appropriate international relief agencies should be allowed to effectively address East Timor's current food and medical problems, while Timorese villagers should be allowed to resume normal farming activities and leave the "resettlement centers" set up by the Indonesian military.

We believe that the International Committee of the Red Cross (ICRC), which began to conduct prison visits in East Timor earlier this year and participated in an emergency relief program from October 1979 through April 1981, should receive staunch United States support as the organization seeks to diversify its activities in the territory. In general, international access to East Timor should be expanded. Those waiting to reunite with family members in Australia and Portugal should be helped to leave East Timor without further delay. A list of those in need of special assistance, and about whom we are particularly concerned, is attached.

It is our belief that the means should be found to convince Jakarta to agree to an internationally-negotiated settlement that would guarantee Indonesia's legitimate security interests while providing the people of East Timor with the political rights to which they are entitled, both morally and under international law. The evidence suggests that in the absence of such a solution, this tragic state of affairs will continue indefinitely.

Mr. President, we believe that it is of vital importance that your concern and that of your Administration be transmitted to President Suharto on these issues as well as on the broad question of human rights in East Timor.

Sincerely,
Paul E. Tsongas, Carl Levin, John H.
Chafee, Max Baucus, Christopher J.
Dodd, Arlen Specter, Thomas F.
Eagleton, Dale Bumpers, Donald W.
Riegle, Jr., Alan Cranston, William
Proxmire, David Pryor, John Heinz,
Howard M. Metzenbaum, Claiborne
Pell, Edward M. Kennedy, John Melcher, Mark O. Hatfield,

U.S. Senators.

Tony P. Hall, Bill Green, Matthew F. McHugh, William Lehman, Julian C. Dixon, Anthony C. Beilenson, Barney Frank, William B. Ratchford, Tom Harkin, Peter W. Rodino, Jr., Walter E. Fauntroy, Howard Wolpe, Don Bonker, Anthony Toby Moffett,

Edward J. Markey, Joe Moakley, Ted Weiss, Richard L. Ottinger, Robert A. Roe, Mervyn M. Dymally, Shirley Chisholm, Berkley Bedell, William M. Brodhead, Thomas J. Downey, Louis Stokes, Jerry M. Patterson, Bob Edgar, Charles E. Schumer, Les AuCoin, Mickey Leland, Byron L. Dorgan, Robert Garcia, Patricia Schroeder, Mike Lowry, James L. Patricia Oberstar, Martin Olav Sabo, Thomas A. Daschle, David R. Obey, William H. Gray, III, Claudine Schneider, Dale E. Kildee, David E. Bonior, Sam Gejdenson, Thomas M. Foglietta, Paul Simon, Don Edwards, Parren J. Mitchell, Millicent Fenwick, Michael D. Barnes, Morris K. Udall, William J. Hughes, Phillip Burton, Tony Coelho, Fortney H. Stark, Ronald V. Dellums, Henry J. Nowak, Doug Walgren, Jonathan B. Bingham, Lawrence J. DeNardis, Dennis E. Echart, Vic Fazio, James M. Shannon, Gerry E. Studds, Stewart B. McKinney, John L. Burton, Donald J.

U.S. Representatives.

#### TURKEY MOVES TOWARD DEMOCRACY

Mr. HEINZ. Mr. President, I recently received a copy of Turkish Ambas-sador Elekdag's article that appeared in the Wall Street Journal presenting an optimistic forecast of greater democracy in Turkey in the days ahead. Ambassador Elekdag has responded to some of the criticisms of the new constitution in this article, a constitution that was recently passed by the Turkish electorate. He also points to a number of reforms that we can expect to see enacted in Turkey in the coming years. Although I do not fully share his analysis, I think it is worthy of Senators' attention, and I ask that it be printed at this point in the RECORD.

The article follows:

[From the Wall Street Journal, Wednesday, Nov. 3, 1982]

TURKEY MOVES TOWARD DEMOCRACY
(By Sukru Elekdag)

On Sunday, Turkey will take a step in restoring a pluralistic parliamentary democracy. The people will vote on the draft constitution that has been prepared by the consultative assembly and recently approved with some revisions by the five-member national security council.

According to the announced timetable, political-party life will be reactivated after the referendum. A new law on the electoral system and political parties will be enacted, and general elections will be held in either the fall of 1983 or the spring of 1984.

The constitution is expected to open a new era of stability, prosperity and workable parliamentary democracy.

Many Turks believe that the constitution of 1961 and the proportional representation system were largely responsible for the political instability of the late 1970s; that system did not give adequate powers to the executive branch and the president, did not clearly define the duties and the powers of the state organs, failed to balance the rights of the individual with those of society and encouraged the proliferation of political

parties. The result was ambiguous election

The resulting weak coalition governments were ineffective in dealing with economic and social problems. The executive was powerless to maintain law and order, counter subversive activities and stem the rising tide of terrorist killing. A constantly deadlocked parliament could not enact badly needed legislation and could not even elect a president in six months and after 136 ballots.

Turkey's political paralysis was also caused by the stalemate between the two major political parties, the Republican People's Party (RPP) under Bulent Ecevit and the Justice Party (JP) under Suleyman Demirel. The two parties refused to cooperate in forming a strong coalition government and they couldn't govern effectively when they formed coalitions with small, extremist parties.

By all accounts, Turkey by 1980 was on the verge of chaos. The increased polarization of left and right was accompanied by a wave of terrorist killings, reaching more than 25 a day by late 1980. Schools and universities almost ceased to function as they became the focal point of terrorist activities. Journalists, politicians, businessmen and judges, together with their families, were under constant threat from either left- or right-wing terrorists. Inflation reached 130%. Ideologically motivated strikes paralyzed industries already beset with great problems due to the severe balance-of-payments bottleneck and the resulting difficulties in importing raw materials and spare

#### TOTAL MARTIAL LAW

On Sept. 12, 1980, the armed forced assumed control of the government; martial law, already imposed in some parts of the country by the civilian administration, was extended to the remainder. A newly formed national security council, composed of the commanders of the four services and headed by Chief of Staff Gen. Kenan Evran, took the reins of government and suspended all political party activities.

The military council declared its resolve to restore a viable and efficient parliamentary democracy and to eradicate the causes of instability. A schedule for return to civilian rule was established, a civilian interim government was formed and a consultative assembly of 160 members was created to prepare a constitution and act as the tempo-

rary legislative body.

During the past two years dramatic progress has been achieved. Law and order have been restored, terrorism has been stamped out and there has been economic progress.

The referendum this Sunday on the draft constitution indicates that the present rulers abide strictly and honorably by the

timetable that they set.

The draft constitution fully safeguards human rights and fundamental freedoms; insures equality before the law, free elections, separation of powers and an independent judiciary; incorporates freedom of the press and labor rights, and guarantees pluralism of political parties.

The free-wheeling debates in the consultative assembly on the draft constitution have been widely echoed in the mass media, and independent personalities, political groups, former politicians, professional associations and labor unions have expressed their views

extensively.

Some criticism focused on the increased powers accorded to the executive branch and the president. Under the proposed con-

stitution, the president has the right to ask for a referendum, dissolve the parliament and call new elections under well-defined rules to prevent the sort of paralysis that has occurred in the past. He can chair the council of ministers for the proclamation of state emergencies, and he can nominate the judges of the highest courts, as well as individuals to fill several other high civil posts.

These increased powers of the executive reflect the paralysis of the past. Scholars note that the powers of the Turkish president under the new constitution are not as sweeping as those of an American president and are comparable to those of French president.

Certain provisional articles of the new constitution have drawn some fire from the Turkish and foreign press.

The first article provides that if the constitution is approved in the referendum, Gen. Evren, the current head of state, will automatically become president. Critics argue that a presidential election should be held separately following the referendum. These views seem reasonable, but they discount the fact that Gen. Evren is extremely popular in Turkey. Objective non-Turkish observers are virtually unanimous in their assessment that if a separate vote were taken on the presidency, Gen. Evren would be elected overwhelmingly.

The link between the election of this demonstrably popular statesman to the presidency and the approval of the new constitution will, it is believed, give citizens greater motivation to accord the constitution full and careful consideration.

#### INTO THE HANDS OF ANARCHISTS

A second provision that has prompted some controversy effectively prohibits political activity by the past leaders of all the former main parties for 10 years and prohibits all other members of the last parliament from forming new parties or holding any executive office in any new parties. Gen. Evren recently outlined the thinking that underlies this provision:

"I have no doubt that the temporary ban on political activities imposed on former party leaders and members of central executive committees of the parties will be deemed a reasonable measure. Some of these persons are currently on trial in regular courts for common crimes and of-

"Moreover these former politicians who formerly held high political offices not only failed even to think of the necessary measures to prevent the situation that prompted the armed forces' intervention . . . but also failed for months to elect a president. These politicians paralyzed the parliament and allowed the country to fall into the hands of anarchists. They are, therefore, living under weight of guilt that cannot be removed. We are striving to establish a healthy democratic regime in Turkey.

"It is absolutely necessary to keep these politicans, who managed to derail our de-mocracy twice, in 1971 and in 1980, out of active political life to insure the laying of foundations for the new era. It goes without saying that such persons determined their own fate, through their own irresponsible attitudes, which cannot be condoned.'

Modernizing reforms have dramatically altered the political, social and economic landscape. What Turkey has accomplished during the six decades since the republic was established amid the ruins of the Ottoman monarchy augurs well for the republic's stability and future prosperity.

The progress of Turkey toward simultaneous attainment of democratic development and economic advancement has not always been smooth. But Turkey's record of maintaining a democratic form of government for the last three decades can be matched by very few developing and semi-industrial nations. The foundations have been laid for a thriving, intelligently progressive society that can serve as a model for othr nations attempting to realize their aspirations for a better life.

But rapid progress necessitates adjustments. The effort under way in Turkey is to nurture the emergence of a viable, efficient system of governance resting on genuinely democratic principles so that our people may fulfill the inherent potentialities of their country. The new constitution is nothing but a vehicle to achieve these aspira-

#### PROTECTING OUR PROTECTORS

• Mr. GRASSLEY. Mr. President, I call the attention of this Chamber to yet another example of this country's disastrous sentencing guidelines.

I am referring to the murder of Robert K. Best, a D.C. policeman killed early yesterday morning apparently by Vincent Dark, a man whose criminal arrest record should have had him behind bars where he would have no access to you or me or Robert Best. His criminal record includes a drug charge in 1977 for which he served no sentence; conviction of a robbery in 1978, for which he was given a suspended sentence and placed on 4 years' probation; and another conviction of armed robbery for which he served 16 months out of a potential 10vear term.

So, 3 months ago Vincent Dark was paroled after serving 16 months of a potential 10-year term. Today, both he and the courageous police officer whom he allegedly slayed, in what has been referred to as an execution style of murder, are dead.

Mr. President, how much longer can we let men like Dark serve partial or no sentences at all? When are we going to finally do something about a sentencing process that allows the convicted armed robber to go back to the streets when he hasn't even served one-fifth of a potential sentence? Do each and every one of us have to suffer the slaying of a loved one before we understand that our sentencing guidelines are little more than no sentencing at all?

In one of the more comprehensive studies of recidivism, the FBI explored the arrest histories of persons arrested for Federal offenses during the period of 1970-75. Of 255,936 offenders arrested during that period, 164,295 or 64 percent, had been arrested two or more times. A followup study was conducted in which the records of offenders who were released from the Federal criminal justice system during 1972 were followed for new arrests through 1975. Seventy-four percent of the offenders released after serving prison time were rearrested within 4 years.

So often it is our first line of protection, our police, who suffer the consequences of an impotent sentencing scheme. When law enforcement personnel, such as Officer Best, fall dead at the hands of criminals repeatedly brought to justice by their colleagues in blue, only to be released again, and again, Congress must recognize what our policemen already know-our revolving door system of justice is not protecting our innocent citizens from violent crime: and it certainly is not protecting our policemen who are charged with the duty of protecting our citizenry.

A mandatory sentencing system will not be without its problems. We will have to accommodate a greater number of prisoners within our already bulging prisons than ever before. Indeed, no one would be happier than I if we experienced a process of rapid rehabilitation. But rarely does it follow that any measure of rehabilitation is rapid. Those of us who are aware that there must be some type of rehabilitative programing in our prisons know that rehabilitation takes time.

From the twofold perspective of protecting the public from dangerous offenders and doing more with those offenders than having them stay a fraction of their designated sentence and allowing them back on the streets unchanged, I support mandatory sentencing periods. I urge my colleagues to join me in actively implementing mandatory sentencing guidelines.

## FRANK CARLUCCI

. Mr. NUNN. Mr. President, the Department of Defense is losing an effective and skilled Administrator with the retirement of Frank Carlucci, and the country is losing an outstanding public

Mr. Carlucci's tenure as Deputy Secretary of Defense culminates a distinguished and remarkable career of Government service in both Republican and Demoncratic administrations. He joined the U.S. Foreign Service in 1956, and over the next decade he was posted to some of the most volatile and crisis-ridden areas of the world, including South Africa, the Congo, and Zanzibar. He quickly earned a reputation as an energetic, thoughtful, and courageous Foreign Service Officer.

In 1969, Mr. Carlucci left the State Department and during the next 6 years moved through a progression of key administration posts: Assistant, then Director of the Office of Economic Opportunity; Associate, then Deputy Director of the Office of Management and Budget; and Under Secretary of Health, Education, and Welfare. In each of these positions, he displayed versatility, innovation, and foresight in managing, directing, and streamlining complex programs and bureaucracies.

Frank Carlucci returned to the foreign policy arena in 1975 when he was appointed Ambassador to Portugal. He presided over a difficult and sensitive period in United States-Portuguese relations, when the Portuguese Government was making the transition from a right-wing dictatorship to a parliamentary democracy. As Ambassador, Mr. Carlucci played a key role in insuring that Portugal remained a member of NATO. The alliance is stronger today for his work during

that crucial period.

Frank Carlucci came to the Department of Defense in 1981 after serving for 3 years as Deputy Director of the Central Intelligence Agency. Deputy Secretary of Defense, he has continued the high standards of public service he has exhibited throughout his career. During the past 2 years, he has had the difficult task of the dayto-day management of the Pentagon and all that position implies. He has made use of his previous experience in streamlining bureaucratic procedures to improve control over unnecessary expenditures. In particular, I believe Frank Carlucci's 30-plus initiatives to improve procurement procedures marks the beginning of a comprehensive and much-needed overhaul of this complex area. His efforts are already paying dividends. The real testament to Frank Carlucci will come in the years ahead, as his initiatives should save this Nation millions of dollars while increasing our defense capabil-

Frank Carlucci has earned the respect and admiration of many Members of the Senate for his honesty, his thorough preparation, and his dedication to meeting our national security requirements effectively and efficiently. He is a trusted and valued administrator whose experience will be sorely missed. I hope that Frank Carlucci will continue to provide the country with the benefit of his knowledge. Every young person interested in a career in Government should study his long record of accomplishments, for he has set a very high example for all those dedicated to serving the public good.

U.S. ATTORNEY SETS EXAMPLE FOR FOOD STAMP FRAUD PROSECUTIONS

• Mr. HELMS. Mr. President, the U.S. attorney in Raleigh is setting a fine example in cracking down on individuals charged with defrauding the food stamp program.

Samuel T. Currin, the U.S. attorney in Raleigh and J. Randolph Riley, the Wake County district attorney, recently announced that their offices will prosecute 574 Wake County food stamp applicants believed to have understated their incomes when applying for food stamps.

The Wake County prosecutions are the result of a recently completed audit by the Office of the Inspector General of the Department of Agricul-

Of the 6,674 households participating in the food stamp program in Wake County, the OIG found 574 cases of suspected food stamp fraud due to inaccurate reporting income-that is, underreporting. I might add that it is not likely that most such recipients simply forgot about the income they did not report. Over half of the individuals identified by the Inspector General's audit, 302, each owed more than \$400.

According to the OIG audit, "unreported wages have caused overis-suances estimated at \$300,000 in the food stamp program" in Wake County

One example cited by the OIG was of a recipient who was certified for food stamp benefits three times during the period between March 1, 1980, and June 30, 1982, without reporting all household employment income. The recipient received overissuances of \$3,157 in food stamps during this period.

All 574 recipients are being prosecuted by the U.S. attorney or the Wake County district attorney. Samuel T. Currin, U.S. attorney, pointed out the importance of the across-the-board prosecutions:

If we're going to impress on people we're serious about this, we need to go ahead and prosecute every single case. We feel it's the only way to make an impact and get the message across.

In addition to the 574 recipient cases, an additional 14 individuals were indicted for discounting and other illegal food stamp transactions as part of an undercover operation aimed at another aspect of food stamp fraud, commonly known as "trafficking." These individuals will also be prosecuted.

Bear in mind, Mr. President, that this fraud is for just one county-my home county of Wake in North Carolina. Multiply that by all the counties of all 50 States, and the cost of this rip-off of the taxpayers soars into the stratosphere. Indeed, the most recent statistics from the Department of Agriculture indicate that overissuancesmost caused by underreporting of income such as that identified in Wake County—cost taxpayers over \$1 billion in the food stamp program each year.

Would that more U.S. attorneys, State attorneys general, and local prosecutors would take the same degree of initiative that is being shown in these Wake County prosecutions. As Mr. Currin notes, such diligent

prosecution may be the only way to impress on people we are serious about this."

I commend to my colleagues an editorial and a news story from the Raleigh (N.C.) Times concerning the prosecutions and subsequent editorials praising this worthy effort, and I ask that they be printed in the RECORD at the conclusion of my remarks.

The material follows:

(From the Raleigh (N.C.) Times, Oct. 14, 19821

#### FOOD STAMP CRIMINALS

When a state and federal undercover operation turns up 574 Wake County food stamp recipients suspected of lying about their income, it lends considerable credibility to welfare criticis' claims of widespread fraud. These 574 represent 10 percent of all those receiving the stamps, and the investigation is far from over.

Perhaps the arrest, speedy trial and punishment of the guilty will serve as a dramatic deterrent to not only food stamp but other suspected welfare fraud in the county. Meanwhile, the high percentage of fraud should cause Wake commissioners to turn their attention to beefing up the county's own fraud investigation squad.

We suspect that few of the suspects are living on easy street. And undoubtedly many have lied to supplement limited incomes. Still there is no excuse for fraud.

For not only will the guilty suffer the loss of food stamps, and be punished. They, and other honest, deserving recipients, stand to suffer from an already skeptical public's reluctance to support social programs for the poor. Fraud in welfare feeds the anti-welfare propaganda mills.

We support efforts to clean up such social programs before their abuse further shrinks the dwindling flow of compassion from

Washington.

Still more cheering is the news that the undercover operation will be extended to an even more despicable kind of criminal. Agents will concentrate on snaring those unconscionable store owners who give cash instead of food for the food stamps. Under this illegal practice, which investigators call widespread, the grocer buys the stamps at perhaps half their actual value and then collects full value from the government.

These more affluent, educated and supposedly responsible members of the community should feel the full anger of the law and the disgust of the taxpayers. A simple wrist-slapping is too little for those arrested

and convicted.

The clampdown on food stamp fraud is long-awaited and welcome. As it proceeds, the courts must guard against punishing the poor and the ignorant for lying about limited incomes more severely than they punish the bigger, more scheming criminals who know better and have only greed, not need, to blame for their crime.

[From the Raleigh (N.C.) Times, Oct. 10, 1982]

574 FACE CHARGE OF FOOD STAMP FRAUD IN WAKE

### (By Bill Bystrynski)

More than 570 Wake residents will be charged and prosecuted for food stamp fraud in a joint effort by state and federal prosecutors to recover about \$300,000.

U.S. Attorney Samuel T. Currin and Wake Dist. Atty. J. Randolph Riley today announced that their offices will prosecute 574 Wake food stamp applicants who may have lied about their incomes when applying for stamps. As a result, those recipients were paid about \$300,000 too much, Riley and Currin said.

A sampling of 24 Wake residents were charged today with misdemeanor federal offenses of lying about their income to obtain

food stamps.

An additional 14 people in counties other than Wake were indicted for discounting and illegal food stamp transactions as a part of an undercover operation aimed at a different aspect of food stamp fraud.

"If we're going to impress on people we're serious about this, we need to go ahead and prosecute every single case," Currin said. "We feel it's the only way to make an

impact and get the message across

I would expect the lobby of Social Services to be jammed tommorrow" with people trying to correct wrong information they gave about their income, Currin said. Riley and Currin said they will split the number of cases to try to prosecute them faster, but said it might take a year to prosecute all

Those charge with felonies face a maximum prison term of five years and a \$10,000 fine for each count, if convicted. Misdemeanors are punishable by one year in jail and a \$1,000 fine.

Most of the 574 people will be charged

with misdemeanors.

Currin said the fraud was uncovered by checking social security numbers against Employment Security Commission records to show if the recipients were earning more income than they had claimed on food stamp applications.

The computer check showed about 10 percent of those receiving food stamps in Wake had lied about their income, Currin said.

No such sustained effort has ever before been put into uncovering food stamp fraud

in Wake, Currin said.

Currently, the Wake Department of Social Services has a five-member unit that investigates welfare fraud. The unit often turns over its information to the county or U.S. district attorneys' offices for prosecu-

Currin said undercover operations will begin in several areas, including Wake, to tackle other areas of food stamp fraud. Currin said discounting-the practice of exchanging food stamps for cash instead of for food-has become extremely widespread.

For example, a storekeeper might take \$100 worth of food stamps and pay the recipient \$50 in cash. He would then turn the food stamps in for \$100 from the government, making a \$50 profit, Currin said.

"The discounting problem is just completely out of control and we'll be sending in more and more undercover agents and be more aggressive in these types of cases," Currin said.

The Wake residents who will be charged could be charged with either felonies or misdemeanors, Currin said, depending on how much money they have taken from the program. Judges also will be asked to order the defendants to pay restitution to the food stamp program.

Another advantage of the joint prosecution is that the federal grand jury has the power to compel testimony, while the state does not.

Currin said he has a list of about 50 employers who refused to verify the amount of income paid to employees suspected of food stamp fraud. Now those employers can be subpoenaed and forced to testify.

"To my knowledge, we are the only county in the country trying to do something like this. We hope it turns out success fully so we can be a model for the nation,' Currin said.

#### IN MEMORY OF MARY PRESTON COURTNEY

Mr. WARNER. Mr. President, on Tuesday, December 13, 1982, Mary Preston Courtney, a truly dedicated and faithful public servant passed away. She fell victim to a brain tumor. Mary Preston, as she was known to all, had served as the manager of my district office in Richmond since I was sworn into office on January 2, 1979.

She was a "Virginia lady," indeed a true lady, exemplifying all the qualities of the word. Mary Preston was gentle, compassionate, polite, and considerate. She was never known to utter an unkind word about anyone. Patience was a virtue of hers for she never was too busy to take the time to listen to the concerns of my constituents.

A native of South Boston, Va., she was educated in the public school system. Mary Preston attended James Madison University and was graduated from the Richmond Professional Institute. After a brief modeling career in New York, she returned to South Boston to join the family business, Heddderly Printing Co.

Soon after her return to Virginia, Mary Preston became involved in politics. She was among those who played a role in the revitalization of the Republican Party in her hometown.

In 1966, she became the bride of Fredric Courtney and the couple moved to Richmond. Among her many charitable and civic involvements was the Virginia Lung Association. Though she began as a volunteer at the asso-ciation, her many hours of dedicated service soon earned her a staff posi-

Mary Preston joined my campaign staff in 1978 after the tragic death of Richard Obenshain, then the Virgina Republican candidate for U.S. Senate. As in all campaigns, but this perhaps more than most, time was short, the hours long and frustrations were many, yet one could always count on Mary Preston to be the tranquil voice during the tough times.

She will be sorely missed by all who knew and loved her, most especially by her husband, Fred. My staff and I were privileged to have shared in this beautiful person's life.

#### ALLEGED JUDICIAL AND GOVERNMENTAL MISCONDUCT

Mr. EAST. Mr. President, my office has received petitions from all parts of the country alleging extremely serious irregularities and misconduct by the Federal judges and attorneys in the

cases of Green against Miller and Wright against Regan. While I am not prepared to make final judgment on the validity of these allegations, confidence in the Government is undermined when people lose respect for the judiciary. I think we ought to study this problem, and to that end I am inserting in the RECORD both a copy of the petition I have been receiving and an article on the problem entitled "Private Schools, Tax Exemption, and the IRS" from the January/ February issue of Regulation magazine. I urge my colleagues to consider this matter.

Mr. President, I ask that a copy of the petition and of the article be placed in the RECORD at the conclusion of my remarks.

The material follows:

A PETITION TO THE CONGRESS OF THE UNITED STATES

Whereas, Collusive litigation, known as a "sweetheart suit" has been used for usurpation of Congressional legislative power and for violation of the civil rights of religious minorities, churches and Christian schools.

Whereas, All religious schools and churches that operate them are in imminent danger of a nationwide federal court order in Wright v. Regan that will result in massive government harassment of religious institutions by the Internal Revenue Service.

Whereas, Judge Ruth Bader Ginsburg and Judge Skelly Wright of the U.S. Court of Appeals for the District of Columbia have ordered Judge George Hart to ignore the Ashbrook and Dornan Amendments which prohibit funds for the IRS attack on religious and private schools that will be required by such a nationwide court order. The defiance of these strict spending limitations by Judges Ginsburg and Wright constitutes extreme judicial misconduct making them unfit for office.

Whereas, Judge George Hart of the U.S. District Court has already issued an unlawful order in *Green v. Miller* requiring the IRS to attack church schools in Mississippi, and the same requirements of this order will be made to apply to the entire nation in *Wright v. Regan* because of the unconstitutional order of Judges Ginsburg and

Wright.

Whereas, Judges Ginsburg and Wright have issued court orders directed at religious schools that were not a party in the litigation in Wright v. Regan nevertheless, absolutely no objection was raised by the

government.

Whereas, In the thirteen years since the beginning of litigation in Green v. Regan and six year since the beginning of Wright v. Regan, the history of both cases has been replete with collusive litigation, misconduct by federal judges and attorneys, illegal use of government funds, abuse of Christian churches and Christian schools, violation of religious civil rights, secret meetings, favoritism shown to the "sweetheart" parties, abuse of third party intervenors affected by the cases, and violation of the Ashbrook and Dornan Amendments.

Whereas, Not a single shred of statutory authority exists for these actions by the federal courts, an unconstitutional judicial fabrication called "public policy" is unlawfully asserted as the basis for the rule of law. If a federal judge can make major changes in the law merely by announcing that "public

policy" requires it, we no longer live under a

free, representative government.

Whereas, James Madison warned in his famous "Memorial and Remonstrance" that, "It is proper to take alarm at the first experiment with our liberties."

Whereas, Both houses of Congress have held hearings on this matter this year, and not a single witness from private or religious schools was permitted to testify!

We the undersigned do hereby petition the Senate Subcommittee on Separation of Powers to immediately hold hearings on the use of collusive litigation that is used for usurpation of Congressional legislative

We do further petition the Congress to enact legislation that will prohibit "sweetheart suits." Furthermore, we ask that members of Congress demand the resignation of Judges Ruth Bader Ginsburg and Skelly Wright because of their outrageous misconduct in the cases of Wright v. Regan, and the resignation of Judge George Hart because of his misconduct in Green v. Miller.

We do further petition the Congress that it vigorously oppose judicial usurpation of Congressional legislative and appropriative powers delegated in Article I, Section 1 and Article I, Section 9 of the Constitution. We plead that Congress limit the power of the federal courts in accordance with Article III. Section 2 of the Constitution which directs Congress to make exceptions and regulations for federal court jurisdiction. Furthermore, we petition the Congress to restore a republican form of government as guaranteed in Article IV, Section 4 of the Constitution, and demand that the federal courts cease and desist from judicial tyranny which now deprives citizens of life, liberty, property, and civil rights without due process of law.

PERSPECTIVES ON CURRENT DEVELOPMENTS
PRIVATE SCHOOLS, TAX EXEMPTION, AND THE
IRS

In the cloud of dust produced by the heavy feet of executive and legislative officials running for cover, some of the facts in the controversy over tax exemptions for private schools have been obscured. Regardless of its outcome, it is an interesting case study in the development of law through the interplay among Congress, the executive, and the courts. And if you think the problems will be settled by Congress's mere failure to enact any new legislation and the Internal Revenue Service's return to its prior interpretation of the law—then you prob-

ably have dust in your eyes.

The story begins in 1969, when a group of lawyers filed a class action suit in the United States District Court for the District of Columbia on behalf of black parents and students from Mississippi to enjoin the Internal Revenue Service from granting tax exemptions to private schools in that state suspected of racial discrimination. suit, Green v. Connally, was initially contested by the IRS-not least of all because established law denied the plaintiffs' standing. In 1970, however, the service changed its position and took the plaintiffs' side on the general point at issue. It announced that henceforth it would require schools to certify that they did not discriminate on racial grounds; beyond that, it promised no specific procedures for enforcing its new policy. The plaintiffs, however, were not content with such generalities and pressed for a more sweeping remedy. A three-judge district court in the District of Columbia agreed with them. It enjoined the service from granting exemptions to the Mississippi schools unless they not only certified that their operations were not discriminatory, but also conducted publicity and recruitment campaigns aimed at black students and reported to the IRS on the results. The IRS acquiesced in these strictures in Mississippi but continued to follow a self-certification policy elsewhere in the nation.

The district court in Green based its decision not on the Constitution or federal civil rights laws, but on the Internal Revenue Code, Section 501(c)(3) of the code provides exemptions for organizations "operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educa-tional purposes." No one denied that the Mississippi schools were "educational," but the court took the novel position that they had to be "charitable" as well. After that leap, it was only a few skips to the proposition (drawing on the common law of charitable trusts) that no organization violating public policy could be considered charitable, to the proposition that racial discrimination violates public policy, and to the conclusion that private educational institutions that discriminate by race cannot claim the benefit of section 501(c)(3).

Although the IRS was perfectly happy with its new powers, the district court's decision did not go unchallenged. A group of white intervenors appealed to the Supreme Court, which affirmed it in 1971. Since, however, the affirmance was not accompanied by an opinion, the basis for the Court's action was unclear. The effect of the affirmance was further diminished by the Court's gratuitous observation in a later case that since the IRS had "reversed its position while the case was on appeal . . . the Court's affirmance in Green lacks the precedential weight of a case involving a truly adversary controversy." Since then, the D.C. circuit has affirmed the holding of Green (without opinion), as has the Fourth Circuit in the two cases now on appeal before the

Supreme Court. The issue of the meaning of section 501(c)(3) is further confused by later congressional action. In 1976, for example, Congress enacted a provision denying tax ex-emptions to social clubs that discriminate by race. On the face of things, this would suggest a congressional belief that racial discrimination will not destroy an otherwise available exemption unless the law is amended to that effect. The legislative history, however, indicates that Congress assumed the Green decision to be law with respect to private schools. Or perhaps it indicates only that Congress accepted the permissibility, though not the inevitability, of the IRS's applying the statute in that fashion. Or that Congress accepted the fact, but not the correctness, of the Green decisions. Leaving such doubts aside for the moment, on with the story:

In 1975 the IRS took the next step. It moved to replace its process of self-certification with a nationwide system of required affirmative action and reporting similar to that imposed in Mississippi. These rules were put into effect without incident. Three years later, the service decided, under legal pressure from civil rights groups, that it needed to shift the burden of proof to the schools themselves. It proposed to supplement its 1975 procedures with a special set of rules for "reviewable schools," which it defined as schools "formed or substantially expanded about the time of desegregation of public schools" and having "an insignificant number of minority students." That definition would include almost all private

schools in the South, both religious and secular; the schools set up by refugees from forced busing in the North; and many miscellaneous schools with the misfortune to be founded or expanded at the "wrong" time. If a "reviewable" school did not meet a specified quota of minority students, it would be required to prove its innocence by clear and convincing evidence of extensive minority recruitment and scholarship programs.

With its 1978 proposals, the IRS for the first time encountered significant opposition. The expense of mandated scholarship programs would have bankrupted many of the new schools, especially those run by poorer fundamentalist congregations. Parents condemned what they perceived as interference with their First Amendment rights, and objected to the presumption of guilt attached to their schools. The IRS received 150,000 letters on the proposal, the most in history on any subject.

Congress received a few letters as well. The next year, it curbed the authority of the IRS in the area by attaching two different amendments to the Treasury appropriation bill: one barring the use of funds to implement the 1978 proposals, and a second barring the use of funds "to formulate or carry out any rules, policy, procedure, guideline, regulation, standard, or measure" leading to the loss of tax exemption "unless in effect prior to August 22, 1978." Together, the two amendments seemed to lay the

1978 proposal to rest.

The District of Columbia courts, however, were still open. Two suits were at hand. One was the familiar *Green v. Connally* case. This time the plaintiffs had reopened it in order to ask the court to impose the 1978 rules in Mississippi. In the other case, entitled *Wright v. Miller*, the plaintiffs were asking the court to impose the 1978 rules everywhere else in the country. It was in fact during the settlement negotiations in these two suits—from which the IRS, incidentally, excluded the representatives of private schools—that the IRS agreed to adopt the 1978 rules. When Congress intervened and the settlement became impossible, the suits naturally proceeded.

The IRS once again proved a cooperative defendant on the issue of substantive law (though it continued to challenge the plaintiffs' standing). Its *Green* brief argued:

"... the restrictions in the Appropriations Act place the Service in a serious dilemma. On the one hand, the Service has now concluded that its current procedures and guidelines are inadequate to implement fully the Service's obligation to deny tax exemption to discriminatory private schools. On the other hand, the Service is prevented from implementing new rules in this area because of the congressional action. Thus, defendants believe that the Congressional action conflicts with Code Section 501(c)(3) as interpreted by the *Green* court and other courts.

It is unclear why later congressional action cannot conflict with earlier congressional action. One would suppose that is what distinguishes preexisting statutes from preexisting constitutions. Nonetheless, the service asked the court to resolve its "dilemma" by "declaring the riders unconstitutional" or by at least interpreting the riders to bar only the implementation of new rules by administrative fiat, and not the execution of new court orders to the same effect.

Ultimately, the District of Columbia Circuit Court of Appeals agreed with the second argument. On June 18, 1982, a panel of that court held by a 2-1 vote that "the

riders . . . do not purport to control judicial dispositions," and remanded the case to the district court so that it could decide whether to impose the 1978 rules. (The case is now on appeal.)

Congress could see a nationwide court order coming, and acted immediately to head it off. On July 30 the House, by a vote of 337-83, added a new rider to the old ones, forbidding the enforcement of court orders entered after August 22, 1978. The new rider was approved by the Senate Appropriations Committee, and was made part of the continuing resolution passed at the end of the session. Thus, in a constitutional impasse perhaps unique in American history, the legislative branch has barred the executive branch from carrying out the orders of the judicial branch.

So the regulation of private schools had proceeded through three stages: the 1970 settlement in which the IRS first asserted its power; the 1975 rules in which it imposed affirmative action and reporting requirements on private schools; and the 1978 initiative in which it established racial quota requirements-which, if not met, would shift the burden of proof and impose even greater affirmative action obligations. While the third stage was being thrashed out between the courts and Congress, the first two stages were under challenge too. Bob Jones University and Goldsboro Christian Schools had sued to save their tax exemptions, and had lost in the Fourth Circuit on the basis of Green. These cases were decided under the 1975 procedures, and thus did not raise the issue of the 1978 rules and the resulting congressional riders. (On the other hand, they raise some additional issues-such as whether First Amendment religious liberties prevent denial of the exemption and what constitutes "prohibited" discriminationthat will not be pursued here. The issue of First Amendment religious liberty was important enough to provoke amicus briefs on behalf of Bob Jones before the Supreme Court from the National Council of Churches and the National Jewish Commission on Law and Public Affairs.)

In the appeal of those cases to the Supreme Court, the government once again changed its position to agree with the plaintiffs—but this time all hell broke loose. And that is where the reader came in.

There is plenty of room for valid criticism of the administration's handling of this matter-perhaps on policy grounds (if total elimination of the ban on tax exemptions for "segregation academies" was really its original intent); and then perhaps on tehnical grounds (if the IRS's originally announced intention of reversing the regulations was meant to apply even to Mississipwhere there was still an outstanding court order in Green); and surely on the grounds that legislation to plug the discrimination loophole left by the abandonment of Green should have been part of the orignial package. But what has been lost in the dust is the fact that the administration's determination to get rid of Green is eminently sound, and should have the support of a Congress that purports to be an implacable foe of excessive agency and judicial power.

It seems clear that Congress would vote against tax-exempt status for private schools that discriminate on the basis of race. It also seems clear that the *Green* court, and the IRS, were engaging in an audacious bit of activism when they said Congress had already done so. It was, moreover, a seminal sort of activism, since it opened the tax-exemption section of the Internal

Revenue Code to continuing policymaking by the IRS and the courts. For if, in order to qualify for the "educational" exemption. an institution must also be "charitable (and thus comply with all important public policies), then presumably the same condition attaches to all the other exemptions as well, notably the "religious" exemption. And if the public policy against racial discrimination is thus imported into the Internal Revenue Code, then so, presumably, are other public policies that can be identified by the service or the courts. Since, for example, there is a clear public policy against discrimination on the basis of sex, it follows very nicely that private boys' schools or schools cannot be tax-exempt-or even, for that matter, religions that refuse to ordain women.

It is doubtful that the present IRS, or even the present D.C. circuit, is about to abopt such a position. But the point is that a staute which permits them to adopt such a position places entirely too much power in their hands. So also does a statute which permits them to convert a ban on racial discrimination to a requirement for quotas or minority scholarships.

The administration is correct that the neat way to solve the former difficulty is to amend the statute to make clear that it does deny tax-exempt status to institutions that discriminate by race, but does not confer a public-policy hunting license upon the IRS and the courts. Events have shown, however, that it is not a politically feasible approach. It would take a long time to explain the *Green* case on the evening news; but it takes only a moment to note that the administration is asserting the current availability of tax exemptions for schools that discriminate.

The only way out is the way we came inthrough the courts. The Supreme Court's 1974 disclaimer of having adopted the Green theory suggests an awareness of the problem. Our prediction is that the Court will preserve the ban on racial discrimination by tax-exempt institutions through reliance on congressional acceptance of that IRS policy displayed in port-Green legislative enactments; but will consign Green itself to the (one would hope) bygone era of runaway judicial activism to which it properly belongs. administration could accommodate itself to that approach—and make the road easier for the Court-by interpreting what now seems to be the almost certain congressional refusal to pass its proposed statute as an affirmation of that legal state of affairs, and by adjusting its legal position accordingly.

Thus the future harm that might be wrought by past judicial activism will be avoided. It should be noted, however, that the past effects will not be undone. By reason of this interplay among the administrative, judicial, and legislative process, Congress will have "voted" to deny the tax exemptions without ever having to face down a filibuster on the issue.

The remaining problem of what the IRS is permitted to demand—or may be required by the courts to demand—as proof of non-discrimination is perhaps more difficult. Its solution will require the continued involvement of our reluctant legislators when the IRS is unduly demanding (as it was in 1978) or, for that matter, unduly lenient. But the courts, we predict, will take themselves out of the action, by returning to the traditional doctrine of standing, which denies citizen A the right to sue to increase citizen B's taxes. Which is to say that the function of the

courts is not to make sure that the laws are faithfully executed, but only to come to the aid of particular individuals whom the law or its execution has harmed. We may be wrong in this prediction—but if so, the constitutional confrontation presented by the 1981 rider to the Treasury appropriations is merely the first of many.

#### AFGHAN FREEDOM FIGHTERS

• Mr. D'AMATO. Mr. President, I rise today in order to express my concern and outrage over events in Afghanistan as well as my support of the Afghan freedom fighters who have sought to repel the Soviet occupation force which has attempted to crush the independent and nationalistic spirit of the Afghan people.

Three years ago this month, an invading army made up of thousands of Soviet combat troops marched into Afghanistan. At the time of the invasion more than 4,000 Soviet military "advisers" were located in the capitol city of Kabul. In addition, scores of Soviet "civilian technicians" were providing assistance to the regime of Hafizullah Amin. Shortly after the airlift of 5, 000 members of a Soviet airborne division to the capitol on December 27, 1979 a bloody coup took place at the Durulaman Palace. In the aftermath, both President Amin and members of his family were killed. Following the coup, the Soviets were instrumental in returning Babrak Karmal to Afghanistan from exile in Eastern Europe. Since the establishment of the puppet government under Karmal, Soviet presence in Afghanistan has increased significantly. Today, nearly 3 years later, 100,000 Soviet troops and advisers remain in this foreign land. Despite the Soviet commitment, of both men and sophisticated arms, the Communist forces have been unsuccessful in breaking the determination of the Afghan people. In light of this standoff, the Soviets have engaged in a most brutal offensive aimed at eliminating the resistance of the freedom fighters who, despite a lack of resources have succeeded in maintaining control over 80 percent of the countryside. While there has been considerable speculation with respect to the use of lethal chemicals by the Soviets and its allies in Afghanistan, Laos, and Kampuchea, a recently released report by the Secretary of State presents compelling evidence to substantiate these claims. The use of such diabolical devices stands in clear violation of both the 1925 Geneva Protocol and the 1972 Biological and Toxic Weapons Convention.

Mr. President, I request that Secretary Shultz' report be included in the RECORD.

The tragic events which have occurred in Afghanistan since the Soviet invasion demand a clear and firm response by the United States in support of the brave men and women who have sacrificed so much in defense of their country. With this in mind, I cosponsored Senate Congressional Resolution 126, expressing the concern of the Congress over the current situation in Afghanistan and the need for U.S. material as well as moral support. While the Afghan freedom fighters have displayed great resilience in the battle to maintain their freedom, it is unreasonable to expect that the resistance movement can continue indefinitely without our support. As we approach the third anniversary of the Soviet invasion of Afghanistan, it is important that we raise our voice in solidarity with the struggling people of Afghanistan.

Mr. President, I request that a series of articles written by Aernout Van Lynden for the Washington Post appear in the Record. Mr. Van Lynden has recently left Afghanistan after 2 months during which he accompanied a group of Afghan freedom fighters.

THE SECRETARY OF STATE,

Washington.
To the Congress of the United States

And Member States of the United Nations: Chemical and toxin weapons are of special concern to mankind. Used against civilian populations, or even against soldiers with protective equipment, they can cause protracted and indiscriminate physical and psychological suffering and, as we witnessed in World War I, widespread death as well. For such reasons, the international community has outlawed the use of these weapons. The 1925 Geneva Protocol, one of the oldest arms control agreements still in force, forbids the use of chemical and biological weapons in war. The 1972 Biological and Toxin Weapons Convention prohibits the mere possession of toxin weapons. In an effort to extend such legal constraints still further, the United States-together with other countries in the Committee on Disarmament at Geneva-is seeking an outright ban on the development, production and stockpiling of chemical weapons.

I regret, then, to report that chemical and toxin weapons are nevertheless being used today in Laos, Kampuchea and Afghanistan by the Soviet Union and its allies. In March of this year, we reported on this subject to the Congress, the United Nations, and to the members of the international community. Our report, which contained a comprehensive and detailed compilation of the evidence available to the United States Government, was designed to bring the issue to the attention of the world community. In presenting it, we invited others to join us in examining the evidence and in confirming

the truth.

These efforts have not led the Soviets and their allies to halt their illegal use of chemical and toxin weapons. Instead, they continue to deny the truth about their illegal activities. The world cannot be silent in the face of such human suffering and such cynical disregard for international law and agreements. The use of chemical and toxin weapons must be stopped. Respect for existing agreements must be restored and the agreements themselves strengthened. Respect for the dignity of humanity must be restored. Failure to achieve these goals can only have serious implications for the security of the world community, particularly for the security of smaller nations, like

those whose people are being attacked. If such basic elements of human rights can be so fundamentally ignored, how can we believe any pledges to respect human rights?

All who would seek to promote human rights, and all who would seek to maintain the credibility of international agreements, have a duty to call world attention to the continuing use of chemical and toxin weapons, and to seek a halt to their use. It is for this purpose that the United States provides the following report.

Sincerely,

GEORGE P. SHULTZ.

CHEMICAL WARFARE IN SOUTHEAST ASIA AND AFGHANISTAN: AN UPDATE

(Report from Secretary of State George P. Shultz, November 1982)

#### UPDATED PINDINGS

Based on a thorough analysis of this new information, we are able to conclude the following:

Reports of chemical attacks from February through October 1982 indicate that Soviet forces continue their selective use of chemicals and toxins against the resistance in Afghanistan. Moreover, new evidence collected in 1982 on Soviet and Afghan Government forces' use of chemical weapons from 1979 through 1981 reinforces the previous judgment that lethal chemical agents were used on the Afghan resistance. Physical samples from Afghanistan also provide new evidence of mycotoxin use.

Vietnamese and Laos troops, under direct Soviet supervision, have continued to use lethal and incapacitating chemical agents and toxins against the H'Mong resistance in

Laos through at least June 1982.

Vietnamese forces have continued to use lethal and incapacitating chemical agents and toxins against resistance forces in Kampuchea through at least June 1982.

Trichothecene toxins were found in the urine, blood, and tissue of victims of "yellow rain" attacks in Laos and Kampuchea and in samples of residue collected after attacks.

We continue to find that a common factor in the evidence is Soviet involvement in the use of these weapons in all three countries. Continued analysis of prior data and newly acquired information about Soviet mycotox in research and development, chemical warfare training in Vietnam, the presence of Soviet chemical warfare advisers in Laos and Vietnam, and the presence of the same unusual trichothecene toxins in samples collected from all three countries reinforce our earlier conclusion about the complicity of the Soviet Union and about its extent.

#### INTRODUCTION

Our March study showed that casualties and deaths resulted from chemical attacks in Southeast Asia and Afghanistan and that trichothecene toxins were used in both Laos and Kampuchea. The new evidence shows that these attacks are continuing in all three countries and that trichothecene toxins have been used in Afghanistan as well.

The same rigorous analytical processes employed in our March study, and outlined in detail there, were followed to arrive at the judgments contained in this update. In light of the widespread publicity given the March report, special efforts were made by U.S. Government analysts to preclude being led astray by any possible false reports that might be generated for propaganda or other purposes and to eliminate the possibility of making erroneous judgments about the

chemical or toxin agents involved because of tampering or improper handling. Every

report has been carefully checked.

The evidence in the March study was based on a broad range of data, including testimony by physicians, refugee workers, journalists, and others. Although some of the new reports are anecdotal, we have been able to corroborate most of them by other sources and sample analysis. Moreover, personal testimony tends to add credence to other accounts which, taken together, form a coherent picture. The material presented in this report represents only a relatively small amount of the total accumulated evidence. This additional information is examined in greater detail in the annexes. Improved sample collection procedures, better quality of medical histories and physical examinations, documentation including photographs of lesions and hospital charts from Southeast Asia, and interviews by trained personnel have reinforced our earlier conclusion and led to new discoveries

As international concern about this subject has increased, based on the development of evidence from many countries, independent analyses have been initiated by foreign chemical warfare experts, physicians, journalists, and independent nongovernmental scientists and laboratories. Analysis in the United States have found this research very helpful both in supporting their own conclusions and, more importantly, in

expanding on them.

## SUMMARY OF EVIDENCE Afghanistan

Evidence indicates that the Soviets have continued the selective use of toxic agents in Afghanistan as late as October 1982. For the first time we have obtained convincing evidence of the use of mycotoxins by Soviet forces through analyses of two contaminated Soviet gas masks acquired from Afghanistan. Analysis and quantification of material taken from the outside surface of one mask have shown the presence of trichothecene mycotoxin. Analysis of a hose from a second Soviet mask showed the presence of several mycotoxins. In addition, a vegetation sample from Afghanistan shows preliminary evidence of the presence of mycotoxins. (See Annex A.)

Our suspicions that mycotoxins have been used in Afghanistan have now been confirmed. Reports during 1980 and 1981 described a yellow-brown mist being delivered in attacks which caused blistering, nausea, vomiting, and other symptoms similar to those described by "yellow rain" victims in Southeast Asia. Because of limited access to survivors who still exhibited symptoms, as well as great difficulties in collecting environmental and other physical samples from attack sites, we were unable to conclude with certainty in the March 22 report that mycotoxins were being used in Afghanistan. We have now concluded that trichothecene mycotoxins have been used by Soviet forces in Afghanistan since at least 1980.

A number of reports indicate that chemical attacks are continuing in 1982. While we cannot substantiate every detail, the pieces of evidence in these reports add up to a consistent picture. For example, a physician in a facility treating casualties among the mujahidin (resistance fighters) has reported that he treated 15 mujahidin red skin lesions that he said were caused by Soviet chemical attacks in Qandahar Province in May-June 1982. Three mujahidin died within 12 hours of one attack in the general area of Maharijat south of Qandahar. The mujahidin claimed that Soviet helicopters

fired rockets that emitted black, yellow, and white gases on impact. The physician said that the surviving victims failed to respond to conventional medical treatment.

We have received reports that on September 20, 1982, Soviet soldiers poisoned underground waterways in Lowgar Province south of Kabul where the mujahidin were hiding. According to a mujahidin commander in Pakistan, a similar event occurred in the same province on September 13, 1982, resulting in the deaths of 60 adults and 13 children. These two independent accounts described a Soviet armored vehicle pumping a yellow gas through a hose into the waterways. 1

According to the accounts of the September 1982 attacks, the victims' bodies decomposed rapidly, and the flesh peeled away when attempts were made to move the bodies. Since 1979, mujahidin resistance leaders, refugees, journalists, and Afghan defectors have described chemical attacks causing almost indentical symptoms. Most reports have described the skin as being blue-black after death. Although such symptoms seem bizarre, the large number of reports from a variety of sources since 1979 suggests that they cannot be dismissed (see our March 22 report, p. 16).

In 1982, a Soviet soldier who defected to the mujahidin said in an interview with a British journalist that a Soviet toxic agent, termed "100 percent lethal," causes the flesh to become very soft. The Soviet defector stated that the Soviets maintained stores of "picric acid" (probably chloropicrin, a potentially lethal tear gas), the "100 percent lethal" agent, and an incapacitating agent near the cities of Qonduz and Kabul. The defector also reported that:

Unidentified toxic agents had been used in June 1982 on the highway between Termez and the Salang Pass north of Kabul;

The "100 percent lethal" agent was delivered by rockets; and

"Picric acid" and an incapacitating agent were delivered by air-dropped canisters.

The defector stated that the Soviets have been preoccupied with protecting the roads and that chemicals were sprayed by planes along the areas adjacent to highways. Chemical grenades reportedly have been used, but the data are inadequate to allow us to hypothesize about the contents, although some symptoms are indicative of mycotoxins.

The reports of rapid skin decomposition as quickly as 1-3 hours after death continue concern us. There is no recognized class of chemical or biological toxin agents we know of that could affect bodies in such a way. If we assume occasional inaccuracies in reporting by journalists and survivors of attacks, it is possible that phosgene or phosgene oxime could cause such effects after 3-6 hours but with much less softening of tissues than is consistent with stories of "fingers being punched through the skin and limbs falling off." The reported medical effects of other toxic agent attacks are consistent with use of the nerve agent tabun. We have information that both phosgene oxime and tabun are stored by the Soviets in Afghanistan.

The British journalist, who interviewed the Soviet defector, also reported on two attacks described to him by the *mujahidin*, which have not yet been confirmed. One was an attack in the spring of 1982 on Kaiba, where Soviet soldiers reportedly shot victims already rendered unconscious by a gas; the other was in the summer of 1982 near Herat where Soviet troops reportedly loaded the bodies from a gas attack onto a truck and removed them. Reliable information indicates that the Soviets used chemical bombs against mujahidin forces in late September 1982 and in early October 1982 in Baghlan Province.

Our earlier findings are reinforced by several reports received this year about earlier attacks not covered in our March report:

According to a former Afghan Army officer, in September 1981 a Soviet helicopter sprayed a yellow mist in Paktia Province (Sheikn Amir) causing 16 deaths. The survivors had bloody noses and tears; extensive bleeding was reported in those who died. The Afghan officer described a similar attack in Nangarhar Province during the same month in which four persons were killed.

In early December 1981, according to interviews with survivors, 15 refugees attempting to escape to Pakistan were attacked by a helicopter using gas; four or five people were killed (the youngest and the eldest), while the rest became unconscious for 5-6 hours. The attack occurred about 60 kilometers northwest of Jalalabad.

According to a Soviet soldier who served in Afghanistan in 1980 and personally observed the use of chemical weapons, the Soviets dispersed chemicals from fighter-bombers and assault helicopters. He said that an aircraft or helicopter first would drop a container and then, on a second run, drop a bomb, resulting in a mixture of two different chemicals that killed everything within the contaminated area. We believe that the soldier may have been describing the delivery of two separate chemical agents, an occurrence described by other eyewitnesses.

An Afghan veterinarian recently has described an incident in May 1979 in which 20 people and a number of sheep were killed near Qandahar. Soviet lab technicians explained that the incident resulted from anthrax, but the doctor knew that the explanation did not fit the effects observed. Local Afghans told the veterinarian that Soviet vehicles had been in the area spraying a yellow/white powder before the incident.

In June 1980, an airport official described seeing 200-300 gas containers painted in greens and browns at Qandahar Airport. The containers averaged 35-40 inches high and 26-30 inches in diameter. A subordinate reported three types of gases in the containers: one causing burning in the throat as well as suffocation; one causing what looked smallpox and blistering; and one making victims tired and sleepy and unable to run or fight. Further, the subordinate stated that the containers were placed in special casings that were dropped from aircraft and exploded on impact, emitting a large cloud of smoke, usually yellow but sometimes other colors. He said he had heard mujahidin describe these gas attacks and had himself seen animals that had been killed by the gases. We lend credence to this report because we know from other evidence that chemicals are stored at Qandahar Airport, which is an important staging area for Soviet military operations.

Finally, information received this year revealed that a Soviet adviser inspecting sites for housing Soviet troops before the Afghan invasion indicated that Soviet chemical de-

We know from other sources that Soviet chemical agent delivery methods include this technique, as reported, for example, by a Cuban emigre trained by the Soviets in the use of chemical weap-

fense forces entering Afghanistan would bring in extensive stores of toxic materials. The adviser indicated that a proposed garrison in Kabul would be inappropriate for the Soviet chemical defense unit because the materials it transported could devastate the city if an accident occurred.

#### Laos

H'Mong refugees, recounting details of toxic agent attacks and exhibiting severe medical symptoms from exposure to the agents, fled to Thailand every month from January through June 1982. They brought out more samples contaminated by a yellow, sticky substance described as a "vellow rain dropped by aircraft and helicopters on their villages and crops. We have preliminary reports on attacks as recent as October 1982. We now know that the yellow rain contains trichothecene toxins and other substances that cause victims to experience vomiting, bleeding, blistering, severe skin lesions, and other lingering signs and symptoms ob-served by qualified physicians. Experts agree that these people were exposed to a toxic agent and that no indigenous natural disease, plant, or chemical caused these unique physical effects.2

Laboratory analyses of blood samples from these victims and studies on experimental animals have shown that trichothecene toxins are retained in the body for much longer periods of time than previously thought. Scientific research has shown that the multiple-phase distribution pattern in animals includes a secondary half-life of up to 30 days. We believe that the severe skin lesions observed on victims by doctors are also relevant. Victims whose blood proved on analysis to have high levels of trichothere.

cene mycotoxins exhibit such skin lessions.

Descriptions of the 1982 attacks have not changed significantly from descriptions of earlier attacks. Usually the H'Mong state that aircraft or helicopters spray a yellow rain-like material on their villages and crops. In some reports the symptoms are similar to those described in our March 22 study, and we attribute them to the use of trichothecene toxins. However, in many cases there was no bleeding, only abdominal pains and prolonged illness. These symptoms, described in previous years, suggest that another agent or combination of agents is still being used. The explanation is complicated because different symptoms are ascribed to men, women, children, and animals. It is possible that different agents, lower concentrations of the same agents, or climatic conditions have affected the efficacy of the agents.

Medical personnel in Laos refugee camps in Thailand were much better organized in 1982 to screen victims than in past years. Doctors now routinely use extensive questionnaires and conduct comprehensive medical examinations, including some onsite, preliminary blood analysis. Skilled paramedical personnel oversee preparation of blood and serum samples for proper transport and shipment to the United States or other countries for chemical analysis. Some patients with active symptoms are now being monitored extensively over time.

A number of blood samples have been collected from Laos for analysis in the United States. All biological specimens were drawn by qualified medical personnel, and samples were refrigerated until analyzed in the United States. Analysis of these samples shows that trichothecene mycotoxins continue to be used against H'Mong villages. In addition to blood and urine specimens from victims exposed to chemical warfare, we have collected additional physical samples this year. These physical samples consist of more residue of yellow rain containing mycotoxins from the same attacks that yielded human biological specimens positive for these same toxins. (See Annex A.)

The number of reported attacks in Laos in 1982 did not differ significantly from the frequencies reported for comparable periods in the years 1977 through 1981. Reported fatalities per attack during 1981 and 1983 showed an apparent decrease, suggesting the possibility that less lethal toxic agents, or lower concentrations of the same agents, are now being used. This apparent decrease, however, was not statistically significant and could have been caused by a number of other factors, including the following:

Due to emigration and the high number of fatalities since at least 1976, the H'Mong were living in smaller, more scattered communities.

H'Mong survivors still in Laos were warier and quicker to take cover and to use redimentary protective measures at the first sign of attack.

The H'Mong were not taking time to count victims—this is supported by the existence of very few reports that indicate the precise number of people affected by a toxic agent attack.

As stated in the March report, the Soviet Union maintains in Laos significant numbers of advisers who provide maintenance assistance, technical support, and training in both conventional and chemical warfare. A former Laos transport pilot who defected early this summer has described the aerial movement, under Soviet supervision, of toxic agents within Laos.

#### Kampuchea

Most reports of toxic attacks in Kampuchea for the period 1978-June 1982 come from Democratic Kampuchean (DK) sources, including interviews with DK military personnel. Evidence from other sources confirmed most of these reports. In 1982, most reported attacks occurred near the

Thai border, making it easier to obtain samples and other direct evidence of toxic agent

In the first 6 months of 1982, the number of reported toxic agent attacks in Kampuchea was about half the number reported during the same periods in 1980 and 1981. The number of reported deaths per attack also decreased, but data were insufficient to determine if this decrease was statistically significant. We also have preliminary reports on attacks through early November 1982.

In February and March 1982, several attacks occurred just across the Kampuchean border in Thailand, Analysis of samples collected from the attacks was performed in Canada, Thailand, and the United States. Although differing sampling techniques give rise to significant sampling error and lead to slightly different analytical results, both the U.S. and Thai analysts, using dif-ferent analytical techniques, found trichothecene mycotoxins in their samples.3 The Canadian team investigating these attacks has published a detailed medical as-sessment of the victims' symptoms; it concluded that illness had in fact occurred and was caused by a toxic agent, although preliminary tests for trichothecenes proved inconclusive in the Canadian sample.

Blood and urine samples from Kampuchean victims of a toxic agent artillery attack on February 13, 1982, contained trichothecene toxins (Annex A). In addition, post-mortem tissue from a victim of this same attack confirmed the presence of trichothecene toxins (Annex B). Analysis of additional samples showing the presence of trichothecenes taken from other attacks is also found in Annex A.

The Vietnamese conducted toxic agent attacks this year against another resistance group, the Kampuchean People's National Liberation Forces. On several occasions in March-May 1982, the resistance camp at Sokh Sann was hit with toxic artillery shells and bombs. Samples of contaminated vegetation and yellow residue from these attacks are now being analyzed. Attacks occurred in Kampuchea through June 1982, providing new samples; qualitative tests indicate that the presence of trichothecenes is probable. The results of confirmatory analyses are pending.

Several Vietnamese military defectors from Kampuchea have provided valuable information in 1981 and 1982 on chemical weapons use and on the Vietnamese chemical warfare program and have reported that some types of agents are supplied by the Soviet Union. Information from other sources also confirms our earlier view that the Vietnamese possess toxic agent munitions and are equipping their own troops with additional protective equipment.

TABLE 1.—AFGHANISTAN: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons	Persons taken ill
Det.	vinage location	method of attack	Form of material	killed	taken ill
Early Feb	North of Shindand	Aircraft	Yellow substance		.7
Feb. 4. 5	South of Shindand	Helicopter	Yellow substance	ő	i
Feb. 19	Badakhshan Province	Aircraft	Yellow crystals	7	7
May-June	Qandahar Province	Helicopter rockets	Black, yellow, white gases	3	15
June	Farah Province	Aircraft bombs	Red, black, white smoke	?	7
June 11	Qandahar Province	Aircraft bombs	?	15	30

<sup>&</sup>lt;sup>2</sup> See Canadian report to the United Nations: "Study of the Possible use of Chemical Warfare Agents in Southeast Asia," Dr. H. B. Shiefer, University of Saskatchewan.

<sup>&</sup>lt;sup>3</sup>It was thought initially that a harmless yellow powder had been dropped on Thai villages as part of a disinformation campaign attempting to discredit U.S. sample analysis results. Within days of such an attack, the Thai Ministry of Health an-

nounced that only ground-up flowers had been found. However, Thai officials later stated that further analysis showed traces of toxin and that the earlier Health Ministry announcement was based on incomplete investigation.

#### CONGRESSIONAL RECORD—SENATE

TABLE 1.—AFGHANISTAN: REPORTED ATTACKS, 1982—Continued

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
June July	Baghlan Province	Helicopter	7	?	
Sept. 13	Lowgar Province  Lowgar Province  Lowgar Province	Pumped from armored vehicle Pumped from armored vehicle	Gas Gas	73	
Late September/early October	Lowgar Province	Aircraft bombs.		1	

<sup>?-</sup>Undetermined.

#### TABLE 2.—LAOS: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
an 3, 6, 11	Phou Bia ¹ Phou Bia	Helicopter spray Aircraft Artillery Aircraft spray Helicopter Helicopter Helicopter spray Helicopter spray Helicopter spray Aircraft Aircraft Aircraft Aircraft Aircraft	Yellow rain Green chemical 2 White/yellow cloud. Yellow rain White powder White powder White powder Red, yellow/white clouds Yellow rain 2 Yellow rain 2 Yellow rain 2 Yellow rain Yellow rain Yellow rain Yellow rain Yellow rain Yellow rain	0 ? ?	30 (3) (4) (5) (5) (5) (6) (7) (7) (7) (7) (7) (7) (7) (7) (7) (7
nay 24	Phou Bia Phou Bia Phou Bia Phou Bia	Aircraft Poisoned river Aircraft spray	Yellow rain Yellow rain Yellow rain	9	\\ 3 3

TABLE 3.—KAMPUCHEA AND THAILAND: REPORTED ATTACKS, 1982

Date	Village location	Method of attack	Form of material	Persons killed	Persons taken ill
mpuchea:					
Feb. 13	Border near Khao Din Border near Pailin	Artillery	? (1)	(2)1	10
Feb. 23	Border near Pailin	Spread along border	Yellow powder	0	
May 3	Battambang Province Pailin area	Artillery	1	0	
Mar. 5, 7	Pailin area	Aircraft spray artillery Artillery ground spray	White powder <sup>1</sup>	0	
Mar. 7-11	Sokh Sann	Artillery ground spray	Yellow substance	0	(
Mar. 10	Battambang Province Battambang Province	Aircraft	Toxic substance	25	
Mar. 10-13	Battambang Province	Aircraft, artillery	Toxic substance	30	
Mar. 17	Sokh Sann	Artillery	Yellow/white powder	0	(
Mar. 24	Battambang Province Battambang Province near border Sokh Sann	Poisoned water	Yellow powder	4	
Apr. 29	Battambang Province near border	Aircraft spray	Yellow powder	3	
May 23, 26	Sokh Sann Preah Vihear Province Border near Nong Chan	Aircraft spray Poisoned food and water	?	0	
June	Preah Vihear Province	Poisoned food and water	7	2	(
June 24	Border near Nong Chan	Mortar	Yellow cloud	0	
illand:					
Feb. 19	Pong Nam Ron District	Aircraft spray  Aircraft (powder wind-blown over border)  Mortars	Yellow powder 1	0	
Mar. 3		er Aircraft (powder wind-blown over border)	Powder	0	
Mar. 5	Pong Nam Ron District	Mortars	Gray/black smoke	0	
Mar. 6, 8	Southeast of Pong Nam Ron District near bords	er Aircraft spray	Yellow powder	0	

#### ANNEX A

#### ANALYSIS OF SAMPLES FOR CHEMICAL WARFARE AGENTS AND TOXINS

The identity of the agents and toxins being used in Laos, Kampuchea, and Afghanistan cannot be determined without collection and analysis of at least one of the following: environmental or physical samples contaminated with agent, the munitions used to deliver agents, or biological specimens from attack victims.

The likelihood of detection of chemical agents and toxins in contaminated samples depends on a number of factors. These include the persistency of the agent; the ambient temperature; rainfall; wind conditions; the media on which the toxic agent was deposited; and the time, care, and packaging of the sample from collection to laboratory analysis. Many standard chemical warfare agents and toxins disappear from the environment within a few minutes to several hours after being dispersed. These include, for example, the nerve agents sarin and tabun, the blood agents hydrogen cyanide and cyanogen chloride, the choking agents phosgene and diphosgene, and the urticant phosgene oxime. Other standard agentssuch as the nerve agents XV and thickened soman and the blistering agents sulfur mustard, nitrogen mustard, and lewisite-may persist for several days to weeks depending on weather conditions. The trichothecene toxins are stable under laboratory conditions but degrade in field samples due to metabolism by micro-organisms contained in the sample. To maximize the chances of detection, sample collections should be made as rapidly as possible after a toxic agent assault; with many agents this means minutes to hours. Given the situation in Southeast Asia and Afghanistan, this usually has not been possible. Although numerous samples were collected, few held any realistic prospects for yielding results. However, when immediately collected and properly handled and using the advanced technology now available, trichothecenes may be detected in both physical and biological materials up to several months after the attack.

Samples have been collected from Southeast Asia since mid-1979 and from Afghanistan since May 1980. To date, more than 350 individual samples—of greatly varying types and utility for analytical purposes—have been collected and analyzed for the presence of traditional chemical agents. About 100 additional samples are pending completion of analysis. All environmental and nonmedical samples were submitted to the U.S. Army Chemical Systems Laboratory for analysis for traditionally recognized chemical warfare agents and other toxic materials. Tissue specimens and body fluids from attack victims were submitted to the Armed Forces Medical Intelligence Center. Under the sponsorship of that organization, the biomedical specimens were analyzed for the presence of trichothecene mycotoxins and

<sup>—</sup> Undermined.

Phou Bia refers to mountain area where H'Mong villages are located

Samples from this attack contained mycotoxin (see Annex A).

attack contained mycotoxin (see Annex A) etailed analysis of autopsy results of the vi

other toxins by Dr. Chester Mirocha, University of Minnesota; Dr. Joseph Rosen, Rutgers University; and Dr. Tim Phillips,

Texas A&M University.

To date, biomedical samples (blood, urine, and/or tissue) from 33 alleged victims have been screened. Specimens from 16 of these individuals show the presence of trichothecene mycotoxins. In addition, six environmental samples from alleged attack sites have been analyzed by Dr. Mirocha. Five show the presence of unusually high concentrations and combinations of trichothecene mycotoxins.

#### EVIDENCE OF CHEMICAL AND TOXIN AGENT USE IN SOUTHEAST ASIA AND AFGHANISTAN, 1982

Sample	Result
Laos:	
Blood	Trichothecene toxin.
Blood (post- mortem).	Trichothecene toxin.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene/ aflatoxin B1.
Kampuchea/	
Thailand:	
Blood	Trichothecene toxin.
Urine	Trichothecene toxin.
Tissue (autopsy)	Trichothecene
a morae (maropo), min	aflatoxin B1.
Yellow residue	Trichothecene toxin.
Vegetation	Trichothecene toxin.
Water	Trichothecene toxin.
Water	Cyanide.
Afghanistan:	Cyamac.
	mulabathasana taula
	Trichothecene toxin.
Vegetation	Trichothecene toxin.

Details concerning samples analyzed since the March report—including the circumstances of their collection, analysis, and the results—are provided in this annex. Results of analysis of earlier samples were included in our March 22, 1982 report.

### POSITIVE SAMPLE RESULTS

#### Afghanistan

One-quarter of the external surface of a Soviet gas mask, obtained near Kabul in September 1981, was recently processed for analysis, employing techniques not previously used, and showed the presence of T-2 toxin. This analysis has been verified by two other laboratories. Similar analysis of material from the hose connections of another Soviet gas mask removed from a dead Soviet soldier in December 1981 in Afghanistan is indicative of the presence of the trichothecene toxins, T-2, DAS, verricarol, and another type of mycotoxin-zearalenone. It is believed that these protective masks were worn during operations in which a toxin agent was used.

Preliminary analysis of a third sample acquired in February 1982 also indicates the presence of trichothecenes.

#### Laos

(1) Blood samples were drawn from an ill H'Mong couple on March 21, 1982, by a physician in the Ban Vinai refugee camp. The victims were exposed to toxin agent attacks on November 11, 1981, and January 4, 1982. They remained ill and under treatment on March 21, 1982, when blood samples were obtained. During the November 1981 attack, an aircraft sprayed a yellowish agent. Although no one died in the village, symptoms such as bloody diarrhea were experienced by most of those exposed. In the January 1982 attack, a greenish chemical was

sprayed from an airplane. Vomiting with blood, bloody diarrhea, blurred vision, chest pain, eye irritation, and skin rash were reported. Lingering effects included rash, pain in the joints, and fatigue. The blood samples were analyzed for three trichothecene toxins: DAS, T-2 and HT-2. The blood sample from the male was found to contain 13.5 ppb T-2 toxin. The female was negative for all toxins analyzed.

CONGRESSIONAL RECORD—SENATE

(2) Three blood samples were drawn by a U.S. physician on April 17, 1982, from three H'Mong refugees: Bloc Her, an 8-year-old boy; Tong Her, a 6-year-old boy; And Xia Sue Xiong, a young girl. They were among a group exposed to a toxic agent attack in late March 1982 in Laos. The agent used was described as being yellow to reddish brown. It was sticky and dried to a powder. Bloc Her had been severely ill with bloody diarrhea and coughing of blood. Xia Sue Xiong was suffering from bloody diarrhea and abdominal pain. The blood samples were analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

#### TRICHOTHECENE TOXIN ANALYSIS

Victim	DAS	T-2	HT-2
Bloc Her Tong Her Xia Sue Xiong	Negative Negative	Negative	Negative 296 ppb. Negative.

ppb=parts per billion.

(3) Post-mortem blood samples were taken from a 25-year-old H'Mong refugee who had been admitted earlier to a refugee hospital at Ban Vinai, Thailand. Just before death he had suffered from a massive gastrointestinal hemorrhage. He had claimed exposure to a toxic agent attack sometime earlier in Laos. The blood was drawn in the hospital on April 17, 1982, and analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

#### TRICHOTHECENE TOXIN ANALYSIS

Specimen	type	DAS	T-2	HT-2
Heoarinized	blood	Negative	15ppb	19 ppb.

(4) Blood was drawn on April 6, 1982, from Neng Xiong, a H'Mong refugee in Thailand. She was suffering from the effects from a toxic agent attack that occurred in Phou Bia, Laos, on March 25, 1982. The entire population of the village (40 families) suffered from vomiting, fever, backaches, headaches, and chest pain after a helicopter dropped a yellowish agent. Many villagers also developed swollen eyes. It was reported that one woman and several animals died. Neng Xiong's blood was analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

#### TRICHOTHECENE TOXIN ANALYSIS

Specimen type	DAS	T-2	HT-2
Heparinized blood Nonheparinized blood.	Negative	100 pob	8 ppb. 34 ppb.

(5) A H'Mong refugee reported being subjected to a toxic agent attack on March 17, 1982, in Phou Bia, Laos. The agent, which "looked like yellow rain," was sprayed by a helicopter at low altitude. The sticky yellow spots dried to a powder in 3-4 hours. Immediately after the attack, the victim developed stomach and chest pains and vomited. Vomiting with blood began later and continued over the next 24 hours. Other symp-

toms included headache, shortness of breath, dizziness, eye irritation, and vision disturbances. The refugee also developed a rash and blisters. Blood samples were drawn by a physician at Ban Vinai refugee hospital in Thailand on March 31, 1982. The samples were analyzed for three trichothecene toxins: DAS, T-2, and HT-2.

#### TRICHOTHECENE TOXIN ANALYSIS

Specimen types	DAS	T-2	HT-2
Heparinized blood Non-Heparinized blood.	Negative	19 ppb	Negative. 2 ppb.

(6) Results of analysis of two environmental samples from attack sites in Laos were reported in our March 22 report and are not repeated here. An additional set of environmental samples taken from an allegedly contaminated area in Laos near Phu He was obtained for analysis. Although symptoms were manifested in individuals collecting and handling the sample, no trichothecenes were detected upon analysis.

#### Kampuchea/Thailand

(1) On February 13, 1982, at least 100 Kampuchean soldiers were subjected to an artillery-delivered toxic attack by Vietnamese forces and became ill. The attack took place near the village of Tuol Chrey in an area north of Khao Din, about 300 meters from the Thai-Kampuchean border. One individual subsequently died (see autopsy results, Annex B). Reported symptoms included burning eyes, blurred vision, shortness of breath, chest pains, vomiting, and vertigo. Some victims also trembled and generally felt weak. Blood and urine samples were taken from a number of victims at various times after the attack as well as from a control group of individuals living under similar conditions but not subject to the toxic agent attack. Blood and urine samples from the control group were negative for all analyzed toxic agents, including trichothecene toxins.

On February 14, 1982, 1 day after the attack, blood samples were taken from two victims: Pen Nom and Prek Reth. On February 15, a urine sample was taken from Pen Nom, while on February 16, a urine sample was taken from Prek Reth. Both blood and urine samples were analyzed for the presence of the trichothecene mycotoxins T-2 and HT-2.

#### TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen	T-2	HT-2
Prek Reth	Blood	18 ppbnegative	22 ppb negative.
Pen Nom	Bloodurine	11 ppbtrace	10 ppb 18 ppb.

On March 4, 1982, 19 days after the incident, some victims still showed effects of the attack and were being treated in Nong Pru hospital in Kampuchea. Further blood samples were drawn at that time from Prek Reth and five additional victims.

#### Trichothecene toxin analysis

Victim	T-2 Toxin
Prek Reth	Negative.
Kin Ving	7 ppb.
Mau Sereth	Negative.
Seng Nem	Negative.

Victim T-2 Toxin Ching Soeum ...... Negative. Chem Ron ...... 3 ppb.

Analysis of tissue samples from a victim of the February 13 attack is described in

(2) On March 5, 1982, a small Vietnamese aircraft sprayed a white powder in an area near Pailin, Kampuchea. On March 6, 1982, 10 of a group of 15 Kampucheans were unable to continue walking due to illness after passing through the area. Symptoms included nausea, vomiting, shortness of breath, blurred vision, diarrhea, bloody discharge from the nose, and burning sensa-tion in the chest and abdomen. A second attack occurred on March 7, 1982, when some of the same Kampucheans were subjected to Vietnamese toxic artillery shelling. The agent produced nausea, dry mouth, and blurred vision and also caused loss of consciousness and muscle twitching. Despite medical treatment, a number of the victims

Samples were taken from three survivors exposed to the contaminated area on March 6 and 7. Blood and urine were taken on March 13, 1982.

#### TRICHOTHECENE TOXIN ANALYSIS

Victim	Specimen 1	DAS	T-2	HT-2
Neung Hon	Urine	Negative	5 ppb	2 ppb. Negative.
Chan Saran	Urine	Negative	4 ppb Negative	1 ppb. 8 ppb.
Bun Thoeum	Urine	Negative	22 ppb Negative	7 ppb. Negative.

<sup>&</sup>lt;sup>1</sup> Blood samples was heparinized.

(3) A sample of contaminated vegetation was obtained following spraying by a Vietnamese aircraft in Pong Nam Ron District near the Thai-Kampuchean border on February 19, 1982. Analysis of this sample for known chemical agents was negative. However, the trichothecene toxin T-2 was present at a level of 86 ppb. DAS was also present at 30 ppb. The sample was of insufficient size to analyze accurately for the toxins nivalenol and deoxynivalenol.

#### ANNEX B

#### AUTOPSY RESULTS OF A CHEMICAL WARFARE ATTACK VICTIM IN KAMPUCHEA

Chan Mann was one of several victims of a February 13, 1982, toxic agent attack in the area of Khao Din. The victim, being treated at Nong Pru Hospital, reportedly made a brief recovery on March 12 and 13, followed by a relapse when he became anuric, fever-ish, restless, and slightly jaundiced. On March 17, he lapsed into a coma and died. A urinary catheter was inserted approximately 4 hours before death, but only minimal blood-tinged urine was obtained. Shortly before death the victim vomited blood. Kampuchean physicians performed a necropsy. Tissue sections of heart, esophagus/ stomach, liver, kidney, and lung were taken and fixed in formaldehyde. Tissue samples were given to both U.S. and Canadian officials for analysis.

The samples delivered to the United States were submitted to several U.S. laboratories for gross, microscopic, histopathological, and chemical-toxicological analysis.

RESULTS OF ANALYSIS OF TISSUE SAMPLES FOR DAS, T-2, AND HT-2TH 1

Material	Amount (g)	Toxins detected		
		DAS 2	T-2	HT-2
Heart Stomach	7.9 13.5 9.5		(a)	1 ppm. 4 ppm.
Kidney Lung	10.4 4.5 5.3	3 ppm 4	7 ppb	10 ppb.

DAS (Diacetoxyscirpenol), a trichothecene toxin; T-2, a trichothecene toxin; HI-2, a metabolic product of T-2.
 DAS was used as internal standard—i.e., DAS was added to each tissue sample as a standard to check accuracy of analysis. Only the kidney had a concentration of DAS greater than the amount added.
 Toxins were not detected. Concentration of DAS was no greater than the

dogenous DAS in sample detected in concentration greater than the

Note: Tissues were analyzed for trichothecene toxins by Dr. C.J. Mirocha, University of Minnesota. A parallel analysis performed by Dr. J. Rosen, Rutgers University, also revealed the presence of high levels of trichothecene toxins.

A high incidence of natural aflatoxin contamination of food in Southeast Asia has been well documented. Linderfelser and coworkers (1974) have shown that aflatoxin and T-2 toxin in combination have a synergistic effect and, therefore, it was of interest to determine the extent of aflatoxin in tissue of this individual

#### RESULTS OF ANALYSIS OF SAMPLES FOR AFLATOXIN

	Weight of sample (g)	Sample	
Material		Actual (ng/ g) I	Adjusted <sup>2</sup> (ng/g)
Stomach Liver	3.04 3.00 7.50 3.02	19.8 20.2 15.3 11.2	22.5 23.2 17.4 12.7

<sup>1</sup> Nanograms per gram, <sup>2</sup> Values adjusted on basis of 88 percent recovery—that portion of aflatoxin found when a known amount is added to the sample.

Note: Aflatoxin analyses were conducted by Dr. Phillips, Texas A&M niversity.

Levels of aflatoxin detected in the tissues were so high that it seemed prudent to investigate the possibility that this individual exposure to aflatoxin was not due to a natural contamination but may have been related to the chemical attack. To this end, portions of the sample of yellow rain from Laos previously shown to contain 143 ppm of T-2 toxin and 27 ppm of DAS were submitted to Dr. Mirocha and Dr. Phillips for analysis for aflatoxin B1. Independent thin-layer chromatography and high-performance liquid chromatography analyses were negative for aflatoxin, supporting a hypothesis that this toxin is not always a component of a yellow rain sample and that the victim's exposure to aflatoxin may have been due to contamination of the food source. It does not, however, rule out the possibility that aflatoxin is a component of some yellow rain attacks. Preliminary analysis of some more recent yellow rain samples indicates the presence of aflatoxin in these tissues is important since the high incidence of exposure to natural outbreaks of aflatoxin contamination in Southeast Asia may induce a greater susceptibility to trichothecenes in this population.

Portions of each tissue sample were submitted to Dr. Charles Stahl, University of Tennessee Medical School. histopathological examination. A summary of the pathology found included: hemorrhage into the heart tissue with evidence of cell destruction and inflammation, cirrhosis of the liver, hemorrhage and cellular de-struction of kidney tubules, hemorrhage in the bronchi, and congestion and destruction of the lung. The details of these results and similar findings by other pathologists are consistent with results and similar findings by other pathologists are consistent with results of analysis of animals exposed to trichothecenes.

No single post-mortem finding proves cause and effect of toxin exposure and death, but these data taken together provide objective evidence that:

Reports from witnesses of vellow rain attacks are valid and that bleeding sometimes occurs in the lung, stomach, intestine, and kidney or bladder.

Persons already debilitated by disease or exposure to other toxins have a greater risk of death from trichothecene toxicosis.

Microscopic examination shows tissue damage occurs in humans after moderate-to-heavy exposure to trichothecenes. The damage is similar to that found in experimental animals.

Microscopic damage persists for 1 month or longer.

Trichothecenes are known to cause longterm damage to rapidly dividing tissue. These toxins accumulate and persist at least in the organs that were examined.

Aflatoxin found in the tissues may be foodborne and is not necessarily a component of the yellow rain substance. However, aflatoxins and trichothecene toxins act synergistically, and they could be components of a toxic crude extract mixture. Emerging data from several sources lend credibility to such a hypothesis; therefore, investigation seems warranted.

#### ANNEX C

#### DISCUSSION OF ANALYTICAL FINDINGS 4

The finding of T-2 toxin and HT-2 toxin in blood, urine, and tissue samples from yellow rain victims is highly significant in view of the fact that no trichothecenes could be detected in similar samples from the control population who were not exposed to yellow rain. The finding of such high levels of trichothecenes weeks after exposure is surprising and raises questions concerning the distribution, metabolism, and excretion of these toxins as well as their long-term effects.

limited research concerned with elimination rates of the trichothecenes has been conducted. Ueno, et al., 1971, reported that orally administered fusarenon-x was rapidly distributed to the tissues and reached peak levels by 3 hours after dosing. The kidney was believed to be the major organ of excretion. Matsumoto, et al., 1978. conducted studies with T-2 toxin which led him to conclude that the liver and biliary system were the major organs of T-2 excretion. Chi, et al., 1978, administered oral doses of T-2 to broiler chickens. Peak tissue levels were reached by 4 hours after dosing, and the liver contained the greatest amount of toxin. By 12 hours after dosing, however, the muscle, skin, and bile contained the highest amounts of detectable toxin. By 48 hours, 82% of the administered dose had been excreted. Robinson, et al., 1979, showed that T-2 toxin was excreted into cow milk at levels up to 160 ppb after daily administration of 0.6 mg/kg doses

Studies concerned with metabolism of the trichothecenes have also been limited in

<sup>\*</sup>Based on excerpts from a paper by Dr. C. J. Mirocha and Dr. S. Watson, presented at an international symposium on mycotoxins in Vienna on Sept.

number. Yoshizawa, et al., 1980, reported that in rat liver in vitro studies with the S-9 fraction of rat liver homogenates, HT-2 made up 50% of the metabolic products. Other metabolites included TMR-2 (19%), TMR-2 (2%), and T-2 tetraol (4%). In in vivo studies, HT-2 was one of the major products eliminated in the excreta of chickens (Yoshizawa, et al., 1980) as well as urine, feces, milk, and blood of dairy cattle (Yoshizawa, et al., 1981).

The finding of T-2 toxin and HT-2 in the blood and tissue of humans weeks after their exposure to the toxins would seem to indicate that enough toxin remains bound in body tissues to allow detection by sensitive instrumentation. Trichothecenes have been shown to bind to ribosomal proteins (Ueno, 1975) and to react with sulfhydryl containing compounds such as glutahione (Foster, et al., 1975) and with proteins such as albumin (Chu, et al., 1979). It would appear that although most of the toxin would normally be expected to be excreted within 48 hours after exposure, small amounts of the toxin and its metabolites remain bound to body tissues for much longer periods. The size of the dose administered and the route of exposure may have a significant effect on the proportion bound, since a sudden, rapidly absorbed, massive dose may overload normal excretion and detoxification mechanisms, resulting in greater tissue binding of the toxin. Similar apparent long-term storage of mycotoxins has been reported previously for aflatoxin B. Although most of the administered dose of aflatoxin is rapidly metabolized, Shank, et al., 1971, demonstrated in studies of monkeys that unmetabolized aflatoxin B could be detected up to 6 days after administration of a sublethal dose.

Additional significant findings lie in the trichothecenes found in the leaf samples (T-2, DON, nivalenol) and yellow powder (T-2, DAS). The concentrations found and their combination are not normally found in nature and it would appear that these mycotoxins found their way into the environ-ment by the intervention of man. The most compelling evidence is the presence of T-2 and DAS in the yellow powder. Both toxins are infrequently found in nature and rarely occur together. In our experience copious producers of T-2 toxin (F. Tricinctum) do not produce DAS and, conversely, good producers of DAS (F. reoseum 'Gibbosum') do not produce T-2. This is also supported by our experience that a good producer of DON does not produce T-2 or DAS but could produce nivalenol. Thus, we have more than just the quantity of toxins produced to explain, but also the kinds that respective species and their isolates produce. Theoretically, it is possible to genetically manipulate or select an isolate that would produce copious amounts of two or more of these toxicants, but this would require a sophisticated research effort and sophisticated technology based on experience.

It is difficult to explain the presence of trichothecenes on leaf surfaces. Fusarium is not a leaf pathogen, and so we would not expect it to colonize leaves indiscriminately. Fusarium does colonize the roots and vascular tissue (causes wilt diseases) of some plants, and it would have to produce the toxins in situ and translocate them to the leaves. This has never been demonstrated in the pathogenesis of Fusarium-infected plants. If a pathogen like F. caysporum f. lycopersici, pathogenic to tomatoes, were to produce trichothecenes and translocate them to the leaves, one would not expect

such high concentrations and combinations of toxins. Moreover, we are not certain that pathogenic isolates of the latter produce trichothecenes during pathogenesis. It is a well known plant pathological principle that production of toxins by pathogens in laboratory culture does not signify that these toxins also are produced in the host.

Apart from the controversy of the trichothecenes occurring on the leaves, it is difficult to imagine a reasonable explanation for the appearance of T-2 and DAS in the yellow powder. To those who claim that they dropped onto the soil and rocks from overhanging leaves, this is contrary to any known facts about trichothecene occurrence or distribution. The burden of proof remains with those alleging such an unlikely

hypothesis.

The finding of T-2 toxin, diacetoxyscirpenol, deoxynivalenol, zearalenone, and Fusarium pigments in leaves, water, yellow powder, and fragments originating at sites of yellow rain attacks in Southeast Asia and their absence in background samples (leaves, corn, rice, water, soil) from areas not exposed to yellow rain strongly implicates their use as warfare agents. Moreover, the finding of T-2 toxin and HT-2 toxin (a metabolite of T-2 toxin in animals) in the blood, urine, and tissue of victims of these attacks provides unequivocal evidence of their use as weapons.

Details of the experimental procedures used in these analyses were presented at the Society of Toxicology meeting in Louisville, Kentucky, on August 16, 1982; at an international mycotoxin symposium in Vienna, on September 1, 1982; and at the Association of Analytical Chemistry meeting in Washington D.C. on October 28, 1982.

Washington, D.C., on October 28, 1982.

Two scientific manuscripts describing those analyses have been submitted for publication in referred journals and other studies pertaining to nongovernmental analyses are in press.

[From the Washington Post, Dec. 10, 1982] REBELS CHALLENGE SOVIET DOMINION EVEN IN KABUL

#### (By Aernout Van Lynden)

SOUTH OF KABUL, AFGHANISTAN.—An 80-foot brick tower, built by the British during the few years that they managed to subjugate the tenaciously independent Afghan tribesmen, sits on the mountain range separating Kabul from the southern part of the county. It serves as a giant signpost for travelers making their way on foot toward the capital.

After four hard days of marching from the Pakistani border, the small group of anti-Soviet insurgents that I was accompanying finally reached this monument to 19th century imperial imagination.

There we could see, far below, the sprawling metropolis of Kabul, encircled by a patchwork of green and golden yellow

Like the British before them, the Soviet troops stationed in Kabul are discovering the difficulties of imposing their authority on Afghanistan. Long frustrated by guerrila dominance of the countryside, the Soviets' control increasingly is hampered in the capital as well, where they have based the

bulk of their forces.

The insurgents, or mujaheddin, have stepped up their activities around Kabul and have begun this year to stage attacks at night in the heart of the city. The capital's population has doubled because of an influx of refugees, leading to massive overcrowding and soaring rents. The Moscow-backed gov-

ernment of Babrak Karmal apparently has failed to win popular support through political means and is relying instead on a major security clampdown.

This assessment is based on conversations with dozens of Kabul residents who sympathize with the guerrillas and on firsthand observation of the countryside between the Pakistani border and the capital. I spoke with the Afghans in homes on the outskirts of the city, often over supper. During a visit last year, I was able to go into the city itself, but this time I entered it only on two night-time raids with the guerrillas.

The Soviet Union sent about 80,000 troops across the border into Afghanistan three years ago to install and prop up the Babrak regime, and since then Kabul has played a central role in Soviet strategy. After securing the capital, the Soviets hoped to whittle down opposition in the countryside.

The plan is not suited to Afghanistan, however, where Kabul throughout its history has played a relatively peripheral role. The nation's mountain ranges restrict communications and the ethnic kaleidoscope of tribal and religious sects limits central government authority.

Virtually no Soviet presence is noticeable in Afghanistan south of the capital, In valley after valley in Paktia, Lowgar and Kabul provinces, local religious authorities or mujaeddin leaders manage civic affairs. They settle disputes among families over land or grazing rights, and the guerrillas in some cases have set up schools.

Nevertheless, the Soviets have made their presence known in other ways. Virtually all of the villages that I visited bore scars of rocket attacks by helicopter gunships. Gaping holes were seen in mud houses, where splintered beams stuck through the walls like broken ribs through a shattered chest

The Soviet attacks have driven away residents from many areas. The Tezin Valley 30 miles east of Kabul, which teemed with more than 400 families last year, was deserted apart from about 100 mujaheddin. Only a few of the previous residents were killed in an eight-hour raid. The rest packed as many belongings as they could and left.

The exodus of Afghan refugees to Pakistan has been fully reported, but many inhabitants of Tezin opted for the shorter, if less publicized journey up the road to Kabul. Thousands have sought sanctuary in the capital, and Kabul is estimated now to shelter well over 1 million people, compared to about 600,000 three years ago.

New suburbs have sprung up, with many people living in canvas tents, and the streets have become more crowded. When asked about changes in the capital, inhabitants nearly always mention the increase in population first, and many spoke of it as though a major disaster had befallen them.

One house that cost 3,000 afghanis to rent for a year in 1980 today fetches 15,000 afghanis, or about \$250.

Such a change seriously reduces the standard of living in a city where the average yearly income is about \$600. In addition, some residents observed that the crowding has made people more tense and less forthcoming toward each other.

Prices for food and other goods also have risen sharply. For some items, they have doubled or trebled in the past year.

The mujaheddin are proud of their hospitality and do not allow correspondents traveling with them to pay for anything. At the end of the trip, however, the visitor is expected to offer the group something sub-

stantial, like a sheep or a goat, and the full extent of inflation became clear to me at that time. Last year a sheep had cost 700 afghanis, but one now sells for 1,500 afghanis or about \$25.

anis, or about \$25.
"People are openly questioning how they can survive," said one Kabul resident.

As economic difficulties grow, the war itself draws ever closer to the capital. The street demonstrations, distribution of resistance leaflets and chanting of Allah-u-akbar, "God is great," from thousands of rooftops at night have subsided. But, the resistance has used the steady influx from the provinces to infiltrate insurgents into the city, and the urban guerilla attacks first waged by leftwing and Maoist opponents of the regime steadily have grown in scale.

Senior members of the ruling party, Afghan Army officers or sympathizers are assassinated every week. Movie theaters and restaurants known to be frequented by government officials are bombed, and Soviet offices, particularly the embassy, regularly are targets of gunfire from passing cars.

The insurgents simultaneously have built up their forces operating at bases around the capital, which has become one of the focal points of the resistance. Arms have poured into the resistance. Arms have poured into the area, and experienced commanders like Abdul Haq were sent from the eastern provinces to organize and lead the insurgents.

The buildup has been so effective that, as I witnessed on two occasions this year, the insurgents are able to launch night attacks on military posts and government installations inside the built-up urban metropolis.

The escalation has elicited a strong response from the Soviets. Roadblocks are set up all over the city, and house-to-house searches are staged almost daily. Special efforts have been made to build up a more effective and widespread internal security service, according to Afghan sources, causing a widespread feeling of insecurity and fear among the city's population.

fear among the city's population.

"My papers are in order, but I have been picked up on three occasions this year," said a student completing his last year in high

Police and security forces also use pressgang tactics to round up new conscripts for the badly depleted Afghan armed forces. Under regulations issued this summer, any man between the ages of 15 and 45 is eligible to be called up, recalled or simply picked up on the street to do military service, which now lasts four years. It is not a prospect that many have relished, and it has prompted many young men either to leave the city or to go into hiding.

"Despite my exemption papers, I have been picked up on two occasions now," said a 40-year old factory worker living just outside Kabul. He added that he had been freed after contacting a friend in the police

service.

A first-year university student said, "When the course started in August, there were 35 of us. Some have been picked up or arrested, but most just don't dare to come anymore. There are only 12 of us left."

The tightened security appears to be the government's response to the failure of two years of political initiatives after the Soviet invasion to broaden support for Babrak's regime. During that period, security was kept at a minimum in Kabul, belief in Islam was encouraged and special efforts were made to expand industry and welfare in and around the capital. Lavish offers of regional autonomy and financial aid were proposed to tribal leaders.

The vast population influx, growing unemployment and soaring inflation appear to have helped to prevent any upsurge of popularity for the government, however, and support for Babrak remains limited to the ruling People's Democratic Party.

## REBEL COMMANDER IS KILLED IN ATTACK ON AFGHAN ARMY BASE

ISLAMABAD, PAKISTAN, December 9.—A rebel commander was killed while leading 250 men in an attack on an army base in northeastern Afghanistan, the fifth guerrilla leader to die in recent months, a rebel news agency said today.

The Pakistan-based Afghan Islamic Press said Turan Abdur Rehman, 25, was killed Tuesday in an attack on the Afghan Army's headquarters in Ningarhar Province, bor-

dering Pakistan.

Rehmam was a commander in the Hezbi Islami rebel group. The report, which could not be independently confirmed, said 11 government troops died in the battle.

The Islamic rebels are fighting to topple Afghanistan's government, installed after the Soviet invasion three years ago.

The Ningarhar Province headquarters, 45 miles west of the provincial capital of Jalalabad, has been a frequent rebel target and was reported by the agency to have been under siege for the past two months.

In an earlier battle, the rebels lost commander Zabit Halim Khaihaw of the Yunis Khalis faction of Hezbi Islami during an attack on a mililary base in Kabul.

[From the Washington Post, Dec. 13, 1982] Afghan Rebels Try to Unite, Suffer From Lack of Money

#### (By Aernout van Lynden)

Chaqari, Afghanistan.—The mullah, his imposing white beard grazing the ground, knelt and prostrated himself in the direction of Mecca. The 80 men lined up behind him in the large, bright mosque followed him down to the ground in unison. He shifted to half-face the congregation and intoned:

"Let us pray to Allah that we, his warriors, his mujaheddin, may join hands in unity under his guidance, so that we may rid our country of those that have no [religious] book, the godless usurpers from the north, and bring about the freedom of our country."

The men, again in unison, mumbled amin, the Afghan equivalent of "amen." The early-afternoon prayer was over, and the meeting of Islamic insurgent leaders continued in this village fewer than 20 miles from the base of their Soviet enemy in the capital of Kabul.

The conference Oct. 24 was the first to bring together leaders of all the guerrilla groups operating in southern Afghanistan. In a country where fierce factional disputes have bedeviled the resistance, it illustrated a growing awareness of the need for greater unity. While this meeting ended without taking concrete steps, two broad alliances of the insurgents were formed earlier this year, one of fundamentalist Moslem groups and the other of more moderate ones.

The signs of cooperation offer hope for a strengthening of the resistance, but to some extent they also reflect an underlying weakness. The groups are pulling together after three years of war in part to counteract the sapping of resources of the villages from which they draw support, and the organized resistance groups across the Pakistani border in Peshawar are unable to provide

enough money to pay the guerrillas. Meanwhile, Soviet and Afghan government security services are believed to have launched a major campaign to infiltrate the resistance.

The disunity among the mujahedin has been caused not so much by ideological disagreements as by long-standing ethnic and tribal differences, the competing personal ambitions of various leaders and quests for regional dominance. All of the groups seek some kind of Islamic state, although members of the more fundamentalist groups tend to view Islam more is an ideology than as a faith.

The most virulent antipathy always has been between the two most extreme fundamentalist parties, reflecting the rivalry between the nation's two principal ethnic groups. One of these mujaheddin groups is led by a Tajik, Burhannudin Rabbani, and the other by a Pathan, Gulbuddin Hekmatyar.

Some observers had expected the December 1979 Soviet invasion to have a unifying influence, but little changed during the first two years that followed it.

The fratricidal attitude was particularly common among the party leaders vying for dominance in Peshawar, the insurgents' effective capital-in-exile. Guerrilla leaders inside Afghanistan often found it necessary to cooperate to fight off Soviet attacks.

Even in the field, however, commanders have been unwilling to accept a unified command structure out of fear that they then would lose personal authority. Different guerrilla groups also have competed for food or other support from local villages and occasionally even fought among themselves.

The two broad alliances were formed after slow and painful deliberation because of the awareness that the *mujaheddin* might find it difficult otherwise to sustain the resistance at its current level. Regular meetings of "alliance committees" now are held, and membership cards of the approximately seven former parties have been abolished.

Even the party leaders in Peshawar have begun putting aside their differences. They sent the mullah who led the prayers at the meeting here as part of a three-man commission with the express task of convening the special conference in hope of promoting cooperation or even integration among the guerrilla factions.

Present were the two major commanders in the area, Haji Siddiq and Zabit Abdul Halim, who later was killed. There also were representatives of every resistance party, fundamentalist or moderate.

Unity cannot come about overnight, however. The meeting lasted seven hours, full of powerful and flowery rhetoric, but it ended with only a broad agreement to hold further talks.

Cooperation both within the two principal alliances and between them remains superficial and uneasy. Weapons still are distributed along old party lines, and finances are regulated separately.

One major factor in the push for unity has been the need to contain factional rivalries that were alienating local villages already suffering from the consequences of the war. Halim, the commander whom I accompanied during a stay of almost two months in the area south of Kabul, was aware of it. The topic was raised at every meeting that he had with village elders in the outskirts of the capital, where men under his command were deployed, and the villagers appeared to feel increasing bitter-

ness about some of the demands made on them by the insurgents.

"Due to the war, a lot of land is now left idle, and the people in the villages are less well off. This would not be so serious if they only had to aid one party, but three or four different groups have to be helped here, given food, maybe cigarettes, clothes," he said in an interview before he was killed.

The resulting bitterness and growing weariness with the war form an important

threat to the resistance.

"The village forms the real base of our struggle. It gives it life, manpower, food, support. Without the village, our struggle is lost," Halim said.

Another problem facing the commanders in the field is the lack of money to pay their guerrillas. The parties in Peshawar have been able to provide the insurgents with greater supplies of weapons, but they have not provided substantial quantities of cash.

"We cannot pay the men. Just now and again buy them some sandals or clothes, maybe. But we cannot actually pay them, and this is an enormous problem because again and again I have seen a man come to join our group, be given a weapon, be trained and then, after one or two years, one day he will simply go, return to his home." Halim said.

There usually are good reasons for such a decision. The men return to care for their families and work, which they are unable to

do as guerrillas.

For most mujaheddin, an arrangement is made within the tight Afghan family structure to free a man to fight. For example, one brother will work on the land and be present to feed and watch over women relatives, whom they guard jealously from sight, while the other brother goes off to battle.

But the family does not always have the resources to spare a man, and it poses field commanders with the problem of having to train and otherwise deal with a constantly

changing group of men.

The inability to pay the guerrillas also lessens the authority of the commander. Every man is a volunteer, and the consequence is generally a lack of discipline. As I witnessed during one night attack in Kabul, an insurgent raid can cause panic and chaos if things do not go right for them.

In addition to economic problems, the insurgents face a new threat from the Afghan internal secutrity service, called Khad. During my first three weeks in Afghanistan, I encountered four cases of informers who had been caught by the mujaheddin.

Western diplomatic sources say that Moscow has given the Khad—which reportedly is led by the Soviet KGB secret police—\$100 million to expand its intelligence network to infiltrate the resistance both inside Afghanistan and at the parties headquarters in Peshawar. In a country where government authority is limited to the major cities and the general situation can be described as anarchic, it presumably was not difficult to arrange for the infiltration under various guises of new informers lured with the monetary aid offered by Moscow.

Some of the informers apparently were sent to make contact with the resistance as defectors, which ordinarily would not be suspicious because more than 60 percent of Army conscripts are estimated to have defected. Other infiltrators seem to have joined the stream of refugees to Pakistan.

The traditionally self-confident and easygoing attitude of Afghans by no means has disappeared as a result of the infiltration, but security at every base has been tightened. Most commanders now admit the informers are an important threat after scoffing at the danger last year. Forced as they are to depend on the trust and support of the general population, the insurgents may find such infiltration particularly hard to counteract.

#### CONGRESSIONAL REFORM

• Mr. BOREN. Mr. President, it must be painfully clear to anyone who has followed the torturous proceedings of Congress during the past 3 weeks that this session is definitely a turkey instead of a lameduck. If there was ever a doubt of the need to take a long, hard look at ourselves, this postelection session eloquently makes the case in favor of such scrutiny. Mr. President, there is an urgent need to tackle the reform and streamlining of Congress.

There recently appeared in the Washington Post an excellent article on the subject, written by Gregg Easterbrook who covers the Washington scene for the Atlantic Monthly. I ask that the complete text of Mr. Easterbrook's column appear at the conclu-

sion of my remarks.

It is clear to me that it is time for the introduction of legislation establishing an emergency joint committee for congressional reform. The late Senator Mike Monroney of Oklahoma played a leading role as a House Member chairing a special committee in the last major overhaul of Congress. That was over 30 years ago.

Mr. President, while the Nation cries out for solutions to basic problems, Congress seems almost paralyzed and unable to act. It is fragmented and slowed by antiquated rules and procedures. It is like a telephone switchboard designed for 10 telephones which now has 10,000 plugged into it.

The entire country must be shocked to see Congress wait until the last minute to pass a stopgap budget, working through most of the night with the average Member trying to make critical decisions with an average of 6 hours total sleep in 72 hours.

Members of Congress individually are for the most part sincere, and willing to work hard, but they are hampered in their efforts by a spreading

institutional failure.

Mr. President, I urge the creation of a joint House-Senate committee which would have a maximum of 6 months to present suggestions for a major overhaul of Congress. After making its report, the committee itself would then cease to exist. Mr. President, the problem is not with the leaders. Senators Baker and Byrn in the Senate are both able leaders, but they are constantly prevented from leading by antiquated and chaotic procedures.

The signs of trouble are evident for anyone to see. Let me list a few of the problem areas. First, the Senate fili-

buster rule must be questioned in this modern period when a speedy response to a problem is often needed. A handful of Senators can bring the business of the Nation to a halt. Even if 60 percent of the Senate votes to end the filibuster, it can still be continued for over 100 hours of floor time under Senate rules.

Second, the number of subcommittees has been growing, fragmenting the time of Members and creating confusing and overlapping jurisdiction over important issues. There are now over 242 subcommittees in the House and Senate, not counting other special committees. They held 852 hearings in 1982, up from 453 in 1972. In 1947, there were 400 committee staff aides. Now there are over 2,000. With jurisdiction fragmented, it involves more and more people to iron out differences, reach a compromise and act.

Third, a recent study undertaken for Senator David Pryor of Arkansas indicated that in the first 6 months of this year, fully one-third of the time the Senate was in session was taken up with nonworking hours, including quorum calls and recesses.

Fourth, the budget process clearly needs streamlining. Congress worked over 8 months on budget resolutions containing instructions to itself and then was able to actually pass only 3 of the 13 bills for permanent appropriations. In only 3 of the past 6 years has Congress been able to adopt a budget.

Fifth, Congress lacks rules which are strict enough in the area of germaneness or making sure that amendments are on the subject matter of the bill. Nor are there sufficient rules to prevent the same proposal from being brought up time and time again. Once it has been acted upon, it should not be considered again in the same Congress. Issues like busing or abortion can be voted on series of times in the same session. Every proposal should be entitled to "its day in court," and an up and down vote. But, Congress should not spend its time repeating a vote on the same subject 100 times the same session. Nor should one be able to propose a national defense amendment to the agriculture bill, or vice versa. Rules about sticking with the same subject matter in a bill are ignored more than they are observed.

Mr. President, we must act before it is too late. Those who want to preserve Congress as a major force in our democratic form of government should be in the forefront of reform. To preserve Congress, we must reform it. Its future will be imperiled if it continues to be placed out of commission much of the time by its own procedures. Internal problems alone are not the sole cause of fragmentation in Congress. To some degree, Congress reflects the division and fragmentation of the

people. While reforming Congress may not be the sole answer to the Nation's problems, it is still an urgent need.

It will be my intention when Congress reconvenes to introduce legislation to deal with this need. I hope my colleagues will reflect on our experiences here in the last several weeks and will be prepared to join me in what may be the most important effort we will undertake in the new Congress.

The material follows:

[From the Washington Post, Dec. 12, 1982] How Congress Collapsed: A Depressing GUIDE TO GOVERNMENTAL PARALYSIS

(By Gregg Easterbrook)

With all the drama and tension, last Tuesday's anti-MX vote in the House seemed to suggest that Congress had finally made up its mind about the missile issue. How long did that bold consensus last? Until Wednesday.

That was when the same House voted overwhelmingly to continue funding MX development. In fact, for all the hoopla over cutting \$1 billion from MX on Tuesday, the House added \$2.5 billion on Wednesday. Hey, who's in charge here? Are they fer it

The fact is that Congress, which has a time-honored tradition of confusion and ineptitude, has been outdoing itself of late. Consider the scene in the Senate only a few months before, when that body went into a long but ultimately pointless filibuster over conservative social issues. For five straight weeks, as the economy languished, the nuclear arms race continued and unemployment worsened, it was clear what the greatest deliberative body in the world was ac-

complishing: zero. When the conservatives finally gave up, the senators went immediately into allnight session over the budget. They already had given up hope of completing the budget by the Oct. 1 deadline, and were trying instead to pound out a stop-gap resolution to keep the government going when Congress recessed, so members could campaign with promises of firm, visionary leadership. But as Majority Leader Howard Baker pleaded for some semblance of adult behavior, no fewer than 50 amendments for special-interest favors or single-issue constituencies were introduced, further obstructing the machin-

Finally they passed a patchwork resolution that resolved nothing, setting the stage for the current lame-duck session-in which, it is expected, last year's budget still won't be finished. Baker lamented, "We simply cannot do our country's business this way."

What's happening to Congress? It seems inept to a degree that's difficult to believeparalyzed by personal bickering and interest-group favoritism, incapable of cohesive action, living like a spoiled child from one

tantrum to the next.

This would be bad enough in normal times, but it takes on special importance as leadership from the Oval Office erodes. Congress is, of course, very good at preventing things from happening, and it now seems likely that much of what Ronald Reagan proposes in 1983 and 1984 will go nowhere

While this prospect may delight Reagan's enemies, it should not be entirely comforting to those of the left or right concerned about helping the country get through the next two years. If Congress cannot address the nation's problems, what can we exect from the nation?

Congress does devote a great deal of time to transparent publicity stunts, such as the toothless "balanced budget" amendment that tied up the House and Senate for most of last summer, then vanished like the Comet Kahoutek. It does freely engage in hypocrisy (most "balanced budget" amendment backers also supported Reagan's \$749 billion tax cut, source of the deficits they were piously decrying). It does indulge in wild, MX-like inconsistency (shortly after voting overwhelmingly for a Reagan defense budget that called for doubling U.S. nuclear warheads, the House came within two votes last August of endorsing a nuclear freeze).

But seldom does it produce serious purposeful measures-except, of course, handouts to the special interests that whine the loudest or wave the largest fistsful of

Granted, Congress has always been a helter-skelter institution to some extent. Granted too that the current congress reflects a fragmented America. But as Henry Reuss (D-Wis.), a House member since 1954, "The handicaps of Congress have become much greater in recent years. The institution has become much more rickety.

What are the reasons for all this? Start with the chaos created in the last decade by the proliferation of subcommittees

In the House, for instance, who has jurisdiction over an energy issue like hydroelectric power dams? The Energy Committee's Subcommittee on Energy Conservation and Power? Or the Science Committee's Subcommittee on Energy Development and Application, or maybe its Subcommittee on Energy Research and Applications? Perhaps jurisdiction should go to the Interior Committee's Subcommittee on Energy and the Environment, or maybe its Subcommittee on Water Power and Resources.
Then again, why not the Public Works

Committee's Subcommittee on Water Resources? Or the Agriculture Committee's Subcommittee on Forests, Family Farms and Energy (a natural combination if ever

there was one)?

Or the Energy and Water Subcommittee of Appropriations, or the Energy and the Environment "task force" (equivalent of a subcommittee) of the Budget Committee, or the Energy, Environment and Natural Resources Subcommittee of the Government Operations Committee, or the Energy Environment and Safety Issues Affecting Small Business Subcommittee (that's a real name) of the Small Business Committee.

And let's not forget the Senate, where we find the Energy Committee with its separate subcommittees on Energy Research and Development; Energy Conservation and Supply; Energy Regulation; Energy and Mineral Resources; Water and Power, and Public Lands and Reserved Water. Or the Water Resources Subcommittee of Senate Environment and Public Works Committee; the Forestry, Water Resources and the Environment Subcommittee of the Agriculture Committee; the Energy, Nuclear Proliferation and Government Processes Subcommittee of the Government Affairs Committee; or the Energy and Water Development Subcommittee of the Appropriations Committee

So which of these 21 subcommittees has jurisdiction over a power dam? The answer is that potentially all of them do—which does not augur well for getting much busi-

ness done. During the 1979 Iranian oil crisis it seemed that some kind of energy hearing was being held in some subcommittee room at all hours of the day and night-but no meaningful legislation every emerged. In the wake of the Three Mile Island accident, the jockeying for "primacy" among subcommittees was shameless, with every one of those blessed with the word "nuclear" competing to get its chairman's face on "Good Morning, America."

At the moment there are 141 subcommittees and "task forces" in the House, 101 in the Senate, and eight for the various special, select and joint committees. (The House has 21 full committees, the Senate 16; there are four joint committees, seven special or select committees.) As Reuss notes, "We've set up so many centers of power in the subcommittees that become nearly impossible to get anything

coherent done.

The subcommittees are now "centers of power" because of a little-noticed aspect of the 1975 seniority reform—a package called, at the time, the "subcommittee bill of rights." Central to this "bill of rights" was granting subcommittee chairman what amounts to authority to hold hearings whenever they wish, on any bill. The effect was immediate-a dramatic increase in subcommittee hearings.

In March 1972-a month chosen at random-there were 453 subcommittee hearings in the House and Senate, a staggering number in itself, averaging out to 19.7 hearings per working day. Ten years later, in March 1982, there were 852 hearings, almost twice as many, a mind-melting average of 37 per working day.

It is true, perhaps, (as is said on the Hill in defense of the many new hearings), that "life has become more complex" in the past decade. But it hasn't become twice as complex. What has become twice as complex is getting anything done in Congress.

Most congressmen are aware that subcommittee proliferation works against the national interest. But it does work in favor of other interests—their own.

The key words here are "Mr. Chairman." Congressmen long to be not just The Honorable, but Mr Chairman. It may not seem like much in the larger scheme of things to be Mr. Chairman of the Office Systems Subcommittee of the House Administration Committee, but it sure sounds good back

Among all the committees, subcommit-tees, task forces, joint, special and select committees, there are 298 chairmanships. Some members hold more than one chairmanship, but roughly, nearly half of Congress' 535 members are Mr. Chairman of something.

Besides what it does for the ego, a subcommittee chairmanship has practical ad-The ambitious congressman vantages. knows the value of having his own hearing room, with the TV cameras rolling. Since the hearing-not the final legislation-is most likely to make the evening news, he has every incentive to place the perservation of his tiny fiefdom above the national interest. Ergo, 37 hearings a day.

Another part of the 1975 "subcommittee bill of rights" increased subcommittee staffing. In the House, each subcommittee chairman and ranking minority member got one new staffer; in the Senate, each junior senator was given three. In 1947, Congress had 400 committee staff aids. By 1970, the number had quadrupled, to 1,600. Today it

stands at 2,000.

As with subcommittees, the more staffers, the harder to get anything done. "The larger the staffs get, the more people are involved in a decision," says an aide to one senator. "Everybody wants to have his say and leave his little stamp on the legislation. Pretty soon the weight of people wanting attention is greater than the force moving the legislation, and the whole thing grinds to a halt."

Last spring, for instance, Sen. Daniel Patrick Moynihan (D-N.Y.), an early Player in the fashionable game of "infrastructure" rebuilding, introduced a bill to require a simple accounting of which roads and bridges in the country were in the worst shape—so Congress could figure out how much pressing work had to be done and what it might cost.

By the time this bill emerged from the warrens of the various subcommittees of the House Public Works and Government Operations committees, it required not just a list of collapsing roads and bridges but an "inventory and assessment" of all the nation's highways plus all firehalls, parks, landfills, schools, hospitals, public libraries, garbage trucks, courthouses, pipelines, mass transit facilities, airports, reservoirs, federal offices buildings, power generating plants, playgrounds, sewers and—believe it or not—television stations.

In short, the amended Moynihan bill required a cataloging of nearly every object in the United States larger than a delivery van. The subcommittees had run wild, producing a special interest appeaser of no value to anyone, and it consequently went nowhere. (The "jobs bill" now before Congress is based largely on guesswork about how many roads and bridges are really in serious disrepair.)

Next, consider the result of the Budget Act of 1974, which created the Congressional Budget Office, the House and Senate Budget Committees—and an elaborate budget "process" that drains most of Congress' energies but produces few budgets.

gress' energies but produces few budgets.
In brief, this "process" requires b requires both budget committees to set ceilings for overall national spending; then all "authorizing" committees (every standing committee except Budget and Appropriations) to chose some specific numbers; then the appropriations committees to actually award funds; then the budget committees to "reconcile" the inevitable differences; then the House and Senate to vote on the appropriations bills on their floors; then a House and Senate conference committee to reconcile the inevitable differences between the two chambers-while, during the entire process, administration is pushing its own budget and regularly shifting gears.

The process is so streamlined and efficient that the 1982 session of Congress, which (officially) ended in such comic disarray before the elections was able to pass only three of 13 appropriations bills, and it is not expected to pass all of the rest during this special session. Indeed, in three of the last six years, Congress has failed to adopt the nation's central financial document.

This process forces members to spend so much effort on the budget that little energy is left for anything else. As Rep. Morris K. Udall (D-Ariz.) has said, "We don't have time to legislate." Or as Sen. Patrick Leahy (D-Vt.) puts it, "We've become elected lineitem bureaucrats," fussing over the details and oblivious to the larger picture.

Not all congressmen object to this development, of course, because relief from responsibility for the larger picture is exactly what they seek. Says a senior congressional aide. "The budget is a welcome excuse to

put everything else off." Which is what Congress is most proficient at doing.

If expanding subcommittees, mischiefmaking staffs and a tortuous budget process were not bad enough, the modest time and energy left to members get eaten up quickly by the special-interest and single-issue crowds.

The role of money from Political Action Committees (PACs) in special-interest causes is now fairly well understood (the key thing to remember is that PACs don't buy elections, they buy votes). What seems less well understood is the influence PACs have on Congress as an institution.

As traditional party structures have faded, congressmen come to do most of their fundraising individually. (Oil and gas PACs gave more money in the last election than the whole Democratic National Committee.) This encourages them to fix their loyalties on interests groups rather than on the national interest, which has no PAC.

Obviously, in a day when hundreds of thousands or millions are casually spent on campaigns, no single \$5,000 PAC contribution means much; it's spare change compared to the total required. Thus a congressman who was once beholden to only a few interests (maybe oil, or banking or paper) now ends up beholden to many more, and each one is usually concerned about maintaining its privileges, avoiding change, embracing the status quo. This means that PACs tend to be lobbies for foot-dragging—lobbies that do well in a fragmented and ineffectual Congress.

Most of the special-interest ploys that characterized the 97th Congress have been well covered, but one that escaped general attention indicates the degree to which PAC money makes Congress allergic to common-

In July a House-Senate conference committee approved a bill to give airline pilots and other top-level airline union employes huge special benefit payments if their airlines were merged or shrunk by declining business. The deal would have guaranteed pilots up to 60 percent of their salaries for five years, and granted similar deals to other workers; a special severance payment would have given "average" pilots \$190,000 each plus other special benefits.

This bill, in other words, would have channeled money into the hands of one of the most favored, best-paid (average income: \$69,000 a year) elites in America. How could airline pilots possibly deserve such special breaks?

There was, of course, no reasonable explanation. But there was interest-group armtwisting. As The Post's Carole Shifrin reported, the Air Line Pilots Association and the International Association of Machinists and Aerospace Workers were behind the proposal. (Since 1979, Shifrin reported, the two unions had given \$1.5 million to 225 congressmen.) The proposal was eventually beaten on the Senate floor by Sen. Nancy Kassebaum (R-Ka.), but she had to resort to procedural argument to do it; she told fellow senators the conference committee had violated their unwritten code by introducing a new matter to an otherwise uncontroversial bill. Apparently, the fact that the pilot's bonanza was wrong didn't carry enough weight.

Next, consider the influence of singleissue extremists like Sen. Jesse Helms (the cause of the Senate's fall fillbuster). As in the cases of subcommittee expansion, the endless budget "process" and PAC proliferation, the main effect of single-issue politics is to throw a monkey wrench into the machine. Helms knew at the start of the filibuster, for example, that he had only a slight chance of winning, but that didn't matter; the filibuster allowed him to go down in very bright, well-publicized flames. It will doubtless aid his direct-mail fundraising.

Extremists, because they seldom can win, generally satisfy themselves by ruining it for everybody else, and don't seem to care if this means accelerating the general decline. Their mailing computers and simplistic ratings systems (used by extremists of the left and right alike) are slanted entirely toward the negative; they rail against what should not be done, but leave scant room in their checkoffs and scorecards for any measure of progress. Like public opinion polls, they are excellent vehicles for noconfidence votes but little use in charting a course for the country. Their message to congressmen, in measured and uniform tones, is unendingly repeated: Give in. And many congressmen listen.

Because of all these factors, at present the Hill can only be moved to actually act on a bill when political panic and pressure have risen to such a level that congressmen forget themselves entirely and begin voting in mad spasms.

The only meaningful products of the 97th Congress have been Reagan's budget cuts and his tax bill. Important roll calls for the first took place in an atmosphere of unrestrained frenzy, sections being rewritten and voted on without most congressmen having a clue as to their significance. There were so many competing proposals going through at once that no one, not even David Stockman, could keep them all straight.

Besides not knowing "what's going on with all the members," as Stockman said, no one even knew what some of the numbers were; you may recall that one budget proposal, when formally printed, contained a woman's name and phone number, scribbled during a late-night rewrite session. Apparently the measure had been passed into law unread.

This was not an isolated incident. The pattern was repeated in July 1981 when Reagan's tax cuts raced through in an amusement-park atmosphere. At the time, few congressmen knew (to cite one example) of the presence of the "tax leasing" provisions, and scarcely a handful had any idea what these provisions meant. And the pattern continued this year. In May 1982, frustrated by his inability to find any consensus on which of the many rival budgets was most likely to pass, House Rules Committee Chairman Richard Bolling issued an unusual rule that effectively opened the House floor to unlimited debate on any subject. His purpose was to let those congressmen in thrall to single-issue lobbies and special interests blow off steam and make the grandiose gestures that would appease their constituents. The result? A marathon, 39-hour House session with countless rant-and-rave monologues and some 30 roll-call votes. All the budgets up for consideration were amended so many times they ceased to be distinguishable. Then all collapsed. When it was finally over, Congress had accomplished what, these days, it usually accomplishesnothing.

It goes without saying that not all congressmen are sellouts or windbags, yet the conscientious and the public-spirited seldom prevail. Here is their dilemma:

Even for the sincere congressman, the ideal course is far from clear. What is the

right thing? Who should come first? Which path will lead us out? The questions are not unanswerable but they require time, reflection and calm logic; sincere congressmen need a sane atmosphere in which to piece

the puzzle together.

Poised against them are the armies of sellouts and windbags, people who do not suffer from the slightest hesitancy. They want specific, tangible handouts, and they want them now; their agendas are highly itemized, their desires keenly felt and vigorously expressed. The sellouts and windbags force Congress to revolve around them, just as all attention centers on the wailing child, drowning out the possibility of conversa-

If there is a cause for optimism, it is that Congress, unique among American institutions, has the power to reform itself. Many Congress' problems are of its own making, and so Congress can undo them. It won't be easy, the interest groups that dominate the current system will resist any congressional revival, any change. But it is

#### SIMPLE REAUTHORIZATION OF GENERAL REVENUE SHARING

• Mr. DURENBERGER. Mr. President, on November 29, 1982, Senators SASSER, BAKER, DOMENICI, ROTH, BRAD-LEY and I circulated a "Dear Colleague" letter stating our intention to introduce a simple reauthorization of general revenue sharing as soon as possible in the 98th Congress. The letter explained that we hoped to garner a substantial number of cosponsors to the bill as a demonstration of strong Senate backing for the concept of revenue sharing and to encourage expeditious consideration of the issue in the new Congress.

The response to that call for a show of support has been most gratifying. Today I can announce that 39 Senators have agreed to cosponsor a simple reauthorization, and I fully expect this number to increase by the time

the bill is actually introduced.

Looking down the list of names, there is no discernible partisan or ideological pattern. The support is truly broad based and bipartisan in nature. Given this wide and diverse support, I am determined to move ahead quickly on this matter and not permit general revenue sharing to languish through the early months of the next Congress without Senate action. I urge the Finance Committee to hold early hearings on revenue sharing-both this simple reauthorization and any proposed changes to the program that may come forth in the next few months. Local officials across the country deserve our consideration in this matter so that they can have as long as possible to plan their next budgets.

Of the many billions in Federal assistance to State and local governments, general revenue sharing is the most flexible in terms of allowing officials to put the money where the needs are greatest; the most efficient in terms of administrative overhead; and it is the one program that most embodies the spirit of President Reagan's New Federalism.

At this time I submit for the record the list of Senators who have agreed to cosponsor a reauthorization of general revenue sharing be printed in the RECORD.

The list of Senators follows:

Durenberger, Sasser, Baker, Domenici, Roth, Bradley, Pryor, Percy, Stafford, Tsongas, Dixon, Ford, Andrews, D'Amato, Mattingly, Specter, Huddleston, Grassley, Sar-banes, McClure, Boschwitz, Gorton, Garn, Pell, Wilson, Weicker, Stevens, Nunn, Cochran, Riegle, Baucus, Symms, Long, Rudman, Abdnor, Mitchell, Danforth, Cohen, and Kassebaum.

#### C-17 AIRCRAFT

• Mr. PRYOR. Mr. President, I rise today to say a few words about our Nation's military airlift capability and the Military Airlift Command, com-

monly referred to as "MAC."

At times during the Vietnam era the men who flew the support and logistical missions for our Air Force were sometimes referred to as "cargo haulers" or "trash haulers." There always is a constant battle within the Pentagon and even on the floor of the Senate, between the forces of exotic weaponry and the forces of less-exotic weaponry. I want to speak in support of the equipment haulers, the lessthan-exotic types, and their very important role in our expanding military airlift needs, and the future of the C-17 program.

The C-17 is not a sexy weapon. But it provides necessary support for all those other sexy weapons. Why should we be paying more attention to our military airlift capabilities? Because the nature of the conventional threat is growing. In any kind of conventional military encounter, time will be of the essence. The mobility of our conventional combat forces has become an ever-increasing factor in the policy equation of the United States. This is particularly true as relative nuclear parity between the United States and the Soviet Union has become a reality.

We have to be able to respond in a

timely manner.

And we have to be able to move the kinds of equipment that our conventional forces might need in and out of some very short and narrow runways.

We have what is referred to as "outsized cargo"; tanks and trucks and helicopters. We have got to be able to get it in and out of some tight situations.

The airlift air force that we have today is growing old. In fact, our current operational airlift technology is now 20 years old. It is vitally important that we start planning for the future.

Mobility will be the key to our future safety. Why is the C-17 such a special aircraft? Because:

First. It is an integral part of our overall airlift program.

Second. It is the key system to meet needed airlift capabilities.

Third. It will provide intratheater outsize capability not presently available in the present airlift force.

Fourth. It will provide as a replacement aircraft for the C-130's and C-141's, which will be leaving the airlift

force in the 1990's.

Fifth. It will provide the remaining intertheater airlift capability recommended by the congressionally mandated mobility study after near and midterm programs are completed. A C-17 force could provide around 8 million ton-miles per day.

Is the technology involved with the C-17 program unproven? Absolutely

not.

In fact, a great deal of money has been spent by the Pentagon to bring the C-17 technology to where it is today.

At David Monthan AFB in Arizona are actual aircraft that have flown and proved that their concepts and the concept of the C-17 are indeed workable realities.

I would like to quote from an article that appeared in the November 1982 issue of Armed Forces Journal. It was written by Everett Chambers and was entitled: "Airlift: Finding the Plane to Fit the Mission"

The C-17 meets or exceeds the requirements defined by the uniformed services after more than 10 years' experience with the current airlift force. It is a direct-delivery airplane, capable of moving combat forces from military origins directly to the objective destination and provides tactical flexibility through the use of additional airfields. The enemy's interdiction plan becomes complicated, and combat forces are delivered where they are needed. The C-17 satisfies the entire airlift mission spectrum that now requires many types of airplanes to complete.'

I urge my colleagues to take a long and hard look at our future mobility needs and the role of the C-17.

#### CHANGES IN THE KREMLIN: CASTRO'S GODFATHER IS DEAD

• Mr. SYMMS. Mr. President, I ask that the following article be printed in the RECORD, because it illustrates Soviet domination of Cuba:

When Cuban dictator Fidel Castro received the news about the death of his colleague Leonid Brezhnev, he must have thought that his godfather had died and that his regime had bad times coming.

After the enmity created between the Cuban dictator and Nikita Khrushchev because of the worldwide humiliation that the latter endured in the 1962 "missile crisis" Castro tried for years to maneuver in order to get closer to the new Soviet dictator, Leonidas Brezhnev, until he personally convinced Brezhnev about the convenience for the Kremlin to use Cuban troops in Angola to carry into power then-Moscow-protegé, Agostinho Neto.

Riding the wave of victory in Angola, Fidel Castro got Brezhnev to adopt his (Castro's) option to help Ethiopia in the Horn of Africa, countering the opinion of them. Soviet Prime Minister, Nikolai Podgorny, who seemed to support Somalia. Castro prevailed, support went to Ethiopia and the Ogaden war was unleased, in which Cuban units participated actively and left hundreds of Cuban bodies and wounded troops as a result of that conflict.

Castro also got Brezhnev to struggle within the Soviet Politburo to postpone payment of the huge debt obligation contracted by Cuba with the Soviet Union in 1976, that was due in 1985, despite opposition from Podgorny and other Kremlin technocrats, who argued that if Castro was allowed to delay payments, other communist bloc nations would also request preferential treatment, which eventually happened with Poland, Romania and Viet-Nam, among others

Brezhnev also ruled, against the opinions of all Kremlin technocrats, that Castro handled the Cuban economy in an independent manner, and that resources sent by the Soviet Union to "little Cuba" would not be overseen as other resources given to Eastern nations were.

It is said in the intelligence and diplomatic circles that, approximately two and a half years ago, during the final months of the Carter Administration, some members of the Soviet Politburo launched the thesis of exchanging Cuba, Angola & Ethiopia for the "green light" from the West for Moscow to keep a free hand in Afghanistan, Iran and Turkey, all of which have borders with the Soviet Union and are vital for the internal stability of the USSR.

Although that idea would have been accepted in principle by some people in Washington, dictator Brezhnev energetically opposed it, even when the "deal" would have included as well technological assistance to Moscow from Western nations.

Everybody knew that Brezhnev's death or retirement were imminent; Castro knew it too. Days earlier, the Cuban dictator and his brother, Raul, had been absent from the celebrations of the Red October Revolution at La Habana. These were held at the present Carlos Marx theatre (previously "Blanquita"), where the speeches were delivered by Ramiro Valdes and the Soviet Pro-Consul Konstantin Katushev. The following day, however, both brothers attended the reception offered by Katushev in the Empire's Embassy.

Did Castro wish to demonstrate, through his absence, his displeasure towards the Kremlin leadership, that has notified La Habana that assistance will be sharply curtailed, or was he ordered to attend the reception?

Later on, there was an absolute silence about Brezhnev's death on the part of the Cuban government, which in the first hours after the decease only referred to news releases from TASS, the Soviet official press agency.

Then came the quick appointment of Yuri Andropov and Castro, immediately, sent a lengthy message with his condolences, together with another of congratulation. In the latter, he mentioned "his assurance that Andropov would continue the line followed by Brezhnev."

Afterwards, the Cuban dictator travelled to Moscow, accompanied by Carlos Rafael Rodriguez and Ramiro Valdes, both members of the Cuban Politiburo. They were greeted at the Moscow airport by Konstan-

tin Chernenko, with whom Castro was better acquainted than with Andropov, but who had been displaced by Andropov in the struggle for power.

In Moscow, Castro met extensively with Mengistu Haile Mariam of Ethiopia; Hafez Assad of Syria and Yasser Arafat of the PLO, but he was only briefly received by Yuri Andropov and his assistant, Viktor Sharapov. However, the press at La Habana reported that "Castro had held a cordial interview (with Andropov) to deepen relations between both governments."

tions between both governments."
On the other hand, Carlos Rafael Rodriguez was received by Ivan Argipov, First Vice President of the Council of Ministers of the Soviet Union, to discuss bilateral trade relations, but no additional details were offered about this interview.

All signals point out to the fact that, together with the secret policemen, technocrats have taken over, and that in the case of Cuba a greater control will be enforced as to resources sent by the Soviet Union to the Caribbean island; that these resources will be reduced even more, due to the austerity plans that will be implemented, and that the importance of Cuban technocrats, such as Humberto Perez and others, will be on the rise.

Wounded and humiliated, Castro returned to La Habana, but he could not quit being himself and thus, upon a stopover at Shannon, Ireland, he called the Ulster hunger strikers "patriots" and said that, although he did not wish to interfere in the Irish internal affairs, he wanted to express his pain and sympathy for the Irish patriots that had offered their lives through a hunger strike.

"From the human point of view", Castro affirmed, "our people suffered very much when those men were dying and they, undoubtedly, showed their conviction and bravery", he added, alluding the Irish hunger strikers who died in Ulster.

While the Cuban dictator uttered these words, tens of Cuban political prisoners were continuing a hunger strike at the Boniato Prison, Oriente Province. They complained that the communist regime had violated its own laws, retaining them in prison after they had served their respective sentences, and re-sentencing them through the peculiar form of crime called "dangerousness".

Castro himself is guilty of the hungerstrike-deaths suffered by Pedro Luis Boitel, Roberto Alvarez Chavez, Luis Alvarez Rios, Carmelo Cuadra, Olegario Charlot Espileta, Enrique Garcia Cuevas, Reinaldo Cordero and Jose Barrios, among many others.

Thus, in the middle of the humiliation of not being greeted in the same manner as George Bush, Vice-President of the United States, or Karl Karsten, of West Germany, and involved in the infamy of praising persons who had done the same as many others whom he himself had sentenced and allowed to die, Castro returned to La Habana with a negative balance from his trip to Moscow, and also having learned that his godfather had died.

### PICTURE—THE USSR WITH ANDROPOV; WHAT CAN BE EXPECTED?

Dr. Leon Gure is one of the most renowned American experts on the Soviets. From his offices, in the State of Virginia, he gave us his opinion about what can be expected of the new Soviet leadership:

"I believe that there is no reason to expect any drastic changes, at least for the time being, because it will take time to create a structure within the Politburo. Should any changes take place in the military cadres, since these gain a greater degree of power anywhere during a transition period, we should expect Marshal Dimitri Ustinov to be replaced, probably by Marshal Nikolai Ogarkov.

"The situation, in general, will continue about the same . . . tense between East and West, while the new Soviet leadership gets consolidated and the Politburo experiences any changes. We should expect, at least in the field of foreign policy, many statements in favor of peace, coupled with strenuous efforts to arm themselves. Yuri Andropov certainly has experience in the field of foreign policy and repression. He lacks, however, any experience in the field of domestic economics, which is presently the most important one for the Soviet Union. What can be expected, most certainly, is a larger degree of repression."

Yuri Andropov is an expert in secret police matters. He was the one who attained the extermination of the fledgling dissident movements, taking them to trial and eliminating them, not in the style of Yussef Vissarionovitch Stalin, but, in a subtle manner, although effectively.

# THE BIRTHDAY OF NATHANIEL MACON (1758-1837)—STATESMAN FROM NORTH CAROLINA

• Mr. HELMS. Mr. President, on December 17, 1758, a distinguished American statesman was born in Edgecombe County, later Bute County and today Warren County, N.C. Nathaniel Macon served in the Congress of these United States for 37 years. His colleagues, recognizing his abilities, elected him Speaker of the House and as President pro tempore of the Senate.

Senator Macon entered the College of New Jersey, today Princeton University, in 1774 and studied classics for 2 years. With the outbreak of our War of Independence he did not hesitate to enlist in the military service of his Nation. He joined the New Jersey Militia and fought in a number of battles. He then returned to North Carolina to study law at the Bute County Courthouse before again serving in our military forces. He was elected to the North Carolina Senate, where he served for several years before being elected to the Federal House of Representatives in 1791.

Mr. President, Nathaniel Macon served continuously in the House of Representatives until December 1815. As a close and devoted friend of Thomas Jefferson, he was an outstanding leader of the Jeffersonian Republicans in the House. For his distinguished service and leadership abilities, he was elected Speaker of the House and served in that capacity from 1801 to 1807.

While in the House, Nathaniel Macon vigorously opposed the financial schemes of the Hamiltonian Federalists. He supported the purchase from France of the Louisiana Territory, and also urged President Jefferson to purchase Florida from Spain.

He strongly supported the foreign policy of the Jefferson and Madison administrations and served as the chairman of the House Foreign Relations Committee in 1809. He opposed the recharter of the Bank of the United States in 1811 and in 1816. In matters of commerce, he uniformly opposed any form of protective tariff.

On December 5, 1815, Nathaniel Macon was elected to fill the vacancy left by the resignation of Senator Francis Locke. He was reelected to the Senate in 1819 and again in 1825, and was three times elected by his colleagues as President pro tempore of the Senate. Senator Macon retired to private life in 1828 and spent most of his remaining days at his home, "Buck Spring," in Warren County.

His fellow citizens greatly respected his wide experience and wisdom in matters of state. He was elected a delegate to the convention called to revise the North Carolina State Constitution in 1835 and when the delegates convened the convention, he was unanimously elected its president. The following year, Senator Macon served as one of the Presidential electors supporting Van Buren and Johnson. This was to be his last public service.

Senator Macon was a sincere advocate of simplicity in both public and private life. His life exemplified this principle. His speeches were famous for their forceful and straightforward manner. They embodied the commonsense of the people. His unfailing efforts in behalf of frugality of public expenditure should be an inspiration to us all. The Weekly Raleigh Register wrote of Senator Macon on September 26. 1845.

His economy of the public money was the severest, sharpest, most stringent and constant refusal of almost any grant that could be proposed.

Indeed, said the Weekly Raleigh Register, with him, "not only was \* \* \* parsimony the best subsidy—but \* \* \* the only one."

Senator Macon prepared for this death by purchasing a coffin of plain pine boards. He selected a barren ridge for his gravesite, and directed that it be unmarked except for a simple pile of rough stones. On June 29, 1837, Senator Macon died suddenly at his home in Warren County.

John Randolph of Roanoke said of Senator Macon, "He is the wisest, the purest, and the best man that I ever knew." His friend Thomas Jefferson called him, "the last of the Romans."

All North Carolinians should be proud of Nathaniel Macon, and revere his memory in honor of his significant contributions to our State and Nation.

#### THE INVULNERABILITY OF FUTURE MILITARY TARGETS

• Mr. PRYOR. Mr. President, I shall enter into the Record an article from the December 7 Washington Post. It deals with some of the illusions of the window of vulnerability and the relationship that concept may have to our present and future strategic nuclear forces.

First of all, it points out that only 25 percent of our nuclear warheads are being put at risk by improved Soviet weaponry.

Second, it causes us to ask ourselves if the window of invulnerability is something that is even capable of being restored. Can we really make all military targets invulnerable?

Third, because of increasing technological ingenuity the future conditions of strategic deterrence may rest in an area in which we see the dawning of an increasing vulnerability of all military targets. A day in which all targets will be at risk, not just our population centers.

The nature of nuclear weapons and the doctrines of nuclear defense are in the process of a broad and far-reaching review by this administration. We should all remember that there are certain basic elements of strategic deterrence that will never change, and as much as we would like technology to answer our problems, the dangers of such technological breakthroughs could put the world on an ever more precarious tightrope.

The article follows:

MAYBE AMERICA CANNOT CLOSE THE WINDOW OF VULNERABILITY

(By Christoph Bertram)

Hamburg—When a man has knocked his head against the wall several times and still has failed to get through, it is perhaps time to stand back and think again.

The MX missile program was first given the go-ahead in 1974. Since then, it is has swallowed dollars, human ingenuity and the political energy of at least two adminstrations, in the so-far vain attempt to come up with a concept of how to deploy the missiles in such a way that they would be largely immune to Soviet attack. The strategic analytical community provided the intellectual justification for these efforts by inventing that intriguing, persuasive term, "the window of vulnerability."

One can understand why it has been so difficult for political leaders to resist the lure of this slogan. For it implies not only that the vulnerability of U.S. missiles to Soviet attack is strategically intolerable, but also that there is hope that the window can be closed, that vulnerability is, at worst, a temporary problem.

Both these implications have, however, become increasingly questionable. There is no doubt that it would be highly desirable if U.S. strategic missiles on land could not be destroyed by a preemptive enemy attack. But do strategic deterrence and stability really disappear if only part of the U.S. strategic arsenal, carrying less than 25 percent of the total of nuclear warheads, could be destroyed by a Soviet strike? Those who maintain this view have to argue that to

attack U.S. ground missiles alone would confer on the Soviet Union a concrete, sizable strategic advantage; it is more likely, however, to entail such enormous risks for the Soviets—in execution and in consequence—as to be meaningless once the threat of nuclear war has concentrated minds.

second assumption behind the "window of vulnerability" is even more questionable: that somehow there are ways to restore invulnerability to fixed landbased missiles forces. The president's pro-posal for the "Dense Pack" basing is only the latest and probably not the last in a series of schemes as ambitious as they are uncertain and unaffordable. Perhaps tomorrow there will be "Air Pack"-the MX on giant aircraft-or even "Space Pack," and the more each of these proposals reveals its shortcomings, the more it seems to spur the search for even more complicated technological fixes. So much is clear by now: if there really is a window of vulnerability, its shutters have very rusty hinges, and they have proved, to date, extremely resistant to being closed.

This is probably not for any lack of technological ingenuity. More likely, the vulnerability of all military installations that cannot be moved about to evade detection has come to stay. Indeed, the image that the supporters of the MX program have created may be more apt than they thought the window, rather than being closed, may offer a view to the future conditions of strategic deterrence, the end of the age of invulnerability and the dawning of that of vulnerability.

To date, the United States relies for over 75 percent of its strategic capacity on weapons systems that are still relatively immune to attack—the submarines and the bomber planes. They are likely to remain so for some time, but not indefinitely. There is time, therefore, to contemplate what it will mean for strategic deterrence if the weapons of last resort that serve it are no longer immune to destruction, what new requirements this will raise for defining stability, and what new tasks it will pose for arms procurement and arms control.

The dogged pursuit of ways to provide protection for fixed weapons on the ground is not only likely to fail, it also leaves us less time to tackle this more important, conceptual task. As military technology moves increasingly ahead in making available the means of detection and precise delivery, the vulnerability of all military targets will become the rule, invulnerability the exception.

Analysts and politicians alike should use the time to ask if they have not tended to over-sophisticate what is, after all, the rather primitive notion of nuclear deterrence: that an enemy will be prevented from attack by the credible threat of devastating nuclear retaliation. Practitioners and experts alike have perhaps fallen victim to the temptation of over-refining the essentially unrefinable.

It is said that each leg of the "Triad"—submarines, bomber planes and land-based missiles—would have to be invulnerable; but why could deterrence not rest adequately on two legs and a half (as it does in the Soviet Union)? Why should it be necessary to be able to respond to every strategic option that the Soviets have, if discrete nuclear options are a contradiction in terms? Why not undercut Soviet programs aimed at hitting fixed U.S. targets by reducing the number of those targets?

The problems raised by the MX are a forceful reminder that, rather than blame the technologists for their inability to come up with convincing remedies to our conceptual problems, we have to consider the concepts themselves. If that lesson is learned from the present MX predicament, the millions of dollars so far invested in the program will not have been entirely wasted.

#### CUBA

 Mr. SYMMS. Mr. President, I ask that the following article from the Mexican journal Replica be printed in the Record.

The article follows:

[From Replica, September 1982]
U.S. MUST NEGOTIATE CUBAN STATUS WITH
U.S.S.R.

#### (By Jorge Vazque)

The history of the verbal dispute between Cuba and the United States lies in a geopolitical context whose principal protagonists are the USSR and the United States, contrary to what off-the-track analysts and observers might think.

Since the establishment of communism in Cuba in 1959, thanks to the complicity of the U.S. State Department, the Cuban affair has been dealt with by Washington and Moscow at the margin of the Castro regime itself.

This was shown in 1962. Kennedy and Krushev acted out a great farce which allowed, on the one hand, the survival of the recently established communist regime in Cuba, and handcuffed the United States and the Cuban patriots who were fighting for the reconquest of the island.

From then on, the Cuban case was dealt with as a package, along with others, in U.S.-Soviet discussions.

Up until the Soviet invasion of Afghanistan, in December of 1979, the U.S. administrations had closed their eyes to the growing interventionism of Cuba in Latin America and Africa, training, supplying, and directing the activities of guerrilla and terrorist organizations in America, and sending scores of thousands of mercenaries to the black continent to fight, in aid of the communist regimes placed in jeopardy by patriotic and anticommunist forces.

After Afghanistan, which broke the agreement made at the summit by the Soviet leaders and the power groups which control the United States, inconsistency and indecision have characterized the U.S. stand with regard to Cuba.

While a sector of the Reagan administration advocates the imposition of drastic sanctions against Havana, to chastise its interventionism, there are those who consider infructuous all measures which are taken if they do not fall within the general context of the new political stand of contention assumed before the USSR.

"The United States should increase its military and economic pressure on Cuba, bringing down Cuban aircraft and blockading the island, if necessary, to combat the Soviet presence", said Republican Senator Steve Symms last June 13.

Symms called Cuba "a threat to peace and security on this continent and in other parts of the world".

"There can be no agreement between the United States and Cuba", stated former Costa Rican President Jose Figueres, after conversing with Castro for 7 hours last July q

Jose Figueres, member of the infamous "Caribbean Legion" which favored the communization of Cuba and the subversive activities on the continent, stated that Cuba would follow the same ideological line and that it does not fear U.S. reprisals.

In spite of the fact that he has played, for the last three years, the part of "anticommunist", Figueres did not let the opportunity go by to shower new eulogies on the Cuban tyrant, whom he found mature, "holding fast to the communist ideas, but with respect for democratic thought".

#### NEW EVIDENCES

There have been numerous occasions on which, from the pages of Replica, we have denounced, with unrefutable proofs, the interference of Cuba in the revolutionary processes which are taking place in Latin America.

Likewise, we have put in evidence the fact that Cuban interventionism—training, arming, and directing—make up part of the plan outlined by the high Soviet command in order to subvert order in the Latin American nations, as a prior step to their takeover.

Once again we summarize a report which

sheds new light on the subject.

"With the aid of the Soviet Union, Cuba possesses the best equipped military apparatus of Latin America, with a significant of ensive capacity", stated a report entitled, "The Cuban armed forces and the Soviet military presence", made known last August 6 by the International Communication Agency, dependent on the U.S. State Department.

"The armed forces of Cuba, says the report, total more than 225 thousand men (200 thousand in the army, 15 thousand in the air force, and 10 thousand in the navy)". To these men in service must be added 500 thousand militia (with additional arms) which Cuba hopes to increase to one million

"On the island there are between 6 thousand and 8 thousand Soviet civilian advisors and 2 thousand military advisors", indicates the report, stating that "the land brigade forces (Soviet) located near Havana, have approximately 2,600 men and include a batallion of tanks and three motorized machine-gun batallions, in addition to several backup and service units".

The Cuban air force, according to the report which we are quoting, is perhaps the best equipped of Latin America, and possesses some 200 MIG reaction hunters, provided by the Soviets.

So much for the report.

The aggression which El Salvador is suffering, on the part of the communist guerrilla, armed and backed by Cuba and Nicaragua, was denounced last August 11, by the Salvadoran chancellor Fidel Chavez Mena.

Chavez Mena accused Cuba and Nicaragua "of providing arms to the Salvadoran guerrillas", during his interview with U.S. Secretary of State, George Shultz, on August 11.

After that interview, he affirmed that it is indispensable that the United States continue to provide military and economic aid to El Salvador in order to continue the fight against the guerrillas.

"With the backing of the United States, we will contain the activities of the terrorists who are destroying the economy of the country", Chavez Mena ended.

#### NEW NORTH AMERICAN STANCE

To the seriousness of the situation which El Salvador is facing, as the principal stage, and Central America, as the threatened region, and with the Washington-Moscow entente broken, the U.S. Senate approved a resolution (by 69 votes in favor and 27 against) whose central part establishes that the United States is ready to:

(a) "Prevent by any means necessary, including the use of weapons, the Marxist-Leninist regime of Cuba from extending by force of threat its aggressive or subversive activities to any part of this continent".

(b) "To prevent in Cuba the creation or use of a military capacity backed from abroad, which would put in danger the security of the United States".

(c) "To work with the Organization of American States (OAS) and Cuban lovers of freedom to seek the self-determination for the people of Cuba".

This resolution had the opposition of influential Senator Charles Percy, Chairman of the Senate Foreign Relations Committee, who attempted unsuccessfully to keep the resolution from debate or vote.

#### RADIO MARTI DIVIDES THE ADMINISTRATION

Reagan's project of establishing Radio Marti, whose objective is, according to spokesmen of his administration, to offer the Cubans the means to know what kind of society has been imposed upon them, what the State does with the riches of the Cuban people, why so many have to leave on military missions abroad, never to return, and a source of news and entertainment which is not manipulated by the State, has divided the administration.

Last July 23, Democrat and Republican congressmen, among them Jim Leach, of Iowa, and Timothy Wirth, of Colorado, criticized this project.

For its part, the "Washington Post" shot down the project, which it described as "superfluous objectionable, and extravagant".

Finally, last August 11, the House of Representatives approved the Radio Marti project, which now has a budget of seven and a half million dollars, and which will be administered by the Committee for International Broadcasting, which also controls "Radio Free Europe" and "Radio Liberty", created years back to broadcast programs to the countries of East Europe.

The approval of the senatorial resolution and of the establishment of Radio Marti is indicative of the change of the U.S. administration's stance with regard to Cuba. Nevertheless, and according to what we indicated a few lines back, the United States will have no other alternative but to negotiate the Cuban status with the Soviet Union within the framework of the present world problems.

It should not be forgotten that Fidel Castro is just a puppet of the Soviets and that any affair which involves Cuba should be dealt with in the Kremlin. Anything else will be just verbage, demagoguery and a lack of political pragmatism.

#### ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, these items have been cleared on the consent calendar by the distinguished minority leader. I have been asked to handle them.

Mr. PROXMIRE. Will the distinguished Senator yield me 30 seconds?

Mr. STEVENS. I am happy to yield.

AUTHORIZING PRODUCTION OF DOCUMENTS BY THE SENATE SUBCOMMITTEE PERMANENT ON INVESTIGATIONS

Mr. STEVENS. Mr. President, is the Senator prepared for me to submit a resolution in behalf of Senator BAKER and the Senator from West Virginia dealing with the production of documents requested by the Permanent Subcommittee on Investigations? May we proceed with that item at this time?

Mr. ROBERT C. BYRD. Yes, Mr. President.

Mr. STEVENS. Mr. President, I send to the desk a resolution on behalf of the majority leader and the distinguished Senator from West Virginia and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows: A resolution (S. Res. 522) authorizing production of documents by the Senate Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 522) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 522

Whereas, the United States Attorney for Connecticut has requested copies of records of the Senate Permanent Subcommittee on Investigations relating to the Subcommittee's investigation of fraud in federal workers' compensation, and certain memoranda of interviews, subpoenaed records, and related documents of that Subcommittee investigation may be useful to the United States

Attorney; Whereas, by the privileges of the the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control of or in the possession of the Senate are needful for use in an investigation for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: now, therefore, be it

Resolved, That the Chairman and Ranking Minority Member of the Senate Permanent Subcommittee on Investigations, acting jointly, are authorized to produce to the United States Attorney for Connecticut memoranda of interviews, subpoenaed records, and other documents relating to the Subcommittee's investigation of fraud in federal workers' compensation.

Mr. STEVENS. Mr. President, move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the

The motion to lay on the table was agreed to.

AUTHORIZING APPROPRIATIONS FOR ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION TIVITIES OF THE NATIONAL OCEANIC AND ATMOSPHERIC THE NATIONAL ADMINISTRATION, 1983 AND

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 770, H.R. 6324

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes.

The PRESIDING OFFICER. Is there objection to its immediate consideration?

There being no objection, the Senate proceeded to consider the bill.

#### UP AMENDMENT NO. 1531

(Purpose: To authorize certain programs within the National Oceanic and Atmospheric Administration, and for other purposes)

Mr. STEVENS. Mr. President, I send an amendment to the desk in behalf of Senator Schmitt and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. SCHMITT, proposes an unprinted amendment numbered 1531.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

#### TITLE I-NATIONAL WEATHER SERVICE

SEC. 101. No Weather Service Office or Weather Service Forecast Office of the National Weather Service shall be closed or consolidated unless such closure or consolidation is in accordance with appropriate criteria and procedures established by the Secretary of Commerce and published in the Federal Register. Such procedures shall include: hearings, comment periods, public notice, and other appropriate means of presenting evidence, views, and opinions.

#### TITLE II—NATIONAL CLIMATE PROGRAM

SEC. 201. this title may be cited as the "National climate Program Amendments of

SEC. 202. Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended-

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (5), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

SEC. 203. (a) Subsection (c) of section 5 of the National Climate Program Act (15 U.S.C. 2904 (c)) is amended—

(1) by inserting "(1)" immediately before The Secretary"

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs: "(2) The Office shall-

"(A) serve as the lead entity responsible

for adminstering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be the spokesman for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitting under subsection (g)(1) and submit an analysis of the requests to the Board for its review:

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and menting the climate plan (described in subsection (d)(g)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts to the extent provided or approved in advance in appropriation Acts, or grant or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the climate plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.

(b) Subsection (d) of such section is amended-

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof a period and the following: "Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical aspects of the economy, (B) atmospheric data collection and monitoring on a statewide and regional basis, (C) advice to regional, State, and local government agencies regarding climate-related issues, (D) information to users within the State regarding climate and climatic effects, and (E) information to the Secretary regarding the needs of persons within the State for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services:".

or provide climate-related services;",
(2) by striking "biennially" in paragraph
(9) and inserting in lieu thereof "at a frequency (not more often than biennially or less often than quadrennially) determined by the Board"; and

(3) by striking "the intergovernmental program under section 6" in paragraph (9) and inserting in lieu thereof "the intergovernmental program described in paragraph

(7)".

(c) Subsection (e) of such section is

amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD,—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary believes should participate in the program.

"(2) The Board shall-

 (A) be responsible for coordinated planning and progress review for the program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chairperson from among its members. A Board member who is a representative of an agency may not serve as the Chairperson for a term if an individual who represented that same agency on the Board served as the Board's Chairperson for the previous term."

(d) Subsection (f)(2) of such section is amended by inserting "with the Office" im-

mediately after "shall cooperate".

(e) The first sentence of subsection (g)(1) of such section is amended by inserting before the period at the end thereof the following: "and shall transmit a copy of such request to the National Climate Program Office".

SEC. 204. Section 6 of the National Climate Program Act (15 U.S.C. 2905) is re-

pealed.

SEC. 205. Section 7 of the National Climate Program Act (15 U.S.C. 2906) is amended by striking "January 30" and inserting in lieu thereof "March 31".

SEC. 206. For the purpose of enabling the Secretary of Commerce to carry out his functions, duties, and responsibilities relating to the National Climate Program Office under the National Climate Program Act (15 U.S.C. 2901 et seq.) there is authorized to be appropriated, for each of the fiscal years 1983 and 1984, the sum of \$1,800,000.

TITLE III—WEATHER MODIFICATION REPORTING

SEC. 301. \$100.000 is authorized to be appropriated in each of the fiscal years 1983 and 1984 to carry out the provisions of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government" (15 U.S.C. 330 et seq.).

 Mr. SCHMITT. Mr. President, the amendment to H.R. 6324 which I have offered includes two needed reauthorizations and one amendment to existing law. As amended, title I of H.R. 6324 will provide guidance to the Department of Commerce regarding the closing of National Weather Service offices. The Department will establish certain standards, principles and procedures to be met and followed in future closures of weather stations.

In recent years, the Congress has rejected proposals by the Department of Commerce to close selected weather stations. This title establishes principles which the Congress expects will be met before any closures are proposed. This process should help resolve the impasse which the Congress and the administration have reached.

Title II provides a number of amendments to the National Climate Program Act. These amendments provide some necessary technical corrections to the existing law and authorizations for fiscal year 1983 and fiscal year 1984. The amendments establish the Climate Program Policy Board along with its relationship to the National Climate Program Office within the National Oceanic and Atmospheric Administration (NOAA).

Title III authorizes \$100,000 under the Weather Modification Reporting Act for fiscal years 1983 and 1984.

Titles I, II, and III are also contained in S. 2605, the NOAA authorization bill for fiscal year 1983, which is also on the calendar awaiting action.

I urge the Senate to act favorably on

H.R. 6324 as amended.

Mr. STEVENS. Mr. President, I move the adoption of the amendment. The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1531) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a

third time.

The bill was read the third time.
The PRESIDING OFFICER. The
bill having been read the third time,
the question is, Shall it pass?

So the bill (H.R. 6324) was passed. Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table

The motion to lay on the table was agreed to.

### EXCHANGE OF CERTAIN INDIAN LAND

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar 875, H.R. 4001.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4001) to authorize the exchange of certain land held in trust by the United States for the Navajo Tribe, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with amendments, as follows:

On page 1, line 9, strike "Vanderwagon", and insert "Vanderwagen"; and

On page 2, line 1, strike "Vanderwagon", and insert "Vanderwagen".

Mr. STEVENS. MR. President, I ask that the committee amendments be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc.

#### UP AMENDMENT NO. 1532

(Purpose: To make a technical amendment to Public Law 97-344 and to provide for the availability of Indian programs and services to members of the Houlton Band of Malisect Indians)

Mr. STEVENS. Mr. President, I send an amendment to the desk on behalf of Senator Cohen and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) on behalf of Mr. Cohen, proposes unprinted amendment numbered 1532.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, after line 4, add the following sections:

SEC. 2. The Act entitled "An Act to provide for the partitioning of certain restricted Indian land in the State of Kansas", approved October 15, 1982 (Public Law 97-344), is amended by striking out "township 11" in paragraph (1) and inserting in lieu thereof "township 12".

SEC. 3. Section 6(i) of the Maine Indian Claims Settlement Act of 1980 (Public Law 96-420) is amended by adding at the end

thereof the following:

"Notwithstanding any other provision of law authorizing the provision of special programs and services by the United States to Indians because of their status as Indians, any member of the Houlton Band of Maliseet Indians in or near the Town of Houlton, Maine, shall be eligible for such programs and services without regard to the existence of a reservation or of the residence of such member on or near a reservation."

 Mr. COHEN. Mr. President, H.R. 4001 is a bill to provide for an exchange of lands between the Navajo Indian Tribe and certain private citizens in the State of New Mexico. This

bill will provide the necessary legal authority to allow the Navajo Tribe to transfer to Mr. Bernard J. Vanderwagen and his daughter, Linda Vander-wagen Ortega, a small parcel of land of approximately 540 acres in exchange for the transfer by these persons of privately owned fee land of approximately 640 acres. The value of the lands being exchanged is essentially equal. A number of Navajo Indians are presently residing on the Vanderwagen lands and this exchange will eliminate any possible need for relocation. Companion legislation was introduced in the Senate by Senator SCHMITT (S. 1779) which was reported out of the Select Committee on Indian Affairs before the House acted on H.R. 4001.

Mr. President, the amendment to this bill will add two new sections to this bill. Section 2 will amend Public Law 97-344, an act to provide for the partitioning of certain restricted lands in the State of Kansas. There is an error in the land description contained in that act and the purpose of this new section in H.R. 4001 is simply to correct that error.

The new section 3 which I propose to add to H.R. 4001 is to correct an oversight in the Maine Indian Claims Settlement Act (Public Law 96-420, 94 Stat. 1785) which was enacted into law more than 2 years ago. With the passage of that act, the Houlton Band of Maliseet Indians were granted Federal recognition and a trust fund of \$900,000 was established to provide for the acquisition of 5,000 acres of land for the band.

The extension of Federal recognition to the band was expected to make them eligible for Federal Indian services. As it turned out, however, the band members were not eligible for such services because they do not live "on or near a reservation." Both the Bureau of Indian Affairs and the Indian Health Service hold that they are legally restricted from delivering such services to Indians who do not live "on or near a reservation." Since the band has not yet acquired land as contemplated by the Maine Indian Claims Settlement Act, they remain ineligible for these services. The amendment I am proposing today would make the band eligible for such services notwithstanding the fact that they have not yet obtained their land. This amendment would bring the act inot conformity with the intent of the Select Committee on Indian Affairs when it reported the bill and with the intent of the Congress when the law was enacted.

I ask that this amendment be agreed to.

• Mr. MITCHELL. Mr. President, I rise in support of an amendment offered by my colleague from Maine, Senator Cohen, to H.R. 3731.

The proposal would amend the Maine Indian Claims Settlement Act of 1980. That statute gave Federal recognition to the Houlton Band of Maliseet Indians of Maine and established in its behalf a \$900,000 trust fund for the acquisition of 5.000 acres of land.

Federal recognition was to make the Houlton Band eligible for all Federal Indian services. However, because the band does not live "on or near a reservation" at the present time, it has found that neither the Bureau of Indian Affairs nor the Indian Health Service can legally provide available services.

Senator Cohen's amendment would make the Houlton Band eligible for all Federal services, despite the fact that it has not yet acquired all of the land contemplated by the Maine Indian Claims Settlement Act. This would in effect carry out the true intent of Congress in resolving the Maine tribal land claims and permit members of the Houlton Band to receive the full range of Indian services to which they are entitled and for which a great need exists.

Mr. President, I hope the amendment will be adopted.

Mr. STEVENS. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1532) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 4001) was read the third time, and passed.

#### FURTHER CONTINUING APPROPRIATIONS, 1983

Mr. STEVENS. Mr. President, I yield to the distinguished Senator from Oklahoma.

BOREN AMENDMENT ON MONETARY POLICY

Mr. BOREN. Mr. President, I would like to ask, while the Senator from Utah (Mr. Garn) is still on the floor, if we might enter at this time into a unanimous-consent agreement concerning my amendment on monetary policy. Previously it was 20 minutes equally divided. The text of this amendment has now been cleared with the Senator from Utah who had raised an objection previously.

Mr. STEVENS. I would say to my good friend it was my understanding there was perhaps some objection—I say to my good friend that it is my understanding there is perhaps some action by the Senator from New Mexico, the chairman of the Budget Committee. I have no objection. I merely add to the unanimous-consent

request that that time agreement be subject to the approval of the distinguished Senator from New Hampshire tomorrow.

Mr. BOREN. That is fine with me, Mr. President. I think the objection was to another amendment I offered.

Mr. STEVENS. He raised another objection also, unless I am confused with another amendment. I have no objection.

The Senator from Utah advises me that is a time agreement, but just to protect the chairman of the Budget Committee, I merely ask unanimous consent that this be subject to his approval tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

#### BUDGET ACT WAIVER-S. 2941

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 502.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 502) waiving section 402(a) of the Congressional Budget Act of 1947 with respect to the consideration of S. 2941

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution? There being no objection, the resolution (S. Res. 502) was considered and agreed to, as follows:

#### S. RES. 502

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such act are waived with respect to the consideration of S. 2941. Such waiver is neccessary because S. 2941 authorizes the enactment of new budget authority which would first become available in fiscal year 1983 and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations. S. 2941 would authorize \$3.873,000 for fiscal year 1983 to permit the National Oceanic and Atmospheric Administration to continue ocean pollution research under the National Ocean Pollution Planning Act of 1978. An identical authorization is contained in S. 2605, the National Oceanic and Atmospheric Administration Authorization Act, which was reported out of Committee on May 11, 1982. Unfortunately no action has been taken on S. 2605 on the Senate floor for reasons totally unrelated to the authorization for ocean pollution research. Therefore the Committee on Commerce, Science, and Transportation has decided to report this authorization as a separate bill so that this vital work may continue. The amount of the authorization is the same as the request for this program in the President's budget.

#### NATIONAL OCEAN POLLUTION PLANNING ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 973, the National Ocean Pollution Planning Act.

The PRESIDING OFFICER. The

bill will be stated.

The assistant legislative clerk read as follows:

A bill (S. 2941) to authorize funds for the National Oceanic and Atomospheric Administration for fiscal year 1983 to carry out the provisions of the National Ocean Pollution Planning Act of 1978.

#### UP AMENDMENT NO. 1533

(Purpose: To authorize appropriations for the National Advisory Committee Oceans and Atmosphere Act of 1977)

Mr. STEVENS. I sent to the desk an amendment in behalf of Senator

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for the Senator from New Mexico (Mr. SCHMITT), purposes an unprinted amendment numbered 1533.

At the end of the bill, add the following new section:

SEC. 2. Section 8 of the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-18) is amended—
(1) by striking "and" immediately after

"1981,"; and
(2) by striking "1982." and inserting in lieu thereof "1982, and \$680,000 for the fiscal year ending September 30, 1983".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1533) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

#### S. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1709) is amended by striking out "and" each time it appears therein, and by inserting the following immediately before the period at the end thereof: ", and not to exceed \$3,873,000 for the fiscal year ending September 30,

#### AUTHORIZATION OF PRODUC-TION OF DOCUMENTS BY THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. STEVENS. Mr. President, I send to the desk a resolution in behalf of the distinguished minority and majority leaders and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the consideration of the resolution?

The clerk will state the resolution. The legislative clerk read as follows:

A Senate resolution (S. Res. 523) authorizing production of documents by the Senate Permanent Subcommittee on Investigations.

The PRESIDING OFFICER. there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and passed.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 523

Whereas, the Department of Labor has requested copies of records of the Senate Permanent Subcommittee on Investigations relating to the Subcommittee's investigation of Local 5 of the Hotel Employees and Restaurant Employees International Union, and certain subpoenaed records and related documents that may be useful to that Department;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control of or in the possession of the Senate are needful for use in an investigation for the promotion of justice, the Senate will take such action thereon as will promote the ends of justice consistently with the privileges and rights of the Senate: Now, therefore, be it Resolved, That the Chairman and Rank-

ing Minority Members of the Senate Permanent Subcommittee on Investigations, acting jointly, are authorized to produce to the Department of Labor subpoenaed records and other documents relating to the Subcommittee's investigation of Local 5 of the Hotel Employees and Restaurant Employees International Union.

#### BUDGET ACT WAIVER-S. 2719

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 484.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

A resolution (S. Res. 484) waiving section 402(a) of the Congressional Budget Act with respect to the consideration of S. 2719,

The PRESIDING OFFICER. there objection to the present consideration of the resolution?

There being no objection, the resolution (S. Res. 484) was considered, and agreed to, as follows:

#### S. RES. 484

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2719. Such waiver is necessary because S. 2719, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983. Such Act was introduced on July 1, 1982, and was the subject of hearing before the Select Committee on Indian Affairs on July

14. Such waiver is necessary because, due to the lateness of the introduction of the Act, the Select Committee on Indian Affairs was unable to complete action and report on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such fiscal year 1983 authorizations

S. 2719 embodies a negotiated settlement of claim to land and consequential damages raised by the Mashantucket Pequot Tribe of Connecticut. The timely action of Congress is necessary to ensure that the settlement is effected and the claims are forever extinguished. The Act would provide \$900,000 in new budget authority.

#### MASHANTUCKET PEQUOT IN-SETTLEMENT DIAN CLAIMS ACT

Mr. STEVENS. Mr. President, I ask that the Senate turn to the immediate consideration of S. 2719.

The PRESIDING OFFICER. The bill will be stated.

The legislative clerk read as follows: A bill (S. 2719) entitled the Mashantucket Pequot Indian Claims Settlement Act.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Mashantucket Pequot Indian Claims Settlement Act".

#### CONGRESSIONAL FINDINGS

SEC. 2. The Congress finds that-

(a) there is pending before the United States District Court for the District of Connecticut a civil action entitled Western Pequot Tribe of Indians against Holdridge Enterprises Incorporated, et al., Civil Action Numbered H76-193 (D. Conn.), which involves Indian claims to certain public and private lands within the town of Ledyard, Connecticut:

(b) the pendency of this lawsuit has placed a cloud on the titles to much of the land in the town of Ledyard, including lands not involved in the lawsuit, which has resulted in severe economic hardships for the residents of the town;

(c) the Congress shares with the State of Connecticut and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims;

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the State of Connecticut have reached an agreement which requires implementing legislation by the Congress of the United States and the Legislature of the State of Connecticut;

(e) the Western Pequot Tribe, as represented as of the time of the passage of this Act by the Mashantucket Pequot Tribal Council, is the sole successor in interest to the aboriginal entity generally known as the Western Pequot Tribe which years ago claimed aboriginal title to certain lands in the State of Connecticut; and

(f) The State of Connecticut is contributing twenty acres of land owned by the State of Connecticut to fulfill this Act. The State of Connecticut has provided special services to the members of the Western Pequot Tribe residing within its borders.

United States has provided few, if any, special services to the Western Pequot Tribe and has denied that it has jurisdiction over or responsibility for said Tribe. In view of the provision of land by the State of Connecticut and the provision of special services by the State of Connecticut without being required to do so by Federal law, it is the intent of Congress that the State of Connecticut not be required to further contribute directly to this claims settlement.

#### DEFINITIONS

SEC. 3. For the purposes of this Act-

(a) the term "Tribe" means the Mashantucket Pequot Tribe (also known as the Western Pequot Tribe) as identified by chapter 832 of the Connecticut General Statutes and all its predecessors and successors in interest. The Mashantucket Pequot Tribe is represented, as of the date of the enactment of this Act, by the Mashantucket Pequot Tribal Council;

(b) the term "land or natural resources" means any real property or natural resources, or any interest in or right involving any real property or natural resources, including without limitation minerals and mineral rights, timber and timber rights, water and water rights, and hunting and

fishing rights;
(c) the term "private settlement lands" means (1) the eight hundred acres, more or less, of privately held land which are identified by a red outline on a map filed with the Secretary of the State of Connecticut in accordance with the agreement referred to in section 2(d) of this Act, and (2) the lands known as the Cedar Swamp which are adjacent to the Mashantucket Pequot Reservation as it exists on the date of the enactment of this Act. Within thirty days of the enactment of this Act, the Secretary of the State of Connecticut shall transmit to the Secretary a certified copy of said map;

(d) the term "settlement lands" means

(1) the lands described in sections 2(a) and 3 of the Act to Implement the Settlement of the Mashantucket Pequot Indian Land Claims as enacted by the State of Connecticut and approved on June 9, 1982, and (2) the private settlement lands.

(e) the term "Secretary" means the Secre-

tary of the Interior;

(f) the term "transfer" means any transaction involving, or any transaction the purpose of which was to effect, a change in title to or control of any land or natural resources, and any act, event, or circumstance that resulted in a change in title to, possession of, dominion over, or control of land or natural resources, including any sale, grant, lease, allotment, partition, or conveyance, whether pursuant to a treaty, compact or statute of a State or otherwise; and

(g) the term "reservation" means the existing reservation of the Tribe as defined by chapter 824 of the Connecticut General Statutes and any settlement lands taken in trust by the United States for the Tribe.

APPROVAL OF PRIOR TRANSFERS; EXTINGUISH-MENT OF ABORIGINAL TITLES AND INDIAN

SEC. 4. (a) Any transfer before the date of enactment of this Act from, by, or on behalf of the Tribe or any of its members of land or natural resources located anywhere within the United States, and any transfer before the date of enactment of this Act from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians of land or natural resources located anywhere within the town of Ledyard, Connecticut, shall be deemed to have been made in accordance

with the Constitution and all laws of the United States, including without limitation the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, Sec. 4, 1 Stat. 137, 138), and all amendments thereto and all subsequent reenactments and versions thereof, and Congress hereby does approve and ratify any such transfer effective as of the date of said transfer: Provided, however, That nothing in this section shall be construed to affect or eliminate the personal claim of any individual Indian (except for federal common law fraud claim) which is pursued under any law of general applicability that protects non-Indians as well as Indians

(b) By virtue of the approval and ratification of a transfer of land or natural resources effected by subsection (a), any aboriginal title held by the Tribe or any member of the Tribe, or any other Indian, Indian nation, or tribe or band of Indians, to any land or natural resources the transfer of which was approved and ratified by subsection (a) shall be regarded as extinguished as of the date of such transfer.

(c) By virtue of the approval and ratification of a transfer of land or natural resources effected by this section, or the extinguishment of aboriginal title effected thereby, any claim (including any claim for damages for trespass or for use and occupancy) by, or on behalf of, the Tribe or any member of the Tribe or by any other Indian, Indian nation, or tribe or band of Indians, against the United States, any State of subdivision thereof or any other person which is based on—

(1) any interest in or right involving any land or natural resources the transfer of which was approved and ratified by subsec-

tion (a), or

(2) any aboriginal title to land or natural resources the extinguishment of which was effected by subsection (b), shall be regarded as extinguished as of the date of any such transfer.

(d)(1) This section shall take effect upon the appropriation of \$900,000 as authorized under subsection 5(e) of this Act.

(2) The Secretary shall publish notice of such appropriation in the Federal Register when the funds are deposited in the fund established under subsection 5(a) of this Act.

#### MASHANTUCKET PEQUOT SETTLEMENT FUND

SEC. 5. (a) There is hereby established in the United States Treasury a fund to be known as the Mashantucket Pequot Settlement Fund. This fund shall be held in trust by the Secretary for the benefit of the Tribe and administered in accordance with this Act.

(b)(1) The Secretary is authorized and directed to expend, at the request of the Tribe, the fund together with any and all income accruing to such fund in accordance

with this subsection.

(2) Not less than \$600,000 of the fund shall be available until January 1, 1985, for the acquisition by the Secretary of private settlement lands. Subsequent to January 1, 1985, the Secretary shall determine whether and to what extent an amount less than \$600,000 has been expended to acquire private settlement lands and shall make that amount available to the Tribe to be used in accordance with the economic development plan approved pursuant to subsection 5(b)(3).

(3) The Secretary shall disburse all or part of the fund together with any and all income accruing to such fund excepting the amount reserved in subsection 5(b)(2) ac-

cording to a plan to promote the economic development of the Tribe. (A) The Tribe shall submit an economic development plan to the Secretary and the Secretary shall approve such plan within sixty days of its submission if he finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, he shall, at the time of his decision, set forth in writing and with particularity, the reasons for his disapproval. (B) The Secretary may not agree to terms which provide for the investment of the fund in a manner not in accordance with section 1 of the Act of June 24, 1938 (52 Stat. 1037), unless the Tribe first submits a specific waiver of liability on the part of the United States for any loss which may result from such an investment. (C) The Tribe may, with the approval of the Secretary, alter the economic development plan subject to the conditions set forth in subsection 5(b)(3)(A).

(4) Under no circumstances shall any part of the fund be distributed to any member of the Tribe unless pursuant to the economic development plan approved by the Secre-

tary under subsection 5(b)(3).

(5) As the fund or any portion thereof is disbursed by the Secretary in accordance with this section, the United States shall have no further trust responsibility to the Tribe or its members with respect to the sums paid, any subsequent expenditures of these sums, or any property other than private settlement lands or services purchased with these sums.

(6) Until the Tribe has submitted and the Secretary has approved the terms of the use of the fund, the Secretary shall fix the terms for the administration of the portion of the fund as to which there is no agree-

ment.

(7) Lands or natural resources acquired under subsection (5)(b) which are located within the settlement lands shall be held in trust by the United States for the benefit of the Tribe.

(8) Land or natural resources acquired under subsection (b) which are located outside of the settlement lands shall be held in fee by the Mashantucket Pequot Tribe, and the United States shall have no further trust responsibility with respect to such land and natural resources. Such lands or natural resources shall not be subject to any restriction against alienation under the laws of the United States.

(9) Notwithstanding the provisions of section 1 of the Act of August 1, 1888 (25 Stat. 357), as amended, and section 1 of the Act of February 26, 1931 (46 Stat. 1421), the Secretary may acquire land or natural resources under this section from the ostensible owner of the land or natural resources only if the Secretary and the ostensible owner of the land or natural resources have agreed upon the identity of the land or natural resources to be sold and upon purchase price and other terms of sale. Subject to the agreement required by the preceding sen-tence, the Secretary may institute condemnation proceedings in order to perfect title, satisfactory to the Attorney General, in the United States and condemn interests adverse to the ostensible owner.

(c) For the purpose of substitle A of the Internal Revenue Code of 1954, any transfer of private settlement lands to which subsection (b) applies shall be deemed to be an involuntary conversion within the meaning of

section 1033 of such Code.

(d) The Secretary may not expend on behalf of the Tribe any sums deposited in the fund established pursuant to subsection (a) of this section unless and until he finds that authorized officials of the Tribe have executed appropriate documents relinquishing all claims to the extent provided by sections 4 and 10 of this Act, including stipulations to the final judicial dismissal with prejudice of its claims.

(e) There is authorized to be appropriated \$900,000 to be deposited in the fund.

#### JURISDICTION OVER RESERVATION

Sec. 6. Notwithstanding the provision relating to a special election in section 406 of the Act of April 11, 1968 (25 U.S.C. 1326), the reservation of the Tribe is declared to be Indian country subject to State jurisdiction to the maximum extent provided in title IV of such Act.

### LIMITATION OF ACTIONS: FEDERAL COURT JURISDICTION

SEC. 7. (a) Notwithstanding any other provision of law, the constitutionality of this Act may not be drawn into question in any action unless such question has been raised in...

(1) a pleading contained in a complaint filed before the end of the one-hundred-and-eighty-day period beginning on the date of the enactment of this Act. or

(2) an answer contained in a reply to a complaint before the end of such period.

(b) Notwithstanding any other provision of law, exclusive jurisdiction of any action in which the constitutionality of this Act is drawn into question is vested in the United States District Court for the District of Connecticut.

(c) Any action to which subsection (a) applies and which is brought in the court of any State may be removed by the defendant to the United States District Court for the

District of Connecticut.

(d) Except as provided in this Act, no provision of this Act shall be construed to constitute a jurisdictional act, to confer jurisdiction to sue, or to grant implied consent to any Indian, Indian nation, or tribe or band of Indians to sue the United States or any of its officers with respect to the claims extinguished by the operation of this Act.

#### RESTRICTION AGAINST ALIENATION

SEC. 8. (a) Subject to subsection (b), lands within the reservation which are held in trust by the Secretary for the benefit of the Tribe or which are subject to a Federal restraint against alienation at any time after the date of the enactment of this Act shall be subject to the laws of the United States relating to Indian lands, including section 2116 of the Revised Statutes (25 U.S.C. 177).

(b) Notwithstanding subsection (a), the Tribe may lease lands for any term of years to the Mashantucket Pequot Housing Authority, or any successor in interest to such

Authority.

### EXTENSION OF FEDERAL RECOGNITION AND PRIVILEGES

SEC. 9. (a) Notwithstanding any other provision of law, Federal recognition is extended to the Tribe. Except as otherwise provided in this Act, all laws and regulations of the United States of general application to Indians or Indian nations, tribes or bands of Indians which are not inconsistent with any specific provision of this Act shall be applicable to the Tribe.

(b) The Tribe shall file with the Secretary a copy of its organic governing document and any amendment thereto. Such instrument must be consistent with the terms of this Act and the Act to Implement the Settlement of the Mashantucket Pequot Indian

Land Claim as enacted by the State of Connecticut and approved June 9, 1982.

(c) Notwithstanding any other provision

(c) Notwithstanding any other provision of law, the Tribe and members of the Tribe shall be eligible for all Federal services and benefits furnished to federally recognized Indian tribes as of the date of enactment of this Act.

#### OTHER CLAIMS DISCHARGED BY THIS ACT

SEC. 10. Except as expressly provided herein, this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and all of its political subdivisions, agencies, departments, and all of the officers or employeess thereof arising from any treaty or agreement with, or on behalf of the Tribe or the United States as trustee therefor.

#### INSEPARABILITY

SEC. 11. In the event that any provision of section 4 of this Act is held invalid, it is the intent of Congress that the entire Act be invalidated. In the event that any other section or provision of this Act is held invalid, it is the intent of Congress that the remaining sections of this Act shall continue in full force and effect.

Mr. COHEN. Mr. President, the Mashantucket Pequot Indian Claims Settlement Act was the subject of hearings before the Senate Select Committee on Indian Affairs earlier this year.

It came to the committee with the approval of all the affected parties and the amendment in the nature of a substitute that was reported from the committee was agreed to by all the af-

fected parties.

Having participated in the settlement of a much larger land claim in the State of Maine which was based on the legal theory asserted in the Mashantucket case, I know how difficult it can be at times for the various parties to such negotiations to reach agreement on the range of issues these cases present.

I wish to commend my colleagues from the State of Connecticut for their involvement in and support of this legislative solution to this claim. I commend the parties to the suit for their efforts to resolve this dispute.

Mr. WEICKER. Mr. President, the Senate now has before it S. 2719, which would provide settlement of certain claims of the Mashantucket Pequot Indian Tribe of Connecticut, and which would establish Federal recognition of the tribe.

It is with pleasure that I bring this measure to the Senate floor. As my colleagues are aware, the Senate has spent a great deal of time this session considering the essential concept of this bill, which is the guarantee that the rights of minorities must be protected under the Constitution. The majority often rules in the democratic process, but our constitution guarantees minorities access to due process and the right to fair and equal consideration in any legal claims.

This bill addresses that issue for the Mashantucket Pequots. It is a bill motivated by the wish to provide a fair settlement to all involved parties, and

I believe that it accomplishes that aim. S. 2719 has the unanimous support of the Connecticut delegation, the Connecticut State government, the Pequot Tribe and the affected property owners.

The Connecticut delegation is proud of this bill which represents the state-of-the-art in Indian land claims settlement legislation. We believe that it could be a precedent for Connecticut in future cases of this nature. I urge my colleagues to support S. 2719.

Mr. DODD. Mr. President, I support S. 2719, the Mashantucket Pequot Indian Claims Settlement Act of 1982. which I first introduced with my colleague (Mr. WEICKER) on June 30, 1982. This bill settles the first outstanding Indian land claim in the State of Connecticut and serves as a reaffirmation of Connecticut's policy which upholds the constitutional rights of our State's native Americans. Representative Gejdenson has pushed along identical legislation on the House side that together with our legislation carries the support of the entire Connecticut delegation.

I would also like this opportunity to express my appreciation to Chairman COHEN, Senator MELCHER, and the Select Committee on Indian Affairs for holding hearings and for their careful consideration of this legisla-

tion.

This bill is the culmination of years of negotiations between the Mashantucket Pequot Tribal Council and the private landowners in Ledyard, Conn. Specifically, the Ledyard property owners have agreed to transfer 800 acres of undeveloped land to the tribe. Let me make it clear that this legislation would not displace a single homeowner and that all the property owners have agreed to this settlement and still reserve the right to not sell their property if they so choose.

In addition, the bill establishes a Federal trust of \$900,000 for the purpose of land acquisition by the tribe as agreed to in the negotiated settlement and makes the Pequots a federally recognized tribe, giving the tribe all the rights and privileges which accompany such recognition. The bill also extinguishes all aboriginal title to land and subjects the tribe to the laws of the United States.

It must be made clear that in order for this well-thoughtout agreement, which is the product of several years of negotiations, to be legal and valid, Congress will have to ratify the settlement.

I would also like to point out that this legislation reverses a trend in Indian land claim settlements by increasing the State's involvement. Connecticut has provided monetary and special in kind assistance to the tribe totaling \$250,000. Recently, the State contributed 20 acres of land to the Pequots as part of the negotiated settlement. This land was their ancient burial ground. Again, the State legislation granting this land is contingent upon the passage of this bill in Congress.

Last, let me say that this legislation circumvents the need for uncertain and time-consuming litigation. The only viable alternative to litigation is to negotiate, and that is exactly what I am asking the Senate to affirm by passing this bill.

The committee amendment was

agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

# MASHANTUCKET PEQUOT INDIAN LAND CLAIMS SETTLE-MENT ACT

The PRESIDING OFFICER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6612, Calendar No. 953.

eration of H.R. 6612, Calendar No. 953. The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6612) to provide for the settlement of land claims of the Mashantucket Pequot Indian Tribe of Connecticut, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause and insert in lieu thereof the text of S. 2719 as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Alaska.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The bill (H.R. 6612) was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. Mr. President, I move to indefinitely postpone the consideration of S. 2719.

The motion was agreed to.

#### PURCHASE OF CALENDARS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 990, Senate Resolution 508.

The PRESIDING OFFICER. Without objection, the clerk will state it.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 508) relating to the purchase of calendars.

The resolution was considered and agreed to, as follows:

#### S. RES. 508

Resolved, That the Committee on Rules and Administration is authorized to expend

from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed \$60,320 for the purchase of one hundred and four thousand calendars. The calendars shall be distributed as prescribed by the committee.

## PROHIBITION OF SALE OF U.S. CUSTOMS HOUSE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1011, Senate Resolution 498.

The PRESIDING OFFICER. Is there objection? Without objection, the clerk will state the resolution.

The assistant legislative clerk read as follows:

A Senate resolution (S. Res. 498) prohibiting the sale of the U.S. Customs House at Bolling Green, New York City.

• Mr. STAFFORD. Mr. President, on December 14, the Committee on Environment and Public Works reported Senate Resolution 489, prohibiting the sale of the U.S. Custom House at Bowling Green in New York City. This resolution had been introduced by Senator MOYNIHAN on December 1, 1982.

In 1979, Congress authorized renovation of the building to house Federal agencies and alleviate expensive leasing requirements in the city. The Public Buildings Service of the General Services Administration has procrastinated and failed to date to begin renovation. Because of this inaction, the Federal Property Review Board is considering declaring the Custom House "surplus" and offering it for sale.

The resolution would also require the General Services Administration to submit periodic progress reports on the renovation of the Custom House

until the work in completed.

Finally, Senate Resolution 498 directs the General Services Administration to seek approval from the Committee on Environment and Public Works prior to disposal of any building in its inventory. The Public Buildings Act of 1959 fails to require the GSA to notify the committee, though disposal decisions often bear directly on expenditures for construction, leasing, alteration, and repair-which are the responsibility and jurisdiction of the Environment and Public Works Committee. For example, GSA decided it did not want the existing courthouse in Youngstown, Ohio, and it was subsequently sold to the city. Since 1979, however, GSA has rented the court space from the city. Now the city has notified GSA that they do not wish to renew the lease. Therefore, GSA proposes to spend \$10 million to build a new courthouse, to replace the one that they sold for \$190,000.

Mr. President, I urge my colleagues to support this resolution and hope that it will be agreed to.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

#### S. RES. 498

Whereas, the U.S. Custom House at Bowling Green in Lower Manhattan in New York City, completed in 1907 to the plans of the noted American architect Cass Gilbert, is one of the most beautiful and significant Beaux-Arts public buildings in the Nation, and

Whereas, in 1979, the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation approved, pursuant to the Public Buildings Act of 1959, the renovation by the United States General Services Administration of the Custom House at a cost of \$29,274,000, and

Whereas, the renovation of the Custom House is to provide office space for 800 Federal employees currently housed in more expensive leased office space, and

Whereas, the United States General Services Administration has procrastinated and failed to date to begin actual renovation work on the project, and

Whereas, because of this inaction, some Federal officials have proposed declaring the Custom House "surplus" to the needs of the Government and offering it for sale to private interests, and

Whereas, to acquiesce in this or any similar action by the executive branch would vitiate congressional authority under the Public Buildings Act to manage the inventory of the public buildings: Now, therefore be it

Resolved, That it is the sense of the Senate that the U.S. Custom House at Bowling Green in New York City and every other public building managed by the General Services Administration shall remain the property of the United States, unless and until such time as the Committee on Environment and Public Works by majority vote, should accede to its transfer or sale; and be it further

Resolved, That until such time as the renovation of the U.S. Custom House at Bowling Green is completed, the General Services Administration shall submit a progress report on the renovation to the Committee on Environment and Public Works every thirty days.

# SPACE NEEDS STUDY OF SOCIAL SECURITY DATA PROCESSING CENTER

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 1012, Senate Resolution 514.

The PRESIDING OFFICER. The clerk will state the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 514) ordering a space needs study of Social Security Data Processing Center in Wilkes-Barre, Pa., including a site survey for proposed relocation thereof, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

The Senate proceeded to consider the resolution. • Mr. STAFFORD. Mr. President, on Tuesday, December 14, the Senate Committee on Environment and Public Works reported an original Senate resolution—Senate Resolution 514—ordering a space needs study of Social Security Data Processing Center, including a site survey for the relocation of the center. The resolution also states that it is the sense of the Senate that the Army Corps of Engineers shall, from time to time, study and report to the Committee on Environment and Public Works on other public building matters as requested by that committee.

Mr. President, this data processing center is the largest of only three such centers of the Social Security Administration. The Wilkes-Barre facility processes income data for about 40 percent of the work force under social security. It issues social security number cards, responds to citizens' requests for earnings information, processes an estimated 100 tons of paper a year, including W-2 forms for the Internal Revenue Service, among other important tasks. This facility is crucial to the proper and efficient functions of social security.

The Wilkes-Barre Center is currently housed in three locations, including converted warehouse space. The agency needs more productive, consolidated space. The Social Security Administration has sought assistance to resolve their space problems from the General Services Administration for

almost 8 years—since 1975.

GSA proposes that a private developer-owner build and lease to the Government a new facility to meet SSA's needs. It requests a contract obligation of up to \$120 million to pay for this "lease construction" project. In contrast, Federal construction of a comparable facility would cost only \$35.5 million. A contract with a developer owner typically includes an "escalation clause" to permit annual rental increases if costs go up. Such clauses have the effect of significantly reducing the entrepreneurial risks associated with most private capital investments. Further, this lucrative contract-with a guaranteed flow of income and protection from rising costs—would be negotiated behind closed doors between a developer and a GSA leasing officer. Given the high stakes, closed negotiations instead of open, competitive bidding could invite pressure, influence, favoritism, and im-

tee efforts to reform this procedure.

There is a precedent for asking the Corps of Engineers to study needs and alternative means to meet them. Earlier this year the Department of Energy requested authority for GSA to "lease construct" a facility in Nevada. The

proper inducement in the selection of

the winning developer. Competitive

bidding would not be utilized. GSA has

been stolid in its opposition to commit-

committee asked the corps to study the proposal. Within about 30 days the corps submitted its review to the committee and the Department indicating that construction for Federal ownership would take only 10 months longer than private development and would be almost half as costly to the Government as GSA's proposal.

After reviewing the figures, the Department of Energy withdrew the prospectus

Mr. President, I commend the resolution to my colleagues and ask that it be agreed to.

Mr. President, on a related matter, at the time the Committee on Environment and Public Works reported this resolution it also adopted a committee resolution disapproving prospectus projects submitted to the Congress by the General Services Administration which were not included as line items in S. 2451, the Public Buildings Authorizations Act of 1982. The Public Buildings Act of 1959 vests authority and responsibility for authorization of specific building projects of GSA-when the cost of a project ex-\$500,000—solely within the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation. The intent of the disapproval action taken by the Senate committee is to prohibit the agency from proceeding with work in connection with any projects included in the commitresolution. The Administrator shall not obligate or expend any funds on any projects specified in the resolution.

The prospectuses are, in effect, returned to the General Services Administration and are no longer considered valid documents before the Senate.

Early next year, the Committee on Environment and Public Works will begin work on an authorization bill to provide an annual program for GSA in fiscal year 1984. I anticipate that bill will be reported well in advance of the next fiscal year and the next appropriations cycle. GSA will be expected to submit to the Congress its recommendations for the 1984 program early next year. That, together with the President's budget, will be the basis for committee action. Any projects in the committee resolution of disapproval which the administration and the agency wish to carry out in fiscal year 1984 may, of course, be resubmitted then as a part of that annual program request.

Mr. President, I ask that the text of the committee resolution be included at this point in the RECORD.

The committee resolution referred to follows:

#### COMMITTEE RESOLUTION

Whereas the Senate of the United States has adopted legislation to provide longrange planning and an annual buildings program for the Public Buildings Service of the General Services Administration in lieu of piecemeal authorizations of the specific buildings so that the Congress and the Executive Branch can better oversee program management and establish priorities, and

Whereas on May 12, 1982, the Senate Committee on Environment and Public Works unanimously reported to the Senate the "Public Buildings Authorizations Act of 1982", S. 2451, providing authorizations for appropriations totaling \$1,992,275,000 for the public buildings program and activities of the General Services Administration for the fiscal year beginning October 1, 1982, and

Whereas on June 6, 1982, the full Senate unanimously passed S. 2451; Now, therefore, be it

Resolved, That the Committee on Environment and Public Works of the United States Senate hereby disapproves the following prospectuses for construction, alteration or repair, submitted to the U.S. Senate by the General Services Administration, pursuant to the Public Buildings Act of 1959, as amended which are not included in the fiscal year 1983 program contained in S. 2451, the "Public Buildings Authorizations Act of 1982.":

	Prospectus
Pending prospectuses for proposed construction:	amount
New York, N.YU.N.	
Mission	\$2,050,000
Youngstown, Ohio-	0.0000000000000000000000000000000000000
courthouse/Federal	
building	10,062,000
Pending prospectus for	
lease construction:	
Wilkes-Barre, Pasocial	
security	120,000,000
Pending11-b reports of	22500000000000
building project sur-	
veys:	
San Francisco, Calif.—	
Federal building	154,457,000
Chicago, Ill.—Federal	
building	92,485,000
Redding, CalifCourt-	ASS 10 AS
house/Federal build-	
ing	12,844,000
Pending prospectus for	Company of the Company
proposed lease: Long	
Beach, Calif	

### Pending prospectuses for proposed alteration

atteration	
	Prospectus
Project location:	amount
Hawthorne, Calif.—Federal	
building	\$2,072,000
Los Angeles, Calif312 N.	
Spring, courthouse	4,848,000
Pasadena, CalifFederal Serv-	
ice Center	1,369,000
San Francisco, Calif.—apprais-	
ers stores	10,897,000
Washington, D.CICC-Cus-	
toms	8,370,000
Washington, D.CForrestal,	
Federal building	6,285,000
Washington, D.C.—Federal	
building No. 8	2,305,000
Des Moines, Iowa—Federal	
building	3,416,000
Sioux City, Iowa-post office/	000 000
courthouse	896,000
New Orleans, La.—Herbert,	
Federal Building	6,808,000
Baltimore, Md.—Customs	3,241,000
Boston, Mass.—Appraisers	6 100 000
stores	6,109,000
Manchester, N.H.—post office/ courthouse	1.853,000
cour mouse	1,000,000

You Wenn New Wadows   build	Trospecta
Las Vegas, Nev.—Federal build- ing/courthouse	876,000
Columbus, Ohio-post office (old)	5,990,000
Oklahoma City, Oklapost	
office/courthouse	9,728,000
Philadelphia, Pa.—Customs/	4 000 000
appraisers stores  Pittsburgh, Pa.—post office/	4,638,000
courthouse	9,728,000
Scranton, Papost office/	
courthouse	1,669,000
San Antonio, Tex.—post	6,190,000
office/courthouse Arlington, Va.—Federal build-	6,190,000
ing No. 2	7,942,000
Design of fiscal year 1984 pro-	
spectuses	4,438,600

. Mr. SIMPSON, Mr. President, As my good friend and colleague, the patient and distinguished chairman of the Senate Environment and Public Works Committee, Mr. STAFFORD, has just stated, our committee recently took moves to eliminate some of the most obvious and gross expenditures of Federal funds which were to be allocated for certain public buildings

The closing days of the legislative session are ripe with opportunities to fatten the pork barrel-and the current lameduck session is proving no exception. So, here we are-againwith the usual capers-a duck and pork dish of odious content. However, an unprecedented action taken by the Environment and Public Works Committee has buried some of the most offensive projects-and I am pleased to have been part of that action.

In the past I have voiced my opposition to what I call the proposed Bizz Johnson Memorial Courthouse in Redding, Calif. Like Jacob Marley, this unnecessary and ghoulish apparition rises every year about this time-and it is more grotesque and blueish-green each time it returns to graze at the Federal trough. There is no Federal judge in Redding, Calif., and so it would seem there is no need for a new courthouse. An interesting perception. eh?

The Redding courthouse is not the only hunk of pork a Congressman tried to roll home at the expense of the taxpayer. There were also proposals for a Federal building in Chicago and another in San Francisco-both unneeded million dollar monuments to certain members of the House of Representatives. I have gone a few rounds righting these kind of things during my time here.

And then there was the proposal for a Youngstown, Ohio, courthouse. This is one I had not dug up until recently. yet this request is just as absurd as the others-perhaps even more so. There is no district judge in Youngstown, but the House of Representatives and the General Services Administration wanted to build a a \$10 million district courthouse-Federal building to replace

another building which the Federal Government had sold a few years back for \$190,000. Even Ohio's chief judge representing the Sixth Circuit Court of Appeals, which has jurisdiction in Youngstown, opposed the construction of a courthouse in that city-but it was in the package.

Let me share one more example of extraordinary waste-this one the plan for a new Social Security Building in Wilkes-Barre, Pa. This boobish proposal asked that the Federal Government lease the space after we pay the private contractor to construct the building. Egad. That one strains every ounce of my senses-I hunch that would be the same with most of this country's taxpayers.

These are but a few of the inanities we get into when we discuss the issue of public buildings. These particular proposals were passed by the House of Specific Representatives. Senate action was required because an archaic rule states that public works building projects approved by one House but not rejected by the other are auto-matically funded in the continuing resolution. So, whether needed or not, other public buildings have sprung up about the country-because if nobody objects, then the funding is approved.

During recent Environment and Public Works Committee hearings I stated that Congress must come to cast a vote to either reject or approve projects of this type. The chairman heartily agrees as does the ranking minority member, my friend Jennings RANDOLPH and the entire committee. We must no longer stand to see a public building funded simply because it was not singled out for rejection.

In clear recognition of the public interest—and aside from the distractions of a Congress trying desperately to get home in time for Christmas-the Senate has killed the proposed buildings in Chicago, San Francisco, Redding, Youngstown, and Wilkes-Barre. Bravo. An action I certainly hope will be continued in years to come.

The PRESIDING OFFICER. The

question is on agreeing to the resolu-

The resolution (S. Res. 514) was agreed to.

The preamble was agreed to.

The resolution, with its preamble is as follows:

#### S. RES. 514

Whereas the Data Processing Center of the Social Security Administration-located in Wilkes-Barre, Pennsylvania-has responsibility for processing and storing earnings information on millions of people in the American work force, issuing social security number cards to the public, and responding to the public's requests for earnings information, as well as various other tasks, and

Whereas this crucial activity is housed in inadequate space and scattered in three locations which diminish efficiency and pro-

ductivity, and

Whereas over the past eight years the Social Security Administration has unsuccessfully sought assistance for improved facilities from the general Services Administration, and

Whereas the General Services Administration's proposed solution is very expensive, not in the best interest of the Government. and recommended without adequate study of alternatives and options: Now, therefore, be it

Resolved, that it is the sense of the Senate that the United States Army Corps of Engineers shall, in consultation with the Social Security Administration, study the space needs of the Data Processing Center in Wilkes-Barre, Pennsylvania, together with comparison of alternative means of meeting such needs. Such study shall also include a survey of available sites and identification of any such sites that are unfortunately located on a flood plain. The Army Corps of Engineers shall report to the senate its findings and recommendations as soon as practicable early in the first session of the Ninetyeighth Congress; and be it further

Resolved, That it is the sense of the Senate that the United States Army Corps of Engineers shall, from time to time, study and report to the Committee on Environment and Public Works of the United States Senate on other public building matters as requested by said committee.

AUTHORIZATION OF APPRO-UNDER PRIATIONS EARTH-QUAKE HAZARDS REDUCTION ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2273.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved, That the House agree to the amendments of the Senate numbered 1 and 3-8 to the amendment of the House to the bill (S. 2273) entitled "An Act to amend section 7 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) to extend authorizations for appropriations, and for other purposes.'

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid bill with the following amend-

At the end of the aforesaid amendment, insert:

: and on page 1, line 13 of the House engrossed amendment, strike out "\$33,843,000" and insert in lieu thereof "\$31,843,000

Mr. STEVENS. I move that the Senate concur in the House amend-

The motion was agreed to.

#### CONVEYANCE OF CERTAIN FEDERAL LANDS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 187.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representa-

Resolved, That the bill from the Senate (S. 187) entitled "An Act to authorize the Secretary of the Interior to convey certain lands near Miles City, Montana, and to remove certain reservations from prior convevances". do pass with the following amendment:

Strike out all after the enacting clause

and insert:

That (a) the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall convey by patent to the city of Miles City, Montana (hereafter, referred to as the "city"), all right, title, and interest, except for those interests described in subsection (b) of this section, of the United States in and to the following lands in Custer County, Montana, in range 47 east of the principal meridian, Montana: In township 8 north, lots 9, 17, 21, 28, 31, and 32 in section 32 and in townships 7 and 8 north tract Q and tract S.

(b) Any patent issued pursuant to subsection (a) of this section shall contain a reservation to the United States of all gas, oil, coal, and other minerals that may be found in such lands, and the right to prospect for, mine, and remove such minerals, and that patents shall also contain any other reserva-

tions required by law.

(c) Any patent issued pursuant to subsection (a) of this section shall provide that if the land is transferred or conveyed by the city, the proceeds of such sale shall be paid to the United States, to be distributed in ac-

cordance with section 4 of this Act. SEC. 2. (a) The Secretary shall take such actions as are necessary to convey to the city the reversionary interests of the United States contained in the patents which conveyed to the city of Miles City, Montana, the lands decribed in subsection (b) of this section. Such reversionary interest arise when the patentee/grantee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee/ grantee. All documents of conveyance issued under this subsection shall provide that if the land is conveyed by the city, the proceeds of sale shall be paid to the United States, to be distributed in accordance with

section 4 of this Act. (b) The land referred to in subsection (a) of this section are the following tracts in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tracts A and B (conveyed by patent numbered 1,021,511), tracts E and F (conveyed by patent numbered 1,122,295), tract G (conveyed by patent numbered 1,173,770), tract K (conveyed by patent numbered 1,173,768), tract L (conveyed by patent numbered 1,173,769), tract M (conveyed by patent numbered 1,178,764), tract P (conveyed by patent numbered 1,219,817), and tract D (conveyed by the grant made by the Act of July 30, 1890 (26 Stat. 292), lots 16 and 17. section 33 (conveyed by patent numbered 25-81-0094).

SEC. 3. (a) The Secretary shall take such actions as are necessary to convey to the holder of the patent the reversionary interests of the United States contained in the patents which conveyed to the county of Custer, Montana, the lands described in subsection (b) of this section. Such reversionary interests arise when the patentee violates provisions which (1) require that such lands be used for specified purposes, or (2) prohibit transfer of such lands by the patentee. All documents of conveyance issued under this subsection shall provide that if the land is conveyed by the patentee, the proceeds of

such sale shall be paid to the United States, to be distributed in accordance with section 4 of this Act.

(b) The lands referred to in subsection (a) are the following parcels in range 47 east of the principal meridian, Montana: In townships 7 and 8 north, tract C (conveyed by patent numbered 1,023,689) and tract T (conveyed by patent numbered 25-76-0099), and in township 8 north, lot 20 in section 33 (conveyed by patent numbered 25-76-0100).

SEC. 4. (a) Notwithstanding any other provision of law, if the city or any other patentee or grantee transfers any lands described in this Act, such transfer shall be at fair market value for the land and improve-

ments thereon.

(b) Proceeds from the sale of the land, excluding the value of any improvements on the land and less any sums paid to the United States at the time of original conveyance out of Federal ownership, shall be deposited in the general fund of the Treasury of the United States, to be distributed as follows: At the end of each Federal fiscal year, the United States shall return 5 per centum of the net receipts collected in that fiscal year from the sale of lands described in this Act to the State of Montana, and 10 per centum of such receipts to the county or the city in which the lands are located in amounts proportional to the receipts generated from the sale of such land in each county or city during the fiscal year.

SEC. 5. All documents of conveyance issued pursuant to this Act shall be subject to valid

existing rights.

Mr. STEVENS. I yield to the Senator from Montana.

Mr. MELCHER. I thank the distinguished majority whip for yielding to

Mr. President, I am pleased and relieved that S. 187 has been finally approved. The bill causes Federal land long used by the city of Miles City-as a part of the city used for the good purposes of the citizens of Miles City and Custer County.

Representative MARLENEE and I have sought a resolution of this matter for some time. This bill developed by both of us clears up the transfer of the land from the Bureau of Land Management to the city and the county without a reverter clause.

Mr. STEVENS. I move that the Senate concur in the House amend-

The motion was agreed to.

#### ORPHAN DRUG ACT

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5238.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 5238) entitled "An Act to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development of drugs for rare diseases and conditions, and for other purposes", with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SHORT TITLE: FINDINGS

Section 1. (a) This Act may be cited as the "Orphan Drug Act"

(b) The Congress finds that-

(1) there are many diseases and conditions, such as Huntington's disease, myoclonus ALS (Lou Gehrig's disease), Tourette syndrome, and muscular dystrophy which affect such small numbers of individuals residing in the United States that the diseases and conditions are considered rare in the United States:

(2) adequate drugs for many of such diseases and conditions have not been devel-

oped:

(3) drugs for these diseases and conditions are commonly referred to as "orphan

drugs":

(4) because so few individuals are affected by any one rare disease or condition, a pharmaceutical company which develops an orphan drug may reasonably expect the drug to generate relatively small sales in comparison to the cost of developing the drug and consequently to incur a financial

(5) there is reason to believe that some promising orphan drugs will not be developed unless changes are made in the applicable Federal laws to reduce the costs of developing such drugs and to provide financial incentives to develop such drug; and

(6) it is in the public interest to provide such changes and incentives for the devel-

opment of orphan drugs.

AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 2. (a) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by adding at the end the following:

"RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"Sec. 525. (a) The sponsor of a drug for a disease or condition which is rare in the States may request the Secretary to provide written recommendations for the non-clinical and clinical investigations which must be conducted with the drug before-

'(1) it may be approved for such disease

or condition under section 505, or

"(2) if the drug is a biological product, before it may be licensed for such disease or condition under section 351 of the Public Health Service Act.

If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for a disease or condition which is rare in the States, the Secretary shall provide the person making the request written recommendations for the non-clinical and clinical investigations which the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for such disease or condition under section 505 or licensing under section 351 of the Public Health Service Act for such disease or condition.

"(b) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"DESIGNATION OF DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 526. (a)(1) The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for a rare disease or condition. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for a rare disease or condition '(A) if an application for such drug is ap-

proved under section 505, or "(B) if the drug is a biological product, a license is issued under section 351 of the Public Health Service Act,

the approval or license would be for use for such disease or condition, the Secretary shall designate the drug as a drug for such disease or condition. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (b) respecting the designation of the drug.

(2) For purposes of paragraph (1), the term 'rare disease or condition' means any disease or condition which occurs so infre quently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.

(b) Notice respecting the designation of a drug under subsection (a) shall be made

available to the public.

"(c) The Secretary shall by regulation promulgate procedures for the implementation of subsection (a).

"PROTECTION FOR UNPATENTED DRUGS FOR RARE DISEASES OR CONDITIONS

"SEC. 527. (a) Except as provided in subsection (b), if the Secretary

"(1) approves an application filed pursuant to section 505(b), or

'(2) issues a license under section 351 of the Public Health Service Act.

for a drug designated under section 526 for a rare disease or condition and for which a United States Letter of Patent may not be issued, the Secretary may not approve another application under section 505(b) or issue another license under section 351 of the Public Health Service Act for such drug for such disease or condition for a person who is not the holder of such approved application or of such license until the expiration of seven years from the date of the approval of the approved application or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an appli-

cation under the preceding sentence.
"(b) If an application filed pursuant to section 505(b) is approved for a drug designated under section 526 for a rare disease or condition or a license is issued under section 351 of the Public Health Service Act for such a drug and if a United States Letter of Patent may not be issued for the drug, the Secretary may, during the seven-year period beginning on the date of the application approval or of the issuance of the license, approve another application under section 505(b), or, if the drug is a biological product, issue a license under section 351 of the Public Health Service Act, for such drug for such disease or condition for a person who is not the holder of such approved application or of such license if-

'(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with the disease or condi-

tion for which the drug was designated; or "(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications or the issuance of other licenses before the expiration of such seven-year period.

"OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR RARE DISEASES OR CONDITIONS

"Sec. 528. If a drug is designated under section 526 as a drug for a rare disease or condition and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary shall encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with the disease or condition who need the drug to treat the disease or condition and who cannot be satisfactorily treated by available alternative drugs."

(b) Chapter V of the Federal Food, Drug, and Cosmetic Act is amended by inserting before section 501 the following:

"SUBCHAPTER A-DRUGS AND DEVICES.".

#### ORPHAN PRODUCTS BOARD

SEC. 3. Title II of the Public Health Service Act is amended by adding at the end the following:

#### "ORPHAN PRODUCTS BOARD

"SEC. 227. (a) There is established in the Department of Health and Human Services a board for the development of drugs (including biologics) and devices (including diagnostic products) for rare diseases or conditions to be known as the Orphan Products Board. The Board shall be comprised of the Assistant Secretary for Health of the Department of Health and Human Services and representatives, selected by the Secretary, of the Food and Drug Administration, the National Institutes of Health, the Centers for Disease Control, and any other Federal department or agency which the Secretary determines has activities relating to drugs and devices for rare diseases or conditions. The Assistant Secretary for Health shall chair the Board.

"(b) The function of the Board shall be to promote the development of drugs and devices for rare diseases or conditions and the coordination among Federal, other public, and private agencies in carrying out their respective functions relating to the development of such articles for such diseases or conditions.

"(c) In the case of drugs for rare diseases or conditions the Board shall-

"(1) evaluate-

"(A) the effect of subchapter B of the Federal Food, Drug, and Cosmetic Act on the development of such drugs, and

"(B) the implementation of such subchapter:

"(2) evaluate the activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration for the development of drugs for such diseases or conditions,

"(3) assure appropriate coordination among the Food and Drug Administration, the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, and the Centers for Disease Control in the carrying out of their respective functions relating to the development of drugs for such diseases or conditions to assure that the activities of each agency are complementary,

"(4) assure appropriate coordination among all interested Federal agencies, manufacturers, and organizations representing patients, in their activities relating to such

"(5) with the consent of the sponsor of a drug for a rare disease or condition exempt under section 505(i) of the Federal Food, Drug, and Cosmetic Act or regulations issued under such section, inform physicians and the public respecting the availability of such drug for such disease or condition and inform physicians and the public respecting the availability of drugs approved under section 505(c) of such Act or licensed under section 351 of this Act for rare diseases or conditions,

"(6) seek business entities and others to undertake the sponsorship of drugs for rare diseases or conditions, seek investigators to facilitate the development of such drugs. and seek business entities to participate in the distribution of such drugs, and

"(7) recognize the efforts of public and private entities and individuals in seeking the development of drugs for rare diseases or conditions and in developing such drugs.

"(d) The Board shall consult with interested persons respecting the activities of the Board under this section and as part of such consultation shall provide the opportunity for the submission of oral views.

(e) The Board shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report-

"(1) identifying the drugs which have been designated under section 526 of the Federal Food, Drug, and Cosmetic Act for a rare disease or condition.

'(2) describing the activities of the Board,

The Director of the National Institutes of

"(3) containing the results of the evaluations carried out by the Board.

Health and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall submit to the Board for inclusion in the annual report a report on the rare disease and condition research activities of the Institutes of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration; the Secretary of the Treasury shall submit to the Board for inclusion in the annual report a report on the use of the credit against tax provided by section 44H of the Internal Revenue Code of 1954; and the Secretary of Health and Human Services shall submit to the Board for inclusion in the annual report a report on the program of assistance under section 5 of the Orphan

#### TAX CREDIT FOR TESTING EXPENSES FOR DRUGS FOR RARE DISEASES OR CONDITIONS

Drug Act for the development of drugs for

rare diseases and conditions. Each annual

report shall be submitted by June 1 of each

year for the preceding calendar year."

SEC. 4. (a) Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44G the following new section:

"SEC. 44H. CLINICAL TESTING EXPENSES FOR CER-TAIN DRUGS FOR RARE DISEASES OR CONDITIONS.

"(a) GENERAL RULE.-There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the qualified clinical testing expenses for the taxable year.

"(b) QUALIFIED CLINICAL TESTING PENSES.-For purposes of this section-

"(1) QUALIFIED CLINICAL TESTING PENSES.

"(A) In general.-Except as otherwise provided in this paragraph, the term 'qualified

testing expenses' amounts which are paid or incurred by the taxpayer during the taxable year which would be described in subsection (b) of section 44F if such subsection were applied with the modifications set forth in subparagraph (B).

'(B) Modifications.-For purposes of subparagraph (A), subsection (b) of section 44F

shall be applied-

"(i) by substituting 'clinical testing' for 'qualified research' each place it appears in paragraphs (2) and (3) of such subsection, and

"(ii) by substituting '100 percent' for '65 percent' in paragraph (3)(A) of such subsection.

"(C) Exclusion for amounts funded by grants, et.—The term 'qualified clinical testing expenses' shall not include any amount to the extent such amount is funded by any grant, contract, or otherwise by another person (or any governmental entity).

"(D) SPECIAL RULE.—For purposes of this paragraph, section 44F shall be deemed to remain in effect for periods after December

"(2) CLINICAL TESTING.

"(A) In general.-The term 'clinical testing' means any human clinical testing-

'(i) which is carried out under an exemption for a drug being tested for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

(ii) which occurs-

"(I) after the date such drug is designated under section 526 of such Act, and

"(II) before the date on which an application with respect to such drug is approved under section 505(b) of such Act, and

'(iii) which is conducted by or on behalf of the taxpayer to whom the designation

under such section 526 applies.

"(B) TESTING MUST BE RELATED TO USE FOR RARE DISEASE OR CONDITION.—Human clinical testing shall be taken into account under subparagraph (A) only to the extent such testing is related to the use of a drug for the rare disease or condition for which it was designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

"(c) COORDINATION WITH CREDIT FOR IN-

CREASING RESEARCH EXPENDITURES.-

"(1) In general.-Except as provided in paragraph (2), any qualified clinical testing expenses for a taxable year to which an election under this section applies shall not be taken into account for purposes of determining the credit allowable under section 44F for such taxable year.

"(2) EXPENSES INCLUDED IN DETERMINING BASE PERIOD RESEARCH EXPENSES .- Any qualified clinical testing expenses for any taxable year which are qualified research expenses (within the meaning of section 44F(b)) shall be taken into account in determining base period research expenses for purposes of applying section 44F to subsequent taxable

years

"(d) DEFINITION AND SPECIAL RULES.

"(1) RARE DISEASE OR CONDITION.-For purposes of this section, the term 'rare disease or condition' means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug. Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date such drug is designated under section 526 of the Federal Food,

Drug, and Cosmetic Act.

(2) LIMITATION BASED ON AMOUNT OF TAX.-The credit allowed by this section for any taxable year shall not exceed the amount of the tax imposed by this chapter for the taxable year reduced by the sum of the credits allowable under a section of this subparagraph having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43. For purposes of the preceding sentence, the term 'tax imposed by this chapter' shall not include any tax treated as not imposed by this chapter under the last sentence of section 53(a).

"(3) Special limitations on foreign test-

"(A) In general.-No credit shall be allowed under this section with respect to any clinical testing conducted outside United States unless

"(i) such testing is conducted outside the United States because there is an insufficient testing population in the United

States, and

"(ii) such testing is conducted by a United States person or by any other person who is not related to the taxpayer to whom the designation under section 526 of the Federal Food, Drug, and Cosmetic Act applies.

"(B) SPECIAL LIMITATION FOR CORPORATIONS TO WHICH SECTION 934(b) OR 936 APPLIES. No credit shall be allowed under this section with respect to any clinical testing conducted by a corporation to which section 934(b) applies or to which an election under section 936 applies.

"(4) CERTAIN RULES MADE APPLICABLE. Rules similar to the rules of paragraphs (1) and (2) of section 44F(f) shall apply for pur-

poses of this section.

"(5) Election.—This section shall apply to any taxpayer for any taxable year only if such taxpayer elects (at such time and in such manner as the Secretary may by regulations prescribe) to have this section apply for such taxable year.

"(e) TERMINATION.-This section shall not apply to any amount paid or incurred after

December 31, 1987."

(b)(1) Section 280C of such Code (relating to denial of deduction for portion of wages for which credit is claimed under section 40 or 44B) is amended by adding at the end thereof the following new subsection:

(c) CREDIT FOR QUALIFIED CLINICAL TEST-

ING EXPENSES FOR CERTAIN DRUGS.

"(1) In general.-No deduction shall be allowed for that portion of the qualified clinitesting expenses (as defined in section 44H(b)) otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof).

"(2) SIMILAR RULE WHERE TAXPAYER CAP-ITALIZES RATHER THAN DEDUCTS EXPENSES.-

"(A) the amount of the credit allowable for the taxable year under section 44H (determined without regard to subsection (d)(2) thereof), exceeds

"(B) the amount allowable as a deduction for the taxable year for qualified clinical testing expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—In the case of a corporation which is a member of a controlled group of corporations (within the

meaning of section 44F(f)(5)) or a trade or business which is treated as being under common control with other trades or business (within the meaning of section 44F(f)(1)(B)), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under subparagraphs (A) and (B) of section 44F(f)(1).

(2)(A) The section heading of section 280C of such Code is amended to read as follows: "SEC. 280C. CERTAIN EXPENSES FOR WHICH CRED-ITS ARE ALLOWABLE."

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 280C and inserting in lieu thereof the following:

"Sec. 280C. Certain expenses for which credits are allowable."

(c)(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44G the following new item:

"Sec. 44H. Clinical testing expenses for certain drugs for rare diseases or conditions."

- (2) Subsection (b) of section 6096 of such Code is amended by striking out "and 44G' and inserting in lieu thereof "44G, and
- (d) The amendments made by this section shall apply to amounts paid or incurred after December 31, 1982, in taxable years ending after such date.

GRANTS AND CONTRACTS FOR DEVELOPMENT OF DRUGS FOR RARE DISEASES AND CONDITIONS

SEC. 5. (a) The Secretary may make grants to and enter into contracts with public and private entities and individuals to assist in defraying the costs of qualified clinical testing expenses incurred in connection with the development of drugs for rare diseases and conditions.

(b) For purposes of subsection (a):

(1) The term "qualified clinical testing" means any human clinical testing-

(A) which is carried out under an exemption for a drug for a rare disease or condition under section 505(i) of the Federal Food, Drug, and Cosmetic Act (or regulations issued under such section),

(B) which occurs-

(i) after the date such drug is designated under section 526 of such Act, and

(ii) before the date on which an application with respect to such drug is submitted under section 505(b) of such Act.

(2) The term "rare disease or condition" means any disease or condition which occurs so infrequently in the United States that there is no reasonable expectation that the cost of developing and making available in the United States a drug for such disease or condition will be recovered from sales in the United States of such drug, Determinations under the preceding sentence with respect to any drug shall be made on the basis of the facts and circumstances as of the date the request for designation of the drug under this subsection is made.

(c) For grants and contracts under subsection (a) there are authorized to be appropriated \$4,000,000 for fiscal year 1983 and for each of the next two fiscal years.

SEC. 6. (a) Part D of title III of the Public Health Service Act is amended by inserting after subpart II the following new subpart:

#### "Subpart III-Home Health Services "HOME HEALTH SERVICES

"SEC. 339. (a)(1) For the purpose of encouraging the establishment and initial operation of home health programs to provide home health services in areas in which such services are inadequate or not readily accessible, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessionals (including homemaker home health aides) to provide home health services

"(2) In making grants and loans under this subsection, the Secretary shall—
"(A) consider the relative needs of the sev-

eral States for home health services;

"(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled;

"(C) give special consideration to areas with inadequate means of transportation to

obtain necessary health services.

"(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that-

(i) at the time the application is made

the entity is fiscally sound;

"(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

"(iii) during the period of the loan, such

entity will remain fiscally sound.
"(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on the date the loan is made with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

"(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secre-

tary shall prescribe.

"(5) There are authorized to be appropriated for grants and loans under this subsection \$5,000,000 for each of the fiscal years ending on September 30, 1983, and September 30, 1984.

"(b)(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

"(2) Any program established with a grant or contract under this subsection to training homemaker home health aides shall

"(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

"(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home in a manner which promotes the functional independence of the individual; and

(C) include training in-

"(i) personal care services designed to ssist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

'(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and prep aration of food).

'(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become paraprofessionals (including homemaker home health aides) to provide home health services

"(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secre-

tary shall prescribe.

"(5) There are authorized to be appropriated for grants and contracts under this subsection \$2,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984.

"(c) The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with re-

"(1) the impact of grants made and contracts entered into under subsections (a) and (b) (as such subsections were in effect

prior to October 1, 1981);

"(2) the need to continue grants and loans under subsections (a) and (b) (as such subsections are in effect on the day after the date of enactment of the orphan Drug Act); and

"(3) the extent to which standards have been applied to the training of personnel who provide home health services

"(d) For purposes of this section, the term 'home health services' has the meaning prescribed for the term by section 1861(m) of

- the Social Security Act.".

  (b) The Secretary shall report the results of studies currently evaluating home and community based health services, and any recommendations for legislative which might improve the provision of such services, to the Congress prior to January 1, 1985
- (c) The Secretary of Health and Human Services shall compile and analyze the results of significant studies carried out by any public or private entity, group, or individual, relating to current and alternative reimbursement methodologies for home health services. The Secretary shall make recommendations with respect to such reimbursement methodologies as they might be applied in health care programs funded in whole or in part by Federal funds, and report such recommendations to the Congress within 180 days after the date of the enactment of this Act.
- (d) The Secretary of Health and Human Services, acting through the Inspector General of the Department of Health and Human Services, shall undertake a thorough investigation of-

(1) the methods available to stem fraud and abuse in the provision of home health services under medicare and medicaid; and

(2) the extent to which such methods are applied in stemming such fraud and abuse. The Secretary shall report the results of the investigation to the Congress within 18 months after the date of the enactment of this Act.

(e)(1) The Secretary of Health and Human Services shall develop and carry out demonstration projects commencing no

later than January 1, 1984, to test—
(A) methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services and other non-institutional health services; and

(B) alternative reimbursement methodologies for home health agencies in order to determine the most cost-effective and efficient way of providing home health services.

- (2) Methods of identifying patients at risk of institutionalization to be tested by the Secretary under paragraph (1)(A) may include, but not be limited to, the identification of hospitalized medicare patients who are candidates for early discharge due to availability of home health services and individuals in the community who could avoid institutionalization with the availability of home health services.
- (3) Reimbursement methodologies to be tested by the Secretary under paragraph (1)(B) may include but not be limited to fee schedules, prospective reimbursement, and capitation payments.
- (4) The Secretary shall report to Congress his findings with regard to the demonstrations carried out under paragraph (1) no later than January 1, 1985.
- (f) For purposes of this section, the term "home health services" has the meaning prescribed for the term by section 1861(m) of the Social Security Act.

#### ANALYSIS OF THYROID CANCER; ACTIONS BY SECRETARY

SEC. 7. (a) In carrying out section 301 of the Public Health Service Act, the Secretary of Health and Human Services shall-

- (1) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the risks of thyroid cancer that are associated with thyroid doses of Iodine 131;
- (2) conduct scientific research and prepare analyses necessary to develop valid and credible methods to estimate the thyroid doses of Iodine 131 that are received by individuals from nuclear bomb fallout;
- (3) conduct scientific research and prepare analyses necessary to develop valid and credible assessments of the exposure to Iodine 131 that the American people received from the Nevada atmospheric nuclear bomb tests; and
- (4) prepare and transmit to the Congress within one year after the date of enactment of this Act a report with respect to the activities conducted in carrying out paragraphs (1), (2), and (3).
- (b)(1) Within one year after the date of enactment of this Act, the Secretary of Health and Human Services shall devise and publish radioepidemiological tables that estimate the likelihood that persons who have or have had any of the radiation related cancers and who have received specific doses prior to the onset of such disease developed cancer as a result of these doses. These tables shall show a probability of causation of developing each radiation related cancer associated with receipt of doses ranging from 1 millirad to 1,000 rads in terms of sex, age at time of exposure, time from exposure to the onset of the cancer in question, and such other categories as the Secretary, after consulting with appropriate scientific experts, determines to be relevant. Each probability of causation shall be calculated and displayed as a single percentage figure.
- (2) At the time the Secretary of Health and Human Services publishes the tables pursuant to paragraph (1), such Secretary shall also publish-
- (A) for the tables of each radiation related cancer, an evaluation which will assess

the credibility, validity, and degree of certainty associated with such tables; and

(B) a compilation of the formulas that yielded the probabilities of causation listed in such tables. Such formulas shall be published in such a manner and together with information necessary to determine the probability of causation of any individual who has or has had a radiation related cancer and has received any given dose.

(3) The tables specified in paragraph (1) and the formulas specified in paragraph (2) shall be devised from the best available data that are most applicable to the United States, and shall be devised in accordance with the best available scientific procedures and expertise. The Secretary of Health and Human Services shall update these tables and formulas every four years, or whenever he deems it necessary to insure that they continue to represent the best available scientific data and expertise.

#### TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 8. (a) Section 207(a)(1) of such Act (42 U.S.C. 209(a)(1)) is amended by inserting

"psychology," after "pharmacy,".
(b) Section 306(1)(2) of such Act U.S.C. 242k(1)(2)) is amended by striking out subparagraph (D) and redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively.

(c) Section 308(d) of such Act (42 U.S.C. 242m(d)) is amended (1) by inserting ", if an establishment or person supplying the in-formation or described in it is identifiable," after "No information", and (2) by striking out "authorized by guidelines in effect under section 306(1)(2) or under regulations of the Secretary" and inserting in lieu thereof "such establishment or person has consented (as determined under regulations of the Secretary) to its use for such other purpose"

(d) The first sentence of section 311(c)(2) of such Act (42 U.S.C. 243(c)(2)) is amended by striking out "forty-five days" and insert-

ing instead "six months".

(e) Section 330(d)(2) of such Act (42) U.S.C. 254c(d)(2)) is amended by inserting before "and the costs" the following: ", the costs of repaying loans made by the Farmers Home Administration for buildings,

(f) Section 337(a) of such Act (42 U.S.C. 254j(a)) is amended by striking out "carrying out this subpart" and inserting in lieu thereof "carrying out this subpart (other than section 338G)".

(g)(1) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254m-(e)) is amended by inserting before the period the following: "or under section 225 as in effect on September 30, 1977".

(2) Section 338D(b) of such Act (42 U.S.C. 294w(b)) is amended by striking out "section and inserting in lieu thereof "sec-

(3) Section 338E(d)(1) of such Act (42 U.S.C. 294X(d)(1)) is amended by striking out "section 338D(c)" and inserting in lieu

thereof "section 338D(b)"

(h) Section 340(g) of the Public Health Service Act (42 U.S.C. 256(g)) is amended (1) by striking out "and" after "1980," in paragraph (1) and by inserting before the period in that paragraph a comma and "and \$3,000,000 for the fiscal year ending Sep-"and tember 30, 1982", and (2) by inserting "and" after "1980," in paragraph (2) and by striking out in that paragraph ", and \$3,000,000 for the fiscal year ending September 30, 1982"

(i) Section 737(2) of such Act (42 U.S.C. 294j(2)) is amended by inserting "in a State

after "means a school".

(j) Section 781(a)(2) of such Act (42 U.S.C. 295g-1(a)(2)) is amended by striking out "under area health education center programs'

(k)(1) Section 791A(b)(3)(A) of such Act (42 U.S.C. 295h-1a(b)(3)(A)) is amended by striking out "postbaccalaureate" and inserting in lieu thereof "baccalaureate"

(2) Section 791(c)(2)(A) of such Act (42 U.S.C. 295h(c)(2)(A)) is amended to read as

follows:

"(A) such application contains assurances satisfactory to the Secretary that in the school year (as defined in regulations of the Secretary) beginning in the fiscal year for which the applicant receives a grant under subsection (a) that-

"(i) at least 25 individuals will complete the graduate educational programs of the entity for which such application is submit-

ted: and

'(ii) such entity shall expend or obligate at least \$100,000 in funds from non-Federal sources to conduct such programs; and".

(1) section 831(b) of such act (42 U.S.C. 297-1(b)) is amended by inserting before the period a comma and the following: \$400,000 for the fiscal year ending September 30, 1983, and \$800,000 for the fiscal year ending September 30, 1984"

(m) Title VIII of such Act is amended by adding at the end thereof the following:

#### "TECHNICAL ASSISTANCE

"Sec. 857. Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.'

(n) Section 1001(c), 1003(b), and 1005(b) of such Act (42 U.S.C. 300(c), 300a-1(b), 300a-3(b)) are each amended by striking out the comma after "2981" and inserting in lieu thereof a semicolon.

(o) Section 1101(b) of such Act (42 U.S.C. 300b(b)) (as in effect before its repeal by section 2193(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by inserting a comma after "1981".

(p) Section 1536 of such Act (42 U.S.C.

300n-5) (as amended by section 935 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "this title and" and inserting in lieu thereof "this title

(q) Section 1602(f)(2) of such Act (42 U.S.C. 300g-2(f)(2)) is amended by inserting after "including" the following: "selling real property pledged as security for such a loan

or loan guarantee and".
(r)(1) The matter in section 1706(a) (42) U.S.C. 300u-5(a)) of the Public Health Service Act preceding paragraph (1) is amended by striking out "Health Information, Health Promotion and Physical Fitness and Sports Medicine" and inserting instead "Health Promotion".

(2) The section heading for section 1706 of such Act (42 U.S.C. 300u-5) is amended to read as follows:

#### "OFFICE OF HEALTH PROMOTION"

(s) The second sentence of section 1904(a)(1)(F) of such Act (42 U.S.C. 300w-3(a)(1)(F)) is amended by striking out "equipment for the systems" and inserting in lieu thereof "equipment for the systems (other than systems with repsect to which grants were made as prescribed by section 1905(c)(2))".

(t) Effective October 1, 1982, section 1912(b) of such Act (42 U.S.C. 300x-1(b)) is amended to read as follows:

'(b)(1) From the remainder of the amount appropriated under section 1911 for any fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such remainder for that fiscal year as the amounts-

"(A) which would have been provided by the Secretary to the State and entities in the State under section 301 of this Act for mental health services demonstrations and under the Community Mental Health Centers Act and the Mental Health Systems Act mental health services for fiscal year 1981 if the Secretary had obligated all the funds for such purposes available for such Acts under Public Law 96-536, and

'(B) provided by the Secretary to the State and entities in the State under the laws referred to in subparagraphs (D) and (E) of paragraph (2) for fiscal year 1980,

bore to the total amount appropriated for mental health services demonstrations and mental health services for fiscal year 1981 under Public Law 96-536 for section 301 of this Act, the Community Mental Health Centers Act and the Mental Health Systems Act and the total amount appropriated for fiscal year 1980 for the provisions of law referred to in subparagraphs (D) and (E) of paragraph (2).

"(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1981:

"(A) The Community Mental Health Cen-

ters Act.

"(B) The Mental Health Systems Act.

"(C) Section 301 of this Act.

"(D) Sections 301 and 312 of the Comprehensive Alcohol Abuse and Alcoholism, Prevention, Treatment, and Rehabilitation Act

"(E) Sections 409 and 410 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

"(3) For purposes of paragraph (1), the total amount appropriated under Public Law 96-536 for mental health services demonstrations under section 301 of this Act shall be deemed not to exceed \$20,000,000; and if such total amount did exceed \$20,000,000, the amount that would have been provided to each State and entities in each State shall be ratably reduced for purposes of paragraph (1)(A) to conform to the limit prescribed by this paragraph.

"(4) To the extent that all the funds appropriated under section 1911 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to

States because-

"(A) one or more States have not submitted an application or description of activities in accordance with section 1915 for the fiscal year:

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1916(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

(u)(1) Section 1915(c)(5) of such Act (42 U.S.C. 300x-4(c)(5)) is amended (1) by inserting "procedures for" before "procedural", and (2) by striking out "review procedures" and inserting in lieu thereof "review".

(2)(A) Section 1915(c)(6)(A)(i) of such Act. (42 U.S.C. 300x-4(c)(6)(A)(i)) is amended-

(i) by striking out "for mental health serv-

(ii) by inserting "for mental health services" after "fiscal year 1981";

(iii) by inserting "for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and
(iv) by striking out "such Acts" each place

it occurs and inserting in lieu thereof "such provisions of law'

(B) Section 1915(c)(6)(A)(ii) of such Act

(42 U.S.C. 300x-4(c)(6)(A)(ii)) is amended— (i) by striking out "for mental health services

(ii) by inserting "for mental health serv-

ices" after "fiscal year 1981";

(iii) by inserting "and for mental health services demonstrations under section 301 of this Act" before "if the Secretary"; and (iv) by striking out "such Acts" and insert-

ing in lieu thereof "such provisions of law (v) Section 1932 of such Act is amended

(1) inserting "(a)" after "1932.", and (2) adding a new subsection (b) as follows:

"(b) The Secretary shall promulgate separate regulations governing the administration of this part. Such regulations shall take into account the distinctive features of the grant program authorized under this part.".

(w) From the funds appropriated under section 419B of such Act or under any other applicable provision of law, the Secretary of Health and Human Services shall provide for the development and support of not less than ten comprehensive centers for sickle cell disease.

#### MISCELLANEOUS TECHNICAL AMENDMENTS

Sec. 9. (a) Section 931(a) of the Omnibus Budget Reconciliation Act of 1981 is amend-ed by striking out "1980." in paragraphs (1), (2), and (3) and inserting in lieu thereof "1980;".

(b) Section 936(b)(1) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "300m(d)(1)(B)(ii)" inserting in lieu thereof "300m(d)(1)(B)".

(c) Section 942(i) of the Omnibus Budget

Reconciliation Act of 1981 is amended by striking out "'feasible (1)'" and inserting in lieu thereof "'feasible (i)' ".

(d)(1) Section 963(b)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out "clause (2)" and inserting

in lieu thereof "clause (3)".

(2) Section 311(a)(3) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(b)(3)) is amended by striking out the period at the end and inserting in lieu thereof a comma.

(e) Section 965(a) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking out paragraph (A) and by redesignating paragraphs (B), (C), and (D) as paragraphs (1), (2), and (3), respectively.

(f) Section 2741(a)(3) of the Omnibus

Budget Reconciliation Act of 1981 is amend-

ed by striking out "and 'and'". (g)(1) Section 709 of the Controlled Substances Act (21 U.S.C. 904) is amended (1) by striking out subsections (a) and (b), (2) by striking out "(c)", and (3) by amending the section heading to read as follows:

#### "PAYMENT OF TORT CLAIMS"

(2) The item relating to section 709 in the table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out "Authorizations of Appropriations" and inserting in lieu thereof "Payment of Tort Claims".

(h) Section 302 of the Health Planning and Resources Development Amendments of 1979 (Public Law 96-79) is repealed.

(i) The paragraph beginning with "Service and supply fund:" under the heading

"PUBLIC HEALTH SERVICE" in the Federal Security Agency Appropriation Act, 1946 (42 U.S.C. 231) is amended by inserting , or in advance," after "stock furnished"

(j)(1) Section 6(b)(1) of the Consumer Product Safety Act (15 U.S.C. 2055(b)(1)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph

(2) Section 11(c) of such Act (15 U.S.C. 2060(c)) is amended by striking out "section 10(e)(4)" and inserting in lieu thereof "subsection (f)"

(3) Section 15(g)(1) of such Act (15 U.S.C. 2064(g)(1)) is amended by striking out "section 12(c)(1)" and inserting in lieu thereof 12(d)(1)"

(4)(A) Section 19(a)(7) of such Act (15 U.S.C. 2068(a)(7)) is amended by striking out "section 9(d)(2)" and inserting in lieu thereof "section 9(g)(2)".

(B) Paragraph (8) of section 19(a) of such Act is repealed and paragraph (9) and the first of the two paragraphs (10) are redesig-

nated as paragraphs (8) and (9), respective-

(5) Section 31(b)(1) of such Act (15 U.S.C. 2080(b)(1)) is amended by striking out "The Commission" and all that follows through 'Substances Act," and inserting in lieu thereof the following:

"(b)(1) The Commission may not issue "(A) an advance notice of propsed rulemaking for a consumer product safety rule, "(B) a notice of proposed rulemaking for a

rule under section 27(e), or

"(C) an advance notice of proposed rulemaking for regulations under section 2(g)(1) of the Federal Hazardous Substances Act,"

(k) Section 3(a) of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1472(a)) is amended by striking out ", after consultation with the Technical Advisory Committee provided for in section 6 of this Act".

(1) Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) (as amended by section 1211(f)(1) of the Omnibus Budget Reconciliation Act of 1982) is amended by adding at the end thereof the following:

"(e) For purposes of this section (1) the term 'manufacturer' includes an importer for resale, and (2) a dealer who sells at wholesale an article or substance shall with respect to that sale be considered the distributor of that article or substance

(m) Section 1211(h)(4) of the Omnibus Budget Reconciliation Act of 1981 is amended by striking cut "by inserting ', Science and Transportation' immediately after 'on Commerce', and".

SEC. 10. Of the funds available under section 706 of the Energy Security Act, there shall be made available \$800,000 of the costs of a grant or contract for a study of the water quality of the Quabbin Reservoir in Massachusetts.

#### PATENT TERM EXTENSION

SEC. 11. (a) Title 35, United States Code, is amended by adding the following new section:

'§ 155. Patent term extension

"Notwithstanding the provisions of section 154, the term of a patent which encompasses within its scope a composition of matter or a process for using such composi-tion shall be extended if such composition or process has been subjected to a regulatory review by the Federal Food and Drug Administration pursuant to the Federal Food, Drug, and Cosmetic Act leading to the publication of regulation permitting the

interstate distribution and sale of such composition or process and for which there has thereafter been a stay of regulation of approval imposed pursuant to section 409 of the Federal Food, Drug, and Cosmetic Act which stay was in effect on January 1, 1981, by a length of time to be measured from the date such stay of regulation of approval was imposed until such proceedings are finally resolved and commercial marketing permitted. The patentee, his heirs, successors or assigns shall notify the Commissioner of Patents and Trademarks within ninety days of the date of enactment of this section or the date the stay of regulation of approval has been removed, whichever is later, of the number of the patent to be extended and the date the stay was imposed and the date commercial marketing was permitted. On receipt of such notice, the Commissioner shall promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and identifying the composition of matter or process for using such composition to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.'

(b) The analysis for chapter 14 of such title 35 is amended by adding at the end the following:

155. Patent term extension.".

• Mr. HATCH. This bill (H.R. 5238) passed both the House and Senate in September and the House has now revised the bill to reflect the agreement reached among interested Senate and House Members. The major difference between this latest version and the Senate-passed version is the inclusion of a modified tax credit provision for orphan drugs and a modified version of the Senate's grant and contract provision for orphan drugs. I want to thank my colleagues, Senators Dole and Long for their cooperation in making a compromise on the tax credit possible. Further, I want to express my gratitude to Senator Nancy Kassebaum, who with me has championed the cause of orphan drugs in the Senate.

This bill addresses a national problem: The need to develop drugs to treat relatively rare diseases. The fact that these afflictions affect only a small portion of our population does not diminish the tragedy involved, or our national responsibility for these Americans. Special consideration is necessary because the prospect of small markets has discouraged necessary research which is usually expensive.

Over the last 2 years an increasing amount of attention has focused on this problem. FDA and the pharmaceutical industry are the key players and they are starting to respond.

As my colleagues may know, the Department of Health and Human Services recently established an Orphan Products Board, whose mission is to coordinate, both in the public sectors, research and development of therapies for rare diseases. Further, I have been encouraged by the efforts of FDA to streamline the drug approval procedures process, particularly to promote the early utilization of promising drugs under a program known as the compassionate IND process.

In addition, the Pharmaceutical Manufacturers Association has created a Commission on Drugs for Rare Diseases, chaired by former Assistant Secretary for Health Theodore Cooper, M.D., Ph. D. The Commission has as its charge identifying drug products for rare diseases and assuring that a company will produce it. A recent result was Abbott Laboratory's willingness to produce and distribute hematin, a drug to treat rare disturbance of the hemoglobin metabolism known as hepatic porphyrias.

I strongly support these and other efforts which are designed to accomplish the goals of the Orphan Drug

Act.

Nonetheless it has become clear to me that Congress must also contribute to these efforts. The Orphan Drug Act is properly supportive of what is being done. It also pushes those involved toward greater effort. In addition, perhaps most importantly, the bill is a powerful and needed symbol of national concern for those afflicted with rare diseases.

The bill before us, H.R. 5238, amends the Federal Food. Drug and Cosmetic Act, the Public Health Services Act, and the Internal Revenue Code so that the development of 'orphan drugs" is encouraged.

The Food and Cosmetic Act will be amended to facilitate the development of drugs for rare diseases and conditions. The legislation directs the Secretary of Health and Human Services to promulgate regulations to designate drugs intended solely for "drug treatment investigation." Under this category the sponsor of a drug may apply to the Secretary for the designation of a drug for a rare disease or condition found in the United States. Also they will learn of the necessary steps needed to be taken in order to gain drug approval. It will allow drugs to be approved on a less costly basis. If the Secretary determines that the drug falls under either of these categories, he is required to designate it as such. This designation will facilitate drug treatment investigations to include human participation with a rare disease or condition.

The Public Health Service Act will be amended to establish in the Department of Health and Human Services an interagency committee known as the Committee on Orphan Drugs Development. As I noted, a similar board already exists. The sole function of this committee will be to promote the development of drugs for rare diseases or conditions. In addition, the Director of the National Institutes of Health is required to submit to the Committee an annual report on the rare disease and condition research activities of NIH. The committee is required to report by June 1 of each year to appropriate congressional committees on activities and the results of its evaluation, including the report submitted by NIH.

The Internal Revenue Code will be amended to include a tax credit for part of the costs of the human clinical trial portion of developing an orphan drug. While these drugs are still likely to be unprofitable, this will hopefully provide a strong stimulus to drug companies to develop orphan products. A parallel provision provides FDA with a modest amount of grant and contract money to help support orphan drug human clinical trials by organizations and individuals not in a position to utilize the tax credit.

The lives of millions of Americans are touched by a double tragedy. First, these individuals are victims of rare, debilitating conditions such as Wilson's Disease and ALS (amyotrophic lateral sclerosis). Second, they sometimes find it impossible to obtain treatment for these conditions even in cases where such treatment may be available. H.R. 5238 could be instrumental in improving and saving the lives of Americans afflicted by serious

but rare disease.

At my insistence, H.R. 5238, as it passed the Senate in September, includes important home health provisions. There is strong consensus among health policy experts and our elderly that improved home health services are essential. A new report published in December 1982 by the General Accounting Office states that the provision of home health services will be one of the most important health issues of the 1980's. As chairman of the Labor and Human Resources Committee, I asked the GAO to study the impact of expanded home services in assisting: First, hospitalized medicare patients to be discharged to their homes sooner than is currently possible; second, the impact home services may have on reducing hospital admissions and length of stay. The GAO report recommended that more research be done in these areas as they felt cost savings could be achieved by developing better methods of identifying the patient at risk of institutionalization, and decreasing the length and frequency of their hospital stays if there were expanded home health services. Among other things the report found when expanded home services were made available to the chronically ill elderly, longevity and client-reported satisfaction were improved.

If, as the GAO report indicates, the demand for home health services is going to increase in the 1980's, then we need to develop services to meet the health needs of our elderly at a cost we, that is the Federal Government and the individual, can all afford.

The purpose of the home health provisions included in the orphan drugs legislation is to direct loans and grants to rural and urban areas for expansion of home health services to areas where these services are inaccessible or inadequate to meet the population needs. The Secretary will also be expected to consider the relative need for these services and give preference to areas where there is a high percentage of elderly, medically needy, or disabled citizens. It is also critical to the success of this program that the entities given these grants and loans actually serve the populations most in need of home health services.

Several studies have been required in these home health provisions to assist us in collecting and building a data base from which future policy decisions regarding home health services can be formed. These include: First, the impact of the grants and contracts made under this act; second, the extent to which standards have been applied to the training of personnel who provide home health services; third, efforts by the Department of Health and Human Services to stem fraud and abuse in the medicare and medicaid home health programs; fourth, report the results of studies and activities currently evaluating home and community-based services as defined in the Omnibus Reconciliation Act of 1981, and report any recommendations for legislative action which might improve the provision of those services and fifth, a compilation and analysis of studies relating to alternative reimbursement methodologies. All of these reports are critical to future policy decisions regarding home health services.

The final and most important provision is in accordance with the GAO recommendations to the Labor and Human Resources Committee. Secretary is directed to carry out demonstration projects to identify patients at risk of institutionalization who could be more cost effectively treated at home and alternative reimbursement methodologies for home health agencies to determine the most cost-effective and efficient way of providing home health services.

H.R. 4238, at my request and as it passed the Senate initially, also includes provisions directing the Department of Health and Human Services to conduct two activities important to gaining a better understanding of the health effects of radioactive fallout from above-ground testing of nuclear weapons. The first requirement is to develop "radioepidemiological tables"

which will catalog for each radiogenic cancer the probability that a given dose of ionizing radiation caused the cancer of a victim who has received such a dose. The second requirement is to investigate the relationship between iodine-131 and thyroid cancer in light of the distribution in the environment of iodine-131 as a product of nuclear testing.

Neither aspect of this amendment requires an appropriation. Both are proper functions under section 301 of the Public Health Service Act. The construction of the radioepidemiological tables has been recommended by representatives of the scientific community and the Department of Defense, Energy, and Health and Human Services, all of whom stressed that the only practicable method of linking radiation exposure to the later development of cancer is through the science of radioepidemiology. During a March Assistant Secretary hearing, Edward Brandt promise that development of these tables would begin, but I believe a legislative mandate is essential for the work to be accomplished.

Also, the Bureau of Radiological Health is currently focusing on two important iodine-131 thyroid studies. But during the March 12 hearing, we also learned that the greatest uncertainty regarding the health effects of the atomic testing involves the relationship between bomb-produced iodine-131 and the incidence of thyroid cancer. Legislative language requiring these studies be accomplished is essential to provide a proper mandate for this work.

H.R. 5238 also includes a large number of minor and technical provisions which passed the Senate before. All have been cleared by both sides as noncontroversial.

In sum, I ask my colleagues to adopt

this important legislation.

• Mr. KASTEN. Mr. President, on May 11, 1981, I introduced S. 1155, the Consumer Product Safety Act Amendments of 1981. These amendments were referred to and reported from the Senate Commerce Committee, chaired by Senator Packwood. This legislation made important changes to the Consumer Product Safety Act, Public Law 92-573. Since its passage as part of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-37, however, we have found that a few technical corrections are needed.

Section 9(j) of the Orphan Drug Act, H.R. 5238, amends the Consumer Product Safety Act, correcting these

minor technical matters.

I take this opportunity to thank the distinguished Labor Committee chairman (Mr. Hatch) for his willingness to permit us to include this section in the legislation now before the Senate. Senator Packwood and I support the amendment and appreciate Senator Hatch's efforts.

Mr. HATCH. Mr. President, I welcome the opportunity to assist Senator Kasten, the Consumer Subcommittee chairman. The Consumer Product Safety Act is, of course, within the jurisdiction of the Senate Commerce Committee and section 9(j) amends that act. The inclusion of these amendments in the legislation now before the Senate should in no way be construed to infringe on the jurisdiction of the Commerce Committee. I am pleased to be able to provide the Senator from Wisconsin (Mr. Kasten) the opportunity to enact these technical amendments as part of the Orphan Drug Act.

• Mrs. HAWKINS. Mr. President, both the House and the Senate passed versions of the Orphan Drug Act this September. I am pleased that we have resolved the differences between the two versions and will send this legislation to President Reagan. There were many important differences to be resolved including the essential issue of tax credits versus grants, but I now feel we have a piece of legislation that will greatly benefit the millions of Americans who suffer from rare debili-

tating diseases.

I believe the time has come for America to make a serious commitment to developing orphan drugs, drugs used to treat those whose need is very great but whose number is relatively small. Although the diseases in question are rare, they touch the lives of millions of Americans-both victims and their families. Some names are familiar: muscular dystrophy, multiple sclerosis, cystic fibrosis, cerebral palsy, hemophilia. Others go by the names of their most famous victims: amyotrophic lateral sclerosis-Lou Gehrig's disease-Huntington's chorea-Woody Guthrie-neurofibromatosis-the Elephant Man. Some are known best by the groups that are hit hardest: sickle cell anemia, the painful blood disorder that kills blacks; thalassemia, a related disease that affects Mediterranean peoples; Tay-Sachs disease, the progressive retardation and paralysis that kills the children of East European Jews. Still others are virtually un-known, except to their sufferers: Wilson's disease, Fabry's disease, cystinosis, Freidreich's ataxia, Paget's disease. Each of these disorders affects only a tiny portion of the world's population, in some cases as few as 400 to 500 people. But all are devastating to their victims.

The growth in biomedical technology will surely allow us to produce increasing numbers of new chemical entities, including orphan compounds such progress is presently being curtailed, however, by the lack of incentives for mass production.

Pharmaceutical companies are presently manufacturing orphan drugs only as a generous public service to treat the relatively few people afflict-

ed by these rare diseases. It is a very expensive process. It is also very difficult for a pharmaceutical company to recoup the money it invests in research and development, often \$80 million or more for a new drug is required. Only if 100,000 or more people need the product can a pharmaceutical company's investment be regained. And only special incentives will persuade these companies to make orphan drugs commercially available to victims of rare diseases.

The Orphan Drug Act offers these special incentives. It proposes four of them: First, a more flexible review procedure for the approval of orphan drug products, second, financial assistance to defray the cost of researching these drugs, third, exclusive marketing rights on nonpatentable orphan drugs for 7 years, and fourth, establishment of an Orphan Products Board to coordinate the activities of all Federal agencies involved in drug research and development.

Mr. President, this country is far behind many other nations in our treatment of rare diseases and our productions of orphan drugs. As Congressman James H. Scheuer has pointed out:

America was not first—but 31st—to make available to our people Adriamycin, an advanced anti-cancer drug. America was not first—but 41st—in approving a generic mineral, lithium, for manic depressive reactions. . . . Two million American children and adults with epilepsy had to wait 11 years longer than the French for a better new medicine.

Mr. President, we cannot afford to fall behind and lose the momentum we have gained through public support of this issue. The Orphan Drug Act holds great promise of providing important incentives to health care. I am delighted to support this legislation and I look forward to its enactment.

• Mr. KENNEDY. Mr. President, thousands of Americans are victims of rare and debilitating diseases and conditions-100,000 Americans have tourette syndrome, 200,000 are muscular dystrophy vicitims, 14,000 are afflicted with Huntington's chorea. Because of the relatively limited market for pharmaceutical products to treat these rare diseases and conditions, drug companies have been unwilling to devote the considerable resources needed to develop safe and effective drug therapies. They argue that the cost of developing these drugs would far exceed the small return on sales.

H.R. 5238, the Orphan Drug Act, holds out a promise to those who suffer from rare diseases and conditions—both the victims and their families. It facilitates the approval process for orphan drugs. It offers exclusive marketing rights on nonpatentable orphan drugs for 7 years after the date of FDA approval. It establishes an Orphan Products Board to coordi-

nate the activities of all Federal agencies involved in drug research and regulation.

Finally, and most importantly, it provides for a tax credit to pharmaceutical companies to offset the cost of human clincal testing of orphan drugs. I appreciate the active role played by our colleagues on the Finance Committee in developing this compromise.

H.R. 5238 also contains several other important provisions that warrant mention.

First, it reauthorizes the categorical program of funding for home health services and training programs.

Second, it requires the Department of Health and Human Services to conduct studies of the health effects of iodine 131 and low-level ionizing radiation.

Third, it requires HHS to continue support for at least 10 comprehensive sickle cell centers located in medical centers across the country.

Fourth, it requires HHS to promulgate separate regulations for the primary care bloc grant program.

Fifth, the bill provides that of the funds available under section 706 of the Energy Security Act, \$800,000 shall be made available for a study of the water quality of the Quabbin Reservoir in Massachusetts. This provision is virtually identical to an amendment that I offered and that was adopted during the Senate's consideration of the orphan drug bill. The Quabbin Reservoir is the principal source of drinking water for 2 million residents of the Metropolitan Boston area. These funds will permit the Commonwealth of Massachusetts to assess critical water quality management problems relating to the acidification of the reservoir, and develop a rational and cost-effective program to mitigate the deterioration of the water quality in the reservoir.

Mr. President, the Orphan Drug Act deserves the wholehearted support of the Senate. I urge its adoption.

• Mrs. KASSEBAUM. Mr. President, I am delighted to have the opportunity today to speak on behalf of final passage of the Orphan Drug Act. This measure represents the culmination of efforts begun in the 95th Congress to devise a legislative response to the severe problems faced by individuals suffering from rare diseases and conditions. These individuals are touched by a double tragedy. Not only are they afflicted with rare, debilitating conditions, but they also find it virtually impossible to obtain treatments for these aliments. Drugs for the treatment of these diseases are commonly known as orphan drugs due to the fact that high development and drug approval costs coupled with a small market for their use give these drugs limited commercial value.

I first became involved with this issue in 1981 when constituents visited my office to discuss the orphan drug problem as it relates to Huntington's disease. At that time, I introduced S. 1498 as an effort to facilitate the development of drugs for rare diseases. Based on suggestions which resulted from discussion of this measure, new orphan drug legislation was developed. I introduced this revised measure, S. 2130, earlier this year as a companion to H.R. 5238 sponsored by Representative Henry Waxman.

Over the last 2 years, I have come in contact with countless individuals who have been working tirelessly on behalf of a solution. My attention has been directed to a wide number of diseases previously unknown to me, many of which afflict only a few thousand people. It is my belief that the legislation now before us is an important step toward alleviating some of the difficulties facing these individuals and their families. It addresses these problems in a number of ways:

First, it provides for the designation of a drug as being one for a rare disease or condition and establishes a process by which sponsors of designated drugs may receive written recommendations from the Department of Health and Human Services with respect to the clinical and nonclinical investigations required for approval. This provision is made sufficiently flexible to permit revisions in the original recommendations should conditions warrant. At the same time, it will provide valuable information permitting drug sponsors to make a better assessment of the resources they will need to commit to the development of a drug for a rare disease.

Second, it attempts to address the problems created when a promising drug treatment is not patentable by providing a 7-year exclusive marketing right for the sponsor of the drug.

Third, it makes provision for the encouragement of sponsors of designated drugs to design open protocols for the addition to drug tests of individuals requiring a drug for treatment purposes. This provision would permit easier access to drugs under investigation by individuals who have no other form of treatment available to them.

Fourth, it provides a statutory basis for the operation of the Orphan Products Board within the Department of Health and Human Services to promote the development of orphan drugs and devices and to coordinate orphan drug activities. This measure also authorizes \$4 million in funding in each of the next 3 years for use by HHS in awarding grants related to work with rare diseases and conditions.

Finally, it provides financial incentives for the development of drugs for rare diseases by providing a 50-percent tax credit to sponsors of designated

drugs for expenses involved in the human clinical testing phase of the drug development process. This tax credit, which will expire at the end of 5 years, will partially offset the financial loss entailed in developing and producing orphan drugs.

This legislation will complement current public and private efforts to address the orphan drug problem. The Department of Health and Human Services, for example, is to be commended for its initiative in establishing earlier this year an Orphan Products Board under the leadership of Assistant Secretary for Health Edward Brandt. The Food and Drug Administration, which has long played an important role in identifying problems associated with rare diseases and conditions, has substantially broadened its efforts in this area by establishing an office of orphan products development under the direction of Dr. Marion Finkel. In addition, the Pharmaceutical Manufacturers Association has created a commission on drugs for rare diseases. This commission is designed to bring together the promising ideas of investigators and the resources of the pharmaceutical industry. Finally, countless individualsmany of whom have firsthand knowledge of the personal tragedies associated with rare diseases and conditions-have played a crucial role in focusing attention on the orphan drug issue and in promoting solutions to it. The continued interest and cooperation of these groups are critical to the success of efforts to expand the availability of treatments for rare diseases and conditions. The flexibility and incentives provided by the Orphan Drug Act should give added force to these efforts.

I greatly appreciate the work of all who have been involved with this issue. I offer a special thanks to Senator Long and to the senior Senator from my own State of Kansas, Senator Dole, for the role they played in devising the compromises necessary to bring this bill before us today.

Mr. President, I urge the adoption of this measure.

Mr. STEVENS. I move that the Senate concur in the House amendment.

The motion was agreed to.

### VOYAGEURS NATIONAL PARK

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 625.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 2 and 3 to the amendment of the House to the bill (S. 625) entitled "An Act to revise the

boundary of Voyageurs National Park in the State of Minnesota, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 1 to the amendment of the House to the aforesaid bill with the following amendment:

In lieu of the matter inserted by said amendment, insert:

"(A) tenders a conveyance of the lands described in paragraph 1 (C) and (D) to the United States by such instrument and in such manner as are satisfactory to the Secretary, including but not limited to lease or easement: Provided, That if the interest conveyed is a lease or easement, the State of Minnesota shall substitute therefore a transfer of all right, title and interest in the land by June 30, 1987: Provided further, That if the State does not transfer all right, title and interest in such lands by June 30, 1987, the land described in paragraph 1(E) shall revert to the United States for administration by the Secretary as part of the park; and

• Mr. DURENBERGER. Mr. President, passage by the Senate of S. 625, a bill to revise the boundary of Voyageurs National Park in the State of Minnesota and for other purposes, culminates long and often difficult efforts to form a national park along the United States/Canadian border.

Legislation authorizing the establishment of Voyageurs National Park was passed in January 1972. It was not until April 1975 that the park was officially established by the Secretary of Interior. Since that time, much has been accomplished. The Voyageurs Park master plan has been adopted, all but 4 percent of the 133,622 land acres in the park have been acquired.

The identical bills that Congressman Oberstar and I introduced in 1980 and again in 1981, carried out the recommendations arrived at in the master plan for the park; but more significantly it will resolve the points of controversy between northern Minnesota residents, the State of Minnesota and the Department of Interior which have arisen during the planning process.

Hearings were held by Senator Wallop's Subcommittee on Public Lands and Reserve Water and a bill reported by the Energy and Natural Resources Committee passed the Senate by unanimous vote on June 10, 1982. The House also held hearings and passed the bill. When Congress recessed in October 2 only one, somewhat technical, difference existed between the two versions.

The point under consideration was the transfer of State lands along the Ash River Trail and the State Kabetogama Ranger Station to the National Park Service. An amendment to the Senate passed bill was agreed upon; this accommodated both the concerns of the House and Senate committees. The House passed the bill on December 14, and I am pleased and gratified to see the Senate take final action today.

S. 625 is the result of consensus achieved through extensive discussions involving the Minnesota congressional delegation, the committee leadership, environmental groups in Washington and in Minnesota, the Minnesota Department of Natural Resources and the people of northern Minnesota in the area where the park is located, as well as through congressional hearings.

The bill passed today provides for the transfer of 1,000 acres, primarily water, of Black Bay to the State of Minnesota. This establishes this section as a State wildlife management area; increases authorization for land acquisition in the pack by \$12.3 million; includes in the park the area needed for the visitor's center; and authorizes a tourism project and road study of access to the park.

Passage of S. 625 marks the end of the beginning of Voyageur's National Park. With the action taken by the Senate today, we move into the period in which the full potential of this magnificant national park will be realized.

I want to express my sincere thanks to Senator Wallop for his unfailing support and leadership; to Senator Boschwitz my distinguished colleague from Minnesota; to Congressman Oberstar and the entire Minnesota delegation for their efforts on behalf of the bill.

Finally, this statement would not be complete without recognizing the unfailing efforts of both the Voyageurs National Park Association and the Citizens Advisory Committee for Voyageurs. The leadership of Elmer L. Anderson, Martin Kellogg, William Holes, Irv Anderson, State Senator Robert Lessard, Sam Morgan, Lloyd Brandt, Rick Mollin, Jack Koch, Clarence Hart, and many others is essential.

There would not be a Voyageurs Park without their vision and leadership. The bill we enact today is a better bill because of their involvement in its development and passage. Their continued work is essential to the future of Voyageurs which we in Minnesota consider the finest national park in the country.

Mr. STEVENS. I move that the Senate concur in the House amendment to the Senate amendment.

The motion was agreed to.

## APPOINTMENT OF SPECIAL PROSECUTORS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2059.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives: Resolved, That the bill from the Senate (S. 2059) entitled "An Act to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes", do pass with the following amendments:

(1) Page 4, line 4, strike out "five" and insert: "two".

(2) Page 4, line 15, strike out "President; and" and insert: "President.".

(3) Page 4, strike out lines 16 through 19, inclusive.

(4) Page 5, line 14, strike out ", or the appearance thereof".

Mr. STEVENS. I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2330.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House recede from its disagreement to the amendment of the Senate to the bill (H.R. 2330) entitled "An Act to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and section 305 of the Energy Reorganization Act of 1974, as amended, and for other purposes", and concur therein with the following amendment: In lieu of the matter inserted by said amendment, insert:

## AUTHORIZATION OF APPROPRIATIONS

SECTION 1. (a) There are hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017) and section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), for the fiscal years 1982 and 1983 to remain available until expended, \$485,200,000 for fiscal year 1982 and \$513,100,000 for fiscal year 1983 to be allocated as follows:

(1) Not more than \$80,700,000 for fiscal year 1982 and \$77,000,000 for fiscal year 1983 may be used for "Nuclear Reactor Regulation", of which an amount not to exceed \$1,000,000 is authorized each such fiscal year to be used to accelerate the effort in gas-cooled thermal reactor preapplication review, and an amount not to exceed \$6,000,000 is authorized each such fiscal year to be used for licensing review work for a fast breeder reactor plant project. In the event of a termination of such breeder reactor project, any unused amount appropriated pursuant to this paragraph for licensing review work for such project may be used only for safety technology activities.

(2) Not more than \$62,900,000 for fiscal year 1982 and \$69,850,000 for fiscal year 1983 may be used for "Inspection and Enforcement".

(3) Not more than \$42,000,000 for fiscal year 1982 and \$47,059,600 for fiscal year 1983 may be used for "Nuclear Material Safety and Safeguards".

(4) Not more than \$240,300,000 for fiscal year 1982 and \$257,195,600 for fiscal year 1983 may be used for "Nuclear Regulatory Research", of which—

(A) an amount not to exceed \$3,500,000 for fiscal year 1982 and \$4,500,000 for fiscal year 1983 is authorized to be used to accelerate the effort in gas-cooled thermal reactor safety research:

(B) an amount not to exceed \$18,000,000 is authorized each such fiscal year to be used for fast breeder reactor safety research; and

(C) an amount not to exceed \$57,000,000 is authorized for such two fiscal year period to be used for the Loss-of-Fluid Test Facility research program.

In the event of a termination of the fast breeder reactor plant project, any unused amount appropriated pursuant to this paragraph for fast breeder reactor safety research may be used generally for "Nuclear Regulatory Research".

(5) Not more than \$21,900,000 for fiscal year 1982 and \$20,197,800 for fiscal year 1983 may be used for "Program Technical

Support".

(6) Not more than \$37,400,000 for fiscal year 1982 and \$41,797,000 for fiscal year 1983 may be used for "Program Direction and Administration".

(b) The Nuclear Regulatory Commission may use not more than 1 percent of the amounts authorized to be appropriated under subsection (a)(4) to exercise its authority under section 31 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2051(a)) to enter into grants and cooperative agree-ments with universities pursuant to such section. Grants made by the Commission shall be made in accordance with the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.) and other applicable law. In making such grants and entering into such cooperative agreements, the Commission shall endeavor to provide appropriate opportunities for universities in which the student body has historically been predominately comprised of minority groups.

(c) Any amount appropriated for a fiscal year to the Nuclear Regulatory Commission pursuant to any paragraph of subsection (a) for purposes of the program office referred to in such paragraph, or any activity that is within such program office and is specified in such paragraph, may be reallocated by the Commission for use in a program office referred to in any other paragraph of such subsection, or for use in any other activity within a program office, except that the amount available from appropriations for such fiscal year for use in any program office or specified activity may not, as a result of reallocations made under this subsection, be increased or reduced by more than \$500,000 unless-

(1) a period of 30 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the reallocation proposed to be made and the facts and circumstances relied upon in support of such proposed reallocation; or

(2) each such committee, before the expiration of such period, transmits to the Commission a written notification that such committee does not object to such proposed reallocation.

## AUTHORITY TO RETAIN CERTAIN AMOUNTS RECEIVED

SEC. 2. Moneys received by the Nuclear Regulatory Commission for the cooperative nuclear research program and the material access authorization program may be retained and used for salaries and expenses associated with such programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

#### AUTHORITY TO TRANSFER CERTAIN AMOUNTS TO OTHER AGENCIES

SEC. 3. From amounts appropriated to the Nuclear Regulatory Commission pursuant to section 1(a), the Commission may transfer to other agencies of the Federal Government sums for salaries and expenses for the performance by such agencies of activities for which such appropriations of the Commission are made. Any sums so transferred may be merged with the appropriation of the agency to which such sums are transferred.

## LIMITATION ON SPENDING AUTHORITY

SEC. 4. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

#### AUTHORITY TO ISSUE LICENSES IN ABSENCE OF EMERGENCY PREPAREDNESS PLANS

SEC. 5. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission may use such sums as may be necessary, in the absence of a State or local emergency preparedness plan which has been approved by the Federal Emergency Management Agency, to issue an operating license (including a temporary operating license under section 192 of the Atomic Energy Act of 1954, as amended by section 11 of this Act) for a nuclear power reactor, if it determines that there exists a State, local, or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility concerned.

## NUCLEAR SAFETY GOALS

SEC. 6. Funds authorized to be appropriated under this Act shall be used by the Nuclear Regulatory Commission to expedite the establishment of safety goals for nuclear reactor regulation. The development of such safety goals, and any accompanying methodologies for the application of such safety goals, should be expedited to the maximum extent practicable to permit establishment of a safety goal by the Commission not later than December 31, 1982.

## LOSS-OF-FLUID TEST FACILITY

SEC. 7. Of the amounts authorized to be used for the Loss-of-Fluid Test Facility in accordance with section 1(a)(4) for fiscal years 1982 and 1983, the Commission shall provide funding through contract with the organization responsible for the Loss-of-Fluid Test operations for a detailed technical review and analysis of research results obtained from the Loss-of-Fluid Test Facility research program. The contract shall provide funding for not more than twenty manyears in each of fiscal years 1982 and 1983 to conduct the technical review and analysis

## NUCLEAR DATA LINK

SEC. 8. (a) Of the amounts authorized to be appropriated under this Act for the fiscal

years 1982 and 1983, not more than \$200,000 is authorized to be used by the Nuclear Regulatory Commission for—

(1) the acquisition (by purchase, lease, or otherwise) and installation of equipment to be used for the "small test prototype nuclear data link" program or for any other program for the collection and transmission to the Commission of data from licensed nuclear reactors during abnormal conditions at such reactors; and

(2) the conduct of a full and complete study and analysis of—

(A) the appropriate role of the Commission during abnormal conditions at a nuclear reactor licensed by the Commission;

(B) the information which should be available to the Commission to enable the Commission to fulfill such role and to carry out other related functions;

(C) various alternative means of assuring that such information is available to the Commission in a timely manner; and (D) any changes in existing Commission

authority necessary to enhance the Commission response to abnormal conditions at a nuclear reactor licensed by the Commission. The small test prototype referred to in paragraph (1) may be used by the Commission in carrying out the study and analysis under paragraph (2). Such analysis shall include a cost-benefit analysis of each alternative ex-

amined under subparagraph (C).
(b)(1) Upon completion of the study and analysis required under subsection (a)(2), the Commission shall submit to Congress a detailed report setting forth the results of

such study and analysis.

(2) The Commission may not take any action with respect to any alternative described in subsection (a/(2)/C), unless a period of 60 calendar days (excluding any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) passes after the receipt, by the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate, of notice submitted by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

## INTERIM CONSOLIDATION OF OFFICES

SEC. 9. (a) Of the amounts authorized to be appropriated pursuant to paragraph 6 of section 1(a), such sums as may be necessary shall be available for interim consolidation of Nuclear Regulatory Commission headquarters staff offices.

(b) No amount authorized to be appropriated under this Act may be used, in connection with the interim consolidation of Nuclear Regulatory Commission offices, to relocate the offices of members of the Commission outside the District of Columbia.

## THREE MILE ISLAND

SEC. 10. (a) No part of the funds authorized to be appropriated under this Act may be used to provide assistance to the General Public Utilities Corporation for purposes of the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(b) The prohibition contained in subsection (a) shall not relate to the responsibilities of the Nuclear Regulatory Commission for monitoring or inspection of the decontamination, cleanup, repair, or rehabilita-

tion activities at Three Mile Island and such prohibition shall not apply to the use of funds by the Nuclear Regulatory Commission to carry out regulatory functions of the Commission under the Atomic Energy Act of 1954 with respect to the facilities at Three Mile Island

(c) The Nuclear Regulatory Commission shall include in its annual report to the Congress under section 307(c) of the Energy Reorganization Act of 1974 (42 U.S.C. 5877(c)) as a separate chapter a description of the collaborative efforts undertaken, or proposed to be undertaken, by the Commission and the Department of Energy with respect to the decontamination, cleanup, repair, or rehabilitation of facilities at Three Mile Island Unit 2.

(d) No funds authorized to be appropriated under this Act may be used by the Commission to approve any willful release of "accident-generated water", as defined by the Commission in NUREG-0683 ("Final Programmatic Environmental Impact Statement" p. 1-23), from Three Mile Island Unit 2 into the Susquehanna River or its watershed.

#### TEMPORARY OPERATING LICENSES

SEC. 11. Section 192 of the Atomic Energy Act of 1954 (42 U.S.C. 2242) is amended to read as follows:

"SEC. 192. TEMPORARY OPERATING LI-

'a. In any proceeding upon an application for an operating license for a utiliza-tion facility required to be licensed under section 103 or 104 b. of this Act, in which a hearing is otherwise required pursuant to section 189 a., the applicant may petition the Commission for a temporary operating license for such facility authorizing fuel loading, testing, and operation at a specific power level to be determined by the Commission, pending final action by the Commission on the application. The initial petition for a temporary operating license for each such facility, and any temporary operating license issued for such facility based upon the initial petition, shall be limited to power levels not to exceed 5 percent of rated full thermal power. Following issuance by the Commission of the temporary operating license for each such facility, the licensee may file petitions with the Commission to amend the license to allow facility operation in staged increases at specific power levels, to be determined by the Commission, exceeding percent of rated full thermal power. The initial petition for a temporary operating license for each such facility may be filed at any time after the filing of: (1) the report of the Advisory Committee on Reactor Safeguards required by section 182 b.: (2) the filing of the initial Safety Evaluation Report by the Nuclear Regulatory Commission staff and the Nuclear Regulatory Commission staff's first supplement to the report prepared in response to the report of the Advisory Committee on Reactor Safeguards for the facility; (3) the Nuclear Regulatory Commission staff's final detailed statement on the environmental impact of the facility prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and (4) a State, local, or utility emergency preparedness plan for the facility. Petitions for the issuance of a temporary operating license, or for an amendment to such a license allowing operation at a specific power level greater than that authorized in the initial temporary operating license, shall be accompanied by an affidavit or affidavits setting forth the specific facts upon which the petitioner relies

to justify issuance of the temporary operating license or the amendment thereto. The Commission shall publish notice of each such petition in the Federal Register and in such trade or news publications as the Commission deems appropriate to give reasonable notice to persons who might have a potential interest in the grant of such temporary operating license or amendment thereto. Any person may file affidavits or statements in support of, or in opposition to, the petition within thirty days after the publication of such notice in the Federal Register.

b. With respect to any petition filed pursuant to subsection a of this section, the Commission may issue a temporary operating license, or amend the license to authorize temporary operation at each specific power level greater than that authorized in the initial temporary operating license, as determined by the Commission, upon find-

ing that—
"(1) in all respects other than the conduct or completion of any required hearing, the requirements of law are met;

"(2) in accordance with such requirements, there is reasonable assurance that operation of the facility during the period of the temporary operating license in accordance with its terms and conditions will provide adequate protection to the public health and safety and the environment during the period of temporary operation; and

"(3) denial of such temporary operating license will result in delay between the date on which construction of the facility is sufficiently completed, in the judgment of the Commission, to permit issuance of the temporary operating license, and the date when such facility would otherwise receive a final operating license pursuant to this Act.

The temporary operating license shall become effective upon issuance and shall contain such terms and conditions as the Commission may deem necessary, including the duration of the license and any provision for the extension thereof. Any final order authorizing the issuance or amendment of any temporary operating license pursuant to this section shall recite with specificity the facts and reasons justifying the findings under this subsection, and shall be transmitted upon such issuance to the Committees on Interior and Insular Affairs and Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate. The final order of the Commission with respect to the issuance or amendment of a temporary operating license shall be subject to judicial review pursuant to chapter 158 of title 28, United States Code. The requirements of section 189 a. of this Act with respect to the issuance or amendment of facility licenses shall not apply to the issuance or amendment of a temporary operating license under this section.

"c. Any hearing on the application for the final operating license for a facility required pursuant to section 189 a. shall be concluded as promptly as practicable. The Commission shall suspend the temporary operating license if it finds that the applicant is not prosecuting the application for the final operating license with due diligence. Issuance of a temporary operating license under subsection b. of this section shall be without prejudice to the right of any party to raise any issue in a hearing required pursuant to section 189 a.; and failure to assert any ground for denial or limitation of a temporary operating license shall not bar the assertion of such ground in connection with

the issuance of a subsequent final operating license. Any party to a hearing required pursuant to section 189 a. on the final operating license for a facility for which a temporary operating license has been issued under subsection b., and any member of the Atomic Safety and Licensing Board conducting such hearing, shall promptly notify the Commission of any information indicating that the terms and conditions of the temporary operating license are not being met, or that such terms and conditions are not sufficient to comply with the provisions of paragraph (2) of subsection b.

"d. The Commission is authorized and directed to adopt such administrative remedies as the Commission deems appropriate to minimize the need for issuance of temporary operating licenses pursuant to this section

"e. The authority to issue new temporary operating licenses under this section shall expire on December 31, 1983.".

#### OPERATING LICENSE AMENDMENT HEARINGS

SEC. 12. (a) Section 189 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A) The Commission may issue and make immediately effective any amendment to an operating license, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person. Such amendment may be issued and made immediately effective in advance of the holding and completion of any required hearing. In determining under this section whether such amendment involves no significant hazards consideration, the Commission shall consult with the State in which the facility involved is located. In all other respects such amendment shall meet the requirements of this Act.

"(B) The Commission shall periodically (but not less frequently than once every thirty days) publish notice of any amendments issued, or proposed to be issued, as provided in subparagraph (A). Each such notice shall include all amendments issued, or proposed to be issued, since the date of publication of the last such periodic notice. Such notice shall, with respect to each amendment or proposed amendment (i) identify the facility involved; and (ii) provide a brief description of such amendment. Nothing in this subsection shall be construed to delay the effective date of any amendment.

"(C) The Commission shall, during the ninety-day period following the effective date of this paragraph, promulgate regulations establishing (i) standards for determining whether any amendment to an operating license involves no significant hazards consideration, (ii) criteria for providing or, in emergency situations, dispensing with prior notice and reasonable opportunity for public comment on any such determination, which criteria shall take into account the exigency of the need for the amendment involved; and (iii) procedures for consultation on any such determination with the State in which the facility involved is located."

(b) The authority of the Nuclear Regulatory Commission, under the provisions of the amendment made by subsection (a), to issue and to make immediately effective any amendment to an operating license shall take effect upon the promulgation by the Commission of the regulations required in such provisions.

#### QUALITY ASSURANCE

SEC. 13. (a) The Nuclear Regulatory Commission is authorized and directed to implement and accelerate the resident inspector program so as to assure the assignment of at least one resident inspector by the end of fiscal year 1982 at each site at which a commercial nuclear powerplant is under construction and construction is more than 15 percent complete. At each such site at which construction is not more than 15 percent complete, the Commission shall provide that such inspection personnel as the Commissions deems appropriate shall be physically present at the site at such times following issuance of the construction permit as may be necessary in the judgment of the Commis-

(b) The Commission shall conduct a study of existing and alternative programs for improving quality assurance and quality control in the construction of commercial nuclear powerplants. In conducting the study, the Commission shall obtain the comments of the public, licensees of nuclear powerplants, the Advisory Committee on Reactor Safeguards, and organizations comprised of professionals having expertise in appropriate fields. The study shall include an analysis of the following:

(1) providing a basis for quality assurance and quality control, inspection, and enforcement actions through the adoption of an approach which is more prescriptive than that currently in practice for defining principal architectural and engineering criteria for the construction of commercial nuclear

powerplants; (2) conditioning the issuance of construction permits for commercial nuclear powerplants on a demonstration by the licensee that the licensee is capable of independently managing the effective performance of all quality assurance and quality control re-

sponsibilities for the powerplant;
(3) evaluations, inspections, or audits of commercial nuclear powerplant construction by organizations comprised of professionals having expertise in appropriate fields which evaluations, inspections, or audits are more effective than those under current practice;

(4) improvement of the Commission's organization, methods, and programs for quality assurance development, review, and inspection; and

(5) conditioning the issuance of construction permits for commercial nuclear powerplants on the permittee entering into contracts or other arrangements with an independent inspector to audit the quality assurance program to verify quality assurance performance.

For purposes of paragraph (5), the term "independent inspector" means a person or other entity having no responsibility for the design or construction of the plant involved. The study shall also include an analysis of quality assurance and quality control programs at representative sites at which such programs are operating satisfactorily and an assessment of the reasons therefor.

(c) For purposes of-(1) determining the best means of assuring that commercial nuclear powerplants are constructed in accordance with the applicable safety requirements in effect pursuant to the Atomic Energy Act of 1954; and (2) assessing the feasibility and benefits of

the various means listed in subsection (b);

the Commission shall undertake a pilot program to review and evaluate programs that include one or more of the alternative concepts identified in subsection (b) for the purposes of assessing the feasibility and benefits of their implementation. The pilot program shall include programs that use inde-pendent inspectors for auditing quality assurance responsibilities of the licensee for the construction of commercial nuclear powerplants, as described in paragraph (5) of subsection (b). The pilot program shall include at least three sites at which commercial nuclear powerplants are under construction. The Commission shall select at least one site at which quality assurance and quality control programs have operated satisfactorily, and at least two sites with remedial programs underway at which major construction, quality assurance, or quality control deficiencies (or any combination thereof) have been identified in the past. The Commission may require any changes in existing quality assurance and quality control organizations and relationships that may be necessary at the selected sites to implement the pilot program.

(d) Not later than fifteen months after the date of the enactment of this Act, the Commission shall complete the study required under subsection (b) and submit to the United States Senate and House of Representatives a report setting forth the results of the study. The report shall include a brief summary of the information received from the public and from other persons referred to in subsection (b) and a statement of the Commission's response to the significant comments received. The report shall also set forth an analysis of the results of the pilot program required under subsection (c). The report shall be accompanied by the recommendations of the Commission, including any legislative recommendations, and a description of any administrative actions that the Commission has undertaken or intends to undertake, for improving quality assurance and quality control programs that are applicable during the construction of nuclear powerplants.

### LIMITATION ON USE OF SPECIAL NUCLEAR MATERIAL

SEC. 14. Section 57 of the Atomic Energy Act of 1954 (42 U.S.C. 2077) is amended by adding at the end thereof the following new

"e. Special nuclear material, as defined in section 11, produced in facilities licensed under section 103 or 104 may not be transferred, reprocessed, used, or otherwise made available by any instrumentality of the United States or any other person for nuclear explosive purposes.".

## RESIDENT INSPECTORS

SEC. 15. Of the amounts authorized to be appropriated under section 1, the Nuclear Regulatory Commission shall use such sums as may be necessary to conduct a study of the financial hardships incurred by resident inspectors as a result of (1) regulations of the Commission requiring resident inspectors to relocate periodically from one duty station to another; and (2) the requirements of the Commission respecting the domicile of resident inspectors and respecting travel between their domicile and duty station in such manner as to avoid the appearance of a conflict of interest. Not later than 90 days after the date of the enactment of this Act, the Commission shall submit to the Congress a report setting forth the findings of the Commission as a result of such study, together with a legislative proposal (including

any supporting data or information) relating to any assistance for resident inspectors determined by the Commission to be appropriate.

SABOTAGE OF NUCLEAR FACILITIES OR FUEL

SEC. 16. Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended to read as follows:

"SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FIREL

"a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to-

"(1) any production facility or utilization facility licensed under this Act;

"(2) any nuclear waste storage facility licensed under this Act; or

"(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility:

shall be fined not more than \$10,000 or imprisoned for not more than ten years, or

'b. Any person who intentionally and willfully causes or attempts to cause an interruption of normal operation of any such facility through the unauthorized use of or tampering with the machinery, components, or controls of any such facility, shall be fined not more than \$10,000 or imprisoned for not more than ten years, or both.".

## DEPARTMENT OF ENERGY INFORMATION

SEC. 17. (a) Section 148 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2168(a)(1)) is amended by inserting after "'Secretary')" the following: ", with respect to atomic energy defense programs,".

(b) Section 148 of the Atomic Energy Act of 1954 (42 U.S.C. 2168) is amended by adding at the end thereof the following new subsec-

"d. Any determination by the Secretary concerning the applicability of this section shall be subject to judicial review pursuant to section 552(a)(4)(B) of title 5, United States Code.

"e. The Secretary shall prepare on a quarterly basis a report to be made available upon the request of any interested person, detailing the Secretary's application during that period of each regulation or order prescribed or issued under this section. In particular, such report shall-

"(1) identify any information protected from disclosure pursuant to such regulation

or order;

"(2) specifically state the Secretary's justification for determining that unauthorized dissemination of the information protected from disclosure under such regulation or order could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of illegal production of nuclear weapons, or theft, diversion, or sabotage of nuclear materials, equipment, or facilities, as specified under subsection a.; and

"(3) provide justification that the Secretary has applied such regulation or order so as to protect from disclosure only the minimum amount of information necessary to protect the health and safety of the public or the common defense and security.'

STANDARDS AND REQUIREMENTS UNDER SECTION 275

SEC. 18. (a) Section 275 of the Atomic

Energy Act of 1954 is amended-

(1) by striking in subsection a. "one year after the date of enactment of this section" and substituting "October 1, 1982" and by adding the following at the end thereof: "After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form."

(2) by striking in subsection b. (1) "eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate" and inserting in lieu thereof the following: "October 31, 1982, the Administrator shall, by rule, propose, and within 11 months thereafter promulgate in final

form,"

(3) by adding the following at the end of subsection b. (1): "If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with standards promulaated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Require-ments established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting buproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general ap-

(4) by adding the following new subsection

at the end thereof:

"f. (1) Prior to January 1, 1983, the Commission shall not implement or enforce the provisions of the Uranium Mill Licensing Requirements published as final rules at 45 Federal Register 65521 to 65538 on October 3, 1980 (hereinafter in this subsection referred to as the 'October 3 regulations'). After December 31, 1982, the Commission is authorized to implement and enforce the provisions of such October 3 regulations (and any subsequent modifications or additions to such regulations which may be adopted by the Commission), except as otherwise provided in paragraphs (2) and (3) of this subsection.

"(2) Following the proposal by the Administrator of standards under subsection b., the Commission shall review the October 3 regulations, and, not later than 90 days after the date of such proposal, suspend implementation and enforcement of any provision of such regulations which the Commission determines after notice and opportunity for public comment to require a major action or major commitment by licensees

which would be unnecessary if—

"(A) the standards proposed by the Administrator are promulgated in final form without modification, and

"(B) the Commission's requirements are modified to conform to such standards.

Such suspension shall terminate on the earlier of April 1, 1984 or the date on which the Commission amends the October 3 regulations to conform to final standards promulgated by the Administrator under subsection b. During the period of such suspension, the Commission shall continue to regulate by product material (as defined in section 11 e. (2)) under this Act on a licensee-by-licensee basis as the Commission deems necessary to protect public health, safety, and the environment.

"(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator.

"(4) Nothing in this subsection may be construed as affecting the authority or responsibility of the Commission under section 84 to promulgate regulations to protect the public health and safety and the envi-

ronment.".

(b)(1) Section 108(a) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following new para-

graph at the end thereof:

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, after October 31, 1982, if the Administrator has not promulgated standards under section 275 a. of the Atomic Energy Act of 1954 in final form by such date, remedial action taken by the Secretary under this title shall comply with the standards proposed by the Administrator under such section 275 a. until such time as the Administrator promulgates the standards in final form."

(2) The second sentence of section 108(a)(2) of the Uranium Mill Tailings Radiation Control Act of 1978 is repealed.

## AGREEMENT STATES

SEC. 19. (a) Section 274 o. of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof: "In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, sitespecific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.".

(b) Section 204(h)(3) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by inserting the following before the period at the end thereof: "Provided, however, That, in the case of a State which has exercised any authority under State law pursuant to an agreement entered into under section 274 of the Atomic Energy Act of 1954, the State authority over such by product material may be terminated, and the Commission authority over such material may be exercised, only after compliance by the Commission with the same procedures as are applicable in the case of termination of agreements under section 274 j. of the Atomic Energy Act of 1954."

#### AMENDMENT TO SECTION 84

SEC. 20. Section 84 of the Atomic Energy Act of 1954 is amended by adding the following at the end thereof:

"c. In the case of sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), a licensee may propose alternatives to specific requirements adopted and enforced by the Commission under this Act. Such alternative proposals may take into account local or regional conditions including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements if the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275.".

## **EDGEMONT**

SEC. 21. Section 102(e) of the Uranium Mill Tailings Radiation Control Act of 1978 is amended by adding the following at the end thereof:

"(3) The Secretary shall designate as a processing site within the meaning of section 101(6) any real property, or improvements thereon, in Edgemont, South Dakota, that...

"(A) is in the vicinity of the Tennessee Valley Authority uranium mill site at Edgemont (but not including such site), and

"(B) is determined by the Secretary to be contaminated with residual radioactive materials

In making the designation under this paragraph, the Secretary shall consult with the Administrator, the Commission and the State of South Dakota. The provisions of this title shall apply to the site so designated in the same manner and to the same extent as to the sites designated under subsection (a) except that, in applying such provisions to such site, any reference in this title to the date of the enactment of this Act shall be treated as a reference to the date of the enactment of this paragraph and in determining the State share under section 107 of the costs of remedial action, there shall be credited to the State, expenditures made by the State prior to the date of the enactment of this paragraph which the Secretary determines would have been made by the State or

the United States in carrying out the requirements of this title.".

ADDITIONAL AMENDMENTS TO SECTIONS 84 AND

SEC. 22. (a) Section 84 a. (1) of the Atomic Energy Act of 1954 is amended by inserting before the comma at the end thereof the following: ", taking into account the risk to the public health, safety, and the environment, with due consideration of the economic costs and such other factors as the Commission determines to be appropriate,

(b) Section 275 of the Atomic Energy Act of

1954 is amended-

(1) in subsection a., by inserting after the second sentence thereof the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environthe environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."; and

(2) by adding at the end of subsection b. (1) the following new sentence: "In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."

Mr. SIMPSON. Mr. President, the measure now before the Senate-the NRC authorization bill for fiscal years 1982 and 1983-is the product of long and difficult negotiations between the House and Senate conferees over the past 7 months in order to reconcile the two bills that were committed to the conferees last May. There have been numerous differences of opinion as to how each of the issues in the Houseand Senate-passed bills might be resolved and we have been quite deliberate in our discussions in order to insure that the views of all conferees were fully and carefully considered.

We fashioned a compromise that was set forth in the Conference Report 97-884, which the Senate adopted on October 1 and forwarded to the House. Included in the compromise agreed upon in conference was a provision pertaining to the importation of uranium for use in domestic commercial nuclear power reactors. This particular issue was perhaps the most nettlesome of all committed to the conferees, and it was only after extended discussion of this issue that we were able to fashion an agreement that enjoyed broad support among the conferees. Unfortunately, following adoption of the conference report by the Senate, with this provision included, and upon return of the conference report to the House for final action. the uranium import provision was successfully challenged on the House floor and deleted from the conference report.

I would like to make just a few remarks about this particular provision. After extensive hearings in the Senate on the condition of the domestic uranium industry, I was firmly convinced of the need to insure that the domestic mining and milling industry remain

strong and healthy, not only for reasons related to the commercial nuclear power industry, but for national security reasons as well. The provision supported by me and passed by the Senate was an attempt to address what I viewed as an increasingly serious problem-and do it in a responsible and forthright fashion. Moreover, we were successful in bringing to the attention of others in the Senate, as well as our very distinguished House colleagues, the gravity of the situation facing this absolutely essential domestic industry. The compromise fash-ioned by the conferees, in my judg-ment, served to address these critical

However, this provision was deleted from the conference report when it was taken up on the House floor, much to my disappointment. I now urge the Senate to concur in the action taken by the House, not because of any change in feeling that there still remain very serious problems that must be addressed in the domestic uranium industry-problems that I intend to devote continuing attention to-but rather because I think we have in the remaining provisions of this bill a very significant piece of legislation that will greatly benefit the country upon enactment. To mention but a few of the important provisions in this bill: this bill sets forth the first authorization for the Nuclear Regulatory Commission since 1980, and provides much-needed budgetary guid-ance for the agency. The uranium mill tailings provision in this bill restores the mill tailings regulatory program under the Uranium Mill Tailings Radiation Control Act of 1978 to the course originally intended by Congress, significantly expands the flexibility of States to apply Federal requirements, directs both NRC and EPA to consider costs in imposing regulatory requirements, and establishes new deadlines for the EPA and NRC regulations.

The Sholly provision corrects what most all of us have viewed as an erroneous judicial interpretation of the hearing requirement for "no signifiamendcant hazards consideration" ments by providing that no hearings in advance of these types of determi-

nations are required.

The temporary operating license provision confers upon the NRC a much-needed authority arising out of the Post-TMI licensing delays, authorizing the NRC to isue operating licenses to applicants prior to the completion of that certain public hearing required under the Atomic Energy Act, if all other statutory requirements are met.

And finally, the nuclear safety goal provision directs the NRC to establish by December 31, 1982, a safety goal for nuclear reactor regulation. Promulgation of such a safety goal, I trust, will restore some degree of reasoned, orderly regulation of nuclear plants by the NRC.

Because of these, and other, significant provisions in this bill, I am now urging my colleagues to concur in the action taken by the House.

I should like to make one final point, Mr. President, regarding the issue of legislative history. As you know, now that the House has stricken a provision in the conference report adopted by the Senate and sent to the House for action, we no longer have a conference report, but rather are now being asked to concur in the House message on the measure H.R. 2330. For all purposes, however, it is our intention that the joint explanatory statement of the committee of conference serve as the legislative history for this legislation, and the explanation of the intent of the conferees, as set forth in the document House Report 97-884, shall serve this purpose. Finally, Mr. President, on the issue of the uranium mill tailings amendment, I would like to include in the RECORD an exchange of communications between the chairman of the conference committee, Congressman UDALL, and Senator Do-MENICI and myself on precisely what is intended by the language adopted.

There being no objection, the material was ordered to be printed in the

RECORD, as follows:

U.S. SENATE. Washington, D.C., December 15, 1982.

Hon. Morris Udall,

Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR Mo: In great part due to your efforts, the conference committee on the Nuclear Regulatory Commission authorization bill agreed to amendments to the Uranium Mill Tailings Radiation Control Act. The amendments, as agreed to by the conference committee, represent a reasoned attempt to address certain problems in the administration of the Mill Tailings Act by the Environmental Protection Agency and the Nuclear Regulatory Commission that have arisen since the passage of that Act in 1978.

As the bill has now passed the House, the mill tailings amendments remain as agreed to by the conference committee. However, in the House debate on the bill, several statements were made with respect to the mill tailings amendments that could be misconstrued, which we believe it would be helpful to clarify. As the Senate will be reconsidering the bill in the near future, it would be most helpful if you could clarify the statements that are addressed below.

Section 22 of the bill provides expressly that EPA and NRC must consider risks to public health and safety and economic and environmental costs is issuing standards and regulations, respectively, governing stabilization and cleanup of uranium mill tailings. The intention of this provision is clearly stated in the conference report. The intent is to assure that standards and regulations for mill tailings be reasonably related both to the risks addressed and to the economic and environmental costs of compliance. We do not believe the conferees ever intended to suggest that the duties of these agencies to protect public health should be subordinated to economic considerations or that a strict one-to-one cost-benefit analysis was appropriate. In short, we intended that these considerations were to be seriously weighted and taken into account in the decisional processes of these agencies.

As is also clearly reflected in the conference report, we had no intention through this provision to affect, either favorably or unfavorably, any pending litigation challenging the existing NRC mill licensing regulations or to specifically ratify or reject those regulations as they are presently constituted.

Our concerns for potential conflict with the conference report arise in context of three statements made by you in a colloquy with Congressman Ottinger. First, in response to a question you state: "If such regulations are feasible, nothing in this provision would require either agency to reformulate or reconsider regulations which have been issued." Second, you concur in the statement that the conference agreement was not intended to "... undermine the recent judicial determination of sufficiency of prior agency consideration of cost in pro mulgation of mill tailings regulations." Third, you agree with the statement ' that the Commission's existing uranium mill tailings licensing requirements would then automatically go into effect," if EPA failed to timely promulgate final active site

The term "feasible" has been interpreted to authorize agencies to adopt regulations without regard to the magnitude of the costs of compliance, so long as the regulations would not force out of business a sizable segment of the regulated community. Such an interpretation in the context of section 22 would be in direct conflict with the language of the conference report, which states that we intended to adopt a reasonable relationship approach to the regulation of mill tailings.

For this reason, we believe your use of the term was casual and not intended to alter the previously stated intent of the conference committee. That is, if the cost of compliance with their regulations is reasonably related to the risks and benefits, an agency would not have to reformulate or reconsider previously issued regulations. If they have not in fact done so, the agencies would have to reconsider and, if necessary, reformulate their regulations.

The statements that the conference committee had no intent to "undermine" the decision of the court and that NRC's regulations could "automatically" go into effect without further proceedings could be misinterpreted to affirm the panel decision in the litigation challenging NRC's regulations or possibly to constitute a Congress ratification of NRC's existing regulations. We believe such interpretations would be contrary to the conference report.

As discussed above, the conferees adopted a position of neutrality on the litigation and the underlying regulations. When we took that position, a panel of the court had affirmed the regulations and that decision was subject to a petition for rehearing. Since that time, the full court has vacated the panel's judgment and set the case for rehearing. Nothwithstanding this changed circumstance, the suit should be decided by the court on the merits: If NRC has complied with the intent of Congress then the regulations should be affirmed; if not, they should be returned to NRC for further proceedings.

If your understanding of the conference report is different, we would appreciate your views.

Sincerely,

PETE V. DOMENICI, U.S. Senator.

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,

Washington, D.C., December 15, 1982. Hon. Alan K. Simpson,

Chairman, Subcommittee on Nuclear Regulation Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR ALAN: This pertains to your December 15, 1982 letter concerning the intent of the conferees with respect to Section 22 of the Conference Report on the Nuclear Regulatory Commission Authorization bill for fiscal years 1982 and 1983 (House Report 97-884).

First, let me say it is my clear understanding that the conference agreement was not intended to affect the outcome of any past or ongoing litigation involving the Uranium Mill Tailings Radiation Control Act.

Second, I believe the conferees intend that the statement of managers in the conference report, read together with the statutory language in Section 22, be controlling for purposes of interpreting this provision.

Thanks for the opportunity to make these

Sincerely,

MORRIS K. UDALL Chairman.

Mr. DOMENICI. Mr. President, I wonder if I might obtain a clarification from the distinguished Senator from Wyoming regarding section 12 of this bill, the so-called Sholly amendment, which authorizes NRC to issue amendments to operating licenses for nuclear powerplants in advance of any requested hearing if the NRC determines that the amendment involves "no significant hazards" consideration. The amendment directs the NRC to issue regulations establishing standards for such determinations.

NRC has already published proposed standards for making such determinations. The proposed standards would permit such a determination only upon a three-part finding that the proposed amendment: First, would not involve a significant increase in the probability or consequences of an accident previously evaluated, second, would not create the possibility of an accident of a type different from any previously evaluated accident, third, would not involve a significant reduction in a margin of safety. If the amendment failed to meet any of these tests, NRC would afford an opportunity for hearing in advance of issuance of the amendment.

As you know, the Sholly amendment is intended to restore to NRC an authority which it had long exercised under the Atomic Energy Act, until the courts intervened. Indeed, prior to the court decision NRC had already proposed regulations to which I have referred. NRC's approach is a tough one which appears responsible to the expressed intention of the conference

report that its standards should to the extent practicable draw a distinction between those amendments which do or do not involve a "significant hazards" determination. Accordingly, I would like the gentleman's assurance that nothing in the bill or conference report is intended to relax or in any way restrict the stringent standards which NRC has in the past and now proposes to continue to apply in making such determinations.

Mr. SIMPSON. You have my assurance. My friend from New Mexico is indeed correct.

Mr. SCHMITT. Mr. President, the NRC authorization bill contains some welcome clarifications concerning the regulation or uranium and thorium mill tailings. Under the Atomic Energy Act, States lack authority to regulate their mill tailings unless they have a discontinuance agreement with NRC providing for State assumption of regulatory responsibility. My State, New Mexico, has such an agreement. The NRC authorization bill before us contains a number of important features designed to assure that New Mexico and similarly situated agreement States have the necessary flexibility to take local conditions into account in formulating State standards and requirements and in devising State regulations for mill tailings stabilization. The bill underscores the fact that New Mexico and other States may diverge from impracticable or unreasonable Federal proscriptions. In addition, the bill clarifies that the Commission cannot revoke an agreement State's authority without according the State notice and a hearing before the five commissioners.

Mr. President, the legislation also clarifies our intent that the various agencies independently assess the significance of particular risks and devise regulations tailored to address those risks. I certainly want the public health and safety and the environment to be fully protected. However, it is contrary to the public interest, potentially counterproductive, and certainly a waste of money to impose requirements which are totally unnecessary or which are out of line with the risks involved. Regulation of mill tailings, like other regulations under the Atomic Energy Act, should be reasonable and balanced. NRC and EPA, and the courts, should take appropriate action to assure that this is accomplished.

The Department of Energy detailed many objections to the approach which EPA and NRC have thus far taken in a report entitled "Plan for Stabilization and Management of Commingled Uranium Mill Tailings," issued June 30, 1982. The Department noted that radon from tailings constitutes a tiny fraction (about 0.02 percent) of the radon lung dose to the

U.S. population, even assuming that all residents within 50 miles of tailings are exposed. However, the Department notes that the total radon release from tailings is so slight that "[r]adon from mill tailings \* \* \* dissipates to normal background levels within one-quarter to one-half mile from the site and becomes indistinguishable from natural radon."

DOE questioned whether the insignificant hazards associated with tailings justified expensive remedial action efforts, particularly since the remedial action efforts themselves would pose risks and since these risks might well exceed the risk averted. I am attaching below DOE's recommendations, which under the circumstances should be given very serious weight:

#### RECOMMENDATIONS

The responsibility for Federal regulations rests with the EPA and the NRC. The DOE has communicated its concerns to these agencies for consideration.

Practical working standards and regulations for will tailings should contain the following general provisions:

#### HEALTH EFFECTS ASSESSMENTS

Health effects assessments using representative parameters for the site should be performed on a site-by-site basis considering the unique aspects of each site, its specific environmental parameters, and its off-site population density and distribution. The assessment should be a prerequisite to remedial action and bear heavily upon the selection of alternatives and their effectiveness in reducing public risk.

## REMEDIAL ACTION

Remedial actions, such as stabilization, should also include prevention of public entry and occupancy by physical and institutional means. Maintenance and controlled self-insurance requirements should be permitted to assure that stabilization designs remain intact in the future.

## NUMERICAL VALUES

If numerical values are to be used, a range of values should be utilized as opposed to single values. The range approach recognizes the practical uncertainties of field measurements, and the natural variation of background radiation and environmental pathway parameters from site to site.

## PUBLIC DOSE

Reducing the dose to the public to acceptable levels is a goal of remedial action programs. The application of accepted standards, such as 10 CFR Part 20, which are developed in terms of the external and internal doses to the off-site public, should be considered in place of specific design requirements such as radon flux and radium concentration in soil. Basing remedial actions on accepted standards for dose to the public permits recognition of site-specific features.

Based on this discussion, specific revisions to the proposed EPA tailings stabilization standards and NRC regulations should be considered to permit a more cost-effective program of implementation. These include:

Replacing the radon flux standard with 10 CFR Part 20 concentration limits, since tailings are under some Government control and access is restricted.

Raising the radium concentration limit for decontaminated surface soil (a range of 15 pCi/g has been recommended\*).

Shortening the longevity requirements from 1000 (100 years has been recommended\*) and relying on active maintenance under institutional controls.

Eliminating the uniform cover thickness requirement since it restricts stabilization design alternatives. The standard should instead set realistic performance objectives for radon concentration at the site boundary and for tailings migration due to wind, water, and human activities.

\*UMTRA/DOE-167, "Project Plan-Uranium Mill Tailings Remedial Actions Project," p. 4.

Mr. SCHMITT. Mr. President. DOE's evaluation has recently been confirmed in a decision issued in a consolidated proceeding before NRC's Atomic Safety and Licensing Appeals Boards.1 The ASLAB's declared that radon from mill tailings and uranium mines, even if totally uncontrolled, is an insignificant contribution to the radon emitted from natural sources. "It is manifest to us," the Boards said, "that the [uranium] fuel cycle contribution to the radon already in the environment \* \* \* is so slight as to be beyond detection (let alone measurement). \* \* \*" The ASLAB's indicated that the incremental exposure is de minimis, and that "any incremental health risk occasioned by the releases attributable to the fuel cycle is negligible" and that "that speculative and conjuctural risk estimate, to the extent it need by considered under NEPA at all, is acceptable. \* \* \*"

Mr. President, I wish to compliment the Senator from Wyoming, my fellow Senator from New Mexico, and the gentleman from Arizona who chaired the conference committee for recognizing the need for perspective and balance in dealing with mill tailings issues and for clarifying the law to indicate that EPA and NRC must weigh risks and costs in the regulatory process.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

## CORRECTIONS IN ENROLLMENT OF H.R. 2330

Mr. STEVENS. Mr. President, I send to the desk a concurrent resolution making corrections in the enrollment of H.R. 2330.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The legislative clerk read as follows: A concurrent resolution (S. Con. Res. 135) instructing the clerk to make corrections in the enrollment of H.R. 2330.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. STEVENS. This concurrent resolution instructs the Clerk of the House of Representatives to correct the enrollment of the bill H.R. 2330 by adding a new section at the end thereof entitled "Uranium Supply" in conjunction with the Senate action on this concurrent resolution.

I ask unanimous consent to insert in the Record a letter from the Secretary of Energy, Donald Paul Hodel to Senator Pete Domenici.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF ENERGY,
Washington, D.C., December 16, 1982.
Hon. Pete V. Domenici,
U.S. Senate,
Washington, D.C.

Dear Senator Domenici: This responds to your request for views on your proposed amendment to the House amendments to H.R. 2330, a bill to authorize appropriations to the Nuclear Regulatory Commission for fiscal years 1982 and 1983. Your amendment would provide for studies on the status and health of the domestic uranium mining and milling industry and the potential impact of uranium imports on national security if certain determinations are made.

The Administration believes that your amendment represents an acceptable compromise on this complex and difficult issue and does not object to its enactment.

The Office of Management and Budget advises that from the standpoint of the President's program there is no objection to submission of this report.

Sincerely,

DONALD PAUL HODEL.

Mr. STEVENS. Mr. President, I ask for the immediate consideration of the resolution.

The concurrent resolution (S. Con. Res. 135) was considered and agreed to.

The concurrent resolution reads as follows:

## S. CON. RES. 135

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill H.R. 2330, the Clerk of the House of Representatives shall make the following correction:

At the end of the bill insert the following new section:

## URANIUM SUPPLY

SEC. 23. (a)(1) Not later than 12 months after the date of enactment of this section, the President shall prepare and submit to the Congress a comprehensive review of the status of the domestic uranium mining and milling industry. This review shall be made available to the appropriate committees of the United States Senate and the House of Representatives.

(2) The comprehensive review prepared for submission under paragraph (1) shall include.

 (A) projections of uranium requirements and inventories of domestic utilities;

 (B) present and future projected uranium production by the domestic mining and milling industry;

(C) the present and future probable penetration of the domestic market by foreign imports;

<sup>&</sup>lt;sup>1</sup> In re Philadelphia Electric Company, et al., Dkt. Nos. 50-277, et al. (Nov. 19, 1982).

(D) the size of domestic and foreign ore reserves;

(E) present and projected domestic uranium exploration expenditures and plans;

 (F) present and projected employment and capital investment in the uranium industry;

(G) an estimate of the level of domestic uranium production necessary to ensure the viable existence of domestic uranium industry and protection of national security interests:

(H) an estimate of the percentage of domestic uranium demand which must be met by domestic uranium production through the year 2000 in order to ensure the level of domestic production estimated to be neces-

sary under subparagraph (G):

(I) a projection of domestic uranium production and uranium price levels which will be in effect both under current policy and in the event that foreign import restrictions were enacted by Congress in order to guarantee domestic production at the level estimated to be necessary under subparagraph (G):

(J) the anticipated effect of spent nuclear fuel reprocessing on the demand for uranium; and

(K) other information relevant to the consideration of restrictions on the importation of source material and special nuclear meterial from foreign sources.

(b)(1) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170B. URANIUM SUPPLY.-

"(a) The Secretary of Energy shall monitor and for the years 1983 to 1992 report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

"(b) Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18,

United States Code.

"(c) The criteria referred to in subsection a. shall also include, but not be limited to—

"(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year periods being supplied by source material or special nuclear material from foreign sources:

"(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period:

"(3) present and probable future use of the domestic market by foreign imports;

"(4) whether domestic economic reserves can supply all future needs for a future ten year period;

"(5) present and projected domestic uranium exploration expenditures and plans; "(6) present and projected employment and capital investment in the uranium in-

dustry;

"(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a ten year period; and

"(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with

respect to imports.

"(d) The Secretary of Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

"(e)(1) If, during the period 1982 to 1992, the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within under the jurisdiction of the United States represent greater than thirty-seven and one-half percent of actual or projected domestic uranium requirements for any two consecutive year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investiga-

"(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

"(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by

the Secretary of Commerce".

## TELECOMMUNICATIONS FOR THE DISABLED ACT OF 1982

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2355. The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2355) entitled "An Act to amend the Communications Act of 1934 to provide that persons with impaired hearing are ensured reasonable access to telephone service", do pass with the following amendments:

Strike out all after the enacting clause,

and insert:

That this act may be cited as the "Telecommunications for the Disabled Act of 1982".

SEC. 2. The Congress finds that-

(1) all persons should have available the best telephone service which is technologically and economically feasible;

(2) currently available technology is capable of providing telephone service to some individuals who, because of hearing impairments, require telephone reception by means of hearing aids with induction coils, or other inductive receptors;

(3) the lack of technical standards ensuring compatibility between hearing aids and telephones has prevented receipt of the best telephone service which is technologically

and economically feasible; and

(4) adoption of technical standards is required in order to ensure compatibility between telephones and hearing aids, thereby accommodating the needs of individuals with hearing impairments.

SEC. 3. Title VI of the Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end thereof the follow-

ing new section:

## "TELEPHONE SERVICE FOR THE DISABLED

"Sec. 610. (a) The Commission shall establish such regulations as are necessary to ensure reasonable access to telephone service by persons with impaired hearing.

"(b) The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term 'essential telephones' means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids.

"(c) The Commission shall establish or approve such technical standards as are re-

quired to enforce this section.

"(d) The Commission shall establish such requirements for the labeling of packaging materials for equipment as are needed to provide adequate information to consumers on the compatibility between telephones and hearing aids.

"(e) In any rulemaking to implement the provisions of this section, the Commission shall specifically consider the costs and benefits to all telephone users, including persons with and without hearing impairments. The Commission shall ensure that regulations adopted to implement this section encourage the use of currently available technology and do not discourage or impair the development of improved technology.

"(f) The Commission shall complete rulemaking actions required by this section and issue specific and detailed rules and regulations resulting therefrom within one year after the date of enactment the Telecommunications for the Disabled Act of 1982. Thereafter the Commission shall periodically review such rules and regulations. Except for coin-operated telephones and telephones provided for emergency use, the Commission may not require the retrofitting of equipment to achieve the purposes of this section.

"(g) Any common carrier or connecting carrier may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired. The State commission may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment.

"(h) The Commission shall delegate to each State commission the authority to enforce within such State compliance with the specific regulations that the Commission issues under subsections (a) and (b), conditioned upon the adoption and enforcement of such regulations by the State commission"

Amend the title so as to read: "A bill to amend the Communications Act of 1934 to provide reasonable access to telephone service for persons with impaired hearing and to enable telephone companies to accommodate persons with other physical disabilities."

 Mr. GOLDWATER. Mr. President, I am pleased that the Senate and House have agreed to enact S. 2355, a bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service.

The bill recognizes that the benefits of this access should not exceed the costs to all telephone users, and provides that new technology may not be impeded by the Commission's regulations

Under the bill, the FCC is directed to implement regulation that will insure reasonable access to telephone service for the hearing impaired. To insure such access, the FCC would require that all coin-operated public telephones provide internal means of coupling with hearing aids. The FCC would also require that other telephones-those frequently needed for use by persons using such hearing aids, and emergency phones-provide such internal means of coupling with hearing aids. The FCC would have to establish technical standards that will insure coupling compatability between telephone and hearing aids. The FCC is directed to establish regulations for the labeling of equipment packaging materials that will provide consumers with information on compatability between telephones and hearing aids.

The FCC must consider costs and benefits to all telephone users. FCC rules must encourage the use of currently available technology, and may not impair the development of new technology. Rulemaking required by this section must be completed within 1 year of enactment, and the FCC must periodically review such rules and regulations. Finally, the FCC may not require the replacement of any existing equipment, other than coinoperated public telephones and emergency telephones.

Subsection (B) of S. 2355 provides

"The Commission shall require that essential telephones provide internal means for effective use with hearing aids that are specially designed for telephone use. For purposes of this subsection, the term "essential telephones" means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids."

Mr. President, this language does not expand the Commission's jurisdiction over the telephone services provided by hotels and motels. In any event, the Congress has taken steps to insure that the Commission does not impose unwarranted or unnecessary rules upon hotels and motels or upon any other industry or individual. In subsection (E), the Commission is directed to specifically consider costs and benefits to all telephone users before it implements any rules under this act.

CORPORATION FOR PUBLIC BROADCASTING

Mr. President, this bill contains an amendment that insures that the Board of Directors of the Corporation for Public Broadcasting (CPB) retains its political balance during its reduction in size from 15 to 10 members.

Public Law 97-35 requires that the members appointed by the President to the Board of Directors at CPB be reduced from 15 to 10, and that after reduction, no political party should be represented by more than 6 members. If the reduction takes place as anticipated in Public Law 97-35, then it is possible that the Board will have eight members of the same party; thus violating the political balance requirement.

Thus, this amendment would simply cut short, by 3 years, the terms of office of two of the persons expected to take one of the existing vacancies on the Board. The terms of these two persons would expire March 1, 1984, and not March 1, 1987. This gives the President an opportunity to appoint two additional members of the minority party on March 1, 1984—leaving a 6 to 4 ratio, as required by Public Law 97-35, and not a ratio of 8 to 2.

THE COMMUNICATIONS SATELLITE ACT OF 1962
In order for the Communications

Satellite Corporation (Comsat) to meet its continuing financing requirements effectively, this amendment eliminates an outmoded provision of the Communications Satellite Act of 1962.

The second sentence of section 304(b)(2) of the act, requires that 50 percent of any new issuance of Comsat stock be reserved for purchase by other communications common carriers. This requirement was enacted when Comsat stock was not yet available on the open market. Its purpose was to insure that authorized carriers have the opportunity to purchase shares. The carriers did, in fact, purchase 50 percent of the original issue, but have since disposed of almost all

of their shares. They now own only about 7,000 shares-less than 0.1 percent—of about 8 million shares outstanding. The repeal of this provision would not prevent carriers from purchasing or owning Comsat shares; the reservation for them would simply not be there as a cloud on alienability. Authorized carriers could purchase new offerings of shares, and could purchase shares on the open market.

Comsat has now entered a period requiring additional financing for further development of its satellite programs. In the current volatile financial markets, it must be in a similar position to other companies for obtaining financing when conditions are most favorable. However, the provision in section 304(b)(2) is still in force and requires the company to set up extraordinary and cumbersome procedures for compliance.

The committee considered this matter in conjunction with hearings on S. 2469, the International Telecommunications Act of 1982—Senate Calendar No. 967—and included repeal of the provision in the bill as reported by the Commerce Committee on October 1. To my knowledge, no one has questioned the merits of repealing the provision.

Mr. CANNON. Mr. President, last spring I introduced, along with Senators Goldwater and Riegle, S. 2355, dealing with telephone service for the hearing impaired. In August, this bill was unanimously passed by the Senate.

Yesterday, the House of Representatives passed this bill by a vote of 365 to 14. The House version of this bill differs from the version the Senate passed in August in three ways:

First, the bill has been given a title: the "Telecommunications for the Disabled Act of 1982." Second, the House version includes an amendment that makes State public utility Commissions, rather than the FCC, the primary enforcement mechanism. Third, and much more importantly, the House has added a provision which states that a regulated carrier, that is, a telephone company, "may provide specialized terminal equipment needed by persons whose hearing, speech, vision, or mobility is impaired" and that State commissions "may allow the carrier to recover in its tariffs for regulated service reasonable and prudent costs not charged directly to users of such equipment." This would correct one of the unforseen consequences of the FCC's "Computer II" decision where the FCC generally told telephone companies to get out of the terminal equipment business and directed that, in the future, terminal equipment would be supplied by competitive manufacturers. If telephone companies no longer provide any terminal equipment, the question arises as to who will supply teletypewriters and other specialized equipment that telephone companies traditionally provided to handicapped individuals on a below-cost basis.

I am, of course, delighted by the House action since this legislation is supported by the administration, by the telephone and electronics industries, by State regulatory commissions, and by a wide variety of organizations representing the handicapped.

The majority proposes to use this bill as a vehicle to enact two very technical amendments of a noncontroversial nature. I have reviewed those amendments. They are purely technical and noncontroversial and I certainly have no objection.

Mr. President, I ask unanimous consent that these letters of support from the National Easter Seal Society, the American Council of the Blind, the Paralyzed Veterans of America, the American Association of Retired Persons, the National Association of the Deaf, and the Centel Corp. be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL EASTER SEAL SOCIETY, Washington, D.C., October 18, 1982. Hon. Howard W. Cannon,

U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: I am writing to express our organization's support for S. 2355, the legislation that you have introduced which would insure access to telephone service for persons with hearing impairments. We believe that your bill, as amended by the House, will result in greater access to our communications system for all citi-

The National Easter Seal Society has had a longstanding interest in the problems of with hearing impairments. During 1982, state and local Easter Seal societies will serve over 40,000 individuals with impaired hearing. As you know, one of the most frustrating aspects of hearing impairment and deafness is the inability to use the telecommunications media on which our society has become so dependent. We believe that your bill will guarantee effective use of the telephone by this group of people. Furthermore, we believe that it will provide greater access, but will not discourage the development of new technology in this area. Our organization shares your view that making the benefits of the technological revolution in telecommunications available to all Americans, including those with disabilities, should be a priority in communications policy for the Congress

We appreciate your efforts on this issue and hope that S. 2355 (as amended by the House) will be approved expeditiously by the Senate.

Sincerely,

JOSEPH D. ROMER, Director of Governmental Affairs.

AMERICAN COUNCIL OF THE BLIND. Washington, D.C., September 27, 1982. Re telecommunication for the disabled act S. 2355.

Hon, HOWARD CANNON. U.S. Senate. Washington, D.C.

DEAR SENATOR CANNON: The American Council of the Blind, the largest consumer organization of blind and visually impaired people in the United States, joins the many national and community organizations supporting S. 2355: the Telecommunications for the Disabled Act. In addition to benefiting the hearing impaired, we believe that this legislation would benefit other handicapped persons such as deaf-blind individuals who must rely on expensive specialized telephone equipment. We believe that local telephone companies should be able to subsidize the cost of this equipment and installation from the general rate base so that such individuals can more affordably use telephone equipment.

We commend your leadership in connection with this legislation and hope that the Senate will pass the bill at the earliest possible date.

Sincerely.

J. SCOTT MARSHALL Director of Governmental Affairs.

PARALYZED VETERANS OF AMERICA, Bethesda, Md., September 24, 1982. Hon. HOWARD H. CANNON, Senate Committee on Commerce, Science, and Transportation, U.S. Senate, Wash-

ington, D.C.

DEAR SENATOR CANNON: On behalf of the 11,000 members of Paralyzed Veterans of America, I want to express appreciation for your efforts and those of Senator Barry Goldwater to promote access to the tele phone communications system for individuals with physical impairments. Your recognition of the importance of improved and available communications for disabled citizens and the essential role modern communications play in assisting disabled people to achieve maximum independence is gratify-

Your legislative proposal, S. 2355, clearly addresses many problems presently facing disabled citizens regarding the acquistion and payment for specialized communications equipment. The recent Federal Communications Commission decision, Computer II, would preclude many individuals from obtaining this necessary, and ofter only means of contact with other people including vital medical and emergency personnel. Additionally, this FCC decision serves to retard technological innovations which benefit disabled people by drastically restricting their use and potential market.

Under the Computer II decision telephone companies would be prevented from subsidizing special and unique equipment which meet the needs of handicapped individuals. This not only will sever their primary means of communications but will also, in certain cases, prevent their gainful employment. This decision is unduly harsh and restrictive as it applies to devices for disabled people and presents a great hardship and peril to many of the most catastrophically disabled citizens.

Again, thank you for your recognition of this issue. If I or any member of my staff can further assist you in securing passage of this legislation, please contact us.

Sincerely yours,

R. JACK POWELL Executive Director.

AMERICAN ASSOCIATION OF RETIRED PERSONS. Washington, D.C., September 27, 1982. Hon. HOWARD W. CANNON,

U.S. Senate, Washington, D.C.

DEAR SENATOR CANNON: The American Association of Retired Persons is writing in support of S. 2355, the Telecommunications for the Disabled Act of 1982, as amended by the House which is designed to promote access to the telephone network for persons with physical impairments.

We are pleased that this legislation recognizes and begins to address the problem of telephone receiver incompatibility with hearing aid telephone pickups. The Association is concerned that incompatible telephone equipment is restricting certain individuals' access to the use of the telephonean integral part of everyday life.

Hearing impairment among the elderly is widespread disability which threatens the quality of life of our elderly by inhibiting their communication with others. The hearing aid, although not a panacea, is a rehabilitative device which provides assistance to many hearing impaired elderly. Hearing aids should serve the hearing impaired elderly in as many different situations as possible; using the telephone is one method of communication which should not be denied this population.

Nor should access to the telephone be denied to those individuals with other physical impairments who need different types of specialized telephone equipment. Therefore, as contained in section (g) of S. 2355, it is important that telephone companies be allowed and encouraged to provide that specialized telephone equipment in a manner which is affordable to those who need access to the telephone most.

The lack of access to telephone has farreaching implications in such problem areas as freedom from isolation, emergency protection, equal employment opportunities, and freedom of mobility. For example, there are elderly individuals who suffer from severe chronic conditions which restrict their mobility and cause them to be confined to their homes. For them, the telephone is an essential tool for communication. It may be the only or major means for them to have contact with others and thereby provide protection from social isolation. In an emergency situation, the telephone may be their only resource for obtaining assistance.

Again AARP supports S. 2355, the Telecommunications for the Disabled Act of 1982, as amended and urges that this legislation be acted upon favorably during this session of Congress

Sincerely.

PETER W. HUGHES. Legislatine Counsel

NATIONAL ASSOCIATION OF THE DEAF, Washington, D.C., September 27, 1982. Senator Howard W. Cannon, U.S. Senate, Washington, D.C.
DEAR SENATOR CANNON: We write to thank

you for your efforts in obtaining Senate passage of S. 2355, the Telecommunications for the Disabled Act of 1982.

This bill, which you introduced along with Senator Goldwater, was passed by the Senate on August 18, 1982. A similar version has now been approved unanimously by the House Committee on Energy and Commerce, with an amendment relating to enforcement authority, and we understand that House action is imminent.

In the form passed by the House Committee, this bill will be of great benefit to millions of hearing-impaired Americans who depend on access to our telecommunications system. Although it does not require universal compatibility of all telephone equipment with hearing aids, its provisions will allow hearing-impaired and other disabled telephone consumers to have access to essential telephone service. The bill appears to balance the needs of disabled consumers with the competing demands of the telephone industry

We thank you for your support and interest in this legislation, and we urge you to support its immediate passage by the Senate.

Very truly yours,

SARAH GEER, Staff Attorney.

CENTEL CORP.

Washington, D.C., October 14, 1982. Hon. Howard W. Cannon,

Russell Senate Office Building, Washington, D.C.

DEAR SENATOR CANNON: This letter concerns S. 2355, the Telecommunications for the Disabled Act of 1982.

As you know, Centel Corporation operates the fourth largest independent telephone system in the United States, serving 1.1 million telephones in ten states. We are also a major CATV operator and are moving into other emerging telecommunications fields to augment our business systems, communications products and related activities.

We support this legislation, which was first addressed by the Senate Commerce Committee on a bipartisan basis. We appreciated the opportunity to work with your staff in reviewing the technical problems and regulatory implications of this bill.

We believe that the bill is a responsible and balanced piece of legislation. There has always been concern among our independent telephone companies, the Bell System companies and your own staff that the many recent advances in technology be made available to all Americans. This bill addresses that concern in one very useful way. Pay telephones and a very limited number of other telephones (described as "essential telephones") can become compatible with hearing aids at minimal cost. The benefits are significant and the financial and regulatory costs are low. Once again, we appreciate your work and that of the other members of the Senate Commerce Committee in initiating and completing action on this bill.

Very truly yours,

MARTIN T. MCCUE.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendments with a further Senate amendment which I send to the desk on behalf of Senator Packwood.

## UP AMENDMENT 1534

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), on behalf of Mr. Packwood, proposes an unprinted amendment numbered 1534.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new sections:

SEC. . Subparagraph (B) of paragraph (2) of section 1225(a) of the Public Broadcasting Amendments Act of 1981 is amended to read as follows:

"(B) Notwithstanding the provisions of subsection (c) of section 396 of the Communications Act of 1934, in the case of the offices of director the terms of which expired March 1982, persons appointed to fill two of such vacancies existing as of December 13, 1982, shall be appointed for terms which shall expire on March 1, 1984 and shall not be representative of the political party having a majority of the directors of the Board on December 13, 1982. Persons appointed for a term beginning March 1, 1984, to fill the vacancies occurring in such offices the terms of which, by reason of the preceding sentence, expire on March 1, 1984, shall not be filled by persons representing the political party having a majority of the directors of the Board on March 1, 1984. Persons appointed on or after March 1, 1984, to fill vacancies in the two such offices shall be appointed for terms of five years. On March 1. 1984, there are abolished those five offices of director the terms of which, without application of the preceding provisions of this paragraph, expire on such date. In administering the provisions of this paragraph a director is a minority member of the Board if he is not a member of the political party to which the majority of the directors of the Board are members.'

SEC. . The Communications Satellite Act of 1962, as amended (47 U.S.C. 701 et seq.), is amended by deleting the second sentence of section 304(b)(2) of such Act.

The motion to concur in the House amendments with the Senate amendment (UP No. 1534) was agreed to.

## FLORIDA INDIAN LAND CLAIMS SETTLEMENT ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 7155, the Florida Indian Land Claims Settlement Act of 1982, and I ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows: A bill (H.R. 7155) to settle certain Indian land claims within the State of Florida, and for other purposes.

The Senate proceeded to consider the bill.

Mr. COHEN. Mr. President, I rise in support of H.R. 7155 and urge that the Senate act favorably upon this measure. H.R. 7155 was introduced in the House by Congressman Fascell of Florida in September 1982. A companion bill, S. 2893, was introduced in the Senate by Senator Chiles for himself and Senator Hawkins on September 10, 1982, and was referred to the Select Committee on Indian Affairs.

H.R. 7155 was reported out of the House Committee on Interior and Insular Affairs without benefit of a hearing. It was acted upon by the full House on December 6 without opposition. On December 7, the Select Committee on Indian Affairs held hearings on H.R. 7155 and received testimony from witnesses from the Department of the Interior, the State of Florida, and the Miccosukee Tribe. The legislation was supported by all of the parties and has the support of the Florida congressional delegation.

Mr. President, H.R. 7155 is the culmination of many years of hard negotiation between the State of Florida and the Miccosukee Tribe. It resolves a substantial claim of the tribe against the State of Florida for the flooding by the State of a major portion of the tribe's State-recognized reservation, as a result of a public works project to control flooding and store water in the Everglades. it also resolves a claim for the loss or taking of the Miccosukee's rights in a 5-million-acre Executive order reservation in the southern part of the State which the tribe contends was set aside by order of President Tyler in 1839. The State has never conceded that such reservation was established.

In major outline, the agreement provides for settlement funds from the State for Florida to the tribe in the amount of \$975,000; the Miccosukee State Indian Reservation and three parcels of land along the Tamiami Trail will be taken into trust by the Secretary of the Interior; and a perpetual lease to approximately 189,000 acres of Everglades land will be granted by the State. These lands will remain available for use by hunters and fishermen with some restrictions.

The "State reservation" lands will become a Federal Indian reservation. The "lease lands will be treated as a Federal reservation for purposes of eligibility for Federal programs. The State of Florida has assumed jurisdiction over the tribes in that State under the provisions of Public Law 83-280. This jurisdictional scheme is continued in effect under the provisions of section 7 and 8(b) of H.R. 7155.

At the hearing before the Select Committee on Indian Affairs on December 7, the administration recommended three technical amendments relating to time limitation for payment of funds to the tribe by the State of Florida, clarification with respect to the fund from which payment is to be made, and clarification of the status of lands to be taken into trust by the Secretary.

I would note that the Florida State Legislature has already appropriated the necessary settlement funds and payment can be made immediately. For this reason the first two technical amendments appear unnecessary. As to the status of land taken into trust, I believe the language of the bill is clear that these trust lands are to be treated in the same manner as tribal trust lands are treated under the Federal laws generally applicable to tribal trust lands, including immunity from taxation. It is my understanding that this is the intent of the parties to this agreement, and certainly it is the intent of this legislation.

Under the provisions of section 177 of title 25, United States Code, any transaction involving an Indian tribe's land, or any claim to title, is void without the consent of the United States. H.R. 7155 provides the necessary consent to two underlying agreements of the State and the tribe: A "settlement agreement" and a "lease agreement." In addition, H.R. 7155 provides certain clarification of jurisdiction and application of Federal, State, and tribal laws within the Miccosukee Reservation and lease area.

In conclusion, I would stress one point: H.R. 7155 requires the relinquishment and waiver of the Miccosukee Tribe of any further claim of the tribe against the State of Florida for past land transactions or loss of lands within that State. The Seminole Tribe of Florida has similar claims against the State of Florida which are presently in litigation or are the subject of ongoing negotiation. Nothing in this act is intended to either enhance or diminish or in any way affects the claims of the Seminole Tribe, and this is understood by all parties concerned.

Mr. President, at this time there is no printed record in either the House or the Senate of the underlying agreements we are here ratifying. For this reason I ask, unanimous consent that the "settlement agreement" and the "lease agreement" between the State of Florida and the Miccosukee Tribe be printed in full at the conclusion of these remarks.

I urge my colleagues to support this bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION

## CASE NO. 79-253-CIV-JWK

Miccosukee Tribe of Indians of Florida, Plaintiff, vs. State of Florida, et al., Defendants.

## SETTLEMENT AGREEMENT

It is hereby stipulated and agreed between the parties that the above-entitled case shall be finally settled in accordance with the terms of this Settlement Agreement (hereafter referred to as the "Agreement") and upon its approval by the Court. No appeal or review is to be sought by any of the parties. For the purpose of this Agreement, the parties shall be named and defined as follows:

Plaintiff, the Miccosukee Tribe of Indians of Florida (hereafter referred to as the ("Miccosukee Tribe") is recognized by the

State of Florida, pursuant to Chapter 285, Florida Statutes, and is an Indian tribe recognized by the United States and organized under the Indian Reorganization Act of 1934, 25 U.S.C. § 476, with a constitution and bylaws approved by the Secretary of the Interior pursuant to that Act. The Miccosukee Tribe approves this Agreement through its duly recognized and authorized Tribal Council, and its approval of this Agreement will bind the Miccosukee Tribe and any predecessor or successor in interest and all members thereof.

Defendants, the State of Florida, its agencies, political subdivisions, constitutional officers, officials of its agencies and subdivisions, and the South Florida Water Management District will be referred to hereafter in the Agreement as the "State of Florida, unless the language of this Agreement otherwise refers to a specific agency, official, or entity of the State of Florida. The State of Florida approves this Agreement through the Governor and Cabinet as the Executive Board of the Trustees of the Internal Improvement Trust Fund and as head of the Department of Natural Resources, the members of the Game and Fresh Water Fish Commission, the governing board of the South Florida Water Management District, and the Secretary of the Department Transportation, and its approval shall bind the State of Florida and its above mentioned agencies.

The term "lands or natural resources", as used in this Agreement, shall mean any real property or natural resources, or any interest in or right involving any real property or natural resource, including but not limited to minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

#### WITNESSETH

Whereas, the parties recognize that a settlement of this litigation could not have been reached unless the Agreement included an extinguishment of any and all outstanding or potential claims the Miccosukee Tribe might have against the State of Florida, which may have arisen at any time prior to the effective date of this Agreement; and

Whereas, the parties also recognize that a settlement of this litigation could not have been reached unless the Agreement included a grant of a leasehold interest in certain lands to the Miccosukee Tribe; and

Whereas, the parties further recognize that implementation of this settlement will require action by both the Congress of the United States and the Legislature of the State of Florida: and

State of Florida; and
Whereas, it is the intent of this Agreement to resolve all outstanding disputes and differences between the State of Florida and the Miccosukee Tribe, and, in particular, to extinguish all claims presently in existence or arising out of any previous actions, inactions, or duties of the State of Florida, as well as to satisfy the need of the Miccosukee Tribe for additional lands, so that the future relations between the State of Florida, its citizens and the Miccosukee Tribe will be one of harmony, cooperation, friendship and peace.

Now therefore, the Miccosukee Tribe and the State of Florida stipulate and agree as

1. Effective Date. This Agreement shall not become final and shall be without any binding force or effect until:

a. The United States Congress enacts appropriate legislation, which: (1) approves the conveyances to be made or recognized by the Miccosukee Tribe pursuant to this

Agreement; (2) provides for the extinguishment of the claims of the Miccosukee Tribe to lands or natural resources in Florida, as specified in this Agreement; (3) declares that the leasehold interest of the Miccosukee Tribe under the Lease Agreement attached hereto as Exhibit A shall be exempt from all State and local taxes; (4) confirms that the area leased to the Miccosukee Tribe pursuant to said Lease Agreement (hereafter referred to as the "Leased Area") shall qualify as if it were an Indian reservation solely for purposes of determining the eligibility of the Miccosukee Tribe and its members for any Federal health, education, employment, economic assistance, revenuesharing, law enforcement over Indians, or social welfare programs, or any other similar Federal program for which Indians are eligible because of their status as Indians and residence on an Indian reservation; and (5) provides that any diminution or taking by the State of Florida of any interest granted to the Miccosukee Tribe in the Leased Area shall be made only for a public purpose and upon payment of just compensation, and that such diminution or taking shall not require approval of the United States Congress or Federal executive officer; and

b. The State of Florida enacts appropriate legislation, which provides: (1) that the Miccosukee Tribe shall have the right to exercise within the Leased Area the same governmental jurisdiction over Indians that the Miccosukee Tribe exercises in its reservation established under the provisions of Chapter 285, Florida Statutes; Provided, however, that such jurisdiction shall not be exercised in any manner inconsistent with the limitations upon the Miccosukee Tribe's rights under the Lease Agreement; and (2) that during the term of the Lease Agreement, members of the Miccosukee Tribe shall have the right in such Leased Area and such reservation to hunt and fish for subsistence purposes and to take frogs for consumption as food and for commercial purposes without restriction as to season and without payment of any license or permit fees; Provided, however, such laws may restrict the exercise of such hunting, fishing and frogging rights in the Leased Area in order to manage game and wildlife so long as prior to placing restrictions upon subsistence hunting, fishing and frogging, the Game and Fresh Water Fish Commission shall totally restrict any taking of that particular species for non-subsistence purposes.

This Agreement shall become effective upon the effective date of the above-described Federal legislation, the effective date of the above-described State legislation, or the date of its approval by the Court, whichever last occurs.

2. Cooperation of Parties. The parties agree to cooperate fully in requesting and supporting passage by the United States Congress and the Florida Legislature of the statutes described in paragraph 1. Drafts of such legislation, which reflect the understanding and agreement of the parties, are attached hereto as Exhibits B and C, respectively. The parties agree that failure by the United States Congress to enact the first sentence in Section 8 of the attached Federal legislation (Exhibit B) shall not void the Settlement Agreement.

The parties also agree that further proceedings in this suit shall be stayed while such legislation is pending; Provided, however, that this stay shall terminate on December 31, 1982, or earlier if the Court determines that favorable action by either Con-

gress or the Legislature within a reasonable time does not seem likely

3. Commitments of the Miccosukee Tribe. The Miccosukee Tribe agrees:

a. That the South Florida Water Management District shall be entitled to exercise all rights conveyed by the Dedication from the Board of Commissioners of State Institutions of the State of Florida on August 8, 1950, and the validity of such Dedication is hereby expressly recognized by the parties

hereto: b. That the Department of Transportation shall be entitled to exercise all rights conveyed by the Board of Trustees of the Internal Improvement Trust Fund to the Department of Transportation of Florida (or between their predecessor agencies) for a perpetual easement for road right-of-way and utility purposes over that strip of land, consisting of approximately 461.17 acres, which passes through the Miccosukee Reservation, and which is within the lands described in the Alligator Alley (State Road 84) easements, recorded in 1964, as more specifically described in Exhibit D attached hereto. It is agreed, that reasonable access shall be provided the Miccosukee Tribe and its members from Alligator Alley into the Miccosukee Reservation and also across or under Alligator Alley for the purpose of connecting the portions of said reservation lying north and south of the highway; Provided, however, the Miccosukee Tribe agrees to approve conveyances of additional lands necessary for the construction of said access and connections as well as the grant of an easement along the highway for drainage purposes within said reservation, without additional monetary compensation. In exchange for the conveyances of right-of-way and easement, the Department of Transportation agrees that simultaneously with the construction of the proposed access inter-change within the Miccosukee Reservation the Department of Transportation will fill and compact an area of not less than five (5) acres at a location specified by the Tribe and acceptable to the Department, which acceptance shall not unreasonably be withheld, to an elevation of not less than seventeen (17) feet above sea level, which land shall be adjacent to and accessible from the interchange and suitable for commercial development for the use and benefit of the Tribe; Provided, however, that nothing herein shall constitute Federal, State, or local approval of such development, and further provided that the provisions of this paragraph relating to access to the Miccosukee Reservation, conveyances of additional lands and easements, and the providing of five (5) acres of fast land shall be contingent upon the completion of Alligator Alley as part of the Interstate system or other four (4) lane limited access highway. In the event that Alligator Alley is not completed, or substantially completed, as part of Interstate system or other four (4) lane limited access highway within the Miccosukee Reservation within two (2) years after the effective date of this Agreement, the Tribe shall be entitled to construct, operate and maintain commercial facilities and related improvements wholly or partially within the easement for a road right-of-way described in Exhibit D, and in case such facilities and related improvements are constructed and their removal should become necessary in order to permit the completion of Alligator Alley as part of the Interstate or other highway system, the Department of Transportation agrees to pay to the Tribe at least six (6) months before such removal an amount equal to either (1) the replacement cost of the facilities and related improve-ments without depreciation, or (2) if relocation of the facilities and related improvements can be effected, the relocation cost together with damages for the loss of business, if any, during the relocation period, whichever is less;

c. To the extinguishment of any right, title, interest, or claim the Miccosukee Tribe may now possess in any public or private lands or natural resources in Florida, excluding hunting, fishing and trapping rights conferred by State law, and other than cer-"excepted interests" consisting of: (1) the State Reservation established under the provisions of Chapter 285, Florida Statutes; (2) the lands described in Dedication Deed No. 23228, dated November 20, 1962, from the Trustees of the Internal Improvement Fund of the State of Florida, as modified on October 6, 1981; (3) rights granted the Miccosukee Tribe by special use permits issued by the Secretary of the Interior in the Everglades National Park; (4) rights recognized in the Miccosukee Tribe in the Big Cypress Preserve pursuant to 16 U.S.C. §§ 410(b) and 689(j) and in the Big Cypress Area pursuant to Section 380.055, Florida Statutes; and (5) rights granted the Miccosukee Tribe under the Lease Agreement. The Miccosukee Tribe also agrees to the extinguishment of any and all claims which the Miccosukee Tribe may have other than the foregoing "expected interests" involving lands or natural resources in the State of Florida arising at any time prior to the effective date of this Agreement; Provided, however, that nothing in this Agreement or otherwise shall be construed, as waiving or relinquishing any right, title, interest, or claim to lands or natural resources in the State of Florida based on use and occupancy or acquired under Federal or State law by any individual member of the Miccosukee Tribe or any predecessor in interest thereof. The rights, titles, interests and claims outside the "excepted interests" which are being extinguished or waived by the Miccosukee Tribe, include:

(i) any and all claims the Miccosukee Tribe might have to any public or private lands of natural resources in Florida which are based upon claims of aboriginal title;

(ii) any and all other claims the Miccosukee Tribe might have to any public or private lands or natural resources in Florida, such as claims or rights based on recognized title, including but not limited to: (1) any claims the Miccosukee Tribe might have to the whole or any part of the approximately five million (5,000,000) acres of lands allegedly set aside in Florida for use and benefit of the Seminole Indian Nation, including the Miccosukee Tribe, during the period 1839-1845, or at any other date, by Executive Order of the United States Government commonly known as the "Macomb" or Polk" Reservation Area; (2) any claim based upon the grant and withdrawal of title to the State Indian Reservation in Monroe County, specifically returned to the State of Florida by Section 285.06, Florida Statutes and (3) any claim based upon the alleged grant of a license to Seminole Indians resid-ing in Florida by the Board of Commissioners of State Institutions on April 5, 1960;

d. To the extinguishment of any and all other claims, without regard to the "except-ed interests" specified above in paragraph 3c, related to the following matters:

(i) any and all claims arising out of any alleged breach of fiduciary relationship be-tween the Miccosukee Tribe and the State

of Florida, acting in a capacity as Trustee for the Miccosukee Tribe, arising out of any actions or inactions by the State of Florida prior to the date this Agreement is executed by the parties:

(ii) any and all claims for trespass damages or use and occupancy of any lands or natural resources in the State of Florida occurring prior to the date this Agreement is executed by the parties, including but not limited to claims for compensation for any road right-of-way and toll collections for State Road 84, also known as Alligator Alley. The Miccosukee Tribe also agrees to waive any and all claims arising between the execution and the effective date of this Agreement for trespass or use and occupancy of any lands or natural resources, including claims for compensation or collection of tolls, within any road or utility right-of-way or easement in existence at the date this

Agreement is executed:

(iii) any and all other claims against the State of Florida, especially the South Florida Water Management District, or its predecessor, the Central and Southern Florida Flood Control District, arising out of any actions or inactions by the State of Florida in regulating the use, management, or storage of water, including the construction of canals and levees, at any time prior to the date this Agreement is executed by the parties. The Miccosukee Tribe also agrees to waive any and all claims arising between the execution and effective date of this Agreement for the regulation, management and use of the water flowage and storage easements of the South Florida Water Management District, pursuant to its lawful rights and authority within the easement as expressly recognized by the Miccosukee Tribe in paragraph 3a;

(iv) any and all other claims by the Miccosukee Tribe against the State of Florida related to any of the matters listed in this paragraph 3d and in paragraphs 3c (i) and (ii) or arising out of any actions or inactions whatsoever by the State of Florida, including but not limited to tort, tax, contract, or constitutional claims prior to the date this Agreement is executed by the parties

4. Commitments of the State of Florida.

The State of Florida agrees:

a. To grant the Miccosukee Tribe a perpetual leasehold interest in certain lands under the control of the State of Florida, as provided in the Lease Agreement attached hereto as Exhibit A;

b. To pay the Miccosukee Tribe the sum of nine hundred seventy-five thousand dollars (\$975,000);

c. To carry out its commitments under

paragraph 3b; and

d. To waive any and all claims for offsets, including but not limited to tort or contract claims, which were or could have been as-serted against the Miccosukee Tribe by the Department of Transportation, the South Florida Water Management District, or the Trustees of the Internal Improvement Trust Fund prior to the date this Agreement is executed by the parties.

5. Condition for Invalidating Settlement. The parties understand and agree that the grant to the Miccosukee Tribe of the Lease Agreement attached hereto as Exhibit A is a vital element of the settlement for the Miccosukee Tribe. This Agreement, therefore, shall no longer have any binding force and effect if at any time, the Lease Agreement or any essential provision thereof which materially benefits the Miccosukee Tribe is ju-

dicially determined to be void ab initio by a court of competent jurisdiction or is admin-

stratively determined to be void or otherwise invalid by any officer of the State of Florida having authority to make that determination. In either of such event, the Miccosukee Tribe shall have the right to reinstate this litigation within a reasonable time—which period shall be defined for purposes of this Agreement as six (6) months after the Miccosukee Tribe receives written notice of such determination-and, if the suit is reinstated within that time, the parties agree that no defense, such as laches, statute of limitations, law of the case, res judicata, or prior disposition shall be asserted solely on the basis of the passage of time between the dismissal of this suit and commencement of the resumed litigation; Provided, however, that if any such suit is reinstated, the Miccosukee Tribe agrees that any defense which would have been available to the State of Florida at the time this suit was dismissed may be asserted, and is not waived by anything in this Agreement or by subsequent events occurring between the dismissal of this suit and commencement of the resumed litigation. Any taking by the State of Florida for a public purpose of interests granted to the Miccosukee Tribe in the Lease Agreement shall not be construed as voiding this Agreement.

If the Miccosukee Tribe reinstitutes suit, the State of Florida shall be able to offset or counterclaim for all compensation and the value of other benefits received by the Tribe under the Settlement and Lease Agreements and the Miccosukee Tribe shall be able to offset our counterclaim for all benefits received by the State. As an alternative to rescission and the reinstitution of litigation pursuant to this paragraph 5, the Miccosukee Tribe shall have whatever reme-

dies are provided by law.

## EXHIBIT A LEASE AGREEMENT

Whereas, the Governor and Cabinet as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (hereafter the "Board") are authorized and empowered, pursuant to Section 253.03, Florida Statutes, to lease lands owned by the Board; and

Whereas, the Florida Game and Fresh Water Fish Commission (hereinafter the "Commission") under the Constitution and laws of the State of Florida has general supervision of fresh water aquatic life and wild animal life management within the

State of Florida; and

Whereas, pursuant to Chapter 373, Florida Statutes, the South Florida Water Man-District (hereafter agement formerly "SFWMD"), the Central and Southern Florida Flood Control District, has the statutory responsibility for flood control and water resources management in the lands described in paragraph 1 hereof and has acquired rights by virtue of easements of said lands from the State of Florida: and is authorized and empowered to lease lands owned by the SFWMD: and

Whereas, pursuant to a certain Agreement, dated January 18, 1952, between the Commission and the Governing Board of the SFWMD, the Commission has further undertaken the fresh water aquatic life, wild animal life and recreation management within geographical areas including Water Conservation Area 3A lying in Broward and

Dade Counties, Florida; and

Whereas, the Miccosukee Tribe of Indians of Florida (hereafter the "Miccosukee Tribe" or the "Tribe") is an American Indian tribe recognized by the United States, and the State of Florida pursuant to Chapter 285, Florida Statutes, and organized pursuant to the provisions of Section 16 of the Federal Indian Reorganization Act, 25 U.S.C. § 476; and

Whereas, a portion of the reservation of the Miccosukee Tribe created under Chapter 285, Florida Statutes, lies within the geographical boundaries of Water Conservation Area 3A, which portion contains approximately 49,280 acres and is delineated in red on the map attached hereto as Exhibit I (such portion being hereafter described as the "Original Reservation Tract"); and

Whereas, the Commission has for a substantial period of time engaged in fresh water aquatic life and wildlife management within the Original Reservation Tract and relations between the Commission and the Miccosukee Tribe with respect to fresh water aquatic life and wild animal life management within such tract have been both

amicable and successful; and

Whereas, the Board of Commissioners of State Institutions, on April 5, 1960, purported to set aside approximately 143,000 acres in Dade and Broward Counties as a license area for the use, occupancy and enjoyment of the Seminole Indians residing in Florida, including members of the Miccosukee Tribe, subject to certain conditions and limitations; and

Whereas, the Attorney General of the State of Florida has advised the Board that certain aspects of the action taken on April 5, 1960, described above need clarification due to incomplete documentation thereof and that the respective rights of the State and the Indians in the license area should be more precisely defined in the interest of

both parties; and

Whereas, the Board, the Commission, the SFWMD and the Miccosukee Tribe desire to describe more particularly their mutual rights and duties within a tract of lands in Dade and Broward Counties, as further described in paragraph 1 (hereafter the "Leased Area"), and, in part, also within the Original Reservation Tract, and to act cooperatively to protect, conserve and manage fresh water aquatic life and wildlife and manage and control recreational resources within the Original Reservation Tract and the Leased Area; and

Whereas, the Board, the Commission, the SFWMD and the Miccosukee Tribe further desire to continue and expand these cooper-

ative efforts in the future; and

Whereas, the parties intend to preserve the integrity of the State School Fund of Florida, recognizing that portions of the foregoing properties are "Section 16 Lands" whose income and principal shall be used only in accordance with Article IX, Section 6, Florida Constitution; and

Whereas, the Miccosukee Tribe has requested assurance that its rights shall not be subject to unilateral revocation by the State so that members of the Tribe and their descendants may be assured of the continued use of their traditional homeland:

and

Whereas, the SFWMD and the Board have agreed to lease the Leased Area to the Miccosukee Tribe for the uses and benefits established by this Agreement, and in settlement, inter alia, of claims asserted by the Tribe in Miccosukee Tribe of Indians of Florida v. State of Florida, et al., Case No. 79-253-Civ-JWK in the United States District Court for the Southern District of Florida; and

Whereas, the following agencies have title to all or part of the lands described in paragraph 1 or such lands are under their jurisdiction, management and control:

(i) The South Florida Water Management District, and

(ii) The Trustees of the Internal Improvement Trust Fund of the State of Florida;
Whereas, the Miccosukee Tribe has

whereas, the Miccosukee Tribe has agreed to accept the terms and conditions of this Agreement by executing same.

Now, therefore, in consideration of their mutual promises and for other good and valuable consideration, the parties hereto agree.

1. The Board, with the concurrence of the SFWMD, and the SFWMD grant to the Miccosukee Tribe a perpetual lease of the following described lands constituting the Leased Area as depicted on Exhibit 1 for the uses and purposes hereafter stated:

All those lands lying within the following

described area:

Begin at the intersection of the Westerly right of way line of South Florida Water Management District's Levee 67A (Drawing Number L-67A-1) and the Northerly right of way line of South Florida Water Management District's Levee 29 Section 2 (Drawing Number L-29-1);

Thence, Westerly along the Northerly right of way line of said Levee 29 Section 2 and Northwesterly along the Northerly right of way line of South Florida Water Management District's Levee 29 Section 1 (Drawing Number L-29-3) to the intersection thereof with the Easterly right of way line of South Florida Water Management District's Levee 28 (Drawing Number L-28-1).

Thence, Northerly along said right of way line to the intersection thereof with the North line of Section 29, Township 53 South, Range 35 East;

Thence, Easterly along the North line of said Section 29 to the Northwest (NW) corner of Section 28, Township 53 South, Range 35 East:

Thence, Southerly along the West line of Sections 28 and 33, Township 53 South, Range 35 East to the Southwest (SW) corner of said Section 33;

Thence, Easterly along the South line of Sections 33, 34, 35, and 36, Township 53 South, Range 35 East to the Southeast (SE) corner of said Section 36;

Thence, Northerly along the East line of Sections 36, 25, 24, 13, 12 and 1, Township 53 South, Range 35 East, and the East line of Sections 36 and 25, Township 52 South, Range 35 East to the Northeast (NE) corner of said Section 25;

Thence, Westerly along the North line of Sections 25, 26, 27 and 28, Township 52 South, Range 35 East to the intersection thereof with the East right of way line of South Florida Water Management District's Levee 28 (Drawing Number L-28-1);

Thence, Northerly along said right of way line to the intersection thereof with the Dade/Broward County line; said line also being the township line between Townships 51 South and 52 South and the Southerly boundary line of the Miccosukee Indian Reservation:

Thence, Easterly along said county line to the Southwest (SW) corner of Township 51 South, Range 36 East;

Thence, Northerly along the range line between Ranges 35 East and 36 East to the intersection thereof with the Southerly right of way line of State Road 838 (Alligator Alley or Everglades Parkway);

Thence, Easterly along said right of way line to the intersection thereof with a line that is 200 feet Westerly of, parallel and as measured at right angles to the centerline of South Florida Water Management District's Canal 123;

Thence, Southeasterly along said line to the intersection thereof with the North line of Section 3, Township 50 South, Range 37 East;

Thence, Westerly along the North line of Sections 3, 4 and 5, Township 50 South, Range 37 East to the Northwest (NW) corner of said Section 5;

Thence, Southerly along the West line of said Section 5 to the Southwest (SW) corner of said Section 5:

Thence, Easterly along the South line of said Section 5 to the Northwest (NW) corner of Section 9, Township 50 South, Range 37 East;

Thence, Southerly along the West line of said Section 9 to the Southwest (SW) corner of said Section 9;

Thence, Easterly along the South line of said Section 9 to the Northwest (NW) corner of Section 15, Township 50 South, Range 37 East;

Thence, Southerly along the West line of said Section 15 to the Southwest (SW) corner of said Section 15;

Thence, Easterly along the South line of said Section 15 to the Northwest (NW) corner of Section 23, Township 50 South, Range 37 East;

Thence, Southerly along the West line of said Section 23 to the Southwest (SW) corner of said Section 23;

Thence, Easterly along the South line of said Section 23 to the Northwest (NW) corner of Section 25, Township 50 South, Range 37 East:

Thence, South along the West line of Sections 25 and 36, Township 50 South, Range 37 East to the Southwest (SW) corner of said Section 36:

Thence, Easterly along the South line of said Section 36 to the Southeast (SE) corner of said Section 36:

Thence, Northerly along the East line of Sections 36 and 25, Township 50 South, Range 37 East to the intersection thereof with the North line of the South one-half (S ½) of Section 30, Township 50 South, Range 38 East;

Thence, Easterly along said line to the intersection thereof with a line that is 200 feet Westerly of, parallel and as measured at right angles to the centerline of Miami Canal:

Thence, Southeasterly along said line to the intersection thereof with the North line of the South one-half (S ½) of Section 10, Township 51 South, Range 38 East;

Thence, Westerly along the North line of the South one-half (S ½) of Sections 10, 9, 8 and 7, Township 51 South, Range 38 East to the Northwest (NW) corner of the South one-half (S ½) of said Section 7:

one-half (S ½) of said Section 7;
Thence, Southerly along the West line of Sections 7, 18, 19 and 30, Township 51 South, Range 38 East to the Southwest (SW) corner of the North one-half (N ½) of said Section 30, Thence Easterly along the South line of the North one-half (N ½) of Sections 30, 29 and 28, Township 51 South, Range 38 East to the intersection thereof with the Northwesterly right of way line of said Levee 67A;

Thence, Southwesterly along said right of way line to the intersection thereof with the North line of Section 24, Township 52 South, Range 37 East;

Thence, Westerly along the North line of Sections 24, 23, 22, 21, 20 and 19, Township 52 South, Range 37 East to the Northwest (NW) corner of said Section 19;

Thence, Southerly along the West line of Sections 19, 30 and 31, Township 52 South, Range 37 East to the Southwest (SW) corner of said Section 31:

Thence, Easterly along the South line of Sections 31, 32, 33 and 34, Township 52 South, Range 37 East to the intersection thereof with the Northwesterly right of way line of said Levee 67A;

Thence, Southwesterly and Southerly along said right of way line to the point of beginning:

Also, the following described parcels of land: The West one-half of the Southwest one-quarter (W ½ of SW ¼) of Section 27 and the East one-half of the Northeast one-quarter (E ½ of NE ¼) of Section 36, all in Township 52 South, Range 35 East;

The Southwest one-quarter of the Southeast one-quarter of the Northeast one-quarter (SW ¼ of SE ¼ of NE ¼) and the West one-half of the Southwest one-quarter (W 1/2 of SW 4) of Section 3: the East one-half of the Northwest one-quarter (E 1/2 of NW 1/4) of Section 11; the Northeast one-quarter of the Northeast one-quarter (NE ¼ of NE ¼) of Section 12; all of Section 16; the West one-half of the Northwest one-quarter (W 1/2 of NW 4) of Section 22; the West one-half of the Northwest one-quarter (W 1/2 of NW 4) of Section 24; the West one-half of the Northeast one-quarter (W 1/2 of NE 1/4) of Section 26; The East one-half of the North-west one-quarter (E ½ of NW ¼) of Section 33; all being in Township 53 South, Range 35 East

Less, however, the following Tracts of The Everglades Land Company's Subdivision, as recorded in Plat Book 2, Page 1, Dade County, Florida, public records:

Tracts 111 and 112 in Section 29, and Tracts 57 and 58 in Section 31, all in Township 50 South, Range 38 East;

Tracts 79 and 80, and Tracts 109 through 112 in Section 3, Tracts 11 through 14 in Section 4, and Tracts 33 and 64 in Section 32, all in Township 51 South, Range 38 East;

Tract 56 in Section 5, and Tracts 3, 4, 45, 46, 51, 52, 57, and 58 in Section 7, all in Township 52 South, Range 38 East.

Also, less the North seven-eights of the East one-quarter (N % of %) of Section 16, Township 54 South, Range 36 East.

The above described parcels of land, being situated in Broward County and Dade County, Florida, were estimated to contain approximately 189,000 Acres.

The Board, the Commission and the District represent and the Tribe acknowledges that access to certain parcels of Board-owned or District-owned lands within the Leased Area may be severed by lands title to which is not vested in whole or in part in the Board or the District. The Tribe agrees that the Board, the Commission and the District shall not be responsible for perfecting or guaranteeing access across lands not owned by the Board or the District located outside the Leased Area.

2. Fresh Water Aquatic Life and Wildlife Management. The Commission shall continue freshwater aquatic life and wildlife management programs within the Leased Area and the Original Reservation Tract. The Commission shall discuss and coordinate with the Miccosukee Tribe in developing freshwater aquatic life and wildlife management practices within the Leased Area and the Original Reservation Tract, and the Commission and the Miccosukee Tribe shall cooperate in the enforcement of the regulations of the Commission. Representatives of the Commission, the SFWMD and the Miccosukee Tribe shall meet at least annually

(more frequently, if necessary or requested) to discuss regulations of the Commission with respect to hunting, fishing and public recreational utilization of the Leased Area. Nothing in this Lease Agreement shall grant to the general public any right of access to, or use of, the Original Reservation Tract for hunting, fishing, recreation, or any other purpose.

The activities of the Commission in freshwater aquatic life and wildlife management practices shall not interfere with or close any part of the leased Area to any tribal use or activity, including hunting, fishing and frogging, except as provided in this para-graph. The Commission may restrict hunting, fishing, or frogging within the Leased Area when necessary in order properly to manage freshwater aquatic life and wildlife; Provided, That no such restriction shall be greater than the restrictions imposed in surrounding areas. In addition, before any such restrictions are enacted, the Commission shall consult with and discuss same with the Miccosukee Tribe. If the Commission deems it necessary to place restrictions upon the Tribe's right to hunt, fish, or frog for subsistence purposes, it will do so only after a total restriction for the taking of a particular species has been placed upon all nonsubsistence users and the need for further restriction on the taking of that species continues to exist.

3. Rights of the Miccosukee Tribe. The Miccosukee Tribe shall have the following rights:

a. Subject to the provisions of paragraph 2 of this Lease Agreement and the approval of appropriate legislation to such effect by the Florida Legislature as required in the Settlement Agreement described in paragraph 8 below, the members of the Miccosukee Tribe shall have the right during the term of this Lease Agreement to hunt and fish for subsistence purposes and to take frogs for consumption as food and for commercial purposes without restriction as to season in the Leased Area and the Miccosukee Reservation and shall not be required to purchase any license or permit from the Commission in order to exercise such rights.

In addition, the Miccosukee Tribe shall be compensated by the Commission for public hunting and fishing on the Leased Area in accordance with the formula used statewide by the Commission to determine compensation to private owners for the right to manage wild animal life and for public hunting and fishing on private lands. The Miccosukee Tribe shall have the option of accepting the annual cash amount derived from the public use payment or directing the Commission to provide other goods and services which are within the authority of the Commission and which are agreed to be of equal monetary value by both parties.

b. The Miccosukee Tribe and its members shall have the right to engage in traditional subsistence agricultural activities in the Leased Area. It is understood that revenueproducing agricultural activities on the Leased Area at this time are inconsistent with the proper use of the area as a water flowage and storage area by the SFWMD. However, should conditions change, the may seek permission from SFWMD to engage in revenue-producing agricultural activities if such activities will not interfere with the rights and uses of the SFWMD. Approval by the SFWMD shall be pursuant to the permit procedures applicable to any private citizen.

c. The Miccosukee Tribe, and members of the Miccosukee Tribe under regulations the Tribe may adopt, shall have the right: (1) to reside in the Leased Area, including the construction of traditional homes, subject to the provisions of paragraph 6; (2) to use the Leased Area for tribal religious purposes; and (3) to take and use native materials from the Leased Area for tribal purposes, fabrication into artifacts, utensils, handicrafts and/or souvenirs for sale, subject to the provisions of subparagraph 3e below.

The Miccosukee Tribe shall have the right to receive fifty percent (50%) of the net revenue derived from such sale, lease, exploration, or other revenue-producing utilization of the mineral rights and interests in the Leased Area as may be allowed by the Board (except for the revenue derived from school lands pursuant to Article IX, Section 6, Florida Constitution), and the further right to require that any such mineral exploration, extraction, or other development and utilization be performed in accordance with any reasonable and acceptable method and technology which best protects the natural state and beauty of the Leased Area and which is least disruptive of the tribal uses permitted by this Agreement. The "Section 16" lands subject to the provisions of Article IX, Section 6, Florida Constitution, are identified as follows:

Township 52 South, Range 35 East: All of Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23 and 24.

All of Sections 4, 9, 16 and 21 East of the Easterly Right-of-Way of Levee 28.

Township 50 South, Range 36 East: All of Section 16. Township 51 South, Range 36 East:

All of Section 16. Township 52 South, Range 36 East:

Township 52 South, Range 36 East: All of Sections 6, 7, 16, 18, and 19. Township 53 South, Range 36 East: All of Section 16.

Township 50 South, Range 37 East: All of Section 16.

Township 53 South, Range 37 East: All of Section 16 West of the Westerly Right-of-Way of Levee 67A.

Totaling 14,800 acres, more or less.
e. The purpose of this Agreement is also:
(1) to preserve the Leased Area in its natural state for the use and enjoyment of the Miccosukee Tribe and the general public, as herein specified; (2) to preserve fresh water aquatic life, wildlife, and their habitat; and (3) to assure proper management of water

resources.

4. Revenue-Producing Services and Facilities. The Board, the Commission and the SFWMD agree not to erect or permit construction on lands which they own of any revenue-producing facilities within the Leased Area or within one-half mile of the Leased Area and the Original Reservation Tract without the prior written consent of the Miccosukee Tribe. The Miccosukee Tribe, or individual Indians licensed by the Miccosukee Tribe, shall have the ex-clusive right to offer airboat rides, guide services, or other tourist services, in the Leased Area. None of these exclusive rights shall prohibit reasonable entry into the Leased Area by airboat or otherwise by members of the public for the purpose of engaging in non-commercial recreational activities; provided that such activities shall be in compliance with the provisions of this Lease Agreement and shall not interfere with the rights guaranteed to the Miccosukee Tribe and its members herein; and provided further that entry into the Leased Area by members of the public engaged in commercial recreational activities shall be subject to the consent of the Miccosukee Tribe, except commercial recreational activities ongoing upon the effective date of this Lease Agreement and registered with the Game and Fresh Water Fish Commission within one (1) year of the effective date hereof, which shall be permitted to continue at the option of the Commission and if not in conflict with the rights of the Tribe and its members under this Lease Agreement. Commercial recreational activities ongoing upon the effective date of this Lease Agreement shall be defined as those recreational activities for profit which are occurring no less frequently than once each month or twelve (12) times for the twelve (12) month period preceding the effective date hereof.

5. Limitations on Tribal Use. Subject to the provisions of paragraph 6, use of the Leased Area by the Miccosukee Tribe shall comply with all applicable laws and regulations in effect on the effective date of this Lease Agreement (including but not limited to Chapter 373, Florida Statutes), with the lawfully enacted rules and regulations of the SFWMD, both presently existing and those which may be promulgated in the future, and with all future laws and regulations not inconsistent with the rights granted the Miccosukee Tribe under this Lease Agreement. The Miccosukee Tribe shall possess no exclusive or private rights of access to and from Alligator Alley in the Leased Area, and highway access by the Tribe shall be subject to regulation by the State of Florida and the United States.

6. Rights of South Florida Water Management District. The Leased Area has for many years comprised a portion of a large reservoir utilized for the flowage and storage of water servicing the area of Broward, Dade, Monroe and Collier Counties and designated as Water Conservation Area 3 as part of the federally authorized project of flood control and water management for central and southern Florida. The Commission and the Miccosukee Tribe agree that all of the rights set forth in paragraphs 1 through 5 and 7 are subject to and shall not interfere with the rights, duties and obliga-tions of the SFWMD or the United States Army Corps of Engineers, pursuant to the requirements of the aforesaid federally authorized project, conveyances, easements, grants, rules, statutes, or any other present or future lawful authority to manage, regulate, raise, or lower the water levels within the Leased Area or Water Conservation Area 3, including but not limited to the Dedication from the Board of Commissioners of State Institutions of the State of Florida dated August 8, 1950.

7. Limitations on Access. The Miccosukee Tribe shall have the right to survey and mark the boundaries of the Leased Area; Provided that such boundary markers shall consist of small monuments and shall in no way limit access to the Leased Area. Upon prior written approval of the Commission, the Miccosukee Tribe shall have the right to close to public access certain areas of the Leased Area used for traditional dwelling, agricultural and religious purposes. Employees or agents of the Board, the SFWMD, the Corps of Engineers and the Commission, in the performance of their official duties, shall be exempt from any limitation on access to the Leased Area. Such Board, SFWMD, Commission and Corps of Engineers' employees or agents shall likewise be exempt from the duty to pay any fees which may be imposed under this Agreement.

The right of the public access to the Leased Area shall be regulated by the Commission and shall be limited to recreational uses, including but not limited to hunting, fishing, hiking and bird watching. Such public recreational uses shall be subject to the rights expressly granted to the Tribe by this Agreement. The Miccosukee Tribe shall retain the right to exercise remedies authorized by law against trespassers.

8. Duration. This Lease Agreement shall become effective upon the effective date of a Settlement Agreement between the Miccosukee Tribe and the State of Florida, filed with and approved by the Court, in Miccosukee Tribe of Indians of Florida v. State of Florida, et al., Case No. 79-253-Civ-JWK in the United States District Court for the Southern District of Florida. The Miccosukee Tribe shall have no rights or interests to the Leased Area other than those expressly stated herein and in such Settlement Agreement. It is understood that the Board and the SFWMD shall retain their respective ownership of the Leased Area for all purposes including but not limited to oil, gas, water and mineral exploration and extraction, subject to provisions of paragraph 3d. The Lease Agreement shall not be terminated by the Board or the SFWMD without consent of the Miccosukee Tribe, or with respect to any portion of the Leased Area, unless for a public purpose upon payment of just compensation to the Tribe for the termination of the rights granted herein. The rights and privileges conferred upon the Miccosukee Tribe shall remain in perpetuity unless abandoned by the Tribe, but the rights and privileges granted to the Tribe by this Agreement shall not be assigned or subleased without the express permission of the Board.

9. Revocation of License. This Lease Agreement supersedes and replaces any rights, privileges, or interests the Miccosukee Tribe and its members may have possessed in the license area by reason of the action of the Board of Commissioners of State Institutions on April 5, 1960.

10. Rights of Other Indians in Lease. The Miccosukee Tribe recognizes and agrees that persons of Miccosukee Indian blood, who are not now members of the Tribe but are eligible for membership, may become entitled to share in the rights and interests granted to tribal members under this Lease Agreement pursuant to claims filed under section 5.(b)(4) of the "Florida Indian Claims Settlement Act of 1982" attached as Exhibit B to the Settlement Agreement described in paragraph 8 of this Lease Agreement.

In witness whereof, the Governor and Cabinet as the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida and the Chairman of the Governing Board of the South Florida Water Management District have executed the foregoing Lease Agreement and the Florida Game and Fresh Water Fish Commission, and the Miccosukee Tribe of Indians of Florida have caused the approval of the foregoing Lease Agreement to be executed by their respective officers thereunto duly authorized.

Mrs. HAWKINS. Mr. President, I rise in support of the Florida Indian Land Claims Settlement Act. This legislation represents the culmination of over 7 years of negotiation among the State of Florida, the Miccosukee Tribe of Indians, and the Federal Government. What this legislation does, simply, is to ratify an agreement reached by the State of Florida and

the Miccosukee Tribe that settles a pending land claim the tribe has filed against the State. There is a great sense of urgency in this matter. Unless the measure becomes law before December 31, 1982, the settlement agreement—and all the benefits to both the State and the tribe—will become null and void.

I would like to thank Senator COHEN for his cooperation in this matter, his assistance in moving the legislation through his committee, and his help in securing timely action by bringing this bill to the floor. Once again, Senator Cohen has demonstrated his interest and sincere commitment to carrying out the charge of the Select Committee and resolving the many outstanding Indian land claims with equity and justice. I also want to thank Senator Gorton for his help in moving this legislation through and for considering it during hearings held earlier in this special session.

I want to make it clear that although the Florida Indian Land Claims Settlement Act has moved quickly, it has been, nevertheless, carefully conceived and constructed. Essentially, the Miccosukee Tribe will, for the first time, have a federally recognized home. The home consists of a new 76,000-acre Federal Indian reservation as well as an adjoining 189,000 acres held in perpetual lease for the tribe by the State. Florida's non-Indian people will continue to enjoy the rights to hunt and fish in the leased area, and the State of Florida will maintain authority and responsibility for flood control activities in the area.

Another important benefit of this settlement is the provision to preserve almost all the Everglades land involved in its natural state. The Miccosukee have emphasized their desire to pursue their traditional lifestyle on this land and to share its use with the non-Indian people of Florida. The State has emphasized the importance of protecting these wetlands as well. People familiar with Florida are well aware of how important this region is to the water supply of the southern portion of our State. Although the primary reason for enacting this bill is to provide equitably for the Miccosukee people, we should not overlook how important the protection of the Everglades is to the entire population of south Florida.

We are all aware that this is a time to very carefully control Federal expenditures. This measure does not include any new budget authority and does not require any Federal expenditures to compensate the tribe. In fact, the administration gave this measure its support during the hearings on December 7.

In sum, Mr. President, this measure ratifies an agreement that is well considered and fairly constructed. It

brings to a close the long dispute between the State of Florida and the Miccosukee people. It opens a new era of cooperation between the tribe and the State that should significantly benefit all Floridians. And it does this at no cost to the Federal Government. It is my hope the Senate will accept this measure. I urge my colleagues to support this bill.

Mr. CHILES. Mr. President, I want to voice my strong support of H.R. 7155, a bill designed to settle certain Indian land claims within the State of Florida. H.R. 7155 is the House companion to S. 2893, the bill Senator HAWKINS and I introduced at the request of the Miccosukee Indian Tribe and the State of Florida.

I wish to thank the Senator from Maine for his superb handling of the Miccosukee Indian Land Claims Settlement Act. I also want to thank the Senator from Washington for conducting the hearing on S. 2893 and express my gratitude to the staff of the Select

Committee on Indian Affairs for their cooperation and assistance.

Like most bills, this legislation is the end product of considerable work and effort by the affected parties. The Miccosukee land claims involve over 20 years of negotiation and over 150 years of history. The Miccosukee Tribe are descendants of the Seminole Nation which occupied all of Florida when the United States acquired it from Spain in 1819. Relations between the Miccosukee and the United States began formally with a treaty in 1823. Those relations deteriorated when the Armed Forces of the United States drove the Miccosukee Indians from their home in northern central Florida to the Everglades country of south Florida where they now live. Many years later, Presidents Tyler and Polk established a 5-million-acre Indian reservation by Executive order in southwest Florida, which now includes the cities of Naples and Fort Myers. Until the 20th century, the Indians were left undisturbed in the unsettled Everglades almost entirely unaffected by the white man. The State of Florida set aside a portion of the Everglades as a reservation for them in 1917. The State reservation, however, was abolished in 1935 to make way for the Everglades National Park. Another State reservation was provided but the Miccosukees understandably did not want to leave their traditional homeland. They did not leave, and in 1964 the National Park Service agreed to let them live in a strip 500 feet wide at the northern edge of the park and the State agreed to let them live temporarily on State-owned lands north of the park. These State lands are involved in the present settlement. Since before 1960 the tribe has negotiated with the State of Florida for the right to permanently occupy State lands. A settlement agreeable to both the tribe and the State was reached in 1978 but the Governor asked the Miccosukees to waive any legal claims they had against the State of Florida. The Miccosukees discovered that the Executive order issued by Presidents Tyler and Polk gave them a land claim. They also had a claim based on the flooding of more than half of the State Miccosukee Reservation without the permission of the tribe. Further negotiations took place and a final settlement was approved by the Governor and the cabinet of the State of Florida on October 6, 1981, by the Miccosukee Tribe on March 8, 1982 and was approved by the U.S. District Court for the Southern District of Florida in which the suit by the tribe is pending, on July 2, 1982.

The Florida Indian Land Claims Settlement Act authorizes no Federal expenditure in settlement of the tribe's claims. The monetary compensation to be paid to the tribe under the terms of the settlement will be paid entirely by the State. Nevertheless, Federal approval of the settlement as provided in the bill is necessary for three reasons:

First, in the settlement agreement the Miccosukee Tribe waives all its existing claims against the State. In view of the existing Federal legislation which prohibits conveyances of land by Indian tribes without Federal approval (25 U.S.C. S177), the State has wisely insisted that the tribe's waiver of claims should be confirmed by the Congress.

Second, the Miccosukee Tribe requested as a condition to the settlement that an existing Miccosukee State Indian Reservation be conveyed by the State to the Federal Government to be held in trust for the benefit of the Miccosukees. The Florida cabinet has approved this conveyance and the bill provides for the acceptance of these lands by the Secretary of the Interior as a Federal Indian reservation. Third, finally, the settlement agreement provides to the tribe approximately 189,000 acres of Ever-glades land under a perpetual lease. These lands and waters will be preserved in their natural state and will be available for public recreational use but the Miccosukee Indians will be guaranteed permanent rights to live, hunt, and fish in the area, which has been their traditional homeland for more than a century. While the legal title to the leased area will be held by the State, the State has agreed that the area may be treated for certain purposes as a Federal Indian reservation. The bill implements this agreement of the parties.

The terms of this agreement will terminate unless congressional approval is given by December 31, 1982.

I want to congratulate the State of Florida and the Miccosukee Indian Tribe for reaching this settlement after so many years of negotiation. I also compliment them for settling this matter without burden on the Federal Government or its budget. The State of Florida has recognized its obligation to the Miccosukee Indians, the Miccosukee tribal leaders have recognized their obligation to their people, the House of Representatives has recognized its obligation by passing the bill before us and I hope the Senate will feel the same sense of obligation to finalize this settlement to provide a permanent home for the Miccosukee Indians. I urge the Senate to pass H.R. 7155 so this bill can be sent to the President for his signature before the end of the year.
The PRESIDING OFFICER. The

bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading and

passage of the bill.

The bill (H.R. 7155) was ordered to a third reading, was read the third time, and passed.

## SYCUAND BAND OF INDIANS TRUST LAND ACT

Mr. STEVENS, Mr. President, I ask unanimous consent that the Committee on Indian Affairs be discharged from further consideration of H.R. 5204, Sycuand Band of Indians Trust Land Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows: A bill (H.R. 5204) to authorize and direct the Secretary of the Interior to accept certain lands for the benefit of the Sycuand Band of Mission Indians.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill

The bill (H.R. 5204) was ordered to a third reading, was read the third time, and passed.

## COW CREEK RESTORATION AND RECOGNITION ACT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Indian Affairs Committee by discharged from further donsideration of H.R. 6588, Cow Creek Restoration and Recognition Act, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title

The legislative clerk read as follows: A bill (H.R. 6588) to provide for Federal recognition of the Cow Creek Band of Umpqua Tribe of Indians.

The Senate proceeded to consider the bill.

Mr. HATFIELD. Mr. President, a resourceful, proud band of Indians in

Canyonville, Oreg., have waited patiently for the Senate to do what it is about to do today. In 1954, Congress passed the Western Oregon Termination Act and stripped the Cow Creeks and 61 other tribes of Federal recognition. By passing H.R. 6588, the Members of the body will right a wrong done over 28 years ago to the Cow Creek Band of Umpqua Tribe of Indians. No longer will the Cow Creek Indians be second-class native American citizens and no longer will the Cow Creek Indians be denied the whole panoply of Indian programs ranging from health services to educational benefits.

Mr. President, one of the most impressive aspects of the Cow Creek's attempt to gain Federal recognition is the extent to which the local communities who live and work with Cow Creeks have rallied behind the tribe. I have received letters from merchants in Roseburg, Myrtle Creek, and Canyonville, and have heard from church and civic leaders in those same cities, as well as in Riddle and Glendale, Oreg. All of these letters attest to the wonderful character of the Cow Creek Tribe. The Governor of the State of Oregon, Victor Atiyeh, has also expressed his support of H.R. 6588.

In fact, I have yet to receive one negative letter concerning the Cow Creeks, and judging from the representatives of the tribe who came to Washington, this is no surprise. I would like to thank Senator COHEN and his staff on the Select Committee on Indian Affairs for their diligence and competence. Congressman Jim Weaver is also to be commended for having his bill on the Cow Creeks, H.R. 6588, passed in the House on December 7. Notwithstanding these contributions, the credit for the passage of H.R. 6588 rests with the Cow Creek Indians. They are to be congratulated for their tireless efforts and perseverance during the difficult times that followed the Termination Act in 1954. Justice has been done, and for the Cow Creek Indians, it finally has come in the form of Federal recognition.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the

The bill (H.R. 6588) was ordered to a third reading, was read the third time, and passed.

## INTERGOVERNMENTAL RELA-TIONS ADVISORY COMMISSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 7173, Intergovernmental Relations Advisory Commission, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7173) to make certain changes in the membership and operations of the Advisory Commission on Intergovernmental Relations

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, there is no objection to the immediate consideration of the measure. Mr. STEVENS. I thank the Senator.

#### UP AMENDMENT NO. 1535

Mr. STEVENS. Mr. President, I send to the desk an amendment by Senator DURENBERGER and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: The Senator from Alaska (Mr. STEVENS), on behalf of Mr. DURENBERGER, proposes an unprinted amendment numbered 1535.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act of September 24, 1959, entitled "An Act to establish an Advisory Commission on Intergovernmental Relations", is amended-

(1) by striking out "twenty-six members" in the matter preceding paragraph (1) and inserting in lieu thereof thirty members;

(2) by striking out "Governors' Conference" in paragraph (4) and inserting in lieu thereof "National Governors' Association";
(3) by striking out "board of managers of

the Council of State Governments" in paragraph (5) and inserting in lieu thereof "National Conference of State Legislatures'

(4) by striking out "and" at the end of paragraph (6) and by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by inserting after paragraph (7) the

following new paragraphs:

"(8) One appointed by the President from a panel of at least two elected officers of a township submitted by the National Association of Towns and Townships;

"(9) One appointed by the President from a panel of at least two elected school board members submitted by the National School **Boards Association:** 

"(10) One appointed by the Chief Justice of the United States, who shall be a judge of a United States court of appeals or district court: and

(11) One appointed by the Chief Justice of the United States from a panel of two or more chief justices or judges of a State court of last resort submitted by the Conference of Chief Justices."

(b) Section 4(e) of such Act is amended by striking out "Thirteen" and inserting in lieu thereof "A majority of the".

(c) Section 3 of such Act is amended by adding at the end thereof the following new subsection:

(d) For the purposes of subsection (a)(8), the term "township" means township as described in the Governmental Organization volume of the 'Census of Governments' publication last issued by the Bureau of the Census at any time."

(d) The amendments made by this Act shall not be construed to affect the current members of the Advisory Commission on Intergovernmental Relations, but shall apply with respect to any member appointed to such Commission on or after the date of the enactment of this Act.

Mr. DURENBERGER. Mr. President, the legislation before the Senate has as its principal purpose modification of the membership on the Advisory Commission on Intergovernmental Relations. H.R. 7173 adds three new members to ACIR-a Federal judge, a State judge, and a local school board member. The amendment I am offering does not affect any of these three new positions on the Commission.

But H.R. 7173 does make one additional modification in the nomination and appointments process to which I cannot agree. Currrently, four local officials representing towns and cities sit on the Commission. They are appointed by the President from a list of nominees submitted jointly by the U.S. Conference of Mayors and the

National League of Cities.

Over the 20-year history of ACIR it has become apparent that this nomination procedure does not secure adequate representation of small communities on the Commission. H.R. 7173 seeks to remedy that shortcoming by including the National Association of Towns and Townships in the nomination process.

Under the House bill, the joint nominations of the Conference of Mayors and the National League of Cities would be reduced to three seats. The fourth seat would be filed by Presidential appointment from a list of two nominees submitted jointly by the League of Cities and the Association

of Towns and Townships.

Mr. President, the House bill is moving in the right direction. It will provide somewhat better representation of the concerns of small communities. To that extent the House bill is a positive step. But this positive step comes at the expense of large cities. The voice of the Conference of Mayors is reduced under the House bill.

This formulation is understandable from one perspective. It is important to keep a careful balance of views across all levels of government. Currently ACIR includes nine Federal officials, seven State officials, seven local officials, and three private citizens. The House bill adds one member in every category so the balance is preserved from the perspective of levels of government.

Mr. President, I am sensitive to this question of balance. I would not support amendments that radically alter

the current structure of the Commission. But I do think that we can provide a full voice to small communities, without subtracting from the contribution that officials of large communities have made to the work of the Commission

My amendment restores the nomination role for the U.S. Conference of Mayors and the National League of Cities as it has existed over the last 20 years. They will jointly nominate for four seats just as they always have.

My amendment also creates an additional seat on ACIR bringing total membership to 30-including the 3 members added by the House bill. This new position is to be filled by Presidential appointment from a list of two nominees presented by the National Association of Towns and Townships. The nominees are to be elected officials of township governments as township is defined in the Bureau of Census survey of governments.

Mr. President, preserving the balance of views on ACIR while broadcasting its membership has been more difficult than it might seem to a casual observer. My Subcommittee on Intergovernmental Relations has held two hearings on this subject. Many groups not mentioned in the House bill or included in my amendment have also expressed interest in membership. I have attempted to judge these various claims with three principles in mind: One, preserving balance on the Commission across all three levels of government; two, representation of general purpose elected governments; and three, limiting the size of the Commission to a number that promotes discussion and thoughtful debate among the Members at meetings. Considering those principles, I see no need for further modification in the Commission's membership after this bill is passed. We will not be returning to this question in the near future so far as this Senator is concerned.

Mr. President, I want to thank the distinguished Senator from Delaware and chairman of the Governmental Affairs Committee for the role he has played in making this bill possible. His long service on ACIR and insight into the structure of our Federal partnership has made Senator Roth a spokesman for State and local government here in the Congress. His leadership has been instrumental in resolving differences on this legislation.

Mr. ROTH. Mr. President, I am pleased to support the amendment to H.R. 7173 offered by my colleague, Senator DURENBERGER. I thank him for his kind remarks, and I appreciate the pivotal role he played in fashioning The this amendment. proposed changes improve upon the bill that was reported out of the House of Representatives earlier this year.

The principal purpose of H.R. 7173 is to modify the membership of the Advisory Commission on Intergovernmental Relations as Senator DUREN-BERGER has described. Before expressing my thoughts on these changes, however, I would like to make some general comments about the ACIR.

The Commission was established by an act of Congress in 1959 for the purpose of monitoring the relationships between the governments in our federal system and recommending ways to improve governmental cooperation and effectiveness. Elected and appointed members of Federal, State, and local governments meet periodically to review a broad array of intergovernmental concerns and problems. On the basis of its research the Commission makes recommendations to encourage a better financial and power balance in the federal system.

Throughout its 23-year history the Commission has consistently provided excellent research on the nature of our complex federal system. The quality and the constructive impact of this work represents an ample return on the investment of public funds.

In light of this record we must approach any attempt to refashion the Commission with caution. No change should be permitted to disrupt the work of the ACIR or detract from its fine performance record. The House bill with the inclusion of Senator DURENBERGER'S amendment takes this cautious approach.

The proposal before the Senate recognizes changes that have occurred in the intergovernmental system since the creation of the Commission in 1959. The expanded role of school boards, small communities, and the judicial system in the formulation and implementation of public policy in our country provide the justification for including membership for groups on the ACIR.

I particularly support the addition of an elected member of a local school board to the Commission. School boards do play a major role in our intergovernmental system today by virtue of the total size of their expenditures, the number of people that they employ and the range of services that they provide. Nationwide school boards expend nearly \$100 billion and employ nearly 3 million people. The size and role of school boards has grown a great deal since the Commission was created in 1959.

The addition of a school board member to the ACIR will guarantee that broad education concerns are represented in the Commission's policy discussions, and will afford other elected officials on the Commission a keener understanding of the concerns faced on a day-to-day basis by those in the education field.

In expanding the Commission, however, this proposal remains sensitive to the essential criteria for membership on the Commission. With the passage of this legislation the ACIR will continue to be comprised of elected officials from general purpose governments, and will retain a balance between the various levels of government. The types of governments represented on the Commission, for the most part, will be universally present throughout the Nation, and the Commission size will be kept at a manageable level.

I believe that the amendment offered by Senator Durenberger, by restoring the number of mayors nominated jointly by the U.S. Conference of Mayors and the National League of Cities to four, corrects an inequity that was created by the House-passed version. The House bill unfairly reduced the large city representation by one. The restoration of this member in conjunction with the addition of a township member to the Commission is a reasonable compromise that does not jeopardize the balance among the levels of government represented on the ACIR. I know that the National League of Cities was particularly concerned about the House-passed version of the bill. I have received a letter from the League of Cities stating that the group finds the proposed amendment acceptable. I ask unanimous consent to have the NLC letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the

RECORD, as follows:

NATIONAL LEAGUE OF CITIES. Washington, D.C., December 13, 1982. Hon. WILLIAM V. ROTH, JR.,

Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office

Building, Washington D.C.

DEAR SENATOR ROTH: We understand that you will offer an amendment to H.R. 7173, which makes changes in the law governing the Advisory Commission on Intergovern-mental Relations, dealing with membership for townships.

Under your amendment, an additional Commission member would be authorized, representing townships as defined by the Bureau of the Census. The township member would be appointed by the President from a panel of at least two names submitted by the National Association of Towns and Townships.

The National League of Cities has no objection to your amendment.

Sincerely,

ALAN BEALS. Executive Director.

Mr. ROTH. In conclusion, Mr. President, I beleive that the amended House bill recognizes changes in the roles and responsibilities of Governments in our Nation that have occurred since the ACIR was created. I urge the Senate to pass the amended version of H.R. 7173 and to permit the House ample time to consider our changes. Passage of this proposal in the 97th Congress will allow the ACIR to move quickly to incorporate its new members and to continue its important and excellent work in the area of intergovernmental relations.

Mr. PERCY. Mr. President, I wholeheartedly support H.R. 7173, as amended, and urge its expeditious

passsage.

H.R. 7173 will expand the membership of the prestigious Advisory Commission on Intergovernmental Relations for the First time since its creation in 1959. In my view, this bill brings the ACIR into the present by modifying its composition to more adequately reflect the federal system as

its stands today.

H.R. 7173 expands the ACIR from 26 to 30 members by adding one elected school board member, one Federal judge, one State judge and one township official. I am particularly pleased at the inclusion of the elected school board official because it reflects the intent of S. 2338, a bill I introduced earlier this year with the distinguished chairman of the Governmental Affairs Committee, Senator ROTH, and several other Senators, which would have added three elected school board members.

Mr. President, the ACIR was established to bring together representatives of the Federal, state, and local governments to consider common problems. The Congress charged the ACIR with providing a forum for discussing the administration and coordination of Federal grant programs requiring intergovernmental cooperation. The ACIR is also responsible for recommending the most desirable allocation of governmental functions, duties, and revenues among the several levels of government. This function is central to today's ongoing debate over the new Federalism. The ACIR has thus far carried out its duties well and, as a result, is a highly respected group.

As a former member of the ACIR, I have been concerned, however, that the Commission's membership has not changed over the years to reflect the growing Federal system. School boards, for example, the focus of my legislation, have enjoyed dramatic growth in their role as a governmental unit since the late 1950's. Yet the ACIR has never had school board representation even though school boards today control more public dollars and more employees than any other unit of local government. Towns and townships also have expanded their role as local units of government and deserve ACIR recognition.

Mr. President, I want to commend Senator Roth for his leadership in making these important changes to the ACIR. Much credit also goes to the very able chairman of the Intergovernmental Relations Subcommittee, Senator Durenberger, who held hearings on S. 2338 and his own bill to add town and township representation to the Commission. His work on the ACIR and his expertise in this area is valued and very much appreciated.

Last, I would also like to acknowledge the hard work of our good colleagues in the House of Representatives, chairman of the Intergovernmental Relations Subcommittee, Congressman L. H. FOUNTAIN, and Congressmen Ray McGrath and Bun Brown, who steered similar legislation through the House several weeks ago.

Mr. President, I urge the adoption of H.R. 7173 to modify the ACIR and, in my judgment, make it better and more effective than ever before.

Mr. SASSER. Mr. President, I rise to state my support for this legislation to expand the membership of the Advisory Commission on Intergovernmental Relations. I believe that these new members can add an important new dimension to the commission.

I am particularly pleased that a school board member may soon sit on the ACIR. School districts certainly deserve this voice in the Commission decisionmaking on intergovernmental policy. The single largest State-local government function is education. At the local level, 36 percent of the total spending is for schools, and a large portion of every State budget is also committed to education.

Yet this important segment of the intergovernmental system has had no voice in the policies voted upon by the very influential ACIR. I believe we need to correct this.

The bill before us does just that. H.R. 7173 provides for representation on the Commission for school boards. School districts now exist in 49 States. Only Hawaii has a State system, and 94 percent of the school boards must stand for popular election. Fully 90 percent of the school districts are fiscally independent.

School districts must perform a variety of services, ranging from food processing to transportation; services to the elderly and day care for preschoolers: and recreation centers to health centers.

More than \$100 billion in taxes were collected by school districts in 1979. These units of Government have earned their place at the table when the Advisory Commission makes decisions affecting the federal system.

So, as a member of the Advisory Commission on Intergovernmental Relations for the past 4 years and as the ranking Democrat on the Senate Subcommittee on Intergovernmental Relations, I support this legislation. In addition to the new seat for an elected school board member, there will be appointments to represent State courts, Federal courts, and township governments. I believe that the perspective of these representatives will contribute greatly to the work of the Advisory Commission.

I urge my colleagues in the Senate

to vote for this measure.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 7173) was ordered to a third reading, was read the third time, and passed.

# PROCESSED PRODUCT SHARE OF U.S. AGRICULTURAL EXPORTS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of Senate Concurrent Resolution 122 relating to the processed product share of U.S. agricultural exports, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution will be stated by title. The legislative clerk read as follows: A resolution (S. Con. Res. 122) relating to the processed product share of United States agricultural exports.

The Senate proceeded to consider the resolution.

## **UP AMENDMENT 1536**

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senator Percy and ask for its immediate consideration.

The PRESIDING OFFICER. The

amendment will be stated.

The legislative clerk read as follows: The Senator from Alaska (Mr. Stevens), on behalf of Mr. Percy, proposes an unprinted amendment numbered 1536.

Page 3, strike lines 3 through 6 and on line 7, renumber paragraph "4" to read

paragraph "3"

Mr. PERCY. Mr. President, in my statement late last month when submitting this resolution along with my colleague from North Dakota (Mr. BURDICK), I referred to my working involvement with the Export Processing Industry Coalition (EPIC). EPIC is a new concept for achieving the goals of agriculture and labor. The uniqueness of the coalition is in the uniting of labor and industry to work in a spirit of cooperation to expand U.S. exports of processed or value-added agricultural commodities. The industry sponsors of EPIC are the Corn Refiners Association, the Millers' National Federation, and the National Soybean Processors Association. EPIC's labor sponsor is the Industrial Union Department of the AFL-CIO whose members work in America's processing facilities. The international unions participating in EPIC are the: Allied Industrial Workers of America; American Federation of Grain Millers; Bakery, Confectionery & Tobacco Workers; International Molders & Allied Workers; International Union of Operating Engineers; International Woodworkers of America; Oil, Chemical & Atomic Workers; United Brotherhood of Carpenters & Joiners; United Cement, Lime, Gypsum & Allied Workers; and United Steelworkers of America.

Mr. President, there are now 24 organizations lending their support to this resolution. To give my colleagues an indication of the broad-based interest in increasing value-added exports, I would like to recite the names of these

support groups:

National Association of State Departments of Agriculture; National Governors' Association; Poultry and Egg Institute of America; American Farm Bureau Federation; Wine Institute; American Association of Port Authorities; Potato Chip/Snack Food Association; National Cattlemen's Association: Protein Grain Products International; Western Great Lakes Maritime Association; North Dakota Agricultural Products Utilization Commission; National Broiler Council; Food Processing Machinery and Supplies Association; Rice Millers Federation; National Turkey Federation; National Farmers Organization; National Conference of State Legislatures; Independent Bankers Association; National Rural Electric Cooperative Association: National Sunflower Association; National Wool Growers Association; National Cotton Council; American Textile Manufacturers Institute; and the American Meat Institute.

The amendment (UP No. 1536) was

agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 122), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution as amended, with its preamble, reads as follows: S. Con. Res. 122

Whereas, without ignoring other concerns in the trade field, the American economy urgently needs the stimulus of increased agricultural markets to create jobs, increase personal income, improve our balance-of-payments postion, and broaden and expand the tax base for needed Government revenue; and

Whereas the efficient productivity of the agricultural sector provides one of the greatest opportunities for such expanded

exports: and

Whereas it is in the best interest of American agriculture and economy that export expansion include processed, as well as unprocessed, agricultural products; and

Whereas export of value-added processed agricultural products has not shared proportionately in the growth of world demand for such products as has the export of unproc-

essed products; and

Whereas economic studies by United States Department of Agriculture show export value-added agricultural products creates a great multiplier of economic benefits in terms of jobs and income increased revenue to the Government; and

Whereas expanding exports of such valueadded processed agricultural products increases Government revenues from the broadened tax base of the resulting stimulated economy and increase in employment and personal income: Now, Therefore, be it

Resolved, by the Senate (the House of Representatives concurring), That it is the sense of this Congress that the President should take every possible action to encourage increasing the processed product share of United States agricultural exports, including but not limited to—

(1) urging our negotiators to attempt to include a quantity of value-added processed agricultural products in any further extension or renewal of grains agreements with the Soviet Union, or other nonmarket econ-

omy countries;

(2) seeking the elimination of unfair trade practices by foreign competitors, through vigorously pursuing international trade negotiations to assure fair competition for United States agricultural processors in world markets;

(3) utilizing authorities of the Commodity Credit Corporation of the United States Department of Agriculture and the Export-Import Bank to ensure that credit arrangements for agricultural and agricultural product exports are on terms equal to those offered by other countries to assure fair competition.

## COAST GUARD OFFICER CANDIDATE PROGRAM

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6804, the Coast Guard officer candidate bill.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6804), an act to provide subsistence allowances for members of the Coast Guard Officer Candidate Program.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 6804) was ordered to a third reading, was read the third time, and passed.

## FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 5002.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5002) to improve fishery conservation and management.

The Senate proceeded to consider the bill.

## UP AMENDMENT 1537

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of the Senator from Oregon (Mr. Packwood) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens), on behalf of Mr. Packwoop, proposes an unprinted amendment numbered 1537.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 5(1)(B) and redesignate section 5(1)(C) accordingly.

The amendment (UP No. 1537) was agreed to.

Mr. PACKWOOD. Mr. President, I should like to discuss with the Senator from Vermont a jurisdictional question regarding amendments added to S. 2450 on the Senate floor by the Committee on Commerce, Science and Transportation. These amendments, which have been added to legislation dealing with the Magnuson Fishery Conservation and Management Act, are both reauthorizations. One is a 1-year extension of the Fisheries Loan Fund—which is part of the Fish and Wildlife Act of 1956)—and the other reauthorizes the Anadromous Fish Conservation Act.

As Senator Stafford can verify, questions have been raised between the committee he chairs, Environment and Public Works, and the committee I chair, Commerce, Science and Transportation, concerning proper jurisdic-

tion over these measures. I am pleased to say that it is my understanding that our two committees have now resolved this difference. Under our agreement, the Commerce Committee will have sole jurisdiction in the future over the fisheries loan fund. This in no way changes the fact that the Committee on Environment and Public Works will retain jurisdiction over the preponderance of the Fish and Wildlife Act of 1956. As far as the Anadromous Fish Act is concerned, it shall be referred jointly in the future to both Commerce and Environment.

This appears to me to be a reasonable solution. The fisheries loan fund is strictly a marine fisheries program and therefore properly belongs in the Commerce Committee. The Anadromous Fish Act, on the other hand, crosses jurisdictional lines and is best handled by giving both committees a

chance to review future legislation in management goals to include consideration of social and economic issues, set

I would like to ask Senator Stafford, at this point, if my characterization of the situation is in line with his understanding and if he is willing to accept this compromise on behalf of the Committee on Environment and Public Works.

Mr. STAFFORD. I say to the Senator from Oregon that he has indeed accurately described the situation. The agreement which has been reached regarding the fisheries loan fund and the Anadromous Fish Act does appear reasonable to me. The fisheries loan fund, as Senator Packwood has said, is concerned solely with marine fisheries, which is the jurisdiction of the Commerce Committee. And the Anadromous Fish Act must, by its nature, be referred to both committees since we are dealing here with both fresh water and marine fisheries.

On behalf of the Committee on Environment and Public Works I am pleased to accept this agreement. The compromise will facilitate the work of our two committees and will promote more effective fisheries legislation.

Mr. PACKWOOD. I thank the Senator from Vermont for his cooperation in this matter. At this point, I would ask unanimous consent that the Parliamentarian be directed to follow this agreement in making referrals of future measures covering these issues.

Mr. STAFFORD. I concur with the

Senator's suggestion.

Mr. GORTON. Mr. President, after months of discussion, public hearings, and comment from the industry, the Senate has before it a package of comprehensive amendments to the Magnuson Fishery Conservation and Management Act.

The Magnuson Fishery Conserva-tion and Management Act is unquestionably the single most important piece of fisheries legislation in our Nation's history. It established a comprehensive system of U.S. management of fisheries in an area of over 2 million square nautical miles, within which is found 15-20 percent of the world's traditionally harvested marine fishery resources. The act authorized the Feder-Government to conserve and manage fishery resources within the Fishery Conservation Zone, extends from the seaward boundaries of the territorial sea to 200 nautical miles from shore.

The act set up a system of regional councils to manage fisheries, in recognition of the fact that fish do not respect State boundaries. The councils have principal responsibility for development of fishery management plans for resources within the FCZ adjacent to the States and territories comprising the councils' areas of jurisdiction. In addition, the act set rigid biological requirements for harvest, broadened

management goals to include consideration of social and economic issues, set national standards against which management plans must be gaged, reserved certain resources exclusively for domestic use, and delcared the right of the United States to enforce such measures. With respect to foreign fishing, the act limited foreign allocations in the FCA to that portion of the optimum yield that would not be harvested by the U.S. industry, in recognition of the continuing strength and importance of our domestic fisheries industry.

Several major changes have taken place in fisheries management in the past several years since enactment of the act. First, a "fish and chips" policy was implemented in our dealings with foreign nations, whereby cooperation by foreign nations in U.S. fisheries development was made a significant factor in determining directed allocations. Second, the State Department, in cooperation with the National Marine Fisheries Service, instituted what would prove to be a highly successful policy of withholding a percentage of directed allocations of foreign nations, and gradually releasing these allocations as foreign nations demonstrated their good faith compliance with the "fish and chips" policy. Finally, provision was made for full observer coverage on foreign vessels fishing in our FCZ, to be financed by fees paid in advance by foreign vessel owners. Each of these changes was specifically designed to strengthen and support our domestic fishing industry.

Yet fishermen and processors, council members and interested Federal agencies, and all those who are intimately familiar with the day-to-day workings of the act, have reported that there continue to be impediments to the smooth functioning of the act, and to the fulfillment of the goals of the act. These problems include: Obstacles to timely plan development; delays in the review and approval of fishery management plans, inefficient procedures for handling emergencies in fisheries resources, impediments to the efficient functioning of the regional councils, and continuing inadequacies in observer and enforcement efforts.

Mr. President, I am proud to have played a part in this important effort to improve the functioning of national fisheries management. I cosponsored S. 2450, which received the unanimous endorsement of the Senate Commerce Committee, and I believe that the package before us today, which is the product of months of work by the Senate and House in resolving the differences between the Senate and House bills, merits the enthusiastic support of all of my colleagues. Our goal has been to make the regulatory framework fit the reality and needs of

sound fisheries management, as opposed to asking fisheries management to fit within an often unrealistic and unwieldly regulatory process. But our task must not end with this package of amendments; we must continue to be vigilant in insuring that the legislation fits the changing needs of the people and industries it serves and affects.

Mr. President, I am pleased to rise in support of these amendments to the Magnuson Fishery Conservation and Management Act, and the reauthorization of that act, as well as of several other important pieces of fisheries legislation. Ultimately, enactment of this bill should bring us closer to realization of the goals of the act—to promote, protect, and develop the resources of our Fishery Conservation Zone for the benefit of the U.S. fisheries industry.

Mr. PACKWOOD. Mr. President, the Senate will today be considering H.R. 5002. I am pleased that the Senate has the chance to vote on this package of amendments to the Magnuson Fishery Conservation and Management Act (MFCMA) prior to the end of this Congress. The amendments have been under review and discussion for over a year and represent a great deal of work by both the Senate and the House. Both bodies have conducted detailed hearings and reviewed numerous pieces of draft legislation.

During most of this time the House and Senate have pursued independent courses in drafting proposed changes to the act. But over the last several months the two approaches have been blended so that we now have before us a bipartisan package representing the best proposals of both bodies on how our Nation's fisheries should be managed.

I would like to briefly outline some of what I consider to be the highlights of this legislation.

Section 2 of the bill provides a detailed system for determining in what quantity and manner surplus U.S. fishery resources shall be allocated to foreign nations for their harvest. The provision closely ties these allocations to a specific set of criteria under which the various foreign nations desiring to fish in our waters will have to show that their fishery policies and conduct of fishing operations provide benefits to the U.S. fishing industry.

In making the allocation decisions the Secretaries of State and Commerce will be required to review a range of factors. Examples of these factors are: The foreign nation's fishery trade posture, compliance with U.S. fishery law, direct and indirect assistance provided to U.S. fishermen and fulfillment of contractual agreements, as well as the foreign nation's need for the fishery resources as a source of protein for its citizens.

While we are emphasizing that it is our fishermen and processors who have the first and only right to these fishery resources, we are not trying to make it impossible for foreign nations to qualify for and harvest a share of our abundant ocean fisheries. What we are trying to make clear is that no foreign nation has an inherent right to these fishery resources. Fish in the U.S. 200-mile zone will only be allocated to a foreign nation if those fish are surplus to the needs of U.S. industry, and if the foreign nation meets the types of requirements I outlined above.

Another important section of S. 2450 deals with the placing of American observers aboard foreign fishing vessels operating within our 200-mile zone. There has long been a desire to have 100 percent coverage of these foreign vessels since there is a fear within the U.S. fishing industry that some of these foreign ships may be conducting fishing operations which violate the terms of their permits. In order to reach this goal of 100 percent observer coverage, S. 2450 contains language which would create an alternative to the current requirement that observers be paid with funds appropriated by Congress. Under this new system, set to begin in 1984, if insufficient funds are appropriated to insure 100 percent observer coverage, then the foreign fleets must, as a condition of their fishing permits, hire observers on a contractual basis and pay them directly. This means that insufficient appropriations will no longer be the cause of our having less than 100 percent observer coverage of the foreign fishing fleets in the fishery conservation zone.

Any shortfall on the appropriations side of the ledger will be made up for by the requirement that the foreigners contract and pay for whatever additional observer services may be required. This system also continues the guarantee that there will be no cost to U.S. taxpayers; all costs of the observer program will be borne by the foreign nations fishing in our FCZ.

The amendments also provide a new system by which the Secretary of Commerce will review the fishery management plans submitted by the various regional fishery management councils. At the current time it can take close to a year for a complicated plan to be reviewed. This is far too long a period when dealing with a living resource such as fish. In order to speed up the review process we have made numerous changes in the procedures and timeframes to be used by the Secretary. Under the system we are proposing the Secretary will be able to approve a fishery management plan in as little as 75 days after its submission. But in no case is he to take more than 95 days unless there is a disapproval and the council must resubmit a revised plan.

These new procedures and time limits will go a long way toward ad-

dressing the complaints of the many Federal fishery management professionals around the Nation who have made it clear that more timely action is required on the secretarial level.

Another significant section of the bill is aimed at avoiding delays in the regulatory process which have been caused by the Paperwork Reduction Act, the Regulatory Flexibility Act, and Executive Order 12291. While the amendments do not negate the applicability of these laws, the time limits for compliance will now be specified in the MFCMA. In other words, the purposes of the acts will have to be fulfilled within the timeframe provided in the MFCMA. This will coordinate all Federal review procedures within the same process being used for fishery management plan review by the Secretary of Commerce. This should reduce the total amount of time necessary for plan approval, as well as avoid possible conflicts between the time requirements of the MFCMA and these other acts.

I want to be very clear about this point. The Commerce Committee is very serious about the requirement that these acts not interfere with the time requirements we have specified in the MFCMA. It is our intent that even if the requirements of these regulatory acts are not completed within the MFCMA's timeframe as specified in these amendments, the rest of the MFCMA's procedures will proceed on schedule without regard to either of the regulatory acts or the Executive order in question. The Office of Management and Budget has determined that the timeframes provided by these amendments to the MFCMA are sufficient for proper regulatory review to be carried out. We plan to hold OMB to its word on this issue.

S. 2450 also contains a series of authorizations for a variety of fishery programs. The MFCMA itself is authorized for an additional 3 years at totals of \$59,000,000, \$64,000,000 and \$69,000,000. This will be sufficient to maintain the National Marine Fisheries Service programs which are carried out under the authority of the MFCMA.

Beyond this authorization, however, S. 2450 also provides reauthorizations for the Anadromous Fish Conservation Act, the Fisheries Loan Fund and Volunteer Service portions of the Fish and Wildlife Act of 1956, and the Central, Western and South Pacific Fisheries Development Act.

It is very important that all these Acts be reauthorized, and the fact that they have been attached to S. 2450 makes passage of that bill even more critical.

I hope my colleagues will agree with me that this bill is a constructive approach to Federal fisheries management, and that they will join me in ap-

proving the measure.

Mr. CANNON. Mr. President, I join Senator Packwood in urging that the Senate pass H.R. 5002, a bill whose principal purpose is to improve the Magnuson Fishery Conservation and Management Act. As a result of some hard work with our House counterparts we have come up with a package of amendments that represents a sound compromise between S. 2450 as we reported it out of the Commerce Committee and H.R. 5002, the House Merchant Marine and Fisheries Committee bill covering the same issues.

I should like to address two very important themes running throughout this bill. First, the dynamic conditions of the marine environment require that fishery resources be conserved and managed through timely decisions based on the best and most current scientific information available. Second, in giving valuable rights to the vessels of foreign nations to harvest and process the fish found in the U.S. Fishery Conservation Zone, this country must insure that value is re-

ceived in return.

Timely and effective fishery management was the initial stimulus for the legislation we consider today. The eight regional fishery management councils, the quasi-Federal bodies composed of representatives of State and Federal governments and the private sector which are charged with the primary responsibility for deciding which U.S. fisheries should be regulated and how, concluded about 2 years ago that the statutory procedures governing their operations needed to encourage more timely management decisions. Indeed, since the Magnuson Act became law in 1976, very lengthy delays have often occurred in the review and implementation of fishery management plans. S. 2450 is an outgrowth of the council's concern in this area.

The bill focuses on three aspects of the fishery management process. At the plan development phase, we have sought to relieve the councils of the overlay of bureaucratic rules under the Federal Advisory Committee Act, while continuing the public participation guarantees of that act. Next, during the phase when the Secretary of Commerce reviews a fishery management plan to decide whether to approve or disapprove it in light of the Magnuson Act, we have set a deadline which will force the Secretary to make a timely decision on whether to review the plan. Finally, we would have the implementation phase of the plan run concurrently with the review phase; under current law these two phases are consecutive, causing needless delay. In light of concerns expressed about the reported versions of S. 2450 and H.R. 5002, we have taken care not to impair the administration's ability

to oversee regulatory proposals and paperwork. We retained, however, the requirement that such oversight be carried out within the time limitations set forth in our bill because it would be pointless to establish deadlines on the Secretary of Commerce if plans could still be held up due to paperwork backlogs elsewhere in the executive branch.

The second theme I mentioned is the policy of value given for value received. In the context of our fishery relationships with other countries, this policy is known as "fish and chips." Development of the harvesting and processing sectors of the U.S. fishing industry is the cornerstone of the policy. When the Magnuson Act was enacted 6 years ago, development of the U.S. industry was implied in the statutory language. In 1980 when I was chairman of the Commerce Committee, we passed the American Fisheries Promotion Act and included in that legislation explicit amendments to the Magnuson Act to leave no doubt that development of the U.S. industry was our main goal in seeking value from foreign nations whose vessels operate in our fisheries zone.

I am pleased to say that the State and Commerce Departments have faithfully carried out the intent of our 1980 legislation. In fact, they have taken a further step, which has been very helpful to U.S. fishing interests. They have held back 50 percent of the foreign harvesting allocations at the beginning of the year, with periodic subsequent releases of those fishing rights based on the given foreign nation's willingness to cooperate in our fish and chips policy. We like this practice so much, we decided to incorporate it into statutory language, with a variation to provide a small amount flexibility as circumstances change in the future.

To the greatest possible extent, we anticipate that the State and Commerce Departments will make decisions on realeases of harvesting allocations on a fishery-by-fishery basis, with special emphasis on providing opportunities for U.S. business in each particular fishery. In my mind it would be a regrettable error to trade the interests of one U.S. region's fishermen and processors against another region's.

Mr. President, again I urge favorable action on this legislation. It promises to give us more timely fishery management and provides additional means for encouraging foreign nations to assist the development of the U.S. fishery industry.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be offered, the question is on third reading and passage of the bill.

The bill (H.R. 5002) was ordered to a third reading, was read the third time, and passed.

## CORRECTION OF ENROLLMENT OF H.R. 5547

Mr. STEVENS. Mr. President, I now ask unanimous consent that the Senate proceed to the consideration of House Concurrent Resolution 435.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

The resolution will be as stated.

The assistant legislative clerk read as follows:

A resolution (H. Con. Res. 435) correcting the enrollment of H.R. 5447.

Mr. STEVENS. Mr. President, I ask for immediate consideration of this resolution.

The resolution (H. Con. Res. 435) was agreed to.

SENATE CONCURRENT RESOLU-TION 136-PRINTING COPIES OF GENERAL EXPLANATION OF REVENUE PROVISIONS OF TAX EQUITY AND FISCAL RE-SPONSIBLITY ACT OF 1982

Mr. STEVENS. Mr. President, I send to the desk a concurrent resolution in behalf of the Senator from Kansas (Mr. Dole) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the concurrent resolution.

The assistant legislative clerk read as follows:

## S. Con. Res. 136

Resolved by the Senate (the House of Representatives concurring), That three thousand additional copies of the General Explanation of the Revenue Provisions of the Tax Equity and Fiscal Responsibility Act of 1982, prepared by the staff of the Joint Committee on Taxation, be printed for the use of the Joint Committee on Taxation.

The Senate proceeded to consider the concurrent resolution.

Mr. DOLE. Mr. President, this resolution, which has been cleared on both sides, the majority and minority, provides for the printing of an additional 3,000 copies of the forthcoming publication by the staff of the Joint Committee on Taxation, entitled "General Explanation of the Tax Equity and Fiscal Responsibility Act of 1982."

This general explanation of TEFRA is similar to Joint Committee staff explanations of major tax legislation enacted in the past, and will be in great demand by offices of the Members of Congress—both the Senate and the House. The cost of printing the additional 3,000 copies when the document is initially published will be substantially less than if it were done later in a separate reprinting.

Thus, I urge adoption of the concurrent resolution.

The question is on agreeing to the concurrent resolution.

The concurrent resolution agreed to.

## JOB TRAINING PARTNERSHIP ACT AMENDMENTS

Mr. STEVENS. Mr. President, I send to the desk a bill on behalf of Senator QUAYLE making corrections to the Job Training Partnership Act.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3113) to make certain minor and technical amendments to the Job Training Partnership Act.

The Senate proceeded to consider the bill (S. 3113) to make certain minor and technical amendments to the Job Training Partnership Act, which was read the first time by title and the second time at length.

Mr. QUAYLE. Mr. President, today I am introducing a bill to make a few minor, technical amendments to the Job Training Partnership Act. I ask unanimous consent that the bill be taken up for consideration and passed

as introduced.

My bill makes changes which are technical in nature. For example, there are corrections of misspellings and cross-references. One of the corrections is to include an amendment to the Wagner-Peyser Act which was inadvertently omitted from the final version of JTPA. The agreement for this amendment is described in the conference report. See House Report No. 97-889, p. 136. I believe that all interested parties have had a chance to comment on this bill and there have been no objections to it. It has also been circulated on the House side and no one there has any substantive problems with these corrections.

Mr. President, these technical amendments are necessary to avoid confusion during the first year of implementing JTPA. I move that the Senate proceed to immediate consider-

ation of this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 3113) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

## S. 3113

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 103(c)(3) of the Job Training Partnership Act (hereafter in this Act referred to as the "Act") is amended by striking out "104" and inserting in lieu thereof "101".

(b) Section 106(d)(3) of the Act is amended by striking out "ex-offenders" and insert-ing in lieu thereof "offenders".

(c) Section 108(b)(2)(A)(iv) of the Act is amended by striking out "projects" and inserting in lieu thereof "payments".

(d) Section 122(a)(3)(C) of the act is amended by striking out "executive officers" and inserting in lieu thereof "elected officials".

(e) Section 125(c) of the Act is amended by striking out "subsection" and inserting in lieu thereof "section"

(f)(1) Section 141(c) of the Act is amended by inserting after "unless" the following: "the Secretary determines that".

(2) Section 141(g) of the Act is amended-(A) by striking out the word "which"; and (B) by striking out the word "title" and inserting in lieu thereof the word "Act"

(g) Section 142 (b) of the Act is amended by inserting after "aid" the following: "furnished under any Federal or federally assisted program based on need".

(h) Section 143(d) of the Act is amended by striking out "1921" and inserting in lieu

thereof "1931"

(i) Section 181(f)(5) of the Act is amended by striking out "this section" and inserting in lieu thereof "this subsection".

SEC. 2. (a) Section 203(a)(1) of the Act is amended by striking out "participate" and inserting in lieu thereof "participate"

(b) Section 203(b)(2) of the Act is amended by striking out "expend" and inserting in lieu thereof "be expended".

SEC. 3. Section 308 of the Act is amended

by-

(1) striking out ", as described in section 121," and inserting in lieu thereof "with";

(2) inserting before the period at the end thereof the following: ", in accordance with the provisions of section 121"

SEC. 4. (a) Section 401(h)(2) of the Act is amended by striking out "103" and inserting in lieu thereof "106"

(b)(1) Section 402(a)(2) of the Act is amended by inserting "the special nature of" after "because of".

(2) Section 402(c)(4) of the Act is amended by striking out "103" and inserting in lieu thereof "106"

(c) Section 454(b) of the Act is amended by striking out "title II" and inserting in lieu thereof "title IV".

(d)(1) Section 463(a)(1) of the Act is amended by inserting after "processing systhe following: "related to labor market information"

(2) Section 463(a)(2) of the Act is amended by inserting after "coding measures" the following: "related to labor market informa-

(e)(1) Section 464(a)(1) of the Act is amended by inserting "for each fiscal year" after "part"

(2) Section 464(b)(7) of the Act is amended by striking out "providing" and inserting in lieu thereof "provide".

SEC. 5. Section 13 of the Wagner-Peyser Act, as added by section 501(h) of the Act is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) No funds paid under this Act may be used by any State for advertising in newspapers for high paying jobs unless such State submits an annual report to the Secretary beginning in December 1984 concerning such advertising and the justifications therefor, and the justification may include that such jobs are part of a State industrial development effort.".

SEC. 6. The amendments made by this Act shall not be construed as affecting the term 'originally enacted" as applied to the Job Training Partnership Act in 402(a)(8)(A)(v) of the Social Security Act as amended by section 503(a) of the Act.

## ACACIA MUTUAL LIFE INSUR-ANCE COMPANY INCORPORA-TION ACT AMENDMENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk on behalf of Mr. DECONCINI a bill, and I ask unanimous consent that it be considered as having been read the first and second times, that it be considered, and proceed to the third reading and passed, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3114) is as follows:

#### 8. 3114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 3 of the Charter of Acacia Mutual Life Insurance Company, as amended, be and the same is hereby further amended to read as follows:

"SEC. 3. The number of directors of said company shall be fixed by the by-laws. A number of the directors, less than a majority, shall be elected by the policyholders at the annual meeting of the company from among themselves for a term of three years; that in all cases of a tie vote the choice shall be determined by lot, and in all other cases a plurality vote shall decide. The annual meeting of the company shall be held at such time and place as provided in the bylaws. The board of directors shall elect from among the policyholders at their first meeting succeeding the annual meeting of the company a president, one or more vice presidents, a secretary, and a treasurer, and from time to time such additional officers as the by-laws may provide. The president, the vice presidents, the secretary, and the treasurer shall each give bond with surety to the company in such sum as the board of directors may require for the faithful performance of his duties. At all meetings of the board of directors a majority of the entire board shall form a quorum. In case of any vacancy in the board of directors by death, resignation, or otherwise, such vacancy may be filled by the remaining directors from among the policyholders of the company to serve for the remainder of the unexpired term."

#### AMENDMENT OF TRIBALLY CON-TROLLED COMMUNITY COL LEGE ASSISTANCE ACT OF 1978

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2623.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendment to the bill (S. 2623) entitled "An Act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Perkins, Mr. Ford of Michigan, Mr. Gaydos, Mr. Andrews, Mr. Simon, Mr. Weiss, Mr. Kildee, Mr. Peyser, Mr. Williams of Montana, Mr. Eckart, Mr. Erlenborn, Mr. Coleman, Mr. Erdahl, Mr. DeNardis, Mr. Craig, and Mr. Bailey of Missouri be the managers of the conference on the part of the House.

Mr. STEVENS. Mr. President, I move that the Senate disagree to the House amendment and agree to the request of the House asking a conference and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Chair appointed Mr. Cohen, Mr. Goldwater, Mr. Andrews, Mr. Gorton, Mr. Melcher, Mr. DeConcini, and Mr. Inouye conferees on the part of the Senate.

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to consider en bloc all of the actions taken by the Senate on the call of the calendar that has just been completed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I move to reconsider en bloc the votes by which the calendar items were passed or agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move en bloc to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair and thank the minority leader very much.

## ORDER OF BUSINESS

Mr. STEVENS. Mr. President, is there any further business to come before the Senate?

Mr. ROBERT C. BYRD. Mr. President, I compliment the distinguished acting Republican leader. I note he stands here at 25 minutes to 12 midnight and he can hardly talk. His voice is hoarse.

Mr. STEVENS. I thank the Senator. It is not hoarse from having shouted too loud because it started before I got talking.

Mr. President, I do thank members of the staff and the Chair for being patient. It was important in our opinion to get this matter to the House of Representatives.

## RECESS UNTIL 11 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, the Senate, at 11:36 p.m., recessed until Saturday, December 18, 1982, at 11 a.m.

## NOMINATIONS

Executive nominations received by the Senate December 17, 1982:

#### THE JUDICIARY

John P. Vukasin, Jr., of California, to be U.S. district judge for the northern district of California vice Stanley A. Weigel, retired.

## CONFIRMATIONS

Executive nominations confirmed by the Senate December 16, 1982:

#### NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

Douglas A. Fenderson, of Minnesota, to be Director of the National Institute of Handicapped Research.

#### DEPARTMENT OF EDUCATION

Edward M. Elmendorf, of Vermont, to be Assistant Secretary for Postsecondary Education, Department of Education.

#### DEPARTMENT OF STATE

Paul D. Wolfowitz, of the District of Columbia, to be an Assistant Secretary of State.

Richard Fairbanks, of the District of Columbia, for the rank of Ambassador while serving as Special Adviser to the Secretary of State.

#### FEDERAL TRADE COMMISSION

George W. Douglas, of Texas, to be a Federal Trade Commissioner for the term of 7 years from September 26, 1982.

## CIVIL AERONAUTICS BOARD

Diane Kay Morales, of Texas, to be a Member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1988

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## THE JUDICIARY

Geoffrey M. Alprin, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

Virginia L. Riley, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of years prescribed by Public Law 91-358.

## VETERANS ADMINISTRATION

Harry N. Walters, of Virginia, to be Administrator of Veterans' Affairs.

## DEPARTMENT OF DEFENSE

W. Paul Thayer, of Texas, to be Deputy Secretary of Defense.

## UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Francis Carter Coleman, of Florida, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for the term expiring May 1. 1983.

Perry Albert Lambird, of Oklahoma, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987

David I. Olch of California, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987.

James F. X. O'Rourke, of New York, to be a Member of the Board of Regents of the Uniformed Services University of the Health Sciences for a term expiring May 1, 1987

#### IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 34, 831, and 837, title 10, United States Code:

#### To be major general

Brig. Gen. Dan C. Mills, xxx-xx-xxxx FG, Air National Guard of the United States.

Brig. Gen. Charles J. Young, Jr., xxx-xx-x... xx-...FG, Air National Guard of the United States.

## To be brigadier general

Col. Edward R. Aguiar xxxxxxxxx FG, Air National Guard of the United States.
Col. Clifton N. Bishop xxxxxxxxx FG, Air National Guard of the United States.

Col. Carl T. Butterworth XXX-XXXXX FG, Air National Guard of the United States.

Col. Andrew Cali, III, XXX-XXXXX FG, Air National Guard of the United States.

Col. Richard S. Johnson XXX-XX-XXXX FG.
Air National Guard of the United States.
Col. William S. Mahler, XXX-XX-XXX FG.
Air National Guard of the United States.

Col. Dominick C. Marchesiello, xxx-xx-xx... FG, Air National Guard of the United States.

Col. John L. Matthews xxx-xxxxx FG, Air National Guard of the United States.
Col. Alvah S. Mattox, Jr., xxx-xxxxx FG, Air National Guard of the United States.

Air National Guard of the United States.

Col. Robert D. McFrye xxx-xxxx FG,
Air National Guard of the United States.

Col. James R. Mercer, xxx-xxxxx FG, Air National Guard of the United States. Col. Fred L. Michel, xxx-xx-xxxx FG, Air

Col. Fred L. Michel, XXX-XX-XXXX FG, Air National Guard of the United States.
Col. Edward V. Richardson, XXX-XX-XXXX FG, Air National Guard of the United States.

Col. James E. Womack, xxx-xx-xxx FG, Air National Guard of the United States.

The following officers for apppointment in U.S. Air Force under the provisions of chapter 36, title 10, United States Code:

## To be major general

Brig. Gen. William P. Bowden, xxx-xx-xx...
FR, Regular Air Force.

Brig. Gen. William J. Breckner, Jr., xxx-...
xxx-xx. FR, Regular Air Force.
Brig. Gen. Donald D. Brown, xxx-xxxxx

Brig. Gen. Wiliam H. Greendyke. xxx-xx-x...
FR, Regular Air Force.

Brig. Gen. Alfred G. Hansen, xxx-xx-xxxx xxx. FR, Regular Air Force.

Brig. Gen. Thomas J. Hickey, xxx-xx-xx.

xxx...FR, Regular Air Force.
Brig. Gen. Harley A. Hughes, xxx-xxxxx

xxx....FR, Regular Air Force.

Brig. Gen. Balph H. Jacobson

Brig. Gen. Ralph H. Jacobson, xxx-xxxx xxx-...FR, Regular Air Force.

Brig. Gen. James G. Jones, xxx-xx-xxx xxx...FR, Regular Air Force.

U.S. Army.

Brig. Gen. Joseph P. Franklin, xxx-xx-xxxx xxx-... U.S. Army.

U.S. Army.
Brig. Gen. William E. Klein. xxx-xx-xxxx

Brig. Gen. Henry J. Hatch xxx-xxxxx

	5
Brig. Gen. Donald P. Litke, xxx-xx-xxxx	
xxxFR, Regular Air Force. Brig. Gen. James P. McCarthy, xxx-xx-xx	
xxxFR, Regular Air Force. Brig. Gen. Thomas G. McInerney, xxx-xx-x	
xxxFR, Regular Air Force. Brig. Gen. Merrill A. McPeak, xxx-xxxxx	
xxxFR, Regular Air Force.	
Brig. Gen. George L. Monahan, Jr., xxx xxx-xx-xFR, Regular Air Force.	
Brig. Gen. Joe P. Morgan, xxx-xx-xxxx FR, Regular Air Force.	
Brig. Gen. Robert C. Oaks, xxx-xxxxx xxxFR, Regular Air Force.	
Brig. Gen. William E. Overacker, xxx-xx-x	
xxFR, Regular Air Force. Brig. Gen. Maurice C. Padden, xxx-xx-xxx	
xxxFR, Regular Air Force. Brig. Gen. Richard W. Phillips, Jr., xxx	
xxx-xx-x FR, Regular Air Force. Brig. Gen. Craven C. Rogers, Jr., xxx-xx-x	
xxxFR, Regular Air Force. Brig. Gen. Thomas W. Sawyer, xxx-xx-x	
FR, Regular Air Force.  Brig. Gen. John A. Shaud, xxx-xx-xxx FR,	
Regular Air Force.	
Brig. Gen. Monroe T. Smith, xxx-xxxxx xxx FR, Regular Air Force.	
Brig. Gen. John H. Storrie, xxx-xx-xxxx xxxFR, Regular Air Force.	
Brig. Gen. William T. Twinting, xxx-xxx  xxxFR, Regular Air Force.  Brig. Gen. Russell L. Violett, xxx-xx-xxx  xxxFR Regular Air Force	
xxxFR, Regular Air Force. Brig. Gen. Harold J. M. Williams, xxx-xx-x	
The following-named officers for appoint-	
ment in the U.S. Air Force under the provisions of chapter 36, title 10 of the United	
States Code:	
To be regular major general	
Lt. Gen. James E. Dalton, xxx-xx-xxx FR, Regular Air Force.	
Lt. Gen. Robert T. Herres, xxx-xx-xxxx FR, Regular Air Force.	
Lt. Gen. John S. Pustay xxx-xx-xxx FR, Regular Air Force.	
In the Army	
Gen. Frederick J. Kroesen xxx-xx-xxxx (age 59), U.S. Army, to be placed on the re-	
tired list in the grade of general under the	
provisions of title 10, United States Code, section 1370.	
Gen. Glenn K. Otis xxx-xxxxx. U.S. Army, under the provisions of title 10,	
United States Code, section 601, to be reas-	
signed in his current grade of general to a position of importance and responsibility	
designated by the President under title 10.	
United States Code, section 601. The following-named officers for appoint-	
ment in the Regular Army of the United	
States to the grade indicated under the provisions of title 10, United States Code, Sec-	
tions 611(a) and 624:	
To be permanent major general  Brig. Gen. Archie S. Cannon, Jr., xxx-xx-x	
xxx U.S. Army. Brig. Gen. Kenneth A. Jolemore, xxx-xx-x	
xxx, U.S. Army.	
Brig. Gen. Eugene S. Korpal. xxx-xx-xxx , U.S. Army.	
Brig. Gen. John P. Prillamam, xxx-xxxx xxx, U.S. Army.	
Brig. Gen. Maurice O. Edmonds, xxx-xx-x	
Brig. Gen. Ronald L. Watts xxx-xx-xxxx	
U.S. Army	

Lt. Gen. William R. Richardson, xxx-xx-x... xxx-... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Fred K. Mahaffey xxx-xx-xxxx U.S. Army.

The following-named officer for appointment to the position indicated under the provisions of title 10, United States Code, section 711:

To be senior Army member of the Military Staff Committee of the United Nations

Maj. Gen. Fred K. Mahaffey, xxx-xx-xxx United States Army,

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of

importance and responsibility designated by the President in grade as follows:

To be lieutenant general

Maj. Gen. Bennett L. Lewis, xxx-xx-xxxx U.S. Army.

The following-named Army Medical Department officers for appointment in the U.S. Army to the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be permanent brigadier general

Col. John E. Major, xxx-xx-xxxx , Medical Corps, U.S. Army.
Col. Billy Johnson, xxx-xx-xxxx Dental

Corps, U.S. Army.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be vice admiral

Rear Adm. Crawford A. Easterling, xxx-.../1310, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United State Code, section 601:

To be vice admiral

Rear Adm. Henry C. Schrader, Jr., xxx-xx-x... xxx-.../1110, U.S. Navy.

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United State Code, section 601:

To be vice admiral

Rear Adm. Thomas R. Kinnebrew, xxx-xx-x.../1110, U.S. Navy.

IN THE AIR FORCE

Air Force nominations beginning Robert R. Thunker, and ending Philip C. Amrhein, Jr., which nominations were received by the Senate on October 20, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Bruce C. Bechtel, and ending Carl L. Alden, which nominations were received by the Senate on October 20, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Larry D. Abney, and ending James A. Zimmerman, which nominations were received by the Senate on November 5, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Glenn E. Adams, and ending Jon E. Zampedro, which nominations were received by the Senate on November 5, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Ralph W. Appelgate, and ending Harold N. Walgren, which nominations were received by the Senate on November 15, 1982, and appeared in the Congressional Record of November 29, 1982.

Air Force nominations beginning Marion J. Hardy, and ending Anthony H. Wheeler, which nominations were received by the Senate and appeared in the Congressional Record of December 7, 1982.

Air Force nominations beginning Thomas F. Astaldi, and ending James R. Pope, which nominations were received by the Senate

and appeared in the Congressional Record of December 7, 1982.

## IN THE NAVY

Navy nominations beginning Gary A. Avery, and ending Paul I. Liu, which nominations were received by the Senate on October 20, 1982, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Ernst P. Frage, and ending Ives C. Thillet, which nominations were received by the Senate on October 22, 1982, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Tracy A. Adams, and ending John H. Hughes, which nominations were received by the Senate on November 5, 1982, and appeared in the Congressional Record of November 29, 1982.

ROVERDEF 3, 1882, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Mark R. Achenbach, and ending Jalal A. Najafi, which nominations were received by the Senate on November 15, 1982, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Stanford P. Sadick, and ending Kevin J. McKeown, which nominations were received by the

Senate on November 22, 1982, and appeared in the Congressional Record of November 29, 1982.

Navy nominations beginning Michael A. Fox, and ending Saul Monge, which nominations were received by the Senate and appeared in the Congressional Record of December 7, 1982.

Navy nominations beginning Richard Mills Dunbar, and ending John Mulliss Fiery, Jr., which nominations were received by the Senate and appeared in the Congressional Record of December 7, 1982.

## HOUSE OF REPRESENTATIVES—Thursday, December 16, 1982

The House met at 10 a.m.

Rev. Jonathan L. Graham, First Christian Church, Lexington, Mo., offered the following prayer:

God of infinite compassion, we are drawn again into the season of unique beauty. Compelled by the mystery of it and captured by its meaning, we pray simply that the Prince of Peace may find a birthplace in our hearts.

We are mindful that true peace and security in our lives come from an awareness of Your constant mercy upon us. Facing difficult decisions and monumental tasks, we seek wisdom and we pray for strength, but we also need a powerful presence which is conveyed to us from beyond ourselves. This reality, we do confess, comes from You alone.

Bless us, dear Lord, as we boldly recommit ourselves to the great ideals of peace and justice both in our Nation and within Your world. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 816. An act to amend the Clayton Act to limit the circumstances under which foreign governments may sue for violations of the antitrust laws, and for other purposes.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2118. An act to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes; and

S. 3105. An act to modify the judicial districts of West Virginia, and for other purposes.

## WELCOME REV. AND MRS. JONATHAN GRAHAM

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.) Mr. SKELTON. Mr. Speaker, today we have had the honor of having the Reverend Jonathan Graham as our guest chaplain. It is a special pleasure for me, because he is the pastor of my home church, the First Christian Church of Lexington, Mo. He and his charming wife Marge have consented to come to Washington for this occasion.

Reverend Graham attended college and the Graduate Seminary of Phillips University in Oklahoma. Following graduation, he moved to Sedalia, Mo. In 1977 he came to my home church in Lexington, Mo. He has been serving there since 1979. Since that time he has been dedicated to serving the Lexington community and its people through his many church and his many civic activities.

Reverend Graham is very special to our family. I know he is very special to many others in our area in Missouri. It is my privilege to welcome the Reverend and Mrs. Graham today as he, Reverend Graham, serves as our guest chaplain.

## CONGRESSIONAL PAY—FRONT DOOR, SPEAKING FEE IN-CREASE—BACK DOOR

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, the other body is posing for holy pictures again on the issue of congressional pay. At the same time, it is voting to take the lid off what they can collect in speaker's fees.

Mr. Speaker, the country would be better off, the Congress would be cleaner, the legislative process would be less warped in favor of special interests with money if Senators were paid \$100,000 a year and could receive no outside speaking fees. I do not have any objection to an occasional speaking fee, but when a Member can collect \$8,000 in outside speaking fees in 1 day, that is not healthy.

If one Senator or House Member can clean up on the lecture circuit, by giving proenvironmental speeches and another Member can do the same thing by giving antienvironmental speeches, what incentive do each of them have to ever compromise on an issue such as clean air or any other issue?

And the argument that it is a matter for each district to judge is 100-carat baloney, because the banking bills and the tax bills that those Members vote on do not affect just the voters in those districts; they affect all Ameri-

If somebody represents a rock-safe district, they are virtually unreachable and unrestrained on that issue. Sophisticated, backdoor pay raises and gimmicks like that create subtle, divided loyalties.

I urge the conferees in the House to address the pay issue in a clean way and stick to the House position.

### SOCIAL SECURITY RESOLVE

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, in the final analysis, the Members of Congress must make the decision on a solution for social security. It will be helpful to us if the Speaker and the President, or the President's Commission, or all of them come together on some recommendations, or alternatives but the decision must still be made by the Members of this House and the other body.

This is as it should be, as it will be, and it should never be any other way.

During the past weeks, as the Nation has been beseiged about the problems of the Commission and of social security, there has been an equal amount of discussion among the Members of this body about what we must do.

In these discussions I sense a willingness and a general agreement from the Members of Congress—on both sides of the aisle—that we must go ahead with the tough decisions facing us and an acknowledgment of the fact that we must act. I think the Members are willing to act because of the deep commitment we all have to preserve the soundness of the social security program.

I am confident Congress will not abrogate its authority. It will do what it must do. I am confident we can do it together. The first thing is to have the resolve to do it. I feel we have made that resolve, that the people will support us.

## BICENTENNIAL OF THE CONSTITUTION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I have a resolution which will provide

<sup>☐</sup> This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

<sup>•</sup> This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

for the House to participate in the upcoming bicentennial of our Constitution and our Government.

This bicentennial gives those of us who believe in a strong legislative branch an opportunity to educate the country on the preeminent role of the Constitution and the Federalist Papers of the legislative branch.

This resolution will not require any additional funds but will, instead, establish an office to be paid for from the contingency fund of the Speaker.

I think it is vital for those of us who believe in a strong legislature that we participate fully and adequately in the upcoming bicentennial.

## CALL OF THE HOUSE

Mr. WRIGHT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

## [Roll No. 461]

#### ANSWERED "PRESENT"-321

Hawkins

Dickinson

Addahho

Addabbo	Dickinson	Hawkins
Akaka	Dicks	Hefner
Albosta	Dixon	Hendon
Anderson	Donnelly	Hertel
Andrews		
	Dorgan	Hightower
Annunzio	Dornan	Hiler
Ashbrook	Downey	Hillis
Atkinson	Dreier	Holt
Badham	Duncan	Hopkins
Bafalis	Dunn	Horton
Bailey (MO)	Dwyer	Howard
Bailey (PA)	Dyson	Hoyer
Barnard	Early	Hubbard
Bedell	Eckart	Huckaby
Bennett	Edgar	Hughes
Bereuter	Edwards (CA)	Hunter
Bethune	Edwards (OK)	Hutto
Biaggi	Emerson	Hyde
Bliley	English	Jacobs
Boland	Erdahl	Jeffords
Boner	Erlenborn	Jeffries
Bouquard	Evans (IN)	Jenkins
Bowen	Fazio	Johnston
Brinkley	Fenwick	Jones (NC)
Brodhead	Ferraro	Jones (OK)
Brooks	Fiedler	Jones (TN)
Broomfield	Fish	Kastenmeier
Brown (CO)	Fithian	Kazen
Brown (OH)	Flippo	Kennelly
Broyhill	Foglietta	Kildee
Burgener	Foley	Kogovsek
Burton, Phillip	Forsythe	Kramer
Campbell	Fowler	LaFalce
Carman	Frank	Lagomarsino
Chappie	Frenzel	Lantos
Cheney	Fuqua	Latta
Clinger	Garcia	Leach
Coats	Gejdenson	Leath
Coleman	Gilman	Leland
Collins (IL)	Gingrich	Lent
Collins (TX)	Glickman	Levitas
Conable	Gonzalez	Lewis
Conte	Goodling	Livingston
Corcoran	Gore	Long (LA)
Coughlin	Gradison	Long (MD)
Courter	Gramm	Lott
Coyne, James	Gray	Lowery (CA)
Coyne, William	Green	
		Lowry (WA)
Craig	Gregg	Lujan
Crane, Daniel	Guarini	Luken
Crane, Philip	Gunderson	Lundine
Daniel, Dan	Hall (IN)	Lungren
Daniel, R. W.	Hall, Ralph	Madigan
Dannemeyer	Hall, Sam	Markey
Daschle	Hamilton	Marriott
Daub	Hammerschmidt	
Davis	Hance	Martin (NC)
Derrick	Hansen (ID)	Martin (NY)
Derwinski	Hartnett	Mattox

Mavroules Solomon Pritchard Mazzoli McClory Spence St Germain Quillen McCurdy Railshack Stangeland Ratchford McDade Stark Staton Stenholm McEwen Regula McGrath Reuss McHugh Rhodes Stratton Mica Rinaldo Studds Ritter Michel Stump Robinson Mikulski Synar Tauzin Miller (CA) Rodino Miller (OH) Roe Taylor Minish Rogers Traxler Mitchell (NY) Rostenkowski Vander Jagt Moakley Moffett Vento Molinari Roukema Volkmer Mollohan Rousselot Walgren Roybal Montgomery Walker Wampler Rudd Moore Moorhead Russo Washington Watkins Sabo Morrison Sawyer Schneider Mottl Weaver Weber (MN) Murtha Myers Schroeder Weber (OH) Weiss Natcher Schumer Nelligan Seiberling Whitehurst Sensenbrenner Whitley Nelson Whittaker Shamansky O'Brien Shannon Whitten Sharp Oakar Williams (OH) Oberstar Shaw Wilson Obey Shelby Winn Oxley Panetta Shumway Siljander Wirth Wolf Pashayan Simon Wolpe Wortley Patman Skeen Patterson Skelton Wright Wyden Smith (AL) Paul Smith (IA) Smith (NE) Wylie Pepper Yates Yatron Smith (NJ) Young (FL) Petri Smith (OR) Young (MO) Snowe Peyser Pickle Snyder Zablocki Solarz Zeferetti Porter

## □ 1030

The SPEAKER. On this rollcall, 321 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

## PROVIDING FOR CONSIDER-ATION OF H.R. 3191, MODIFICA-TION OF NORTH AMERICAN CONVENTION TAX RULES

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 630 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

## H. RES. 630

Resolved, That upon the adoption of this resolution it shall be in order, section 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary not-withstanding, to move that the House re-solve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as

having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, all points of order against said substitute for failure to comply with the provisions of section 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived, and no amendment to said substitute shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 630 provides for the consideration of H.R. 3191, modification of the North American convention tax rules. The Rules Committee granted a modified closed rule allowing for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. The introduced bill will be considered as read for amendment and section 311(a) of the Budget Act is waived against consideration of the bill. Section 311(a) prohibits consideration of any measure which reduces revenues in a fiscal year below the revenue floor set forth in the budget resolution. Although the revenue loss in fiscal year 1983 associated with this bill is negligible, the waiver is necessary since any tax deduction would result in a loss of revenue, this, making the bill subject to a point of order.

No amendments to the bill are in order except the Ways and Means Committee substitute now printed in the bill and the substitute shall not be amendable. Further, as was the case in the introduced bill, section 311(a) of the Budget Act is waived against the committee substitute.

At the conclusion of the amendment process the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Mr. Speaker, presently the Tax Code provides that no deductions shall be allowed for expenses allocable to a convention seminar or meeting held on either a U.S.-flag or foreign-flag passenger ship. Therefore, U.S. passenger ships are placed at a disadvan-

tage as they are unable to compete with the land-based hotels.

This measure remedies this situation by permitting expenses for attending a convention or seminar on a cruise ship to be deducted from taxable income if: First, the cruise ship is a U.S.-registered flagship; second, the taxpayer has established that the cruise ship meeting is directly related to the active conduct of the taxpayer's trade or business or to an income-producing activity; and third, all ports of call of the cruise ship are within North America.

Mr. Speaker, this measure, as stated in the committee report, will have a 'negligible effect on the budget" and has a great potential of creating new jobs in the domestic passenger ship industry. I urge my colleagues to support House Resolution 630 so we can begin debate on H.R. 3191, modification of the North American convention tax rules.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the rule itself has been ably explained. This measure was up on suspension and failed to get a twothirds majority by a very, very small margin.

This is a good bill. The inequities in the tax law should be corrected. People who attend a seminar or hold a convention on a cruise ship documented by U.S. law should have equal treatment with people who attend a seminar or convention on land.

Mr. Speaker, I urge adoption of the rule and the measure when it is debated on the floor of the House.

Mr. FRENZEL. Mr. Speaker, will the

gentleman yield? Mr. QUILLEN. I am happy to yield

to the gentleman from Minnesota Mr. FRENZEL. Mr. Speaker, I thank

the gentleman for yielding.

Any rule which has to waive as many points of law as this rule has to waive ought to be defeated. I urge that the Members vote against the rule.

Mr. QUILLEN. Mr. Speaker, this measure was reported out of the Committee on Ways and Means by a majority vote, and, as I said, it failed on the House floor to get a two-thirds majority. But it would have passed overwhelmingly if it had been brought up in regular order under a rule.

Mr. Speaker, I urge adoption of the rule and the bill when it is debated. Mr. Speaker, I have no requests for

time.

Mr. ZEFERETTI. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered. The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a

quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were-yeas 236, nays 146, not voting 51, as follows:

## [Roll No. 462]

## TTAC 000

Murtha

Natcher

Nelligan

Napier

	YEAS-236
Addabbo	Gaydos
Akaka	Gejdenson
Albosta Anderson	Gephardt Gibbons
Andrews	Gilman
Annunzio	Ginn
Anthony	Glickman
Applegate	Gonzalez
Archer	Gore
Ashbrook	Gray
Atkinson Badham	Green Guarini
Bailey (PA)	Hall (IN)
Barnard	Hall (OH)
Barnes	Hall, Ralph
Bennett	Hall, Sam
Bevill	Hance
Biaggi	Hartnett
Bingham Boggs	Hatcher Hawkins
Boland	Heckler
Bolling	Hefner
Boner	Heftel
Bonior	Hertel
Bonker	Hillis
Bouquard	Howard
Bowen	Hoyer
Breaux	Hubbard Hughes
Brinkley Brooks	Hutto
Brown (CA)	Hyde
Burton, Phillip	Jenkins
Carney	Jones (NC)
Carney Chappell	Jones (OK)
Clausen	Jones (TN)
Clay	Kastenmeier
Coelho	Kazen
Conyers Courter	Kemp Kennelly
Covne William	Kildee
Coyne, William Crane, Daniel	LaFalce
Crockett D'Amours	Lantos
D'Amours	Leath
Daniel, Dan	Leland
Daniel, R. W.	Lent
Daschle Davis	Levitas
de la Garza	Livingston Loeffler
Derrick	Long (LA)
Dicks	Long (MD)
Donnelly	Lowry (WA)
Dorgan	Luken
Dowdy	Lundine
Downey	Martin (NC)
Duncan	Martinez
Dwyer Dyson	Matsui Mattox
Early	Mavroules
Edgar	Mazzoli
Edwards (CA)	McCloskey
Evans (GA)	McCurdy
Evans (IN)	McDade
Fary	McDonald
Fazio	McEwen
Ferraro Fields	McHugh
Fish	McKinney Mica
Fithian	Mikulski
Flippo	Miller (CA)
Florio	Miller (OH)
Foglietta	Mineta
Foley	Minish
Ford (MI)	Mitchell (MD)
Fountain	Moakley
Fowler Frank	Mollohan Montgomery
Frost	Morrison
Fuqua	Mottl
Garcia	Murphy

Nelson Nichols Nowak Oakar Oberstar Obey Ottinger Panetta Parris Patman Patterson Peyser Pickle Porter Price Pritchard Quillen Ratchford Reuss Rinaldo Rodino Roe Rostenkowski Rousselot Roybal Russo Sabo Sawyer Scheuer Schneider Schroeder Schumer Shamansky Siliander Simon Skelton Smith (NJ) Snyder Solarz Spence St Germain Stangeland Stark Stokes Stratton Studds Swift Synar Tauzin Traxler Trible Udall Vander Jagt Volkmer Walgren Wampler Watkins Weiss White Whitehurst Whitley Whitten Wilson Wolf Wolpe Wortley Wright Wyden Yatron Young (AK) Young (MO) Zablocki Zeferetti

## NAYS-146

	111110-110	
Bafalis	Gingrich	Paul
Bailey (MO)	Goodling	Pease
Bedell	Gradison	Pepper
Benedict	Gramm	Perkins
Bereuter	Gregg	Petri
Bethune	Grisham	Railsback
Bliley	Gunderson	Regula
Brodhead	Hamilton	Rhodes
Broomfield	Hammerschmidt	Ritter
Brown (CO)	Hansen (ID)	Roberts (KS)
Brown (OH)	Hansen (UT)	Roberts (SD)
Broyhill	Hendon	Robinson
Burgener	Hightower	Roemer
Butler	Hiler	Rogers
Campbell	Holt	Roth
Carman	Hopkins	Roukema
Chappie	Horton	Rudd
Cheney	Huckaby	Sensenbrenner
Clinger	Hunter	Shannon
Coats	Jacobs	Sharp
Coleman	Jeffords	Shaw
Collins (IL)	Jeffries	Shelby
Collins (TX)	Kindness	Shumway
Conable	Kramer	Skeen
Conte	Lagomarsino	Smith (AL)
Corcoran	Latta	Smith (IA)
Coughlin	Leach	Smith (NE)
Coyne, James	Lewis	Smith (OR)
Craig	Lott	Snowe
Crane, Philip	Lowery (CA)	Solomon
Dannemeyer	Lujan	Staton
Daub	Lungren	Stenholm
Derwinski	Madigan	Stump
Dickinson	Marlenee	Taylor
Dornan	Marriott	Thomas
Dreier	Martin (IL)	Vento
Dunn	Martin (NY)	Walker
Eckart	McClory	Washington
Edwards (OK)	McCollum	Waxman
Emerson	McGrath	Weber (MN)
English	Michel	Weber (OH)
Erdahl	Mitchell (NY)	Whittaker
Erlenborn	Molinari	Williams (OH)
Evans (IA)	Moore	Winn
Fenwick	Moorhead	Wirth
Fiedler	Myers	Wylie
Findley	O'Brien	Yates
Forsythe	Oxley	Young (FL)
Frenzel	Pashayan	
Cimor		

	NOT VOTING	-51
Alexander	Emery	Marks
Aspin	Ertel	Moffett
AuCoin	Evans (DE)	Neal
Beard	Fascell	Pursell
Beilenson	Ford (TN)	Rahall
Blanchard	Goldwater	Rangel
Burton, John	Hagedorn	Rosenthal
Byron	Harkin	Santini
Chisholm	Holland	Savage
Deckard	Hollenbeck	Schulze
Dellums	Ireland	Seiberling
DeNardis	Johnston	Shuster
Dingell	Kogovsek	Smith (PA)
Dixon	LeBoutillier	Stanton
Dougherty	Lee	Tauke
Dymally	Lehman	Weaver
Edwards (AL)	Markey	Williams (MT)

## □ 1045

Mrs. COLLINS of Illinois, Mr. PER-KINS, and Mr. MOORHEAD changed their votes from "yea" to "nay."

Mr. WATKINS and Mr. RALPH M. HALL changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING ROVIDING FOR CONSIDER-ATION OF S. 1965, PADDY CREEK WILDERNESS ACT OF CONSIDER-

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 631 and ask for its immediate consideration.

The Clerk read the resolution, as fol-

#### H. RES. 631

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately six thousand eight hundred and eighty-eight acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area", as a component of the National Wilderness Preservation System, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered as having been read for amendment under the fiveminute rule. No amendment to the bill shall be in order except one amendment in the nature of a substitute printed in the Congressional Record of December 15, 1982 by, and if offered by, Representative Bailey of Missouri, all points of order against said amendment are hereby waived except under clause 7, Rule XVI, and said amendment shall not be subject to amendment but shall be debatable for not to exceed one hour, to be equally divided and controlled by Representative Bailey and a Member opposed to the amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruc-

## □ 1100

The SPEAKER. The gentleman from Massachusetts (Mr. Moakley) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentle-man from Mississippi (Mr. Lorr) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 631 provides for the consideration of S. 1965, known as the Paddy Creek Wilderness bill. The resolution provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

This is a modified open rule which provides that no amendments to the bill shall be in order except the amendment in the nature of a substitute by Representative BAILEY of Missouri printed in the Congressional RECORD of December 15, 1982. The Bailey substitute shall not be amendable but shall be debatable for 1 hour to be equally divided between Representative BAILEY and a Member opposed to the amendment. To permit consideration of the substitute, the rule waives all points of order against it with the exception of violations of clause 7 of rule XVI-the germaneness rule. The bill shall be considered as read for amendment.

Upon conclusion of consideration of the bill one motion to recommit with or without instructions would be in

order.

Mr. Speaker, S. 1965 would designate 6,888 acre area in the Mark Twain National Forest in Missouri as the Paddy Creek Wilderness. This designation was endorsed by the President after completion of a Forest Service Study recommendation that Paddy Creek be declared as wilderness.

Mr. Speaker, the bill, S. 1965, by a vote of 250 to 143 failed to get the required two-thirds when it was considered under suspension on Tuesday, December 14. As my colleages are aware, bills considered under suspension are not subject to amendment. House Resolution 631 will give the House an opportunity to vote on an alternative proposal offered by Representative BAILEY.

During the final hours of this session it is essential that we move expeditiously to complete the work of this Congress. House Resolution 631 will facilitate consideration of S. 1965 and allow the House to work its will on this matter.

Mr. Speaker, I urge adoption of House Resolution 631.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this rule. This rule makes in order the consideration of S. 1965, which designates certain lands in the Mark Twain National Forest in Missouri as the Paddy Creek Wilderness Area. The gentleman from Massachusetts has explained the modified open rule with 1 hour of general debate. No amendment is in order except an amendment in the nature of a substitute to be offered by the gentleman from Missouri.

I am opposed to the rule and the bill itself. It is quite apparent that this bill has not received adequate consideration by the Interior Committee and should not be considered at this time.

Mr. Speaker, first of all, this area is not what I would consider a wilderness. A wilderness is generally an untouched and undeveloped area. This particular area has miles of roads and has been used for timber production and cattle grazing.

Second, the Interior Committee has pushed this bill through without any hearings in the area or proper contact with the gentleman in whose district the area is located. If they had, they might have discovered that few people in that district want the area declared a wilderness. The wishes and desires of those who have a vested interest in the area have been ignored. At the least, everyone in the area should have been given a chance to be heard in a public hearing. This is a blatant denial of the right of due process to these

Third, the Interior Committee has not followed proper procedure because this bill should have been referred to the Agriculture Committee. If the bill had been properly referenced, then chances are that the bill would not even be considered at this time.

Mr. Speaker, I believe that these practices of the Interior Committee should be stopped here and now. I urge all of my colleagues to vote down this rule or you might wake up one morning and find that your backyard has been proclaimed a wilderness area.

Mr. Speaker, I reserve the balance of my time.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. HYDE. I think the Speaker's admonition is very much in keeping with the new spirit since the election and the aggrandizement of power to the other side. Republicans will shut up, they will not debate, we will not get to vote on issues on the floor, there will be closed rules, and we better learn now, this early, to live with that new spirit of democracy that is going to obtain in this body.

I thank the gentleman for yielding. Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I would like to compliment the gentleman for his statement. The rule is a bad rule. It is a closed rule. It is setting a precedent. There was no need for this. The House spoke yesterday under suspension against the bill. It is an area of 6,000 acres, 3 miles by 3 miles. The people who live there voted overwhelmingly, or at least in the majority, for the gentleman who represents that area not to put it in the wilderness. There is no crashing need for

By the way, many of the Members may not know, the area which the gentleman is speaking of has been logged, there are roads in it, there are homesteads in it, there is private property in it, and there is, in fact-and this is what hurts me-the roots of many of the people who live around that area, the roots are established there, and they want to go back in and visit where their forefathers were. These are older people, in many cases, and they cannot put their little green

packsack on or their waffle stompers. They are people who want to go in, to drive in, as they have done in the past, to lay flowers and wreaths upon the graves of their forefathers. And here we are, in the waning hours of this session, passing legislation, without hearings in the district, and without understanding that this should be a democracy.

I want to stress that, if the gentleman will yield further: A democracy. This great side always talks about being a party of the people. Collectively. I do not call you the party of the people, unless you want to refer to another nation. You are doing what is wrong here. And I know there will be that gentleman and that gentleman and that gentleman from Missouri say, "This is a good bill, and we want it in Missouri," but it is not in their districts. I thought we were a representative form of government. Six thousands acres, in the waning hours of the lameduck session. The gentleman in that district does not want it, his people do not want it, and here we are acting on this piece of legislation that we defeated yesterday.

I would like to compliment the gentleman who just said that this is the new era of time, of freedom and being able to speak out, and we are going to be listened to as the minority. No, we are being told, "Do not debate, do not discuss, just sit back, and we, the party of the people, are going to do it to the little people, are going to do it to the

little people, do it to them."

I thank the gentleman for yielding. Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Minne-

sota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, last October when we closed down the regular session this year, the Interior Committee brought forth from its subcommittees bills in prodigious number that had never had hearings, and asked unanimous consent to have them presented on the floor.

It was my query at that time to the chairman of the committee whether he was cleaning out his broom closet of all of the bills that the committee had ever had referred to it. Now appears that his answer, "No," was correct, because we are dipping further into that same broom closet, at the end of a lameduck session. And we are doing so, I think, in violation of all of the processes that most of us swear to uphold when we come to the Congress.

This bill can wait until next year. I really do not have the knowledge to evaluate it on a substantive basis, but apparently, neither does the committee. What we do know is that it is a bill that is unwanted by the inhabit-

ants of the area.

But worse than that, it is being presented to us under a gag rule. We get the usual waivers, the usual denial of amendments, the usual inability of those who oppose to be able to be

heard over any extended period of time. We are being subjected to either arrogance of majority, or just plain lack of control by the leadership of this House.

I think it would be a good thing for this House if we drew the line right here and now and said, "No more of this junk are we going to bring out at the end of the session just because we have some time while we are waiting for a continuing resolution.

This kind of closed, waivered rule performance speaks volumes as to the professional management of this House. There is none, of course. Disorder and lack of discipline reign.

Vote down the closed rule, and let us stand for a little order around here. If the leadership can not enforce it, we are going to get it one way or another.

Mr. MOAKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said on the other side that there are no people locally in favor of this wilderness designation. The gentleman from Ohio, Representative Seiberling, appeared before the Committee on Rules and indicated that 44 people who live closest to this wilderness area are in favor of it. Every major local newspaper has been editorializing in favor of it. So this is not an outside move to take over the wilderness. The President is in favor of it. I wish that some Members on the other side would look closely at the President's statement.

Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. Volk-

MER).

Mr. VOLKMER. Mr. Speaker, I would like to very briefly speak in favor of the rule and also in favor of the legislation.

As has been alluded to by the gentleman from Minnesota, to go to one thing first, that this bill somehow came out of Interior, maybe was hidden back in the closet. These bills, both the Irish Wilderness and Paddy Creek from Missouri were passed by the Senate on the last day, on October 1, of the session before we adjourned; and, therefore, the Interior did not have an opportunity to address them at that time.

Paddy Creek is basically supported by two U.S. Senators and seven Members of the Missouri delegation. The majority of the Missouri delegation support it. As has been alluded to by the gentleman from Massachusetts, the gentleman from Ohio (Mr. Seiberling) has a petition from people who live in the little town of Roby, which is a municipality or small little village that is located in the area. They want this designation as a wilderness area. The President has supported it. The Congress in the past has supported the designation as a wilderness area.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Just out of curiosity, when it is said that 44 people signed a petition supporting this, you know, I think if you checked the membership of the clubs they belong to, they belong to the Sierra Club or some other club.

Mr. VOLKMER. No; that is not correct.

Mr. YOUNG of Alaska. Now, this gentleman who runs in that district happens to be a Republican, and that county voted for him, because they are against wilderness in that area. It is not in your district, it is not in any of those Senators' districts or nobody else's district. It is in the district of this one Member right here.

#### □ 1115

Mr. Speaker, the Democrat county court judge is against it, elected officials are against it.

Let us face the fact. What is the rush? If everybody is for it, why not bring it back next session?

Mr. VOLKMER. It is not a rush. This has been around since 1971 or 1973.

Mr. YOUNG of Alaska. Has anything happened in the meantime to destroy the wilderness?

Mr. VOLKMER. No; but we might just as well get finished with it. I am sure the gentleman knows as we have been told if we do not get it done now the gentleman who will be representing the district in the next election supports this designation, voted for it on the suspension. I am sure we will be taking it back up again.

Mr. YOUNG of Alaska. Why do we not go out and have a hearing in that district? We did not have a hearing on this subject in that district with those people there. Why do we not listen to the people instead of having all the people in Washington, D.C., and the environmental organizations saying we have to have this in wilderness.

Mr. VOLKMER. Not everybody in Texas County is opposed to this. A good many of the people in this county, just as I said, a little village there, they support it.

Mr. YOUNG of Alaska. Has the gentleman ever visited the area?

Mr. VOLKMER. I have been down in the area; yes. It has been several years.

Mr. YOUNG of Alaska. Has the gentleman been to Paddy Creek Wilderness?

Mr. VOLKMER. I have been in the area; yes. I have camped out quite a bit in many parts of the State of Missouri.

Mr. YOUNG of Alaska. Has the gentleman been to Paddy Creek?

Mr. VOLKMER. I have not been inside the Paddy Creek area, hiked

inside of it; no. But I have been in the area many times.

Mr. LOTT. Mr. Speaker, I yield 15 minutes to the gentleman from Mis-

souri (Mr. Bailey).

Mr. Bailey of Missouri. Mr. Speaker, I rise to speak on the rule. I welcome the opportunity to speak on the rule, because the debate on this measure as we know occurred after the motion to adjourn last night when the gentleman from Oregon (Mr. Smith), made that motion to adjourn and was told to sit down by the Speaker, the debate then occurred at 20 minutes until 11 on this bill.

So I welcome this opportunity to speak in strong opposition to the rule. I speak in strong opposition to the rule, Mr. Speaker, for three reasons.

One, Paddy Creek had its shot. It had its opportunity under suspension. It was defeated under suspension. The chairman, the gentleman from Ohio (Mr. Seiberling), brought his bill forward, he had it his way. He wanted no amendments, he wanted it under suspension. And in the sense of fair play, we went along. We said that is OK, we will give you your shot, your way, and he lost.

So where did he go? He went directly to the Rules Committee. What is wrong with the rule? What is wrong with the bill?

No. 1, it is flawed. If my colleagues will check the gentleman from Ohio's language, if my colleagues will check his debate, his conversations on the floor of the House, when he presented it, he said the bill is flawed, but we worked out an agreement with the Senate that it will be OK, that we will not send it back to them. The bill is flawed

The second point, the gentleman spoke about the Indiana wilderness bill, and how the Indiana delegation had come together. The gentleman from Arizona (Mr. UDALL) said we have agreement on the Indiana legislation.

Mr. Speaker, that is the way it should be. You should have agreement from the delegation on what is going into wilderness and what is not going into wilderness.

Now, what has happened, and why does it make any difference about the Indiana delegation and how they handle their wilderness bill?

Let me tell my colleagues.

Mr. Speaker, the Indiana delegation designated the wilderness areas that they wanted and gave release language for the areas that they did not want designated in wilderness. Release language that this legislation does not contain.

Mr. Speaker, this area, third, is not pristine. When one talks about the words RARE-II, and each of us has seen environmentalists, we have been involved with the wilderness coalition, we have been involved with the Sierra

Club, we have heard the words RARE—the roadless area review.

RARE—the roadless area review. Roadless, Mr. Speaker, roadless.

Now, what does the Paddy Creek mean? The Paddy Creek is an area of 6,000 acres, and all you farm boys know 3 miles by 3 miles is 6,000 acres. It is a small piece of land. And what is inside this, gentlemen? Twenty-eight miles of roads, in a roadless area. Eighteen miles of trails. A total of 38 miles of roads and trails inside a roadless area that is 3 miles by 3 miles.

Mr. CRAIG. Mr. Speaker, will the

gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Idaho, a member of the Interior Committee.

Mr. CRAIG. I thank the gentleman for yielding.

Is the gentleman telling me that an area 3 miles by 3 miles, some 6,000 acres, has 28 miles of road in it?

Mr. BAILEY of Missouri. Exactly. That is by the Forest Service, by the RARE-II document my colleagues have in front of them.

Mr. CRAIG. Well, I will have to admit to the gentleman from Missouri, I have never been to Paddy Creek.

Mr. BAILEY of Missouri. Neither has the sponsor of the bill or the gentleman from Ohio, the chairman.

Mr. CRAIG. Are there any manmade structures in the area?

Mr. BAILEY of Missouri. There certainly are. Inside this RARE pristine wilderness there is a sawmill.

Mr. CRAIG. A sawmill?

Mr. BAILEY of Missouri. A sawmill. Mr. CRAIG. Is the gentleman telling me this area has been logged?

Mr. BAILEY of Missouri. This area, this wild pristine area, has been saw milled and logged continuously since the thirties until 1975.

Mr. CRAIG. Is there any private land is the area?

Mr. BAILEY of Missouri. These certainly is. The gentleman asks such pentrating questions. Inside this wild pristine area that the gentleman from Missouri (Mr. Volkmer) has never been to, there are three areas that are not owned by the U.S. Government. One is in local ownership, and two areas are in private ownership, one by a corporation and the other by a private individual. One hundred and sixty acres inside this small 6,000 acre plot that are not owned by the U.S. Government.

Mr. CRAIG. Would the gentleman from Missouri say that according to the 1964 Wilderness Act which says that wilderness should be an area where man can come visit and then leave, that this area would not qualify as an area where man could visit, because man has been there for a century or more?

Mr. BAILEY of Missouri. Can my colleagues imagine an area that is 3 miles by 3 miles, that smack dab in the middle of it there is 80 acres owned by

private individuals, and under wilderness law they cannot deny access, so you have four-wheel drive vehicles zooming in and out of this wilderness area to get to this private ownership, that these gentlemen are rushing through here without having ever being there any time.

Mr. Speaker, there are barbed wire fences inside this area.

Mr. CRAIG. Will the gentleman tell me about the barbed wire fences. I do not think they have wilderness character.

Mr. BAILEY of Missouri. One gentleman, a member of the Interior Committee, said: "If this was in his area he would blacktop it as a parking lot."

Mr. CRAIG. I thank the gentleman. Mr. BAILEY of Missouri. Now, Mr. Speaker, let us talk about the facts that are presented by the RARE-II document.

Between 1965 and 1975 there were 11 timber sales yielding over 3 million board feet. That is enough to building 300 homes. The potential growing stock is enough to build 2,100 homes. Approximately 37 percent of the area is covered by small stands of saplings and small trees that have been logged over. The surrounding area, there are 57 sawmills, evidence of the timber industry in the area-109 acres of the 6,888 acres is not timber. Upon this ground there are grazing permits with forage production for 100 livestock. There are 1.4 miles of barbed wire fence in the area. Nonvisual intrusion-nonvisual intrusions, gentlemen. This area, and many of my colleagues have been to the area, is near Fort Leonard Wood, Mo. This pristine area, with no intrusions, is within 4 miles of Fort Leonard Wood, Mo., and the guns of Fort Leonard Wood, Mo., can be heard inside this wilderness. That is not my opinion. That is the evaluation of the RARE-II.

There are, as I said, 28 miles of roads, 18 miles of trails, including 800 blazed trees.

The local cost to the economy is \$50,000 to \$67,000. There are no endangered species, there are no threatened species, there are no rare geological formations, there are no minerals, there is no hazard to the watershed in the area.

Mr. Speaker, this simply is a ludicrous proposition. It is ridiculous to bring it up.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I thank the gentleman for yielding.

Mr. Speaker, I want to compliment the gentleman for his presentation on the floor of the House, for really describing this turkey for what it is. It is the Christmas season. If we vote for this rule or the bill, we have got our turkey. There is absolutely no reason, as the gentleman said, for this bill to even be on the floor of the House.

Mr. BAILEY of Missouri. This is a wooded area with a creek in it. It is a nice area. I am sure many of our city friends would say it would have a certain amount of beauty. It is no different, though, than the other area around it, surrounding it, or in close proximity.

Mr. YOUNG of Alaska. There has been a comment that 44 people signed the petition. Can the gentleman give me some idea how many people live in

the area?

Mr. BAILEY of Missouri. I am so

glad the gentleman asked that. Texas County, Mo., was one of those counties that was run over by the Union Army during the Civil War.

Mr. YOUNG of Alaska. The Union

Army?

Mr. BAILEY of Missouri. You bet. Those bluecoats came in there and ran all these people out, and they are a solid Democratic county. Republicans are just not allowed in the county. The entire county court is Democratic. The presiding judge and the two associate judges, and I have a resolution from them, are opposing the designation.

Mr. YOUNG of Alaska. Again I want

to thank the gentleman.

If we listen to the gentleman, this should be a "no" vote on the rule and a "no" vote on the bill.

Mr. WEBER of Minnesota. Mr. Speaker, will the gentleman yield?
Mr. BAILEY of Missouri. Certainly I

yield to my friend from Minnesota.

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

As the gentleman knows and discussed with me afterward, I voted in opposition to his position when this matter came up under suspensions.

Mr. BAILEY of Missouri. We all

make mistakes.

Mr. WEBER of Minnesota. Am I to understand now in listening to the debate that the wilderness I was voting to protect the other day includes barbed wire fences and roads and private property and sawmills?

Mr. BAILEY of Missouri. We all make mistakes. The gentleman did not get a chance to hear the debate, unless he was switching off from Johnny

Carson. We tried to adjourn.

Mr. WEBER of Minnesota. I can only extend to the gentleman my deepest apologies for not listening more closely to his arguments. I want to assure him when this matter comes up I will be voting on his side of the question this time as I am sure will most of the Members who listen to the debate here today.

Mr. BAILEY of Missouri. After Sylvester Paddy came to the Ozarks, the man this area was named for, he began a logging operation in the

Paddy Creek area in 1816. They cut the tall virgin Missouri pine, rafted it down Paddy Creek to the Gasconade River and down to the Missouri River, where the gateway to the West was just being formed, and the German immigrants needed housing. So the Paddy Creek area was logged in the 1830's and 1840's and 1850's. And the lumber was shipped to build St. Louis, Mo.

After that came the era of the Civil War when the settlers were removed by the Union troops, and then they came back and made claims on their homesteads in the Paddy Creek area. Those homesteads are there still, the foundations are still there. As the gentleman from Alaska indicated, the people want to be able to go back to their old family homestead to visit those places where their forefathers were.

After that area became an area of expansion, my family moved there in the early 1900's, having plowed corn for Ance Hatfield of the Hatfield and McCoy region in Kentucky. They did not want to get into the bushwhacking and the murders going on in eastern Kentucky, so they came to Missouri and settled in Texas County, Mo.

It was during that time, than, during the Depression that the Forest Service—the National Geographic article on the U.S. Forest Service tells it

better than I:

There were also problems for rangers in the thirties in the Missouri Ozarks, woodland burning set almost ritually each spring in the belief they hastened the grasses greening; struggling peckerwood sawyers who fed their mobile mills with poached timber as an unwritten birthright; moonshiners whose smoking stills could draw an unsuspecting firefighting crew into a hall of gunfire. The first thing a ranger had to do, said Claude Ferguson, was to convince the moonshiner he wasn't a "revenoor."

The author says:

Claude and I grew up in those hills. The first units of the Mark Twain National Forest were being formed, one of them cradling the hill and valley town of Willow Springs, where I was born.

## □ 1130

Mr. Speaker, these are not vast reaches of wilderness. These are towns that are 26 miles apart. As I have indicated on the map, these areas are not inaccessible to other people. We are not locking up anything for anybody that they could not reach by driving 26 miles farther to Devil's Backbone.

Mr. CRAIG. Mr. Speaker, will the

gentleman yield?

Mr. BAILEY of Missouri. Certainly, I will yield to my friend from Idaho.

Mr. CRAIG. Mr. Speaker, this 6,000 acres the gentleman is discussing that is now under consideration that would be called Paddy Creek Wilderness, how has it been managed the last 15 years?

Mr. BAILEY of Missouri. It has been managed under the multiple-use concept that allows recreation. There are parks, places where you can park your car at the edge of this, where you can backpack in.

Then they have been managing the timber to get rid of some of this scrub oak that is still there remaining from the timber cut and allow that to come back; so they are going through a process of multiple-use management with timbering and recreation.

Mr. CRAIG. Under the current management plan, of course, it has been under the RARE-II process since 1976, is the Forest Service discussing any major shifts or changes in that man-

agement plan?

Mr. BAILEY of Missouri. Absolutely

Mr. CRAIG. Then it would be managed as it has been managed over the last 15 years?

The SPEAKER. The time of the gentleman from Missouri (Mr. Balley) has expired.

Mr. LOTT. Mr. Speaker, I yield an additional 2 minutes to the gentleman.

Mr. BAILEY of Missouri. Mr. Speaker, I would like to try to close, if I could, and point to the map that you can all see. I would like to talk for a minute to your logic and your good sense about whether we are indicating something here that should be.

Within 52 miles of Paddy Creek is Devil's Backbone, 8,000 acres of wil-

derness.

Within 64 miles is Bell Mountain.
Within 72 miles is Hercules Glade.

Within 88 miles is Rock Pile Mountain.

Within 96 miles is Piney Creek.

Within 108 miles is Mingo Reserve; all designated now as wilderness, just an hour's drive further for anyone who wants it.

As proposed wilderness, inside is Spring Creek, 42 miles; Swan Creek, 60 miles; Big Creek, 68 miles; Anderson Mountain and Irish Wilderness; all within an hour or an hour and a half's drive.

We are not denying anybody the opportunity to do anything.

As I have said, the local opposition is strong. It is intense. The entire country court and all the communities around there agree. It is not pristine.

Within this 3 miles it has the sawmill, the blazed trees, the homesteads where people want to go back and visit their families. It has 28 miles of roads, 18 miles of trails, 1.5 miles of fence.

In fact, in 1964, Mr. Speaker, the U.S. Army operated in there on Operation Goal Fire, an intensive maneuver with tanks and artillery and air support.

Mr. Speaker, I ask the Members of the House of Representatives to use instead of custom here, I ask you to prevail upon your good sense. I ask you to make a logical determination of whether you believe this is a pristine area and whether it should be included.

I think if you ask yourself that sincere question and make the logical determination, you will vote "no" on this rule.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. Udall) for debate only.

Mr. UDALL. Mr. Speaker, 2 days ago this bill we are hearing about this morning passed this House by more than 100 votes, a margin of more than 100 votes; 243 to 130 something, as I recall.

I do not recognize the bill that we passed in this House 2 days ago from the description we are getting this morning. I do not recognize this as the sound bill we brought out of our committee many weeks ago.

This is in the subcommittee of the gentleman from Ohio (Mr. Seiberling) and he is not here. He knows more about it than I do, but let me make a few points, if I may, before we have

this vote.

Somebody who was throwing softballs at the Speaker, the gentleman from Missouri (Mr. Bailey), and he was knocking them out of the park and he thanked him for his penetrating questions. I wish somebody would ask me a couple, like how does our great President feel about this?

Mr. BAILEY of Missouri. Mr. Speak-

er, will the gentleman yield?

Mr. UDALL. I yield to the gentleman.

Mr. BAILEY of Missouri. Mr. Speaker, has the gentleman been to the Paddy Creek area?

Mr. UDALL. No; I have not.

Mr. BAILEY of Missouri. Has the gentleman been in the airport at St. Louis?

Mr. UDALL. I say to the gentleman, I try to go to most of the wilderness areas that we have under consideration. I regret that I have not seen this one, but our committee has.

Mr. BAILEY of Missouri. How would the committee have seen the area?

Mr. UDALL. I do not know. I do not have the figures. I will try to get them for the gentleman.

Mr. BAILEY of Missouri. Begging the chairman's pardon, the committee has not seen the area, neither the committee nor any member of the committee.

Mr. UDALL. The staff advises me the gentleman is correct.

Mr. BAILEY of Missouri. I thank the gentleman.

Mr. UDALL. Mr. Speaker, let me say to the gentleman that I think, as was said here earlier, that when a proposal for a national park or wilderness area involves an area covered by a local Congressman, that his views ought to have great weight. We give them great weight.

I so not think the Grand Canyon, however, is for me to decide or for the

local Congressman to decide. The Grand Canyon belongs to all of us; but I am told, and I think I am correct, that the gentleman will not be representing that area next year, that that area next year will be represented by the gentleman from Missouri (Mr. Skelton); is that correct?

I wish somebody would ask me the question, How does that great defender of wilderness, Ronald Reagan, stand on this bill? Well, the answer is that he endorsed the bill. He sent the report to the Congress asking for enactment of this legislation.

I hope some of the gentlemen will ask me how the Forest Service stands on this bill, and the answer is, they

strongly support it.

How does the rest of the Missouri delegation stand on the bill? Well, both Senators, one from each party, are cosponsors of the bill. It passed the Senate unanimously. It passed the Senate committee by a vote of 17 to nothing.

I wish somebody would ask me about this vacant land, these in-holdings that are there. The report says that the Forest Service, and I have the report here somewhere, says that they are going to make an exchange. That is customarily the way they do it. The Forest Service will give the private owners who have the land inside some forest land and will take this back, and will get rid of these in-holdings and have a better wilderness area than we would otherwise.

I do not claim this is our greatest bill. Apparently it is not the finest hour we have had in designating wilderness; but I think basically the support from that area, the support from all over the country, the support from the rest of the Missouri delegation, suggests that we ought to give some deference there, too.

There was a great deal of conversation here about an old sawmill. I am told that has been abandoned for a couple decades, at least. It is not being used. There is not a usable active operating sawmill in the area right now. I think that has come a little bit out of focus.

The gentleman made a very powerful argument, and I am impressed with him, I have seen a lot of people in the same situation fighting for what they feel is the local view on this; but the Forest Service hearing asked people who knew this area whether they favored wilderness. There were 1,950 people from the local area and from outside, and approximately 200 people came down and registered to vote against it.

So this is a carefully thought out bill that passed the House by 100 votes a couple days ago. I hope we will not have too many Members change their minds.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman from Arizona referred to some questions. First, let me make the record clear. If the House sees fit to accept the gentleman's substitute, which will be offered of release language which has already been accepted in California, would the gentleman strongly support that? Indiana is in there and New Mexico has accepted it. It probably could work as a release part of the bill and it should be in there.

I have indications that is not going to be accepted on the gentleman's side and if it is not accepted, this bill is terribly wrong and the gentleman knows it is wrong.

If the gentleman will yield further, as a sponsor of the wildernes area, it is very clear this area does not qualify for wilderness.

Now, the Forest Service is a Government body. The Senator do not live in this region.

I get back to what the gentleman said. The people in the area do not want it. We must listen to the people in this body if we are to be a representative form of government.

Mr. UDALL. Mr. Speaker, I will recapture my time and maybe give the gentleman some reassurance. I am told that the Senators have called over just recently, the two Missouri Senators, and urged us to accept the amendment.

I have not talked to the subcommittee chairman, the gentleman from Ohio (Mr. Seiberling), but it looks like we can accept the amendment.

Mr. YOUNG of Alaska. Mr. Speaker, that makes me feel a whole lot better, because we were informed—it does not make the bill any better—we were informed they were not going to accept that language, and of course, the bill would be totally unacceptable on this side.

Mr. UDALL. Well, obviously, it is better to have it under a rule so we can make changes where they are agreed upon then having it under a suspension of the rules; but the time was running out.

So let us adopt the rule, get to that amendment and pass the bill again and maybe we will all be a little bit happier about it.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume to respond further to some of the things the chairman of the Interior Committee, the gentleman from Arizona, just said.

As far as proper consideration being given to affected Members' districts, I submit that a pattern is developing in this Congress, particularly with those bills out of the Committee on Interior, where, in fact, individual Members' districts and their concerns are not

being considered. One example is the recent bill the House passed involving nuclear waste.

This week alone-the final week of the 97th Congress-we have had three bills come up, two of them under suspension, where the individual Members that were affected were opposed to it.

Now, I want to urge my colleagues again, you may think that it will only be Members on this side of the aisle that would be affected, but I would not be so sure.

I might point out that the Member that represents the Garrison diversion project that we voted on earlier this week happened to be on that side of the aisle.

There is a bad pattern here. I can remember when I first came here, 14 years ago, it was not that way. We worked with you, you worked with us, and so on, until the Members affected were satisfied that they had been given proper consideration and their constituents had had full hearings.

It is not that we are opposed to wilderness. I have got wilderness areas in my district and I am glad to have them, but when those things were worked out, this Congress always gave me and my constituents every opportunity to have our concerns addressed. And, Mr. Speaker, this is not the Grand Canyon.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to my friend, the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I would like to compliment the gentleman again on his statement.

I am probably-I hate to say that I am an expert, an expert on how I was listened to in the Interior Committee 2 years ago. By action of this body, 147 million acres was set aside in wilderness and parks in the national and collective interest.

Now, of course, it is Federal land. We know that, but there are other methods of protection, and no one listens to this. There are multiple use concepts. There are recreation areas, other designations, not just wilderness, because certain groups want them. Wilderness is a very restrictive classification of land, just as restrictive as parks in many cases, especially after 1983.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Arizona.

UDALL. Mr. Speaker, the Alaska lands bill, in perspective, was probably the greatest environmental resource decision made in the history of this country. We would not have it today had we given the gentleman from Alaska a total veto or a total consideration on all sections of that bill. I think the gentleman concedes and the people of Alaska are conceding that

most of what we did is right. It probably needs some fine tuning, perhaps, down the road, but it was right.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, just to answer that question, the biggest objection was that it was already owned by the Federal Government. It was not owned by the State and it was being managed correctly; but when you put it into a wilderness area, it is no longer managed, and this is what the gentleman from Missouri is saying. Those people will be disallowed from going into their forefathers' burial grounds, unless they can walk in there.

Mr. UDALL. Well, maybe we can go up to Alaska and take a look at it again and I will not need a bodyguard this time

Mr. LOTT. Mr. Speaker, now we have the Grand Canyon, the Alaskan wilderness and Paddy Creek.

Mr. Speaker, does the chairman, the gentleman from Arizona, one of our admired liberal leaders in this body, support a closed rule on a bill out of the Interior Committee?

Mr. UDALL. At this late hour in this session, sometimes you have got to be practical to get results. It is a question of letting this go down the drain and not resolving it for another year or getting it now with a rule that I would prefer we not have. I would prefer to have a wide open rule; but the gentleman has already won a lot from us here. Apparently the gentleman is going to get the amendment he wants the most and we went to the Committee on Rules so that the gentleman could have a chance to at least have that amendment considered.

I hope the gentleman will reconsider his position on where we have the nuclear waste repository in the light of our discussion here today.

Mr. LOTT. Well, I think the thing to do here is to defeat the rule so that we will have adequate time to address what needs to be done in this area.

I urge my colleagues to vote against this closed rule requested by the Interior Committee.

The SPEAKER pro tempore. The time of the gentleman from Mississippi (Mr. Lott) has expired.

Mr. MOAKLEY. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, the gentleman from Mississippi knows this is not a closed rule and the gentleman from Alaska, if he does not know, I will inform him that it is not a closed rule.

I am informed by the gentleman from Ohio (Mr. SEIBERLING) that he is willing to accept the amendment of the gentleman from Missouri with the two modifications and I would hope that this would make the rule more palatable to some of those who are opposing the rule, for fear that the gentleman from Missouri will not have his amendments adopted.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the res-

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

Mr. FRENZEL. Mr. Speaker, on that demand the yeas and nays.

The yeas and nays were ordered. The vote was taken by electronic device, and there were-yeas 217, nays 179, not voting 37, as follows:

[Roll No. 4631 YEAS-217

Addabbo Frank Akaka Albosta Fugua Anderson Andrews Gavdos Gejdenson Anthony Gephardt Gibbons Applegate Asnin Gilman Bailey (PA) Ginn Barnard Glickman Barnes Gonzalez Bedell Gore Beilenson Gray Green Guarini Bennett Bevill Biaggi Hall (IN) Bingham Hall (OH) Hall, Sam Boggs Boland Hamilton Bolling Hance Boner Hatcher Bonior Bouquard Hefner

Heftel Brinkley Hertel Hightower Brodhead Brooks Hillis Howard Brown (CA) Burton, Phillip Hoyer Huckaby Byron Chappell Hughes Chisholm Hutto Ireland Clay Coelho Jenkins Conte Jones (NC) Conyers Coyne, William Jones (OK) Jones (TN) Crockett Kastenmeier Kazen D'Amours Daschle Kennelly Kildee Davis de la Garza Kogovsek Dellums LaFalce Lantos Derrick Dicks Leach Dingell Leath Dixon Leland Donnelly Long (LA) Dorgan Long (MD) Dowdy Lowry (WA) Downey Luken Dwyer Lundine Markey Early Martinez Eckart Matsui Edgar Mattox Edwards (CA) Mavroules Mazzoli English Evans (GA) McCurdy McHugh Evans (IN) Mikulski Fazio Ferraro Miller (CA) Fish Miller (OH) Fithian Mineta Flippo Minish Mitchell (MD) Florio

Foglietta Foley Ford (MI)

Ford (TN)

Fowler

Moakley

Mollohan

Murphy

Montgomery

Murtha Natcher Nelson Nichols Nowak Oberstar Obey Ottinger Panetta Patman Patterson Pease Pepper Perkins Peyser Pickle Price Rahall Rangel Ratchford Reuss Rinaldo Rodino Roe Rose Rostenkowski Roybal Russo Sabo Scheuer Schneider Schroeder Schumer Seiberling Shannon Sharp Simon Skelton Smith (IA) Smith (NJ) Solarz St Germain Stark Stokes Stratton Studds Swift Synar Traxler Udall Vento Volkmer Walgren Washington Watkins Waxman Weaver Weiss White Whitley Whitten Wirth Wolpe Wright Wyden Vates

Yatron

Zeferetti

Young (MO)

Archer Gradison Ashbrook Gramm Atkinson Gregg Badham Bafalis Bailey (MO) Benedict Bereuter Bethune Bliley Heckler Breaux Hendon Broomfield Hiler Brown (CO) Brown (OH) Holt Broyhill Hopkins Burgener Horton Butler Hunter Campbell Hyde Jacobs Carman Carney Chappie Jeffords Jeffries Cheney Johnston Kindness Clausen Clinger Kramer Coats Coleman Latta Collins (TX) Lee Conable Lent Corcoran Levitas Coughlin Lewis Livingston Courter Coyne, James Loeffler Craig Lott Crane, Daniel Crane, Philip Lujan Daniel, Dan Lungren Daniel, R. W. Madigan Marlenee Dannemeyer Daub Marriott Derwinski Dornan Dougherty McClory McCloskey Dreier Duncan Dunn McCollum Edwards (AL) McDade Edwards (OK) McDonald Emerson McEwen Erdahl McGrath McKinney Erlenborn Evans (IA) Michel Mitchell (NY) Fenwick Fiedler Molinari Fields Moore Findley Moorhead Forsythe Fountain Morrison Myers Napier Frenzel

NAYS-179 Oxley Parris Pashayan Gunderson Paul Hall, Ralph Petri Hammerschmidt Porter Hansen (ID) Pritchard Hansen (UT) Pursell Quillen Railsback Regula Rhodes Hollenbeck Ritter Roberts (KS) Roberts (SD) Robinson Roemer Rogers Roth Roukema Rousselot Rudd Sawyer Sensenbrenner Lagomarsino Shaw Shelby Shumway Siljander Skeen Smith (AL) Smith (NE) Smith (OR) Snowe Lowery (CA) Snyder Solomon Spence Stangeland Staton Stenholm Martin (IL) Stump Martin (NC) Tauzin Martin (NY) Taylor Thomas

#### NOT VOTING-37

Nelligan

O'Brien

Alexander
AuCoin
Beard
Blanchard
Bonker
Burton, John
Collins (IL)
Deckard
DeNardis
Dickinson
Dymally
Emery
Ertel

Gingrich

Goodling

Evans (DE)
Fascell
Goldwater
Grisham
Hagedorn
Harkin
Holland
Hubbard
Kemp
LeBoutillier
Lehman
Marks
Moffett

Neal Rosenthal Santini Savage Schulze Shamansky Shuster Smith (PA) Stanton Tauke Williams (MT)

Trible

Walker

Wampler

Vander Jagt

Weber (MN)

Weber (OH)

Whitehurst

Williams (OH)

Whittaker

Wilson

Wortley

Young (AK)

Young (FL)

Wylie

Winn

Wolf

#### □ 1200

Mr. JACOBS changed his vote from "yea" to "nay."

So the resolution was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDER-ATION OF S. 1964, IRISH WIL-DERNESS ACT OF 1982

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 628 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 628

Resolved, That upon the adoption of this resolution it shall be in order, clause 2 (1)(6) or rule XI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 1964) to designate certain lands in the Mark Twain National Forest, Missouri, which comprise about seventeen thousand five hundred and sixty-two acres, and known as the Irish Wilderness, as a compo-nent of the National Wilderness Preservation System, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, the bill shall be considered as having been read for amendment under the fiveminute rule. No amendment to the bill shall be in order except one amendment in the nature of a substitute printed in the Congressional Record of December 14, 1982 by, and if offered by, Representative Emerson of Missouri, all points of order against said amendment are hereby waived except under clause 7, rule XVI, and said amendment shall not be subject to amendment but shall be debatable for not to exceed one hour, to be equally divided and controlled by Representative Emerson and a Member opposed to the amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final pas-sage without intervening motion exept one motion to recommit with or without instruc-

The SPEAKER pro tempore. The gentleman from California (Mr. Beilenson) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Missouri (Mr. Taylor), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 628 provides for the consideration of S. 1964, a bill designating the Irish Wilderness in the State of Missouri. The resolution provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. Since this is a simple bill, and in view of the limited time remaining in the session, the rule waives the requirement of clause 2(1)(6) of rule XI that the committee report accompanying S. 1964 be available for 3 days prior to consideration of the bill.

The resolution provides that no amendment may be offered to S. 1964 except for a substitute printed in the CONGRESSIONAL RECORD by Mr. EMERson, if Mr. Emerson actually offers the substitute. The rule further provides that all requirements set by the rules of the House be waived for consideration of this substitute with the single exception of the germaneness requirement of clause 7, rule XVI. The substitute may be debated for 1 hour to be equally divided and controlled by Mr. Emerson and a Member opposed. The substitute may not itself be amended.

Finally, the rule provides a motion to recommit the bill with or without instructions.

Mr. Speaker, S. 1964 designates a 17,600 acre area in Missouri's Mark Twain Forest as a wilderness. The wilderness designation will restrict commercial exploitation of the area and preserve its natural beauty and recrational value.

The rule before us provides for an expeditious consideration of this simple measure while insuring that interested Members have a full opportunity to place their views before the House.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. TAYLOR. Mr. Speaker, House Resolution 628 is a mostly closed rule to allow for limited consideration of S. 1964, a controversial bill which designates several thousand acres of land in the Mark Twain National Forest in my home State of Missouri as the Irish Wilderness.

I am opposed to the adoption of this rule because it permits only one amendment to the bill, and because it does not facilitate a close examination in this House of the issues surrounding this particular wilderness designation.

I want to make it quite clear that I am not personally opposed to the creation of wilderness areas. I have two wilderness areas in my district. I had a great deal of opposition to those wilderness areas when the RARE-II was proposed. The chairman of the Subcommittee on Interior at that time, Mr. John Melcher, who is now a Member of the other body, afforded me the opportunity to go back to my district to fully explain the concept of the wilderness areas and to have the people informed as to what a wilderness area actually was. After we had an opportunity to fully explain the concept of the wilderness area, by and large we had support for the wilderness areas. They were established, and we now have within my district two wilderness areas known as the Hercules Glades Wilderness Area and the Piney Creek Wilderness Area, which are well accepted by the people and

neighbors living in those hill counties in southwest Missouri.

But the fact is that this measure is being rushed through the House without any attempt to conduct hearings in this area and hear from local people who are opposed to it or who are virtually uninformed.

Mr. Speaker, the prime example of how this bill is being rushed through is found right in the rule. It waives clause 2(1)(6) of rule XI. This is the 3-day layover rule. The proponents of the bill, some of the members of the Interior Committee, wanted to bring this bill up earlier in the week when the waiver would have been necessary. They wanted to rush this measure, hoping to avoid any close examination of the issues, but their committee report was not available for the required 3 days. Today, of course, it has been available for that required time and this waiver is now a moot point.

But the fact remains, Mr. Speaker, that the committee wants to take this bill up in the House with only one amendment that is made in order. This rule does not allow the opportunity to consider any other amendments except the substitute to be offered by my friend from Missouri, Representative EMERSON, who represents this district.

This rule bears no resemblance to the written request made by the chairman of the Interior Committee, Mr. Udall. He asked for a simple open rule with no waivers. The gentleman from New Mexico, the ranking Republican member of the Interior Committee, Mr. Lujan; the gentleman from Alaska, the ranking Republican member of the Public Lands Subcommittee, Mr. Young, and the gentleman from Missouri, in whose district this

will be, Mr. Emerson, all appeared in support of an open rule. Mr. Speaker, these requests went un-

Mr. Speaker, these requests went unheeded by the Committee on Rules. Instead, we have before us a rule suggested by the gentleman from Ohio, chairman of the Public Lands Subcommittee, Mr. Seiberling. He told us in the Rules Committee he honestly does not want the Members of the House to be able to offer amendments to this bill except for the substitute of the gentleman from Missouri.

What does that tell us about the level of regard some folks in the Interior Committee have for our traditions of full, free, and open debate? What does that tell us about the amount of consideration the local residents of four small, rural Missouri counties have received from the Interior Com-

mittee? I think it tells us a lot.

The people of southwest and south central Missouri in these hill counties are hospitable. They welcome visitors. They love the land on which they live. They love the beauty of those Ozark hills and the mountains and the timber, and they have preserved it

from generation to generation and opened their doors to all visitors who want to come to hunt, fish, camp, or hike. They made their land open to them and extended the welcome mat in most all cases.

Mr. Speaker, under the rule the gentleman from Missouri is allowed to offer a substitute, and all points of order against that substitute are waived except for those dealing with germaneness. It might be said that this is a fair rule to the gentleman from Missouri, but he told us that he would prefer a totally open rule. I do not think this is the most fair situation the gentleman from Missouri (Mr. EMERSON) could find himself in, and certainly not fair to all the Members of the House, because his substitute is not amendable.

#### □ 1215

The legislation passed by the other body and rubberstamped so quickly by the Interior Committee is opposed by the gentleman from Missouri (Mr. EMERSON). We have heard it said that this passed unanimously in the Senate, and I suppose it did. But so did the regulatory reform measure. That is not here for consideration in this lameduck Session. Are we letting the Senate run this body? I do not think we should.

The legislation is opposed by all the Republican members of the Interior Committee. It is opposed by the administration. The point was made on the previous proposition that it was supported by the administration. This one is opposed by the administration, and it is opposed by the Department of Agriculture and the U.S. Forest Service.

More importantly, perhaps of prime importance, the measure is strongly opposed at the present time by those who live in the area of the proposed wilderness. The proposed Irish Wilderness very probably contains valuable lead and zinc deposits, because that area of southern Missouri is rich in lead and zinc, and the local people are optimistic because they have the prospect of new jobs, the prospect for being able to improve the economic condition of those southern Ozark counties in their area, and the prospect of being able to better finance their local governments by raising their tax base if it turns out that these mineral deposits are there, and they probably are.

A mineral assessment of the area will soon be completed, and the gentleman from Missouri (Mr. EMERSON) feels that more than 1 year will be necessary to complete the process by which applications for prospecting permits can be granted.

What we are caught up in here, Mr. Speaker is a time clock that runs out at the end of next year. If this area is made a wilderness almost overnight,

any applicant who is granted a permit would have only one year to explore and establish what is known as a lease right.

Mr. Speaker, when the proponents of this legislation appeared before us in the Committee on Rules, I urged that they reconsider the matter and go to the local area and conduct hearings. Is that asking too much? I do not believe that it is. I do not believe that this legislation is that urgent.

I urged that they reconsider the matter, give us the time, and let the local people have an opportunity for input, but this plea fell upon a deaf ear. The response from the chairman of the subcommittee was that they might be willing to go into the area after it was made a wilderness. That would be an interesting trip.

My experience in these matters of wilderness designations has been that if the Interior Committee makes a good faith effort to explain what is involved and to explain it to the local residents, very often some of the strongest opposition will be lessened and in many instances opponents will become supporters. That happened in the two wilderness areas in my district. We did it the right way. This being done the wrong way.

Mr. Speaker, that is exactly what the gentleman from Missouri (Mr. EMERSON) wants, to do it the right way. That is exactly what I would like to see. But we do not have that kind of a situation under this rule.

What we are dealing with here on this rule today, I say to my friends, is not the concept of wilderness, but in a far more important vein we are making a landmark decision as to whether or not this House reaffirms its historic role as a house of the people, with concern for the opinions of the people and respect under a representative form of government for our colleagues who speak here on behalf of the people of the districts they were elected to represent in this Chamber.

Mr. Speaker, affirmation of these principles, in my opinion, calls for a sound defeat of this rule. Let us have the Interior Committee take this calf back and lick it one more time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time at this moment.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. Mr. Speaker, I want to thank the gentleman from Missouri (Mr. Taylor) for the very eloquent plea that he has made against this rule. Everything that he said is true in spades.

Everything that my colleague, the gentleman from Missouri (Mr. Bailey) said about the Paddy Creek rule is true in spades about this rule and this

bill, except that we are talking here about a larger issue. There are mineral deposits that we are concerned about, lead and zinc deposits, and there is a potential for jobs should lead and zinc

be discovered there.

I will speak to the issues in the course of the debate on the bill, but there are a couple of points I would like to touch upon here while the rule is under consideration. Much has been made of the fact that a majority of the members of the Missouri delegation favor this legislation, and I suppose a majority of the member do. But the fact of the matter is that everyone who is favoring this bill has not been there, and those who are opposed to it have been there.

Much is made of the point that the two Senators from Missouri are in favor of this bill. Fine. Some basic rules of comity apparently apply the Senate. If the two Senators from Missouri over there say they are for it, well, of course, the other 98 Senators are going to say, "who are we, from Wisconsin or California, or New York, to go against the wishes of the Senators from their own State?" But the fact of the matter is there has not been an application of any of the basic rules of comity that ought to obtain here in the House of Representatives.

I am put out that the subcommittee would not even come out there and hold a field hearing in the district. I think it is terrible that this bill is going to be railroaded through here in the manner apparently in which it is without even a field hearing having taken place. I requested one back early on when the gentleman from Missouri (Mr. Volkmer) and the gentleman from Missouri (Mr. CLAY) introduced the bill in the House, which is not the bill we are going to be acting upon because we are dealing with the Senate bill here. I asked for field hearings to be held, and the chairman of the subcommittee wrote me a letter in reply saying that if the Senate passed the bill, he would then be better disposed to hold field hearings.

Well, the Senate passed the bill, and we have not had any field hearings. I think it is terrible and the people of Oregon County, I am sure, think it is terrible that they have not had an appropriate opportunity to get their

licks in on this issue.

The presiding judge of the Oregon County Court did have an opportunity to testify when this matter was under consideration by the House Interior Committee at a Washington hearing last spring, but he was the only person from Oregon County who was up here. I will guarantee that if they come out there and hold some field hearings, they would be well attended. Let us invite the environmentalists, let us invite the mining companies, and let us invite the local population. And certainly I would like to invite the gentle-

man from Missouri (Mr. Volkmer) and the gentleman from Missouri (Mr. Clay), to whom this matter is so important, to come down there and participate in those hearings. St. Louis and Hannibal are about as far away as one can get from the Irish Wilderness and still be in Missouri. I think these gentlemen owe us the courtesy of coming down there and talking to my people before they try to cram this down the throats of my people.

I am not opposed to the Federal ownership of this land. I am not opposed by any stretch of the imagination to its continued use and status in

which it presently exists.

I am going to offer during the course of debate on the bill what I think is a reasonable compromise. I want to assure this body that I want to protect this land. It is now well protected. Virtually everyone agrees that it is being properly managed by the Forest Service and I want to indicate once again that the Forest Service opposes the designation of this land as wilderness at this time, as does the Interior Department.

So the issues here are ones really of basic fairness. The local people and I as their representative would like to work something out here so that all interests could be protected. The people of Oregon County are indeed proud of this land, and they do not

want to spoil it in any way.

Missouri is very privileged to have the mining industry that it does. It creates an awful lot of jobs in lead and zinc, and let me tell the Members that it is clean mining. People come from all over the world to learn the processes of mining that occur in Missouri in environmentally sensitive areas. They come there to learn from us.

If the committee and the Members of the House would be fair on this issue and give us an opportunity to hold field hearings to hear the views of all parties involved, I think something reasonable and acceptable to everyone could be arrived at. As the gentleman from Missouri (Mr. Taylor) pointed out, he had some problems early on when some local people did not want the designations that were being cast upon them. But by careful work with the subcommittee, the then subcommittee chairman afforded the gentleman the privilege of field hearings and they were able to resolve all those problems.

Mr. Speaker, that could happen if that were the case here and some basic rules of comity in this House applied.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from

Missouri (Mr. Volkmer).

Mr. VOLKMER. Mr. Speaker, I am not going to take the full 1 minute. I just want to remind the House that this is a rule that is very similar, if not identical, to the Paddy Creek rule. It is a fair rule, and it should be adopted. I

think we should debate the question of whether the Irish Wilderness should be designated a wilderness area. We should address the issue during debate on the bill, and I will not debate it now.

Mr. Speaker, I urge adoption of the rule.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the ranking minority member of the full committee, the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Speaker, I want to thank the gentleman for yielding this time to me.

Mr. Speaker, I do not stand here as an opponent of designating areas as wilderness areas. As a matter of fact, I am a supporter of the wilderness system that we have put together. As a matter of fact, I think that once we put something into wilderness, then we ought to leave it alone until and unless there is some kind of national emergency.

But let me say that I think this is a different situation, a totally different situation. There have been no hearings in the area. Not one member of the committee, with the exception of the gentleman from Missouri (Mr. Emerson) who represents the area, and the gentleman from New York (Mr. Martin) who was there on some other business, has ever been anywhere near this particular area.

Mr. Speaker, it is not a matter of life and death that we face here in these waning moments of the 97th Congress. I do not understand why we should rush ahead and try to do something like this without having any hearings and without trying to compromise the situation. I just do not believe that that should be done.

There are some strong possibilities, very strong possibilities—as a matter of fact, strong probabilities—that there are substantial minerals in this area. The gentleman from Missouri (Mr. EMERSON) will offer an amendment that we have 10 years in which to explore, and then if there are not any minerals, we will then go ahead and make it a wilderness area. Those minerals that are in there are minerals that are needed in this country.

Now, there is a counterproposal, I understand, that we allow mineral exploration for 5 years, but for only one company. Why should just one company have the advantage over all the rest of them?

Mr. Speaker, this is not a popular issue in this Congress. When we had this bill on the suspension calendar, the vote was 217 to 179. Unlike other bills that we have had here which had a lot of support within the Congress, this one does not. If we had just 20 Members vote the opposite way this time this bill would be defeated.

This bill is different from the previous one we passed. Much has been said about the support from the Forest Service, the administration, and the Interior Department, as well as all the others that were quoted as supporting the Paddy Creek Wilderness a few minutes ago. This is different. Even the Forest Service agrees that this should not be put in a wilderness area.

I do not know that I agree with the Forest Service. Maybe it should and maybe it should not. I, like the rest of the committee members, have not been there. But I think we ought to have the opportunity to go there and to work out some compromise. I imagine this will become a wilderness area in time, but what is the hurry? Why do we have to do it at this last moment?

The House spoke earlier this week when the bill was brought up on the suspension calendar, and immediately after that we rushed over to the Rules Committee to get a rule so that we could get it going, as though if this bill does not pass, the world is going to come to an end. It is no such thing. Nobody is moving in on the proposed Irish Wilderness.

Mr. Speaker, I urge my friends in the body to vote against the rule.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the ranking minority member of the Subcommittee on Mines and Mining, the gentleman from Utah (Mr. Marriott).

Mr. MARRIOTT. Mr. Speaker, I rise in opposition to this rule because I am in opposition to the bill. I have supported my good friend, the gentleman from Ohio (Mr. Seiberling) on many occasions in wilderness legislation, but I have to part with him on this one because I honestly believe this goes a little bit too far.

This bill is detrimental to our national interests. It was brought up in the committee in great haste. We have not inventoried the land to see what is there

Wilderness land, as far as I am concerned, should be designated to preserve our primitive areas. The Irish Wilderness is not primitive. It is timberland. It has been cleared in many parts for grazing. It has extensive unpaved roads. It is being well managed now as multiple-use land, and that concept is supported by the local community.

#### □ 1230

More important than any of that, I suppose, is the fact that if you look at this map that I have just been reading, this land lies just south of the Viburnum Trend which is where 90 percent of the lead in this country is mined.

This land has great potential for the Nation's future lead reserves.

As the ranking Republican on the Mines and Mining Subcommittee, we are concerned about our mineral potential in this country and not locking it up.

I would just like to say to the Members if they support this rule and if they support this bill they are locking up this land forever after December 31, 1983. I do not think any of us want to do that until the Mines and Mining Subcommittee has had a chance to take a hard look at this land and its potential.

I would urge, therefore, that you give us some time to inventory the land and to evaluate its potential, to explore the land.

We find new deposits of minerals about once every 30 years. We need the time to explore this particular parcel of land and for that reason to lock it up permanently as wilderness is bad politics and runs against common sense.

I would urge my colleagues to vote against this rule and also to vote against the bill when it comes up.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MARRIOTT. I am happy to

yield to the gentleman.

Mr. SEIBERLING. I simply want to

mr. SEIBERGING. I simply want to correct the Record. The gentleman from New Mexico (Mr. Lujan) stated that this bill was voted on yesterday by a vote of 217 to 170 or something like that.

There was no vote on this bill at all. This bill has never been voted on by the House. I do not know which bill the gentleman was referring to but it was not this one.

Mr. MARRIOTT. That is correct

and it should not be.

I yield back the balance of my time. Mr. TAYLOR. Mr. Speaker, I would simply say in closing that again the issue here is not the wilderness concept. The issue is fairness, reasonable consideration, and deliberation.

I would certainly urge in the spirit of cooperation with our colleagues and with the people who will be involved in this that we give further consideration to it, defeat the rule, and come back and look at it under more sane circumstances.

I yield back the balance of my time.
Mr. BEILENSON. Mr. Speaker, in
conclusion, the Committee on Rules
believes this is a fair rule. It allows the
gentleman from Missouri (Mr. Emerson) the opportunity to propose his
own substitute.

It waives all points of order against that substitute, with the single exception of the germaneness requirement, so that it allows the gentleman, in effect, to rewrite this bill as he wishes.

As the gentleman has testified to this House, he does intend to offer what he calls a reasonable compromise, so he will have every opportunity to present that to the Members. The gentleman will have his day in court. He is being fairly treated. I ask adoption of the rule.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.
The SPEAKER pro tempore. The question is on the resolution.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 186, nays 191, not voting 56, as follows:

# [Roll No. 464]

#### YEAS-186

Addabbo Ford (MI) Nowak Akaka Ford (TN) Oakar Albosta Fowler Oberstar Anderson Obey Frost Andrews Fuqua Ottinger Annunzio Garcia Panetta Applegate Gephardt Patman Aspin Gibbons Patterson AuCoin Ginn Bailey (PA) Glickman Pepper Barnard Perkins Barnes Gore Peyser Bedell Gray Guarini Beilenson Price Hall (IN) Bennett Rahall Bevill Hall (OH) Rangel Biaggi Ratchford Hall, Sam Hamilton Ringham Reuss Hance Rodino Boggs Roland Hawkins Rose Rosenthal Bonior Hefner Heftel Rostenkowski Brinkley Hertel Roybal Brodhead Russo Sabo Brooks Hover Scheuer Brown (CA) Huckaby Burton Phillip Hughes Schneider Chappell Hutto Schroeder Clay Jenkins Schumer Coelho Seiberling Jones (OK) Collins (IL) Jones (TN) Shannon Kastenmeier Convers Sharp Coyne, William Kazen Simon Kennelly Crockett Skelton Kildee D'Amours Smith (IA) Kogovsek Daschle Solarz LaFalce de la Garza Stokes Dellums Lantos Stratton Derrick Leland Studds Dicks Long (LA) Swift Long (MD) Dingell Synar Dixon Lowry (WA) Traxler Donnelly Luken Udall Dorgan Markey Vento Volkmer Martinez Downey Dwyer Matsui Walgren Mattox Washington Dyson Early Eckart Mazzoli Watkins McCurdy Waxman McGrath Edwards (CA) McHugh Weiss Mica English Whitley Mikulski Evans (GA) Williams (MT) Evans (IN) Miller (CA) Wirth Fary Fazio Mineta Wolpe Minish Wright Mitchell (MD) Wyden Yates Ferraro Fithian Moakley Flippo Murtha Yatron Young (MO) Natcher Florio Nelson Foglietta Zablocki Zeferetti Nichols Foley

#### NAYS-191

Anthony Bafalis Bliley
Archer Balley (MO) Bouquard
Ashbrook Benedict Breaux
Atkinson Bereuter Broomfield
Badham Bethune Brown (CO)

Brown (OH) Broyhill Butler Campbell Carman Carney Hiler Chappie Hillis Chenev Holt Clausen Clinger Coats Coleman Hyde Collins (TX) Conable Conte Corcoran Coughlin Courter Coyne, James Kemp Craig Crane, Daniel Crane, Philip Daniel, Dan Latta Leach Daniel, R. W. Leath Dannemeyer Lent Daub Davis Lewis Derwinski Dornan Dougherty Dreier Duncan Dunn Edwards (AL) Edwards (OK) Emerson Erdahl Erlenborn Evans (IA) Fenwick McClory McCollum Fiedler Fields Findley McDade McDonald Fish Forsythe McEwen Fountain Michel Miller (OH) Frenzel Gaydos Mitchell (NY) Gilman Molinari Goodling Montgomery Gradison Moore Gramm Moorhead Green Morrison Gregg Mottl Gunderson Myers Hall, Ralph Nelligan O'Brien Hammerschmidt Hansen (ID) Hansen (UT)

Hartnett Pashayan Hatcher Paul Heckler Petri Hendon Porter Pritchard Hightower Quillen Regula Rhodes Hopkins Rinaldo Horton Ritter Roberts (KS) Hunter Roberts (SD) Ireland Robinson Jacobs Roe Jeffords Roemer Teffries Rogers Jones (NC) Roth Roukema Kindness Rousselot Kramer Rudd Santini Lagomarsino Sawyer Sensenbrenner Shelby Levitas Shumway Siljander Livingston Skeen Smith (AL) Loeffler Smith (NE) Lowery (CA) Smith (NJ) Smith (OR) Lujan Lungren Madigan Snowe Snyder Marlenee Solomon Marriott Spence Martin (IL) Martin (NC) St Germain Stangeland Stanton Martin (NY) Mayroules Staton Stenholm

Stump

Taylor

Trible

Weber (MN)

White Whitehurst

Whittaker

Whitten

Wortley

Young (AK)

Young (FL)

Winn

Wolf

Wylie

#### NOT VOTING-56

Parris

Alexander Mollohan Frank Geidenson Beard Murphy Blanchard Gingrich Napier Bolling Goldwater Neal Grisham Pursell Boner Bonker Hagedorn Railsback Harkin Burgener Savage Burton, John Holland Schulze Shamansky Byron Hollenbeck Chisholm Hubbard Shuster Smith (PA) Johnston Deckard Stark DeNardis LeBoutillier Dickinson Tauke Dowdy Lehman Vander Jagt Dymally Lundine Wampler Weber (OH) Williams (OH) Marks McCloskey Ertel Evans (DE) McKinney Wilson Fascell Moffett

#### □ 1249

Mr. FARY changed his vote from "nay" to "yea."

So the resolution was not agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDER-ATION OF H.R. 7357, IMMIGRA-TION REFORM AND CONTROL **ACT OF 1982** 

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 623 and ask for its immediate consideration.

The Clerk read the resolution, as fol-

#### H. RES. 623

Resolved. That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House re-solve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed five hours, two hours to be equally divided and controlled by the chairman and ranking minority member of the committee on the Judiciary, two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule by titles instead of by sections, and each title shall be considered as having been read. No amendment to the bill shall be in order except (1) the amendments printed in the Congressional Record of December 6, 1982, by Representative Perkins of Kentucky, corresponding to the amendments recommended by the Committee on Education and Labor to H.R. 6514, said amendments shall be considered as if they were amendments recommended by the Committee on Education and Labor to H.R. 7357, and said amendments shall not be subject to amendment except amendments printed in the Congressional Record on or before December 9, 1982, and pro forma amendments; (2) amendments printed in the Congressional Record on or before December 9, 1982; and (3) pro forma amendments for the purpose of debate. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 7357, the House shall proceed, any rule of the House to the contrary notwithstanding, to the consideration of the bill S. 2222, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 7357 as passed by the House. It shall then be in order to move to insist on the House amendment to S. 2222 and to request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. Brown of California). The gentleman from California (Mr. Beilenson) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Arizona (Mr. Rhopes), pending which I vield myself such time as I may consume.

Mr. Speaker, House Resolution 623 provides for the consideration of H.R. 7357, the Immigration Reform and Control Act of 1982. The resolution provides 5 hours of general debate to be allocated as follows: 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; 2 hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor; and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture.

To facilitate consideration of this important legislation, the Rules Committee granted a waiver of section 402(a) of the Congressional Budget Act requiring authorizations to be reported by May 15 before the beginning of the fiscal year for which they are effective. Also, the rule provides that the bill will be read by titles, with each title to be considered as read.

The resolution makes amendments printed in the Congressional Record of December 6 1982, by Chairman Per-KINS, corresponding to the amendments recommended by the Education and Labor Committee to H.R. 6514, in order as amendments recommended by the Education and Labor Committee to H.R. 7357.

The rule also allows consideration of any germane amendment printed in the Congressional Record by December 9, 1982, and pro forma amendments for the purpose of debate. This printing requirement has given Members time to examine the amendments to this complex bill before they are offered on the floor.

A motion to recommit is also provid-

After passage of H.R. 7357, the resolution waives all rules of the House to permit consideration of S. 2222 and makes in order a motion to strike all after the enacting clause of the Senate bill and to insert the House-passed

Finally, the rule provides for a motion to insist on the House amendment and request a conference with the Senate.

Mr. Speaker, H.R. 7357 will effect a long overdue reform in the manner in which our Nation regulates legal and nonlegal immigration across our borders. As Member are aware, millions of undocumented aliens reside in the United States and hundreds of thousands more arrive each year. The rapid population growth in neighboring countries to the South and the greater economic opportunities available in the United States guarantee that ever larger numbers will attempt to enter this country in the foreseeable future.

H.R. 7357 will take the important steps of encouraging stronger border control and penalizing employers who induce illegal immigration by making jobs available to the undocumented.

The bill also grants the opportunity for citizenship to undocumented aliens who have been living and working in this country for several years. The bill restructures many aspects of legal immigration to the United States, expanding opportunities for foreign workers and students to take employment in this country, waiving visas in cases where there is little risk that foreign nationals will attempt to stay here.

Finally, the bill provides for unlimited immigration by Amerasian children

within the next 3 years.

Mr. Speaker, H.R. 7357 is not a perfect bill, but it is, in this Member's opinion, a very good one. We do not know of any better one hanging around here in the Capitol waiting to be voted on. It is the result of an enormous amount of hard work by some dedicated colleagues of ours here in the House, and it deserves to be heard by the Members. In the opinion, again, of this particular Member, it is a necessary and a humane bill, and it is very much in our national interests to enact this legislation as quickly as possible.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the rule for the bill which is before us is a rule which came out of the Rules Committee by a unanimous vote. There is controversy on the bill itself, but there was no controversy on the rule. The gentleman from California has very adequately explained the rule, and I support it.

(By unanimous consent, Mr. Rhodes was allowed to speak out of order.)

REMARKS OF HON. JOHN J. RHODES OF ARIZONA ON HIS RETIREMENT FROM U.S. HOUSE OF REP-RESENTATIVES

Mr. RHODES. Mr. Speaker, I hope that Members will agree with me that one who has served in this body for 30 years does have a right upon leaving it to pass along some thoughts and conclusions concerning the institution itself. I guess if you want to label this, you could call it my swan song, because it may be the last time that I will be privileged to speak from this floor.

I want to keep my remarks to the institution. I have spoken on national issues at other times and, as the years and months go by, I hope to continue to do so by writing and speaking. But in these minutes that I now have, I intend to offer comments and suggestions which I truly hope will help this institution to become an even more capable one of discharging its responsibilities than I now believe it to be, and to have in the eyes of the country a

better image that it now seems to

I certainly do not claim to know all of the answers. I do not even know all of the questions. But I do have some ideas, and I have no intention of demeaning this institution in putting them forth. I am very proud to have been a Member of this House for 30 years, and I believe, as I did when I entered it, that it is the greatest deliberative body in the world.

#### □ 1300

I have enjoyed being here. I will miss the institution as well as my friends on both sides of the aisle, the Members and the staffs.

For some time I have been worried about the structure of the Federal Government and the state to which the actions or inactions of the Congress have caused departure from Federal service of many employees we

would like to have kept.

That is why I was pleased at the actions of the House the other day in passing the necessary legislation for a pay raise for this body. And I only hope that the other body will be equally zealous in passing the legisla-

tion for a pay raise.

One of the problems which I do not think has ever been brought to the concern of the country and the Congress adequately is the longstanding tradition that Federal employees in classified service will not receive compensation higher than do the Members of the Congress. Frankly, I have never understood the rationale for this sometimes written but also sometimes unwritten law.

It seems to me that we demean ourselves by comparing our positions with those of Federal employees. And I say that with certainly no disrespect to the Federal employees. But we were elected by some 525,000 Americans to serve our country as provided in the Constitution of the United States. Now, that is not true of the Federal employees. They have been selected and I hope selected carefully to en-force and administer the laws passed by us, the Members of the Congress, sitting in plenary session. It seems obvious to me that the people of the country are best served if we procure the talents and capabilities of the very best people available for Federal positions. We cannot do this unless the salary scale is at least comparable to that enjoyed by those in the private sector with similar responsibilities and with similar necessities for education and experience.

During my tenure in this body I voted several times for increases of pay for the Members of Congress. I do not believe I have ever voted against a pay increase because I always felt that by the time it came to the floor it was amply justified by the personal economics of the Members. I considered

those raises necessary to attract the best talent available to serve in the Congress of the United States.

A Congress made up of less than the best available is not a Congress which best serves our people. If because of an unrealistic pay scale Congress loses or does not attract the most capable people, the majority of Americans certainly are not well served, nor is our Republic.

In fact, if the Congress is underpaid, I venture to say that eventually it will be made up of mainly two classes of people. There would be those who have unearned income from stocks, bonds, mortgages, or whatever, which allows them to live in the style which they feel is desirable regardless of congressional pay. They do not need it. The second class would be those who have never done much with their lives and to whom the congressional pay, however inadequate, is remuneration beyond the wildest dreams that they have had and beyond their ability to earn in the private sector.

I hope we will quit treating ourselves like Federal employees. We are different, and we should maintain that difference.

However, when it becomes apparent that congressional salaries are inadequate to supply the needs of young families, to educate the children of those families and to provide reasonable standards of living for those families, then it is up to the majority of the Congress to make salary adjustments. It is a duty. To do otherwise is to limit seriously the availability of talented people from all walks of life to serve in the Congress and to serve in the Federal classified establishment.

But until Congress is willing to face up to its responsibilities to its own Members, it would be my hope that at least it would get out of the way and allow the pay of Federal employees to rise at least to keep up with the cost of living.

This I hope would stop the talent drain which threatens to undermine the efficiency and capability of the Federal Establishment.

Now, sure, I have taken some criticism for voting for pay increases. But I think my standing here is certainly evidence of the fact that the criticism was not fatal, it was not widespread, and it did not last very long. If each Member goes home and explains to his people why, in his opinion, increases were necessary, I believe that he will find as I have that the people of our districts are more understanding than we thought they were, and that they understand as well as anybody that having a Congress which is underpaid is truly a false economy.

Now, on another subject.

I was privileged to serve as a member of the ad hoc committee appointed by Speaker Carl Albert to explore the possibility of devising a congressional budget. I am pleased that we were able to put together that package and at that time it was acceptable to the Members of the Con-

But the time has come for a review of that congressional budget process with the idea of making some changes which will benefit not only that process, but the entire structure of the

Federal Government.

In my opinion, the budget process has become a dam rather than a conduit, and unduly disrupts the business of the legislative body. Several factors

have contributed to this.

First, it was never the idea of the Budget Study Committee that the first concurrent budget resolution would be anything other than a study in macroeconomics, to determine the needs of the economy insofar as Federal participation was concerned.

The idea was to have the Federal Government and its activities flow in the direction of aiding the economy to see stability and to serve the private sector and its needs. Instead, we argue interminably in areas which approach line item expenditures, in effect taking over the job of the Appropriations Committee in the budget process.

The first resolution will, in my opinion, have a much easier birth if it returns to the original concept of a study in macroeconomics. It would be my hope that the Congress could organize itself early in January after the election. As many of my colleagues will remember when we decided to have our orientation meetings of the new Members in December, that was the idea, that we would not only orient but we would proceed to organize for the new Congress. And this could be accomplished if the majority caucus or conference would make up its mind in December as to the ratio of division of the various committees of the House.

This would allow the work of committee assignments to proceed also in December so that in January the House would be organized and ready to proceed with business. Unless this is done, then I suggest that the time for the first concurrent budget resolution to be reported be changed from May 15 to June 1 or perhaps even June 15. Accompanying the first concurrent budget resolution should be a reconciliation bill which would direct the various committees to make changes in agencies, programs, or bureaus which are in their jurisdiction insofar as authorizations for expenditures or entitlements might be concerned.

If the Budget Committee determines that reductions in outlays are necessary, it would, through the House acting itself, direct the appropriate committees to report bills to effect

them.

One of defects which I am sure we are all aware of in the Congress is the extent to which many of the committees become enamored of their own jurisdictions. And this is understandable. I do not criticize it. But it is a phenomenon which I think we need to take into consideration.

It is understandable because most people are serving on committees which they find congenial or they would not be there. And they very likely sought those committees because of an affinity which they feel for some of the activities of that committee.

A reconciliation bill really is the majority of the entire House and Senate, telling a legislative committee or committees that it does not share the high regard for some parts of the committee's jurisdiction which the members of that committee hold. It is telling that committee that the will of the majority of the House and the Senate is that the Federal pie must be divided differently than the members of the committee might desire. I regard these mandates by the majority not as usurpation, but as helping committee members and chairmen to keep their balance and realize that as Members of Congress they have higher responsibilities than just to insure the wellbeing of certain pet agencies or bu-

In my opinion, all of the work of the first concurrent budget resolution including reconciliation must be accomplished by a certain date. As I have already indicated I would certainly be amenable to changing the date from May 15 to a later time which might prove more practicable.

But I feel that if the first concurrent budget resolution is not in place by the date set, that nevertheless some-

thing should happen.

I suggested that at the time that the congressional budget process was being born, that unless on May 15 or the date set for the first concurrent budget resolution to have been adopted, if that act has not occurred, that then the President's budget would also become the budget of the House and the Senate.

Now, I do not want that to happen. And I bet that it will not happen. Because I cannot imagine a Congress al-

lowing it to happen.

But, nevertheless, if it does occur, it will at least allow the Appropriations Committee to begin marking up its bills and getting them ready for full committee action and for passage by the Congress.

In my opinion, it is extremely important that we no longer have situations such as those we have seen in this session and the preceding one in which only a few appropriations bills ever become law. Operating the Government by concurrent resolution is certainly not desirable. And I submit that

it does not adequately execute the duties which the Constitution prescribes for the Congress of the United States

I hope that the Appropriations Committee will always get its work accomplished and its bills passed at the appointed time. Personally, I believe that a second concurrent resolution is necessary together with further reconciliation legislation if it is needed aimed primarily at the appropriations bills themselves.

This was never possible for the Congress to reconcile appropriations bills adequately because those which were already adopted were in the law and could not easily be changed.

For this reason, I suggest very strongly that all appropriations bills proceed through the House, the Senate and conference, but that no final enrollment of the bills occur until all appropriations bills are in place and ready for enactment.

Now, there are various reasons for

The first one of course is that if the bills in total exceed the limit of expenditures that the Congress believes proper it is then comparatively easy to change those bills which the Congress desires to change. Having all of them ready and available for change keeps the last few bills enacted from being victimized by the later realization by Congress that total expenditures exceed the optimum and desired amount.

In other words, for example, if all bills except the defense bill-if all bills were enacted except the defense bill and it became necessary for draconian cuts to be made in expenditures, the only cuts possible would be in the defense bill. And of course that applies equally to all of the other appropriations bills-Agriculture, Commerce, and the like-if they happen to be the last.

I doubt that this is a result that anyone would find desirable.

Another change that I would suggest in the budget process is to make appropriations for 2 years at a time. I feel that the Budget and Appropriations Committees are prefectly capable of quite accurate projections and that the administration would be well served if it was able to count upon certain amounts of funds for certain activities further ahead than 1 year. But another definite advantage on 2-year appropriations is that it leaves 1 year for studying the jurisdictions of the various committees. Legislative oversight has been largely neglected by the Congress for many years. It is obviously one of the most important functions which any Congress can per-

I would hope that in the off year, the year in which we do not appropriate, that legislative oversight would become the prime duty of the legislative committees. This would not only help committees to understand their own jurisdictions better, but in my opinion would give the administration and the entire executive department help which they need in anticipating and complying with the desires of the Congress.

As I told our esteemed Speaker, my good friend, not too long ago, I would not rewrite the scenario that I have played out these last 30 years in very many ways. One of those ways would be that I would have defeated him at least once in our biennial contest for the Speakership. There are many reasons why I would like to have been the Speaker of this House. Some of them deal with political, economic, and social philosophy. Some of them deal with strongly held concepts which I have concerning the internal organization of the House, its infrastructure.

First I feel that we have too many select committees and subcommittees and therefore we have too much in the way of staff. I think we should be much more careful in spending the public money on our own operations than I think we have been.

Also without any reflection whatsoever on the estimable people who hold these jobs, it appears to me that the organization of the House, with the Clerk having certain responsibilities, the Sergeant at Arms having others, and the Doorkeeper and the Architect having others, many of them overlapping, provides very little in the way of cohesion or direction from the top.

I happen to believe that it should be the responsibility of the Speaker to supervise carefully and closely and to streamline these operations with the idea of making them more efficient and more responsive to the desires and the needs of the Members.

As Speaker, if I could have gotten by with it, and I am not sure I could, I would have done away with the patronage system. In my opinion, it does not result in the employment of the best people available for the jobs which the House can bestow. It seems to me there should be better and more fair methods of selecting employees than we now use and providing for tenure for employees so that there could be more of them who are of capability who would seek these positions and keep them through the years.

# □ 1315

I suppose I could be accused of feeling as I do about patronage because I never had any. Actually, that may be one of the reasons I feel this way. I have never missed having patronage and I do not feel that the lack of patronage has inhibited my capabilities or my ability to get reelected. I dare say that if patronage no longer exist-

ed, in a very short period of time nobody would miss it.

I am reminded of the time when postmasters and rural mail carriers were appointed by the Members of the House. As one Member said, "Every time you appoint a postmaster, you make a thousand enemies and one ingrate." This, I think, would apply to the rest of the patronage positions of the House.

I am well aware of the fact that the Members of the House probably will not adopt many of the suggestions I have made. I made them in good faith, in good humor, and without the desire to offend anyone. I do hope, however, that each of you will give the points I have made some thought and perhaps you will come to the conclusion as I have that we can make this institution an even greater one than it now is.

Before I stop, I would like to congratulate the gentleman from California (Mr. Beilenson) of the fine work which he has done as chairman of the ad hoc committee which was appointed by the chairman of the Rules Committee for the study of the budget process. He has held exhaustive hearings. He has gotten the thinking of not only many of our Members, but many of the best informed people from around the country. I certainly hope and believe that subcommittee will report soon in the next Congress and when it does I am sure that its work will bear the scrutiny and I hope the adoption of all the Members of the House.

In leaving, I wish to thank all of you for the many kindnesses and favors that I have enjoyed at your hands. We have fought sometimes, we have agreed sometimes, but I think with practically no exceptions, we have mastered that gentle art of being able to disagree without being disagreeable.

I value the friendship of all of you and look forward to continuing it.

Hail, and farewell.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Washington (Mr. Foley).

(By unanimous consent, Mr. Foley was allowed to speak out of order.)

Mr. FOLEY. Mr. Speaker, it is not my intention to start a special order on the gentleman from Arizona because that would take up the rest of this day's business. after that very moving and enlightened statement, however, I do not think it would be appropriate to proceed without first saying that as is true of his colleagues on the other side of the aisle, those of us on this side know of no one we have served with who has shown more concern or dedication to the welfare and interests of his district, State, and Nation than the gentleman from Arizona (Mr. Rhopes). He has done us all a great honor in serving in this body and in allowing us the privilege of calling him a colleague and friend.

Mr. RHODES. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I thank the gentleman for yielding.

I want to pay the highest tribute to my distinguished colleague from Arizona (Mr. Rhodes) who has occupied positions of top leadership on this side of the aisle.

I regret, as he does, that he never had the opportunity to mount the rostrum and to serve as the Speaker of the House of Representatives.

The remarks of the gentleman from Arizona uttered today, constitute a framework for improving the legislative process of this body. I recall a few years ago that the gentleman from Arizona, as the editor of an important work, entitled "We Propose: A Modern Congress" the gentleman from Arizona included a number of recommendations which, if followed, could have enhanced the reputation and improved the work product of this body.

I had the privilege of serving as the editor of that chapter relating to the budgetary process to which the gentleman made reference. The recommendations therein made are consistent with those which the gentleman made just a few moments ago.

As a matter of fact, the various recommendations that the gentleman made if subscribed to and if followed could certainly improve the operations of this body.

The gentleman represents the very highest in my view of statesmanship, of stature and of those qualities that help to make this body the great deliberative body that it is.

As one who has served for 20 years with him and who is departing from these Halls with him, I join in extending to him and to his wife, Betty, our good wishes for a healthy and rewarding future.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, I certainly want to join in expressing what all of us feel in our hearts who have had the rich and rare privilege of serving with John Rhodes. He is and has been an exemplary colleague, a worthy adversary, a warm and generous and gentle friend. He has conducted himself always and in every situation in such a manner as to reflect credit upon this institution which he loves.

When he disagrees, he does so without being in any sense disagreeable. John Rhodes in all the years that I have had the honor to know and work with him has epitomized that standard of legislative craftsmanship which honors this Hall by according to those even with whom he disagrees the assumption of honor which each of us would have others accord to himself.

So, John, for being the kind of person that you are, for being a man's man, a legislator's legislator, and an American's American, we honor you. All of us want to express our hopes that the future may be kind and gentle, that you will save some time to let us here enjoy at least occasionally your company and your counsel, and that when you are in your home State the suns of Arizona may shine as brightly and as warmly upon you as the radiance of your personality has shown upon this Chamber.

Mr. BEILENSON. Mr. Speaker, we have 5 hours of general debate on this bill, so I think it is not out of order for us to take a couple more minutes for folks who want to be recognized to say a word or two about the gentleman from Arizona (Mr. Rhodes).

This Member wanted to also thank the gentleman from Arizona for his remarks, especially his remarks with respect to the budget process. The gentleman has been a most valuable and faithful and helpful member of our ad hoc task force and he will be sorely missed.

This Member believes that the gentleman from Arizona is one of the very best and very finest Members of this great institution, as well as one of the finest human beings that this particular Member has ever had the privilege of knowing.

I cherish my friendship with the gentleman, as do many other Members of this body. We hold the gentleman in the greatest respect and affection and I would be doing him a disservice if I did not also express my appreciation at this moment for his support for the rule which is before us, to bring us back to the subject at hand.

Before we get back to the subject at hand, Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. Panetta) for purposes of debate only.

Mr. PANETTA. Mr. Speaker, I, too, would like to join in commending the gentleman from Arizona. There are those that work and live and vote here and do not realize the institution that they are a part of and there are other who work and live and vote and appreciate the institution. John Rhodes is one of those who lives this institution.

I particularly appreciate his recommendations with regard to the budget process because I think the gentleman has taken the time in the task force and the groups with which he has been related to really be concerned about the budget process and recommendations to improve it.

I guess if there is one thing that I can assure him of, it is that despite his leaving there are those of us who share his concern about that process that will carry his recommendations and his concerns, hopefully, into implementing reforms in the process. That probably more than anything

else would be the greatest tribute to the gentleman from Arizona.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Downey).

Mr. DOWNEY. Mr. Speaker, I want to also express my support and admiration for the gentleman from Arizona. I was 3 years old when the gentleman was elected to the Congress and it was my misfortune to give my first speech on the B-1 bomber and have the very first question ever put to me in this Chamber by the distinguished minority leader. I learned a great deal that day about preparation and repartee from the distinguished gentleman from Arizona and I believe I have been enriched by my experience with him.

This Congress is losing two of its giants, the gentleman from Missouri (Mr. Bolling) and the gentleman from Arizona (Mr. Rhodes). I think that those links to the past are very necessary for this Member and for other Members to understand what came before, to understand something about this institution.

I will miss the gentleman from Arizona, but I will also be comforted in the knowledge that he is only a phone call away.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from

California (Mr. Pashayan).
Mr. PASHAYAN. Mr. Speaker, when I came to this institution 4 years ago, I came as somebody who had never run for office before, never occupied any public office. I came with an awful lot to learn.

We have all extolled JOHN RHODES for his various virtues and I should like to thank him for being my mentor. I only hope I follow to some degree the very good advice he has given me. His door was always open.

I have learned a lot from his counsel and advice over the years. I count him as a friend and I look forward to seeing him as much as possible. I hope he comes back to Washington often. I know that when he does come back it will always be in good grace.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I just would like to say that I share the sentiments expressed by the gentleman from New York. I think it is fitting that both John Rhodes and Dick Bolling are retiring at the same time, because they more than any other individuals I know are truly institutional men and they more than any other individuals who I have ever served with in this House have given the question of what is good for this institution as a whole the highest priority—above partisanship, above every other consideration I know.

I simply want to say that when John Rhodes and Dick Bolling leave, we are losing our five best men.

□ 1330

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Gilman).

Mr. GILMAN. Mr. Speaker, I am pleased to rise in order to join my colleagues in paying tribute to the gentleman form Arizona (Mr. Rhodes).

I was a Member of the Congress when John Rhodes was elected to the leadership post of the minority party. In his 30 years in the Congress John has been a patient and knowledgeable adviser to many of us, as outstanding minority leader and a model for all of us to emulate in his roll as an outstanding legislator.

We are going to miss John Rhodes in this body. We hope that he will be around and be able to continue to guide and advise us. John Rhodes has left behind a legacy of reform that I hope we will dust off from time to time, reminding ourselves that there is much room for reforming and strengthening our procedures.

JOHN RHODES, we thank you for your significant contributions, to this great institution. We wish you good health, happiness, and success in all your future endeavors.

Mr. BEILENSON. Mr. Speaker, this gentleman is running out of time. We have to discuss the rule as well, so if he may, he would like to start recognizing Members who have to speak on the rule. There is apparently some opposition to it.

Mr. Speaker, at this time I yield 10 minutes to the gentleman from New York (Mr. Garcia).

Mr. GARCIA. I thank the gentleman for yielding this time to me.

Mr. Speaker, before I get started on my statement, I would like to say to the gentleman from Arizona that as a leader, as one wno has served here for so many years, there was a period in my young life when I was the minority leader of the State senate and I know the frustrations and the feelings.

I remember Lloyd Bridges, our majority leader, saying at the time:

The institution must go on, and those of us to come are blessed with the fact that we have had this opportunity to serve, but the business of the people is something.

So with the minority leader's permission, I would like to get into the statement on the rule. I am particularly sorry, if I may say to all of my colleagues, that this rule has come out and this rule is coming out during the lameduck session.

I do not want to take anything away from my colleague, the gentleman from Kentucky (Mr. Mazzoli), my colleague, the gentleman from New York (Mr. Fish), because I think if there are any human beings in this body who in fact are sensitive and understand the needs of the poor, and especially those who presently do not enjoy the similar status that we enjoy

today, that this bill would be much rougher for those of us who are trying

to defend those people.

But be that as it may, and since we are in a lameduck session and since we are doing today with this rule and with the 5 hours of general debate that will take place from 6 p.m. until 11 p.m. tonight, when I am certain many Members, realizing that there will be no votes, will not be in the Chamber, it seems to me that because this bill affects the millions and millions of people that it will affect, not only this year but in the years to come. I think it is appropriate that I stand here today and oppose this rule because I believe that it should not be handled during a lameduck session.

A primary objection that I have to the bill centers around employer sanctions. These sanctions, as far as I am concerned, are designed to discourage employers from hiring undocumented workers. A fine or sanction would be imposed on employers who hire individuals who are not citizens or legal residents of the United States.

The provision on the surface and on paper looks good, but I am afraid that in reality and in practice it would allow employers to act as both the judge and the jury with prospective employees who speak with an accent or who look different. Employers could refuse to hire these individuals, claiming that they are afraid of being fined.

In my tenure as a State senator in the year 1974, Malcolm Wilson, who served for 1 year as Governor of our State, in that time we passed a bill in the house and in the senate calling for a \$5,000 fine on employers dealing with the question of sanctions. We were able to convince Malcolm Wilson, then Governor of the State of New York, to veto the bill.

I feel today, as I felt then, that sanctions are wrong. Instead of sanctions, there should be target enforcement of existing labor laws. This would upgrade working conditions and wages so U.S. citizens could take jobs that are now unattractive because of substandard pay or an adverse working environ-

ment.

The bill also suggests a national ID card to be used to prove citizenship or residency in order to obtain employment. Not only would this program be expensive to implement, I truly believe it is an infringement on civil liberties. It sets the stage for a more sophisticated and expensive black market for the new ID cards. Further, it is a stumbling block in the way of America's poor and indigent seeking employment.

The chronically unemployed do not need to become more alienated from participating in the mainstream of society.

I believe that the legalization program in H.R. 7357 does not go far

enough. Legalization should not be a tradeoff to the minority community. It is an opportunity for the United States to wipe the slate clean, to begin handling its immigration problems from a fresh start. Without a legalization program, the underclass of undocumented persons in the United States will continue to become more alienated and exploited.

We do not need to expand our Nation's underclass. We truly need all people living in and working in this country to work together and to build for the future.

It has been inferred that the consideration and passage of H.R. 7357 would help heal America's unemployment problems. I truly find this ironic, No. 1, because I firmly believe that blaming undocumented immigrants for unemployment problems is scapegoating; two, because an expanded H-2 program, that is, a program that invites workers from the Caribbean and Latin America to work in this country on a temporary basis, has also been included in H.R. 7357. This seems to be another version of the now abolished bracero program which was instituted as a result of a labor shortage.

The only cure for unemployment is to get our economy moving. The primary cause of this problem is not immigration, but a faulty economic policy.

There is another important point to be considered when we discuss the new immigration problem, and that is the root cause of immigration, which is that people come to the United States searching for opportunity, as many, if not all, of our parents did.

In order to control immigration, the United States should help developing countries with labor-intensive industries that would keep potential immigrants at home. Immigration must be stopped at the source. Agriculture, labor-intensive industrial development programs in prime sending nations are two key proposals for achieving this. Bolstering developing nation's economies, particularly in Latin American and the Caribbean, also provides the dual benefits of stabilizing the region politically and building potential markets for U.S. goods and services.

It is to the advantage of those countries sending the most immigrants to cooperate not only because it would increase their prosperity, but because it also cuts off the so-called brain drain of their most intelligent and industrious workers.

I have to admit it is not an easy task to integrate both the immigration and the foreign aid policy together. As far as I am concerned, it may be somewhat of a radical approach to immigration. Nonetheless, it reflects a profound understanding of the complexity of the U.S. Government's attempts to control the borders.

H.R. 7357 does not take into account foreign policy considerations. It attempts to deal with immigration not at the border or before the border where the problem begins, but over the border in the United States where fair enforcement is much more difficult and less permanent.

The recent economic difficulties in Mexico and the immediate increase in attempted crossings at the United States-Mexican border is an excellent example of the magnitude of the problem the United States will continue to face unless it integrates its immigration and foreign policies.

Yes; the United States is a wealthy country. The nations south of our borders are very poor. The attraction for the people of these nations to come to the United States is obvious and strong

What a new immigration policy must do is assist prime sending nations in making it equally attractive for potential immigrants to stay home. Also, the Immigration and Naturalization Service should be given more funding to enable them to increase their efficiency.

This is a very serious issue, and the INS needs adequate support in handling it.

I am in favor of a new immigration policy. The United States has to protect its borders. We have the right to control the number of people who come into our country, but any immigration policy must be realistic and fair if it is to properly reflect American principles of justice.

Therefore, this H.R. 7357 should not, and I underline the word "not," become law.

Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN. The Chair would announce that each of the two Members has 7 minutes remaining.

Mr. BEILENSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. Levitas).

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent to address the House for 1 minute to speak out of order and that the time consumed not be charged to either the majority or minority.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

CONTEMPT OF CONGRESS REPORT

Mr. LEVITAS. Mr. Speaker, I take this time to make an announcement with respect to the matter of a contempt of Congress resolution that will be brought before the House later in the day.

Because of the gravity of this matter, and in an effort to see that each Member be fully informed before reaching a decision, it is my purpose to announce that copies of the report of the Committee on Public Works and Transportation with respect to the contempt of Congress and available for Members in the House Chamber, and I urge all Members to avail themselves of the opportunity to read the report.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. KAZEN) for purposes of debate only.

Mr. KAZEN. I thank the gentleman

for yielding this time to me.

Mr. Speaker, at a later date I am sure we are going to have ample opportunity in a special order to express our feelings for the distinguished gentleman from Arizona, who has been a very close and dear friend in all of the years that I have been here, but for the present let me just say that I wish him well and that we will be talking about him a little later on.

As far as this rule is concerned, Mr. Speaker, I do not believe that the immigration bill should be debated in this lameduck session at this late stage

of the session.

This bill covers the waterfront on immigration policy for the United States. The mere fact that it has a 5-hour rule tells us how important it is and how important the consequences of passing a bill at this later hour under the atmosphere that we have in this House at this particular time. It is not conducive to the best interests of this country.

I recognize the good work done by my good friend, the gentleman from Kentucky (Mr. Mazzoli), and the other people who have worked on this bill but, my colleagues, this is not the type of topic to take up within 2 or 3 days of adjournment of this Congress.

Once we pass this bill, we know that we are going to have some consequences that we did not think of. These are very serious topics, such as amnesty, sanctions, H-2, the whole complex of immigration policies involved in this bill, and we just do not have the time to deal with them as we could during the regular session.

There is not that much urgency to pass it now and do what I consider this House will do, a bad job, debating this bill and amending it with over 250 amendments which are now pending at the desk, and I can assure this body that the majority of them will be presented and we will not have time to consider them properly.

I urge the defeat of the rule.

#### □ 1345

Mr. RHODES. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, let me reiterate the remarks that have been made by my friend from Texas, Mr. Kazen. This is a complicated bill that has far-reaching circumstances.

Mr. Speaker, I wish to commend the chairman and the ranking minority member of the House Judiciary Subcommittee on Immigration, Refugees, and International Law for asking for the rule that is before us today. It will allow for a complete discussion of the issues surrounding immigration reform.

I must, however, rise in strong opposition to H.R. 7357 for several reasons. H.R. 7357 does not place a cap on

legal immigration. Legal immigration to our country has increased dramatically. Between 1951 and 1960, the average number of legal immigrants entering our country each year was 25,000. This figure has increased to a per annum figure of 438,000 for the 7-year period between 1971 and 1978. This mushroomed to 808,000 in 1980.

I will be offering an amendment to place a cap on legal immigration. It would raise the current cap of 270,000 to 425,000 and include refugees within the cap. Unless a cap is enacted, any attempt at immigration reform will be meaningless. The adverse impact that unlimited immigration is having on this Nation's high unemployment rate will continue to go unchecked.

Another serious problem we must address is the problem of brothers and sisters of U.S. citizens who are attempting to gain entry to this country using the fifth preference. Today, we have a fifth preference backlog of 800,000 people, and this figure is growing by leaps and bounds. We have an obligation to these people to maintain realistic immigration quotas in view of this Nation's economic problems. Family reunification, which is a major component of our immigration law, will be rendered ineffective, as immigrants who become U.S. citizens try to get all their relatives over to the United States. A Washington Post article recently documented a person who petitioned for 69 relatives. This figure has to be brought under control family reunification is achieved.

The most serious problem of H.R. 7357 concerns amnesty. If we legalize the estimated 6 to 12 million illegal aliens in this Nation today, we are encouraging still more illegal aliens to cross our borders. We are also penalizing the thousands of people who have followed the law and still wait to be legally allowed in this country. Amnesty will also cause serious financial dislocations among our State and local governments, as they will not be fully reinbursed by the Federal Government. This could bankrupt some local jurisdictions.

However, the most serious concern about H.R. 7357 is the combined effect that amnesty, the current fifth preference, and no cap on legal immigration will have on our country. The ripple effect of refugees and amnestied aliens on the current fifth preference will be

tremendous. As each brother and sister of the amnestied aliens, refugees, and immigrants become eligible under the current system, all of their immediate family also becomes eligible—spouse and children. After these spouses qualify, they will be able to file for their brothers and sisters and the process will continue on and on. Additionally, the costs, possibly up to \$25 billion, will have to be absorbed by the Federal, State, and local governments at a time when the public is clamoring for balanced budgets at all levels of government.

In conclusion, the reality of our economic and resource situation is such that we cannot continue to be a Nation without borders. If the preference system, a cap on legal immigration, and the amnesty provision are not changed, then the bill should be defeated.

Mr. RHODES. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding. We have heard expressed here today concern with regard to the full implications of this bill, and the fact that we are taking it up here at a late time in a lameduck session. I can understand that concern, and I can say the same thing for just about everything we are taking up at this late date. But, this is not something that is a new thought to this Congress; it is not a new thought to the Judiciary Committee.

The committee, under Chairman Mazzoli, and the good work of a very hard-working Subcommittee on Immigration have done a tremendous amount of work with extensive hearings all over the country on this most important bill.

I come from a part of this country that has been ravaged by the fact that this country does not, still does not, and did not for the last several years have a valid immigration policy that we can even enforce. It is tearing the guts out of this country, and I think the fact that we do not have an immigration policy, that we do not have secure borders, is bringing about problems that are felt all over this country. Problems of unemployment are, I believe, aggravated by the fact that we do not have control of our borders. This is a most important piece of legislation, and I can assure the Members that it is probably one of the most important that we have brought up in the last 2 years. I wish too that we had more time to talk about it, but we do not. It is not a question that if we do not take it up we will take it up in January, because everybody who has been here many more years than I have knows that is not the way this Congress works.

It is an important bill to the poor and unemployed Americans in this

country who find that their jobs are being taken away by those who are here illegally, who will work for next to nothing just simply because they have to get by. This bill is going to solve many of the social problems for this country. I am not talking just about the State of Florida; I am talking about all of the border regions; I am talking about also the deep heart-lands of this country. This is a question that we have to approach and we have to approach very seriously. It is almost too late.

I urge adoption of this rule. I urge careful attention to the debate that will follow, and also urge the passage of a meaningful immigration law, though I will support some of the amendments. It must be passed, and it

must be passed now.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to my distinguished colleague from California (Mr. ROYBAL) for the purposes of debate

only.

Mr. ROYBAL. Mr. Speaker, one must acknowledge the fact that the rule now under consideration is fair and just, that under its modified provisions it allows 5 hours of debate and does in fact permit amendments. Unfortunately, we must also admit that this otherwise good rule was given to a bad bill, and at the worst possible time. It was the Nation's understanding that this lameduck session of Congress was called to deal with the fiscal affairs of this country, with the problems of its jobless, its homeless, and its destitute and not with a complex and most controversial immigration bill. Because the provisions of the bill before us will affect millions of human beings almost immediately, and millions more in generations to come, it must be considered in a regular session of Congress, and not during the last few hours of this lameduck session when almost every Member has hardto-get reservations for the trip home, and one foot in the door waiting for the last gavel to come down ending the 97th Congress.

The people of America expect and deserve more than just an immigration bill that no one seems to want in its present form. Had Members been asked if this bill be scheduled, I am sure that the answer would have been overwhelming and resounding Perhaps that is at least one of the many reasons why almost 300 amendments have been printed in the RECORD in compliance with the rule. This means that this bill will be re-written on the floor of this House, during the last precious hours of this session of Congress and at a time when we cannot really say that we have fulfilled the purpose for which

we convened.

I do not cherish the thought that we will go home for Christmas to tell our constituents that we could not pass the necessary appropriation bills to run our country, but instead gave them a 3-month continuing resolution

that ends on March 15.

I hope we do not have to tell the people of America that we increased their gasoline tax, making it more expensive to look for a job, and, at the same time, tell them that we in this House could not hold on to the jobs bill. We, of course, can always tell them that while we did not do too well looking after their best interests, we did give them the Immigration Reform and Control Act, a piece of legislation that is neither control nor reform and one that has drawn more amendments than any other bill in this Congress and perhaps in the history of this House.

Surely, we do not want to place ourselves in a worse position. A bill as important as this, one which will touch the lives of millions of human beings for generations to come, and one which will in effect, change the immigration policy of this Nation, should not be written on the floor of this House and it will, if the rule is approved. Very much needed immigration reform should be considered in a regular session of Congress and be the result of reasoned negotiations, arbitration, and conciliation, among Members, and countries such as Mexico that send us their poor and unem-

ployed. Mr. Speaker, the best interests of this Nation and this body will not be served if this rule is approved, let us not give the American people this immigration bill for Christmas, a "no" vote on the rule will not place anyone in favor or against the bill, but simply mean that you find this legislation important enough to be properly considered in a regular session of Congress.

Mr. Speaker, I urge my colleagues to

vote "no" on this rule.

Mr. RHODES. Mr. Speaker, I yield the remaining time on this side to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, I had not intended to speak during the consideration of the rule because we do have ample time under the rule for general debate. This bill comes to the floor late, yes, but we have been ready for months to bring it to the floor, and Members will have to ask other people why consideration has been delayed.

Is it being considered in a hurry? Gentlemen and ladies, only a couple of days ago you voted in a matter of hours for hundreds of billions of dollars under a rule limited to eight amendments. Today, we have an open

Ventilation is needed, proper consideration is needed, we are told. Those who tell us that include people who did not appear, as I recall, before any one of 24 Select Commission consultations and probably up to 50 different subcommittee meetings held in the House and in the Senate in the last 4 years. We have heard from numerous witnesses from Federal, State, and local governments; business and labor organizations; industry and agriculture; religious and ethnic groups, and civil liberties organizations. The committee has made a conscientious effort to address very diverse concerns.

Members have heard some of those concerns expressed. It is amusing to me that the people who express criticism about the bill certainly never will agree among themselves, as I under-

stand them.

The genius of Simpson-Mazzoli is reflected in its balancing of competing interests. The bill, by focusing on enforcement, on adjudications, and on legalization, addresses the major issues relating to the presence of undocumented aliens in the United States today. The bill has received very thorough and considered deliberation and ventilation. Practically every editorial published in the United States on this subject in recent months supports passage.

The result of 4 years of work is finally before this body. I urge support of

the rule.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Kentucky (Mr. Mazzoli), the distinguished subcommittee chairman.

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me the time. I rise in strong support of the rule. Let me just reflect with my colleagues that despite what they might have heard we may be at the 11th hour with regard to this legislative session, but we are at the first hour of the day when it comes to this bill.

It has been studied, it has been looked over more carefully than maybe any other piece of legislation reaching the floor this Congress. We have had over 100 hours of hearings. 14 separate days of hearings. We have had 300 witnesses, and that is just on our side. Our counterparts in the other body have done the same thing.

Mr. Speaker, it is a good, thoroughly studied bill and I urge support for the

rule.

Mr. BEILENSON. Mr Speaker, I yield myself the remaining time.

On behalf of hearing the bill, it is a big bill, but it is an important bill, a tremendously important one; it should be taken up and, in the opinion of this Member, it should also be passed.

On the matter of time, we will probably be here for an additional 5 days. If in fact it does not turn out to be an adequate amount of time and we do not get to a vote, the problem will resolve itself.

On behalf of the rule: it is an open rule, and almost 300 amendments have been noticed in the RECORD. And, we have 5 hours of general debate.

Mr. Speaker, I urge the adoption of the rule.

#### □ 1400

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.
The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GARCIA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify the absent Members.

The vote was taken by electronic device, and there were—yeas 257, nays 137, not voting 39, as follows:

# [Roll No. 465]

#### YEAS-257

Jones (NC) Addabbo Akaka Dreier Jones (OK) Albosta Jones (TN) Dwyer Dyson Early Annunzio Kastenmeier Anthony Kemp Kennelly Applegate Eckart Aspin Edgar Kogovsek Bailey (PA) Edwards (AL) English Kramer LaFalce Barnard Lagomarsino Barnes Erdahl Bedell Erlenborn Leach Beilenson Levitas Ertel Evans (GA) Livingston Benedict Bennett Evans (IA) Long (LA) Bereuter Fary Fenwick Lott Bethune Lowery (CA) Bevill Ferraro Lowry (WA) Luken Biaggi Bingham Findley Lundine Bliley Fish Lungren Markey Fithian Boggs Martin (IL) Boland Flippo Bolling Florio Martin (NC) Foglietta Boner Mayroules Foley Ford (MI) Mazzoli McClory Bonior Bonker McCollum Bowen Ford (TN) Breaux Forsythe McCurdy Brinkley Fowler Brodhead Frank McHugh Brown (CO) McKinney Frenzel Mica Mikulski Brown (OH) Frost Broyhill Fuqua Burgener Butler Gaydos Gejdenson Miller (CA) Miller (OH) Minish Mitchell (NY) Byron Gephardt Campbell Gibbons Carney Gilman Moakley Moffett Chappell Glickman Goldwater Mollohan Cheney Clausen Gore Moorhead Clinger Murphy Green Conable Guarini Murtha Conte Hall (IN) Corcoran Natcher Coughlin Hall (OH) Courter Hall, Sam Nichols Coyne, James Coyne, William D'Amours Hamilton O'Brien Hammerschmidt Hansen (UT) Oberstar Obey Daniel, Dan Harkin Ottinger Hatcher Dannemeyer Oxley Daschle Heftel Parris Davis Pepper Hertel Deckard DeNardis Hollenbeck Perkins Hopkins Peyser Derrick Howard Pickle Derwinski Hoyer Price Dicks Hughes Pritchard Dingell Hutto Quillen Donnelly Jeffords Rahall Dorgan Jeffries Railshack

Ratchford Shannon Vento Volkmer Regula Sharp Reuss Shou Watkins Waxman Rhodes Shelby Rinaldo Simon Weber (MN) Weber (OH) Robinson Skelton Smith (IA) White Rodino Smith (NJ) Whitley Roe Smith (OR) Williams (MT) Williams (OH) Rogers Snyder Rosenthal Spence Wirth Rostenkowski St Germain Wolf Wolpe Roth Stratton Roukema Wright Rousselot Swift Wyden Wylie Russo Synar Sabo Tauzin Vates Taylor Yatron Sawyer Young (FL) Young (MO) Scheuer Schneider Thomas Traxler Trible Zablocki Schumer Udall Zeferetti Seiberling Shamansky Vander Jagt

#### NAYS-137

Anderson Gradison Morrison Gramm Mottl Andrews Gray Myers Archer Ashbrook Nelligan Gregg Nowak Hall, Ralph Hance Hansen (ID) AuCoin Oakar Panetta Badham Bailey (MO) Bouquard Hartnett Pashavan Patman Hawkins Brooks Hefner Patterson Broomfield Hendon Paul Brown (CA) Burton, John Pease Petri Hightower Hiler Burton, Phillip Hillis Porter Carman Holt Rangel Chappie Huckaby Ritter Roberts (KS) Chisholm Hunter Clay Roberts (SD) Coats Jacobs Rovbal Coelho Jenkins Rudd Coleman Johnston Santini Collins (TX) Schroeder Kazen Conyers Kildee Sensenbrenner Kindness Craig Shumway Lantos Crane, Daniel Siliander Crane, Philip Latta Skeen Crockett Leath Smith (NE) Daniel, R. W. Leland Snowe Solomon Daub Lent de la Garza Dellums Lewis Loeffler Stangeland Dixon Long (MD) Staton Lujan Stenholm Dornan Dowdy Marlenee Stokes Marriott Duncan Stump Dunn Martin (NY) Walgren Edwards (CA) Martinez Walker Edwards (OK) Matsui Wampler McDonald Emerson Washington Evans (DE) Evans (IN) McGrath Weiss Mineta Whitehurst Mitchell (MD) Fields Whittaker Fountain Whitten Molinari Garcia Montgomery Wortley Gonzalez Moore

#### NOT VOTING-39

Alexander	Grisham	McCloskey
Bafalis	Hagedorn	Michel
Beard	Heckler	Neal
Blanchard	Holland	Pursell
Collins (IL)	Horton	Savage
Dickinson	Hubbard	Schulze
Dougherty	Ireland	Shuster
Dymally	LeBoutillier	Smith (AL)
Emery	Lee	Smith (PA)
Fascell	Lehman	Stanton
Gingrich	Madigan	Tauke
Ginn	Marks	Wilson
Goodling	Mattox	Young (AK)

#### □ 1415

Mr. NOWAK and Mr. CARMAN changed their votes from "yea" to "nay."

Mr. SCHEUER changed his vote from "nay" to "yea."

So the resolution was agreed to.

A motion to reconsider was laid on

The result of the vote was announced as above recorded.

the table.

# FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill and a joint resolution of the Senate of the following titles:

S. 1735. An act to provide for the use and distribution of funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221, and 246 of the Court of Claims; and

S.J. Res. 101. Joint resolution designating "National High School Activities Week."

The message also announced that the Senate agrees to the amendments of the House with an amendment to a bill of the Senate of the following titles:

S. 1986. An act to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the United States Court of Claims, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate, with an amendment, to a bill of the House of the following title:

H.R. 5121. An act to improve the collection of Federal royalties and lease payments derived from certain natural resources under the jurisdiction of the Secretary of the Interior, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate No. 4, with amendments, to a bill of the House of the following title:

H.R. 1952. An act authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1908. An act to provide for the reinstatement and validation of United States oil and gas lease NM-A26947 (Oklahoma);

S. 2623. An act to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes; S. 2611. An act to amend the Peace Corps

Act;

S. 3073. An act to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson"; and

S. Con. Res. 131. Concurrent Resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia. CONFERENCE REPORT ON H.R. 5447, FUTURES TRADING ACT OF 1982

Mr. DE LA GARZA. Mr. Speaker, I call up the conference report on the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement see proceedings of the House of

December 13, 1982.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. Wampler) will be recognized for 30 minutes.

The Chair recognizes the gentleman

from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume. I am pleased to bring up at this time the conference report on H.R. 5447 for consideration by the House. The report is the culmination of many months of effort that began early this year with the Committee on Agriculture. The report has broad-based support on both sides of the aisle, and has been signed by all the conferees from the House and Senate. For the most part the bills passed by the House and the Senate were identical in their provisions. There were, however, a few substantive differences which were resolved in the conference in a fair and equitable manner that largely preserves the intent of the bill that earli-

er had passed the House.

I wish first to extend my appreciation to the many Members of the House and Senate who contributed to this effort-to Senator Helms chairman of the conference, for the gracious and cooperative manner in which he chaired the conference and the able assistance provided by him the ranking minority member, Senator HUDDLESTON and the other conferees from the Senate. I would also like to pay tribute to my colleagues in the House-Congressman ED Jones, chairman of the subcommittee, for his tireless efforts in behalf of this legislation, to the minority leaders of the committee, Mr. WAMPLER, ranking minority member, and Mr. JEFFORDS, the ranking minority member of the subcommittee, to Mr. GLICKMAN, who contributed so much toward refining the provisions of the bill, and to the other House Members from our committee. Finally, I wish to express my appreciation to the distinguished chairman of the House Energy and Commerce Committee, Congressman DINGELL and his associates from that committee for their cooperation in working out a mutually satisfactory solution to issues that affect the jurisdiction of our two committees.

In the past 5 years futures trading volume has nearly tripled from 37 million contracts to more than 100 million contracts annually. In the month of October 1982 alone, there were in excess of 10 million contracts traded—an increase of 29 percent from the comparable month in 1981. The term "commodity" has come to embrace a variety of financial instruments, previous metals, and natural resource items, as well as domestic and international agricultural products.

The surge in trading reflects the increased use of the futures market by financial institutions and businesses to shift their price risk to others—a process known as hedging. It also reflects the use of the markets by the general public—not only as individual customers but through professionally managed commodity pools and accounts.

It is particularly timely for this reauthorization bill to be considered at this time in view of the explosion that has taken place in the industry since the last full scale review of the Com-

modity Exchange Act in 1978.

The conference report is a carefully crafted and balanced piece of legislation. It streamlines the operations of the CFTC, provides the Commission the tools it needs to protect the public interest in an effective manner and accommodates the interests of the many persons who make use of the commodity markets.

In brief, the conference report extends the authorization for appropriations of the Commission 4 years. It accommodates the jurisdictional interests of the Commission and the Securities and Exchange Commission over futures contracts on stock indexes and certain types of options transactions. It provides an expanded role for the States in combating fraud in commodities trading. It authorizes a pilot program for trading in agricultural options. It encourages the development of an effective self-regulatory agency by the industry, the National Futures Association. It provides additional remedies for violation of the act. It provides for a broad-based study of the effects of the economy of trading in futures contracts and options to be administered by the Federal Reserve Commission and the Treasury Department. It clarifies the authority of the CFTC to collect service fees but does not authorize the imposition of any transaction fee or tax. Finally in another important provision, the conference report contains an export contract sanctity amendment which originated in the Senate. It provides that if the Government should impose an export embargo on agricultural commodities, the embargo could not apply to a contract signed before the embargo was imposed, if the contract called for delivery within 270 days after the imposition of the trade restriction. The new provision would not apply, however, during periods of declared war or national emergency.

I would like now to discuss in more detail some of the important issues that were resolved in conference.

#### JURISDICTION

The conference report clarifies CETC's jurisdiction over futures contracts and options on futures contracts based on a group or indexed of securities (stock index futures). Before approving pending applications for stock index futures or options thereon, the CETC would be required to consult with the SEC. For applications submitted to CFTC after December 8, 1982, the SEC would have power to disapprove the contract if it believed the proposed new contract did not meet requirements set under the bill. A person aggrieved by any such order of the SEC may obtain judicial review under the terms and conditions provided in section 6(a) of the Commodities Exchange Act. The CFTC retains exclusive authority to regulate all aspects of trading in such contracts after they are approved.

#### AGRICULTURAL OPTIONS

The conference report authorizes the Commission to conduct a pilot program for the trading of agricultural options. The CFTC would be authorized to approve the commodity option transactions program in as many agricultural commodities as will provide an adequate test of these options. After completion of the pilot program, the Commission may authorize trading in these commodities without regard to the restrictions of the pilot program but subject to the same requirements that apply to options trading in other commodities. Options in agricultural commodities have been banned since 1936, even though options trading in other commodities are currently authorized.

# STATE ANTIFRAUD JURISDICTION

H.R. 5447 would explicitly permit the application of any Federal or State law to be applied to activities of persons who are required to, but who do not obtain registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure such as off-exchange futures or other commodity investments.

These initiatives in effect declare the committee's intention that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity frauds. Chairman Philip Johnson of the CFTC characterized the provision as an open season on such activities, and the committee concurs.

The conference report also provides State officials new authority to proceed in a State court against any person registered under the act—other than a floor broker or registered futures association-for an alleged violation of any antifraud provision of the act or any antifraud rule, regulation, or order issued pursuant to the act. Any State instituting a proceeding under this provision must, however, give the Commission prior written notice of its intent to proceed and furnish the Commission with a copy of its complaint or other moving paper immediately upon instituting any such proceeding. The Commission would have the right to intervene in any such proceeding and to file an appeal. The Commission or the defendant may remove such proceeding to Federal court within 60 days after service of the summons and complaint upon the defendant to help assure uniformity in the interpretation of the act. The Commission also has the right to appear as amicus curiae in any such proceeding.

#### EXPORT SALES REPORTING

The conference substitute authorizes the Commission to refuse to register or place restrictions upon registration of any person and bar a person from participating in any market regulated by the Commission if the person has been found to have knowingly violated the export sales reporting requirements of section 812 of the Agricultural Act of 1970. This provision would apply additional sanctions to violators of export sales reporting requirements because of the importance of assuring that the public obtains upto-date information on cash sales that have an impact upon the futures market and are factored into the trading strategy of producers and other traders.

#### INSIDE TRADING

The conference report provides that the Commission shall, at a cost of not more than \$200,000, undertake a study of insider trading. The study would cover the nature, extent, and effects of trading in representative futures markets by persons possessing material information regarding cash or futures transactions that is not generally known to the public, and the adequacy of the Commission's authority to prevent market and customer abuses resulting from the possession of such nonpublic information. Not later than September 30, 1984, the Commission must transmit to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a report describing the results of these studies and including any recommendations for legislative action. If the Commission should find that there is a problem with respect to insider trading, the conferees intend that the Commission immediately take appropriate action to deal with the situation under its current authority.

# REGISTERED FUTURES ASSOCIATION

The conference report contains a number of provisions to enhance the

effectiveness of the National Futures Association, a new industry self-regulating body. The NFA is required to implement by September 30, 1985, a comprehensive self-regulatory program. Among the matters covered by this program are rules that require Association to establish: First, training standards and proficiency testing for personnel of members involved in the solicitation of transactions subject to the provisions of the act, supervisory officials of such personnel, and all individuals for which it responsibilities; registration second, a program to audit and enforce such standards; third, minimum capital, segregation, and other financial requirements applicable to its members for which requirements are imposed by the Commission; and fourth, minimum standards governing the sales practices of its members and persons associated therewith as to transactions subject to the provisions of the act. The conference report requires the Commission to submit a report to Congress of the regulatory experience of the NFA not later than January 1, 1986, covering the period January 1, 1983, through September 30, 1985.

To assure an effective self-regulatory program, the conferees expect that the Commission will take such action as it deems appropriate to insure that persons eligible for membership in a registered futures association become and remain members of at least one such association.

#### LEVERAGE TRANSACTIONS

The conference report substantially adopts the provisions of the House bill relating to certain off-exchange transactions called leverage transactions. Specifically, it requires the Commission to regulate these transactions under terms and conditions as the Secretary shall prescribe as expeditiously as possible. Excepted from these requirements are agricultural commodities. The conferees recognize the increasing demands upon the Commission's resources and accordingly do not object to the current regulatory moratoria maintaining the status quo in the industry until such time as a comprehensive regulatory system is in place and the Commission is capable of regulating an expanded leverage industry. The conferees intend for the Commission to terminate these moratoria as quickly as the Commission determines it is prudent to do so.

The conference report also deletes section 19(d) of the Commodities Exchange Act which provides that if the Commission determines that any leverage transaction is a contract for future delivery within the meaning of the act, such transaction shall be regulated as a futures contract in accordance with the applicable provisions of the act. The repeal of section 19(d) is in no way to be constued as limiting or

circumscribing the Commission's authority to take appropriate action under any other provision of the Commodity Exchange Act against transaction masquerading as leverage contracts.

#### PRIVATE RIGHTS OF ACTION

The conference report contains a provision which explicitly authorizes a private right of action to be instituted by persons engaging in commodity transactions to recover actual damages against violators of the Commodity Exchange Act, subject to specific conditions. This provision had its genesis in a provision in the House bill that was agreed to at the time the case of Merrill, Lynch, Pierce, Fenner and Smith against Curran was pending before the Supreme Court. On May 3, 1982, the Supreme Court decided that implied private rights of action exist under the Commodity Exchange Act. The Court did not decide, however, the elements of liability, causation, and damages, and expressed no opinion about any such questions. It indicated that the lower courts would have to answer these questions "unless and until Congress acts." The conference report provides guidance by Congress to the courts on these unresolved issues and on other issues that were involved in the case. Other provisions of the bill broaden the rights of individuals to request arbitration of claims against commodity brokers and the reparations procedure for resolution of disputes between parties trading in commodities. These changes enhance the remedies for violations of the act and should discourage fraudulent behavior and improve confidence in the market.

# STUDY OF THE COMMODITY FUTURES INDUSTRY

The conference report requires a study of the effects on the economy of trading in futures contracts and options. The study would be carried out by the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, and the Securities and Exchange Commission, with the assistance of the Secretary of the Treasury. The Board of Governors, however, would have responsibility for organizing and administering the study, total cost of which may not exceed \$3 million.

The conferees intend that the areas of study include contracts of sale for the future delivery of commodities involving any group or index of securities—and options thereon.

The conference substitute gives the CFTC and the SEC the primary responsibility for selecting and studying the instruments under their respective jurisdictions. The Board of Governors is required to review, and may supplement with its own analysis, studies conducted by the other agencies and submit a report of the study to Congress by September 30, 1984, together

with recommendations for legislative or regulatory action proposed by the participants.

PILOT PROGRAM FOR STOCK INDEX TRADING

The conference substitute deletes the House provision restricting trading in stock index futures contracts to a pilot program in view of the inclusion in the conference substitute of the study of the commodity futures industry, as described above.

#### SERVICE FEES

The conference report clarifies the authority of the Commission to promulgate, after notice and opportunity for hearing, a schedule of appropriate fees to be charged for services rendered and activities and functions performed by the Commission in conjunction with its administration and enforcement of the Commodity Exchange Act. The report limits the fees for any specified service or activity or function to not in excess of the actual cost of the services to the Commission.

The conferees intend that the fee schedule addressed by the conference substitute is to be strictly limited to Commission activities directly related to certain functions. These are: First, Commission audits of firms not members of contract markets or of a registered futures association; second, contract market and registered futures association rule enforcement reviews and financial review; third, Commission registration functions, but only until such time as the registration functions are assumed by a registered futures association; fourth, contract market designations; fifth, reparation fees; sixth, publications of the Commission; seventh, Freedom of Information Act services; and eighth, providing transcripts of Commission meetings.

The conference substitute does not contain authority for the Commission to impose any transaction fee or transaction tax.

#### AGRICULTURAL EXPORTS

The conference report prohibits the President, except in periods of declared war or national emergency, from prohibiting or curtailing the export of any agricultural commodity, or the products thereof, covered by an export sales contract when the export sales contract was made prior to the announcement of action prohibiting or curtailing these exports and the contract requires delivery within 270 days after the trade suspension is imposed.

Mr. Speaker, this concludes my remarks on the legislation, but before I conclude I wish once again to thank the chairman and members of the SEC for their cooperation on this endeavor and to the chairman and members of the CFTC, my most sincere appreciation for the important contribution which they made to make this a workable piece of legislation, and for the good job they are doing in a very

wish them well as they continue their very diligent work. I urge my colleagues to join me in voting in support of the conference report.

Mr. Speaker, I reserve the balance of

my time.

Mr. WAMPLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to associate myself with the remarks of my colleagues from the Committee an Agriculture in support of the conference report to H.R. 5447, the Futures Trading Act of 1982. I believe this report is a fair, workable compromise which should help insure that we have freely functioning markets with effective surveillance and protection against abuses.

The major purpose of this legislation is to extend for 4 years the operating authority of the Commodity Futures Trading Commission. The bill also contains numerous amendments to the Commodity Exchange Act which should update and improve CFTC operations without hindering trading on the futures markets. These amendments include provisions to improve Federal, State, and private protection against fraud and market manipulation; establish a pilot program of trading in options on agricultural commodity futures; broaden CFTC authority in setting speculative limits; provide for limited judicial review of CFTC emergency powers; and provide for broadened power for individuals to request arbitration.

Mr. Speaker, this bill does not include authority for a "user fee" on futures transactions. However, the conference report clearly states that the CFTC may use existing legal authority to charge service fees for activities such as rule enforcement reviews on commodity exchanges. This provision was viewed as a compromise between advocates of the user fee concept and those opposed to transaction fees at this time. As a result of this compromise, I understand the administration will not veto this bill on the basis of no authorization for user fees.

This conference report also gives a new futures industry self-regulatory body, the National Futures Association, a chance to see whether it can operate effectively and handle some of the regulatory work now performed by the CFTC. The legislation also requires the National Futures Association to set standards for sales practices and industry employee training.

I would like to point out that this bill clearly exempts registered futures associations, such as the NFA, from any State actions under the Commodi-Exchange Act. Because of the NFA's unique status as an independent self-regulatory body, it is necessary to grant it the same exemption from State actions that exchanges and floor brokers have under the Commod-

difficult area. We commend them and ity Exchange Act. This exempting statutory language is contained in new section 6d(8)(A) of the act.

During the conference committee on H.R. 5447, I offered language to the conference report which meant to clarify and emphasize new section 6d(8)(A) as it related to registered futures associations. This language was unanimously approved by the conference committee, but inadvertently left out of the filed conference report. I therefore would like to make this language, which merely restates and clarifies the corresponding statutory language, part of the record here today. The language reads as follows:

The conferees do not intend that the language in new section 6d(8)(A) of the act. which reads "any person registered under this Act", be interpreted to apply to a registered futures association, or that any State should have any authority to bring an action under any provision of the Act against a registered futures association.

Mr. Speaker, I believe that this legislation will enable the rapidly growing futures industry to operate in a responsible and economically beneficial manner. I urge my colleagues to vote for passage of this conference report.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Texas.

Mr. GONZALEZ. On page 33 of the conference report you provide under section 236 and section 236(a)(1) the Board of Governors of the Federal Reserve.

I was under the impression that this Commodity Futures Act had to do with agricultural products. Here it refers to options on foreign currencies and options on securities, including exempted securities or on any group or index of securities.

You provide:

The Board of Governors of the Federal Reserve System, the Commission, and the Securities and Exchange Commission, with assistance from the Secretary of the Treasury, shall conduct a study of the effects on the economy of trading in contracts of sale of commodities for future delivery and in options (including options on commodities, options on contracts of sale of commodities for future delivery, options on foreign cur-

Does this act also envision the jurisdiction over trading in futures of foreign currencies?

Mr. WAMPLER. It does, if I may respond to my distinguished colleague from Texas. I might say this particular section was the result of interest on the part of the Committee on Energy and Commerce and it was as a result of an accommodation to them that this language is in the bill.

I will be glad to yield to my colleague from Texas if he wants to elaborate further.

Mr. DE LA GARZA. I appreciate the gentleman yielding. Let me say to my distinguished colleague from Texas that the purpose of utilizing the Board of Governors of the Federal Reserve System here is solely for the conducting of a study. It is unrelated to any jurisdiction of the Federal Reserve or the SEC or the CFTC.

The reason for their inclusion was that the committee wanted a study made of a list of items and no one was comfortable with making the decision should it be led by the SEC or should it be led by the CFTC.

The compromise was made that we would ask the Federal Reserve to coordinate the study.

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It has nothing whatsoever to do with basic jurisdiction of the Federal Reserve.

Mr. GONZALEZ. Why are they talking, though, of options on foreign currencies?

Mr. DE LA GARZA. Those options are now within the jurisdiction of the commodity futures trading Commission if they are traded on a commodities exchange.

Mr. GONZALEZ. That is what I wanted to know.

Mr. DE LA GARZA. And this is not touched. That remains there. In this provision no basic jurisdiction is taken from or granted to any one of the three agencies. The whole purpose of this item in the bill is to have a study and to have an impartial agency—not the two agencies involved—coordinate these studies.

Let me say that the special study provision states that the Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction, and the Securities and Exchange Commission shall have primary responsibility for selecting and studying the instruments under its jurisdiction. That maintains the 2 jurisdictions of those agencies.

The Federal Reserve will participate to coordinate the study and supplement with its own analyses the studies conducted by the CFTC and SEC.

Mr. GONZALEZ. I think the gentleman just told me that the Commission, the futures, does have jurisdiction on this question of options on foreign currency now.

Mr. DE LA GARZA. Yes.

Mr. GONZALEZ. In other words, it is not exclusively on agricultural commodities?

Mr. DE LA GARZA. Oh, no. The jurisdiction has been expanded into precious metals and financial instruments.

Mr. GONZALEZ. The reason I asked the question, it raises a grave concern in my mind, because is it true or not a fact that the principal grain companies, that is, the ones who are going to be doing the intervening in our market with our farmers, are foreign owned and foreign based, the principal

owners of the principal grain companies?

You know, we have been under the impression that they are American owned. I have been told that they are not, that the principal ones are foreign owned, and that, therefore, these are men who are going to be sitting in Brussels, in Buenos Aires, in London, intervening, as they have, I understand—I do not know, I may be wrong; that is what I want to know—in what our farmers are going to be trading and what our options here in futures activities will be governed by.

I was totally surprised when I was informed that the principal grain companies are not American that are dealing in American grain, for example. Now, I do not know if that is true or not. If it is true, then what it means is, with the additional lack of viability of control on your foreign currency things, you have a highly volatile situation, and I am just concerned.

Mr. DE LA GARZA. If the gentleman will yield further, the gentleman is basically correct as to the mixture of ownership, so far as grain companies are concerned. But I think that the gentlemen need not be concerned in relation to trading in foreign currencies. Trading in currencies is basically unrelated to trading in commodities. Different people for different reasons trade in the different items. I do not know that any of our studies or any of our investigations showed the possibility that manipulation in the currency sector affects the grain sector. I have made a personal study and visit to the different exchanges. Different people deal for different reasons in different commodities. The fact is that at the present time there is no trading on exchanges in options on foreign currency. Small coin dealers and other people may make a few dollars by buying or selling the currencies either with banks in town or with different customers that they have in their

The thing that we think will have more impact on protecting the public from adverse effects of foreign ownership of grain companies, is the authority we have given the CFTC to require reports from the exchanges, to regulate the exchanges, and to suspend individuals from trading on exchanges if they violate the act. That affords us the protection we need.

Mr. GONZALEZ. I thank the gentleman, and I thank the distinguished gentleman from Virginia.

Mr. DE LA GARZA. I thank the gentleman for his contribution and for his concern, because it has been addressed, and I know how the gentleman assiduously guards interests in the foreign sector as relates to banks and currencies. I want to assure the gentleman of our continued and complete cooperation in that area.

Mr. GONZALEZ. I thank the gentle-

Mr. WAMPLER. Mr. Speaker, I would like to inquire to the distinguished gentleman from Texas (Mr. de La Garza): The gentleman heard me read earlier the language that was approved by the conference committee but was inadvertently left out of the final conference report. Does the gentleman from Texas concur that this is an accurate statement of the language that was adopted by the conference committee?

Mr. DE LA GARZA. If the gentleman will yield, yes, the gentleman from Texas concurs. And that certainly was the intent of the conference and has been the intent of the committee. I have no knowledge of anyone thinking to the contrary. So I would say that this is a part of the legislative history as regards to the intent of the committee and of the conference.

Mr. WAMPLER. I thank the gentle-

Mr. COLEMAN. Mr. Speaker, will the gentleman yield?

Mr. WAMPLER. I yield to the distinguished gentleman from Missouri.

Mr. COLEMAN. Mr. Speaker, the conference report on H.R. 5447, the Futures Trading Act of 1982, which reauthorizes the Commodity Futures Trading Commission (CFTC) for the next 4 years, must be approved today.

While this legislation is important because it will enable the CFTC to carry out its regulatory functions of the commodity futures industry, a Senate amendment, unanimously accepted by the House conferees, also requires contract compliance on agricultural exports that are within 270 days of delivery. This contract sanctity, Mr. Speaker, is vital to our farmers. America's farmers are still affected by the 1980 Russian grain embargo; indeed, farmers are hampered still by export restrictions that were made nearly a decade ago.

Since 1973 when former President Nixon imposed trade restrictions on U.S. soybeans, our midwestern soybean farmers who were supplying 90 percent of the beans and soybean products in world trade found themselves in 1981 with only 67 percent of the market. Our 1982 soybean crop, a record, has fewer and fewer buyers. And it all goes back to trade restrictions which resulted in buyers going elsewhere and smaller suppliers increasing their production.

These embargoes and trade restrictions do not work. The 1980 embargo did not hurt the Soviets in any significant way. The trade restrictions in the early 1970's drove our traditional customers, for instance, the Japanese, to find new suppliers and to invest heavily in countries which could supply them in the future. They simply could not rely on the Americans to sell them

what they needed and could pay for. To this day, many agricultural economists contend that these trade restrictions were unneeded from the standpoint of U.S. domestic needs and prices.

Certainly, each Chief Executive who has occupied the White House has not wanted his ability to conduct foreign policy curtailed. I can understand that desire. But we should not make an embargo mistake again. The only way to assure our buyers of U.S. grains that we mean to fulfill our obligations is to require contract sanctity of agricultural products. H.R. 5447 does that and the House should approve this conference report today.

Mr. BEREUTER. Mr. Speaker, will

the gentleman yield?

Mr. WAMPLER. I yield to the gen-

tleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I rise in support of this conference report and urge my colleagues to vote for passage of this measure. Of particular interest to me, as the representative of one of the Nation's major agricultural regions, and as a Member who is keenly interested in the area of agricultural trade, are the "contract sanctity" provisions which were added in the Senate. In past years I have seen our producers of wheat, feed, grains, and oilseeds suffer through the disastrous effects of export embargoes, and I have watched as they have struggled to regain the lost markets which inevitably result from those actions.

While we are all familar with the lingering effects of the 1979 Carter grain embargo to the Soviet Union, there have been other such embargoes in the past which have had equally damaging effects upon our foreign agricultural markets. Just 2 days ago, the cheif agricultural staff representative of the Liberal Democratic Party of Japan sat in my office and recalled for me the impact of the 1973 soybean embargo on Japan. It is clear to me that that single event, short lived as it was, was the impetus for Japan's efforts to secure a reliable supply of oilseeds from other nations, and our soybean producers have suffered since 1973 as a result of the actions of their own government.

During my recent visit to Moscow, in discussions with Soviet agriculture and trade officials, it was again made clear to me that Soviet perception of the United States as an unreliable supplier have had a devastating impact upon the prospects for increased agricultural sales to that country. It is questionable whether we will ever regain those lost markets, even with the adoption

of these provisions.

If we are to make any progress in our efforts to regain our position as a reliable supplier, it is essential that the Congress speak clearly on the issue of contract sanctity and that the President sign this bill. These provi-

sions simply restrict the Government from prohibiting delivery on contracts signed before the embargo was imposed, so long as the contract provided for delivery within 270 days. This minimal protection is the least we can do for our struggling producers. Again, I urge my colleagues to support the conference report, including the contract sanctity provisions.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Missouri (Mr. EMER-

Mr. EMERSON. Mr. Speaker, I rise in support of the contract sanctity provisions contained in the conference

report on H.R. 5447.

The contract sanctity provision in this measure is similar to my bill, H.R. 6135, which has 41 bipartisan cosponsors. The legislation under consideration by the House today will prohibit the Federal Government from imposing restrictions upon the export of agricultural commodities, which would interfere with valid export contracts entered into 9 months before the imposition of such restrictions.

We all know the severe consequences of the embargoes that were implemented by past administrations. With memories of the soybean embargo of 1973 and the grains and oilseeds embargoes of 1974 and 1975 etched in their minds, many nations no longer consider the United States a reliable supplier. Instead, most nations, friends and foes alike, have diversified their purchases to include other nations viewed as more reliable suppliers. The result has been a decline in the U.S. share of world grain and oilseeds trade, and the United States is carrying large shares of world surpluses.

Let me remind my colleagues of the importance of our agricultural exports. Agricultural exports provide about one-fourth of U.S. farm income and the harvest from almost twofifths of our croplands is sold in foreign markets. Agricultural exports also generate jobs-more than 1 million people are working full time in farm export related jobs. Moreover, agricultural exports create additional business activity. Every dollar that is returned to the United States from farm exports is more than doubled in business activity.

To conclude, I believe this legislation will send a clear signal to our trading partners that we will honor our contracts, thereby protecting the rights of our farmers and grain exporters to sell their grain abroad.

I urge the President to sign this im-

portant legislation.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Wisconsin, (Mr. Zablocki), chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Speaker, I would like to engage Chairman de La Garza in a discussion regarding section 238 of the conference report H.R. 5447.

That amendment would prohibit the application of export controls on agricultural commodities to any contract which was in force at the time of a Presidential decision to impose export controls if the contract called for the delivery of the commodities within 270

I understand that this was a Senate provision and that the conferences felt it necessary to accept it. I have no desire to jeopardize the conference

report.

However, I would like to note for the record that, under clause (i) of rule X of the rules of the House, jurisdiction over export controls lies exclusively with the Committee on Foreign Affairs. This provision of the conference report clearly is within the jurisdiction of the Committee on Foreign Affairs. Its inclusion in the conference report should not be used in the future to suggest any jurisdiction by the Committee on Agriculture over export controls.

Mr. DE LA GARZA. Mr. Speaker, I would like to assure the gentleman that the Committee on Agriculture looks for no extension of its jurisdiction either in this act or any other act, and the gentleman can rest assured that it will never be our intention to intervene in any jurisdiction either of the gentleman's committee or any other committee, and we would operate as authorized under the rules of the House, solely in the areas where the rules clearly give us jurisdiction.

Mr. ZABLOCKI. I thank the gentleman.

I understand that the other body operates under different rules, and it is very, very difficult in conference sometimes to impress upon them how necesary it is for our conferees to abide by our rules.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. First, I want to commend the gentleman. I support the conference report. There are a few sections I think could be improved, but it does extend the authorization for the CFTC which I originally authored and involves an industry which has since exploded into a major industry. The gentleman did as good a job as could be expected as chairman with this conference report, in view of the major financial interests which lobbied so hard with some Members.

I want to speak specifically to the sanctity provision. It is a good example of why nongermane amendments should not be attached to bills. This provision can be interpreted as meaning we have now authorized embargoes, so long as the contract has not yet been entered into or so long as it is a contract for delivery more than 6 months from the time the embargo is ordered. Present law does not make these exceptions, so it can be interpreted as a backward step in trying to stop embargoes.

The only protection is that the President must declare a national emergency. That is not difficult to do. Some say, they have not declared a national emergency for many years, but they had no reason to. In order to order a veto, they can now have an incentive to find a way to declare an emergency for some purpose. Under present law, to order an embargo, a President must declare that there is a danger to the national security. That needs to be refined to at least make clear to me our own U.S. security is endangered but the provision in this amendment does not make the needed amendment.

So, this either is no improvement or a backward step, and the farmers should not be mislead to believe they receive any protection at all from the provision in this bill.

But I do again want to commend the gentleman from Texas. I think he did as good as he could be expected to do, with all of the conflicting interests that are involved in this bill.

Mr. DE LA GARZA. I thank the gentleman for his contribution.

Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Tennessee JONES).

Mr. JONES of Tennessee. Mr. Speaker, I rise today in support of the conference report on H.R. 5447, the Futures Trading Act of 1982.

As sponsor of the bill and chairman of the subcommittee in which it originated, I give it my full endorsement and support.

H.R. 5447 is a comprehensive piece of legislation which deals with broad issues and technical issues alike. It is a package of remedies to problems our committee and others have uncovered since the last reauthorization process in 1978. Since 1978, the Agriculture Committee has conducted numerous oversight hearings, reviews, and investigations as problems have arisen.

The bill attempts to deal with major issues such as jurisdiction, service fees, the role of the states, private rights of action, interagency coordinating, emergency powers of the Commission, and hundreds of other matters in a deliberate and responsible way. The House conferees did accept a Senate amendment providing limited protection for agricultural export contracts in embargo situations.

The original bill was submitted by the Commodity Futures Trading Commission and was the subject of 3 days of public hearings. Each and every issue was thoroughly debated by both mittee.

Reports from the GAO and other congressional committees were taken into account as were the view of industry spokesmen. I am proud to say the result is a well-balanced bill which will not bind this growing industry with will unnecessary regulation, but strengthen the markets through assuring safe, fair, and competently regulat-

During the conference on this bill, the Agriculture Committee conferees were jointed by three distinguished members of the Energy and Commerce Committee, Chairman DINGELL, Mr. WIRTH, and Mr. BROYHILL. This advice and input strengthened the final product and I commend them for the fine job they did.

As my colleagues review this conference report, they will recognize that the House prevailed on most of the important issues. Where compromises were made I feel they resulted in a generally better piece of legislation.

Many of you know that neither the House nor the Senate bills contained a user fee or transaction fee even though the administration wanted one enacted.

However, in an effort to reach a middle ground with the White House an arrangement has been made to increase or implement certain service fees paid by the industry. These fees paid for such services as audits, rule enforcement reviews, registration, and publication distribution will exceed CFTC's cost in performing them and will likely raise \$2 to \$3 mil-

Chairman Helms advised the conference that this service fee arrangement satisfied the White House and that no veto would be forthcoming based on this issue.

The contract sanctity amendment seems to be the only controversial provision. As sponsor of the bill I can say that no policy spokeman from the White House contacted me in opposition to this provision prior to or during the conference.

A single letter from the Assistant Secretary of State for Congressional Affairs in opposition to the Senate amendment was received.

The "contract sanctity" idea was first set in motion by President Reagan during the 1982 election season. At that time he pledged contract sanctity to the Soviet Union for a specified period which has now expired.

This provision in the conference report simply extends the spirit of President Reagan's campaign gesture. I urge him to adopt it—to take credit for his good idea. American farmers deserve no less.

In closing, let me congratulate Chairman DE LA GARZA for the fine job

the subcommittee and the full com- he has done on this complicated legislation.

Additionally I want to give thanks and recognition to Congressman Dan GLICKMAN whose help, dedication and expertise are in evidence in every single section of this bill.

Mr. Speaker, with those comments I will close and ask my colleagues to support this conference report.

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Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, my remarks will be brief. I want to pay particular words of tribute and thanks to the distinguished chairman of the Committee on Agriculture and to be able members of that committee who served as conferees on this matter. Their courtesies to us on the Committee on Energy and Commerce were exemplary. We are keenly appreciative of their efforts to arrive at which I regard as a very wholesome compromise which I believe has laid to rest the difference which existed with regard to this bill.

I personally commend the distinguished gentleman from Texas (Mr. DE LA GARZA) and his able colleagues from the Committee on Agriculture for the fashion in which they worked. I believe we have a good compromise and a good proposal which can receive the support of the House.

Mr. Speaker, I urge speedy enactment of this bill into law to provide an authorization for the Commodity Futures Trading Commission and to strengthen the Commodity Exchange Act to give the CFTC the tools it needs to adequately police the burgeoning futures markets.

Mr. Speaker, I yield back the balance of my time.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

I just wanted to add from the perspective of the subcommittee with jurisdiction over the securities area to thank the gentleman from Texas and the gentleman from Kansas and the members of the Committee on Agriculture as we worked out a very fair and reasonable approach to the new instruments coming onto the market.

Mr. DE LA GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I would just like to again thank all my colleagues and particularly the chairman of the full committee for producing a product which should give the farmers of this country as well as the purchasers of the futures and options in America some confidence that there is a regulatory structure that will pro-

vide consumer confidence.

The futures business is an enormously growing area. The whole issue of the futures industry, whether the futures instruments are on farm commodities, gasoline, Treasury bills or foreign futures is moving this country into previously uncharted waters. I think in this bill we have provided a product that will be a significant improvement in how the Government and private industry engage in the regulation of this industry.

Mr. DE LA GARZA. Mr. Speaker, we

Mr. DE LA GARZA. Mr. Speaker, we thank the gentleman for his contribution and the endeavor which gives us a final product we have here today.

Mr. Speaker, I yield 2 minutes to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Speaker, I rise in support of the conference report on the Futures Trading Act of 1982.

A great amount of work, thought and compromise went into developing this bill. It was treated seriously because the issues involved are very important to the national economy.

No question exists that the economy is in a perilous period. A glance at the financial pages of any newspaper on almost any day confirms that confusion reigns in the economic arena.

In times such as these careful and prudent regulation of the economic sector is called for. At the same time we must maximize people's ability to protect themselves as they see best.

This bill H.R. 5447 enhances regulations of our very important futures markets. It strengthens the regulatory tools of the Commodity Futures Trading Commission, especially in emergency situations. It enhances the ability of private market users to sue when they have been defrauded. It gives States a broader role in bringing to justice dishonest commodity operators.

Additionally this bill provides for the careful development of some new market instruments which deserve a fair test.

Stock index futures have engendered wide debate and controversy. Many Members have expressed grave reservations about trading these unique contracts. I am impressed by these warnings but know of no better way to test the conflicting ideas than through a pilot program in futures pits. H.R. 5447, in my view, provides carefully considered protections in this regard.

Another item which has been of particular interest to me is the lifting of the trading ban on agricultural options. Limited trading, on a pilot basis, was supported by most farm organizations and is included in the bill. I do not know how they will be accepted in

the farm community but I see a potential for farmers to purchase some price protection in an arena somewhat less risky and complicated than the futures markets.

In closing, I simply want to say this is a well balanced bill. We can be proud of it and urge my colleagues to

support it.

Mr. WAMPLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Speaker, I want to commend all the conferees. This is a very difficult piece of legislation. We labored many hours, and I think came out with a very good com-

promise.

I would take my time at this point to thank in particular the gentleman from Virginia, for I believe this is the last official piece of legislation that I will have an opportunity to work on with him. I have worked with the gentleman for some 8 years now. I know that of all the people I have dealt with in Congress, I have found no one who has dealt with me more fairly, and who has from the bottom of his heart tried to help the American farmer and the American people.

I would say that the public sometimes makes some bad judgments. I would say from the circumstances of his election I am not even sure that the will of his district was really expressed. I am depressed because of the election irregularities that have been related to me. I know not whether the results would be changed, but I do know Virginia is being deprived of a superb leader in the field of agriculture at a time when Virginia and the Nation is facing a dire farm emergen-

I do know this. There is no one who has done more in my estimation for trying to bring about some rational reasonable agricultural policy in this country than the gentleman from Virginia. He also is renown for his efforts in promoting agricultural research.

In summary, I want to express my sincerest appreciation to him for all he has done, not only for agriculture, for the Congress, for the American people, but also for me personally. I wish the gentleman all possible success. He deserves a most prosperous future.

Mr. Speaker, what this conference report basically does is extend the life of the Commodity Futures Trading Commission for 4 years. In addition, the bill makes several changes to the Commodity Exchange Act which should improve the operations of the Commission while promoting the smooth and abuse-free operation of the futures markets. Major provisions include amendments to expand effective industry self-regulation and broaden CFTC authority in setting speculative limits, and amendments to

establish authority for a pilot program of trading in options on agricultural commodity futures, which has been banned by law for many years.

I am particularly pleased that H.R. 5447 gives States a substantially increased role in policing off-exchange activities in order to protect individual traders. In the past, State actions under the Commodity Exchange Act have been limited, even though the CFTC took the initiative to work with States in implementing these authorities. Under the new provisions included in this conference report, the CFTC will be permitted to share otherwise confidential information with the States. The bill also authorizes the CFTC to provide information on any registrant either voluntarily or at the request of any State. The availability of this information will aid States in preparing their own cases and should enable them to assess whether to join litigation being prepared by the Commission. H.R. 5447 also would explicitly permit the application of any Federal or State law to activities of persons who are required to, but who do not, obtain registration or designation by the CFTC or who otherwise unlawfully engage in commodity transactions outside the act's regulatory structure, such as off-exchange futures or other commodity investments. States also will be able to bring actions in State courts to enforce anti-fraud sections of the Commodity Exchange Act against persons registered under the act. In these cases, the CFTC can intervene in a State proceeding, and either the CFTC or a defendant will have the right to remove the action to a Federal court. I believe that these initiatives declare the intention of Congress that the resources of the CFTC and State officials should be used together to clean up the continuing problem of off-exchange commodity fraud.

I also would like to note, Mr. Speaker, that this bill does not contain a trading fee proposal as originally requested by the administration. However, the conference committee did agree on a compromise provision which restates the legal authority of the CFTC to charge service fees on such Commission functions as rule enforcement reviews. Both the futures industry and the administration have agreed to support this provison, which will enable the Government to recoup the cost of some specific service functions of the CFTC.

Mr. Speaker, we must provide the CFTC with the necessary tools to regulate effectively futures trading without adversely affecting the beneficial operations of the futures markets. I believe this bill goes a long way toward accomplishing that goal.

I urge my colleagues to support passage of this legislation.

Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kansas.

Mr. ROBERTS of Kansas. I thank

the gentleman for yielding.

In the Agriculture Committee we are often proud of the fact that we endeavor to find answers to our problems in a very bipartisan manner. One of the chief reasons for that has been due to the leadership of the gentleman from Virginia.

I would like to associate myself with the remarks of my friend from Vermont. I know of no one in the Congress who by his personal example has exemplified the kind of integrity and leadership that we need in this body than BILL WAMPLER. I, too, want to wish him well and to pay him my personal tribute as a friend, not only as a Member of this body, but as a staff member for many years.

I would like to say also, if the gentleman would continue to yield, that I rise in support of this bill, especially in regard to the contract sanctity provision. This provision is not perfect, but it does mark the first time we have in legislation some real guarantees for this country to be a reliable supplier of farm products. We just went through a long debate the last couple of days on a domestic content bill. Some of the supporters of that legislation indicated that that was one way to send a message to the Japanese and thereby increase our farm exports.

Let me say to those folks and to my colleagues that if we can once again establish ourselves as a reliable supplier of farm products and quit using the farmer as a foreign policy tool we will do more for farm exports and do more for our balance of payments and more for every citizen in this country than any single economic policy decision.

I also wish to thank the chairman for his leadership in the conference committee. It was a very difficult con-ference. Because of his leadership we were able to proceed and make some progress.

Mr. JEFFORDS. I thank the gentleman for his comments.

Mr. WAMPLER. Mr. Speaker, we have no further requests for time.

Mr. DE LA GARZA. Mr. Speaker, let me, before I move the previous question, just state that I join with my colleague from Vermont. I am sure I speak for all the members of our committee when I say that this will be the last piece of legislation which I as chairman have the pleasure of working with our distinguished colleague from Virginia (Mr. WAMPLER). It certainly has been my great honor, distinct privilege and genuine pleasure to work side by side with the gentleman from Virginia. His contribution to agriculture, to rural America in the years he has spent with us have been productive years I am sure personally to

Mr. ROBERTS of Kansas. Mr. him. His contribution to this Nation and to the spirit of the Nation which we call America has been great, and I think it will be especially appreciated by those of us who have worked with him. I am sure it will be appreciated in the years to come by those who reap the benefits of his contribution during the years which he served with us here in this House.

• Mr. FRENZEL. Mr. Speaker, this is undoubtedly an important bill. But I believe it will be remembered mainly as the carrier for the contract sanctity bill.

The contract sanctity amendment is a nongermane rider put on the bill in the other body by the distinguished senior Senator from my State. It guarantees that agricultural commodities which have been purchased have some reasonable chance of being delivered.

Usually I do not like nongermane amendments. But I congratulate my senior Senator, and the House managers, because this amendment is urgently needed to prove that America is a reliable supplier of agricultural products.

Our off-again, on-again embargoes have caused our main customers to seek other supply sources. The contract sanctity amendment will not restore confidence immediately, nor will it raise our market shares overnight. But it surely will help us in the long run.

I urge passage of the bill and the contract sanctity amendment.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered. The conference report was agreed to. A motion to reconsider was laid on the table.

AUTHORIZING CLERK OF THE HOUSE TO MAKE CORREC-IN ENROLLMENT OF TIONS H.R. 5447, FUTURES TRADING **ACT OF 1982** 

Mr. DE LA GARZA. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 435) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

# H. CON. RES. 435

Resolved by the House of Representatives (the Senate concurring), That, in the enrollment of the bill (H.R. 5447) to extend the Commodity Exchange Act, and for other purposes, the Clerk of the House of Repre sentatives shall make the following corrections:

In section 239, strike out "sections 9, 14, and 28" and insert in lieu thereof "sections 207, 212, and 231".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 5447, just agreed to.

The SPEAKER pro tempore. there objection to the request of the gentleman from Texas?

There was no objection.

#### MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

#### FISHERY CONSERVATION AND MANAGEMENT IMPROVEMENT

Mr. JONES of North Carolina. Mr. Speaker, I call up the bill (H.R. 5002) to improve fishery conservation and management, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill. The SPEAKER pro tempore. there objection to the request of the gentleman from North Carolina?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I do so to permit a colloquy between the chair-man and myself as to what we are trying to deal with here in this legislation and to point out to the House that we believe that we have a very important piece of legislation. It is one that does protect the interests of the gentlemen from California in terms of their concern with the California council. We think it does protect those people who have had concerns with this legislation. But it does some very important things in terms of our 200mile fisheries legislation, in terms of moving it forward and implementing this in a way that will enhance our American fisheries.

# □ 1500

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Speaker, I rise in support of H.R. 5002, a bill to improve fishery conservation and management. H.R. 5002 amends the Magnuson Fisheries Conservation and Management Act (FCMA), an act. which is acknowledged to have dramatically improved this country's fishery conservation and management efforts since its original passage in 1976. H.R. 5002 provides for changes in the administration of the FCMA that are important, well-founded, and that foster the implementation of the goals of the FCMA.

There is one provision in this bill that is, and has been for some time, of critical importance to me and to my fellow Californians. I refer to the provision in H.R. 5002 which was passed by the Subcommittee on Fisheries and strengthened by the full Committee on Merchant Marine and Fisheries that grants the State of California additional representation on the Pacific **Fisheries** Management Council (PFMC).

Mr. Speaker, the State of California has worked for 4 years to persuade Congress to correct what California's fishery management and fishing industry representatives have viewed as an inequitable allocation of seats on the Pacific Council. In the past two Congresses, legislation has been introduced that would create a separate fishery management council for California in recognition of the State's extensive fishery resources and fishing industry. I am gratified that the House has, at long last, recognized and decided to act to correct this inequity.

The provision granting California additional representation is a just one. California stands apart from fellow member States on the Pacific Council-Washington, Oregon, and Idahoin several important regards. First, California has more commercial fishermen than any of the other three States. Second, California has more individual fisheries than all the other States on the Pacific Council combined. Many of these are not, incidentally, even managed by the PFMC.

The State manages these fisheries, gathers the necessary data, develops and enforces regulations covering these fisheries, and taxes its citizens to pay for these services. There is but one fishery where the stocks migrate through waters of several States and that is salmon. Third, the State of California has a large and valuable recreational fishery, the problems of which are inherent to the State. Lastly, Pacific Council management plans have had either little or no effect on most of California's fishermen or they have hurt our fishermen. The priorities of the State of California in the management of its fisheries are not being realized on the council under the current allocation of seats.

In conclusion, this provision simply seeks to give California an equal determination of how its fisheries are to be managed. By passing this bill, the House acknowledges the importance of California fisheries in the overall

west coast fisheries management scheme. By giving California additional representation on the council, it is intended that the Pacific Fisheries Management Council be set up in such a way as to allow the council to fairly address the opportunities and problems of all the fisheries that exist along the entire coastline from Neah Bay to San Diego.

I would therefore like to ask my good friend and chairman of the Committee on Merchant Marine and Fisheries whether there is in this bill brought up today under suspension of the rules a provision that would grant California two additional seats on the Pacific Fishery Management Council.

Mr. JONES of North Carolina. The gentleman is correct. The bill provides two seats for the State of California.

Mr. ANDERSON. Mr. Speaker, I thank the gentleman.

Mr. CLAUSEN. Mr. Speaker, will the

gentleman yield? Mr. FORSYTHE. Continuing to reserve my right to object, Mr. Speaker, I yield to the gentleman from Califor-

nia (Mr. CLAUSEN). Mr. CLAUSEN. Mr. Speaker, I rise in support of the bill H.R. 5002, which proposes several improving amendments to the Fishery Conservation and Management Act of 1976 (FCMA). I would like to commend my col-leagues on the Committee on Merchant Marine and Fisheries for their willingness to address a number of very key issues in a realistic and responsible manner.

I am particularly grateful to the distinguished chairman of the Subcommittee on Fisheries and Wildlife, the gentleman from Louisiana BREAUX), and the distinguished ranking minority member, the gentleman from New Jersey (Mr. Forsythe), for the opportunity afforded me in having input in the development of one of these amendments. The open and responsive fashion in which his subcommmittee permitted me the opportunity to address a key concern regarding section 302, the composition of the regional fishery management council which has jurisdiction over the fisheries off the northern coast of California, was both appreciated and responsive.

As my colleagues are well aware, the Fishery Conservation and Management Act of 1976 marked the beginning of a new era by providing the framework, opportunity, and mandate for State governments and locally impacted user groups to address the challenge of managing their respective fisheries.

Anadromous Pacific salmon have played a major role in the social and economic development of the west coast of the United States. Over the past century salmon populations have been drastically reduced by the cumulative effects of overfishing and widespread destruction of freshwater spawning, rearing, and migration habitats. This has resulted in growing conflict among competing users over a dwindling supply of this valuable resource. In recent years the ocean fisheries understandably have been the primary focus of the Pacific Fishery Management Council, which, as you know, consists of the States of California, Oregon, Washington, and Idaho.

For a number of years, a principal concern has been the fundamental issue of fair representation in the management of the fishery resources within the jurisdictional waters of this council. Almost half of the fisheries managed by the PFMC are located in California waters, and approximately 44 percent of the commercial fisherman in the 4 State region are from California. Additional representation for the State of California on the council has been the object of longstanding efforts on the part of State and local governments, fishery managers, and all segments of the State's fishing industry.

The California State Legislature has twice passed resolutions calling for the creation of a separate management council for the State of California. Accordingly, I have introduced legislation, along with my colleague from California (Mr. PANETTA)-H.R. 770which would create a separate California council. Since the establishment of a separate council with jurisdiction over the resources off the coast of California would require a cooperative effort with its neighboring States, I believe that the more modest proposal contained in the FCMA bill-to increase the number of obligatory seats for California from one to three-to be a successful compromise.

Mr. Speaker, the facts speak for themselves. California's coastline of over 1.000 miles covers more ocean fisheries than the rest of the States in the PFMC combined. The committee has given careful consideration to all the facts and the product of their work is an equitable, balanced, and responsive piece of legislation. I urge my colleagues to support passage of this bill.

Mr. STUDDS. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Massachusetts.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Alaska (Mr. Young).

Mr. STUDDS. Mr. Speaker, let me just say this is an unusual procedure, but it is a bill which represents a very broad consensus not only within this institution, but between the two bodies, and I commend it to my col-

Mr. Speaker, I rise in strong support of H.R. 5002, a bill which amends the

Fishery Conservation and Management Act of 1976. The text of the amendment now before us reflects a consensus reached between the House and the other body concerning the various changes which need to be made to the act, and I urge my col-

leagues to support passage of the bill.

In section 2 of the amendment we have strengthened the position of the Department of State in the allocation of surplus fish to foreign nations. Specifically, the amendment requires that the Secretary shall not release initially more than 50 percent of any foreign allocation of fish. In order to receive any further releases of fish, a foreign nation will be required to fulfill the commitments it made to the United States prior to receiving any surplus fish. As required by law, these commitments include reducing tariff barriers on the importation of U.S. fish, minimizing gear conflicts with our own fishermen, transferring harvesting and processing technologies, and complying with our fishery laws and regulations.

For example, if a foreign nation's fishing fleet is not complying with our laws, by underlogging its catch, the Department of State is required to reduce any further releases of fish to that nation. In short, we have made it very clear that we will no longer allow those foreign fishing vessels which have had a history of undermining our conservation and management efforts and which have not paid outstanding fines to continue to fish off our

The provisions of section 2 specify very clearly the manner in which the Secretary of State shall release fishery resources allocated to foreign nations. Our Committee on Merchant Marine and Fisheries found it necessary to include such direction because all too often the Department of State has handed over to foreign nations our valuable fishery resources-many times to the detriment of our industry and our national interests. By providing clear legislative guidance to the Secretary we will be able to more fully realize the goals of our U.S. fishery policies and take action promoting the development of the U.S. fishing indus-

Section 5 of the amendment concerns the organization and functions of the regional councils established under the act. Many of the changes made in section 5 were recommended the councils to our committee during oversight hearings held last year. One of the provisions in this section states that the Federal Advisory Committee Act (FACA) does not apply to the councils or their committees. I am personally aware that over the past 6 years the councils have been bombarded by legal interpretations about whether the FACA applies to them. I hope that we have once and for all settled this issue so that the councils can now proceed with more important business, such as managing our fishery resources.

Section 5 of the amendment also provides that the councils shall adopt internal procedures to insure the confidentiality of information received from fishermen. These safeguards are to relieve concerns of the National Marine Fisheries Service (NMFS) and industry that information supplied to the councils might not be kept confidential. As a result, councils should be able to receive the confidential information which they believe they need from the National Marine Fisheries Service. Further, NMFS should take account of the expressed needs of the councils in compiling and maintaining confidential information.

In section 7 of the amendment the committee has recommended changes to the act which will expedite the approval process of fishery management plans. By shortening the time periods during which the Secretary of Commerce reviews proposed fishery management plans, I believe we will prevent costly delays which have plagued the system in the past. Overall, the amendments made by this section will make the management process more responsive to the dynamics of our fish-

ery resources.

Section 9 of the amendment addresses those limited situations where Federal waters are surrounded by State waters. The presence of these pockets creates incongruous fishery management schemes and presents significant problems in the area of fisheries law enforcement. Nantucket Sound is identical to these areas and creates the same fishery management problems, although not totally enclosed by the territorial sea. At the eastern edge of the sound the lines delimiting the territorial sea come within 1 mile of

intersecting each other.

I am pleased that the amendment now before us includes language which I requested to resolve this problem. Quite simply, it treats Nantucket Sound as the other affected areas. Historically, the Massachusetts Division of Marine Fisheries provided the management of the fisheries in the sound. fisheries law enforcement, conducted stock assessments and other fishery related research, and continues to do so today. By insuring a unified fisheries management regime, this amendment will enhance fishery conservation and fisheries law enforcement in the sound.

Finally, section 14 reauthorizes for 3 years the Anadromous Fish Conservation Act and extends for 2 years the emergency striped bass study. During the Merchant Marine and Fisheries Committee markup session, I offered an amendment to restrict some of the funding under this program in cases where a State had not adopted an approved interstate fishery management plan. The amendment was adopted; however, due to concerns expressed by Chairman Jones and Members of the other body, the language of that provision has been changed. Section 14 of the amendment contains new language which in essence offers an incentive to States to adopt interstate management plans.

States which have adopted such plans, such as my own State of Massachusetts, will be eligible to receive a larger Federal share of funding available under the Anadramous Fish Conservation Act. I support these changes and hope that eligible States will take full advantage of these new provisions by adopting interstate fishery management plans.

Lastly, Mr. Speaker, the amendment provides for the completion of the emergency striped bass study. As many of my colleagues remember, I was the House author of this study and have followed its progress over the past 3 years. The research being conducted under the study has yielded very important information about the abundance and migratory patterns of the striped bass. The small amount of funding contained in the amendment will allow this important research to continue so that we may learn more about this magnificent

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 5002 and urge its passage by the House.

This bill is designed to correct a number of problems that have been identified in existing law. These include the process by which fishing privileges are granted to foreign nations in our 200 mile zone: the amount of time necessary to approve fishery management plans: confused enforcement authority in areas surrounded by State waters; and other procedural matters affecting the regional councils and the Department of Commerce. All of the these issues have been addressed in this legislation and the solutions found will greatly increase our ability to wisely manage our fisheries.

I do want to make particular mention of one amendment that is not included in the bill. During mark-up in committee, I offered an amendment which would insure that foreign fishing allocations are based only on matters involving fisheries. This amendment was adopted by the committee in a modified form but was dropped from the package we have today. It is my intent to seek the original change again in the next Congress. We have seen a number of examples where our fisheries resources, which represent a major source of food for our Nation, are traded away to satisfy the foreign policy brokers in the executive branch and the narrow interests of small-minded pressure groups. Our fish-a strategic resource—are too important to be kicked around in a game of political football. I am putting this Congress and those special interest groups on notice that I intend to see the law changed so that it works to the benefit of American fisherman, rather than to their detriment.

Mr. Speaker, at this time I wish to yield to the Chairman and ranking Republican of the subcommittee to

engage in a colloquy.

If I may address the managers of the bill for a moment, do I understand that it is the intent of the committee that the allocation process described in section 2 of the bill should be used to allocate fishing privileges on a fishery by fishery basis in those cases where doing so will provide substantial benefits to the U.S. fishing industry?

Mr. JONES of North Carolina, Mr. Speaker, if the gentleman will yield, I would say to the gentleman that that

is the intent of the bill.

Mr. YOUNG of Alaska. Is it further the intent of the committee that the Departments of Commerce and State will pay particular attention to foreign allocations for those species which the U.S. fishing industry has had little or no success in placing in the markets of that Nation?

Mr. JONES of North Carolina. Mr. Speaker, the answer to that is "yes.

Mr. YOUNG of Alaska. Finally, does the committee intend that the allocation policy currently used by the Departments of State and Commerce will be continued under this legislation where doing so will provide substantial benefits to the U.S. fishing industry?
Mr. JONES of North Carolina. That

is the intent of the bill.

Mr. YOUNG of Alaska. Mr. Speaker, I want to thank the gentleman for

bringing this bill to the floor.

 Mr. BREAUX. Mr. Speaker, the bill before us, H.R. 5002, represents the culmination of a 3-year effort by our committee to assess the effectiveness of our Fishery Conservation and Management Act (FCMA), signed into law on April 13, 1976. The purposes of this historic act, which created a 197-mile fishery conservation zone (FCZ) adjacent to the territorial sea, were twofold:

First, to provide for the conservation and management of valuable fishery resources found off the coast of the United States, and second, to insure priority access to such resources to the

U.S. fishing industry.

The significance of this legislation can be appreciated by considering the foreign and domestic fisheries which existed in the 20 years preceding its enactment. During this period, the world production of fish multiplied more than threefold, from 20 million metric tons to approximately 72.4 million metric tons, yet the U.S. share of the catch hovered between 2 and 2.2 million metric tons. While the U.S.

harvest of fish remained relatively stable, other nations with large and efficient fleets-many of which were subsidized-experienced substantial increases in the amount of fish harvested off our coasts. This situation led to the overfishing of at least 10 major commercial stock-Alaska California sardines, haddock, halibut, herring, ocean perch, Pacific mackerel, sablefish, yellowfin sole, and yellowtail flounder-causing serious economic consequences. For example, overexploitation of the haddock fishery off New England and of the sardine fishery off California resulted in an accumulated loss to fishermen in excess of half a million dollars by 1974.

To manage the fishery resources of the U.S. fishery conservation zone, containing approximately 20 percent of the world's total fishery resources. the Congress, in passing the FCMA, provided for the creation of eight regional fishery management councils. fishery management plans The (FMP's) developed by the councils, reviewed and approved by the Secretary of Commerce, identify the optimum annual harvest for each fishery, calculate the U.S. harvest, and set the total allowable level of foreign fishing.

From June of 1979 through this past fall, the Subcommittee on Fisheries, Wildlife Conservation and the Environment conducted nine oversight hearings on the effectiveness of the conservation and management regime established by the FCMA. What we learned from those hearings was that although valuable gains have been made in the development of the U.S. fishing industry, further actions are needed. Our findings were detailed in an oversight report filed with the House last December (H. Rept. 97-

Some of the further actions called for in our oversight report were achieved with the enactment, on December 22, 1980, of the American Fisheries Promotion Act (AFPA). However, while the AFPA contained numerous provisions designed to stimulate and enhance the development of the U.S. fishing industry, it did not address several issues related to the day-to-day functioning of the management process. These issues include, among others:

First, the functions of observers placed onboard foreign fishing vessels participating in the harvest of fish resources of the FCZ and the method for insuring 100 percent observer coverage:

Second, appointment process for members of the regional fishery management councils:

Third, the relationship of council deliberations to the Federal Advisory Committee Act;

Fourth, the method for filling gaps in data and information necessary to sound fishery management decisions:

Fifth, the degree of Federal oversight and control of fishery management decisions made by the regional councils; and

Sixth, the conditions under which foreign citizens may participate in recreational fishing in U.S. waters.

In addition, the committee discovered that a need existed for a strong mechanism to insure foreign compliance and observance with the fish and chips policy of the FCMA and AFPAdesigned to maximize the return to U.S. fishermen from foreign participation in the harvest of U.S. fishery resources.

Mr. Speaker, based upon the findings of our hearings and further consultations with representatives of the fishing industry and the regional fishery management councils, our committee, as well as the Senate Committee on Commerce, Science, and Transportation, reported legislation to reauthorize our fishery conservation and management efforts, and to accomplish the changes in our basic fisheries law which will help to insure its smooth operation.

Although the House and Senate reported bills were remarkably similar, there were some areas of difference. In an attempt to avoid the necessity of convening a conference committee at this late date in the session, the staff of our committee and of the Senate committee have been meeting to resolve outstanding differences. I am happy to report that this goal has largely been accomplished and is represented in the committee substitute we bring before the House today. Let me take a few moments to briefly outline the elements of the legislation before us and to explain where it departs from the bill we reported from the Merchant Marine and Fisheries Committee by unanimous voice vote on May 17.

One of the first substantive differences is an amendment to section 201(c)(4) of the FCMA, indicating the sense of Congress that Governing International Fishery Agreements (GIFA's), which constitute the basic mechanism allowing foreign citizens to apply for permission to fish in the U.S. FCZ, must contain a binding commitment on the part of the foreign nation and its citizens to comply with the fish-and-chips policies set forth in section 201(e)(1) of the FCMA. We understand that some foreign nations whose GIFA's were renegotiated this year disputed the right of the State Department to include these policies, by specific reference, in their agreements. We believe, however, that the State Department approach was correct and intend to clarify their right to insist that the foreign nation undertake the obligations set forth in our law.

The second difference relates to the method by which fishery allocations are released to a particular foreign nation. Under the provisions contained in the substitute amendment, the Secretary of State, in cooperation with the Secretary of Commerce, must first determine what the allocation, if any, for a particular nation is, with respect to each fishery subject to the exclusive management authority of the United States. From this determination, the Secretary of State shall determine the aggregate of all fishery allocations to each foreign nation.

At this point, the Secretary of State and the Secretary of Commerce will release up to 50 percent of the aggregated allocation total. It is important to note that even if the Secretaries decide to release 50 percent of the aggregated allocation, they are not bound to release 50 percent of the allocation for each fishery, although the Secretaries could decide that this is the most effective way to achieve fish and chips. The provision has been carefully drafted so as to maximize the leverage that can be placed on such foreign nations to comply with fish and chips. Thus, the Secretaries could consider the relative value of different fish species in making releases from individual fisheries within the total aggregate release. In addition, the Secretaries could consider the seasonal nature of certain fisheries and the conservation and management measures adopted by the United States which might require an initial allocation of more or less than 50 percent of the allocation for a particular fishery. Of course, the Secretaries could decide to release identical percentages from each fishery within the aggregated total when this method would further fish and chips policies. Again, however, in no event may the initial releases total more than 50 percent of the aggregated allocations determined for a particular nation for that year. The basis on which each release is made must be stated in writing. Of course, the Secretaries decisions must be based upon the fish and chips criteria of section 201(e)(i).

After the initial releases are made, the Secretaries of State and Commerce must determine in writing that the foreign nation is continuing to comply with fish and chips before undertaking further allocation releases. The legislation does not specify a standard time that must elapse between the initial and subsequent allocation releases, and indicates that the Secretaries should take into account the size of the allocation given to the foreign nation under consideration for a particular fishery, as well as the length and timing of the fishing season for that fishery. If within that time frame, however, the Secretaries determine that the foreign nation in question is not complying with fish and chips policy, the Secretary of State is directed to reduce, in a

manner and quantity he determines appropriate, the subsequent allocation release. If all of the annual allocation for a particular fishery has already been released to a noncomplying foreign nation, the Secretary of State is directed to reduce the next year's allocation, of such fishing, if any, to such foreign nation.

Mr. Speaker, a new provision contained in the substitute provides a mechanism for insuring 100 percent U.S. observer coverage of foreign fishing vessels operating in the U.S. FCZ. This provision directs the Secretary of Commerce, beginning in 1984, to certify U.S. citizens who have the requisite education or experience to carry out the functions of observers. It will be encumbent upon the foreign fishing vessel, operating under a U.S. permit, to contract with such certified individuals. This provision will also apply to foreign vessels operating in the U.S. zone for highly migratory species of tuna, if such vessels have a permit for an incidental take of billfish. It is important to note that this system of providing U.S. observers on foreign fishing vessels operating in the U.S. FCZ applies to the extent that observers cannot be obtained due to a lack of appropriations from the existing Observer Fund.

Mr. Speaker, the committee substitute also contains the reauthorization of the Anadromous Fish Conservation Act, which earlier passed the house as H.R. 5663. We have slightly amended the original bill to:

First, reduce the term of reauthorization for the section 7 emergency striped bass study to 2 years rather than 3. This action was taken due to our concern that this study is taking too long, and we want to signal our displeasure with the continued delay in its completion. The section 4 State grant program will be reauthorized for 3 years and the funding levels for both sections will be retained as in the original House-passed bill; and

Second, delete the provision which restricted funding to those States that do not adopt an interstate fisheries management plan developed under the programs conducted pursuant to the act. This provision will be replaced by one which permits Federal funding of 90 percent of the costs of projects relating to species for which a State has adopted an interstate management plan, such as the striped bass plan. States which fail to adopt such a plan would be eligible for the normal 50percent Federal share of the project costs. This provision is designed to promote the cooperative and responsible management of territorial sea and inland fisheries for striped bass as well as all other anadromous fish species in the United States.

Mr. Speaker, the remainder of the substitute amendment is self-explanatory and is largely taken from the bill

reported by our committee in May. I urge my colleagues to support this timely legislation.

• Mr. HUTTO. Mr. Speaker, I want to take this time to commend the chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment for bringing H.R. 5002 to the floor for consideration.

I am particularly pleased that the chairman and his staff have addressed a problem which is crucial to the continued participation by the State of Florida in the fishery conservation management program. The substitute will grant general Federal arrest authority to agents of the National Marine Fisheries Service and affected State agencies which participate in the Fishery Conservation Zone (FCZ) program. I am certain that the Members are aware of the tremendous drug smuggling problem in the State of Florida. This problem has strapped the resources of not only our State law enforcement agencies, but Federal agencies such as the U.S. Coast Guard which is responsible for keeping our waters free of drug trafficking. Obviously, this is no easy task.

The provision on pages 26 and 27 of the substitute will close a law enforcement loophole that has existed for too long. When a Marine Fisheries Service (MFS) agent, or other State agent under delegated Federal authority, patrols the sea for fishery or marine resource violations, that agent may encounter felony activity such as drug smuggling on a routine basis. Yet, that agent lacks authority to arrest the felon and seize the contraband.

This lack of authority raises my concern for several reasons. First, I believe that the lack of authority puts the lives and well-being of marine fisheries service and State agents in jeopardy when attempting to enforce our Nation's maritime laws. Second, a serious violation of Federal law may go unprosecuted. Third, if an agent arrests a felon without this authority, the consequences may lead to personal or agency liability and the suppression of evidence.

Mr. Speaker, this provision is a commonsense approach to an unnecessarily complex situation. I once again applaud my chairman for his efforts on this provision and on H.R. 5002 as a whole.

 Mr. LENT. Mr. Speaker, as a sponsor of the Fishery Conservation and Management Act of 1976, also known as the 200-mile limit law, I rise in strong support of H.R. 5002 reauthorizing this act.

The FCMA is absolutely essential to protect the valuable fishing grounds within 200 miles of America's coasts from overfishing by foreign fleets and to conserve and manage fishery resources within our Fishery Conservation Zone.

Since enactment of the FCMA in 1976, we have made substantial progress in checking overexploitation of many fish stocks, and established a national pattern of fish conservation which previously had been lacking.

The National Advisory Committee on Oceans and Atmosphere (NACOA) recently reported that foreign fishing within the U.S. Fishery Conservation Zone has been reduced by 34 percent from 1976 to 1980, and domestic fish catches in the Fishery Conservation Zone were 28 percent more during 1980 than in 1976. By the end of 1981, the fifth year in which the 200-mile limit law had been in full operation, 14 fishery management plans had been implemented.

But more needs to be done if we are to realize the full potential of our U.S. fisheries industries.

In addition to reauthorizing the FCMA for 3 years, the legislation before us makes a number of important improvements to the act which clarify the role of the Regional Fishery Management Councils in developing management plans, and streamline the plan review and implementation process.

The legislation specifies that the guidelines issued by the Secretary of Commerce to assist in the development of fishery management plans are advisory only, and that it is the responsibility of the Regional Fishery Management Councils to develop fishery management plans and be responsible for day-to-day management decisions. I believe this legislation brings into better balance the roles of the Federal Government and the regional councils in managing our fisheries resources.

In addition, the legislation before us reauthorizes programs under the Fish and Wildlife Act and the Anadromous Fish Conservation Act; incentives for States to manage anadromous fish species such as the striped bass are also included.

Finally, I want to note that the legislation continues the vitally important study of the striped bass, whose North and mid-Atlantic populations have been in a state of decline. The striped bass is one of our most popular and desirable recreational fisheries and I understand that recent breakthroughs in striped bass research would make termination of this program at this time penny wise and pound-foolish.

I want to commend my colleagues on the Merchant Marine and Fisheries Committee for their perseverance in developing this consensus measure, and I urge my colleagues in the House to vote for its passage without further delay. Thank you.

Mr. FORSYTHE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from North Carolina (Mr. JONES)?

There was no objection.

The Clerk read the bill, as follows: H.R. 5002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. AMENDMENT REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or subsection, the reference shall be considered to be made to a section or subsection of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (90 Stat. 331 et seq., 16 U.S.C. 1801 et seq.).

SEC. 2. PURPOSES OF ACT.

Section 2(b)(4) (16 U.S.C. 1801(b)(4)) is amended by inserting "by the United States fishing industry" immediately after "from each fishery".

SEC. 3. FOREIGN FISHING.

Section 201 (16 U.S.C. 1821) is amended-"(1) by amending subsection (c)(2)(A)(i) to read as follows:

"(i) The term 'certification' means-

"(I) a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling; or

"(II) a certification made by the Secretary under paragraph (1) of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1), regardless of whether the President directed any action to be taken under paragraph (4) of such section 8(a) as a result of such certification.

A certification made by the Secretary under subclause (I) shall also be deemed to be a certification for the purposes of paragraph (1) of such section 8(a).";

(2) by amending subsection (i)-

(A) by amending paragraph (3) to read as follows:

"(3) United States observers, while aboard foreign fishing vessels, shall carry out such scientific, enforcement, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out such other scientific programs relating to the conservation of living resources as the Secretary deems appropriate."; and

(B) by amending the fourth sentence of paragraph (5) to read as follows: "All payments made by the Secretary to carry out this subsection shall be paid from the Fund."; and

(3) by adding at the end thereof the fol-

lowing new subsection:

"(i) RECREATIONAL FISHING -Notwithstanding any other provision of this title, fishing vessels of foreign nations may engage in recreational fishing within the fishery conservation zone, the territorial sea of the United States, and the internal waters of a State subject to obtaining such permits, paying such fees, and complying with such conditions and restrictions as the Secretary, with respect to the fishery con-servation zone, and the appropriate State official, with respect to the territorial sea and internal waters, shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels is consistent with any applicable fishery man-

agement plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary of the department in which the Coast Guard is operating in formulating the conditions and restrictions applicable with respect to the fishery conservation zone.".

SEC. 4. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended-

(1) by inserting "hold capacity," immediately after "fishing gear," in paragraph (3)(B);

(2) by striking out subparagraphs (B) and (C) of paragraph (4) and inserting in lieu thereof the following:

"(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

'(C) a copy or a summary of the application to the appropriate Council, upon its request.":

(3) by striking out "After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall" in paragraph (5) and inserting in lieu thereof 'After receiving an application copy or summary under paragraph (4)(C), the Council may": and

(4) by striking out "loans therefrom," and all that follows thereafter in the last sentence of paragraph (10) and inserting in lieu thereof "loans therefrom.".

SEC. 5. NATIONAL STANDARDS.

Section 301 (16 U.S.C. 1851) is amended— (1) by inserting "by the United States fishing industry" immediately after "from each fishery" in paragraph (1); and

(2) by adding at the end of subsection (b) the following new sentence: "The guidelines shall not have the force and effect of law.". SEC. 6. REGIONAL FISHERY MANAGEMENT COUN-CIL ORGANIZATION AND FUNCTIONS.

Section 302 (16 U.S.C. 1852) is amended as follows:

(1) Subsection (a) is amended-

(A) by striking out "(b)(1)(C)" each place it appears therein and inserting "(b)(1)(B)" (B) by striking out "11" in paragraphs (1)

and (5) and inserting in lieu thereof "12"; (C) by striking out "12" in paragraph (2) and inserting in lieu thereof "13";

(D) by striking out "8" in paragraphs (3)

and (6) and inserting in lieu thereof "9";
(E) by striking out "4" in paragraph (4) and inserting in lieu thereof "5";

(F) by amending paragraph (7) by striking out "7" and inserting in lieu thereof "8"; and by striking out "5" and inserting in lieu thereof "6"; and

(G) by amending paragraph (8) to read as follows:

"(8) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of all States except Alaska, Washington, Idaho, Oregon, and California. The Western Pacific Council shall have 13 voting members, including 9 appointed by the Secretary pursuant to such subsection (b)(1)(B) (at least one of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).".

(2) Subsection (b) is amended-

(A) by amending paragraph (1)-(i) by striking out subparagraph (B), and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(B) by amending paragraph (2) by striking out "(1)(C)" and iserting in lieu thereof

"(1)(B)"; and by adding at the end thereof the following new sentences: "The Secretary shall make, and announce publicly, the appointment of an individual under paragraph (1)(B) not less than 45 days before the first day on which the individual is to take office as a member of a Council. The Secretary may remove for cause any member appointed under paragraph (1)(B) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons on which the recommendation is based."

(3) Subsection (e)(1) is amended by redesignating subparagraphs (A) through (D) as subparagraphs (B) through (E), respectively; and by inserting immediately before subparagraph (B) (as so redesignated) the fol-

lowing new subparagraph:

"(A) The regional director of the National Marine Fisheries Sercvice for the geographical area concerned, or his designee, execpt that if 2 such directors are within such geographical area, the Secretary shall designate which of such directors shall be the nonvoting member.

(4)Subsection (d) is amended (A) by striking out "for GS 18 of the General Schedule" and inserting in lieu thereof 'of \$100"; and

(B) by striking out "(c)(1)(C)" and inserting in lieu thereof "(c)(1)(D)".

(5) Subsection (f) is amended-

(A) by adding at the end of paragraph (6)

the following new Sentences:

"Such procedures shall include, but shall not be limited to, the following requirements:

"(A) Emergency meetings of the Council shall be held at the call of the Chairman.

"(B) Timely notice of each regular meeting and each emergency meeting of the Council and the agenda for each such meeting must be published in newspapers of general circulation throughout the geographical area concerned; and timely notice of each regular meeting and agenda shall also be published in the Federal Register.

(C) Interested persons shall be given an opportunity to submit oral or written statements regarding matters before the Council at regular and emergency meetings.

"(D) A record shall be kept of the proceedings at each regular or emergency meeting and the record (including a copy of each written statement and document presented in the course of the proceedings, as well as the transcript, if any, of the proceeding) shall be available for public inspection and copying at a single location in the offices of the Council.

The requirements set forth in subparagraphs (A) through (D) shall also apply with respect to the procedures for the scientific and statistical committee and advisory panels established under subsection (g) by a Council. The Federal Advisory Committee Act (5 U.S.C. App. I) shall not apply with respect to any Council, scientific and statistical committee, or advisory panel."; and

(B) by adding at the end thereof the fol-

lowing new paragraph:

"(8) Each Council shall establish such procedures relating to the confidentiality of statistics submitted to it as the Council deems appropriate, including, but not limited to, restrictions regarding Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws or regulations of that State concerning the confidentiality of such statistics

(6) Subsection (h) is amended as follows: (A) Paragraph (1) is amended to read as follows:

"(1) prepare and submit to the Secretary "(A) a fishery management plan with respect to each fishery, within its geographical area of authority, that requires conservation and management.

"(B) a data collection program described in section 303(e) if the council determines

such a program to be necessary, and
"(C) such amendments to any fishery

management plan or data collection program prepared by it as the Council may deem, from time to time, to be necessary:

(B) Paragraph (2) is amended by striking out "204(b)(4)(B)" and inserting in lieu thereof "204(b)(4)(C)".

(C) Paragraph (3) is amended by inserting immediately before the semicolon at the end thereof the following: "(and for purposes of this paragraph, the term 'geo-graphical area concerned' may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area)".

(D) Paragraph (4) is amended to read as

follows:

"(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;".

SEC. 7. CONTENTS OF PLANS.

Section 303 (16 U.S.C. 1853) is amended as

(1) Subsection (b) is amended-

(A) by amending that part of paragraph (6) which precedes subparagraph (A) to read as follows:

"(6) establish for the fishery, in order to achieve optimum yield, a limited access system (which system may include a vessel 'buy-back' or equivalent program, may provide for the funding of any such program through the fee schedule for the system, and may be administered by the States concerned), and in developing such a system, the Council and the Secretary shall take into account-

(B) by striking out "and" at the end of paragraph (6);

(C) by redesignating paragraph (7) as paragraph (8);

(D) by inserting immediately after paragraph (6) the following new paragraph:

"(7) set forth those factors, if any, that are impeding the full utilization of the optimum yield of the fishery by the United States fishing industry and recommend those measure which should be taken to eliminate, or reduce the effect of, those factors: and"

(2) The first sentence of subsection (c) is amended to read as follows: "Each Council shall prepare such proposed regulations as it deems necessary or appropriate to carry out each fishery management plan, and any amendment thereto, that is prepared by it."; and

(E) by adding at the end thereof the fol-

lowing new subsections:

"(e) DATA COLLECTION PROGRAMS.—(1) If a Council determines that the statistics and other data available to it are insufficient or unreliable for the purposes of—
"(A) determining whether a fishery man-

agement plan is needed for a fishery; or

(B) preparing a fishery management plan:

the Council may prepare and submit to the Secretary a data collection program for the fishery which sets forth the types of statistics and other data which the Council considers necessary, the periods of time over which, and the intervals at which, such data should be collected, the probable sources of the data, a justification for the need for such data as it relates to the fishery or the fishery management plan proposed to be prepared, and such other matters as the Council deems appropriate or the Secretary may require.

"(2) The Secretary shall review and approve or disapprove each data collection program within 60 days after the date on which the program is submitted to him. The Secretary shall approve a data collection program if he determines that the need for the data is justified. If the Secretary does not consider any specific data, collection sequence, or source proposed in a data collection program to be appropriate for purposes of determining whether a fishery management plan is needed or the preparation of a plan, he shall disapprove all or part of the program, inform the Council of the reasons therefor, and propose suggestions for improvement. Within 60 days after the date of disapproval, the Council may amend the proposed program and resubmit it to the Secretary for approval.

"(3) The Secretary, within 60 days after approving a data collection program under this subsection, shall promulgate regulations to implement the program.".

SEC. 8. ACTION BY SECRETARY.

Section 304 (16 U.S.C. 1854) is amended as follows:

- (1) Subsection (a) is amended by striking out "60 days" and inserting in lieu thereof "90 days"; and by adding at the end thereof the following new sentence: "If the Secretary does not notify the Council of his approval, disapproval, or partial disapproval of the fishery management plan or amend-ment before the close of the 90-day period following his receipt of it, the plan or amendment shall be deemed, as of the close of such period, to be approved by the Secretary for purposes of section 305(a)(1).".
  - (2) Subsection (c)(1) is amended-
- (A) by striking out "or" after the semicolon at the end of subparagraph (A);
- (B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and
- (C) by adding at the end thereof the following new subparagraph:
- "(C) a Council, by not less than two-thirds of the members who are voting members, determines that an emergency involving a fishery exists and requests the Secretary to prepare a fishery management plan for that fishery.
- (3) Subsection (d) is amended to read as
- "(d) FEES .--The Secretary shall by regulation establish the level of any fees which authorized to be charged pursuant to section 303(b) (1) and (6). The level for fees imposed under a permit system pursuant to section 303(b)(1) shall not exceed the costs incurred by the Secretary in issuing the permits. The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States.".

SEC. 9. IMPLEMENTATION OF PLANS.

Section 305 (16 U.S.C. 1855) is amended as follows

(1) Subsection (a) is amended-

(A) by striking out the matter preceding paragraph (1) and inserting in lieu thereof: "(a) In GENERAL.-Within 30 days after

the Secretary-

(B) by amending clause (B) to read as fol-'(B) the proposed regulations prepared by the Council as required by section 303(c), any suggested substantive revision by the Secretary to the proposed regulations, and an explanation of such revisions."; and

(C) by amending the last sentence thereof to read as follows: "Interested persons shall be afforded a period of 45 days after such publication within which to submit in writing data, views, or comments on the plan or amendment, the proposed regulations, and any suggested revision to the proposed regu-

lations.'

(2) Subsection (c) is amended—(A) by striking out "45-day" in paragraph (1)(A) and inserting in lieu thereof "30-day"; and

- (B) by adding at the end thereof the following new sentence: "If the Secretary does not promulgate regulations to implement a fishery management plan or amendment within the 30 day period following the close of the 30 day period referred to in subsection (a), the proposed regulations prepared by the Council under section 303(c) with respect to the plan shall be considered to have been promulgated by the Secretary effective on and after the day after the last day of such second 30 day period.".
  - (3) Subsection (e) is amended-

(A) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon:

(B) by adding immediately after paragraph (2) the following:

and if a Council-

"(3) has requested under section 304(c)(1)(C) that a fishery management plan be prepared, the Secretary may promulgate emergency regulations to conserve the fishery until a plan can be prepared and implemented; or

'(4) by the unanimous vote of the members who are voting members declares than an emergency regarding a fishery exists and that appropriate action (including, but not limited to, closure of, or limitations on catch levels in, the fishery) will alleviate the situation, the Secretary shall promulgate emergency regulations that are necessary to im-

plement such action."; and

(C) by inserting immediately before the semicolon at the end of clause (B) the following: "(and, if such regulation was promulgated under paragraph (3), may be repromulgated following the second 45-day period for an additional period of not more than 90 days if such additional period is required for purposes of preparing a fishery management plan)"

(4) Subsection (f) is repealed.

(5) At the end thereof insert the following new subsection:

"(h) INAPPLICABILITY OF CERTAIN LAWS TO CERTAIN PROCEDURAL AND TIME REQUIRE-MENTS.—Neither the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), or Executive Order Numbered 12291, dated February 17, 1981, shall affect in any manner or to any extent (A) the time limitations or procedural requirements specified in subsections (a), (b), (c), and (e), section 303(c) and (e), and section 304(a) as they apply to the functions of the Secretary under such provisions; or (B) the taking effect under subsection (c) of certain regulations proposed by a Council.".

SEC. 10. STATE JURISDICTION.

Section 306(a) (16 U.S.C. 1856(a)) amended by inserting immediately after the first sentence thereof the following new sentence: "For purposes of this Act, the jurisdiction and authority of a State shall extend to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party.".

SEC. 11. (a) Section 309(b) (16 U.S.C. 1859(b)) is amended by striking out ", or imprisonment

for not more than 1 year, or both'

(b) The amendment made by subsection (a) applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act. SEC. 12.

Section 310(a) (16 U.S.C. 1860(a)) is amended by inserting "(or the value thereof)" immediately after "fish" each place it appears. SEC. 13.

(a) Section 3(27) (16 U.S.C. 1802(27)) is amended by striking out "or" and inserting in lieu thereof a comma; and by inserting or numbered under the Federal Boating Safety Act of 1971 (46 U.S.C. 1451 et seq.) immediately before the period.

(b) The second sentence of section 306(a) (16 U.S.C. 1856(a)) is amended by inserting "or numbered under the Federal Boating Safety Act of 1971 (46 U.S.C. 1451 et seq.) immediately before the period.

(c) The last sentence of section 311(a) (16

U.S.C. 1861(a)) is repealed.

(d) The fourth sentence of section 2(e) of the Act entitled "An Act to authorize appropriations for fiscal years 1981, 1982, and 1983 for the Atlantic Tunas Convention Act of 1975, and for other purposes", approved September 4, 1980 (16 U.S.C. 1827(e)), is amended to real as follows: "All payments made by the Secretary to carry out this section shall be paid from the Fund."

Amend the title so as to read: "A bill to improve fishery conservation and manage-

ment, and for other purposes."

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. JONES OF NORTH CAROLINA IN LIEU OF THE COMMITTEE AMENDMENTS TO H.R. 5002

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to offer an amendment in the nature of a substitute in lieu of the committee amendments to H.R. 5002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Jones of North Carolina in lieu of the committee amendments to H.R. 5002:

Strike out all after the enacting clause and insert:

SECTION 1. AMENDMENT REFERENCE.

Whenever in this Act an amendment or repeal is expressed in terms of an amend-

ment to, or repeal of, a section or subsection, the reference shall be considered to be made to a section or subsection of the Act entitled "An Act to provide for the conservation and management of the fisheries, and for other purposes", approved April 13, 1976 (90 Stat. 331 et seq., 16 U.S.C. 1801 et seq.).

SEC. 2. FOREIGN FISHING.

- (a) Section 201 (16 U.S.C. 1821) is amended as follows:
- (1) Subsection (c)(2)(D) is amended to read as follows:
- "(D) United States observers required under subsection (i) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;".

(2) Subsection (c)(4) is amended-

- (A) by striking out "and" at the end of subparagraph (B):
- (B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and
- (C) by adding at the end thereof the following new subparagraph:
- "(D) take, or refrain from taking, as appropriate, actions of the kind referred to in subsection (e)(1) in order to receive favorable allocations under such subsection.'
- (3) The first sentence of subsection (d)(4) is amended by striking out "shall be allocated" in the matter following subparagraph (B) and inserting in lieu thereof "may be al-
- (4) Subsection (e)(1) is amended to read as follows:
- "(e) ALLOCATION OF ALLOWABLE LEVEL.—(1)(A) The Secretary of State, in cooperation with the Secretary, shall determine the allocation among foreign nations of the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

"(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

- "(C) The Secretary of State shall initally release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.
- "(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made-
- "(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and
- "(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity he considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on-

"(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation or otherwise restricts the market access, of United States

fish or fishery products;

"(ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

'(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing

regulations:

(iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic

consumption:

'(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimiz-ing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing indus-

try;
"(vi) whether, and to what extent, the fishing vessels of such nation have tradi-tionally engaged in fishing in such fishery;

(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to. fishery research and the identification of fishery resources; and

'(viii) such other matters as the Secretary of State, in cooperation with the Secretary,

deems appropriate. (5)(A) Subsection (i) is amended-

(i) by amending paragraph (3) to read as follows

"(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate."; and

(ii) by adding at the end thereof the follow-

ing new paragraph:

(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supple-

mentary observer program:

"(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to

in paragraph (3);
"(B) establish standards of conduct for certified observers equivalent to those appli-

cable to Federal personnel;

"(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

"(D) monitor the performance of observers to ensure that it meets the purposes of this Act.

(6) Such section is further amended by adding at the end thereof the following new

subsection:

- RECREATIONAL FISHING.-Notwith-(1) standing any other provision of this title, foreign fishing vessels which are not operat ed for profit may engage in recreational fishing within the fishery conservation zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or his designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 305. The Secretary shall consult with the Secretary of State and the Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Cost Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection."
- (b) The amendments made by subsection (a)(1) and (5)(A)(ii) shall take effect January 1, 1984.

SEC. 3. FOREIGN FISHING PERMITS.

Section 204(b) (16 U.S.C. 1824(b)) is amended

(1) by inserting "hold" immediately before

'capacity" in paragraph (3)(B);

(2) by striking out "and shall be set forth under the name of each council to which it will be transmitted for comment" in that portion of paragraph (4) which precedes subparagraph (A);

(3) by striking out subparagraphs (B) and (C) of paragraph (4) and inserting in lieu

thereof the following:

(B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and

'(C) a copy or a summary of the application to the appropriate Council, upon its re-

quest."; and

(4) by striking out "After receipt of an application transmitted under paragraph (4)(B), each appropriate Council shall" in paragraph (5) and inserting in lieu thereof "After receiving a copy or summary of an application under paragraph (4)(C), the Council may".

SEC. 4. NATIONAL STANDARDS.

Section 301(b) (16 U.S.C. 1851(b)) is

amended to read as follows:

(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.'

SEC. 5. REGIONAL FISHERY MANAGEMENT COUN-CIL ORGANIZATION AND FUNCTIONS

Section 302 (16 U.S.C. 1852) is amended as follows:

(1) Subsection (a) is amended—
(A) by striking out "pursuant to subsection (b)(1)(C)" each place it appears therein and inserting in lieu thereof "in accordance with subsection (b)(2)";

(B) by amending paragraph (6) by striking out "State)" and inserting in lieu thereof 'State, except that at least three shall be appointed from the State of California)";

(C) by amending paragraph (8) to read as follows

"(8) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths. territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii. American Samoa, Guam, and the Northern Mariana Islands)."

(2) Subsection (b) is amended-

(A) by amending paragraph (1)(C) to read as follows:

(C) The members required to be appointed by the Secretary in accordance with subsection (b)(2).

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting immediately after paragraph (1) the following new paragraph:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the geographical area concerned.

"(B) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy. The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of the required knowledge or experience required by subparagraph (A). If the Secretary determines that any individual is not qualified, he shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

"(C) Whenever the Secretary makes an appointment to a Council, he shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.";

(D) by striking out "pursuant to paragraph (1)(C)" in subsection (b)(3) (as redesignated by subparagraph (B)) and inserting in lieu thereof "by the Secretary in accordance with subsection (b)(2)"; and

(E) by adding at the end thereof the following new paragraph:

"(5) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with subsection (b)(2) if the Council concerned first recommends removal by not less than two-thirds of the members who are voting members. A removal recommendation of a Council must be in writing and accompanied by a statement of the reasons upon which the recommendation is based."

(3) Subsection (f)(6) is amended by inserting after the first sentence thereof the following new sentence: "The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (c), must be consistent

with the procedural guidelines set forth in subsection (i)(2).

(4) Subsection (h) is amended as follows: (A) Paragraph (1) is amended by inserting "that requires conservation and manage-ment" immediately after "authority".

(B) Paragraph (2) is amended by striking out "204(b)(4)(B)" and inserting in lieu

thereof "204(b)(4)(C)".

(C) Paragraph (3) is amended by inserting immediately before the semicolon at the end thereof the following: (and for purposes of this paragraph, the term 'geographical area concerned' may include an area under the authority of another council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other council is first consulted regarding the conduct of such hearings within its area)"

(D) Paragraph (4) is amended to read as

follows:

'(4) submit to the Secretary such periodic reports as the council deems appropriate, and any other relevant report which may be requested by the Secretary;"

(5) Such section is further amended by adding at the end thereof the following new

subsection:

(i) PROCEDURAL MATTERS.—(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils or to the scientific and statistical committees or advisory panels of the Councils.

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of the scientific and statistical committee and advisory panels of a

Council

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the

(B) Emergency meetings shall be held at the call of the chairman of equivalent pre-

siding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers in the major fishing ports of the Council's region (and in other major fishing ports having a direct interest in the affected fishery) and such notice may be given by such other means as will result in wide publicity. Timely notice of each regular meeting shall also be published in the Federal Register.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meet-

ings

(E) Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of matters discussed and conclusions reached, and

copies of all statements filed.

(F) Subject to the procedures established by the Council under paragraph (4), and the guidelines prescribed by the Secretary under section 303(d), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council. "(3)(A) Each Council, scientific and statis-

tical committee, and advisory panel-

"(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification: and

"(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the council is interested;

and if any meeting or portion is closed, the Council, committee, or panel concerned shall publish notice of the closure in local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including the time and place of the meeting. Subparagraphs (D) and (F) shall not apply to any meeting or portion thereof that is so closed.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures must, in the case of statistics submitted to the Council by a State, be consistent with the laws and regulations of that State concerning the confidentiality of such statistics."

SEC. 6. CONTENTS OF PLANS.

Section 303 (16 U.S.C. 1853) is amended as follows

(1) Subsection (b) is amended—(A) by striking out "and" at the end of paragraph (6):

(B) by redesignating paragraph (7) as

paragraph (8); and

(C) by inserting immediately after paragraph (6) the following new paragraph:

'(7) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the

(2) Subsection (c) is amended to read as follows:

"(c) Proposed Regulations.—The proposed regulations which the Council deems necessary or appropriate for purposes of carrying out a plan or amendment to a plan shall be submitted to the Secretary simultaneously with the plan or amendment for action by the Secretary under sections 304 and 305."; and

(3) Such section is amended by adding at the end thereof the following new subsec-

"(e) Data Collection Programs.-If a Council determines that additional information and data (other than information and data that would disclose proprietary or confidential commercial or financial information regarding fishing operations or fish processing operations) would be beneficial for the purposes of—
"(1) determining whether a fishery man-

agement plan is needed for a fishery; or

"(2) preparing a fishery management

the Council may request that the Secretary implement a data collection program for the fishery which would provide the types of information and data (other than information and data that would disclose proprietary or confidential commerical or financial information regarding fishing operations or fish processing operations) specified by the Council. The Secretary shall approve such a data collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for a data collection program is not justified, he shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this subsection regarding a Council request shall be made within a reasonable period of time after he receives that request.

SEC. 7. ACTION BY SECRETARY.

(a) Section 304 (16 U.S.C. 1854) is amended as follows:

(1) Subsections (a) and (b) are amended to read as follows:

"(a) ACTION BY THE SECRETARY AFTER RE-CEIPT OF PLAN .- (1) After the Secretary receives a fishery management plan, or amendment to a plan, which was prepared by a Council (the date of receipt of which is hereafter in this section referred to as the receipt date'), the Secretary shall-

"(A) immediately commence a review of the management plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law;

"(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments or interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the receipt date; and

"(C) by the 30th day after the receipt

date-

"(i) make such changes in the proposed regulations submitted for the plan or amendment under section 303(C) as may be necessary for the implementation of the plan, and

"(ii) publish such proposed regulations, including any changes made thereto under clause (i), in the Federal Register together with an explanation of those changes which

are substantive.

"(2) In undertaking the review required under paragraph (1)(A), the Secretary shall-

"(A) take account the data, views, and comments received from interested persons; "(B) consult with the Secretary of State with respect to foreign fishing; and

"(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

"(b)(1) A plan or amendment shall take effect and be implemented in accordance with section 305(c) if-

"(A) the Secretary does not notify the Council in writing of his disapproval, or partial disapproval, under paragraph (2), of the plan or amendment before the close of the 95th day after the receipt date; or

"(B) at any time subsequent to the 75th day after the receipt date and before such 95th day, the Secretary notifies the Council in writing that he does not intend to disap-prove, or partially disapprove, the plan or

amendment.

"(2) If after review under subsection (a) the Secretary determines that the plan or amendment is not consistent with the criteria set forth in paragraph (1)(A) of that subsection, the Secretary shall notify the Council in writing of his disapproval or partial disapproval of the plan or amendment. Such notice shall specify—

"(A) the applicable law with which the plan or amendment is inconsistent:

"(B) the nature of such inconsistency; and "(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

"(3)(A) If the Secretary disapproves, or partially disapproves, a proposed plan or amendment under paragraph (2), the Council may submit a revised plan or amendment, accompanied by appropriately revised proposed regulations, to the Secretary.

"(B) After the Secretary receives a revised plan or amendment under subparagraph (A) or (C)(ii), the Secretary shall immediately—

"(i) commence a review of the plan or amendment to determine whether it complies with the criteria set forth in subsection (a)(1)(A);

"(ii) publish in the Federal Register a notice stating that the revised plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 30-day period beginning on the date (hereinafter in this paragraph referred to as the 'revised receipt date') the plan or amendment was submitted to the Secretary under subparagraph (A) or (C)(ii); and

"(iii) review the revised proposed regulations, if any, submitted by the Council and make such changes to them as may be necessary for the implementation of the plan, and thereafter publish such revised proposed regulations (as so changed) in the Federal Register together with an explanation of each of such changes that is substan-

tive.

"(C)(i) Before the close of the 60th day after the revised receipt date, the Secretary, after taking into account any data, views, or comments received under subparagraph (B)(ii), shall complete the review required under subparagraph (B)(i) and determine whether the plan or amendment complies with the criteria set forth in subsection (a)(1)(A). If the Secretary determines that a plan or amendment is not in compliance with such criteria, he shall immediately notify the Council of his disapproval of the plan or amendment.

"(ii) After notifying a Council of disapproval under clause (i), the Secretary shall promptly provide to the Council a written statement of the reasons on which the disapproval was based and advise the Council that it may submit a further revised plan or amendment, together with appropriately revised proposed regulations, for review and determination under this paragraph.

"(D) A revised plan or amendment shall take effect and be implemented in accordance with section 305(c) if the Secretary does not notify the Council, in writing, by the close of the 60th day after the revised receipt date of his disapproval of the plan or amendment."

(2) Subsection (c)(1) is amended—

(A) by amending paragraph (1)-

(i) by amending subparagraph (B) to read a follows:

"(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment, as the case may be.", and

(ii) by adding immediately after the last sentence thereof the following flush sen-

tence

"The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph,"; and

(B) by amending paragraph (2) to read as

follows:

"(2)(A) Whenever, under paragraph (1), the Secretary prepares a fishery management plan or amendment, the Secretary shall immediately"(i) submit such plan or amendment, and proposed regulations to implement such plan or amendment, to the appropriate Council for consideration and comment;

"(ii) publish in the Federal Register a notice stating that the plan or amendment is available and that written data, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 75-day period beginning on the date the plan or amendment was submitted under clause (i); and

"(iii) by the 30th day after the date of submission under clause (i), submit for publication in the Federal Register the proposed regulations to implement the plan or

amendment

"(B) The appropriate council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 75-day period, referred to in subparagraph (A)(ii). After the close of such 75-day period the Secretary, after taking into account any such comments and recommendations, as well as any views, data, or comments submitted under subparagraph (A)(ii), may implement such plan or amendment under section 2056.0"

(3) Subsection (d) is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits."

(b) The amendments made by subsection (a) shall only apply with respect to fishery management plans and amendments thereto that are initially submitted to the Secretary of Commerce on or after the date of the enactment of this Act for action under section 304

SEC. 8. IMPLEMENTATION OF PLANS.

Section 305 (16 U.S.C. 1855) is amended as follows:

(1) Subsections (a) and (b) are repealed.
(2) Subsection (c) is amended to read as follows:

"(c) IMPLEMENTATION.—The Secretary shall promulgate each regulation that is necessary to carry out a plan or amendment—

"(1) within 110 days after the plan or amendment was received by him for action under section 304(a), if such plan or amendment takes effect under section 304(b)(1);

"(2) within 75 days after a revised plan or amendment was received by him under section 304(b), if such plan or amendment takes effect under paragraph (3)(D) of such section; or

"(3) within such time as he deems appropriate in the case of a plan or amendment prepared by him under section 304(c).".

(3) Subsection (e) is amended to read as

follows:

"(e) EMERGENCY ACTIONS.—(1) If the Secretary finds that an emergency exists involving any fishery, he may promulgate emergency regulations necessary to address the emergency, without regard to whether a fishery management plan exists for such fishery.

"(2) If a Council finds that an emergency exists involving any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

"(A) the Secretary shall promulgate emergency regulations under paragraph (1) to

address the emergency if the council, by unanimous vote of the members who are voting members, requests the taking of such action; and

"(B) the Secretary may promulgate emergency regulations under paragraph (1) to address the emergency if the Council, by less than a unanimous vote, requests the taking of such action.

"(3) Any emergency regulation which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such regulation is in effect. Any emergency regulation promulgated under this subsection-

"(A) shall be published in the Federal Register together with the reasons therefor;

"(B) shall remain in effect for not more than 90 days after the date of such publication, except that any such regulation may, by agreement of the Secretary and the Council, be promulgated for one additional period of not more than 90 days; and

"(C) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the council concerned."

Subsection (f) is repealed.

(5) Such section is further amended by adding at the end thereof the following new subsection:

"(h) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12291, dated February 17, 1981, shall be complied with within the time limitations specified in subsection (c) or section 304 (a) and (b) as they apply to the functions of the Secretary under such provisions."

SEC. 9. STATE JURISDICTION. Section 306(a) (16 U.S.C. 1856(a)) is amended by inserting immediately after the first sentence thereof the following new sentence: "For purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend (1) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimit-ing the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party and (2) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich.". SEC. 10. SUBPENA POWER.

Section 308 (16 U.S.C. 1858) is amended by adding at the end thereof the following new subsection:

"(e) SUBPENAS.-For the purposes of conducting any hearing under this section, the Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

SEC. 11. OFFENSES.

(a) Section 309(b) (16 U.S.C. 1859(b)) is amended by striking out ", or imprisonment for not more than 1 year, or both"

(b) The amendment made by subsection (a) applies with respect to offenses committed under section 309 on or after the date of the enactment of this Act.

SEC. 12. CIVIL FORFEITURES.

Section 310(a) (16 U.S.C. 1860(a)) is amended by inserting "(or the fair market value thereof)" immediately after "fish" each place it appears.

SEC. 13. POWERS OF AUTHORIZED OFFICERS.

Section 311(b) (16 U.S.C. 1861(b)) is amended-

(1) by inserting "(1)" immediately before

"Any officer";
(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (c), respectively;

(3) by redesignating subparagraphs (A), (B), (C), (D), and (E) as clauses (i), (ii), (iii), (iv), and (v), respectively; and

(4) by adding at the end therof the follow-

ing new paragraph:

"(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in his presence, or for a felony cognizable under the laws of the United States, if he has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to enforcement operations within the fishery conservation zone, the Secretary of the de-partment in which the Coast Guard is operating.".

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) Section 406 (16 U.S.C. 1882) is amended by adding at the end thereof the following new paragraphs. '(9) \$59,000,000 for the fiscal year ending

September 30, 1983.

(10) \$64,000,000 for the fiscal year ending September 30, 1984.

(11) \$69,000,000 for the fiscal year ending

September 30, 1985."

(b)(1) Subsection (c) of the first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a(c)) is amended-

(A) by inserting "(1)" immediately before "Whenever"; and

(B) by adding at the end thereof the following new paragraph:

"(2) In the case of any State that has implemented an interstate fisheries management plan for anadromous fishery resources, the Federal share of any grant made under this section to carry out activities required by such plan shall be 90 percent."

(2) Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended by adding after paragraph (3) the

following new paragraph:

"(4) \$7,500,000 for each of fiscal years 1983, 1984, and 1985.".

(3) The first sentence of section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking out "and" after "1981,", and by inserting immediately before the period the following: " and not to exceed \$1,000,000 for each of the fiscal years ending September 30, 1983, and September 30, 1984".

SEC. 15. TECHNICAL AMENDMENTS.

(a) Section 3(27) (16 U.S.C. 1802(27)) is amended to read as follows:

"(27) The term 'vessel of the United States' means-

"(A) any vessel documented under the laws of the United States;

(B) any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and measuring less than 5 net tons; or

"(C) any vessle numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 et seq.) and used exclusively for pleasure.

(b) Section 307(2) (16 U.S.C. 1857(2)) is amended-

(A) by amending subparagraph (A) to read as follows:

"(A) in fishing within the boundaries of any State, except recreational fishing permitted under section 201(j);"; and

(B) by striking out "in fishing" in sub-paragraph (B) and inserting in lieu thereof in fishing, except recreational fishing permitted under section 201(j),".

(c) The last sentence of section 311(a) (16

U.S.C. 1861(a)) is repealed.

(d) Section 8 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking out "and 1982" and inserting in lieu thereof "1982, 1983, 1984, and 1985".

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER pro tempore. there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Jones) is recognized for 1 hour.

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I

may consume.

Mr. Speaker, in addition to reauthorizing the Fishery Conservation and Management Act (FCMA) for a 3-year period, H.R. 5002 is designed to streamline the process by which fishery management plans are prepared, approved, and implemented. The bill before us is the result of a long and careful series of oversight hearings before our subcommittee on fisheries and wildlife conservation and the environment during the last Congress

In 1976, with the passage of the FCMA, the Merchant Marine and Fisheries Committee began the process of revitalizing the American fishing industry and returning it to its proper rank among the world's fishing nations. Under the FCMA, which is better known as the 200-mile fishery conservation zone law, we have made progress. There is still a long way to go, however, before our country regains its past standing as a leader among fishing nations and assumes its full role in the development and utilization of one-fifth of the world's fishery resources which lie within 200 miles of our shores.

As is the case with most major laws, the passage of time brings to light those areas which were overlooked as well as deficencies in the process set up to administer the law's provisions. Two years ago, passage of the American Fisheries Promotion Act strengthened the existing law through provisions designed to eliminate trade barriers and create new markets for U.S. fishermen. H.R. 5002 is another step in the same direction as well as an effort to tighten up the administrative procedures under the act to assure efficient and effective management of our fisheries.

Mr. Speaker, the bill under consideration is a committee substitute for that which was reported last May but its purposes have not changed. Since the authorizations under the act expired on September 30 and given the short time remaining in this Congress, this substitute is an effort to find common ground with the Senate and expedite enactment.

The committee amendment to H.R. 5002 has the following features:

It directs that governing international fishing agreements entered into by the United States with foreign countries make clear that U.S. observers be permitted on foreign fishing vessels at the expense of the vessel owner or operator.

It directs the Secretary of State to release foreign fishing allocations but provides that he should hold back at least one-half of each foreign nation's fishing allocation until he determines that such nation is complying with U.S. fisheries policy. Among the factors he must consider are:

First, whether the foreign nation imposes tariffs or nontariff barriers or other restrictions on the importation

of U.S. fish:

Second, whether that country is purchasing fish from U.S. processors or fishermen:

Third, whether that nation and its fleet cooperate in the enforcement of U.S. fishing regulations;

Fourth, whether that nation requires fish from our 200-mile zone for its domestic consumption;

Fifth, whether that nation is contributing to the growth of the U.S. fishing industry by minimizing gear conflicts and transferring technology beneficial to the U.S. fishing industry.

I might note that the amendment drops an earlier prohibition against the Secretary of State denying foreign fish allocations for solely political rea-

The amendment takes note of the fact that the U.S. observer program on foreign fishing vessels in our 200-mile zone has never been fully implemented because of insufficient appropriations. Without 100 percent observer coverage, foreign fishing vessels will continue to be able to underreport their catch with little fear of detection and penalty. This disadvantages U.S. fishermen, depletes our fisheries resources, and forces us to divert Coast Guard funding and resources to fisheries law enforcement. Having a U.S. observer on board is by far the most efficient enforcement tool we could employ. Our committee originally designed the observer program to be of no expense to the taxpayers because we anticipated that the foreign fishing vessels would reimburse the Treasury for the cost of the observers. Unfortunately, we cannot collect fees from the foreigners higher than the amount actually appropriated by Congress and Congress has thus far chosen not to appropriate a sufficient amount for 100 percent observer coverage. Therefore, the bill today provides that if appropriations are insufficient, a supplemental financing system would go into effect. This system will require that foreign fishing vessels pay Government-certified U.S. observers directly.

The bill clarifies that foreign fishing vessels from countries with which we do not a GIFA can participate in recreational fishing tournaments within the 200-mile zone under certain condi-

tions.

It clarifies the procedure for the Secretary of Commerce to appoint members of the regional fishery councils.

The bill makes clear that the Federal Advisory Committee Act does not apply to regional councils and instead sets up detailed procedures for the councils to follow in conducting their

meetings.

The time required for secretarial review and approval of the management plans will be shortened to 95 days. There are additional time constraints specified if the Secretary rejects a council's proposed management plan and the council subsequently submits a revised plan. Regulations to implement a plan must be approved by the Secretary within 110 days. These changes should eliminate the long delays previously encountered by the regional councils in seeking approval and implementation of management plans.

The bill permits duly authorized officials enforcing the Federal Fishery laws to make arrests for other U.S. felony violations which he discovers during the course of his fisheries en-

forcement.
The committee amendment provides authorizations of \$59 million for fiscal 1983; \$64 million for fiscal 1984; and \$69 million for fiscal 1985.

The bill also incorporates much of the substance of H.R. 5663, the Anadromous Fish Conservation Act previously approved in this House on June 8, 1982. It does reduce the reauthorization of the section 7 emergency striped bass study to \$1 million annually for 2 years rather than 3. It also set the State grants authorization \$7,500,000 annually for 3 years and encourages States to participate in interstate management for these fish by increasing the Federal share for grants to States who do so participate.

I might note that several items in the bill originally reported from committee have been dropped. These in-

clude:

First, an effort to reduce the per diem compensation for members of the regional councils.

Second, a proposed buy-back system in the event a council sets up a limited entry system for a particular fishery.

Third, efforts to exempt the councils from the Paperwork Reduction Act, the Regulatory Flexibility Act and Executive Order 12291.

H.R. 5002, as amended, will aid in our efforts to promote our United States fishing industry by providing for better management, utilization and protection of our resources within our 200-mile zone.

I urge its enactment.

Mr. FORSYTHE. Mr. Speaker, will the gentleman yield?

Mr. JONES of North Carolina. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Speaker, the Fishery Conservation and Management Act (FCMA) was signed into law on April 13, 1976. The purpose of this historic act was to provide for the conservation and management of important fishery resources found off the coasts of the United States. The significance of this legislation can be appreciated by considering the state of the fishing industry and of the fisheries themselves in the 20 years which preceded enactment of this legislation. During that period world fish production multiplied more than threefold, from 20 million metric tons to approximately 72.4 million metric tons, yet the U.S. share of the catch hovered between 2 and 2.2 million metric tons. While the U.S. harvest of fish remained relatively stable, other nations with large and efficient fleets-many of which were subsidized-substantially increased the amount of fish harvested off our coasts. This situation led to the overfishing of at least 10 major commercial stocks and caused serious economic consequences for the U.S. industry.

As a means of mitigating this overfishing and of achieving the objective of effectively conserving fishery resources, the FCMA established a 197mile fishery conservation zone adjacent to the 3-mile territorial sea. Ap-

proximately 20 percent of the world's fishery resources are contained within this 200-mile zone. The act also provided for the creation of eight regional fishery management councils which have the responsibility of developing fishery management plans. These plans identify, for each fishery, the optimum yield which could be harvested annually, the U.S. harvest, the total allowable level of foreign fishing, and the management rules governing foreign and domestic harvests. The Secretary of Commerce is responsible for the review and approval of each plan and the Secretary of State, in consultation with the Secretary of Commerce, is charged with the responsibility of allocating, among foreign nations, the surplus fish not harvested by U.S. fishermen.

More than 6 years have elapsed since this statute took effect and there can be no doubt that the act has been enormously successful in achieving its objectives. Species of fish which were considered overfished have begun to recover. The U.S. harvest has begun to increase and coastal economies which became depressed because of foreign overfishing have begun to rebound as the U.S. harvesting and processing industry gains strength.

While great strides have been made, the experience of the past 6 years has taught us that improvements can be made. The process by which fishery management plans have been developed and approved has become too cumbersome. The regional councils frequently take more than a year to develop a management plan. Once the plan is developed, the Secretary of Commerce hardly ever complies with the statutory time limit in which he must approve or disapprove the plan.

Not all the blame for this situation can be heaped upon the regional councils or the Secretary. For example, one of the major reasons for the delay in council deliberations is that the council often lacks the necessary information to determine whether a fishery needs management and what form that management should take. To remedy this, H.R. 5002 establishes a mechanism for implementing special research plans which can be used to gather the necessary data. Gathering this data in advance of the time in which a management plan is actually needed will speed the process and allow for swifter reaction to the conservation needs of the resource.

Once a management plan is developed and submitted to the Secretary of Commerce for review, it takes an inordinately long period of time for the Secretary to finally act. Part of the problem stems from the fact that statutes unrelated to fisheries conservation—the Regulatory Flexibility Act, the Paperwork Reduction Act, and Executive Order 12291—impose require-

ments which consume vast amounts of time. I support applying regulatory and economic impact analyses to fishery management plans because these plans clearly affect U.S. businessmen. However, the need to conserve the resource must be paramount, and compliance with these requirements can result in fisheries remaining unmanaged while the requisite economic and regulatory analyses are completed. The biological needs of the resource should not wait for these analyses to be completed. For this reason, H.R. 5002 requires the Secretary to approve or disapprove a fishery management plan within a specified number of days. While the Executive order and the other statutes will apply to the review process, H.R. 5002 makes it clear that the requirements of these statutes and Executive order must be complied with within the same period.

H.R. 5002 also seeks to expedite the process by which regulations to implement fishery management plans are prepared and considered by requiring that every plan must be accompanied by draft regulations when the plan is submitted for review. Consideration and approval of these regulations are placed on the same fast time track that consideration of the plan itself is placed on. Thus, shortly after the plan is approved, the regulations can be implemented and the plan given force

and effect.

H.R. 5002 does not stop with the housekeeping type of amendments necessary to make the FCMA work more effectively. The legislation before us today also recognizes that there is a clear relationship between the management of a fishery and the pace at which the U.S. fishing industry expands its harvest. We have learned from the past 6 years that if a foreign nation can satisfy its market demand by harvesting fish from the U.S. zone, then there is no market for U.S.-harvested product. To remedy this, H.R. 5002 puts additional teeth in the fish-and-chips policy. The teeth are in the form of amendments to section 201(E) which direct the Secretary of State to withhold at least 50 percent of each nation's allocation until it is determined that the nation is complying with any agreements it made.

In implementing this section, the Secretary of State shall determine the aggregate amount of the total allowable level of foreign fishing which would otherwise be allocated to each foreign nation. This determination will be made by using the FCMA fish-and-chips policy. After determining the initial aggregate allocation, the Secretary may release no more than 50 percent of the aggregate and could withhold up to 99.9 percent if he determines that withholding this allocation would be in the best interests of the U.S. fishing industry or if the foreign nation involved is not abiding by

agreements it has made pursuant to the fish-and-chips policy. Subsequent releases of allocations would be subject to scrutiny to determine whether the nation involved is complying with any agreements it has made and whether the release would be in the best interests of the U.S. fishing indus-

In addition to these changes, H.R. 5002 offers an alternative way in which the observer program can be implemented under the FCMA. Currently, each foreign vessel fishing within the Fishery Conservation Zone must have a U.S. observer on board. These observers are Federal employees and are funded by fees paid by the foreign nation. This program is subject to appropriations; unfortunately, the observer program has never received the funding necessary to provide an adequate level of observer coverage. Therefore, H.R. 5002 provides an alternative mechanism for implementing 100 percent observer. H.R. 5002 accomplishes this by providing that no foreign fishing vessel operating under the FCMA may receive a permit to fish in the Fishery Conservation Zone unless the vessel owner or operator agrees to have on board the U.S. observer and will pay for that observer. Although the observer would perform such functions as are assigned by the Secretary of Commerce, the observer would not be a Federal employee. The observer would be an employee of a private firm or university or other entity and will be someone who is certified by the secretary as having the education and the experience to perform the functions of an observer. Foreign vessels will not pay the U.S. Government for the observer but will pay the private firm which is providing the certified observer on a contract or other basis.

H.R. 5002 also reorganizes the observer program established under the Atlantic Tunas Convention Act. Under that statute, foreign vessels fishing for tuna within the U.S. zone must have a U.S. observer on board if the vessel will incidentally take billfish. Since these vessels are incidentally taking billfish, they are required pursuant to both the FCMA and the Atlantic Tunas Convention Act to have a U.S. observer on board. H.R. 5002 repeals the observer langauge of the Atlantic Tunas Convention Act because it is superfluous to the FCMA. It is clear that under the FCMA, as amended by H.R. 5002, any fishing vessel receiving a permit under the FMCA must have an observer. Since the class of vessels currently fishing for tuna within the FCZ must have a billfish permit, these vessels must have an observer pursuant to section 201(i) of the FCMA.

Mr. Speaker, H.R. 5002 will significantly improve the operation of the Fishery Conservation and Management Act by overcoming those proce-

dural problems which have hampered the development and implementation of fishery management plans, by removing some of the restrictions which have been imposed on the internal operations of the regional fishery management councils, and by clarifying the relationship between fishery management and fishing industry development. I urge my colleagues to adopt this important measure.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests

for time.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. JONES).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

# MODIFICATION OF NORTH AMERICAN CONVENTION TAX RULES

Mr. STARK. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3191) to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. STARK).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 326, nays 26, not voting 81, as follows:

#### [Roll No. 466] YEAS-326

Albosta Bevill Anderson Biaggi Andrews Bingham Annunzio Bliley Anthony Boggs Ashbrook Boland Bonker Aspin AuCoin Badham Bowen Bafalis Breaux Bailey (PA) Brinkley Barnard Brooks Barnes Bedell Beilenson Bennett Broyhill

Butler Byron Campbell Carman Carney Chappie Cheney Bouquard Clausen Clay Clinger Coats Coelho Broomfield Collins (IL) Brown (CA) Brown (CO) Brown (OH) Collins (TX) Conte Convers Corcoran

Coughlin Courter Coyne, James Coyne, William Crane, Philip D'Amours Daniel, Dan Daniel, R. W. Daschle de la Garza Dellums Derrick Dickinson Dicks Dingell Dixon Donnelly Dorgan Dornan Dowdy Dreier Duncan Dunn Dwyer Dyson Early Eckart Edgar Edwards (CA) Emerson English Erdahl Erlenborn Ertel Evans (GA) Evans (IN) Fary Fazio Ferraro Fish Fithian Flippo Florio Foglietta Foley Ford (MI) Ford (TN) Fountain Fowler Frenzel Fuqua Gaydos Geidenson Gephardt Gibbons Gilman Gingrich Ginn Glickman Gonzalez Gore Gradison Gramm Gray Green Guarini Hall (IN) Hall (OH) Hall, Ralph Hall, Sam Hamilton Hammerschmidt Hance Hansen (UT) Harkin Hartnett Hatcher Hefner Hertel Hightower Hiler Hollenbeck Hopkins Howard Hoyer Hughes Pritchard Hunter Pursell Quillen Hutto

Jenkins Railsback Ratchford Johnston Regula Jones (NC) Jones (OK) Renss Rhodes Jones (TN) Kastenmeier Rinaldo Ritter Kazen Roberts (KS) Kemp Kennelly Robinson Kildee Rodino Kogovsek Roe Lagomarsino Roemer Lantos Rogers Rose Rosenthal Leath Lee Leland Rostenkowski Lent Roth Levitas Roukema Lewis Roybal Livingston Loeffler Russo Long (LA) Santini Long (MD) Sawyer Lott Scheuer Lowery (CA) Schroeder Lowry (WA) Schumer Luken Seiberling Lundine Shamansky Lungren Shannon Madigan Shaw Shelby Markey Marlenee Shumway Marriott Siljander Martin (IL) Simon Martin (NC) Skeen Martinez Skelton Mattox Smith (AL) Smith (IA) Mayroules Smith (NE) Mazzoli McClory Smith (NJ) McCollum Smith (OR) McCurdy Snowe McDade Snyder McDonald Solarz McEwen Solomon Spence St Germain McGrath McKinney Mica Stangeland Michel Stanton Mikulski Stark Miller (OH) Staton Stenholm Minish Stokes Mitchell (NY) Stratton Moakley Studds Molinari Stump Mollohan Synar Tauzin Montgomery Moore Moorhead Taylor Thomas Morrison Traxler Mottl Trible Murtha Vander Jagt Myers Vento Volkmer Natcher Walgren Wampler Nelligan Washington Watkins Nichols Weaver Weber (MN) Nowak O'Brien Weber (OH) Weiss Oakar Oberstar Obey White Whitehurst Whitley Whittaker Ottinger Panetta Parris Whitten Williams (MT) Pashavan Patman Patterson Wirth Wolf Paul Pepper Perkins Wolpe Wortley Peyser Pickle Wright Wyden Porter Yates Yatron Price

NAYS-26

Young (MO) Zablocki

Zeferetti

Bailey (MO) Bereuter Coleman

Rahall

Jeffries

Conable Craig Dannemeyer Daub Derwinski Evans (IA) Fenwick Forsythe

Gunderson Hansen (ID) Hendon Jeffords Kindness Kramer Luian

Martin (NY) Pease Petri Sensenbrenner Sharp Wylie Young (AK)

#### NOT VOTING--81

Addabbo Edwards (OK) Lehman Marks Akaka Emery Evans (DE) Matsui McCloskey Alexander Applegate Fascell McHugh Miller (CA) Fiedler Archer Atkinson Fields Findley Mitchell (MD) Beard Benedict Frost Moffett Garcia Blanchard Murphy Bolling Goldwater Oxlev Rangel Boner Goodling Roberts (SD) Rousselot Gregg Grisham Bonior Brodhead Burgener Burton, John Hagedorn Hawkins Sabo Savage Burton, Phillip Heckler Schneider Holland Chappell Schulze Shuster Smith (PA) Chisholm Holt Horton Crane, Daniel Crockett Hubbard Swift Davis Huckaby Tauke Deckard DeNardis Hyde Udall Ireland Walker Waxman Dougherty Williams (OH) Downey LaFalce Dymally Wilson Young (FL) LeBoutillier Edwards (AL)

#### □ 1520

So the motion was agreed to. The result of the vote was announced as above recorded.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3191, with Mr. WHITE in the

The Clerk read the title of the bill. The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dis-

The gentleman from California (Mr. STARK) will be recognized for 30 minutes, and the gentleman from Tennessee (Mr. Duncan) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 3191 would exempt conventions and similar meetings held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions.

Currently, the Internal Revenue Code flatly disallows all deductions for the expenses of attending conventions, seminars, and similar meetings on cruise ships. This automatic disallowance of deductions has effectively conventions eliminated on cruise ships, even those that fly the U.S. flag. Permitting a deduction for attending conventions on U.S.-flag cruise ships would make them competitive with U.S. hotel facilities and create jobs in the cruise ship industry.

Mr. Chairman, much has been said about this bill, and if I may at this time, I would like to clear up some confusion. The bill in effect creates no new tax deductions. Under present law, the expenses of attending a seminar or business meeting held in a hotel or at a resort in the North American area are deductible to the same extent as other business expenses. This bill would allow deductions for the expenses of those meetings held on one of presently four operating ships, two cruising in the waters around the Hawaiian islands, one on the Mississippi River, and one on the west coast of California, provided that taxpayers meet not only all of the reporting requirements of present law and regulations, but also the new, more stringent reporting requirements imposed by this bill.

It is a strange situation that a convention can be held in Mexico or Canada or Jamaica, in a hotel owned by non-U.S. citizens and staffed by non-U.S. employees, and the expenses of attending that convention would qualify for a tax deduction. But, put it on a U.S.-flag ship, manned by U.S. citizens who are U.S. seamen, and the expenses would not be deductible. That is the inequity which we are trying to correct today.

This would involve a negligible revenue loss to the Treasury, and would correct an inequity which has existed since the convention laws changed by the Ways and Means Committee and the House of Representatives several ago.

H.R. 3191 allows business deductions for the expenses of attending meetings on U.S-flag cruise ships, but only if the taxpayer establishes the direct relation between the cruise meeting and the taxpayer's business, and only if all ports of call of the cruise are in the North American area, which includes the United States, our possessions and territories, Canada, and Mexico. The bill includes special reporting requirements for taxpayers seeking to deduct cruise meeting expenses. If the ship calls on a port outside the North American area, no deduction is available. Expenses for meetings on foreign-flag cruise ships remain nondeductible. It is estimated that the bill will have a negligible effect on budget receipts.

H.R. 3191 was the subject of hearings by the Subcommittee on Select Revenue Measures, and was unanimously reported by the subcommittee. On September 16, 1982, the Committee on Ways and Means favorably reported the bill to the House. H.R. 3191 was considered by the House on Monday, December 13, 1982, on the Suspension Calendar. At that time, a majority of the House supported this bill. However the bill failed to obtain the necessary two-thirds vote for passage.

Mr. Chairman, I urge the House to once again support H.R. 3191.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I again rise in support of H.R. 3191. Currently, the Internal Revenue Service could deny any tax deduction for expenses incurred in attending a convention that is held on cruise ships. H.R. 3191 provides a limited exception to the rule, and would allow tax deductions on cruise ships for attending a convention on a cruise ship. These cruise ships must be documented under the laws of the United States, and all the ports of call are within North America.

Earlier this week the House considered H.R. 3191, and a majority of the Members voted for it, 219-164. However, this did not provide the necessary two-thirds vote. As the chairman of the subcommittee has indicated, this bill has been misunderstood and has caused some confusion among some of our colleagues. I would like to quote part of a letter regarding this bill from the Department of Defense, which says:

The Department of the Navy, on behalf of the Department of Defense, enthusiastically supports the enactment of H.R. 3191. This legislation would substantially aid the revival of U.S.-flag passenger shipping by removing the disincentive that has prevented businesses from holding conventions aboard cruise liners.

This in turn will provide the Navy with auxiliary vessels for hospital ship conversion or troop carriage on very short notice.

# □ 1530

And also, if the Members will read on page 6 of the report the letter from the Congressional Budget Office, they indicate that this bill does not provide any new budget authority or any new or increased expenditures.

I say again that a lot of people think that this involves only ships on the high seas. It does not. It involves ships in areas of our country, the *Mississippi Queen*, the *Delta Queen*, and ships throughout Louisiana, Mississippi, Arkansas, Tennessee, and Kentucky.

Mr. Chairman, I strongly urge the adoption of this bill.

Mr. Chairman, I yield such time as he may consume to a fine member of the Committee on Ways and Means, the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, going briefly into the history of the "Love Boat" law which antedates my time on the Ways and Means Committee, this sort of convention expense was declared to be not deductible as a business expense because of what seemed to be abuses of conventioneering. Those abuses were called to the atten-

tion of the Ways and Means Committee.

Prime among them happened to be cruises in the Aegean Sea by certain medical groups which turned out to be far more recreational than inclined toward professional development. This Congress has maintained that nondeductibility on conventions afloat ever since.

To be sure, this bill is reasonably restrictive. It applies apparently to only four vessels, and those vessels have to be making calls in American ports or in ports of American possessions. I suppose if it is passed, it is not going to be a grievous wound in our tax system.

Nevertheless, I think there may be a number of Members of Congress who, like myself, feel that cruising is not necessarily conducive to good business education or professional development, and that there may be other places where these conventions and seminars could take place, where the expenses are currently deductible, where the participants might get more good out of them than they would get afloat. It will be hard to convince my constituents that cruising should be deductible, especially when they are paying big heating bills this winter.

I think if we want to give a subsidy to our maritime operation or if we want to do something good for the maritime unions, we should use more direct ways such as appropriations, rather than literally dipping into the funds that are provided by the general taxpayers. We are, of course, providing an exemption, which means that the rest of the taxpayers have to pay a little more.

My best judgment, Mr. Chairman, is that this is probably not the most important bill that will come before this body this year, and that even if it is passed, it will move forward to an uncertain future in the other body.

Nevertheless, I think there may be many Members like myself who will be unable to explain such special privileges to their constituents, and who consequently will feel obliged to vote against it.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Chairman, this bill is one of equity or fairness. It simply says that if a convention, a seminar, or a conference is going to be held, it can be held at its option in a hotel or on a ship. It so happens in this instance that there are only four ships that could qualify because America only has four ships.

It is interesting to note that one can have a tax deductibility for a conference held in Canada, in Mexico, or in Jamaica with employees who are not U.S. citizens, in a hotel owned by non-u.S. citizens, but one cannot have a tax deduction when that same confer-

ence is held on a ship owned by Americans and manned by American employees.

As to the concept of luxury which has been brought up, it is interesting to note that this really got my attention in Hawaii when the president of the State Teachers Association said to me, "I don't understand our tax laws, We planned our yearly conference on one of the ships that are now sailing between the Islands of Hawaii" there were two then sailing-"only to find we can't do that. We must hold it in a hotel because it won't be deductible on a ship." So those teachers held their conference in a hotel. Now, that does not make good sense. It is not good tax law. It is not good economic policy. And the two ships the gentleman from California (Mr. STARK) alluded to that are sailing among the Hawaiian Islands are not sailing. One is in port; the other sails part of the time. If we do not pass the legislation. neither ship will sail, and 900 American citizens will not work. That does not make good sense.

Mr. Chairman, I hope we will let good sense prevail and not let the word, "cruise," stop our intellect from working.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey (Mr. Guarini).

Mr. GUARINI. Mr. Chairman, I am very pleased that we are having this debate. I welcome it because there has been a great deal of misinformation, misconceptions, and misimpressions.

This is indeed a good bill. It will be a good law. It will do equity, and will present an evenhanded application of our tax law between the land-based hotels and the sea-based hotels, which is what passenger ships really are.

The point we are actually addressing here, bottom line, is American ships, carrying American flags, with American workers, going between American ports and providing a place for conventions in North America, which our convention laws allow at this point of time.

Before January 1, 1981, we always permitted tax deductions for conventions, seminars, and meetings aboard cruise ships. It was only through an oversight or perhaps an omission in the 1980 modification tax laws concerning cruises that we happened to inadvertently omit cruise ships carrying our American flag.

We hear a great deal about the perception that "it doesn't play in Peoria" and "Love Boat," et cetera. I hope that we do not pass our laws by slogans. I hope we go by what is right and fair. I hope we have the conviction and the courage to be able to vote for this bill regardless of how it is going to "play back in Peoria," because it is a just bill.

I believe the importance of this bill is that we have a bill here that does tax equity, one that is equitable and evenhanded, a business allowance that always existed before, and one that gives Americans employment. It will not cost the Government any tax dollars whatsoever because if one did not go to a convention in a particular location, they would have gone someplace else. So it makes no difference from a tax loss standpoint.

Mr. Speaker, I want to mention another salient point. The Department of Defense, and the Department of the Navy enthusiastically support this bill because our military services remember quite well what happened, and they point out what happened, with the Queen Elizabeth II and the Canberra when England had the Falkland Islands crisis and the conversion into Islands crisis and the conversion into the deployment of large numbers of

men and equipment.

Today, we have only four ships left from a proud fleet. New York, which used to be a very important harbor for passenger ships, no longer depends on any passenger ships. We must rebuild our fledgling fleet. It is very critical for national defense, and it is important as well to be fair and not discriminate against our shipping industry which needs our help. By excluding conventions in our tax laws while including hotels, we are indeed discriminating.

We presently have 1,200 people employed, and one of the 4 ships that were mentioned in Hawaii—I believe it is the Constitution—may well be out of business in 6 months; 300 people will be laid off. Then, our Nation will be down to 3 ships should we not pass this bill. So I think it is very, very essential for jobs for rebuilding our passenger fleet, and for the equitable ad-

ministration of our Tax Code.

Mr. Chairman, let me leave the Members with one last thought. There are many Members on the other side of the aisle, especially those who have spoken against the bill, who are interested in passing the CBI, the Caribbean Basin initiative, which will be coming up for vote tomorrow. I want to remind them that the legislation allows conventions to be held in 28 different countries in the Caribbean islands. Whether it be Haiti, St. Vincents, or El Salvador or whether it be any of the other countries in Central America or the Caribbean, we will permit conventions to be held tax deductible by the CBI proposals. So I do not understand how my colleagues can be consistent while voting for the CBI and then at the same time vote against H.R. 3191. So, Mr. Speaker, I ask the Members to truly be consistent, to be fair, and to not discriminate against an industry that is languishing and needs help. This is good tax legislation. It would really help an ailing industry and give employment to our American people. With the right kind of incentives we can give a rebirth to our shipping fleet which was once a proud and vital part of our economy.

Mr. DUNCAN. Mr. Chairman, I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield 6 minutes to the gentleman from Ohio (Mr. Pease).

#### □ 1540

Mr. PEASE. I appreciate the opportunity to rise in opposition to this bill. I will say at the outset that I do so with real regret because I have a genuine respect and affection for the gentleman from New Jersey (Mr. Guarini), my colleague on the Ways and Means Committee.

This is the same bill, I would remind my colleagues, that was on the floor on Monday under suspension. It was rejected on Monday. It ought to be re-

jected today.

It is a bill that had 146 votes against the rule, which should send some kind of a signal. The fact that there were so many people that even voted against the rule today says something about the merits of the bill.

It also says something about the procedure under which this bill is being brought to us. The truth is that this is the kind of bill which should not be brought up in the waning hours of a legislative session. Whatever merit the bill has, and it does have some merit, it is and will be interpreted as special interest legislation. As legislation, it will be wide open to criticism and ridicule in the press and among our constituents.

As an institution, we open ourselves to criticism and ridicule by going to extra lengths to bring up a bill like this in the last hours of this legislative session.

If for no other reason than to avoid making ourselves look silly, we ought to defeat this bill this afternoon.

What about the merits? The bill, as I said, does have some merits. It will encourage U.S.-flag ships. As has been mentioned, there are four of them. It will perserve a few jobs in the maritime industry.

At a time when we have so many people unemployed I know that is an appealing argument. But, again, consider the cost in terms of what our constituents will think about the fairness of our Federal tax system.

I have not in my "Dear Colleague" letters referred to this bill as the "Love Boat bill." But inevitably it will be referred to that way in the newspapers and among our constituents.

The Treasury Department, in expressing open opposition to this proposal, said, and I quote:

The decision to hold a convention aboard a cruise ship is invariably motivated almost exclusively by personal, nonbusiness considerations. Try to tell the average citizen that a convention held aboard a cruise ship is not a vacation in disguise. That citizen will look at you with incredulity.

This is a tax loophole for well-off Americans, a tax loophole for those who are able to go on expensive trips ostensibly for business reasons.

In passing this bill we would open a tax loophole which Congress closed only a few years ago. We will be acting to reduce what little faith the American citizen has in fairness in our tax system.

I remind my colleagues that our income tax system is based on voluntary compliance. The clamor for a flat tax that we hear today comes because people, ordinary citizens, believe that our tax system is not fair, that people are getting away with something that the ordinary citizen cannot.

Let us not take a step to undermine the faith of our constituents in the fairness of our income tax system. Let us not take a step to damage the reputation of Congress by acting on minor legislation of special application in the waning hours of this Congress.

I ask you to vote "no" on this bill. Mr. ZEFERETTI. Mr. Chairman,

will the gentleman yield?

Mr. PEASE. I yield to the gentleman from New York.

Mr. ZEFERETTI. The gentleman stated earlier that the majority of the Members of the House did not vote for the rule and the majority of the Members of the House did not vote for the bill when it was under suspension, that the majority of the Members of the House would vote against this bill at this particular time.

Mr. PEASE. No. I think my colleague is in error. I quoted the number of people who voted against the rule and that was 146, not a majority.

Mr. ZEFERETTI. A majority of the Members of this House voted for the rule and there was a majority of the Members of the House that voted for this bill when it was up under suspension.

Also, is it any more fair to have a tax deduction outside of the United States than it is within the boundaries of the United States?

Mr. PEASE. What I am most concerned about, and what I focused on in my comments, are the perceptions of ordinary Americans about what is fair. You can say to an ordinary American, "I am going to a convention in Toronto," even in Mexico City, and it is a different impression from what comes if you say, "I am going on a convention on a cruise ship."

There is no question about that in my mind and it is that which motivates my concern about this bill.

Mr. ZEFERETTI. If the gentleman will yield further, my constituency would have some doubt, too, if we were talking about having a convention in Las Vegas or we were talking about having another convention in Atlantic City.

We are talking about the same thing. We are talking about recreational areas that afford the opportunity to have conventions and seminars for the economics of that particular area.

We are talking also about an industry that has been handicapped over a period of years and not had that ability to go forward with initiatives to put people back to work.

Mr. DUNCAN. Mr. Chairman, I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. Anderson).

Mr. ANDERSON. Mr. Chairman, I rise in support of H.R. 3191, a bill to encourage the expanded development of the U.S.-flag fleet by permitting the deduction of convention expenses held on U.S.-flag passenger vessels. H.R. 3191 would amend the Internal Revenue Code to permit the deduction of expenses for conventions held on U.S.-flag passenger ships, when all ports of call are within the North American

The 96th Congress recognized the important economic benefit of a U.S.-flag passenger fleet when it approved legislation enabling certain passenger vessels to engage in this Nation's domestic commerce. As a result, the SS Oceanic Independence began offering passenger service in the Hawaiian Islands during 1980.

The 97th Congress enacted legislation permitting the sister ship of the SS Oceanic Independence, the SS Constitution, to enter the domestic service in the Hawaiian Islands. This measure was signed into law March 2, 1982, and enabled the SS Constitution to begin operation in June of this year.

I am pleased to report that the Independence has recently called on the Port of Los Angeles; modern passenger Terminal facilities. The vessel's successful passage from Los Angeles to the Hawaiian Islands can be viewed as a trial run for potential future west coast to Hawaii passenger vessel service.

But I believe that the future success and expansion of the U.S. passenger ship industry rests in part on the ability to host conventions. Our existing passenger vessels are operating on margin. For example, the SS Constitution is now in danger of being laid up due to declining passengers. But, these vessels and several others operating in the shallow draft and deep-sea trades are fully capable of providing suitable meeting facilities and the technical equipment necessary to conduct productive business conferences.

Mr. Chairman, H.R. 3191 is critical to the U.S. passenger ship industry because of the following reasons: An allowable tax deduction for convention expenses on U.S.-flag passenger vessels will provide professional and industry organizations the incentive to make greater use of these convention facilities.

The ability to host business conferences will attract additional investments by domestic passenger ship operators to expand their operations and provide new employment opportunities. For example, the two new ships in the Hawaiian Island trades alone created jobs for nearly 900 seagoing workers rotating between the two ships over the course of the year. There would be, in addition, 100 direct shoreside jobs and many more indirect shoreside jobs created as a consequence of passenger service from the Port of Los Angeles to Hawaii.

Furthermore, I understand that the Department of the Navy "enthusiastically supports" enactment of H.R. 3191, because the U.S.-flag deep-sea vessels suitable for hosting shipboard conventions can also be used in times of national emergency as troop transports and hospital ships.

Mr. Chairman, in conclusion, I believe that it is simply inequitable to permit a tax deduction for convention expenses at land-based hotels, while not permitting the same deduction for a business convention held on a U.S. passenger ship. Under current law, convention expenses are deductible even when the convention is held in Canada or Mexico. I am told that this bill has a negligible affect on budget receipts, but it may be the last hope to continue the work of the 96th Congress in revitalizing a U.S.-flag passenger fleet that once numbered 15 ships and directly employed 10,000 American seafarers.

# □ 1550

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennylvania (Mr. Gaydos).

Mr. GAYDOS. Mr. Chairman, if the economy of the United States ever is to pick itself off its broad backside, it will not be done in one sweeping movement, but in stages. Some stages will occur naturally and others will have to be induced by Congress.

This provision represents one small stage to be worked into the total movement.

I like H.R. 3191 for several reasons.

First, conventions on land are tax deductible items. There are only so many conventions a year. This provision would create no more, and, thus, it would have little or no impact on tax revenues.

Second, even U.S.-originated conventions held overseas are tax deductible if they are held on land, I understand.

We have heard talk of subsidies; this amounts to a direct subsidy by American taxpayers of foreign economies. Third, if it catches on, it might even spawn a real American-flag cruise ship industry larger than four vessels—why, it could lead to additional employment of U.S. citizens and the building of new ships, which certainly would employ U.S. citizens.

Small now, it could cause a significant ripple that, when joined with other ripples, would constitute a wave of recovery.

Mr. Chairman, if you want to make waves, you have first to make ripples. I urge the passage of H.R. 3191.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, let me say, at the ouiset, that I rise in strong support of this legislation. But one of the things that I am concerned about is that both my good friends from Ohio and Minnesota are talking about perception of the public. In the first place, I do not think we should be legislating on the basis of perception of how something may or may not be perceived by the public. I think the facts are that we have an opportunity here to bring about a correction of what really has been a wrong that has been taking place in our tax law.

Second, we have the opportunity of keeping American seamen employed.

Third, we have the opportunity, perhaps, of providing a stimulus to this industry that will create some new shipbuilding and new American jobs.

To do all of this in a bill that provides just equity for the American businesses, for the cruise ships and for American seamen, it seems to me the bill ought to pass by an overwhelming majority, as I am convinced, incidentally, it will.

But, you know, when we talk about how the public thinks of what we may do on tax legislation, I still look at the windfall profit tax on the oil companies when we proceeded a year ago to give the oil companies billions of dollars back in taxes that we were already ready to collect. Now, there is something the American public really got concerned about. But I assure you that this bill will pass.

And also I want to make one more point. Many of you men and women have been to conventions, have been to business conventions either as a business person or as someone speaking at a business convention. I am convinced a great deal more work can be done when you have your group together and contained than you can if you are at, perhaps, a resort where you have the wonderful things, the golf courses, and what have you, where everybody may disappear. I believe we ought to pass the bill. Let us create an honest equity for this industry.

minutes to the gentleman from New York (Mr. Biaggi).

Mr. BIAGGI. Mr. Chairman, I rise in support of H.R. 3191. Clearly, some arguments have been offered in opposition to this legislation, and I respect the proponents of those arguments, but I hardly believe they deal with the facts.

A very important fact is the decline of the American maritime service over a period of years. Reference is made to perception which would alienate the public. Perception is not what motivates us to legislate. Substance does. The opposition from Atlantic City, Las Vegas, and some of these other hotels in other recreational areas really is illfounded, because these American vessels had this tax exemption once before. During that period the aformentioned areas flourished. Now that these vessels do not have this tax exemption, these areas are not flourishing, and they cannot point to this tax exemption as a threat to their profits. It has been the general economy that has been the reason for the diminution of their business. What we are doing is restoring to the vessels what these other recreational areas have enjoyed and continue to enjoy.

But on the far side of this legislation, we are talking about the recovery of American-flag cruise vessels, which are very few in numbers, but they reflect additional jobs. It would obviously be an encouragement for those in the shipping business who would like to invest their dollars but find little incentive to do so because of the lack of opportunity to profit. This is only natural in a free enterprise system, clearly people will not be encouraged to invest their dollars. This will be a step forward. And we need many, many such steps in the restoration of the maritime industry. But as a member of the Committee on Merchant Marine Fisheries, which must address itself to the decline in the maritime industry, I vigorously urge my colleagues to vote for this very minimal, infinitesimal step toward recovery.

Mr. DUNCAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Il-

linois (Mrs. Martin).

Mrs. MARTIN of Illinois. Mr. Chairman, I recognize the sponsors mean well by this. But has this place gone mad? How can you possibly go home to your districts and on one day tell people who are worrying about their gas bills the next day that you are going to give tax breaks for cruises?

Twenty-three percent of my people are unemployed. They cannot afford to take cruises. It will be the wealthy doctors, lawyers, and executives. That

is who will get the tax break.

Now, maybe it sounds nice, and I know you meant well. But it seems to me that you do talk about sending signals out to the economy. Now you may

Mr. STARK. Mr. Chairman, I yield 2 want to rebuild your fleet, you may want to help the maritime unions-everybody does-but there is no rightthinking midwesterner who is ever going to believe that a cruise is pure business and should be deductible. They are absolutely right.

Mr. WHITTAKER. Mr. Chairman, I have no further requests for time.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Ohio

(Mr. PEASE).

Mr. PEASE. Mr. Chairman, I just wanted to make the point in response to my colleague from New York, who is talking about perceptions, that the reason I worry about perceptions is precisely the reason that was alluded to by the gentlewoman from Illinois a moment ago. And that is that our system of income taxes relies very heavily on voluntary compliance. People have to feel that the system is fair or they do not play fair with the system. And if they have a reason to believe that other people, wealthy well-off people, business people, are cheating or ripping off the system on their income taxes, that encourages them to do the same on their

I think we do that at the peril of our system of income taxation.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would remind my colleagues that on Monday this bill received 219 yea votes to 164 nay votes. I urge its adoption. It is fair. It costs no money. It opens no new tax loopholes. In the sense of equity and fairness, I think it is important that we pass it.

Mr. Chairman, I have no further re-

quests for time.

Mr. AKAKA. Mr. Chairman, I rise to voice my enthusiastic support for H.R. 3191, a mwasure to exempt conventions held on U.S. documented cruise ships from certain provisions of the Internal Revenue Code of 1954.

My colleagues are fully aware of the decline of U.S. documented cruise ships and the recent struggle by a few shipping companies to regain some measure of our once proud reputation on the high seas. H.R. 3191 is needed to encourage the growth of our struggling U.S. passenger ship industry. It is a small step of encouragement. A step we need to take. The bill will make U.S. passenger ships more competitive with hotel facilities and could lead to the creation of new jobs in the cruise ship industry.

It was only through an oversight in a miscellaneous tax measure establishing safe harbor tax rules for conventions held in North America that deductions for conventions on cruise ships were not included within the law. Thus, H.R. 3191 is consistent with current law. The objective of the law is to encourage the growth of the multimillion dollar convention business in the United States. This growth industry promises to employ an ever increasing number of Americans. It is only right and fair that the passenger ship industry receive the same tax incentive as all other competitors for the lucrative convention business.

I have been very pleased that two of the largest U.S. passenger ships have been operating among the Hawaiian Islands. It is my hope that legislation such as H.R. 3191 will lead other American businesses to enter into the fledgling cruise ship industry.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5minute rule. No amendments are in order except the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill, and said substitute shall not be subject to amendment.

The text of the bill is as follows: H.R. 3191

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (2) of section 274(h) of the Internal Revenue Code of 1954 (relating to attendance at conventions, et cetera) is amended to read as follows:

"(2) CONVENTIONS ON CRUISE SHIPS.-

"(A) Foreign cruise ships.—In the case of an individual who attends a convention, seminar, or other meeting which is held on any cruise ship which is not a domestic cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting.

"(B) Domestic cruise ships .- A convention, seminar, or similar meeting held on a cruise of a domestic cruise ship shall be treated as held in the North American area if all ports of call of such cruise are inside the North American area."

(b) Paragraph (3) of section 274(h) of such Code is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the follow-

ing new subparagraph:

(B) DOMESTIC CRUISE SHIP .- The term 'domestic cruise ship' means any cruise ship documented under the laws of the United

(C) The amendments made by this Act shall apply to conventions, seminars, and meetings beginning after December 31, 1981.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The CHAIRMAN. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

That (a) paragraph (2) of section 274(h) of the Internal Revenue Code of 1954 (relating to attendance at conventions, etc.) is amended to read as follows:

"(2) Conventions on cruise ships.—In the case of any individual who attends a convention, seminar, or other meeting which is held on any cruise ship, no deduction shall be allowed under section 162 or 212 for expenses allocable to such meeting unless

(A) the cruise ship is a vessel documented under the laws of the United States,

"(B) all ports of call of the cruise are inside the North American area, and

"(C) the taxpayer establishes (by written statements signed by the taxpayer and by an officer of the sponsoring organization or group, and by such other methods as may be prescribed by regulations) that the meeting is directly related to the active conduct of his trade or business or to an activity described in section 212.

Paragraph (1) shall not apply to any meeting with respect to which the requirements of the preceding sentence are met.

(b) The amendment made by subsection (a) shall apply to conventions, seminars, and meetings beginning after December 31,

Mr. STARK (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the RECORD

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. STARK. Mr. Chairman, this is purely a technical amendment.

I have no requests for time on it, and I urge the adoption of the amend-

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose: and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. WHITE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 3191), to amend the Internal Revenue Code of 1954 to exempt conventions, et cetera, held on cruise ships documented under the laws of the United States from certain rules relating to foreign conventions, pursuant to House Resolution 630, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to. The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not

present. The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 227, nays 172, answered "present" 1, not voting 33. as follows:

## [Roll No. 467]

## YEAS-227

Addabbo Ferraro Napier Akaka Pields Natcher Albosta Neal Anderson Fithian Nelligan Nichols Annunzio Flippo Anthony Nowak Oakar Florio Foglietta Applegate Foley Ford (TN) Oberstar Archer Ashbrook Panetta Atkinson Fowler Parris Patman AuCoin Frost Badham Fuqua Patterson Bailey (PA) Gaydos Paul Gejdenson Barnard Peyser Barnes Genhardt Pickle Beilenson Gibbons Bennett Gilman Pritchard Ginn Quillen Bevill Biaggi Gore Rahall Bliley Gray Rangel Grisham Ratchford Guarini Rinaldo Roland Robinson Bolling Hall (IN) Hall (OH) Boner Rodino Hammerschmidt Roe Bonker Hance Rose Bouquard Hartnett Rostenkowski Bowen Hawkins Roybal Heftel Russo Breaux Brinkley Hertel Sawyer Scheuer Hillis Brooks Brown (CA) Hollenbeck Schneider Brown (OH) Horton Schumer Burton, John Burton, Phillip Howard Shamansky Hover Shumway Hughes Siljander Campbell Carney Hutto Simon Ireland Chisholm Jeffries Smith (AL) Johnston Smith (NJ) Clausen Clav Jones (OK) Snyder Coelho Jones (TN) Solarz Conyers Coyne, William Kemp Spence St Germain LaFalce Crane, Daniel Lantos Stangeland Crane, Philip Stark Leath Stokes D'Amours Leland Daniel, Dan Lent Stratton Daniel, R. W. Livingston Long (LA) Long (MD) Daschle Swift Synar de la Garza Lowry (WA) Tauzin Luken Taylor Derrick Dicks Traxler Trible Lundine Lungren Martinez Dingell Udall Vander Jagt Dixon Matsui Donnelly Mavroules Wampler Dornan McCloskey Weaver McDonald Dougherty Dowdy McGrath White McKinney Whitehurst Downey Mica Mikulski Duncan Whitley Whitten Dwyer Dyson Early Williams (MT) Miller (CA) Mineta Williams (OH) Wilson Edwards (AL) Minish Edwards (CA) Mitchell (MD) Wolf Wortley Wright Emerson Mitchell (NY) Emery Moakley Mollohan Erlenborn Evans (DE) Young (AK) Moore Evans (GA) Young (MO) Zablocki Morrison Evans (IN) Mottl Murphy Zeferetti Fazio Murtha

## NAYS-172

Andrews

Aspin

Bedell

Bereuter

Bethune Burgener Bingham Butler Bailey (MO) Brodhead Byron Carman Broomfield Brown (CO) Broyhill Cheney

Coleman Collins (IL) Collins (TX) Conable Conte Corcoran Coughlin Courter Coyne, James Craig Crockett Dannemeyer Daub Derwinski Dickinson Dorgan Dreier Dunn Eckart Edgar Edwards (OK) English Erdahl Ertel Evans (IA) Fenwick Fiedler Findley Forsythe Fountain Frank Frenzel Gingrich Glickman Gonzalez Goodling Gradison Gramm Gregg Gunderson Hall, Ralph Hall, Sam Hamilton Hansen (ID) Harkin Hatcher Hefner Hendon Hightower

Petri Clinger Honkins Huckaby Porter Hunter Railshack Regula Hyde Jacobs Reuss Rhodes Jeffords Jenkins Ritter Kastenmeier Roberts (KS) Kazen Roberts (SD) Kennelly Roemer Kildee Kindness Roth Kogovsek Roukema Kramer Rudd Lagomarsino Sabo Latta Santini Leach Schroeder Levitas Seiberling Sensenbrenner Lewis Shannon Loeffler Lott Sharp Lowery (CA) Shav Shelby Lujan Madigan Marlenee Smith (IA) Marriott Smith (NE) Martin (IL) Smith (OR) Martin (NC) Snowe Martin (NY) Solomon Mattox Staton Mazzoli Stenholm McClory Stump McCollum Thomas McCurdy Vento McDade Volkmer McEwen Walgren McHugh Walker Michel Washington Miller (OH) Watkins Moffett Waxman Molinari Weber (MN) Montgomery Weber (OH) Moorhead Whittaker Myers Winn O'Brien Wirth Obey Ottinger Wolpe Wyden Oxley Wylie Pashayan Yates Young (FL) Pepper

# ANSWERED "PRESENT"-1

## Green

## NOT VOTING-33

Hagedorn Alexander Marks Bafalis Hansen (UT) Nelson Beard Heckler Pursell Blanchard Holland Rosenthal Deckard Dellums Holt. Rousselot Hubbard Savage Dymally Jones (NC) Schulze LeBoutillier Shuster Fascell Smith (PA) Ford (MI) Lee Lehman Garcia Stanton Goldwater Tauke

# □ 1620

Mrs. COLLINS of Illinois, Messrs. RALPH M. HALL, MARRIOTT, FOR-SYTHE, and ANDREWS changed their votes from "yea" to "nay."

Messrs. SIMON, BRINKLEY, GINN, DANIEL B. CRANE, and WILLIAMS of Ohio changed their votes from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

### PADDY CREEK WILDERNESS ACT OF 1981

Mr. SEIBERLING. Mr. Speaker, pursuant to House Resolution 631, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBER-

The motion was agreed to.

#### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 1965, with Mrs. KENNEL-Ly in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio (Mr. Seiberling) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. Young) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Madam Chairman, I yield myself such time as I may consume.

I rise in strong support of S. 1965, which would designate a 6,888-acre wilderness in the Mark Twain National Forest in Missouri. The Paddy Creek area was designated by Congress as a wilderness study area in 1976 with instructions that the area be evaluated to determine whether it should be recommended for addition to the National Wilderness Preservation System.

Madam Chairman, the Forest Service has completed the study and recommended the area for wilderness and on September 13, President Reagan sent a message to Congress confirming the administration's endorsement of the wilderness proposal.

The Subcommittee on Public Lands and National Parks had previously held a hearing concerning the area on May 24 of this year and found near unanimous support for wilderness des-

ignation.

Madam Chairman, I note that in President Reagan's message to Congress supporting this wilderness designation, it was indicated that during the wilderness study review process, the in-State public input, that is, letters from Missourians, ran 1,954 to 204 against the wilderness designation for Paddy Creek. In addition, every major newspaper in the State has run editorials in favor of wilderness and a majority of the State's delegation has supported this proposal.

It has been asserted that the local people in the area do not support wilderness designation for Paddy Creek. Undoubtedly some do not, as is usually the case. However, many do. For example, I have received a petition signed by 44 residents of the small village of Roby, which is within 1 mile of the proposed wilderness, in which they eloquently express their support. The petition reads as follows:

We, the following people of the Roby community would like to see our area known as Paddy Creek protected under the Wilderness Bill for future generations. Some of us work in the timber industry and believe that surely we can afford to set back this 6.888-acre area. We are tired of seeing acre after acre clear cut. We have often thought how nice it would be to have Paddy Creek with all its unique caves, springs, and rock formations set aside for our enjoyment and future generations to come.

I would also note that the proposed wilderness comprises less than onehalf of 1 percent of the national forest land in Missouri and, of course, an infinitesimal amount of the total land in the State.

# □ 1630

So, I believe that while there was a certain amount of concern when we took this up before, we now are under a rule under which the gentleman currently representing this area, Mr. BAILEY of Missouri, is entitled to offer an amendment in the nature of a substitute. He and I have worked out an agreement to support that amendment with two technical corrections in it, so I really do not think there is any longer any issue that is likely to delay our disposal of this matter.

I would note that the net effect of this amendment will be to apply the so-called soft release language formula, which has already become law in several States, to national forest lands in Missouri not already designated wilderness or designated wilderness by this act or remaining in further planning upon enactment of this act. I should note that this means that the so-called Irish Wilderness area, which was identified for further planning in RARE II, and remains in that category, will continue to be studied for wilderness, and that the status quo in that area will not change as a result of the adoption of this amendment and release language.

Therefore, I do not plan to occupy any more time in general debate

unless other Members wish to discuss it further.

Madam Chairman, at this point I reserve the balance of my time.

Mr. YOUNG of Alaska. Madam Chairman, I yield 5 minutes to the gentleman from Idaho (Mr. CRAIG).

Mr. CRAIG. Madam Chairman, I oftentimes do not choose to debate wilderness issues outside of my State of Idaho. I choose not to because I find that usually those important issues and decisions on a particular wilderness have already been made by the members of the delegation from the State in which the proposed wilderness area resides. I have to take exception, at least in explanation, to this wilderness area, or this wilderness area proposal, and I do it because I think it is important that we understand the kinds of processes that we are now going through in an effort to declare additional wilderness to the wilderness systems of our country.

The 1964 law that declared that this Congress would designate certain lands within the public domain to be called and used and so managed as wilderness was rather clear and very specific in its intent. Beyond that, it stated a very important philosophy. Now, not often does law that this body deals in deals with a philosophy, but in the area of the 1964 wilderness law there is a body of that law that speaks very clearly of the philosophy of wilderness and the intent of wilderness itself. It talks about a type of public domain which is rare and unique in its character; which in large part has not been trampled by man, and which by the designation of wilderness will only allow man to enter as a visitor, to stay and enjoy the qualities of that uniqueness, and then to leave, unmarking that wilderness by his hand.

That was the intent of the original law. That was the purpose of the original wilderness areas that we have seen spring up in our country. I have nearly 4 millon acress in my State, and I can tell the Members that it is unique land; it is untouched by man; it is high, pristine mountain terrain that in every description of wilderness fits the description.

Something has happened. Something is different. Something is now occurring in this body that was not true 5 or 6 years ago. Through the RARE-II process, we are now seeing wilderness, or the effort to include additional wilderness acres, as different from and uniquely different from the law that was originally passed to create our wilderness system.

Today, Paddy Creek is a good example of how we have changed and how our attitudes have changed and the kinds of lands we are now processing for inclusion in our wilderness system. If this 6,000-acre parcel were involved in the RARE-II process in my State, it

would be kicked out entirely. It involves 28 miles of manmade road. It has been logged. It has been grazed. It has major inholdings inside of it that are—and the term is "cherry stemmed."

In other words; we are drawing unique lines around these inholdings to allow access. That was not the intent of the original wilderness law, but that has become the thrust of this

Congress. My colleague from Missouri spoke earlier about the kind of activity that has gone on at Paddy Creek for the last 100-plus years, and I can tell the Members that under any stretch of the imagination this is not a piece of wilderness. This is a piece of land that has been managed by the U.S. Forest Service since the creation of the Forest Service, and some land acquired under a multiple-use mode; and only in the last few years has it been picked as a protected area except for access by those who have a right to have access.

And yet today, in our drive to keep the environmentalists off our political backs, we are willing to give them anything they want, at least within reason. A good many of us, I find, are now voting, not because we know about the issues, not because we know about the area itself or the characteristics of the area or the kind of impact that a particular inclusion of public domain might have on the local constituents of an area or the local economy of an area. We can sit in our congressional districts 200 miles away and say, "That's an easy vote that we can give the environmental community because is isn't in our backyard.'

The CHAIRMAN. The time of the gentleman from Idaho has expired.

Mr. YOUNG of Alaska. Madam Chairman, I yield 3 additional minutes to the gentleman from Idaho.

Mr. CRAIG. Madam Chairman, that is wrong. If this land is unique, if this land in itself has characteristics that the public deserves to have protected for generations to come, then it ought be wilderness. But, if it is land that fits under the multiple-use mode, that can be logged, that has been logged, that has been grazed, that has major inholdings in it and private property in it, then we really ought to be considering this as rejected from the RARE-II process and returned back to the multiple-use mode of management that it has been managed under for a good many years.

What we have done and what we continue to do and what we nearly did to Oregon and the Oregon wilderness is to say, "Oh, well, it is an easy vote to give, and so we will give it and not take the kind of time to consider the impact of this kind of legislation."

Yes, there were a good many people supportive of this. I read the text of the Paddy Creek testimony last night, and I can tell the Members where all those people came from. They came from St. Louis and Columbia and places 400 and 500 miles away from the proposed Paddy Creek Wilderness, and not the local constituency, and not the local economic base that these people will have to live and/or die with in the future.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield? Mr. CRAIG. I yield to the gentleman

from Alaska.

Mr. YOUNG of Alaska. Madam Chairman, I wish to compliment the gentleman on his statement, a statement that I have made on this floor. I think it is time that we start listening to the intent of the act of 1964 and the intent of Congress. The gentleman is absolutely right. We are becoming responders to those who say, "If you don't vote this way, you are going to get on the dirty dozen list."

They wear the white hat when they say that. Anybody else who challenges you or threatens you that way gets

taken to court.

So, I am suggesting to the gentleman that he is absolutely right. We should look at these areas individually, and ask if they fit the criteria. Are there higher use values? Have they been used before? That is the type of thing that I think the gentleman is bringing forth today.

I think the gentleman for his state-

ment.

Mr. CRAIG. I thank the gentleman from Alaska for that statement. I am pleased that this legislation could become a vehicle for major change in the State of Missouri, and I congratulate the chairman of the Subcommittee of Interior for allowing the compromise to be struck, and compliment my colleague from Missouri who has brought this compromise.

#### □ 1640

Madam Chairman, I say in closing to the members of this committee that I think it is time we make a reexamination of the 1964 act and make sure that we do not, just for the sake of doing something, include on an ongoing basis thousands of acres of wilderness unless they meet the criteria, because we now have millions of acres of wilderness to offer the citizens of the country for their present and they and their childrens future.

Mr. YOUNG of Alaska. Madam Chairman, I yield back the remainder

of my time.

Mr. SEIBERLING. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except one amendment in the nature of a substitute printed in the Congressional Record of December

15, 1982, by, and if offered by, Representative Balley of Missouri, and said amendment shall not be subject to amendment.

The text of the Senate bill, S. 1965, is as follows:

#### S. 1965

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Interior and Insular Affairs Committee of the House of Representatives, and such description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

AMENDMENT IN THE NATURE OF A SUBSTITUTE, AS MODIFIED, OFFERED BY MR. BAILEY OF MIS-SOURI

Mr. BAILEY of Missouri. Madam Chairman, I have an amendment at the desk, and I ask unanimous consent for its immediate consideration.

Madam Chairman, it is agreed to by the subcommittee chairman, it is agreed to by the gentleman from Alaska (Mr. Young) and I agree with it. It is release language for other areas in Missouri, and I ask unanimous consent for immediate consideration of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. SEIBERLING. Reserving the right to object, Madam Chairman, let me ask the gentleman from Missouri (Mr. Bailey), is this the same draft that he and I discussed with the two corrections on it?

Mr. BAILEY of Missouri. Madam Chairman, if the gentleman will yield, on page 2 we add the words, "map and legal" before the word, "description," and then on page 3 we add the words "or remaining in further planning upon enactment of this act."

Mr. SEIBERLING. "Remaining in further planning," is that correct? Mr. BAILEY of Missouri. "Or re-

Mr. BAILEY of Missouri. "Or remaining in further planning upon enactment of this act."

Mr. SEIBERLING. Madam Chairman, I withdraw my reservation of objection. I have no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. VOLKMER. Madam Chairman, may I ask the gentleman, is he just asking unanimous consent at this time to take the amendment up?

Mr. BAILEY of Missouri. Madam Cahirman, if the gentlemen will yield, the answer is "Yes."

Mr. VOLKMER. Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment in the nature of a substitute, as modified, offered by Mr. Balley of Missouri: Strike all after the enacting clause and insert the following:

That this Act may be known as the Paddy Creek Wilderness Act of 1981.

SEC. 2. In furtherance of the purposes of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), the following area as generally depicted on a map appropriately referenced, dated December 1981, is hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System; certain lands in the Mark Twain National Forest, Missouri, which comprise about six thousand eight hundred and eighty-eight acres, are generally depicted on a map entitled "Paddy Creek Wilderness Area", dated December 1981, and shall be known as the Paddy Creek Wilderness Area.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the Paddy Creek Wilderness Area with the Energy and Natural Resources Committee of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives, and such map and legal description shall have the same force and effect as if included in this Act: Provided, however, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 4. The area designated as wilderness by this Act shall be administered in accordance with the applicable provisions of the Wilderness Act (78 Stat. 890) and the Act of January 3, 1975 (88 Stat. 2096), except that any reference in such provisions to the effective date of such Acts shall be deemed to be a reference to the effective date of this Act.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II): and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Missouri and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Missouri such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Missouri;

(2) with respect to the National Forest System lands in the State of Missouri which were reviewed by the Department of Agriculture in the second roadless area review and evaulation (RARE II), except those lands remaining in further planning upon enactment of this Act, or designated as wilderness by this Act or previous Acts of Congress that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewal Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 (Public Law 94-588) to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of Missouri reviewed in such final environmental statement and not designated as wilderness by this Act or previous Acts of Congress or remaining in further planning upon enactment of this Act shall be managed for multiple use pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest

Management Act of 1976; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of Missouri for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

Mr. VOLKMER (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point. The CHAIRMAN. Is there objection

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. YOUNG of Alaska. Madam Chairman, I object. The CHAIRMAN. Objection is

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment in the nature of a subsitute.

The CHAIRMAN. Pursuant to the rule, the gentleman from Missouri (Mr. Bailey) will be recognized for 30 minutes, and a Member opposed to the amendment will be recognized for 30 minutes.

The Chair recognizes the gentleman

from Missouri (Mr. BAILEY).
Mr. BAILEY of Missouri. Madam
Chairman, I yield myself such time as
I may consume.

Madam Chairman, I think the language of the amendment speaks for itself. What we have done is accepted Paddy Creek and given release language on all other lands for future planning for wilderness in Missouri.

Mr. VOLKMER. Madam Chairman, will the gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Missouri.

Mr. VOLKMER. Madam Chairman, I would like to make this inquiry.

According to the information I have here, there has been a lot said about the number of roads that are within this area, and in fact it has been described as a 3-by-3-mile area, which is not quite correct. It is a little longer across the bottom than it is at the top, and it comes down almost in a triangular shape rather than a square shape.

Is the gentleman trying to tell the Members of the House that these roads within the Paddy Creek area are paved roads?

Mr. BAILEY of Missouri, No.

Mr. VOLKMER. The gentleman is not telling us that; is he?

#### □ 1650

Mr. BAILEY of Missouri. I am talking about graded, maintained roads that are passable. Two cars can pass on the gravel maintained road.

Mr. VOLKMER. According to the information we have on the study report from the Forest Service and the Department of Agriculture it shows about a total of 5 miles of dirt road and any other was the old logging roads that were years ago, that are maybe passable if you take a 4-wheeler in there if you did not run into a fallen tree or something like that.

But the maps and everything that they have do not show this type of atmosphere where people are running in and out of there all the time.

Mr. BAILEY of Missouri. I think I debated the merits of the bill fairly adequately this morning If the gentleman would like to do that over again I would be happy to engage in it. But it seems to me that it would be in the best interests of the gentleman's position not to follow that line of questioning.

Mr. VOLKMER. I do not dispute the fact of that.

But it is true, is it not, that it is not a 3-square mile area?

Mr. BAILEY of Missouri. No. It is about 3½ miles by 2½ miles. It is shorter than 3 miles on the north-south and a little longer than 3 miles on the east-west.

Mr. VOLKMER. Yes.

Mr. BAILEY of Missouri. Two and a half by three and a half, if that suits you better, sir.

Mr. VOLKMER. That is a lot better, a little more accurate.

Mr. YOUNG of Alaska. Madam Chairman, will the gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I would like to compliment the gentleman from the district and, as I mentioned before, the chairman of the subcommittee, for reaching this agreement. It does not make this bill palatable to me yet because I think it was unnecessary to have the legislation before us at this late hour but it shows when we work together we have more time to play together. I say that with tongue in cheek because this is the day where the committee has a gathering to celebrate the past 2 years and say goodbye to those good friends we have worked with and will no longer be with us and to say hello to some new ones.

Working together with the good Member from Missouri and the gentleman from Ohio in this compromise I think shows often that we get out and listen to the whispers in the wind and are misled by those that really do not know the truth of a situation.

So I would suggest that again this gentleman probably is speaking for the last time on the floor on this issue and he should be complimented by going out with great dignity and with the idea that he hopefully will be back to this body someday as a leader from Missouri either in one way or another, but a man who speaks his mind and defends the rights of his people. I want to compliment the gentleman.

Mr. BAILEY of Missouri. I thank the gentleman.

Mr. SEIBERLING. Madam Chairman, will the gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I just want to conplement the gentleman from Missouri for working with us to reach a reasonable compromise. I think this was a very good way to resolve this issue.

I regret that we had the conflict that we had but I think this result speaks well for the gentleman. I think it speaks well for the Members on both sides of the aisle and I see no need to further debate the matter since it has been discussed at great length already.

I would urge the approval of the amendment and the approval of the bill as so amended.

Mr. EMERSON. Madam Chairman, will the gentleman yield?

Mr. BAILEY of Missouri. I yield to the gentleman from Missouri.

Mr. EMERSON. I would just like to take this opportunity to compliment the gentleman from Missouri on the fine efforts that he has made here and to advise the House that the gentleman from Missouri now, with the passing of this Congress, becomes my constituent. I can assure you that we will have his input in matters of this sort for a long time into the future.

It has been a pleasure for me to serve this past 2 years with the gentleman from Missouri, Mr. Bailey. We are going to miss him here but we look forward to working with you in future endeavors, Wendell.

Mr. BAILEY of Missouri. I thank the gentleman.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as modified.

The amendment in the nature of a substitute, as modified, was agreed to.
The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose: and the Speaker pro tempore (Mr. BENNETT) having assumed the chair. Mrs. Kennelly, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 1965) to designate certain lands in the Mark Twain National Forest in Missouri, which comprise approximately 6,888 acres, and which are generally depicted on a map entitled "Paddy Creek Wilderness Area," as a component of the National Wilderness Preservation System, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROBERTS of Kansas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent members.

The vote was taken by electronic device and there were—yeas 367, nays 23, not voting 43, as follows:

[Roll No. 468]

YEAS-367 Bailey (MO) Addabbo Boland Akaka Bailey (PA) Boner Albosta Barnard Bonior Anderson Barnes Bonker Andrews Redell Bouquard Beilenson Annunzio Bowen Anthony Benedict Applegate Bennett Brinkley Archer Bereuter Brodhead Asnin Bethune Brooks Broomfield Bevill AuCoin Biaggi Brown (CA) Badham Bingham Brown (CO) Bafalis Bliley Brown (OH)

Broyhill Gore Gradison Burton, John Green Burton, Phillip Gregg Butler Guarini Byron Gunderson Campbell Hall (IN) Carney Hall (OH) Chappell Hall, Ralph Hall, Sam Chappie Cheney Hamilton Clausen Clav Hance Clinger Harkin Coats Hartnett Coelho Hatcher Coleman Hawkins Collins (IL) Heckler Conable Hefner Conte Hertel Convers Hightower Corcoran Hiler Coughlin Courter Hopkins Coyne, James Horton Coyne, William Crockett Howard Hoyer D'Amours Huckaby Daniel, Dan Hughes Hunter Daniel R W Daschle Hutto Daub Hyde Davis Jacobs de la Garza Jeffords Dellums Jenkins Johnston Derwinski Jones (OK) Dickinson Jones (TN) Dicks Kastenmeier Dingell Kazen Dixon Kennelly Donnelly Kildee Kogovsek Dorgan Dornan Kramer LaFalce Downey Lagomarsino Duncan Lantos Dwyer Latta Leach Dyson Early Leath Eckart Leland Edgar Lent Edwards (AL) Levitas Edwards (CA) Edwards (OK) Livingston Emerson Loeffler Emery Long (LA) English Long (MD) Erdahl Lott Erlenborn Lowery (CA) Lowry (WA) Ertel Evans (GA) Lujan Luken Evans (IA) Evans (IN) Lundine Lungren Fazio Madigan Fenwick Markey Ferraro Marlenee Fiedler Marriott Fields Martin (IL) Findley Martin (NC) Martin (NY) Rich Fithian Martinez Matsui Flippo Mattox Florio Foglietta Mavroules Foley Ford (MI) Mazzoli McClory Ford (TN) McCloskev Fountain McCollum Fowler McCurdy McDade Frank Frenzel McEwen McGrath Frost Fuqua McHugh Gaydos Mica Gejdenson Michel Gephardt Mikulski Miller (CA) Gibbons Gilman Miller (OH) Gingrich Mineta Ginn Glickman Minish Mitchell (MD) Mitchell (NY) Goldwater

Gonzalez

Goodling

Molinari Montgomery Moore Moorhead Morrison Mottl Murphy Murtha Myers Napier Natcher Hammerschmidt Neal Nelligan Nelson Nichols Nowak O'Brien Oakar Oberstar Ohev Ottinger Oxley Panetta Parris Pashayan Patman Patterson Pease Pepper Perkins Petri Peyser Pickle Porter Price Pritchard Pursell Quillen Rahall Railsback Rangel Ratchford Regula Reuss Rhodes Rinaldo Ritter Roberts (KS) Robinson Rodino Roe Roemer Rogers Rosenthal Rostenkowski Roth Roukema Roybal Rudd Russo Sabo Santini Sawyer Scheuer Schneider Schroeder Schumer Seiberling Sensenbrenner Shamansky Shannon Sharp Shaw Siljander Simon Skelton Smith (AL) Smith (IA) Smith (NJ) Snowe Snyder Solarz Solomon Spence St Germain Stangeland Stark Stenholm Stokes Stratton Studds Swift.

Synar

Tauzin

Moffett

Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins

Weaver Wolpe Weber (MN) Weber (OH) Wortley Wright Weiss Wyden Wylie White Yates Yatron Whitehurst Whitley Young (FL) Young (MO) Whittaker Whitten Williams (MT) Zablocki Winn Zeferetti

#### NAYS-23

Wolf

Ashbrook
Collins (TX)
Craig
Crane, Daniel
Crane, Philip
Dannemeyer
Dreier
Gramm
R

Grisham Shelby
Hansen (ID) Shumway
Hendon Skeen
Jeffries Smith (OR)
Kindness Staton
McDonald Stump
Paul Young (AK)
Roberts (SD)

## NOT VOTING-43

Alexander
Beard
Blanchard
Boggs
Bolling
Carman
Chisholm
Deckard
Derrick
Dougherty
Dunn
Dymally
Evans (DE)
Fascell
Forsythe

Garcia Marks McKinney Gray Hagedorn Mollohan Hansen (UT) Rousselot Holland Schulze Hollenbeck Shuster Smith (PA) Holt Hubbard Stanton Ireland Jones (NC) Tauke Waxman Kemp LeBoutillier Williams (OH) Wilson Lehman

#### □ 1720

Mr. SKEEN changed his vote from "yea" to "nay."

So the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

# GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 7019, DEPARTMENT OF TRANS-PORTATION AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SABO. Mr. Speaker, I call up the conference report on the bill (H.R. 7019) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The Clerk read the title of the bill. The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 13, 1982.)

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. Sabo) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. Coughlin) will be recongized for 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. Sabo).

#### GENERAL LEAVE

Mr. SABO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report and amendments in disagreement on the bill, H.R. 7019, and that I may include tabular and statistical material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. SABO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees on the fiscal year 1983 transportation appropriations bill had two basic objectives: First, to provide the resources necessary to meet our Nation's transportation program objectives for the current year, and second, to produce a conference agreement which will become a public law.

We believe we have achieved both of The these objectives. conference would agreement provide \$10,646,348,919 in new budget authority. While this is \$553 million less than the bill which originally passed the House in September, I must point out that the original House-passed bill included \$865 million for two programsinterstate transfer grants for highway and transit-which were funded in the continuing resolution, Public Law 97-276. The appropriations for these programs, therefore, are not included in the conference agreement which the House is considering today.

Excluding these programs, the conference agreement is \$311,949,000 more than the original House-passed bill. Virtually all of this increase is related to budget requests which were submitted after the House had passed the bill.

Mr. Speaker, this legislation is the product of many hours of hard work. The late Adam Benjamin devoted many hours to the hearings on this bill and he guided it through the subcommittee and full committee markups. Subcommittee Chairman BILL LEHMAN has been superb in managing the bill on the House floor and in conference with the Senate. I also want to recognize the excellent work of the chairman of the Senate subcommittee, our former colleague, Mark Andrews from North Dakota and I want to thank the gentleman from Pennsylvania (Mr. Coughlin) for his cooperation and support throughout the year.

HIGHLIGHTS OF THE CONFERENCE REPORT

For the Coast Guard, the conferees have provided a total of \$2.4 billion, which is \$122 million more than the budget request. Virtually all of this increase is for the procurement of new vessels and aircraft and for the improvement of existing Coast Guard equipment and facilities. The conferees are fully aware of the increased responsibilities of the Coast Guard and have provided increased funds to assist that agency in fulfulling its multifaceted operations.

The conference agreement includes nearly \$3.3 billion for the Federal Aviation Administration. While this is \$313.6 million more than the House passed bill, the Senate and conference committee considered \$323.5 million in budget requests which were submitted after the House had passed this bill in September.

In the highway area, the major change from the House bill is the deletion of funds for interstate transfer grants. Funding for this program has already been enacted in Public Law 97-276 and, therefore, has been deleted from the conference agreement.

For the Federal Railroad Administration, the conference agreement would provide a total of \$919.7 million, which is less than either the House or Senate bills. Of this amount, \$700 million is for grants to Amtrak. We believe this amount should be sufficient for the full fiscal year. The conference agreement also directs the transfer of \$25,000,000 from the redeemable preference share program for the commuter rail service and Conrail labor protecton programs. The Department is directed to take these funds from the \$45,000,000 reserved for the East St. Louis gateway project.

For public transportation, a total of \$3.2 billion is included in the conference agreement. While this is \$442.7 million less than the House bill, \$365 million of this reduction is in the area of interstate transfer grants which were funded in Public Law 97-276. In addition, urban formula grants have been reduced \$100 million below the bill. The House conferees House agreed to this reduction only after receiving assurances from Senator An-DREWS that OMB would recommend to the President that the bill be signed.

Mr. Speaker, all of the House and Senate conferees, except for the Senator from Wisconsin (Senator Proxmire), signed the conference report. It is fiscally responsible as well as programmatically responsive to the transportation needs of our Nation. I urge the adoption of the conference report. I insert at this point in the Record a table giving the conference figures in detail.

# CONGRESSIONAL RECORD—HOUSE

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

	New budget authority				ATT CONTRACTOR		Conference compared with—		1 Survius
(S) with large could in sea	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
TITLE I—DEPARTMENT OF TRANSPORTATION Office of the Secretary									
Salaries and expenses.  Transportation planning, research, and development (Limitation on working capital fund)	35,200,000 3,350,000 (70,909,000)	41,700,000 7,800,000 (73,965,000)	37,532,000 2,000,000 (70,909,000)	41,700,000 7,800,000 (70,909,000)	40,000,000 4,900,000 (70,909,000)	+4,800,000 +1,550,000	-1,700,000 -2,900,000 (-3,056,000)	+ 2,468,000 + 2,900,000	-1,700,000 -2,900,000
Total, Office of the Secretary	38,550,000	49,500,000	39,532,000	49,500,000	44,900,000	+6,350,000	-4,600,000	+5,368,000	-4,600,000
Coast Guard		7030	St. off March			1.80	10.045	Lacola .	
Headquarters administration	1 460 700 000	1 537 059 000	1 507 000 000	72,400,000	58,440,000 (14,000,000)	+58,440,000 (+14,000,000)	+58,440,000 (+14,000,000)	+58,440,000 (+14,000,000)	-14,000,000 (-14,000,000)
Operating expenses  (By transfer)  Appropriation for debt reduction	1,468,700,000 (14,000,000) — 244,073	1,577,958,000 254,650	1,587,908,000 (14,000,000) . — 254,650	1,518,963,000 254,650	1,518,963,000 254,650	+50,263,000 (-14,000,000) -10,577	-58,995,000	-68,945,000 (-14,000,000)	
Total, operating expenses and headquarters	-244,073	-234,030	To the second	-234,030	-234,030	-10,577			
administration	1,468,455,927 384,000,000	1,577,703,350 284,820,000	1,587,653,350 278,000,000 (9,000,000)	1,591,148,350 416,000,000	1,577,148,350 400,000,000	+108,692,423 +16,000,000	-555,000 +115,180,000	-10,505,000 +122,000,000	-14,000,000 -16,000,000
(By transfer)  Alteration of bridges	(300,000,000) 11,000,000	10,200,000 336,000,000	12,700,000	(9,000,000) 12,000,000	(9,000,000) 12,700,000	(-291,000,000) +1,700,000	(+9,000,000) +2,500,000		+700,000
Retired pay	279,000,000 51,483,000	336,000,000 50,094,000	336,000,000 50,094,000	336,000,000 54,000,000	336,000,000 50,000,000	+57,000,000 -1,483,000	-94,000	-94,000	-4,000,000
(By transfer)	(868,000) 18,000,000	15,000,000	(4,000,000) . 20,000,000	20,000,000	(4,000,000) 20,000,000	(+3,132,000) +2,000,000	(+4,000,000) +5,000,000		(+4,000,000)
Offshore oil pollution compensation fund	2,000,000 1,320,000	1,000,000	1,000,000	1,000,000	1,000,000	-1,000,000 -1,320,000			
National recreational boating safety and facilities im-	2,000,000	1,000,000	1,000,000	1,000,000	1,000,000	-1,000,000	***************************************		
Total, Coast Guard	2,217,258,927	5,000,000	2,286,447,350	10,000,000	5,000,000	+5,000,000	+122,031,000	+5,000,000	-5,000,000
	2,217,238,327	2,280,817,330	2,200,447,330	2,441,140,330	2,402,040,330	+185,589,423	+122,031,000	+116,401,000	-38,300,000
Federal Aviation Administration Headquarters administration				55,574,000	54,574,000	+54,574,000 +179,844,000	+54,574,000	+54,574,000	-1,000,000
Operations (By transfer)	2,281,939,000 (13,400,000)	2,549,806,000	2,456,783,000	2,468,220,000	2,461,783,000	+179,844,000 (-13,400,000)	- 88,023,000	+5,000,000	-6,437,000
Subtotal, Operations and headquarters adminis-	2 201 020 000	2 540 905 000	2 455 702 000	2,523,794,000	2 516 257 000	. 224 419 000	22 440 000	E0 574 000	-7.437.000
Facilities, engineering, and development Facilities and equipment (Airport and Airway Trust	2,281,939,000 8,797,000	2,549,806,000	2,456,783,000 16,200,000	20,310,000	2,516,357,000 18,255,000	+234,418,000 +9,458,000	-33,449,000 +18,255,000	+59,574,000 +2,055,000	-2,055,000 -2,055,000
Fund)	260,847,000	725,000,000	375,530,000 (7,450,000)	725,000,000	617,550,000 (7,450,000)	+356,703,000 (+7,450,000)	-107,450,000 (+7,450,000)	+242,020,000	-107,450,000 (+7,450,000)
Research, engineering and development (Airport and Airway Trust Fund)	71,800,000	133,500,000	93,000,000	113,000,000	103,000,000	+31,200,000	-30,500,000	+10,000,000	-10,000,000
Grants-in-aid for airports (liquidation of contract author-	(471,000,000)	(234,000,000)	(234,000,000)	(234,000,000)	(234,000,000)	(-237,000,000)	50,500,000	+ 10,000,000	-10,000,000
izaton) (Airport and Airway Trust Fund)	30,438,000	31,955,000	31,955,000	31,955,000	31,955,000	+1,517,000			
Construction, Metropolitan Washington Airports	26,700,000	13,080,000	11,080,000	11,080,000	11,080,000	-15,620,000	-2,000,000		
new loan guarantees)	(100,000,000)					(-100,000,000)			
Total, Federal Aviation Administration	2,680,521,000	3,453,341,000	2,984,548,000	3,425,139,000	3,298,197,000	+617,676,000	-155,144,000	+313,649,000	-126,942,000
Federal Highway Administration (Limitation on general operating expenses)	(194,940,000)	(191,562,000)	(188,500,000)	(191,562,000)	(188,500,000)	(-6,440,000)	(-3,062,000)		(-3,062,000)
Motor carrier safety	12,893,000	12,705,000	11,600,000 (1,000,000)	(191,562,000) 11,705,000 (1,000,000)	11,600,000 (1,000,000)	-1,293,000 (+1,000,000)	-1,105,000 (+1,000,000)		-105,000
Highway safety research and development (By transfer)	4,860,000 (1,500,000)	8,600,000	7,700,000 (300,000)	7,700,000 (300,000)	7,700,000 (300,000)	+2,840,000 (-1,200,000)	-900,000 (+300,000)		
Highway beautification	500,000			500,000	500,000		+500,000		
Highway-related safety grants (liquidation of contract authorization) (Trust Fund)	(23,300,000)	(22,998,000) -10,000,000	(22,998,000) -9,623,000	(22,998,000) 9,623,000	(22,998,000) 9,623,000	(-302,000) 9,623,000	+377,000		
Railroad-highway crossings demonstration projects	17,335,000 3,000,000		3,000,000	3,000,000	3,000,000	-17,335,000	+3,000,000		
National scenic and recreational highway (liquidation of contract authorization)	(21,000,000)					(-21,000,000)			
Access highways to public recreation areas on certain lakes	6,875,000					-6,875,000			
Liquidation of contract authorization trust fund)	91,000,000 (8,000,000,000) 400,500,000	(8,200,000,000) 150,000,000	(8,200,000,000) 500,000,000	(8,200,000,000)	8,200,000,000)	-91,000,000 (+200,000,000) -400,500,000	-150,000,000	-500,000,000	
Interstate transfer grants—highways	(25,000,000)	150,000,000	300,000,000	***************************************	***************************************	(-25,000,000)	-130,000,000	-300,000,000	
Total, Federal Highway Administration	536,963,000	161,305,000	512,677,000	13,282,000	13,177,000	-523,786,000	-148,128,000	-499,500,000	-105,000
National Highway Traffic Safety Administration	7-10-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1-1				THE THE STATE OF		Well E		11 - 500,744,000
Operations and research	74,900,000	81,600,000	70,000,000	78,133,000	74,000,000	-900,000	-7,600,000	+4,000,000	-4,133,000
contract authorization)	(150,200,000)	(103,552,000)	(103,552,000)	(103,552,000)	(103,552,000)	(-46,648,000)			
Total, National Highway Traffic Safety Adminis- tration	74,900,000	81,600,000	70,000,000	78,133,000	74,000,000	-900,000	-7,600,000	+4,000,000	-4,133,000
Federal Railroad Administration	Weller !		Page - I		STATE OF	.7770		1111	
Office of the Administrator	7,222,000 24,176,000 30,000,000 15,855,000	15,600,000 29,300,000 20,000,000 31,675,000	12,322,000 23,232,000 17,000,000 30,840,000	15,241,000 28,000,000 20,000,000 31,675,000	13,000,000 28,000,000 17,000,000	+5,778,000 +3,824,000	-2,600,000 -1,300,000	+678,000 +4,768,000	-2,241,000 -3,000,000
Rail Service Assistance	30,000,000 15,855,000	20,000,000 31,675,000	17,000,000 30,840,000	20,000,000 31,675,000	17,000,000 31,675,000	-13,000,000	-3,000,000	+835,000	
Appropriation for debt reduction	-1,355,000					+15,820,000 +1,355,000			
Total, rail service assistance	14,500,000 (34,000,000) (100,000,000)	31,675,000	30,840,000	31,675,000	31,675,000	+17,175,000 (-34,000,000) (-100,000,000)		+835,000	
Conrail workforce reduction program (by transfer)		20,000,000	(20.000.000	20,000,000	10,000,000	+10,000,000	-10,000,000	+10,000,000	-10,000,000
(By transfer) Northeast corridor improvement program Grants to the National Railroad Passenger Corporation	(85,000,000) 170,000,000 569,000,000	115,000,000	(20,000,000) . 115,000,000	115,000,000	10,000,000 (10,000,000) 115,000,000	(-75,000,000) -55,000,000	(+10,000,000)	(-10,000,000)	(+10,000,000)
Grants to the national national rassenger Corporation	369,000,000	600,000,000	788,000,000	735,000,000	700,000,000	+131,000,000	+100,000,000	88,000,000	-35,000,000

# CONGRESSIONAL RECORD—HOUSE

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

		1000 //	New budget authority			2	Conference con	10 VALUE	
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill
Computer rail service	70,000,000	(75,000,000)	/75 000 0001	(75 000 000)	(90,000,000)	-70,000,000 (+90,000,000)	(+15,000,000)	/ , 15 000 000)	(+15,000,000
(By transfer) Payments to the Alaska Railroad Revolving Fund Rehabilitation and Improvement Financing Funds:	6,160,000	(73,000,000)	(75,000,000)	(75,000,000) 49,575,000	(30,000,000)	-6,160,000	(+13,000,000)	(+15,000,000)	-49,575,000
Appropriation	24,766,000 -24,766,000					-24,766,000 +24,766,000			
(Limitation on loan guarantees)	(600,000,000)		(770,000,000) (275,000,000)	(600,000,000) (100,000,000)	(600,000,000)	(-170,000,000)	(+600,000,000) (+100,000,000)	(-170,000,000) (-175,000,000)	
(Limitation on new loan guarantees under Emer-	(2,600,000)		1			(-2,600,000)	***************************************		
gency Rail Services Act)	55,500,000			10,000,000	5,000,000	-50,500,000	+5,000,000	+5,000,000	-5,000,000
Appropriation (Authority to borrow)	(25,000,000)			10,000,000	3,000,000	(-25,000,000)	+ 3,000,000	+ 3,000,000	-3,000,000
Emergency rail facilities restoration (limitation on direct loans)	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	(2,301,000)	(2,301,000)	(2,301,000)	(2,301,000)	(+2,301,000)			
Total, Federal Railroad Administration	946,558,000	831,575,000	986,394,000	1,024,491,000	919,675,000	-26,883,000	+88,100,000	-66,719,000	-104,816,000
Urban Mass Transportation Administration									
Administrative expenses	24,388,000	29,075,000	28,250,000	28,081,000	28,081,000	+3,693,000	-994,000	-169,000	
sity research and training	51,600,000 1,464,500,000	45,000,000 1,518,500,000	58,250,000 1,630,000,000	58,250,000 1,621,700,000	58,250,000 1,606,000,000	+6,650,000 +141,500,000	+13,250,000 +87,500,000	-24,000,000	-15,700,000
Urban discretionary grants (By transfer)	(11,000,000)					(-11,000,000)			- 13,700,000
Nonurban formula grants	68,500,000 1,365,250,000	42,500,000 1,015,000,000	32,000,000 1,300,000,000	68,500,000 1,200,000,000	68,500,000 1,200,000,000	-165,250,000	+26,000,000 +185,000,000	+36,500,000	
(Liquidation of contract authorization)	(1,200,000,000)	(681,135,000)	(681,135,000)	(681,135,000)	(681,135,000)	(-518,865,000)			
sion	-2,000,000 560,000,000	250,000,000	365,000,000			+2,000,000 -560,000,000	- 250,000,000	-365,000,000	
Washington Metro		250,000,000	230,000,000	250,000,000	240,000,000	+240,000,000	-10,000,000	+10,000,000	-10,000,000
Total, Urban Mass Transportation Administration	3,532,238,000	3,150,075,000	3,643,500,000	3,226,531,000	3,200,831,000	-331,407,000	+50,756,000	-442,669,000	-25,700,000
Saint Lawrence Seaway Development Corporation (Limitation on administrative expenses)	(1,639,000)	(1,716,000)	(1,716,000)	(1,716,000)	(1,716,000)	(+77,000)			
Research and Special Programs Administration Research and special programs	17,441,000	21,300,000	20,022,000	21,300,000	20,022,000	+2,581,000	-1,278,000		-1,278,000
Office of the Inspector General									
Salaries and expenses	13,492,000 (9,355,000)	24,946,000	24,946,000	24,946,000	24,946,000	+11,454,000 (-9,355,000)			
Total, title I, Department of Transportation	A LEGAL		THE REAL	INVESTOR				THE COLUMN	
New budget (obligational) authority	10,057,921,927 (9,939,787,000)	10,054,459,350 (10,064,714,000)	10,568,066,350 (10,577,944,000)	10,304,470,350 (10,304,348,000)	9,998,596,350 (10,003,474,000)	-59,325,577 (+63,687,000)	-55,863,000 (-61,240,000)	-569,470,000 (-574,470,000)	-305,874,000 (-300,874,000)
Appropriations for debt reduction	(-26,365,073)	(-254,650)	(-254,650)	(-254,650)	(-254,650) (5,000,000)	(+26,110,423)	(-01,240,000)	(-3/4,470,000)	(-300,074,000)
Authority to borrow	(55,500,000)			(10,000,000)	(5,000,000)	(+(50,500,000)	(+5,000,000)	(+5,000,000)	-5,000,000)
Contract authority	(91,000,000) (-2,000,000)	(-10,000,000)	(-9,623,000)	(-9,623,000)	(-9,623,000)	(-91,000,000) (-7,623,000)	(+377,000) (+60,750,000)		
(By transfer) (Limitations)	(594,123,000) (196,579,000)	(75,000,000) (193,278,000)	(130,750,000) (190,216,000)	(85,300,000) (193,278,000)	(135,750,000) (190,216,000	(-458,373,000) (-6,363,000)	(+60,750,000) (-3,062,000)	(+5,000,000)	(+50,450,000) (-3,062,000)
(Limitations on loan guarantees)	(600,000,000) (372,600,000)	(444)210,0000	(770,000,000) (275,000,000)	(600,000,000) (100,000,000)	(600,000,000)	(-272,600,000)	(+600,000,000) (+100,000,000)	(-170,000,000) (-175,000,000)	( 0,000,000)
(Limitation on working capital fund)	(70,909,000) (9,890,500,000)	(73,965,000) (9,241,685,000)	(70,909,000) (9,241,685,000)	(70,909,000) (9,241,685,000)	(70,909,000) (9,241,685,000)	(-648,815,000)	(-3,056,000)	(-175,000,000)	
TITLE II—RELATED AGENCIES	(3,030,000,000)	(3,241,003,000)	(3,241,003,000)	(3,241,003,000)	(3,241,003,000)	(-040,013,000)			
Architectural and Transportation Barriers Compliance									
Board	244201224		N. Samerana						
Salaries and expenses	1,900,000		1,900,000	2,020,000	2,020,000	+120,000	+2,020,000	+120,000	
National Transportation Safety Board Salaries and expenses	17,705,000	17,700,000	19,970,000	19,970,000	19,970,000	+2.265,000	+2,270,000		
Emergency Fund	1,000,000					-1,000,000			
Total, National Transportation Safety Board	18,705,000	17,700,000	19,970,000	19,970,000	19,970,000	+1,265,000	+2,270,000		
Civil Aeronautics Board	07 077 000								
Salaries and expenses	25,875,000 86,058,000	24,500,000 48,400,000	24,350,000 48,400,000	21,900,000 48,400,000	23,125,000 48,400,000	-2,750,000 -37,658,000	-1,375,000	-1,225,000	+1,225,000
(Liquidation of fiscal year 1981 obligations)	(8,242,000)					(-8,242,000)			
Total, Civil Aeronautics Board	111,933,000	72,900,000	72,750,000	70,300,000	71,525,000	-40,408,000	-1,375,000	-1,225,000	+1,225,000
Interstate Commerce Commission Salaries and expenses	70 150 000	60,000,000	000 000 22	00 000 000	000 000	4 550 000	2 400 000	700.000	
Payments for Directed Rail Service	70,150,000 8,000,000	69,000,000	66,300,000	65,600,000	65,600,000	-4,550,000 -8,000,000	-3,400,000	<b>-700,000</b> .	
(Limitation on obligations)	(10,000,000)	20 000 000	(10,000,000)	(10,000,000)	(10,000,000)		(+10,000,000)		
Total, Interstate Commerce Commission	78,150,000	69,000,000	66,300,000	65,600,000	65,600,000	-12,550,000	-3,400,000	-700,000 .	
Panama Canal Commission Operating expenses	400,754,000	423 565 000	392,084,000	410,402,000	405,000,000	+4.246,000	-18,565,000	+12,916,000	-5,402,000
Capital outlay	19,766,000	423,565,000 29,024,000	24,666,000	29,024,000	29,024,000	+9,258,000	-10,303,000	+4,358,000	- 3,402,000
Total, Panama Canal Commission	420,520,000	452,589,000	416,750,000	439,426,000	434,024,000	+13,504,000	-18,565,000	+17,274,000	- 5,402,000
Department of the Treasury	The same		THE PARTY	SHIP WITE	756 T. T.	ALKE I	- TYTELL	T ST 150 174	Suffer make
Office of the Secretary: (Investment in Fund Anticipation Notes)	(55 500 000)			(10,000,000)	(5,000,000)	(-50,500,000)	(+5,000,000)	(+5,000,000)	(-5,000,000)
(By transfer)	(55,500,000) (25,000,000)			(10,000,000)	(0,000,000)	(-25,000,000)	( + 0,000,000)	( + 4,000,000)	(-2,000,000)
(by dansier)						1 3345511	A STATE OF THE PARTY OF THE PAR		
United States Railway Association  Administrative expenses	9,000,000	2,000,000	2,000,000	2,950,000	2,950,000	-6,050,000			

# CONGRESSIONAL RECORD—HOUSE

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

	New budget authority					Conference compared with—				
	Enacted	Estimates	House	Senate	Conference	Enacted	Estimates	House bill	Senate bill	
Washington Metropolitan Area Transit Authority Interest payments	51,586,000	51,663,569	51,663,569	51,663,569	51,663,569	+77,569				
Total, title II, related agencies: New budget (obligational) authority (Limitation on obligations) (Liquidation of FY 1981 obligations)	691,794,000 (10,000,000) (8,242,000)	665,852,569	631,333,569 (10,000,000)	651,929,569 (10,000,000)	647,752,569 (10,000,000)	-44,041,431 (-8,242,000) .	-18,100,000 (+10,000,000)	+16,419,000	-4,177,000	
TITLE III—GENERAL PROVISIONS	STATE OF		5 1 .91							
Coast Guard: Offshore Oil Pollution Compensation Fund (limitation on obligations) Deepwater Port Liability Fund (limitation on obli-	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)	(60,000,000)					
gations)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)	(50,000,000)					
(limitation on obligations)	(450,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(+150,000,000)				
Highway related safety grants (limitation on obligations)  Sederal-aid highways (limitation on obligations)  National Highway Traffic Safety Administration: State and community highway safety (limitation on obliga-	(10,000,000) (8,091,000,000)	(7,700,000,000)	(10,000,000) (8,000,000,000)	(10,000,000) (8,100,000,000)	(10,000,000) (8,100,000,000)	(+9,000,000)	(+10,000,000) (+400,000,000)	(+100,000,000)		
and community highway safety (limitation on obliga- tions)	(92,500,000)	(77,000,000)	(100,000,000)	(92,500,000)	(95,000,000)	(+2,500,000)	(+18,000,000)	(-5,000,000)	(+2,500,000	
Total, title III, general provisions:					2					
New budget (obligational) authority (General provisions)	(8,753,500,000)	(8,487,000,000)	(8,820,000,000)	(8,912,500,000)	(8,915,000,000)	(+161,500,000)	(+428,000,000)	(+95,000,000)	(+2,500,000	
RECAPITULATION		480					I MAG			
Grand total, titles I, II, and III:  New budget (obligational) authority  Appropriations for debt reduction	10,749,715,927 (10,631,581,000) (-26,365,073)	10,720,311,919 (10,730,566,569) (-254,650)	11,199,399,919 (11,209,277,569) (-254,650)	10,956,399,919 (10,956,277,569) (-254,650)	10,646,348,919 (10,651,226,569) (-254,650)	-103,367,008 (+19,645,569) (+26,110,423)	-73,963,000 (-79,340,000)	-553,051,000 (-558,051,000)	-310,051,000 (-305,051,000	
Authority to borrow	(55,500,000) (91,000,000)			(-254,650) (10,000,000)	(-254,650) (5,000,000)	(-50,500,000) (-91,000,000)	(+5,000,000)	(+5,000,000)	(-5,000,000	
Rescission (By transfer) (Limitations)	(-2,000,000) (594,123,000) (196,579,000)	(-10,000,000) (75,000,000) (193,278,000) (8,487,000,000)	(-9,623,000) (130,750,000) (190,216,000) (8,830,000,000)	(-9,623,000) (85,300,000) (193,278,000) (8,922,500,000)	(-9,623,000) (135,750,000) (190,216,000) (8,925,000,000)	(-7,623,000) (-458,373,000) (-6,363,000) (+161,500,000)	(+377,000) (+60,750,000) (-3,062,000) (+438,000,000)	(+5,000,000) (+95,000,000)	(+50,450,000 (-3,062,000 (+2,500,000	
(Limitations on obligations)	(8,763,500,000)	(2,301,000)	(2,301,000)	(2,301,000)	(2,301,000)	(+2,301,000)	(+600,000,000)	(-170,000,000)	(+2,300,000	
(Limitations on loan guarantees) (Limitations on new loan guarantees) (Limitation on working capital fund) (Liquidation of FY 1981 obligations)	(372,600,000) (70,909,000) (8,242,000)	(73,965,000)	(275,000,000) (70,909,000)	(100,000,000) (70,909,000)	(100,000,000) (70,909,000)	(-272,600,000) (-8,242,000)	(+100,000,000) (-3,056,000)	\(\begin{align*} -175,000,000\\ -175,000,000\\ \end{align*}		
Memoranda: (Appropriations to liquidate contract authorizations) (appropriation for debt reduction)	(9,890,500,000) (26,365,073)	(9,241,685,000) (254,650)	(9,241,685,000) (254,650)	(9,241,685,000) (254,650)	(9,241,685,000) (254,650)	(-648,815,000) (-26,110,423)	***************************************			
Total, appropriations including appropriations to figuidate contract authorization and appropriations for debt reduction	(20,666,581,000)	(19,962,251,569)	(20,441,339,569)	(20,198,339,569)	(19,888,288,569)	(-778,292,431)	(-73,963,000)	(-553,051,000)	(-310,051,000	
CONGRESSIONAL BUDGET RECAP		AND DEAL		- 1077/18						
Total	10,749,715,927 (10,749,715,927)	10,720.311,919 (10,720,311,919)	11,199,399,919 (11,199,399,919)	10,956,399,919 (10,956,399,919)	10,646,348,919 (10,646,348,919)	-103,367,008 (-103,367,008)	-73,963,000 (-73,963,000)	-553,051,000 (-553,051,000)	-310,051,000 (-310,051,000	
Prior year outlays associated with this bill		10,720,311,919	11,199,399,919	10,956,399,919	10,646,348,919	-103,367,008	-73,963,000	-553,051,000	-310,051,000	
Mandatory (total)	(365,058,000) (365,058,000)	(384,400,000) (384,400,000)	(384,400,000) (384,400,000)	(384,400,000) (384,400,000)	(384,400,000)	(+19,342,000) (+19,342,000)				
(Prior year)	(000,000,000)	(001,100,000)	(001,100,500)	(001,100,000)	(001,100,300)	1 1 10/0 10/000)				

yield myself such time as I may consume.

I rise in support of the fiscal year 1983 Transportation appropriations conference report. The report does contain \$10 billion, \$646 million in funding for all transportation accounts except for interstate transfer grants which were funded for the entire year in the continuing resolution.

This is not only a bipartisan effort among members of the Transportation Appropriations Subcommittee, but also a good compromise with the Senate. The original bill is largely the handiwork of our late and missed colleague, Adam Benjamin. The acting chairman, the gentleman from Florida, BILL LEHMAN, whom we all miss today, shepherded the bill through floor consideration and the conference. Now our friend, the gentelman from Minnesota, Marty Sabo, is doing

report approval.

I want to also pay my compliments and congratulations to the staff, Tom Kingfield, Greg Dahlberg, and Kenny Kraft for the fine job that they have done on this bill.

As my colleague, the gentleman from Minnesota, has indicated, the bill provides some \$72,440,000 for the new headquarters account for the Coast Guard and \$1,518,963,000 for operating expenses.

For acquisition, construction, and improvements, the Coast Guard is generously funded at \$409 million.

The bill provides \$54,574,000 for the Federal Aviation Administration headquarters and \$2,456,783,000 for operations.

Facilities and equipment is funded at \$625 million.

In the conference report's statement of the managers, we point out the fact that the FAA might not be able to ob-

Mr. COUGHLIN. Mr. Speaker, I a superb job of honchoing conference ligate the full amount of the budget request in fiscal year 1983. Hence, this account contains a reduction and a promise to consider a supplemental should the level of activities be accelerated. Funds are to be utilized so as not to adversely affect aviation safety. efficiency or economy, and to continue the MLS and FSS modernization programs on schedule.

In the Federal Highway Administration, what is of interest here is what is not in the conference report, because interstate transfer grants have already been funded for the entire year in the continuing resolution.

For urban mass transportation, the conference report provides \$1,606 million in section 3 urban discretionary grants for new starts and ongoing projects and \$1,200 million for section five urban formula grants. The funds are to be distributed one-fourth under the 1970 census and three-fourths under the 1980 census.

The conference report in total is about \$320 million above the President's budget request, but as my colleague, the gentleman from Minnesota has indicated, we have been informed that the Office of Management and Budget will recommend that the bill be signed.

Mr. Speaker, the bill that is before the House at the moment is a good bill. We hope that the bill will be passed by this House and will be

signed into law.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. Mr. Speaker, I rise in strong support of this conference agreement on the 1983 transportation

programs.

Not only have we continued to fund this country's critical highway, mass transit, rail, and airway systems, but we have also managed to make responsible budget cuts and remain under

the administration's request.

I would, however, at this time like to make a point for the record, and that is that although we have made budget reductions in a move toward greater austerity in these federally funded programs, it is not the intent of the subcommittee or the conferees to in any way diminish the mandate for effective safety programs administered by the National Highway Traffic Safety Administration.

I have raised some concerns over the effectiveness of the seatbelt promotion program currently in place and the conferees have instructed NHTSA to set a goal for increased use along with a timeframe for achieving it. A Government-wide mandatory safety belt

use policy is also called for.

I remain concerned, however, about the possible impact any future reductions in staff may have on the ability of the agency to carry out its statutory mandate to increase traffic safety on this Nation's highways. For that reason, Mr. Speaker, let the record show that the Appropriations Committee expects to be notified in advance of any plans NHTSA has to reduce the current employee level of 640 personnel.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman Massachusetts from

STUDDS).

Mr. STUDDS. Mr. Speaker, I thank the gentleman for yielding.

I would like to ask a question, if I may, of the conferees.

Last March the Coast Guard announced plans to remove almost 1,300, or 25 percent, of all aids to navigation from the coastal waters of New England and the Mid-Atlantic States. This action was deemed necessary because of a \$1.4 million cut in funds allocated in aids to navigation teams.

Last September when this bill was considered on the House floor, I offered an amendment providing for the transfer of \$14 million in unneeded funds from the retirement pay account to the operating expenses account. This money was to be used for several purposes, but most particularly the restoration of the aids to navigation teams.

The conference report before us includes a total of \$1.591 billion for operating expenses for the Coast Guard, an amount \$4 million higher than the total originally brought to the House floor and \$14 million higher than the administration request.

My question to the gentleman is whether, in the opinion of the conferees, there is \$1.4 million in this bill to save the aids to navigation teams?

Mr. SABO. The answer is "yes." Mr. STUDDS. Mr. Speaker, I thank the gentleman.

Mr. COUGHLIN. Mr. Speaker, I

yield 2 minutes to the gentleman from

Pennsylvania (Mr. Walker).
Mr. WALKER. Mr. Speaker, I have a concern about one of the amendments that was adopted in the conference committee regarding the St. Lawrence Seaway, that is an amendment which would in effect forgive about \$109 million of outstanding debt which has been paid through user fees up until now and which we are now going to forgive. In a rather remarkable effort to bypass the authorizing committees, the Senate Appropriations Committee attached this rider and as of now the conferees have accepted it.

I am hopeful that my colleagues will agree with me and recede from this amendment at the appropriate time in

our consideration.

This particular exemption is inconsistent with any effort to assure cost accountability in water resource development. Conservation organizations, the administration, and others are trying to establish a principle of having user fees finance water resources and water resource development. This waiver of the St. Lawrence Seaway debt would set a very unfortunate principle, in my opinion. It would suggest that any user fee to be imposed in the future need not be taken seriously because of what we are about to do here.

U.S. share of construction of this particular project was \$139 million. The seaway opened in 1959 and during the next 11 years about \$30 million were paid back. Now we are going to say that the other \$109 million simply is not going to be paid and I think that is wrong.

The President has proposed greater reliance on user fees to help finance Federal water projects and it seems to me that any kind of a rational Federal Water policy depends upon a rational

investment policy.

The Office of Management and Budget expressed concerns about this particular amendment when this bill

went to the conference committee. But the conferees chose not to go the route of removing this language.

I think the House today should insist upon its disagreement and that we ought to make certain that our water resource policy for the future reflects user fee development so that we have a rational investment policy.

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Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I thank the gentle-

man for yielding.

Mr. Speaker, I rise in regard to the conference report, H.R. 7019, Department of Transportation Appropriations and as the report refers to safety belt use programs conducted by the National Highway Traffic Safety Administration.

I support the concept of the safety belt use program and regret that adequate progress has not been made in previous years to get American motorists to use the safety belts available in motor vehicles.

However, with the initiation of this program and new effort and methods to encourage safety belt use, I am hopeful that usage rates will begin to go up and that the Congess can be influential in helping guide an effective program. I am an advocate of safety belt use but I share the conferees' concern about the cost-effectiveness of this NHTSA educational program. I hope we will begin to see some positive results in the very near future.

At the same time, Mr. Speaker, as we adopt this conference report. I believe it important that the House not send any wrong signal to the American people about their need for safety belt use and the need for effective safety belt use educational programs that are already ongoing throughout nation as the result of efforts by NHTSA and other numerous groups and organizations.

National Highway Traffic Safety Administration is one of the main focal points for the dissemination of information about the need for safety belt use by American motorists.

Working with the NHTSA are scores of concerned individuals and groups:

The Parent-Teacher Association. American Red Cross, Boy Scouts, Girl Scouts, National Education Association, law enforcement and emergency medical services groups, child health groups, American Academy of Family Physicians and other medical groups, Federation of Women's Clubs, American Automobile Association, consumer groups, labor, Motor Vehicle Manufacturers Association, business and industry and trade associations, automobile dealers, and many, many more.

We have all seen the efforts of these groups in both the electronic and print media. There already is a substantial campaign going forward to encourage belt use in motor vehicles and there should be no back tracking.

Over 90 percent of the vehicles on the road today are equipped with either the three-point lap and shoulder safety belt system or the lap belt. They should be used at all times.

Safety belts when worn are a most effective device to prevent fatalities or injuries in motor vehicle crashes. Drivers of motor vehicles should always be buckled up as the driver is the one with the responsibility to maintain control of the car or truck in order to take evasive action to avoid a possible accident. If the driver is not properly buckled into the seat in the proper seating positon, the risk is loss of control of the automobile and a resulting crash that otherwise might have been avoided. Safety belts hold you in place and save lives.

The NHTSA estimates that as of 1981, safety belt use was at 11 percent. That is not good enough for anyone. The NHTSA does advise us, though, that they are encouraged by more and more reports of belt usage through their efforts and those of the various automobile occupant, safety-minded organizations. The awareness program is growing. We should not want to see a lessening of public interest in safety belts. The use of safety belt messages in the many automobile manufacturers' television commercials is commendable and others can and will do their share as long as our congressional and Federal Government efforts remain spirited and we work for the goal of increasing safety belt usage rates.

The NHTSA further advises that with each 1 percentage point increase in belt use per year, this results in \$100 millon in savings overall to society.

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I believe Congress must keep the focus of attention on safety belt use programs and increase participation of as many organizations as possible.

We know other countries already have successful and acceptable safety belt use laws. In the United States, 16 States have adopted specific requirements regarding the use of child restraint devices.

My State of Michigan is trying to enact a State safety belt use law.

I am also mindful that our colleagues supported the program in the recently passed highway jobs bill by providing the States with funds to conduct "programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

The House language on that bill, H.R. 7360, should be maintained by Congress to further aid us in programs to save the lives of American motorists through increased use of safety belts.

Mr. Speaker, I read with great care the language of the conferees on pages 12-13 of the conference report (H. Rept. No. 97-960) on H.R. 7019 and I have no objection to the conferees establishing the two conditions for further funding. I think they request information that is appropriate to obtain and I would expect NHTSA to provide the same information to me, as chairman of the Committee on Energy and Commerce, and to the subcommittee chairman, Mr. Wirth.

However, I am concerned that this program not be delayed because I believe it can help to save lives and that is what I believe is most important. Also, I am concerned about the suggestion that the Committee on Appropriations are indicating through this report that they have to approve the written submissions prior to NHTSA obligation of additional contracts. Committee approval of this nature is akin to a committee veto which, I note, is not a recognized practice under the Constitution and the House Rules.

Nevertheless, our committee wants to work cooperatively to insure that the program is worthwhile and that funds are not wasted. I presume that is their goal, which I share, and that they, like our committee, would not want to try to balance costs versus lives saved. If lives can be saved through this program by encouraging public use of seatbelts, then I feel certain each of our committees will want to put aside our reservations-which all of us may share about any type of promotion type program funded with Federal funds-in favor of saving lives and encouraging the program.

Mr. SABO. Mr. Speaker. I yield such time as she may consume to the gentlewoman from Ohio (Ms. Oakar).

Ms. OAKAR. I thank the gentleman for yielding.

Mr. Speaker, I certainly support this conference report.

The Midwest is fortunate to have an extensive network of rivers and lakes that provide its great cities with direct waterborne access to all the major seaports of the world. The Midwest is indeed the fourth seacoast of our country. To properly utilize the north coast of the United States, the St. Lawrence Seaway was constructed in the 1950's. My own city of Cleveland is strategically located and its port should be bustling.

Unfortunately, the St. Lawrence Seaway continues to be burdened by a construction debt of nearly \$110 million and annual interest charges of \$2 million. This burden constitutes a disincentive to the proper utilization of this national asset. The St. Lawrence Seaway is the only Federal waterway with substantial user fees. Continued debt service drives up the cost of shipping in the region and drives down its economic vitality. The seaway is the only waterway in our country which

has had to generate revenues for its construction.

Canada relieved the St. Lawrence Seaway Development Corp. of the debt owed long ago. We should do the same. Relieving the seaway of the debt would achieve a long-sought purpose, providing a measure of equity for America's north coast, fostering competition by facilitating access of the industrial and agricultural output of our country's heartland to the channels of world trade.

I urge my colleagues to concur with the conference report to H.R. 7019 and relieve the Great Lakes of the debt burden that has been stifling trade in our region and contributing to its already worrisome economic problems. Acceptance of the conference report on the seaway construction debt forgiveness would be a wise step for the Midwest and for the country.

My colleagues, end this discrimination, support our conferees. At this point I would like to thank the House conferees for their concurrence with the Senate. Thank you also for your assistance to me personally on this issue. I am deeply grateful for your support.

Mr. COUGHLIN. Mr. Speaker, I would just simply rise to point out that the payments on the St. Lawrence Seaway, from the St. Lawrence Seaway tolls, the payback schedule calls for a very steep increase beginning in the year 1986. That increase in the payment of that debt would make the increase in tolls required, and make the St. Lawrence Seaway uncompetitive and hurt our competitive position as a nation in world trade.

Mr. SABO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Louisiana (Mrs. Boggs).

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I would like to ask the gentleman from Minnesota a question.

As the gentleman knows, I have been interested for a very long time in the safety of the vital marine transportation in the Lower Mississippi River Basin and I would like to ask if the gentleman can assure me that within this bill there is sufficient funding for the continuation and implementation of the Vessel Traffic System, the VTS system, in the Metropolitan New Orleans area and down through the passes at the mouth of the Mississippi River?

Mr. SABO. The gentlewoman is accurate.

Mrs. BOGGS. I thank the gentleman very, very much.

Mr. MICHEL. Mr. Speaker, I want to express appreciation to the conferees for including \$3 million to continue work on the alteration and repair of the Peoria-Pekin Railroad Bridge.

This bridge was declared an unreasonable obstruction to navigation by the Coast Guard, and is the most hazardous bridge on the Illinois River. It is the only rail link across the Illinois River remaining in the Peoria area, and the alteration and repairs will insure that it remains open and usable. We had another rail bridge collapse 10 years ago after being hit by a barge, and it would be a disaster for the area if that happened again.

So once again, I express appreciation to the conferees for their action.

• Mr. CONTE. Mr. Speaker, I rise in support of the conference report to accompany H.R. 7019, making appropriations for the Department of Transportation and related agencies for fiscal year 1983.

I would particularly like to commend our chairman, the gentleman from Florida (Mr. LEHMAN), who has led the subcommittee under very difficult circumstances, and our ranking minority member, the gentleman from Pennsylvania (Mr. Coughlin). We have all worked very hard on this bill, and the end result is a good one.

I would particularly note a few items in this bill. We have provided \$700 million in grants for Amtrak, an amount that is less than both the House and Senate-passed bills. Nevertheless, we have been assured that Amtrak can continue to serve its existing routes

with this level of funding.

For the Urban Mass Transit Administration's section 18 nonurban formula program, we have provided \$68.5 million, the Senate figure. This program provides for the operation of transit systems outside of major cities, including several in my part of western Massachusetts. This amount will permit the support of ongoing transit programs at the 1982 level.

For the Coast Guard, which has traditionally had to rely on the hand-medowns from the Navy and other services, we have provided \$409 million for acquisition, construction, and improvements. This amount will help the Coast Guard enforce the 200-mile territorial limit, perform its traditional boating safety and search and rescue mission, and meet its increased responsibilities in stopping over-water drug smuggling.

Mr. Speaker, I support this conference report and urge its adoption by

my colleagues.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of the conference report on H.R. 7019, the Department of Transportation appropriation bill. Included in this bill is the fiscal year 1983 appropriation for the Coast Guard.

Mr. Speaker, we know through extensive oversight and study during this Congress that the traditional Coast Guard functions of promoting safety of life and property at sea must be preserved, continued and, I might add,

adequately funded. Among those functions are the all-important search and rescue, enforcement of laws and treaties, maritime safety, and national defense. We can no longer ask them to do more and more with less and less as has been the case in the past decade. It seems that whenever the United States requires expertise in the maritime area, it turns to the Coast Guard to do the job. But the budget has simply not kept pace. Thus, it is extremely important that we provide proper and adequate funding for these important programs.

This conference report takes a great step in this direction. I am particularly pleased that the amendments we adopted providing for additional funds for operating expenses and for Reserve training have been retained. The operating expense money will be used to carry out those important day-today functions of the Coast Guard and the Reserve training will be used for

national defense by maintaining the Coast Guard Reserve at the newly authorized level of 12,000 Ready Reserv-

I know, however, that the levels of funding are still below those in the Coast Guard authorization bill for Fiscal Year 1983, particularly for operating expenses. I suspect that we will once again during the course of the next Congress be faced with adding money in a supplemental appropriation for the Coast Guard. We know that with additional programs, such as the drug and migrant interdiction operation in the south Florida-Caribbean area, the Coast Guard is being stretched thin throughout the rest of the country. We must be sure that its personnel and facilities are not being overtaxed and that they do not run out of fuel and parts for their ships and aircraft simply due to the lack of proper funding.

As the Representative from the State of Alaska, you have heard me repeat time and time again that the services of the Coast Guard are extremely valuable and essential in that region. However, I submit that they are essential through the entire maritime community and ultimately to the Nation as a whole. We in Alaska need both effective fisheries law enforcement and search and rescue coverage to protect both the livelihood and the lives of our people. All of us need the services of the Coast Guard. Therefore, I urge that the conference report be adopted today.

Mr. COUGHLIN. Mr. Speaker, have no further requests for time and I yield back the balance of my time.

Mr. SABO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered. The conference report was agreed to. Speaker, I ask unanimous consent that

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will designate the first amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 2: Page 2, line 10, rike out "\$37,532,000" and insert strike \*\$41,700,000".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "\$40,000,000, of which \$1,000,000 shall be transferred and made available to the Motor Carrier Ratemaking Study Commission

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 6; Page 3, after line 11, insert:

## HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard, including, but not limited to, executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, \$72,440,000.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

# HEADQUARTERS ADMINISTRATION (INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Coast Guard, including, but not limited to, executive direction; budget, planning and policy; command, control, communication, and operations; financial management; legal; engineering; civil rights; and personnel and health services for the Coast Guard, \$72,440,000, of which \$14,000,000 shall be derived by transfer from appropriations for Retired pay.

Mr. SABO (during the reading). Mr.

the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 11: Page 5, line 6, strike out all after "services," down to and including "pay" in line 8 and insert "\$54,000,000".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 11 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "\$50,000,000 together with an amount not to exceed \$4,000,000 which shall be derived from appropriations for Retired pay".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 15: Page 7, line 3, strike out "\$1,000,000,000" and insert "\$1,464,150,000".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 15 and concur therein.

The SPEAKER pro tempore. For what purpose does the gentleman from California (Mr. MINETA) rise?
Mr. MINETA. Mr. Speaker, I

Mr. MINETA. Mr. Speaker, I demand that the question be divided.

The SPEAKER pro tempore. The question will be divided.

The gentleman from Minnesota (Mr. Sabo) is recognized for 30 minutes. Does the gentleman wish to debate?

Mr. MINETA. Mr. Speaker, I offer a preferential motion.

The SPEAKER pro tempore. The question has not been divided as yet.

Does the gentleman from Minnesota (Mr. Sabo) wish to debate?

Mr. SABO. No, Mr. Speaker, I do not.

The SPEAKER pro tempore. The question is, will the House recede from its disagreement to Senate amendment numbered 15?

The House receded from its disagreement to Senate amendment numbered 15.

PREFERENTIAL MOTION OFFERED BY MR. MINETA Mr. MINETA. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Mineta moves that the House concur in Senate amendment No. 15 with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: "\$1,264,000,000".

The SPEAKER pro tempore. Does the gentleman yield to the gentleman from California?

Mr. SABO. Mr. Speaker, I yield to the gentleman from California.

Mr. MINETA. Mr. Speaker, the amendment I have offered will make the appropriation from the airport and airways trust fund for FAA operations consistent with the authorization legislation which we passed only 4 months ago.

When we reviewed the airport and airways trust fund program as part of the August tax bill, we carefully crafted provisions to insure that there would be a proper balance between trust fund spending for capital development of airports and airways and trust fund spending for FAA operations. This balance was part of a package in which aviation user groups were asked to pay substantially increased taxes, but with the assurance that there were carefully prescribed limits on how much of their tax money could go to pay for the salaries of FAA employees rather than to the original purpose of the trust fund, which was to provide for urgently needed capital development.

The appropriations conference proposal violates that assurance. The legislation this Congress recently enacted requires that the authorized level for FAA operations is automatically reduced if there is not full funding of capital development, the primary purpose of the trust fund. The conferees on the appropriations bill did not follow that provision and, as a result, the conferees would spend \$200 million more from the trust fund for operations than is authorized.

My amendment will reduce trust fund expenditures for operations by \$200 million, restoring the balance contemplated by the authorizing legislation. I emphasize that my amendment will have no adverse effect on aviation safety. I am not proposing a reduction in the total appropriations for FAA operations; I am only proposing that we follow the authorizing legislation in determining the portion of the total for operations which is taken from the user-supported trust fund.

The issue here is equity for the many users of the aviation system. The user fee and operations increases which we agreed to were substantial. The airline passenger ticket tax went from 5 percent to 8 percent, and the tax on general aviation fuel went from 4 cents per gallon to 12 cents per

gallon for gasoline, and from no tax to 14 cents for jet fuel.

We further agreed to allow more than 70 percent of the direct expenses of operating the airways to be taken from the trust fund. Past appropriations for this purpose have been considerably lower. The highest appropriation under prior law was \$450 million in fiscal year 1981, compared to the \$1.4 billion possible in fiscal year 1983 under the new authorizing legislation.

We were extremely reluctant to adopt these increases in view of past experience in which user fees were not spent as promised for capital development, but were allowed to accumulate in the trust fund or were used for FAA operations. The Congress agreed to increase user fees and spending for operations only after receiving assurances that the administration would support capital development.

The Congress also insisted on provisions to reduce trust fund support for operations if capital development was not funded as contemplated. In short, the authorizing legislation assured Congress and aviation user groups alike that capital development would remain the primary purpose of the trust fund.

Mr. Speaker, the users of the system are paying substantially increased taxes for capital development of the airports and airways.

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The legislation we adopted only a few months ago assured the users that capital development would be accomplished before these user fees were spent to cover FAA salaries in unprecedented amounts. Fairness and equity requires that we respect the assurance we gave the users only 4 months ago. My amendment will accomplish this result, and I urge its adoption.

Mr. ANDERSON. Mr. Speaker, will the gentleman yield?

Mr. MINETA. I yield to my distinguished colleague from California, the chairman of the Public Works and Transportation Subcommittee on Surface Transportation, who formerly chaired the Aviation Subcommittee.

Mr. ANDERSON. Mr. Speaker, I rise in strong support of this equitable amendment offered by my California colleague. I commend him on a fine iob.

As former chairman of the Subcommittee on Aviation, I am well aware of the constant struggle we have had to endure on attempted assaults on the airport and airways trust fund to pay for the Federal Aviation Administration's operating expenses.

As a conferee to title V of the August 1982 tax bill—commonly referred to as the airport and airway improvement provision—I am well aware of the precarious and carefully crafted

balance between the FAA's administrative expenses and the trust fund's badly needed and rightfully deserved capital development programs.

Contained within this legislation were increased taxes for many aviation user groups. Among some of these were the tripling of the fuel tax for general aviation from 4 cents a gallon to 12 cents a gallon; a 3 percent increase in the airline ticket tax; and, a 14 cents increase in the jet fuel tax. This money collected from the users should be spent on airport and airway improvement projects which would benefit those who must pay the higher tax. By all means, this trust fund money should not, I repeat not, be used to further the FAA's operating budget. If this were to happen it would be a complete break in faith with the many aviation users who expect, and more importantly deserve, trust money to be spent on developing and preserving our Nation's airport facilities which, to me, is extremely more important than an increase in the salaries of FAA employees.

I urge my colleagues to adopt the

Mineta motion.

Mr. MINETA. I thank the gentleman from California.

Mr. LEVITAS. Mr. Speaker, will the

gentleman yield?

Mr. MINETA. I yield to my colleague from Georgia, a distinguished member of the Aviation Subcommit-

Mr. LEVITAS. Mr. Speaker, I thank my colleague, the chairman of the subcommittee, for yielding to me. I want to rise in support of the motion offered by the gentleman from California, and commend him for taking this action.

The gentleman has clearly and succinctly explained the reason for this, but I would just want to emphasize two points, very briefly. The first is that, if we do not accept the language offered by the gentleman from California, then the very carefully crafted, negotiated result that we just finished legislating would be abrogated totally.

Second, the whole purpose of that fund was to do the specific things the program was designed to do, not to simply provide back door financing for the general operations of the Federal Aviation Administration. That is not the purpose of a user's tax, and to disproportionately take the user fees and use them for operational purposes in this disproportionate way, without the gentleman's amendment, would simply strike a blow not only at this trust fund but every other user fee and every other trust fund Congress has established.

I urge adoption of the gentleman's amendment.

Mr. SABO. Mr. Speaker, I rise in opposition to the amendment offered by the gentleman from California. This amendment is one in which the House yielded to the Senate. However, it is part of a larger total package in which many tradeoffs have been made-an agreement that we have been assured will be signed into law. I think the package in toto is good, and I would not like to see it disrupted.

The gentleman is accurate, amendment does not affect the total dollars available for FAA, but would simply rearrange the source of these dollars. On the other hand, let me indicate to the House that the uncommitted balance in the airport and airway trust fund is substantial. The projected uncommitted balance as of September 30, 1982, was \$2.15 billion. It is estimated to be at \$1.9 billion at the end of this fiscal year, so that the action of the conference committee and the action of the Senate, in which the House concurred, is of no great threat to the trust fund.

I would hope that the House would honor the agreement of the conferees. and not untangle the very delicate conference committee report that we have before us.

Mr. MINETA. Mr. Speaker, would the gentleman yield?

Mr. SABO. I yield to my distin-

guished colleague.

Mr. MINETA. Mr. Speaker, the problem is that, as we went through this whole program and we looked at the national airspace plan that Mr. HELMS has put before the Congress. and as we looked at the amount of revenues that would be generated and what was included in the program, and the spend out rates, that that starts in 1983; and our fear is that if this kind of drawdown takes place at this point, that in the outyears of 1985 and 1986 and 1987, we will then be shortchanging ourselves, so that we have a carefully crafted provision that took into consideration the income that we would be getting, the amount that is there in the balance, in the aviation trust fund, and that we do not want to see that shortfall as we get into the tremendously large computer buy that we are going to be necessarily getting into in replacing the computers that we have in the system right now.

So, that is why, when we originally talked about this ratio between facilities and equipment and the operations and maintenance to be taken out of the trust fund, we made sure that that ratio was a proper one, because we were imposing on the user community a higher sum to be taken from the trust fund; but more importantly, we wanted to make sure that there was not a shortfall in fiscal years 1985 and 1986 and 1987. That is why we are trying to make sure that this does not get out of balance, and why are we are asking for the reduction of \$200 million by this amendment.

I thank the gentleman for yielding. Mr. SABO. I might indicate, Mr.

Speaker, that the problem the gentle-

man from California outlines is one that I expect we would have to deal with if in fact it becomes reality. However, the fact of the matter is that the total dollars coming from the trust fund under the conference agreement is less than what had been originally recommended by the Senate. We reduced the funding for facilities and equipment, and the committee also indicated that while we were skeptical that FAA could spend all the money for facilities and equipment that they were requesting, we urged them, if in fact they could, to come back with a supplemental so that we might be able to deal with that issue later on.

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise in support of the gentleman's motion and urge my colleagues to do the same.

As he has indicated, the DOT appropriations conferees agreed to fund operations and maintenance (O&M) from the airport and airway trust fund at a level of \$1.46 billion or \$200 million over the authorized amount. As the ranking member of the Aviation Subcommittee, I submit to my colleagues that this is not only beyond the scope of the authorization but also constitutes a breach of faith with the aviation community and the traveling public which, since September 1 of this year, have been paying substantially more in taxes than had been the case before.

When Congress passed the President's tax bill prior to Labor Day it also adopted 5-year authorizations for aviation programs funded out of the airport and airway trust fund. In adopting these authorizations, we linked the authorizations for the capital development programs with the level of operations and maintenance funding we would allow to be derived from the trust fund. Therefore, we provided that shortfalls in funding for the capital programs would result in a 2-for-1 reduction in the authorization for trust fund O&M.

Unfortunately, in exercising their prerogatives to appropriate \$625 million rather than the authorized amount of \$725 million for the facilities and equipment program—which is the program designed to modernize the air traffic control system-the appropriations conferees overstepped their authority by appropriating \$200 million more than the authorization for trust fund operations and maintenance.

Mr. Speaker, I submit to my colleagues that it is just this kind of possibility that prompted us to put this in the authorizing law to begin with. While we reluctantly agreed to increase use taxes and substantially increase the trust fund O&M contribution, we did so only on the basis that

spending for the capital programs would reflect the absolute minimum which was needed to increase the safety and capacity or our airport and airway system. If for one reason or another, spending for the capital programs was going to be less than authorized levels, we wanted to be sure that the trust fund O&M levels were also reduced and that the delicate balance between capital and operating costs was maintained. Unfortunately, the appropriations conferees reduced facilities and equipment funding without reducing trust fund O&M as required by section 506(c) of Public Law 97-248 (the tax bill).

Finally, I want to say that what has been done by the appropriations conferees is an affront to every authorizing committee in this Congress.

If they can be permitted to appropriate more than the authorized amount—especially when the Presiauthorized dent's signature on that authorization is only 3 months old-we may as well just fold our tents and go home. There is no reason for those of us who live with and understand these programs to even waste our time if this kind of action is allowed to stand.

For the foregoing reasons, I urge my colleagues to support the gentleman's motion.

# □ 1750

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, I also rise in support of the gentleman's motion and urge my colleagues to adopt it.

Many of you are undoubtedly familiar with the age-old controversy involving the appropriate level of trust fund spending for FAA's operations and maintenance (O&M).

Like many who have been actively involved with aviation most of our lives, I have always felt that the primary purpose of the trust fund should be the funding of necessary capital programs to improve our airports and airways.

Only if the aviation infrastructure is adequately funded should the balance of available revenues go toward de-fraying that part of FAA's routine O&M expenses.

Unfortunately, the appropriations conferees seem to have rearranged the funding priorities established by the Congress only 3 months ago.

They are asking this body to fund the facilities and equipment (F&E) program at \$625 million rather than at the authorized amount of \$725 million.

While I am not happy with this, I realize that the Appropriations Committee is not bound to appropriate the authorized amount for a particular program.

I think they are wrong in the case of the F&E program, but my attitude can

acceptance.

However, just as the appropriations conferees are exercising their prerogatives to fund the F&E program \$100 million below the authorization, we on the authorizing committee exercised our prerogatives when we passed the 5-year ADAP statute as part of Public Law 97-248.

concerned about what We were would happen if others in the Congress or the administration did not share our belief that funding for the capital programs should not be less than the authorized amounts.

We determined that should this a corresponding reduction occur. would be made in the authorization for trust fund O&M, which was set for fiscal year 1983 at a maximum of \$1.46 billion.

Therefore, since the appropriations conferees have reduced F&E funding by \$100 million, the law requires a 2 for 1 or \$200 million reduction in the O&M authorization to \$1.26 billion.

It is this reduction which the conferees did not make and which would occur if the gentleman's motion is adopted.

Mr. Speaker, I submit to my colleagues that to protect the integrity of the authorization process, as well as to keep Congress part of the bargain it made with aviation users only 3 months ago, that we support the gentleman's motion.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume

Mr. Speaker, I take this time simply to say that, as the gentleman from Minnesota (Mr. Sabo) so correctly pointed out, this bill is the product of a great deal of work and give and take between the House and the other body, and I would be very reluctant to see us rock the boat by having this disagreed to.

It is a bill that can be signed, we are advised, by the administration, and I do not know what effect this would have on that.

I do not now what effect it will have when it goes back over to the other body, but certainly it seems to me this is not the time to change the very delicate balance that we already have in this bill.

Let me also say that we are, of course, simply setting funding levels for these various accounts, funding levels that are set through the appropriations process, and I think that that is entirely within our prerogative.

Mr. SABO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. John L. BURTON).

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I certainly support my colleague, the gentleman from Califor-

best be described as one of grudging nia (Mr. MINETA), as well as that distinguished Member, the gentleman from Kentucky (Mr. SNYDER). What we are being told here is: "don't worry about what the other committees in the House and the Senate happened to work out; if the conference committee of the Transportation Subcommittee of the Appropriations Committee decides to work out something different, that is fine."

> I have the greatest respect for the gentlemen and gentlewomen on that subcommittee, but what they are doing is really going against not only the spirit of a compromise that has been worked out but the dollars and cents of that compromise. There is going to be a tremendous amount of money that is going to be necessary to come from this trust fund when the time comes for the modernization of the computers that all of us know have had problems in the air traffic control system.

> To those Members who consider themselves conservative, as I consider some of my friends conservative, to take money from a trust fund for purposes like this has to go against the grain. To those of us who are liberal and think the whole concept of the unified budget is terrible where we lump trust funds into the general revenues that come from income taxes, excise taxes, and corporate taxes is wrong, this is the worst of both worlds. We are taking trust fund moneys and using them for what should be general revenue obligation. We are doing that out of a conference committee, not out of committee of this House and coming onto the floor of this House, and if the President is going to sign the bill now, I am certain that the motion offered by the gentleman from California (Mr. MINETA) is not going to take away the President's enthusiasm for the bill, for that President has no greater champion on this floor than the Honorable GENE SNYDER of Kentucky and Don Clausen of California, and they knew what they were talking about, absent GLENN Anderson and Norman Mineta of California.

> Our subcommittee has held hearings on FAA, on the procurement situation. We are concerned with what happens to this trust fund money, and it is just the wrong way to go at the wrong time. For us just to say that the President is going to support this bill but we do not know what he will do with this amendment, let me say that this amendment does not do anything more than bring in a little fiscal restraint and do things right.

> I urge the strongest possible support for the motion offered by the gentleman from California (Mr. MINETA). It is not our place to rewrite the business of this House in an appropriations conference committee. We had to give

something to the Senate, so we are not even writing it; it is the Senate that is writing it and telling us to take it. The Senate is telling us not even to take an Easter recess or a Christmas recess, and I certainly do not think we should take their language on this aviation trust fund.

Mr. Speaker, I strongly urge an aye vote on the Mineta amendment.

Mr. SABO. Mr. Speaker, I yield 2 minutes to the gentleman from

Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, my subcommittee of the Committee on Science and Technology is involved with aeronautics and aviation, and we have been actively involved in coming up with the funds for the new computer system and the modernization of the system.

Looking at this particular issue, I would have to believe that without exception we have to support the Mineta motion to reduce an unauthorized diversion of trust funds to FAA oper-

I think that this unauthorized diversion of funds, if allowed to stand, would constitute a breach of faith with aviation users who were promised basically, through many of the actions taken, and particularly through the leadership of the gentleman from California (Mr. MINETA), that their higher taxes would not be used disproportionately to fund FAA operations.

This action, if not challenged or stricken by the proposal of the gentleman from California (Mr. MINETA), would disrupt the delicate balance between trust fund spending for aviation capital programs and FAA operating expenses recently enacted into law. It would undermine the integrity of the aviation trust fund and the authoriza-

tion processes.

My judgment is that this is an attempt by the Office of Management and Budget to take operating moneys out of the trust fund, and I think that it would be very inappropriate and a slap in the face of aviation users who have paid these taxes all these years.

Therefore, Mr. Speaker, I urge my colleagues to support the Mineta motion to reduce the trust fund contribution to FAA operations by \$200

million.

# □ 1800

Mr. SABO. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered The SPEAKER pro tempore. The question is, on the preferential motion offered by the gentleman from California (Mr. MINETA).

The preferential motion was agreed

Mr. SABO. Mr. Speaker, I ask unanimous consent to consider en bloc the several motions where the House recedes and concurs in amendments of the Senate numbered 16, 18, 28, 55, 69, 77, 81, and 92.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. WALKER. Mr. Speaker, I reserve the right to object.

Mr. SABO. Excuse me, Mr. Speaker, I will exclude No. 91.

Mr. WALKER. I thank the gentleman, and I withdraw my reservation of objection.

Mr. SABO. And I ask unanimous consent that they be considered as read and printed in the RECORD.

The SPEAKER pro tempore. there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk designated Senate amendments 16, 18, 28, 55, 69, 77, and 92, as follows:

Senate amendment No. 16: Page 7, line 5, after "Provided," insert "That, in addition, not to exceed \$5,000,000 shall remain available until expended to be derived from the Airport and Airway Trust Fund for reimbursement of expenses incurred by certificated air carriers in the security screening of passengers moving in foreign air trans-portation: Provided further,".

Senate amendment No. 18: Page 7, line 10, after "program" insert ": Provided further, That not to exceed \$500,000 of the total amount available for operation shall be obligated for a contract with the National Academy of Sciences and the Federal Aviation Administration Administrator shall enter into an agreement with the National Academy of Sciences to study the state of knowledge, alternative approaches and the consequences of wind shear alert and severe weather condition standards relating to take-off and landing clearances for commercial and general aviation aircraft: Provided further, That the Academy shall complete the study within six months after funding arrangements have been made: Provided further, That the Federal Aviation Administration Administrator shall report to Congress within thirty days regarding the status of the contractual arrangements and the conditions necessary to implement the agreement with the National Academy of Sciences: Provided further, That the Department of Transportation shall furnish to the National Academy of Sciences any information which the Academy determines to be necessary for the purpose of conducting the study: Provided further, That not to exceed \$150,000 of the funds provided to the Federal Aviation Administration in this Act shall be available for doubling the number of windshear sensors at Moisant Airport in Kenner, Louisiana."

Senate amendment No. 28: Page 12, after line 18, insert:

#### HIGHWAY BEAUTIFICATION

For necessary expenses in carrying out section 131 of title 23, U.S.C. and section 104(a)(11) of the Surface Transportation Assistance Act of 1978, \$500,000 to remain available until expended.

Senate amendment No. 55: Page 22, line 7, after "apportioned" insert "and allocated"

Senate amendment No. 69: Page 26, line 25, strike out all after "expended" over to and including "payments" in line 15 on page 27 and insert "and such amounts as may be prior to September 30, 1982, under 49 U.S.C. 1376 and 1389: Provided, That, notwithstanding any other provision of law, none of the funds hereafter appropriated by this or any other Act shall be expended under section 406 (49 U.S.C. 1376) for services provided after September 30, 1982: Provided further, That, notwithstanding any other provision of law or of the previous provision of this paragraph, payments shall be made from funds appropriated herein and in accordance with the provisions of this paragraph to carriers providing, as of September 1982, services covered by rates fixed under section 406 of the Federal Aviation Act (excluding services covered by payments under section 419(a)(7) and services in the State of Alaska): Provided further, That, notwithstanding any other provision of law, such payments shall be based upon rate orders applicable to such carriers as of July 1, 1982, but shall not exceed \$13,500,000 in the aggregate: Provided further, That, notwithstanding any other provision of law, to the extent necessary to meet this limitation, such payments shall be reduced by a percentage which is the same for all carriers eligible for such payments: Provided further, That nothing in this Act shall be deemed to prevent the Board from granting an application under section 419(a)(11)(A) (49 U.S.C. 1389) pertaining to a carrier receiving compensation under this Act, in which event the standards and procedures set forth in section 419(a)(11)A) shall apply"

Senate amendment No. 77: Page 30, line 11, after "agencies" insert ": Provided further, That, to the extent that the resources of the Fund are not adequate to provide the amount of budget authority provided above, the Commission may incur obligations in advance of adequate receipts in the Fund'

Senate amendment No. 92: Page 39, after

line 23, insert:

"Sec. 321. Notwithstanding any other provision of law, no funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall hereafter be apportioned to any State which imposes a vehicle width limitation of more or less than 102 inches on any segment of the National System of Interstate and Defense Highways, or any other qualifying Federal-aid highways as designated by the Secretary of Transportation, with traffic lanes designed to be a width of twelve feet or more: *Provided*, That, not-withstanding any other provision of law, certain safety devices which the Secretary of Transportation determines as necessary for safe and efficient operation of motor vehicles shall not be included in the calculation of width: Provided further, That, notwithstanding any other provision of law or of this paragraph, a State may grant special use permits to motor vehicles that exceed 102 inches: Provided further, That, notwithstanding any other provision of law, no withholding of apportionment shall be imposed upon a State by virtue of the provisions of this paragraph prior to October 1,

#### MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendments of the Senate numbered 16, 18, 28, 55, 69, 77, and 92, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 17: Page 7, line 10, after "program" insert ": Provided further, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure or begin any studies dealing with such a reorganization without the prior approval of both House and Senate Appropriations Committees".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: ": Provided further, That the Federal Aviation Administration shall not undertake any reorganization of its regional office structure without the prior approval of both House and Senate Appropriations Committees"

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amend-

ment in disagreement. The amendment reads as follows:

Senate amendment No. 43: Page 16, line 10, strike out all after "expended" down to and including "States" in line 23.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ", of which \$10,000,000 shall be derived from the unobligated balances of "Redeemable preference shares' Provided, That such sum shall be considered to have been appropriated to the Secretary under said section 713 for transfer to the Railroad Retirement Board for the payment of benefits under section 701 of Regional Rail Reorganization Act of 1973, as amended: Provided further, That, for pur poses of section 710 of the Regional Rail Reorganization Act of 1973 as added by section 1143 of the Northeast Rail Service Act. of 1981, such sum shall be considered to have been appropriated under section 713 of the Regional Rail Reorganization Act of 1973 and counted against the limitation on the total liability of the United States"

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 45: Page 17, line 20, strike out "\$788,000,000" and insert '\$735,000,000".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert "\$700,000,000"

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 46: Page 18, line 10, strike out all after "665" down to and including "regulations" in line 16.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: ": Provided further, That, of the funds available, \$25,000,000 shall be held in reserve for 6 months after the date of enactment of this Act to be available for the rehabilitation, renewal, replacement, and other improvements on the line between Indianapolis, Indiana, Shelbyville, Indiana, and Cincinnati, Ohio: Provided further, That, of the funds available, \$5,000,00 shall be made available only for the rehabilitation, renewal, replacement, and other improvements on the line between Attleboro, Massachusetts, and Hyannis, Massachusetts, to ensure that such track will meet a minimum of class III standards as prescribed by applicable Feder al Railroad Administration regulations"

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 47: Page 18, strike out all after line 18 over to and including line 2 on page 19, and insert:

For necessary expenses to carry out the commuter rail activities authorized by the Northeast Rail Service Act of \$75,000,000 to remain available until expended, to be derived from the unobligated balances of "Payments for purchase of ConMOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following:

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, \$15,000,000, to remain available until expended and to be derived from the unobligated balances of "Redeemable preference shares", and for necessary expenses to carry out section 1139(b) of Public Law 97-35, \$75,000,000, to remain available until expended and to be derived from the unobligated balances of "Payments for purchase of Conrail securi-

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 53: Page 21, line 16, strike out "\$1,630,000,000" and insert "\$1,621,700,000".

MOTION OFFERED BY MR. SABO Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disgreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "\$1,606,000,000".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 56: Page 22, lines 7 and 8, strike out "the same decennial census data which is used to distribute funds for Urban formula grants" and insert "data from the 1980 decennial census".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "data from the 1970 decennial census for onequarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the 1980 decennial census".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Minnesota?

Mr. FRENZEL. Mr. Speaker, reserving the right to object: while I was unavoidably out of the Chamber for an important committee meeting I understand that the House accepted this conference report by a voice vote. I am reserving the right to object simply to indicate my disappointment that this body is willing to spend \$11 billion of the taxpayers' money without so much as an attempt for a recorded vote, notwithstanding the fact that the conference report is well over the budget resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 59: Page 22, lines 16, 17, and 18, strike out "1970 decennial census for one-half of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the".

Mr. SABO. Mr. Speaker, I offer a

motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 59 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows: "1970 decennial census for one-quarter of the sums appropriated and the remainder shall be apportioned and allocated on the basis of data from the ".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 66: Page 26, line 18, strike out "\$24,350,000" and insert "\$21,900,000".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 66 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: "\$23,125,000: Provided, That of the foregoing amount, not to exceed \$10,625,000 shall be made available for the period between April 1, 1983, and September 30, 1983".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 72: Page 28, line 17, after "5901-5902);" insert "offical reception and representation expenses of the Board:".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 72 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following: "not to exceed \$8,000 for official reception and representation expenses of the Board;".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 91: Page 37, after line 11, insert:

SEC. 311. Notwithstanding any other provision of law, any bond issued under section 5 of the Act of May 13, 1954 (68 Stat. 94; 33 U.S.C. 985), is hereby canceled together with the obligation to pay such bond and section 12(b)(5) of such Act is hereby repealed: Provided, That paragraphs (10), (11), and (12) of section 4 of the Act of May 13, 1954, are hereby redesignated as paragraphs (11), (12), and (13) respectively and a new paragraph (10) is enacted to read as follows:

"(10) may retain toll revenues for purposes of eventual reinvestment in the Seaway".

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 91 and concur therein.

Mr. WALKER. Mr. Speaker, demand a division of the question.

The SPEAKER pro tempore. The question will be divided.

Does the gentleman from Minnesota wish to be yielded time for debate at this time?

Mr. SABO. No, Mr. Speaker. I have no opposition.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to Senate amendment No. 91?

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

# PARLIAMENTARY INQUIRIES

Mr. ROE. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ROE. Mr. Speaker, am I under the impression that the vote we will be taking on this issue, if we vote no on the issue that means we disagree with the division?

The SPEAKER pro tempore. If the House refuses to recede from disagreement then a motion to insist on disagreement would be in order.

Mr. ROE. By voting no on this motion?

The SPEAKER pro tempore. A motion to insist would then be in order. The question is whether or not the House will recede from disagreement, and if you vote aye then you are voting to recede from disagreement.

Mr. SABO. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SABO. The gentleman has requested a roll call on the motion to recede.

The SPEAKER pro tempore. The gentleman is correct.

Mr. ROE. Mr. Speaker, my parliamentary inquiry is that a "no" vote would mean that we would concur with the committee's position on Senate amendment No. 91?

The SPEAKER pro tempore. A "no" vote would mean that a motion to insist on disagreement would be in order.

Mr. SABO. Mr. Speaker, further parliamentary inquiry.

I did not understand the response.

If a Member wishes to support the position of the conference committee—

The SPEAKER pro tempore. Then the gentleman would vote aye.

Mr. SABO. It would be an "aye" vote. I thank the Speaker.

The vote was taken by electronic device and there were—yeas 298, nays 77, not voting 58 as follows:

#### [Roll No. 469]

YEAS-298 Addabbo Ferraro McEwen Akaka Fiedler McGrath McHugh Albosta Annunzio Pithian Mica Michel Anthony Flippo Applegate Florio Mikulski Miller (CA) Foglietta Aspin Foley Ford (MI) Atkinson Mineta Minish AuCoin Bailey (MO) Bailey (PA) Mitchell (MD) Mitchell (NY) Ford (TN) Forsythe Moakley Barnard Fowler Molinari Frenzel Barnes Mollohan Beilenson Bennett Fugua Montgomery Gejdenson Morrison Riaggi Gephardt Mott1 Bingham Gibbons Murphy Roggs Gilman Murtha Boland Ginn Myers Gonzalez Napier Natcher Boner Goodling Bonior Bonker Gore Gradison Nelligan Bouquard Nelson Gray Grisham Nichols Bowen Breaux Nowak Brinkley Guarini O'Brien Brodhead Gunderson Oakar Hall (IN) Oberstar Brooks Broomfield Hall (OH) Obev Brown (CA) Brown (OH) Hamilton Ottinger Hammerschmidt Oxley Parris Burgener Burton, John Hance Hartnett Pashavan Burton, Phillip Hatcher Patterson Butler Hawkins Pease Heckler Pepper Byron Campbell Hertel Perkins Carman Hightower Petri Carney Chappell Hiler Hillis Peyser Pickle Chappie Hopkins Porter Cheney Horton Price Clausen Pritchard Howard Clav Hover Pursell Huckaby Quillen Clinger Coats Coelho Hughes Rahall Hunter Railsback Rangel Ratchford Collins (IL) Hutto Conable Hyde Regula Conte Jones (TN) Kastenmeier Convers Reuss Coughlin Kazen Rinaldo Kennelly Coyne, James Coyne, William Ritter Kildee Roberts (KS) Crockett Kindness Robinson Daniel, Dan Kogovsek Rodino Daschle LaFalce Roe Roemer Davis de la Garza Lantos Latta Rogers Dellums Leath Derwinski Dickinson Leland Rostenkowski Roth Lent Dicks Lewis Livingston Roukema Dingell Roybal Dixon Donnelly Loeffler Russo Sabo Long (LA) Long (MD) Savage Dowdy Lott Sawver Downey Lowery (CA) Scheuer Luken Duncan Schumer Lundine Seiberling Dunn Sensenbrenner Dwyer Madigan Markey Dyson Shamansky Eckart Marlenee Shannon Sharp Siliander Edgar Marriott Edwards (AL) Martin (IL) Martin (NY) Edwards (CA) Skeen Emery Erlenborn Martinez Skelton Matsui Smith (IA) Mattox Mavroules Smith (NE) Smith (NJ) Ertel Evans (DE) Evans (IN) Mazzoli Snowe McClory Fary Solarz Fazio McCollum Solomon

St Germain Volkmer Wolf Wolpe Stokes Walgren Stratton Wampler Wortley Washington Wright Studds Swift Weaver Weber (MN) Wyden Wylie Synar Tauzin Weber (OH) Yates Weiss Yatron Taylor Young (FL) Young (MO) Thomas Traxler White Whitehurst Trible Whitten Zablocki Zeferetti Wilson Udall Vander Jagt Winn Wirth Vento

# NAYS-77

Findley Martin (NC) Anderson Fountain McCurdy Andrews McDonald Archer Frank Ashbrook Glickman Miller (OH) Badham Gramm Moore Moorhead Bedell Green Gregg Hall, Ralph Bereuter Neal Bliley Panetta Brown (CO) Broyhill Hall, Sam Hansen (ID) Patman Paul Coleman Collins (TX) Hansen (UT) Rudd Schroeder Harkin Courter Hefner Shav Shelby Craig Heftel Crane, Daniel Hendon Shumway Crane Philip Jeffords Simon Daniel, R. W. Smith (AL) Dannemeyer Jenkins Smith (OR) Jones (OK) Daub Snyder Stenholm Dornan Kramer Lagomarsino Stump Dreier Leach Levitas Early Walker Edwards (OK) Watkins Whitley Lowry (WA) English Evans (IA) Whittaker Lujan Fields Lungren

#### **NOT VOTING-58**

Rhodes Alexander Gaydos Bafalis Gingrich Roberts (SD) Beard Goldwater Rosenthal Benedict Bethune Hagedorn Holland Rousselot Santini Blanchard Hollenbeck Schneider Bolling Schulze Holt Hubbard Shuster Smith (PA) Chisholm Corcoran Ireland D'Amours Jacobs Stangeland Deckard DeNardis Johnston Stanton Jones (NC) Stark Kemp LeBoutillier Derrick Staton Dougherty Tauke Waxman Williams (MT) Dymally Lee Lehman Emerson Erdahl Marks McCloskey Williams (OH) Evans (GA) Young (AK) McKinney

### □ 1820

Moffett

Garcia

Messrs. GREGG, WATKINS, NEAL, PANETTA, and HARKIN changed their votes from "yea" to "nay."

So the House receded from its disagreement to Senate amendment No.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. WRIGHT was allowed to speak out of order.)

# LEGISLATIVE PROGRAM

Mr. WRIGHT. Mr. Speaker, I have sought this time in order that I might announce to the House the program for the remainder of today and what we expect to accomplish tomorrow.

After the conclusion of this matter, which involves I believe two additional motions that are thought to be relatively noncontroversial, it then will be in order for the House to consider a highly privileged matter brought by

the Committee on Public Works, the question of a contempt citation. Depending upon the disposition of the membership, that matter might consume as much as 2 hours of debate. That will undoubtedly produce a vote at the conclusion of that debate; so Members should be advised that there will be one more important vote in which the Congress as a whole and presumably every Member has a quite considerable interest.

Following the disposition of that matter, then it is the plan that we would begin general debate under the rule earlier adopted today on the immigration bill and that we would consume 2 hours of that debate this evening and then rise.

The remainder of that general debate, with 3 hours remaining, would be put over until tomorrow.

We intend the first thing tomorrow to bring to the House the Caribbean Initiative.

Mr. Speaker, I thought it was important for Members to know this. We will convene at 10 o'clock tomorrow under an agreement already gained.

I do not have any knowledge to spread about how long we will be in session. Obviously, we will be in session until it is possible to achieve an agreement with the other body and with the White House over the continuing resolution. Whether that is sometime late tomorrow, whether it is sometime Saturday, or whether it is possibly Monday, I do not have any knowledge at this time. Members ask and I understand their concern. All of us are involved with the same problems and the same natural instincts to fulfill family obligations that come upon us.

Our first responsibility, of course, will be to finish the continuing resolution in order that the Government may continue to operate.

Mr. SNYDER. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to the gentleman.

Mr. SNYDER. Mr. Speaker, the gentleman only indicated the continuing resolution was necessary to resolve before the sine die adjournment. Is the highway bill not in that category

then?

Mr. WRIGHT. Well, certainly we hope and expect that the highway bill will be enacted before we adjourn. The other body is acting on that matter now and I am told as recently as 15 minutes ago by a high ranking member of the other body that they exepct to conclude action on that bill before they take up the continuing resolution. Therefore, presumably we would have had an opportunity to complete that prior to our opportunity to act on the conference report on the continuing resolution.

Mr. SNYDER. Mr. Speaker, I thank the majority leader.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Of course, I yield to my distinguished friend, the chairman of the Committee on the Judiciary.

Mr. RODINO. I would like to put this question. Is it not possible to proceed with the continuation of general debate on the immigration bill tonight, get that out of the way? There are going to be no votes during general debate.

Mr. WRIGHT. Once general debate begins, Members might reasonably expect there would be no further votes tonight. We have had an urgent request from those Members who have the responsibility for the final 2 hours of debate, which has been assigned to the Committee on Education and Labor, that because of the importance which they attach to amendatory language which that committee sponsors, they want the membership present to hear the debate on that phase of this legislation.

#### □ 1830

And the gentleman who is handling that portion of the debate has personally come to me and to the Speaker and requested that we may have that portion of the debate on tomorrow at a time when Members may be present to hear what is said, rather than at midnight or such an hour this evening. It seemed a reasonable request.

Mr. RODINO. Mr. Speaker, will the gentleman yield further?

Mr. WRIGHT. Indeed, I do.

Mr. RODINO. It is my understanding that there have been over 200 amendments noted in the Record. Is that not going to be sufficient time for the House, if it is interested and concerned with this measure, that they are going to be fully informed as to what those amendments are going to be all about? Is that not going to be sufficient time for a debate on this bill? That is going to stretch out for a period of time.

Mr. WRIGHT. Well, I just have to answer the gentleman that I would expect that that would be more than sufficient time, ample time for discussion. However, under the general debate provisions, as the gentleman knows, the rule which was adopted in the House accords 2 hours of time to the management of the Committee on Education and Labor, and the Member of the House who is handling that portion of the general debate for the Committee on Education and Labor has come to the Speaker and to me and personally requested that it may be handled tomorrow rather than at the late hour tonight at which time it would be reached, conceivably as late as 11 o'clock or midnight tonight.

Mr. LUNGREN. Mr. Speaker, will the majority leader yield? Mr. WRIGHT. Yes, of course I yield. Mr. LUNGREN. I thank the gentle-

man for yielding.

Mr. LUNGREN. As the gentleman knows, there is a divergence of opinion with respect to those amendments that are being offered by the Committee on Education and Labor. Those of us who have an opinion that somewhat differs from those supporting that position believe that our views and the way it affects our constituents is every bit as important as those views and interests of those people supporting the version of the Committee on Education and Labor.

It seems somewhat unfair or strange to suggest that one committee assume the burden of presenting their viewpoint in the late hours when no one is here, and another committee which has a different viewpoint and expresses slightly different interests are going to have the opportunity to present it at a time when Members are

presumably here.

Obviously, if we do not want the bill completed, we could put all the 5 hours over until the next day, but it seems to me if we are going to make an accommodation, how about splitting up the time such that the two committees involved share the time today and then share the time tomorrow?

Mr. WRIGHT. Well, I am not attempting to perform a Solomonesque task dividing time between committees and subsections of the committees, and I think probably that is beyond my judgmental capacity at this moment.

I do not really quite understand whether the gentleman is suggesting that he wants to require that all of it be heard tonight or that he wants it required that half of each segment be put off until tomorrow, or what, but I should imagine that any such request would almost require unanimous consent in order to achieve.

As I understand, under the rule, the first 2 hours of general debate are to be consumed by the Committee on the Judiciary, and an intermediate hour is allotted to a second committee, and the concluding 2 hours are allotted to the Committee on Education and Labor.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield further?

Mr. WRIGHT. Surely.

Mr. LUNGREN. I have a suggestion to help the gentleman out of this difficult situation. If we could postpone the Ms. Gorsuch matter until tomorrow, we could have the full debate on the immigration bill tonight, the Members could go home early, and that would be taken care of.

Mr. WRIGHT. As the gentleman is aware, I think the gentleman's suggestion is made in good faith and deserves the courtesy of a good-faith response. The response is that, as the gentleman

is aware, under the Rules of the House that matter is a highly privileged matter and the gentleman who represents the Committee on Public Works and Transportation, the chairman of that committee, Mr. Howard, is entitled to be recognized as such time as he seeks recognition. I have been advised that he will seek recognition immediately upon completion of the matter presently before us.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Surely.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, it does occur to me that not getting the general debate out of the way on the immigration bill, a bill that has had 4 years of very careful study, is to if I understand the gentleman correctly, put debate at the end of the calendar for tomorrow, jeopardizes greatly the chances of this bill becoming the law of the land.

Today we had a very strong vote on the rule, which indicates that this House, despite the hour of the legislative session, does want this Congress to deal with the issue. My recommendation, and I wonder if the gentleman from Texas agrees, is possibly to have half of the 5 hours, if we on the 2 hours controlled by the gentleman from New Jersey (Mr. Rodino) where we have had relatively few requests for time, because we have an open rule in which during the 5-minute rule all the amendments will be fully debated, there will be no curtailment of time, my thought is that we could yield back part of our time, get our debate done this evening.

The gentleman from California (Mr. MILLER), the gentleman who will be handling it for the Committee on Education and Labor, is a very thoughtful Member of this body. Perhaps the argument could be sort of compressed into a 1-hour period and we could get all of our general debate done tonight.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. Of course I yield to the Speaker.

Mr. O'NEILL. It is my understanding that there is no set pattern in this rule; there is no requirement that certain Members must debate their section of the bill first, second, or third. There is no reason that I can see why you could not divide the first 2 hours and then tomorrow divide the remaining 3 hours. That seems to be the way.

It is my understanding we will not be to this bill until some time around 8 o'clock. I know there are going to be intervening motions which will take time. It is going to be 11 o'clock before we get out and it would be 3 o'clock in the morning before you complete the 5 hours.

I think in fairness to the Members, we are trying to expedite the matter,

the first thing we will bring up tomorrow will be the Caribbean Basin bill. That is an up or down vote after 2

hours of debate.

I do not know how long we are going to be here. I cannot give you a timetable of how long we are going to be here because it depends on the othe body and the actions of the President. It does look to me as though we are going to be in here a long time tomorrow, with either a possible session on Saturday, and if not on Saturday, if we cannot complete on Saturday, we are going to be back on Monday and Tuesday.

So I think we are wasting a lot of time debating the merits of who should go when and how long we should debate, and I think we ought to get to the business of the evening.

Mr. MAZZOLI. Mr. Speaker, will the

gentleman yield further?

Mr. WRIGHT. I, of course, yield. Mr. MAZZOLI. I thank the gentle-

man for yielding further. The distinguished Speaker, on that point, I think has a good suggestion. I think it would be eminently agreeable.

Mr. MILLER of California. To do what, if I may ask, if the gentleman

will yield?

Mr. WRIGHT. Two hours tonight to be split in such a way as the committees may desire, the remainder to be heard tomorrow.

The SPEAKER pro tempore. Does the gentleman from Minnesota (Mr. Sabo) have a motion?

Mr. SABO. Mr. Speaker, I move that the House concur in Senate amendment No 91

The SPEAKER pro tempore. That is the pending question. Does the gentleman wish to debate?

#### PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The

gentleman will state it.

Mr. WALKER. Mr. Speaker, are we going to get debate time here? I am wondering about the debate time. The Members were confused on the last vote because we were not given debate time in which to explain what it was we were doing. I think the Members need to know we are talking about \$109 million here. I think debate time is in order.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. COUGHLIN) has 30 minutes, and he

could yield if he desires.

Mr. SABO. Mr. Speaker, the House voted by an overwhelming margin to recede in its disagreement. I would hope that the House by an equally large margin would vote to concur in the Senate amendment.

#### □ 1840

Mr. COUGHLIN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Let me first of all, Mr. Speaker, apologize to the Members for the fact that we went through the last vote without very much of an explanation as to what it was we were doing, but we do have an important issue that goes to the heart of a number of appropriation matters that we have addressed with regard to water resources policy in this country. is embodied in this particular motion on my part, and I would hope that the House, after having gone throught the last exercise, would not vote to concur in what we just did, because what we are talking about here is \$109 million of taxpayer money, on a debt that is going to be written off and charged to the taxpayers.

The St. Lawrence Seaway, when it was built in 1959, incurred construction costs of \$139 million. At that time, they were to pay off that money through the use of user fees. Over the period of time since, they have been paying off that debt on a regular basis. They have reduced the debt to the point where we now have \$109 million

left.

If we concur in the action of the committee this evening, what we will have to do is charge off \$109 million of debt to the American taxpayers. More importantly, however, what we will be doing is setting a precedent that I think will ill serve us in water resources user policies for the future, because I think we will establish a very unfortunate principle to suggest that any user fees that might be imposed in the future need not be taken seriously because it can be easily forgiven with a sufficient amount of lobbying.

The direction in which the administration has been trying to go, the direction in which many conservation and environmental groups are trying to go, is to assure that we have a resource investment policy in this country that stresses user fees. This is the kind of amendment that undermines

that kind of concept.

So, I would hope-and I do not want to take a lot of the Members' time here-but I would hope that the Members will understand that in voting on this particular motion, they are voting on a \$109 million item, and we are discussing whether or not we are going to forgive \$109 million in debt, or whether or not we are going to go ahead with a user fee policy which stresses that those who use these kinds of facilities should pay their way.

I would ask at the appropriate time that we vote not to concur.

Mr. COUGHLIN. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, this is the same question that we just voted on a few minutes ago, and that was defeated by an overwhelming "yes" vote. I hope we will have another overwhelming "yes"

Let me just point out that the St. Lawrence Seaway is the only North American seaway that is required to pay for past construction. It is entirely consistent with the administration's user fee proposal to fund the current operations out of the user fees, the tolls for the waterway. That is being done. All the current costs are financed out of the tolls, but if we increase the tolls to pay these balloon payments that are on the end of this construction loan provision, we would have tolls that would be so totally outrageous that the seaway would be totally noncompetitive.

I hope my colleagues will vote to

concur.

Mr. PURSELL. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield.

Mr. PURSELL. I would also like to suggest, Mr. Speaker, to our good chairman and both committees, that there has been a lot of homework, a lot of personal effort put in by people who spent some time looking at the Eisenhower Lock, which needs a great deal of repairs and maintenance. So, we still keep the toll. I think that is important. It is the only toll in North America, and to be competitive with the Canadians I think it is essential. I am very pleased to see the Congress and this House support this effort.

Mr. COUGHLIN. Mr. Speaker, yield to the distinguished minority leader, the gentleman from Illinois

(Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I would like to concur in the comments made by the gentleman from Pennsylvania and the gentleman from Michigan.

Mr. SABO. Mr. Speaker, I yield 5 minutes to the gentleman from New

Jersey (Mr. Roe).

Mr. ROE. Mr. Speaker, I know the Members are anxious to vote, and I am, too. I think the fact that the House voted 298 to 77 on the first go around on this critically important issue is most important. It has nothing to do with the idea of user fees. We are not going to negate users fees. Those user fees are going to be used for maintenance and operation of the seaway.

Canada has forgiven its debt. If we do not move in this direction, what we are doing is, we are materially knocking out the Great Lakes as a major port access in this country. That is why this has become a bipartisan vote of 298 to 77.

Mr. Speaker, it is important to our country that we concur with the Senate, be done with this, and let us get on with the vote.

Mr. Speaker, I rise in support of amendment No. 91.

This amendment cancels the remaining debt of the St. Lawrence Seaway Development Corporation. The St. Lawrence Seaway Development Corporation was established in 1954 to construct and operate the U.S. portion of the St. Lawrence Seaway. The Corporation which is subject to the direction and supervision of the Secretary of Transportation was given the authority to issue revenue bonds to the Secretary of the Treasury in order to finance the construction of the project. The bonds were to be repaid from tolls collected by the Corporation. Tolls are also collected to cover the operation and maintenance costs of the U.S. portion of the seaway.

tion of the seaway.

The St. Lawrence Seaway is unique among U.S. navigation projects in that its construction and operation and maintenance costs must be paid by its users. It has had difficulty meeting its obligations without raising tolls to the point where traffic would be diverted. In 1970, legislation was enacted to relieve the Corporation of paying interest on its bonded indebtedness. The present provision in the appropriations bill would relieve it of its obligation to repay the principle but would leave it the authority to charge tolls in order to cover its operation and maintenance expenses.

The burden of repaying the construction costs which is not shared by any other U.S. waterway will have an adverse impact both on international trade and on the economy of the area served by the seaway. I would point out that the seaway corporation will still be required to collect tolls to cover operation and maintenance ex-

penses.

The provision contained in amendment No. 91 is within the jurisdiction of our Committee on Public Works and Transportation. We had planned to consider this matter in connection with our next water resources development bill and received a good deal of testimony on it during this past year. Unfortunately, time has not permitted resolution of the complex issues of user fees, cost recovery, and cost sharing which were presented by the administration during this Congress. Given these circumstances and the serious economic conditions prevailing in the country, especially in the area served by the St. Lawrence Seaway, I am prepared to concur in this amendment.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, the essential issue here is whether the St. Lawrence Seaway shall compete on a basis of equality with other port ranges. The answer to that question is that, even with the adoption of this provision in the conference report, it will not. St. Lawrence Seaway users will still be required to pay the total cost of operations and maintenance of the St. Lawrence Seaway and the administrative cost of its managing au-

thority, the St. Lawrence Seaway Development Corporation, to the tune of some \$32 million a year.

No other waterway in the United States can make that claim. No other waterway is required to pay the full operation and maintenance cost, let alone repay the capital cost of construction with interest. Those of us from the Great Lakes region are not asking exemption from the payment of Seaway tolls or user fees as they are called today. No, indeed, we are accepting the present and future continuation of user fees on the St. Law-

rence system.

What we are asking is that Seaway users not be required to repay the cost of building this international waterway just as users of the Mississippi River, the Houston Ship Channel, the Arkansas River project, the Baltimore Harbor, and the Philadelphia Ship Channel, among others, are not required to repay the capital cost of building those facilities. Those and other waterways have contributed mightly to the Nation's economic growth, especially to its export trade. Their users have not been required to pay for either building or using those waterways.

The St. Lawrence Seaway makes an equal contribution to the Nation's export trade and balance of payments, moving some 50 million metric tons a year in international trade. But the Seaway operates at a competitive disadvantage compared to other waterways, by having to repay an additional \$2 million a year in capital debt costs, a figure that will jump to \$9 million a

year by 1986.

I want to emphasize for my colleagues that today's action on the Seaway debt does not mean that tolls will not increase—they will. But they will not increase as dramatically nor with such an adverse effect on traffic as would occur if the debt burden is removed.

I think it is important to point out that, over the 23 years of operation of the St. Lawrence Seaway, users have paid some \$650 million to the Canadian and U.S. Governments; \$126 million of that amount has been repaid to the U.S. Government to recover \$23 million of the original debt, \$37 million in interest, \$14 million in administrative charges, and \$52 million in operation and maintenance charges.

From 1977 to 1980, the St. Lawrence Seaway Development Corporation has increased tolls over 100 percent. In this past year alone, tolls have jumped 18 percent; and next year another 10-percent toll increase will go into effect. That shows pretty clearly that the Seaway is paying its way and then

some.

I want to emphasize that, with this provision of the conference report, we are not breaking new ground or establishing a new precedent, but rather we

will be reaffirming a 200-year standing policy of the United States that the public, interstate waterways are not required to repay their capital construction cost. I must also point out that the Congress is not taking this action lightly. Elimination of the Seaway debt has been the subject of extensive congressional hearings, both in Duluth in 1980 and earlier this year before the House Water Resources Subcommittee. Almost all the testimony received at these hearings encouraged the Congress to take immediate action to convert the St. Lawrence Seaway debt to equity.

Passage of this provision of the conference report will be an historic moment for the Great Lakes States, for industrial and agricultural producers whose products reach the seven seas through the St. Lawrence Seaway system. It is the culmination of 8 years of effort on my part to remove the seaway debt, an effort in which I have been joined by all port authorities throughout the Great Lakes, including the Seaway Port Authority of Duluth, led by my good friend Dave Helberg, the knowledgeable and dedicated di-

rector of that port.

Today's action will sound a positive note for the recession-stricken economies of the Great Lakes States; for farmers, for factory workers, for long-shoremen, for seafarers, marine engineers, and others whose lifelihoods depend on the Great Lakes trade and who have not had much to cheer

about this past year.

I am personally pleased because the language in the conference report accomplishes the goal of H.R. 845, which I introduced in this and preceding Congresses and which set the stage for today's action. I urge the House to concur in the Senate amendment and thereby to confer parity upon America's forth seacoast, the Great Lakes, long-sought and well-deserved parity with the other three great port ranges of this country.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, I support the chairman.

Mr. ECKART. Mr. Speaker, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Speaker, I rise in support of the amendment to forgive the \$110 million construction debt of the St. Lawrence Seaway. This action would end the burden of paying off the construction costs, which now falls upon all Great Lakes users.

Users of the Seaway share a burden borne by users of no other federally constructed waterway: The repayment

of capital construction costs. It is the only waterway in the history of the

United States which has had to raise its own revenue to cover the initial construction costs, as well as pay for its own operation and maintenance. Every single Seaway toll charge and fee includes payments to retire that debt.

High user fees have caused Great Lakes shipping to decline dramatically over the years. If we do not do something soon, all international shipping on the Great Lakes will slowly sink into the sunset. Passage of this bill, however, would result in increased shipping on the Great Lakes. It would bring about more jobs in the plants and cities along the shores of the Great Lakes. And, Mr. Speaker, in my home district, nothing could be more welcome.

By forgiving this debt, we can pump new life into cargo and shipping activity all along the Great Lakes. The result would be a shot of new vigor for our ports, our cities, and the economy all along the Great Lakes, America's

"fourth seacoast."

• Mr. MARTIN of New York. Mr. Speaker, the hour is getting late, and I urge my colleagues to support the

motion before us.

We have just voted overwhelmingly to recede from disagreement with the amendment. Clearly, our colleagues are in agreement that this measure will provide much-needed relief from economic pressures facing one of our great national assets, the St. Lawrence Seaway.

But just to sum up briefly one more time: Those who use the St. Lawrence Seaway, unlike the users of other federally constructed waterways, must repay the seaway's capital construction cost through tolls. In 1986, the annual debt repayment will increase some 475 percent. Unless the action we have just taken is allowed to stand, that increase in payments will bring about an enormous increase in Seaway tolls, to the great competitive detriment of the system and the region it serves.

One more point-safety; that is, the proper operation and maintenance of the Seaway's historically impressive capital equipment, is our paramount concern. Revenue used to repay construction costs is revenue, for example, that cannot be used to keep the Eisenhower Lock in a state of good repair. The cost of that effort alone is 8 to 10

percent of annual revenues.

I was particularly chagrined and concerned, Mr. Speaker, to learn some time ago that in periods of income shortfalls, it has been necessary to defer badly needed maintenance of Seaway equipment. We have spoken often of the great need to renew our Nation's value but crumbling infrastructure. How tragic it would be to overlook the legitimate needs of this great product of human talent and ingenuity.

Mr. SABO. Mr. Speaker, I more the previous question on the motion.

The previous question was ordered The SPEAKER pro tempore. The question is, Will the House concur in Senate amendment No. 91?

The House concurred in Senate

amendment No. 91.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 93: Page 39, after

line 23, insert: SEC. 322. (a) Any air carrier having a claim compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, may appeal from a decision of the Civil Aeronautics Board (hereinafter re-ferred to as the "Board") to the United States Court of Claims as provided in section 8(g)(1) of the Contract Disputes Act of 1978 with respect to claims which have been decided by an agency board of contract appeals. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an appeal on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any appeal under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed with-

out prejudice upon motion of the petitioner. (b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a contract appealed by a contractor under section 8(g)(1) of such Act and as if the Board were an agency board of contract appeals:

(1) Section 10(b), relating to scope of review by the Court of Claims.

(2) Section 10(c), relating to disposition of the case by the Court of Claims.

(3) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section from the date of the claim was filed with the Board.
(4) Section 13, relating to the payment of

claims and judgments.

(5) Section 14(i), relating to the jurisdic-

tion of the Court of Claims.

(c) If an administrative law judge has issued an initial decision in the case before the Board, the court may, in its discretion, give such initial decision the same weight it would give to a decision by a trial judge of the Court of Claims.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 93 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment. insert the following:

SEC. 322. (a) Any air carrier having a claim for compensation under section 406 or 419(a)(7)(B) of the Federal Aviation Act of 1958, decided by the Civil Aeronautics (hereinafter referred to as "Board") may bring an action directly on the claim in the United States Claims Court as provided in section 10(a) of the Contract Disputes Act of 1978 with respect to claims which have been decided by a contracting officer. Failure by the Board to issue a final decision on a final claim within one year after it was filed with the Board, or by the date of enactment of this section, whichever is later, shall be deemed to be a decision by the Board denying the claim, and will authorize an action on the claim as provided in this section. This section shall apply to any claim decided, or deemed to have been decided, by the Board after January 1, 1981, including any claim remanded to the Board by a United States court of appeals, irrespective of when the claim was filed with the Board. Any action under this section shall be filed within one hundred and twenty days after the claim has been decided or is deemed to have been decided by the Board, or within one hundred and twenty days after the date of enactment of this section, whichever is later. Any petition for review of a decision of the Board with respect to any such claim pending in a United States court of appeals on the date of enactment of this section shall be dismissed without prejudice upon motion of the petitioner.

(b) Except as provided herein, the following provisions of the Contract Disputes Act of 1978 shall apply with respect to any claim to which this section applies as if such claim were a claim with respect to a decision of a contracting officer under section 10(a) of such Act and as if the Board were a con-

tracting officer.

(1) Section 12, relating to interest, which shall be payable by decision of the Board or the Court of Claims at the rates provided in such section, not to precede the date of enactment of the Contract Disputes Act of 1978.

(2) Section 13, relating to the payment of claims and judgments.

(3) Section 14(i), relating to the jurisdiction of the United States Claims Court.

(c) If an administrative law judge has issued an initial decision after a hearing on the record in the case before the Board, the court may, in its discretion, rely upon the evidence adduced at such hearing and may give such initial decision such weight as it deems appropriate.

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 96: Page 39, after line 23, insert:

SEC. 325. None of the funds provided by this Act shall be used by the Civil Aeronautics Board to substitute aircraft of lesser seating capacity or lesser than necessary pressurized altitude capability, for the type of aircraft now prescribed for essential air transportation to any point in Alaska as set forth in Civil Aeronautics Board Order 80-1-167 without the prior concurrence of the applicable State agency of the State of Alaska.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 96 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "323".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 97: Page 39, after line 23, insert:

Sec. 326. No funds appropriated under this Act shall be expended to pay for any travel by the Administrator of the Federal Aviation Administration or his immediate staff as passengers or crew members aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: Provided, That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator or member of his immediate staff within six hours local time of the desired time of arrival: Provided further, That this limitation shall not apply to costs incurred by any flight certified in writing by the Administrator to be solely for the purpose of inspecting, investigating, or testing the in-flight operation of any aspect of the Federal Aviation Administration system designed to aid and control air traffic: Provided further, That such written certifications shall be made readily available to

Congress and the general public.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 97 and concur therein with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

SEC. 324. No funds appropriated under this Act shall be expended to pay for any travel initiated after January 1, 1983, by the Administrator of the Federal Aviation Administration as passenger or crew member aboard any Department of Transportation aircraft to any destination served by a regularly scheduled air carrier: Provided, That this limitation shall not apply if no regularly scheduled carriers' flight arrives at the destination of the Administrator within 6 hours local time of the desired time of arrival: Provided further, That this limitation

shall not apply to costs incurred by any flight which is essentially for the purpose of inspecting, investigating, or testing the operations of any aspect of the Federal Aviation Administration system designed to aid and control air traffic, or to maintain or improve aviation safety: Provided further, That this limitation shall not apply to costs incurred by any flight in Department of Transportation aircraft which is necessary in times of emergency or disaster, or for security reasons, or to fulfill official diplomatic representation responsibilities in foreign countries: Provided further, That written certifications shall be issued quarterly on all flights initiated in the previous quarter subject to this limitation and shall be made readily available to Congress and the general public.

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 98: Page 39, after line 23, insert:

SEC. 327. (a) Neither the Secretary of the department in which the Coast Guard is operating nor any other officer or employee of the United States shall approve any project or take any action which would interfere with the reasonable needs of navigation on the Columbia Slough, Oregon.

(b) For purposes of subsection (a) of this section, any bridge which is to be constructed across the Columbia Slough, Oregon, after the date of enactment of this section shall be deemed to provide for the reasonable needs of navigation on the Columbia Slough, Oregon, if such bridge provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as determined by the Secretary of the department in which the Coast Guard is operating.

MOTION OFFERED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House receded from its disagreement to the amendment of the Senate numbered 98 and concur therein with an amendment, as follows: In lieu of the section number named in said amendment, insert "325".

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The amendment reads as follows:

Senate amendment No. 101: Page 40, strike out lines 8 to 18, inclusive.

MOTION OFFERRED BY MR. SABO

Mr. SABO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Sabo moves that the House recede from its disagreement to the amendment of the Senate numbered 101 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment amended to read as follows:

SEC. 327. Notwithstanding any other provision of law, the Secretary of Transportation shall approve, upon request of the State of Indiana, not to exceed \$4,000,000, to be made available from funds available for redistribution under 23 U.S.C. 118(b) for the construction of an interchange to appropriate standards at I-94 and County Line Road at the Porter-LaPorte County Line near Michigan City, Indiana. Such amount shall be subject to the obligation limitation enacted for fiscal year 1983 or any fiscal year thereafter on obligations for Federal-aid highways and highway safety construction programs.

SEC. 328. Notwithstanding any other provision of this Act, the Secretary of Transportation is authorized to transfer appropriated funds between the Coast Guard Operating expenses appropriation and the Coast Guard Headquarters administration appropriation and between the Federal Aviation Administration appropriation for Operations and the Federal Aviation Administration appropriation for Headquarters administration: Provided, That the Coast Guard and Federal Aviation Administration Headadministration appropriations quarters shall be neither increased nor decreased by more than 7.5 per centum by any such transfers: Provided further, That any such transfers shall be reported promptly to the Committees on Appropriations and the appropriate authorizing committees in the House and the Senate.

Mr. SABO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on several motions was laid on the table.

REPORT OF COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

Mr. STOKES. Mr. Speaker, by direction of the Committee on Standards of Official Conduct, I submit the following report entitled: "Investigation Pursuant to House Resolution 518 Concerning Alleged Improper or Illegal Sexual Conduct, Alleged Illicit Use or Distribution of Drugs, and Alleged Preferential Treatment of House Employees by Members, Officers, or Employees of the House":

INVESTIGATION PURSUANT TO HOUSE RESOLU-TION 518 CONCERNING ALLEGED IMPROPER OR ILLEGAL SEXUAL CONDUCT, ALLEGED ILLICIT USE OR DISTRIBUTION OF DRUGS, AND AL-LEGED PREFERENTIAL TREATMENT OF HOUSE EMPLOYEES BY MEMBERS, OFFICERS, OR EM-PLOYEES OF THE HOUSE (REPT. No. 97-965)

Mr. Stokes, from the Committee on Standards of Official Conduct submitted

the following report:

On July 13, 1982, the House agreed to House Resolution 518. That resolution authorized and directed this Committee to conduct a full and complete inquiry and investigation of-

(1) alleged improper or illegal sexual conduct by Members, officers, or employees of

the House;

(2) illicit use or distribution of drugs by Members, officers, or employees of the House; and

(3) the offering of preferential treatment by Members, officers, or employees of the House to employees of the House, including congressional pages, in exchange for any item referred to in subclause (1) or (2).

On July 27, 1982, this Committee retained Joseph A. Califano, Jr., as Special Counsel to conduct the investigation. The Committee's Special Counsel thereafter assembled a staff and has carried out an extensive inves-

tigation. The Special Counsel has filed an interim report with this Committee, which the Committee has approved, on the investigative work completed during the 97th Congress. The Special Counsel's interim report is attached as an Appendix to this Report.

#### I. ALLEGED IMPROPER OR ILLEGAL SEXUAL CONDUCT

The Special Counsel reported that most, but not all, of the investigation of sexual misconduct had been completed. The Special Counsel found that the evidence conclusively indicated that the highly-publicized charges of sexual misconduct made by two former pages were false. The basis for the Special Counsel's conclusions are set out in detail in his report.

In one instance, however, the Special Counsel recommended that the Committee initiate a Preliminary Inquiry. Based on that recommendation, the Committee voted to initiate that Preliminary Inquiry.

In the case of the Preliminary Inquiry and of the matters still under investigation, the Committee voted to transmit all materials involved to the 98th Congress and to recommend these matters be completed as early as possible next year.

### II. ALLEGED ILLICIT USE OR DISTRIBUTION OF DRUGS

The work of the Committee's Special Counsel in investigating allegations of illicit use or distribution of drugs involving Members, officers, or employees of the House has been carried out in coordination with the Justice Department and its Drug Enforcement Administration. Both the Committee's Special Counsel and the Department of Justice have a number of matters under active investigation.
In one instance, the Special Counsel rec-

ommended that the Committee open a Preliminary Inquiry. Based on that recommendation, the Committee voted to initiate that

Preliminary Inquiry.
With respect to all the Special Counsel's work in investigating alleged illicit use or distribution of drugs, the Committee voted to transmit all materials involved to the Congress with the recommendation that the investigation be completed promptly next year.

#### III. FURTHER RECOMMENDATIONS

The Committee further recommends: (1) that the Committee on Standards of Official Conduct be constituted immediately upon the convening of the 98th Congress:

(2) that the 98th Congress agree to a resolution that provides the Committee on Standards of Official Conduct with the same powers and authority provided to this Committee by House Resolution 518.

#### IV. CONCLUSION

The Committee has carried out its work over the past four and a half months with a determination to fulfill its responsibilities under House Resolution 518 and to carry out the House's constitutional responsibilities under Article I, Section 5, to investigate and discipline violations by its Members, officers, or employees. The Committee believes that significant progress has been made. But the work that has been started must be carried forward vigorously and promptly. The Committee is confident that the 98th Congress will do so.

This report was adopted by a show of hands, 11 yeas, 0 nays, on December 14,

### STATEMENT UNDER CLAUSE 2(b) OF RULE X

The Committee's oversight findings and recommendations are stated in sections I, II, and III of this report.

No budget statement is submitted.

APPENDIX-INTERIM REPORT OF THE SPECIAL Counsel to the House Committee on STANDARDS OF OFFICIAL CONDUCT

## SPECIAL COUNSEL'S OFFICE

Joseph A. Califano, Jr., Special Counsel; Richard Cotton, Deputy Special Counsel; Hamilton P. Fox, III, Associate Special Counsel; and Gerald T. McQueen, Chief Investigator.

#### I. INTRODUCTION AND SUMMARY

On June 30 and July 1, 1982, tens of millions of Americans watched two teenagers, both former pages of the House of Representatives, with their faces shielded, declare on the CBS Evening News that they had been victims of sexual misconduct by Members of the House of Representatives. One page told of "homosexual advances" by Congressmen and Congressional staff. CBS said the page had been "homosexually har-

The experiences described by the other page shocked the nation. He said that he had engaged in sexual relationships with three Members of the House of Representatives and that he had procured male prostitutes for House staffers. He told his interviewer that homosexual relationships were part of the system of what a page had to do to get ahead in the House. In June and July of 1982, these two former pages repeated those assertions-although with some inconsistencies-to newspapers and other television reporters, to the Federal Bureau of Investigation, and to investigators for the Committee on Standards of Official Conduct.

On July 13, 1982, the House agreed to House Resolution 518 which authorized and directed the Committee on Standards of Official Conduct to investigate allegations of:

(1) Improper or illicit sexual conduct by Members, officers, or employees of the House of Representatives involving congressional pages;
(2) illicit use or distribution of drugs by

Members, officers, or employees of the House; and

(3) the offering of preferential treatment by Members, officers or employees of the House in exchange for sexual favors or drugs.

On July 27, 1982, the Committee retained Joseph A. Califano, Jr., as independent Special Counsel to conduct the investigation. At the time of Mr. Califano's appointment as Special Counsel, Committee Chairman Louis Stokes stated that "his charge is clear and straightforward—to conduct the investigation that in his judgment is required and to advise the Committee of his findings and recommendations."

The Speaker, the Majority Leader, and Minority Leader of the House joined Chairman Stokes and the Committee's Ranking Minority Member Floyd Spence in assuring the Special Counsel that he would have the independence and resources to conduct a full and impartial investigation-"whatever truth about the allegations that have been made."

This interim report details the results of that investigation in the 97th Congress. The report responds to the Chairman's charge that the Special Counsel report to the Committee on his findings and recommenda-tions. This report of the Special Counsel sets out (1) the investigative work completed so far with respect to allegations involving sexual misconduct, (2) his findings and conclusions regarding this work, and (3) his recommendations on the work remaining to be done and on actions the Committee should take at this time.

#### IMPROPER OR ILLEGAL SEXUAL CONDUCT

The investigation conducted by the Special Counsel has extended beyond the original charges of sexual misconduct made by the two former pages. Pursuant to H. Res. 518, the Special Counsel has sought to determine whether there is any responsible evidence of improper or illegal sexual conduct by Members, officers, or employees of the House of Representatives involving congressional pages. The focus of the investiga-tion has been on the period from July, 1981, through June, 1982. To assure completeness, however, the Special Counsel sought to contact every page employed by the House of Representatives during the past three years. The Special Counsel has also investigated allegations that he has received of sexual misconduct involving preferential treatment but not involving pages.

The Special Counsel has found no merit whatsoever in any of the original allegations of sexual misconduct made by the two former pages. One of these pages testified under oath that he lied about having sexual relations with Members of the House and about procuring prostitutes for anyone. The other page, who had referred to homosexual approaches by Congressmen, testified under oath about three isolated instances of conversations in public places that lasted less than two minutes and involved no improper actions. This page testified that he himself no longer believed, in at least two of these instances, that there were any sexual over-tones. The Special Counsel also independently investigated these allegations and has determined that the evidence conclusively indicates that all charges of sexual misconduct made by these two pages were false.

In the course of the investigation, the Special Counsel has received allegations of sexual misconduct from a variety of sources, wholly independent of the two former pages. The Special Counsel has completed investigation of most of these allegations. In most of these cases, the Special Counsel found no evidence to support the allegations.

In one instance, however, the Special Counsel has found reasonable indications that improper or illegal sexual conduct by an employee of the House may have occurred and, therefore, recommends that the

Committee open a Preliminary Inquiry.
Under the Committee's rules, a Preliminary Inquiry is convened when evidence has been presented to the Committee that reasonably indicates that a violation may have been committed and the Committee determines that the evidence presented merits further inquiry. The individual named in a Preliminary Inquiry has the opportunity to present to the Committee, orally or in writing, a statement concerning the allegations that have been made. At the conclusion of the Preliminary Inquiry, if the Committee determines that the evidence establishes that there is reason to believe that a violation occurred, the Committee may direct that a Statement of Alleged Violation be issued to the individual involved. Full hearings must be held by the Committee on a Statement of Alleged Violation to determine whether to report a recommendation for disciplinary action to the full House. In this case, the Special Counsel recommends that the name of the individual who is the subject of the Preliminary Inquiry not be released publicly unless and until the Committee votes to issue a Statement of Alleged Violation.

The Special Counsel believes the evidence developed in this case requires the Committee, under its rules, to initiate a Preliminary Inquiry now, even though the full course of the proceedings cannot be completed in this Congress. The Special Counsel recommends that the Committee commence this Preliminary Inquiry, transmit all materials relevant to this matter to the next Congress, and recommend to the House leadership that the Committee on Standards of Official Conduct be constituted immediately upon the convening of the next Congress so that prompt action on this matter can be concluded expeditiously.

A small number of other instances of pos-

sible sexual misconduct involving pages or involving preferential treatment under investigation, and the Special Counsel recommends that the Committee transmit these matters to the next Congress with its recommendation that investigation of them be completed as early as possible next year.

The Special Counsel has found some evidence of other isolated instances of both heterosexual and homosexual advances to pages by individuals no longer associated with the House. Since these cases are beyond the jurisdiction of the Committee, investigation of these matters has not been pursued.

# ILLICIT USE OR DISTRIBUTION OF DRUGS

In coordination with the Department of Justice and its Drug Enforcement Administration, the Special Counsel has been investigating allegations of illicit use and distribution of drugs involving Members, officers, or employees of the House. Both the Department of Justice and the Special Counsel have a number of matters under active investigation.

In one instance the Special Counsel has already found reasonable indications that illicit use and distribution of drugs by an employee of the House may have occurred and, therefore, recommends that the Committee open a Preliminary Inquiry now, under the same conditions described above with respect to the Preliminary Inquiry of sexual misconduct involving pages

The rest of the Special Counsel's investigation of alleged illicit use or distribution of drugs by Members, officers or employees of the House is not yet at a stage where a report can be made in writing to the Committee. The Special Counsel, therefore, recommends that the Committee transmit the evidence developed in this part of the investigation to the next Congress with the recommendation that the investigation be carried forward expeditiously.

#### THIS REPORT

The balance of this report describes the work of the Special Counsel to date in investigating allegations of sexual misconduct. It sets forth:

(1) The scope and method of the investigation of sexual misconduct.

(2) The current operation of the page

(3) The problems that developed during the 1981-82 year that sparked rumors of a 'page scandal" and provided the springboard for sensational allegations in the press

(4) The basis for the Special Counsel's conclusion that the specific charges made by the two former pages are false.

(5) The findings of the Special Counsel concerning other allegations, received in the course of the investigation, of alleged sexual misconduct by Members, officers, or employees of the House.

The findings and conclusions of the Special Counsel concerning the February, 1982, investigation of pages conducted by the U.S. Capitol Police.

#### A. Scope

Pursuant to House Resolution 518, the Committee through its Special Counsel undertook an investigation to determine whether any Member, officer, or employee of the House of Representatives had engaged in any way in improper or illegal sexual conduct involving congressional

The investigation focused on the period from July, 1981, to June 1982, and on the allegations of two former pages that received national press attention beginning on June 30, 1982. But to ensure a thorough inquiry into all matters within the scope of H. Res. 518, the Special Counsel sought out information about earlier periods and about any kind of sexual advance, harassment, or relationship involving a congressional page and Member, officer, or employee of the House. In this connection, the Special Counsel has tried to contact every page employed by the House of Representatives during the past three years. In addition, the Special Counsel investigated all information he received about alleged sexual misconduct by House Members, officers or employees involving preferential treatment even where that information did not involve congressional pages.

#### B. Method of investigation

Since Chairman Stokes and Ranking Minority Member Spence announced my appointment as Special Counsel to the Committee to oversee the investigation authorized by H. Res. 518 on July 27, 1982, I have been able to conduct this investigation with complete independence. I have had complete freedom to make all appointments to the Special Counsel's staff, which has worked entirely under my direction, independent of the permanent staff of the Committee and of any other congressional office. The bipartisan leadership of the House and the members of the Committee on Standards of Official Conduct have provided the resources necessary to conduct a meticulous, searching, no-holds-barred investigation. In the course of this investigation, the Special Counsel has had the wholehearted cooperation of the Attorney General and the Justice Department.

#### C. The page system

During 1981-82, the House maintained 71 positions for Pages. Pages must be high school juniors or seniors at least 16 but not more than 18 years of age at the time of appointment. Pages are nominated by a House Member and selected by the Democratic and Republican Personnel Committees. Neither Committee has a systematic process for assessing the maturity of page candidates or their ability to handle the freedom that pages enjoy in Washington.

Pages have a demanding daily schedule. Page School classes begin at 6:10 a.m. When the House convenes at noon, these classes typically run until 9:45 a.m. or 10:30 a.m. When the House convenes earlier, class sessions are abbreviated so that pages can report to work at least an hour before the House starts. Except for meals, the pages remain on duty until 5 p.m. or until the House adjourns for the day, whichever is

The Doorkeeper of the House of Repre sentatives, who is elected by the Caucus of the Majority Party, is responsible for supervising House pages during their working hours. Outside of working hours, no one has clear responsibility for supervision. In fact, the Handbook issued by the Doorkeeper specifically states that:

"Parents or Guardians must file with the Doorkeeper of the House, a written statement assuming full responsibility for the safety, well-being, and supervision of the Appointee while living in the District of Columbia area and traveling to and from the House of Representatives.

Pages must find their own housing. In 1981-82, approximately 25 female pages lived in Thompson-Markward Hall, a dormitory-like facility with a curfew and other rules. The Page House Alumni Association housed approximately ten male pages until it closed its doors in August 1981. The rest of the pages resided in groups of two to six in apartments at various places on Capitol Hill, or in housing obtained through a university housing service.

Pages living in apartments had, in general, no adult supervision and no one easily available in the event of trouble.

The lack of effective supervision of pages outside of working hours has been sharply criticized for many years. At various times over the past 15 years, for example, Members of the House have called the House's failure to provide better supervision "unconscionable" and "inconceivable."

## D. Origin of allegations

The Special Counsel has found no support whatsoever for the sensational allegations of homosexuality charges launched this investigation. To the contrary, the evidence developed contradicts every one of the original highly publicized allegations made by the two former pages. Those allegations resulted either from outand-out fabrication, overactive teenage imagination stimulated by conversations with a journalist, or teenage gossip which has in virtually every case proved to be utterly inaccurate.

In view of this conclusion, another important set of questions emerged in the course

of the investigation: How and why did these charges come to be made? What was the

It is clear that during the 1981-82 academic year, some pages behaved irresponsibly after working hours. There is abundant and convincing evidence, in the case of some pages, of excessive use of alcohol, all-night parties, some drug use, and a variety of other activities that no responsible parent would tolerate.

Leroy Williams, at that time a 17-year-old page in the House, left the page program abruptly at the end of January, 1982, when financial and other troubles became too much for him to handle. Events surrounding Williams' departure triggered an investigation by the Capitol Police of page drinking habits and parties, and of Williams' homosexuality. Two pages, unconnected to Williams, were terminated partly as a result of information developed by the Capitol Police investigation. This investigation, Williams' departure and the termination of the other two pages spawned rumors of a "page scandal." Though unreported in the press, these rumors came to the attention of many reporters.

In June, 1982, a CBS news reporter interviewed a 16-year-old page named Jeffrey Opp in Washington, D.C. and Williams in Little Rock, Arkansas. The Special Counsel requested that the reporter speak to investigators in the Special Counsel's office and offered him the opportunity to do so. The reporter declined that invitation.1 Thus, the only information available about these interviews comes from the sworn testimony of Williams and Opp themselves. According to Opp, the reporter discussed with him lurid tales of sexual misconduct and homosexual prostitution in the Congress. The reporter asked whether Opp could confirm those stories or provide additional informa-According to Williams, the reporter said Williams was being identified in Washington as a drug trafficker and "bad apple" who had been the source of the problems with the page system. The reporter told Williams he was offering him a chance to

Following these conversations, and on the basis of assurances that their identities would be kept secret, both teenagers agreed to give on-camera interviews with their faces shielded, to the CBS reporter. Those interviews yielded lies from Williams. In response to the reporter's questions, Opp twisted minor, at best ambiguous conversations with three Congressmen and one lobbyist and characterized them as "homosexual approaches."

tell his side of the story.

Perhaps the most ironic twist of events was the role played by the CBS news reporter in bringing these charges to life. It appears to have been the reporter's discussion with Opp that inspired Opp to repeat these stories, with his own embellishments, to two of his Congressional sponsor's staffers. These staffers were initially suspicious of the sensational nature of Opp's charges. But, then this same news reporter told the staffers that Opp's charges had substance. It was these staffers who decided Opp should tell his story to the Justice Department. The department decided to investigate, at least in part because the staff of a Member of Congress considered the allegations to be serious. That Justice Department investigation itself became the "news" to which CBS pegged its June 30 and July 1

Leroy Williams attended high school in Little Rock, Arkansas, where he was a "B" student involved in extracurricular activities, and where he belonged to a strict, fundamentalist church.

Williams assumed his duties as a page on June 29, 1981. Throughout the period Williams served as a page, his work was considered satisfactory, although his performance declined toward the end.

It was after working hours that Williams had problems. When the Congress went into its 1981 mid-summer recess, Leroy Williams remained in Washington alone. At this point the 17-year-old Williams first engaged the services of a male prostitute; he used male prostitutes on fifteen different occasions between August and January, 1982, ten of those times during the August Congressional recess.

Williams drank alcohol more and more heavily. By January, 1982, he thought he was "literally an alcoholic." His use of drugs also increased sharply and he got into increasingly severe financial trouble. He failed to pay a large number of bills, wrote bad checks, and stole money.

Under increasing pressure, Williams finally left Washington by taking an automobile

belonging to a fellow page.

After he arrived back home in Little Rock in February, 1982 Williams said he heard several reports from Washington that he was a "bad apple" and that he had been distributing illicit drugs. According to Williams, his anger and resentment came to a head in June, 1982, when the CBS news re-porter appeared at Williams' home in Little Rock, and repeated these charges. Ten days later, on June 30, 1982, CBS News broadcast excerpts from its reporter's interview of Williams, creating a national sensation about homosexual relations between Congressmen and teenage pages.

Leroy Williams was interviewed by the F.B.I., various news organizations, and the Committee's staff in June and July, 1982. He did not tell the same story each time. But, in the course of these interviews, he claimed that he was propositioned by, and had sexual relations with, three congressmen, and that he arranged male prostitutes for a Senator and two other government employees. Williams also repeated to interviewers other allegations of sexual misconduct by Members and employees of the House which Williams claimed other pages had told him.

On August 26, 1982, Williams was reinterviewed by investigators from the Special Counsel's office, who had spend days documenting many inconsistencies and contradictions in Williams' allegations. Williams admitted to them that he had lied. On Saturday, August 28, 1982, he testified under oath at a deposition before the Chairman and Special Counsel of this Committee that none of the statements he had made about sexual misconduct were true. In subsequent testimony and interviews with the Special Counsel's staff, he also admitted that he did not believe most of the second hand infor-

mation he had passed on. The Special Counsel has concluded that there is no evidence to support any of Williams' original charges. In reaching this conclusion, the Special Counsel has not relied solely on Williams' recantation. Rather, the Special Counsel has conducted a detailed inestigation of each one of William's allegations. Every bit of independent evidence collected supports the conclusion that Williams' original allegations were false and that he was telling the truth when he testified that he had lied about those charges.

F. Jeffrey Opp

Jeffrey Opp was the second page who appeared, with his identity concealed, on the June 30 CBS News broadcast. Opp served as a page from January 4, 1982 until June 12, 1982. During the time he was a page, Opp went out of his way to challenge authority and to make people aware of his extreme political views. Not surprisingly, there was substantial tension between Opp and his supervisors in the Doorkeeper's office. He was known as a crusader, "someone who be-lieved his goal in life was to change the system." Pages said Opp had a tendency to "blow things way out of proportion." The impressions of the staff who worked for Congresswoman Schroeder reinforce the view that Opp was prone to exaggeration. One staffer who had provided temporary housing to Opp for his first month in Washington said Opp had a "super-hyper imagination".

Opp's own behavior reflects this tendency. The day after meeting with the television reporter, Opp told two persons on the staff of his congressional sponsor that he had worked undercover for CBS for two weeks. helping investigate Congressmen involved with male prostitutes. Opp claimed that his apartment had been bugged, and that his roommate was a spy from the Doorkeeper's office. As he later testified, none of these statements were true.

In Opp's broadcast interview, he alluded to "homosexual approaches" that Congressmen had made to him. In interviews with the Federal Bureau of Investigation and this Committee in June and July, Opp described four specific incidents which he described as homosexual approaches. He also reported other allegations of sexual misconduct based on hearsay information.

The Special Counsel has found no evidence to support any of these allegations.

The personal experiences that Opp reported with three Members of Congress and one lobbyist were little more than conversations, each less than two minutes, occurring in public places and involving no improper actions.

Opp's perspective has changed on most of his June allegations. In September, he told one of his friends among the pages that most of his stories had been inspired by the television news reporter who had sought him out three months before. Opp testified at his deposition that his TV interview "was a 16 year old kid satisfying his ego.

Based on a review of Opp's testimony and information provided by others, the Special Counsel has found him to be a highly impressionable teenager, with a tendency to place interpretations on events that appear to have no rational connection to what actually occurred. The Special Counsel found no basis whatsoever to conclude that anything improper occurred in any of the four conversations cited by him as the basis for his allegations about his personal experiences.

The second-hand information provided by Opp has also proved to be unsubstantiated. Much of it was nothing more than teenage gossip. None of it was accurate.

A careful evaluation of information provided by Opp has yielded not a single piece of responsible evidence that improper actions occurred. All the evidence the Special Counsel has developed-including signifi-

Evening News reports, including the shielded interviews of Williams and Opp. source of the rumors of a "page scandal"? E. Leroy Williams

<sup>&</sup>lt;sup>1</sup> The exchange of correspondence between the Special Counsel and CBS News appears at app. B.

cant changes in Opp's own story-indicates that there is no support for his allegations. G. Other allegations

During the course of the investigation pursuant to H. Res. 518, the Special Counsel has received a number of allegations of improper or illegal sexual conduct by Members, officers, or employees of the House of Representatives. In some cases investiga-tions are continuing. But the Special Counsel has concluded his investigation of most of the allegations received. Part V-D of this report summarizes the allegations investigated where no evidence was found to support further investigation. No further investigation will be pursued where the allegations concerned persons no longer associated with the House of Representatives.

#### H. February 1982 page investigation by U.S. Capitol Police

The United States Capitol Police (USCP) conducted a brief investigation into allegations of misconduct involving pages in early February, 1982. The Committee decided that the February investigation should be reviewed to determine whether the Capitol Police had information relevant to the Committee's investigation pursuant to House Resolution 518.

The Special Counsel has reviewed the written records of the USCP investigation, and has interviewed or deposed the following individuals: the Capitol Police detective who carried out the investigation and his superiors; individuals in the offices of the Doorkeeper and the Sergeant-at-Arms; Members of the House and their staffs who received information about the investigation; and pages who were interviewed by the USCP.

Based on the evidence obtained in the course of this investigation, the Special Counsel has found that the Capitol Police investigation was based on allegations of misconduct by pages, and that at no time in the course of the investigation did the police receive any significant allegations of misconduct by anyone else. The Special Counsel has concluded the decision to terminate the investigation was reasonable from the point of view of the Capitol Police.

But there was a serious failure on the part of the House as an institution. The Capitol Police developed information about page misbehavior that required further action. Yet no one took the action that was plainly required-because no one is charged with responsibility for supervising the teenage pages after working hours.

Based on the evidence received in the course of this investigation, the Special Counsel believes that there is an urgent need for the House of Representatives to fix responsibility-formally and in writing-for supervision of pages after working hours. In the Special Counsel's judgment, the lack of clear responsibility led directly to the failure to address the serious problems of misconduct that developed among the pages in 1981 and 1982. If the House chooses to employ teenage high school pages, establishing a page dormitory and a Page Board are steps in the right direction. But unless responsibility for supervision of teenage pages after working hours is clearly established, the problems that developed in 1981-82 are likely to recur.

#### II. SCOPE OF INVESTIGATION INVOLVING SEXUAL MISCONDUCT

#### A. Language and legislative history of House Resolution 518

The Special Counsel has taken the language and legislative history of H. Res. 518 as the guide in determining the proper scope of the investigation involving sexual misconduct.

Section 1 of H. Res. 518 directs the Committee to investigate "alleged improper conduct [1] referred to in this resolution [2] which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies.

The conduct "referred to in this resolution" is the conduct described in the "Whereas" clause of the resolution, specifi-

"(1) alleged improper or illegal sexual conduct of Members, officers, or employees of the House;

and

". . . and "(3) the offering of preferential treatment by Members, officers, or employees to employees of the House, including congressional pages, in exchange for any item referred to in subclause (1) . .

The discussion of H. Res. 518 on the House floor on July 13, 1982, leaves no doubt that the "alleged improper or illegal sexual conduct" and the "offering of preferential treatment" referred to conduct involving pages

The resolution was introduced by Chairman Louis Stokes and Ranking Minority Member Floyd Spence on July 13, 1982, in the aftermath of reports of sexual misconduct involving pages. Chairman Stokes explained that, on July 1, he had instructed the staff of the Committee "to commence a thorough investigation of the allegations as reported by the media at that time.' Cong. Rec. H4012 (daily ed. July 13, 1982). He urged passage of the resolution to enable the Committee to "proceed in an orderly fashion in pursuing this investigation." Id.

Representative William Alexander, who spoke in favor of the resolution, referred to allegations of scandal . . . levied against the Members of Congress as well as the pages who assist them." Id. at H4035. He then quoted from a letter he had received from a former page, stressing the page's hope that "the Congress will take speedy action to restore the honor, dignity, and pride that pages enjoy who have served in the Congress." Id.

Representative Margaret Heckler, who urged the appointment of a special prosecutor to investigate the allegations, stated:

"We are dealing here with entirely new and far more sensitive areas of abuse of power if the allegations are true. I think we have a responsibility to the young people who are the pages, to our service in this Congress, and to the people of America, to the parents, to the Congress itself, to deal with the sensitivity of this situation so as to inspire confidence in the integrity of this Congress." Id. at H4036 (emphasis added).

resolution's reference to conduct which has been the subject of recent investigations by the Department of Justice and other law enforcement agencies" reinforces the conclusion that the sexual misconduct to be investigated involves congressional pages. In the area of sexual misconduct, the 'recent investigation" by the Department of Justice and the Federal Bureau of Investigation concerned allegations about misconduct of House Members and employees involving pages. In addition, the United States Capitol Police had conducted an investigation in February, 1982, which also focused specifically on House pages.

The intended meaning of H. Res. 518 appears clear. The references to "alleged improper or illegal sexual conduct" and the "offering of preferential treatment" are directed at sexual misconduct involving pages. The first phase of the Special Counsel's investigation has, therefore, addressed this

This phase of the investigation focused on the period from July, 1981, to June, 1982,2 and on allegations made by two former pages that received national press attention beginning on June 30, 1982. To insure a thorough inquiry into all matters within the scope of H. Res. 518, the Special Counsel sought out information about earlier periods. In addition, to the extent that the Special Counsel received information about alleged sexual misconduct by House Members, officers or employees involving preferential treatment that did not involve congressional pages, but fell within the literal terms of H. Res. 518, the Special Counsel also investigated such allegations.

Finally, H. Res. 518 refers to "Members, officers, or employees" of the House. In keeping with this language and the jurisdiction of the Committee, the scope of the investigation has not extended to allegations concerning former Members, officers, or em-

# B. Definition of sexual misconduct

In recognition of the special situation of congressional pages, the Committee and its Special Counsel have broadly defined "improper sexual conduct" in determining whether particular allegations pages should be investigated.

House pages are generally high school juniors and seniors, between 16 and 18 years of age. By statute, they cannot be appointed until their parents or legal guardians have been fully informed of the nature of their work, pay and working conditions, and the accommodations available housing them.3

Congress plainly accepts a considerable responsibility for pages. That responsibility is necessarily shared by every Member, officer and employee of the House. Where preferential treatment is, expressly or implicitly, an element of a sexual relationship between a Member, officer or employee and a page, or an element of a sexual overture or advance directed at a page, the conduct explicitly falls within H. Res. 518. But considering the young age of these pages and the fact that they are away from home and dependent on the House for school, work and money to live on, any sexual advance or relationship of any kind involving a page and a Member, officer or employee potentially entails an element of either preferential treatment or coercion, and hence an abuse of office or position.

The investigation has, therefore, proceeded on the assumption that any sexual rela-

<sup>&</sup>lt;sup>2</sup> This time period covers the terms of service of virtually all the pages whose employment over-lapped with that of the two pages whose allegations were reported in news broadcasts on June 30, 1982 and July 1, 1982.

<sup>2</sup> U.S.C. § 88b-1(a)(2).

On a number of occasions the House has considered discontinuing the use of high school teenagers as pages. For example the Legislative Reorganiza-Act of 1970, Public Law 91-510, 84 Sta (1970), as originally introduced, would have barred the appointment of pages who had not yet completed the twelfth grade of their secondary school education. 116 Congressional Record 32,229 (1970). Among the reasons commonly offered for using older pages is the desirability of minimizing or eliminating Congress's supervisory responsibility for pages. See e.g., Speaker's Commission on Pages, report to the Speaker, 97th Congress, 2d session 7 (1982); H. Rept. 91-1215, 91st Congress, 2d session 29-30 (1970).

tionship, whether homosexual or heterosexual, between a page and a Member, officer or employee, or any sexual harassment, overture or advance directed at a page by a Member, officer or employee, should be investigated as potentially "improper sexual conduct" under H. Res. 518.

## C. Allegations involving the Senate

In some instances, the Special Counsel has received information bearing on Members, officers, or employees of the Senate. The Special Counsel has not investigated these matters because the jurisdiction of the Committee runs only to the House. At the direction of the Committee and in accordance with arrangements with Senate Majority Leader Howard Baker, the Special Counsel has referred all such information to the Select Committee on Ethics of the U.S. Senate.

III. HOW THE INVESTIGATION WAS CONDUCTED A. Appointment of the Special Counsel and staffing of the Special Counsel's Office

Shortly after Chairman Stokes and Ranking Minority Member Spence announced the appointment of Joseph A. Califano, Jr. as Special Counsel to the Committee to oversee the investigation authorized by H. Res. 518. Mr. Califano assembled the staff of the Special Counsel's office. In staffing the office, as throughout the investigation, the pledges of independence were unequivocably supported by the Democratic and Re-

publican House leadership.

Mr. Califano appointed Richard Cotton as Deputy Special Counsel, Hamilton P. Fox, III, as Associate Special Counsel, and Gerald McQueen as Chief Investigator. Mr. Cotton, a partner in Mr. Califano's law firm, had just completed a six-month internal investigation for an international labor union. Mr. Fox had served as a federal prosecutor for six and a half years, as an Assistant U.S. Attorney, Deputy Chief of the Justice Department's organized crime section, and a member of the Watergate Special Prosecution Force. Mr. McQueen, a New York City homicide detective with 23 years' experience, had won national recognition as the commander of an elite detective squad assigned to solve Manhattan's most difficult homicide cases

The staff of the Special Counsel's office has averaged nine lawyers, seven investigators, three researchers and six clerical em-

plovees.

B. Characteristics of the investigation

Since July 27, 1982, the Special Council's office has attempted to investigate every specific allegation 5 that has come to its attention concerning the subject matter of H. Res. 518. In addition, the office has mounted wide-ranging efforts to contact individuals who might have information bearing on the subject matter of the investigation.

Attorneys and investigators on the Special Counsel's staff have carefully examined and followed up hundreds of leads, allegations and rumors. They have interviewed more than 150 individuals, many more than once, and conducted more than 50 despositions. They have travelled some 40,000 miles to interview witnesses in 40 cities. Forty-five subpoenas have been issued: 31 to compel oral testimony, 14 to compel production of documents. In addition, the office has made numerous requests to such agencies as the FBI, the United States Capitol Police and

merited investigation. C. Relationship with the Department of Jus-

From June through August, 1982, the Department of Justice investigated allegations of sexual misconduct by members of Congress and their staff. On August 31, 1982, the Department announced that it had closed that investigation because, as a Department spokesman stated, "there is insufficient evidence to warrant a federal prosecution or further investigation.

Counsel requested that the Attorney General make available to the Committee and its Special Counsel all written materials developed by the FBI in carrying out this investi-gation. On September 29, 1982, the Public Integrity Section of the Justice Department transmitted to the Special Counsel 244 documents, consisting primarily of summaries of interviews carried out by FBI agents in

the Metropolitan Police and to the broadcast media for materials which were voluntarily produced. Where necessary to follow up on specific allegations, investigators have reviewed financial and telephone records.

While it was essential to investigate each one of the specific allegations that prompted the passage of H. Res. 518, the Special Counsel decided that the mandate of H. Res. 518 required the Committee to seek out information that might bear on the subject matter of the investigation from all available sources. The Special Counsel initiated a number of separate inquiries to carry out this obligation.

First, lawyers and investigators interviewed more than 75 pages who had recently served in the House, and personnel in the Doorkeeper's Office whose duties include

supervision or direction of pages.

Second, the Special Counsel sent a letter requesting any information bearing of the subject matter under investigation to each of 516 former pages who had not already been contacted in person. These individuals served in the House of Representatives from September, 1979, through August, 1982. The text of this letter is reproduced in Appendix B to this report. Eighty-nine pages responded; 71 responded in writing, an additional 18 by telephone. Most said they had no information, but 11 responses contained relevant information or allegations of misconduct that required further investigation.

Third, the Special Counsel requested and obtained from the Capitol Police all documents and records for the years 1977 through 1982 that contained information bearing on the subject matter under investi-

gation.

Fourth, the Special Counsel made similar requests of the Doorkeeper of the House of Representatives, whose office is in charge of the page system, and of the Sergeant-at-Arms of the House of Representatives, who, together with the Sergeant-at-Arms of the Senate and the Architect of the Capitol, directs the Capitol Police.

Fifth, lawyers and investigators interviewed current and former teachers at the Capitol Page School concerning their knowledge of the subjects under investigation. Investigators also reviewed files of individual pages at the Capitol Page School and interviewed teachers from other educa-tional institutions who had had contact with pages in seminars and special classes.

Sixth, the Special Counsel's office examined a comprehensive compilation of press reports on the subject matter of H. Res. 518 and viewed videotapes of television news reports to identify specific allegations that

On behalf of the Committee, the Special

the course of this investigation. The names of certain witnesses who had requested confidentiality were deleted. The Justice De-partment informed the Committee that, with this exception, it had provided all the evidence collected.

#### D. Limits on the investigation

Any investigation of "improper or illegal sexual conduct" poses difficult obstacles and delicate problems. The Special Counsel's office has had to depend in large measure on interviews and depositions under oath to investigate these matters. Developing evidence depends on the willingness of individuals to come forward and to respond honestly to investigator's questions.

The investigation that has been conducted has, in the judgment of the Special Counsel, been as thorough as is reasonably possible. In an area involving such intimate conduct. such human sensitivity and so many individuals, it will never be possible to declare with certainty that every instance of what every citizen would consider "improper sexual conduct" has been detected. But the Committee, the House and the American people can be assured that every effort was made to contact individuals who might have relevant information. Every allegation put forward has been and will be pursued to the point where the Special Counsel concludes that there is no basis for it in fact, or that a preliminary inquiry is justified.

This has not been an inexpensive or pleasant task. It has taken much time, persistence, and patience on the part of Members of this Committee and attorneys and investigators in the Special Counsel's office, and the support of bipartisan House leadership and the Committee on Standards of Official Conduct. For many young Americans, a good number still teenagers, this investigation has been a difficult experience. But it has taken this kind of inquiry to provide the American people the assurance that the House of Representatives has the institutional stamina and courage to investigate its Members, officers, and employees searchingly and thoroughly.

#### IV. BACKGROUND: THE PAGE SYSTEM OF THE HOUSE OF REPRESENTATIVES

Because this investigation focused on pages and their relationships with Members, officers and employees of the House, it is essential to begin with an understanding of the page system. The House has relied on teenage pages as messengers since the early 1800's, and the system has survived many debates about its desirability, including the most recent review conducted this past summer by the Speaker's Commission on Pages. The key features of the page system-the selection process, the duties of pages, and the extent to which they are supervised-are described briefly below.

# A. Selection process and qualifications

During 1981-82, the House maintained 71 positions for House pages. Most page appointments run for six months or a year, although some appointments—typically in the summer-are for periods of two months or

Pages are nominated by a House Member and selected by the Democratic and Republican Personnel Committees from the candidates nominated. At the time of appointment, they must be high school juniors or seniors, at least 16 but not more than 18 years of age. The Republican Personnel Committee requires that pages have had at least a "B" scholastic average in their home

<sup>&</sup>lt;sup>5</sup> Some allegations concerned events so far in the past or were so vague that investigation was not

town high school; the Democratic Committee requires at least a "C" average.

Any Democratic Member of Congress may submit a recommendation to the Committee on Democratic Personnel requesting that an individual be appointed as a Democratic page. Typically, these recommendations provide the Committee with some information about the candidate, but the Committee has no application form and requires no specific information other than a birth certificate. The nominations are not considered on any particular date. The Committee's staff accumulates nominations until approximately ten are pending. These nominations, ranked according to the seniority of the Member making the nomination, are then submitted to the Committee Chairman, who makes the selections. The Committee conducts no independent check of a page's qualifications. The sponsoring Member is responsible for screening appli-cants and establishing that they meet the age, school year, and academic criteria.

The Committee on Republican Personnel has a printed application form, which requires a school transcript, an essay on why the applicant wants to be a page, a statement of extracurricular activities, and letters of recommendation. The Committee also requests that the Member personally interview the applicant and requires that sponsoring Members return the application materials by April 1 of each year. Information on each candidate is summarized by the Committee's staff, and page selection is made by Committee gives preference to Members who have not previously sponsored a page.

Neither Committee has established a systematic process for assessing the maturity of page candidates or their ability to handle the freedom that pages enjoy in Washing-

#### B. Duties of House pages

Pages do not work for the individual Members of Congress who sponsor them. They receive direction from the staff of the Door-keeper of the House, and work out of a central location just off the House Floor.

Pages never become involved in the substantive give-and-take of the legislative process. Their duties are exclusively those of clerical workers and messengers. They are generally assigned to the House floor, to the Democratic or Republican Cloakroom, or to positions as "running" pages. A page assigned to the House floor carries messages to and from Members and assists in assembling and distributing legislative materials on the floor. A page assigned to the Democratic or Republican Cloakroom answers telephones, carries messages to Members, and performs chores requested by Members while they are in the Cloakroom. "Running" pages deliver materials to congressional offices and to Members on the floor. Several pages serve as documentarians. processing House documents and operating the system of bells that call Members for votes. One is assigned as the Speaker's page.

The daily schedule of all pages, regardless of their assignment, is demanding. All are required to attend the Capitol Page School. Those enrolled for credit must maintain a "C" average; the rest are required to bring assignments from their home school and observe supervised study hours. Classes at the Capitol Page School begin at 6:10 a.m. and, on days when the House convenes at noon, typically run until 9:45 a.m. or 10:30 a.m. When the House convenes earlier, class sessions are abbreviated so that pages can report to work at least an hour before the

House starts. Except for meals, the pages remain on duty until 5:00 p.m. or until the House adjourns for the day, whichever is

#### C. Supervision of pages

#### (1) Working hours

The Doorkeeper of the House of Representatives, who is elected by the Caucus of the Majority Party, is responsible for supervising House pages during their working hours. The four to six pages working in the Democratic Cloakroom and the similar number working in the Republican Cloakroom report to the respective Managers of the Cloakrooms. The Democratic and Republican floor pages report, respectively, to the Majority and Minority Chief Pages, who are adult supervisors employed by the Doorkeeper of the House. The "running" pages, who are also supervised by the Majority and Minority Chief Pages, have intermediate supervisors drawn from the ranks of the pages themselves. These page "overseers" answer the telephones to receive requests for messenger service and then make assignments to "running" pages.
While the Doorkeeper of the House has

While the Doorkeeper of the House has overall responsibility for the pages, the Deputy Doorkeeper exercises disciplinary authority and receives reports from the two Cloakroom Managers and the two Chief

#### (2) Nonworking hours

Outside of working hours, no one has responsibility for supervision. In fact, the Handbook issued by the Doorkeeper specifically asserts that it is a condition of appointment that:

"Parents or Guardians must file with the Doorkeeper of the House, a written statement assuming full responsibility for the safety, well-being, and supervision of the Appointee while living in the District of Columbia area and traveling to and from the House of Representatives."

No individual in the Doorkeeper's office is formally responsible for counseling pages on problems outside of work or for seeing that they stay out of trouble. Some individuals in the Doorkeeper's Office show a good deal of concern for the pages' well-being, especially when it becomes apparent that a page is in some kind of difficulty.

The salary of teenage House pages—approximately \$700 every month—represents far more money than most of them have

previously had to manage.

Pages are responsible for finding their own housing. In 1981-82, pages generally resided in groups ranging from two to six in apartments located at various places on Capitol Hill, or in housing obtained through a university housing service. Apartments are frequently passed on from one page to another. Pages living in apartments had, in general, no adult supervision and no one easily available in the event of trouble.

easily available in the event of trouble.

Approximately 25 female pages lived in Thompson-Markward Hall, referred to by the pages as the "Y" because it is a dormitory-like facility with relatively strict curfew and other rules. The Page House Alumni Association, a non-profit organization created through the efforts of an employee of the Doorkeeper's office, provided dormitory-style housing for about ten male pages until August of last year.

Committee investigators interviewed the managers of seven apartment buildings in which pages resided. These individuals had been renting to pages for periods of time that range from slightly over one year to 40 years. Most were complimentary about the

conduct of the pages, and reported no knowledge of serious alcohol, drug or other problems with pages who had been their tenants. One, however, complained about excessive drinking and loud and boisterious parties.

The lack of effective supervision of pages after working hours has been sharply criticized for many years. Members of Congress have frequently called attention to the problem. In 1969, for example, Representative Andrews of North Dakota noted:

"It is unconscionable for Congress to bring these boys to the Washington metropolitan area and put them in some catch-ascatch-can accommodations where they lack supervision and decent quarters. If we are going to have high school boys working for the Congress they should have adequate quarters and proper supervision." Hearings before the Legislative Branch Subcommittee of the Committee on Appropriations, 91st Cong., 1st Sess. 497 (1969)."

In 1970, Representative Green of Oregon

"It is inconceivable to me that this situation has been allowed to continue. \* \* \* We bring youngsters—oftentimes from rural areas—turn them loose in a metropolitan area with more money than they have ever before had in their pockets and with absolutely no supervision in off hours. \* \* [I]t is incumbent upon us to provide these facilities in terms of housing and also in terms of classrooms. They find their own rooms in rooming houses or in tourist homes. I repeat—they have no supervision at all in their spare time. There is absolutely no one who is looking after their nutrition, their meals. 116 Cong. Rec. 32278 (1970)."

Testifying this past summer before the House Subcommittee on Legislative Branch Appropriations, the Doorkeeper of the House stated:

"They [the pages] are wards of the Congress. Once we bring them here, we have to assume some responsibility. We have already had some incidents. \* \* \* It is a very serious problem. Hearings on Legislative Branch Appropriations before Subcommittee on Legislative Branch Appropriations of the House Committee on Appropriations, 97th Cong., 2nd Sess., pt. 2 at 49 (1982)."

Because of concern over the absence of effective supervision, Congress has on a number of occasions considered discontinuing the use of high school age pages.

## V. RESULTS OF INVESTIGATION

The publicity given to the allegations made by Williams and Opp gave new life to every rumor and piece of gossip any page had ever heard. Once the House commissioned an investigation of sexual misconduct involving pages, any allegation repeated seriously by a page had to be investigated. Investigators have reconstructed conversations and rumors that were born in a milieu of teenage gossip and braggidocio. Investigators have time after time tracked a story from one page to another and finally to its source. In most instances, these allegations have proved without foundation—the result of a teenager trying to sound experienced. or the result of a drunken story invented on the spur of the moment at a party. Hundreds of hours of investigation have been required to reach these conclusions, and the results are set out below.

Not all of the allegations of sexual misconduct received by the Special Counsel have yet been fully investigated, however. In one case, the Special Counsel has recommended that a Preliminary Inquiry be initiated by the Committee, and the investigation of this case is continuing. The Special Counsel also continues to investigate a limited number of other allegations of sexual misconduct. No details will be provided at this time on any of the matters still under investigation.

This section discusses, first, the origins of the rumors about a "page scandal," and the events leading up to the charges made by Williams and Opp. The second and third parts of this section then examine in detail the allegations made by Williams and Opp, the investigation of these allegations, and the basis for the findings and conclusions reached by the Committee's Special Counsel.

Finally, the fourth part of this section briefly reviews a variety of other allegations of sexual misconduct received by the Special Counsel and his findings and conclusions concerning them.

# A. The origin of the allegations

(1) The 1981-82 year: The extent of alcohol use, drug use, and other misbehavior among pages

(a) Overview.—The Committee's investigation has found evidence of serious misbehavior by at least some of the pages during non-working hours over the 1981-82 year. These problems mirror those found elsewhere in the nation—alcohol abuse, drug abuse, late-night parties—but they were intensified by the complete freedom teenage pages enjoyed and the lack of any supervision after work.

Information provided to the Special Counsel indicates that many House pages routinely drank alcoholic beverages during the 1981-82 year, and many got drunk at large parties that occurred almost weekly. lesser but still significant number of pages drank excessively at smaller gatherings that occurred two or three times a week. A small number of pages also used drugs-caffeine pills, marijuana, and, in at least some instances, cocaine. Some pages used amyl nitrate, an over-the-counter substance inhaled through the nose. Information obtained by the Special Counsel indicates that alcohol abuse was far more prevalent than the use of other drugs. For example, pages often described the extent of marijuana use to Committee investigators as no more, and some said it was less, than they had witnessed at their home high schools.

Individual experience differed markedly. Pages tended to form small cliques, and a page's experience outside of work depended on his or her clique. The information pro-vided to the Special Counsel suggests that the pages fell roughly into three groups. One group, generally those who lived in the supervised housing, abstained almost entirely from use of alcohol and other drugs. A group, the largest numerically, tended to follow a middle path: They consumed alcoholic beverages (primarily beer) on occasion, and some in this group, particularly at parties, did drink to excess. This group experimented little with drugs. Finally, a third group—pages who lived in apart-ments and who saw themselves as more "mature" and independent-had the least disciplined life style. They attended more parties, drank a great deal, and were far more likely to use drugs.

(b) Alcohol abuse by pages.—The major drug problem that the pages themselves perceived was alcohol. Virtually every page interviewed on the subject stated that alcohol was easily available to underage pages from certain restaurants, bars, and liquor

stores in the Capitol Hill area of Washington.

The Special Counsel received information that pages generally consumed alcohol in three different circumstances: at lunchtime, at small informal gatherings at night, or at larger parties given by and attended by

Pages generally ate lunch in the government cafeterias on Capitol Hill. On occasion, however, pages would journey a few blocks to several restaurants on Pennsylvania Avenue and elsewhere in the area of the Capitol. The Special Counsel received varied testimony and information as to how frequently pages went to restaurants at lunch time. One page testified that some pages went out often and would frequently get drunk at lunchtime. Another testified that one page had been sent home after lunch for being drunk. Two pages testified that they ate lunch at the Pennsylvania Avenue restaurants a maximum of three to four times during the year, drank beer, but never got intoxicated. Another page discounted the stories of drinking at lunch as teenage boasting.

Pages engaged in different activities after working hours. Some reported that they had little social life; they simply returned to their living quarters, ate dinner, did homework, and went to bed early, because they had to arise at five a.m. each weekday. Others led more active social lives. For example, a group of five or six pages—of whom Leroy Williams was one—would gather at one another's rooms two or three evenings a week. At such gatherings, beer was the standard drink and hard liquor was often available. These gatherings sometimes became all-night sessions—with pages "passing out," sleeping in their clothes until it

was time to go to class.

During the 1981-82 year, pages also attended a number of larger parties. Estimates on the frequency of these parties have ranged from once a week to once a month. The variations in these estimates can be attributed to the frequency with which individual pages heard of or attended parties, and to differences in defining what constituted a "party," as distinguished from a more informal get-together. Nonetheless, large parties apparently occurred with some frequency. Alcoholic beverages were available at these parties, including hard liquor as well as beer. A good deal of drinking took place at these parties, and it was not uncom-

mon for pages to become intoxicated.

For example, one page testified that at "every party that I attended" alcohol was consumed, and that pages got drunk at "most" page parties the page had attended. Two other pages testified about parties at which they might have had so much to drink that they could not remember conversations or events that took place at the party. Another testified the pattern changed during the course of the year:

"I think pages abused that privilege of being on their own, so they drank when they first got there. But after the first few months some maintained drinking but some just dropped it and thought it was ridiculous, a waste of time, you know, do it every now and then. But the way they first came, it was like every single night, school nights and everything."

Several parties stood out in the minds of individual pages because of specific events. Pages recalled one party where a fight broke out between a page and two non-pages; another where Leroy Williams was so drunk he fell and cut himself badly; one

where a female page developed a nose bleed as a result of inhaling something; a fourth which was a "going-away" party for Leroy Williams; a year-end party where both alcohol and marijuana were available to pages.

In summary, alcohol use was extensive among pages during the 1981-82 year, and among some groups of pages and individuals it was seriously out of hand.

(c) Drug abuse by pages.—The Special Counsel has not completed the investigation of allegations concerning illicit use or distribution of drugs by Members, officers, or employees of the House. This report does not set forth any specific findings concerning such use or distribution, but it would be incomplete and misleading to address the sexual allegations involving pages without providing as background a description of the general sense obtained to date of drug use among the pages during 1981-82. Since these matters are still the subject of an active investigation by the Special Counsel and the Department of Justice, the summary presented here must necessarily be both partial and general.

The information gathered by the Special Counsel to date indicates that there was drug use by some pages during 1981-82. This drug use fell into four categories:

First, some pages used high dosage caffeine pills, amphetamines, or diet pills normally available only by prescription. Often these pills were used to keep awake during school and working hours.

Second, some pages used amyl nitrate, a substance known colloquially by a variety of names: "poppers," "rush," or "locker room." This substance comes in hard capsules which are broken open to allow the substance to be sniffed and give the user a "rush." It is reputedly used to enhance sexual performance. This substance is available over the counter.

Third, some pages smoked marijuana. The information obtained to date is not sufficient to determine the extent of marijuana use among the pages. But pages have said that it was used occasionally by some pages and that marijuana was smoked by a few pages at parties.

Fourth, the evidence received to date indicates that four pages may have used cocaine on a few occasions, although there is conflicting evidence on whether all four used it and, if so, how often. The information obtained to date is also not sufficient to reach a firm conclusion at this time about the extent of cocaine use among pages.

The evidence the Special Counsel has received, therefore, indicates that illegal drugs were used by some pages during 1981-82. No use of drugs by teenagers can be viewed as anything other than a grave and serious matter. But the evidence received to date indicates that the majority of pages did not use drugs during 1981-82.

# (2) Events of January to June, 1982

(a) Leroy Williams' departure from Washington, D.C.—The departure of Leroy Williams from Washington, D.C. is the event that brought attention to the activities of some pages. Williams had arrived as a page in June, 1981. He had been promoted to the position of page overseer in July, 1981. To all outward appearances he was doing well throughout the Fall of 1981. To the other pages, Williams appeared to have a lot of money, dressed well, and moved with a group of pages that partied and drank a lot.

On Friday, January 29, 1982, Williams turned his books in to the Secretary of the Capitol Page School. That night there was a farewell party for him. He left Washington that weekend.

Williams' departure might have been both the beginning and the end of the story were it not for Williams' landlady. She had been in regular contact with Williams' supervisor in the Doorkeeper's office, seeking assistance in collecting back rent. The Tuesday after Williams' departure, she reported to his supervisor that Williams had left behind some things in his room, including someone else's wallet. The supervisor informed her that the owner of the wallet was a page who had reported her wallet missing from the House Republican Cloakroom about two weeks earlier.

Based on this information, the landlady contacted the Capitol Police.

(b) The Grossi investigation.—When the page's wallet had first been reported missing, the Capitol Police had assigned the matter to Sgt. John Grossi of the Criminal Investigation Divison. On February 2, 1982, Williams' landlady met with Grossi and gave him the missing wallet. She informed Grossi that she had found the wallet when she was cleaning out the room of Leroy Williams.

Williams' landlady also told Grossi, that she had information concerning misconduct by pages. Grossi testified that she said that there had been "wild parties" at Williams' apartment and that "quite an amount of liquor and beer had been consumed." She reported receiving many complaints of loud all-night parties and broken liquor bottles in the trash area of the apartment building.

Finally, the landlady told Grossi about "pornographic material" which she had found in Williams' room. According to Grossi, she said that she had found "a particular type of magazine that lists homosexuals and . . . how you can get in touch with them"

During the next nine days, from February 2 to February 11, 1982, Grossi investigated not just the page's stolen wallet, but general misconduct of pages, including possible page involvement in homosexual activities.

Grossi interviewed eight pages. Both his recollection and his contemporaneous written reports indicate that the pages he interviewed confirmed that parties had occurred at which pages drank heavily. Grossi pressed for details in his interviews about the use of alcohol and the use of drugs among pages. He questioned the pages about Williams' homosexuality, about homosexuality among other pages, and about sexual activity between pages and "nonpage adults." According to Grossi's recollections, he did not ask questions about sexual activity involving either Members of Congress or congressional staff. He testified he had no reason to ask these questions because he had received no information suggesting such involvement. Nonetheless, it appears that at least two of the pages whom he interviewed interpreted his questions to mean that he was asking about Members of Congress and about congressional staff.

Grossi's reports list eight pages as directly or indirectly involved in loud parties, excessive drinking, forays to the Fourteenth Street "red light" district allegedly in search of prostitutes, or use of amyl nitrate. Grossi testified several pages told him that "the problem would no longer be a problem ... if they just got rid of a certain group

that was causing these problems."

In the course of his investigation, Grossi provided his written reports to Benjamin Guthrie, the Sergeant-at-Arms of the House. Guthrie provided information and copies of the reports to James Molloy, Doorkeeper of the House. Molloy in turn discussed these matters with several of his subordinates, at least some of whom also read Grossi's reports.

In a February 11, 1982 meeting, Guthrie directed Grossi to close his investigation.

(c) Actions following Grossi investigation.—Based on the information that Grossi developed, three actions occurred:

1. Two pages were terminated—technically on the grounds that they had grades below a C average at the page school.

 Doorkeeper Molloy informed sponsors of pages mentioned in Grossi's report that their pages' names had come up in the investigation.

3. Certain individual pages were reprimanded, and all pages were cautioned about their personal behavior.

Page terminations: One page reported by Grossi as a source of problems—Williams—had already left Washington. Molloy removed him from the page rolls to reflect administratively what had already occurred in fact.

During the Grossi investigation, Molloy discovered that two of the pages named in Grossi's reports had just then received midterm grades which fell below a C average. These two pages had come to his attention as poor workers in the past. He decided to terminate these two pages. To avoid giving them a bad record, Molloy justified the termination entirely on the basis of their grades. Molloy's recollection is that he simply informed the sponsoring Members that the pages were being sent home.

Molloy discussed another page identified by Grossi as a troublemaker with the page's immediate supervisor, and with the sponsoring Member. The supervisor reported to Molloy that the page in question was a hard worker and carried out his duties well. Molloy testified that the page's sponsor argued against the page being sent home on a number of grounds. Based on these conversations, Molloy decided not to terminate this page. But he asked the supervisor to have a tough conversation with the page and give him a strong warning that, if any further reports of misbehavior were received, he would be terminated.

Notification to Members: Guthrie and Molloy testified that they had one conversation with the Speaker of the House about the Capitol Police investigation shortly after the investigation began. The Speaker asked Molloy to notify the congressional sponsors of pages whose behaviour was under investigation. Molloy made a round of visits and telephone calls to carry out this instruction. In some circumstances, he could not reach the Member personally, and in some of those instances he provided the information to the Members' staff.

General followup by Doorkeeper's Office: About the middle of February, the Deputy in the Doorkeeper's Office, Jack Russ, convened a meeting of all pages. Russ covered a number of topics at this meeting. He included a strong warning to all pages against bouncing checks, drinking alcohol, or giving or attending wild parties. He alluded to the departure of several pages, with the implication that he hoped that there would be no further problems. Either at this meeting or at other times, pages received the clear impression that the Doorkeeper's Office did not want them to discuss these matters with the press.

(d) Rumors of a "page scandal" and press followup.-By mid-February, 1982 many people knew of the Capitol Police investigation and the existence of some page problems. The pages themselves were very much aware of the inquiry. The eight pages whom Grossi interviewed and the several additional pages named in his report were acutely interested in what the Capitol Police were finding. The nature of some of Grossi's questions to the pages inevitably had fueled speculation. Rumors abounded as interviewed pages read additional implications into Grossi's questions and speculated with others on what lay behind those questions. One page testified that another who had been interviewed speculated that Grossi thought Williams was a homosexual liaison for Members of Congress.

Some pages may have had a motivation to spread these rumors. Pages whose conduct was under scrutiny were not happy about the investigation or Molloy's complaints to their sponsors. The Special Counsel received evidence that some pages may, out of anger, have spread, or threatened to spread, malicious stories about Members of the House.8 An aide to Representative Patricia Schroeder, who sponsored Opp, recalls that Opp telephoned him one night in February from a page party, and told him that if the pages were going to be criticized they would take a few Members of Congress with them. A congressional staff person called the staff of the House Committee on Standards of Official Conduct on February 11 to report the rumor-along with a host of inaccurate details-that Williams had been a homosexual pimp for Members of Congress. When traced to its source by investigators for the Special Counsel, the source turned out to be

Beyond the pages, some sponsoring Members, the staff of some of those Members, and at least four or five staff members in the Doorkeeper's Office knew not only of the investigation but also of some details. In all, at least 20 to 30 people, probably more, knew something about the problems that had been discovered with the pages. Capitol Hill was described by one witness in his deposition as "the rumor capitol of the world." In this environment, it did not take long for news of the page investigation to travel.

The rumors quickly reached reporters. On February 11, 1982, the very day the Capitol Police closed their investigation, a reporter from the Washington Post called the Committee on Standards of Official Conduct and asked if the Committee was investigating improper activity involving House pages. At the same time, a reporter from Independent News Network made a number of calls and sought to interview pages. No stories appeared in the press during February, 1982, but rumors envisioning a scandal far beyond

<sup>&</sup>lt;sup>6</sup> A further discussion of the Capitol Police investigation appears in Appendix A.

<sup>&#</sup>x27;Staff members of the sponsoring Members recall that Molloy mentioned that the pages being dismissed had been named in an investigation. But staff of one of the Congressional sponsors believed that it was the sponsoring Member, and not Molloy, who decided to send the page home on the basis of bad grades. The sponsor of the other page recalls discussing with Molloy several reasons for his page's dismissal, including poor grades.

<sup>&</sup>lt;sup>8</sup>One of the terminated pages reacted angrily to his termination. This page told other pages that he was going to contact the Washington Post and expose the widespread favoritism on Capitol Hill. This page testified that he never followed through on this threat. But many pages reported as fact to Committee investigators that this page had gone to the House Press Gallery and denounced his spon-

the facts continued to circulate in the Capitol.

(e) Intervening developments.—No further significant developments involving pages occurred during the months of March, April and May.

Two important events did occur, however, although their significance was not appreciated until later. On March 18, 1982, the Arlington Police Department raided a male modeling agency that the police alleged was a front for a homosexual prostitution out-call business. The D.C. and Arlington Police confiscated extensive business records which included the names, addresses, and telephone numbers of hundreds of customers. These records also included detailed accounts of the dates, times, and names of both customer and prostitute for nearly every liaison. At the time of the raid, no one recognized that Friendly Models was the organization whose directory was found in Leroy Williams' room by his landlady in February, 1982.

One month later, on April 19, 1982, in a wholly unrelated investigation, the D.C. Metropolitan Police arrested three individuals for allegedly selling cocaine to an undercover police officer. One of the individuals arrested was a former page, and another was a former congressional staff member. The arrests do not appear to have made news at the time they occurred. But in mid-June both the Washington Post and the local Washington television affiliate of CBS, WDM, ran stories reporting that one of the arrested individuals had begun cooperating with the authorities. They charged that a network of Congressional aides such as tour guides, pages, and staff of the House Doorkeeper was distributing drugs on Capitol Hill.

(f) CBS news reporter.—Sometime in late May or early June, a CBS television reporter began contacting pages in the House seeking information about improper activities on the part of Members of Congress.

On June 9, 1982, Jeffrey Opp, then a sixteen-year-old House page, received a telephone call at his apartment in Washington, D.C. The caller did not identify himself, but, according to Opp, said he had an invitation for Opp and needed Opp's address. Opp provided his address to the caller. Opp testified that within five minutes a visitor knocked on his door and introduced himself as a CBS news reporter.

According to Opp, the reporter said he had been investigating homosexual activities of Members of Congress for some time. Opp testified under oath that the reporter asked him about a ring of 25 to 50 homosexual Congressmen and about an employee of the Doorkeeper's office who allegedly procured pages for them. Opp testified that the reporter claimed to have talked to homosexual prostitutes who told him that some Members of Congress frequented the "red light" district in Washington. Opp told the FBI and testified in his deposition that the reporter named Congressmen in his discussion of these allegations. According to Opp, the allegations discussed by the reporter According to Opp, the reporter said that he had heard that Opp knew a lot and was not an "air head." By Opp's account, he felt flattered by the reporter's attention and therefore spent some time talking to him.

Immediately after this conversation with the reporter, Opp had conversations with at least two other pages. He talked about homosexual approaches he said he had personally experienced and he also began repeating some of the stories that the reporter had told him.

On June 10, 1982, the day after Opp's discussion with the reporter, Opp went to see two staff aides in the office of Opp's sponsor, Representative Schroeder. He told them about a homosexual prostitution ring and drug use involving pages, Members of Congress and others. They asked him how he knew this, and he said he had been working undercover for the prior two weeks contacting young homosexual prostitutes on a section of New York Avenue (part of the Washington "red light" district) to assist a CBS news investigation. Opp claimed that an electronic "bug" had been placed in his room, that his new roommate was a "plant" placed to spy on him by the House Doorkeeper, and that people were watching his house. According to all three individuals involved, this conversation was tense; Opp was agitated and angry.

The two staff members were concerned about Opp's charges, and angry at the idea that a news organization would use a 16year-old House page to assist in investigating a homosexual ring in the New York Avenue area. They contacted officials at the Department of Justice, and telephoned the CBS reporter to complain. The reporter said he could not talk on the phone, and arranged to meet them on the Mall in front of the East Wing of the National Gallery of Art. The reporter arrived with another CBS employee. The Schroeder aides recall that his manner was very secretive. He said he had learned of a widespread homosexual ring among high-ranking government officials. He said he had been investigating this ring for some time, and it was a major scan-In a sworn statement, one of the Schroeder aides recalls that at this point in the conversation, the reporter "even drew a scheme on a piece of paper which had the Capitol at the center and included lines to the Pentagon, the Department of Justice, State, and GAO. He emphatically asserted that he had solid information that there was a widespread, organized homosexual ring among executive branch employees, including the agencies he drew, [M]embers of [C]ongress, lobbyists, and Capitol employees, and that favors were being traded for sex, including page promotions and extensions.

The Schroeder staff members told the reporter that Opp said he had been used undercover for two weeks on New York Avenue as part of CBS's investigation. The reporter denied that Opp had done any work for him, and said that, in fact, he had only talked to Opp the day before, June 9. The reporter said that he had discussed the names of some Congressmen with Opp to get Opp's view of them. The reporter said that he included in the list of names discussed with Opp some "dead-fish" Congressmen whom the reporter did not believe to

be involved in improper conduct, in order to test Opp's reliability. Opp had not claimed to have any knowledge about these people, which in the reporter's judgment enhanced the credibility of Opp's comments about others

Following this meeting with the reporter, the Schroeder aides interviewed Opp again. This interview occurred on Friday, June 11, 1982. Opp admitted that he exaggerated in his first meeting. He admitted that he had made up the story about finding a "bug" as well as the part about interviewing male prostitutes to assist CBS News. He also admitted he had no evidence that his roommate was a spy, planted by the Doorkeeper's office. But he stuck to the rest of the story.

That same day, the aides made arrangements for Opp to meet with Department of Justice Officials on Monday, June 14, 1982. Also on June 11, however, the reporter called Opp, and Opp agreed to give an interview on camera, with lighting and effects to shield his identity. This interview took place at CBS studios in Washington on the next day, Saturday, June 12 although it was not aired until June 30.

On June 14, 1982, Opp and his father met with attorneys from the Public Integrity Section for two hours. The Justice Department then initiated its investigation.

The CBS reporter later asked one of the Schroeder staff members about the details of the meeting at Justice and requested a description of the agents who attended. That staffer recalls that on at least one occasion between June 10 and June 15, he told the reporter:

"If you are basing your story on Opp's word, you are skating on thin ice. He may know something but he is not reliable, and a good deal of what he told us about this, along with some other unrelated items, turned out not to be true. For example, Opp had told me on/about May 1982 he had been admitted to Georgetown University and it turned out he was only a junior in high school and was not admitted to any university."

But Schroeder's staffer said the reporter responded that his story would not be based simply on Opp's allegations, that he had several witnesses and that Opp corroborated what he already had from other sources.

During June, the reporter also contacted Leroy Williams in Arkansas. On Saturday, June 21, 1982, he appeared unannounced at Williams' home in Little Rock. According to Williams' sworn testimony, the reporter said that the Doorkeeper's office had told the press that three pages including him had created problems, these pages had been dismissed, and that action cleared up the problem. The reporter also said to Williams that Opp had told the Justice Department that Williams was involved in homosexual activity as well as in drug trafficking. The reporter said that he believed the Doorkeeper's office was not being fair to Williams, and that he wanted to give Williams an opportunity to present his side.

Williams testified that he was upset to hear that the Doorkeeper's office was blaming him for problems of the page system, and that Opp had charged him with trafficking in narcotics. He saw the television reporter as an opportunity to respond to these charges. The reporter assured Williams that he would not reveal his identity, even in discussing with other witnesses information provided by Williams. The reporter promised Williams that he would not

were that one Congressman liked eightyear-olds, a second Congressman frequented the homosexual areas of Fourteenth Street, a third was "after little kids," a fourth was involved in homosexual activities, and a fifth was "an avid coke fiend."

<sup>&</sup>lt;sup>9</sup> The reporter declined to be interviewed by representatives from the Special Counsel's office, so that this account draws on information provided by people to whom the reporter spoke. In addition to the formal exchange of correspondence between the Special Counsel and the CBS attorney, there were several conversations between the Associate Special Counsel and the CBS attorney to provide the reporter an opportunity to comment on sworn testimony about him and to obtain any information of improper activities he had.

reveal the names of any people with whom Williams was sexually involved.

After having been given these assurances of confidentiality, Williams met with the reporter on Sunday, June 22, for about an hour. During that time the reporter interviewed him and tape-recorded the interview. On the following day, Monday, June 23, Williams, his face backlighted and hidden in deep shadows, gave the reporter an oncamera interview and alleged that he had had homosexual relations with three Congressmen and with Congressional staff.

On June 30 and July 1, CBS broadcast its interviews with Opp and Williams, and the Congress and the nation were introduced to the "page scandal." Thirteen days later, the House adopted to H. Res. 518, initiating this investigation.

#### (3) Summary

It is the conclusion of the Special Counsel that the rumors that sparked the initial press interest and press investigation of a "page scandal" on Capitol Hill had their origins in the events surrounding the departure of three pages from the page program in late January and early February of 1982.

These events included a brief investigation by Sgt. John Grossi of the Capitol Police Department. The issues raised by this investigation were unquestionably serious. They involved excessive drinking by young pages whose welfare was in large measure the responsibility of the House of Representatives. In addition, there were allegations that pages were involved in the use of drugs and in trips to Fourteenth Street to find prostitutes. Finally, the evidence assembled by Grossi indicated that Leroy Williams had been seriously in debt when he left Washington, and that Williams had left homosexual literature in his room when he left Washington. But nothing in the original investigation or in the facts that the Special Counsel has found concerning events in February even hinted at sexual misconduct involving Members or employees of the House.

Nonetheless, the evidence is clear that rumors about a "page scandal" began circulating in the wake of the investigation. These rumors included stories about sexual relationships between Members and pages as well as stories of pages "pimping" for Members. But the evidence also indicates that these rumors were grossly distorted interpretations of the page dismissals and the Capitol Police investigation.

Finally, the allegations made by the two former pages to the press in June, 1982 appear to have been stimulated more by their own resentment, egos and immaturity, and by contact with one reporter, than by any events involving actions by Members of Congress. It is to the allegations made by Leroy Williams and Jeffrey Opp that we now turn.

# B. Leroy Williams

In his CBS interview, Williams asserted that he had had sexual relations with three different Congressmen, three times with one of them, and that he procured homosexual prostitutes for Congressional staffers. Two month's later, Williams changed his story when he was interviewed by Committee investigators. Williams then testified under oath in a deposition taken by the Committee Chairman and Special Counsel that his prior assertions were false.

Since Williams had told two stories that were totally contradictory, the Special Counsel concluded that it was necessary to investigate his charges independently in order to assess whether his original story or his recantation was in fact true. In what follows, this report describes Williams' personal background, analyzes his experience in Washington in order to discern his motives for making the false charges that he did, and presents the basis for the Special Counsel's conclusion that Williams' original charges were false and that the testimony he gave under oath when he recanted those charges was accurate.

# (1) Personal background

(a) Introduction.—Leroy Williams was born on June 14, 1964 in Little Rock, Arkansas, and is the fifth of six children. His father worked as a laborer until several years ago when a medical disability forced his retirement. His mother is a domestic worker. Williams testified that his two older brothers are in prison, one for murder, one for robbery. His father and mother have periodically separated.

Prior to coming to Washington, Williams attended high school in Little Rock, where he was a "B" student and was involved in extracurricular activities such as the school choir and the drama club. He was also active in the Sixth and Izard Church of Christ. Williams testified that before he came to Washington he drank alcohol infrequently, "maybe once a month." He occasionally used drugs, such as marijuana, "on a limited social basis," at most once a month.

Unknown to his family and friends in Arkansas, Williams had felt a sexual attraction toward other males since the age of 12. At 14, he engaged in sexual relations with another male for the first time. During the three years from 1978 to 1981 that preceded his arrival in Washington, Williams had sexual relations with men approximately ten times. Williams guarded this secret elegals.

Williams first came to Washington in February, 1981, as a participant in "Close-Up," a program that brings high school students to Washington for a week to learn about government. While in Washington, Williams became interested in working as a page and filed an application with his Congressman, Representative Ed Bethune. Williams' application included recommendations from his history teacher and from persons at his church. The House Committee on Republican Personnel notified Congressman Bethune of Williams' selection on May 19, 1981, and he assumed his duties as a page June 29, 1981.

At the end of July, Williams was selected by the Doorkeeper to be one of the two Republican Page Overseers, a supervisory position. Throughout the period Williams served as a page, his work was considered satisfactory, although his performance declined toward the end of his tenure.

It was after working hours that Williams began to have problems. Williams spent most of his time outside of work and school with a group of about five or six pages. He created a fictitious picture that he came from a wealthy family. He told other pages that his father was a heart surgeon, his mother an opera singer. He talked about his parents' ranch, their European travels, and the cotillion balls they held every Christmas. Williams also told the other pages about his girlfriend, Nancy, who he said was a nurse. None of the pages ever saw or met Nancy.

(b) Sexual activities.—When the Congress went into its 1981 mid-summer recess, most of the other pages went home. But Leroy Williams remained in Washington alone. He told other pages that he was not going

home because his parents were travelling abroad. It was at this point that the 17 yearold Williams first engaged the services of a homosexual prostitute.

He contacted the "Friendly Models" agency and obtained the services of a male prostitute, for which he paid \$50 by check. Williams used the services of the Friendly Models agency on fifteen different occasions between August, 1981, and January, 1982, ten of those times during the August Congressional recess.

In the months that followed, Williams cruised the gay bars and bookstores, and visited a gay bath house. He testified that between the end of August, 1981 and the end of January, 1982 he had homosexual relations on an average of three times a week, usually with a different person whom he had met in one of those establishments. Williams thought some were congressional employees because he said he later recognized them at work in the Capitol. He dealt with these men on a one-time, first-name basis. In addition to these occasional relationships, Williams testified he had sexual relations on a few occasions with a male who was a Government Printing Office employee, and then over a period of several weeks with a male hairdresser who worked in Georgetown. So far as the pages were concerned, Williams tried to hide his homosexuality.

But it was impossible to keep this secret completely hidden. In August, Williams moved to an apartment from the room he had rented when he first arrived. A page supervisor in the Doorkeeper's office, who had rented Williams his first room, discovered a brochure advertising the Friendly Models prostitution agency among personal effects Williams had left in his room. This page supervisor has testified under oath that he did nothing with this information:

"I figured essentially that Leroy no longer lived there and that his social life, whatever it may be, \* \* \* [was] not of a particular interest to me \* \* \* In any respect, I have not really discussed with any page their sexual activity and while I am concerned about it and don't like it at all, I am not really sure what my role would be in discussing it with them."

(c) Use of alcohol and drugs.-During the seven months that Williams was in Washington, he consumed more and more alcohol. He drank when he cruised homosexual bars, and he and the five or six pages in his group drank frequently. The group gathered two or three times a week at his or another page's apartment for heavy drinking sessions lasting well into the night. Sometimes these sessions would go on until it was time for the pages to go to school at six the next morning. Williams or other pages would occasionally drink until they passed out from a combination of alcohol and exhaustion. Williams testified that when he left Washington in late January, 1982, he 'was literally an alcoholic."

Williams' use of drugs also increased sharply while he was a page. He frequently took caffeine pills to stay awake during the long hours of school and work when the House was in session. Williams testified that he used marijuana on several occasions, and he used cocaine two or three times. But alcohol, not drugs, was his nemesis.

Williams' school record reflects his intensifying problems while he was a page. In early fall 1981, Williams' first advisory grades were close to a B average. By the late fall, they had fallen well below a C average.

(d) Financial problems.—Williams got into increasingly severe financial trouble in Washington. Pages are paid \$700 per month. But that is not enough money to pay for rent, purchase food, and live the kind of lifestyle that Leroy Williams pursued. Williams' use of homosexual prostitutes, his heavy drinking, his expensive taste in clothing, and the gifts he reportedly gave to other pages at Christmas strained his finances severely.

Williams had no source of income other than his salary. He lived in the fashion he did by failing to pay a large number of bills, writing bad checks, and stealing money. When he eventually left Washington in January, 1982, Williams left behind many unpaid charge bills and bounced checks, including almost \$900 in unpaid rent and tele-

phone bills.

(e) Williams' departure.-By January, Williams was regularly bouncing checks. His landlady was becoming more and more impatient for her back rent. Williams testified that he was now more dependent on alcohol, more fearful that his homosexuality been discovered, and felt more preshad sured on his job. On Friday, January 29, 1982, Williams told his supervisor he was going to resign. That evening he went out with other pages to a party, and spent the night in a homosexual bath house. The next morning, Saturday, January 30, Williams took an automobile belonging to a fellow page, drove to Tuscaloosa, Alabama. He visthe former youth minister of his church who was living there, and eventually returned home to Little Rock.

(f) Williams' decision to talk to the press.—After he arrived back home in Little Rock in February, 1982, Williams began to realize that his departure had stimulated criticisms and speculation about him.

In early March, Williams was approached by a reporter for a local television station for an interview about his experiences as a page. The reporter asked Williams if he had ever been homosexually propositioned while in Washington. Williams responded, "Just by someone who worked on the Hill.

Then, later in March, the page whose car Williams had taken telephoned and asked if Williams had stolen the automobile which had been recovered in Tuscaloosa, Alabama. Williams denied taking the automobile. The page also told him there were rumors that Williams had been involved in drug traffick-

ing

According to Williams, he immediately telephoned his best friend among the pages in Washington. She called him back that same evening on a WATS line. She told him that the Doorkeeper's Office had linked him with two other pages who had been dismissed in February. Williams' friend said that supervisors in the Doorkeeper's office were saying that all three pages, including Williams, had been fired because they were "bad apples." She told Williams there was a press investigation about him, and the pages had been told not to talk to the press about

According to Williams, his anger and re sentment came to a head in June, 1982, when he gave a CBS News reporter the interview that CBS broadcast on June 30.

### (2) Williams' allegations

The F.B.I., various news organizations, and the Committee's staff interviewed Williams in June and July, 1982. He did not tell the same story each time. But, in the course of these interviews, he claimed that:

He was propositioned by, and had sexual relations with, three Congressmen;

He arranged a sexual liaison between a Senator and a male prostitute:

He arranged sexual liaisons with male prostitutes for a Congressman's administrative assistant and for an employee of the

Government Printing Office.
Williams also repeated to interviewers other allegations of sexual misconduct by Members and employees of the House which Williams said had been told to him by other pages. Specifically, he said he had been told that:

A female page had been sleeping with two

different Congressmen:

Pages suspected a Doorkeeper's office employee of procuring female pages for sexual liaisons with a Member of Congress, arranging homosexual activities for Congressmen, and having homosexual relations with some

male pages;

The Special Counsel has concluded that there is no evidence to support any of Williams' original charges. In reaching this conclusion, the Special Counsel has not relied solely on Williams' recantation. Rather, the Special Counsel's investigative staff has conducted a detailed investigation of each of Williams' allegations. Every bit of independent evidence collected supports the conclusion that Williams' original allegations were false and that he was telling the truth when he testified he had lied about those charges.

(a) General credibility.-Williams' credibility, even before he said he was lying about all of the allegations, was not high. While in Washington, Williams had lied about his family background. He had written numerous bad checks, failed to pay his rent, and lied to his supervisors about his financial problems. Finally, at the time he left the page program, he was suspected of having stolen both a wallet and a car from

other pages.

Williams' allegations were inconsistent almost from the moment he started making them. In his press interview in March, Williams derided rumors of sexual relations between pages and House staff, saying it was "a very, very small problem." He said he did not know of pages involved with congressional staff members, although he was aware of an occasional "pass" at pages. He specifically denied that he was personally involved in "this homosexual thing," but he did say that once a person "who worked on

the Hill" made a "pass" at him.

In June, Williams suddenly made his sensational charges on television that he had sexual relations with three Congressmen and procured prostitutes for congressional staff members. However, in Williams' first interview with the FBI on June 25, 1982, two or three days after he talked to CBS. Williams mentioned sexual relations with two Congressmen, and did not mention staff. Moreover, the details he provided concerning certain incidents differed. Williams told CBS he had sex with one Congressman on three occasions including one time at the Watergate. Williams told the FBI his most frequent encounters with one Congressman were on two occasions, and never mentioned a tryst at the Watergate.

Williams was reinterviewed by the FBI on July 7, 1982, and his story changed once again. He now spoke of sexual relations with three Congressmen, and gave the FBI a third name. But now, Williams added other names and allegations. For the first time, Williams said he had procured a male prostitute for a Senator, congressional staff member, and Government Printing Office

employee.

In his first interview with investigators from this Committee on July 9 and 10, Williams also lied. Questioned about the thefts of a female page's purse, of another page's automobile, and of a checkbook and cash from a family friend in Washington, Williams made up an elaborate story about the stolen car and also had an innocent explanation for the stolen purse. On the second day of this interview, however, he admitted that he had taken the purse, had in fact stolen the car, and \$120 in \$20 bills and some checks from his friend's purse.

On July 8, 1982, Williams failed a lie detector test administered by the FBI.

(b) Retraction by Leroy Williams.-By late August, inverviews with many pages and other individuals had established there was no corroboration for Leroy Williams' allegations. Under the circumstances, the Special Counsel decided Williams should be reinterviewed and confronted with the evidence. Extensive preparations were undertaken to prepare for the interview. Investigators diagrammed the offices of each of the Members of the House of Representatives with whom Williams alleged he had sexual relations. They noted unusual design features to test if Williams could provide details, since he claimed he had sexual relations with each Member in that Member's office. They interviewed the Congressmen's staffs to obtain information about the Congressmen to be used in questioning Williams.

On August 26, 1982, investigators met with Williams in Little Rock, Arkansas. During this interview, Williams admitted for the first time that the allegations that he had had homosexual relations with Members of Congress were false. He also admitted that the allegations that he had arranged sexual liaisons between male prostitutes and a Senator, a Congressman's staff employee, and an employee of the Government Printing Office, were also false.

Following these admissions to the investigators, a deposition was scheduled for the morning of August 28, 1982 in Washington. On that day the Chairman and Special Counsel deposed Williams in executive session in the presence of his attorney.

Williams testified that he had left Washington and the page program in late January, 1982 as a result of the problems he had experienced from excessive drinking:

"Because of the pressure that had been put on me because of [my supervisor's] suspecting my homosexuality, the pressures of the job, the fact that I was literally an alcoholic because I had gotten to the point where I felt like every day at lunch I had to have a drink in order to go through the rest of the day. Those situations scared me a great deal and I decided that it would be better for me to be at home because I had too much of my life left to ruin it all at such an early age."

Williams testified that when he was interviewed by the CBS news reporter in June of 1982, he made up the story about having sexual relations with Members of Congress. He told the Committee under oath:

"It was my intention to create a story that would be credible and drastic enough that it would cause enough public interest in order to cause people to look at the page system and look at what was going on and basically that was my reason."

Williams testified under oath that he never had sexual relations with any Member of Congress. He specifically denied under oath that he had never had sexual relations with the Congressmen he had named, that he had had sexual relations with the Senator he had named or that he ever arranged a liaison between the Senator and a homosexual prostitute.

He testified that Committee investigators had not pressured him or attempted to pressure him into changing his story. Rather, he said he had decided to tell the truth:

"Mainly because the mental depression and the pressure of the fraud that I created was just overwhelming and I knew, or at least I felt like, there had been enough attention brought to the pages where there were going to have to be modifications. So at that time, I did not feel like there was any reason to continue in the fraud because I was ready to tell the truth because the pressure was just overwhelming. It had gotten to the point where I wanted to end my life. So I knew that time it had become drastic enough for me to disclose the truth."

#### (3) Investigative findings

(a) Allegations against Members of Congress.—At various times, Williams alleged that he had had sexual relations with three members of Congress and that he had procured a male prostitute for a Senator. In two instances, the evidence obtained, in the judgment of the Special Counsel, proves—independent of Williams' recantation—that Williams' allegations were not true. In the other two instances, Williams' vagueness about dates has limited the Special Counsel's ability to develop definitive proof. But all the evidence that has been obtained contradicts Williams' allegations.

#### (i) Allegations for Which Detailed Evidence Was Obtained

Congressman A 10: Williams told two versions of his encounter with Congressman A. On July 7, Williams told the FBI the following story about Congressman A: In November, 1981, Congressman A approached him on the House floor and asked him to come to his office after the session. Williams discussed the situation with a fellow page who was a close friend. That evening he went to Congressman A's office, at about 6 p.m. where the Congressman expressed his desire to become better acquainted with Williams. This encounter lasted only 10 minutes and involved no sex. Over the next two weeks Congressman A once again approached him on the House Floor and asked him to come by his office. Williams said he went to Congressman A's office at approximately 6:00 p.m. that same day, where he was alone with the Congressman. Williams alleged that he and Congressman A engaged in homosexual relations for approximately one hour.

Two days later, Williams told Committee investigators a slightly different story. He said he had sexual relations with Congressman A in November, 1981 after the first approach by Congressman A on the House floor. He again said, however, that he joined Congressman A in the Congressman's office at 6 p.m. He said that the sexual relations were unsatisfactory to both of them and that Congressman A never approached him again.

Although the inconsistencies in the stories raise questions about Williams' credibility, both stories are consistent with respect to time-6 p.m.- and Williams' allegation that the liaison occurred on a work day sometime in November, 1981.

Investigators in the Special Counsel's Office have reconstructed Congressman A's time during the month of November 1981.

10 Since the Special Counsel has concluded the allegations concerning these Congressmen are false, no names will be used in this report.

That reconstruction indicates it was not possible for Williams to have been alone with the Congressman in his office between 6 and 7 p.m. in November, 1981 on a night when the House was in session. One staff member stayed in Congressman A's office every week night, except Tuesdays, during November, 1981, until at least 8:00 p.m., an hour after Williams claimed he was with the Congressman. That staff member served as secretary and receptionist between 6 and 8:00 p.m. and was aware if the Congressman was in his office and who was with him. She has stated under oath that the Congressman was never alone with a page in his office while she was there. If the meeting with Williams occurred during the week, it would have had to occur on one of the Tuesday nights during November when this staff member was not on duty.

The Special Counsel's office obtained and examined the Congressman's schedule and travel records for November 1981. These rec- ords show that Congressman A was not in Washington on three of the four Tuesdays in November. On the one Tuesday he was in Washington, the Congressman's records show that the Congressman was assigned the job of watching the floor for his party, and the Congressional Record shows that he was on the floor of the House until 7:39 p.m., more than one-half hour after Williams alleges their liaison terminated.

The House was in session on only one Saturday in November, 1981-Saturday, November 21. That evening, Congressman A went to dinner with another Congressman at a restaurant on Capitol Hill, between 6:00 p.m. and 7:30 p.m. The Special Counsel has obtained a copy of Congressman A's charge account receipt showing a charge at this restaurant on this date. The Special Counsel's staff has also interviewed the Congressman whom Congressman A said accompanied him to dinner that night. This Congressman confirms that he did in fact go to dinner with Congressman A immediately after the House session on November 21 at the restaurant named.

Congressman A requested that he be deposed, and he has sworn under oath that he never propositioned Williams, never had sexual relations with him, and in fact never even knew him.

Finally, the page whom Williams claimed he told about the approach from Congress-man A denies that Williams ever mentioned the matter.

In sum, based on the evidence obtained by the Special Counsel's office, it appears virtually impossible for Williams to have had sexual relations with Congressman A in his office between 6:00 and 7:00 p.m. on any work day in November, 1981.

Senator B: In July, Williams also made allegations to the FBI and this Committee's investigators about Senator B. Senator B is outside the jurisdiction of this Committee. However, to test Williams' credibility, the Special Counsel did investigate the allegations Williams had made.

On its face, Williams' story about Senator B strains credulity.

Williams alleged that in the latter part of November, 1981, his work as a page overseer required him to make frequent trips to the Senate where he became acquainted with Senator B. Williams stated that during one conversation the Senator asked him if he knew someone named Roger. Williams said that Roger, whom he had met two or three times, was a male prostitute employed by an "outcall" prostitution agency, Friendly Models. Williams said he told the Senator he did know Roger and the Senator then requested Williams to contact Roger for him.

According to Williams' story, the Senator asked Williams to arrange a liaison between Roger and the Senator at Williams' apartment. Williams told the Senator that he could not use his own apartment, but he could use the apartment of a friend with whom Williams was staying at the Watergate South apartments. Williams said he agreed to make the necessary arrangements, and subsequently, contacted the Senator's office by telephone leaving a message with a secretary that the appointment was set for 11:00 p.m. that evening. The Senator arrived at the apartment shortly after 11:00, after William's friend had gone to bed. After the Senator arrived, Williams claimed he contacted Friendly Models and requested Roger be sent to the apartment.

According to Williams, Roger did come to the apartment. After drinks, Williams said that Roger and the Senator went into the master bedroom for approximately one hour. Afterwards, as the Senator was leaving, he asked Williams to call his office if there was any way he could be of assistance to Williams. Williams alleged that approximately one week later, he telephoned the Senator's office and told a secretary that he wanted to work as a Senate page. The secretary told him she had a memorandum from the Senator indicating she should help Williams in any way possible. In a later conversation with this secretary, Williams said he was told that his application had been sent to "the appropriate Committee." Before the Committee made its decision, however, Williams had decided to return home, and did not pursue the matter.

The independent evidence developed by the Committee shows virtually every statement in this story to be untrue.

'Roger" and Senator B: Unrelated to this Committee's investigation, the Arlington County Police had executed a search warrant and obtained the records of Friendly Models on March 18, 1982. The Arlington Police provided the Special Counsel's Office with the following information: The records of Friendly Models show Leroy Williams was a client of Friendly Models. Those records indicate a visit by "Roger" to Williams on November 15, 1981, at the street address of the Watergate Apartments. This was the only time that the records showed an employee of Friendly Models made a visit at Williams' request to the Watergate apartments during 1981. (Williams had previously been visited by "Roger" on one occasion in August at his room on Capitol Hill.)

The Special Counsel's staff interviewed and deposed "Roger." "Roger" testified he had a homosexual liaison with Leroy Wil-liams—not a Senator—at the Watergate apartments on November 15, 1981. He denied having relations with Senator B and testified that Senator B was not present. "Roger" also took an FBI polygraph examination. It was the opinion of the examiner that "Roger" showed no deception when he denied the liaison with the Senator.

Senator B on November 15, 1981: The Special Counsel obtained and reviewed Senator B's records concerning his schedule, airline ticket receipts, and credit card receipts for the period Friday, November 13, 1981 through Monday November 16, 1981. These records indicate that Senator B was in his home state all day on November 15 and did not return to Washington until November

Calls to the Senator's office: Williams alleged he made at least one call to Senator

B's office the day of the liaison. He claimed he spoke with a secretary. But November 15, 1981, was a Sunday, and the Senator was out of town.

Weather: Williams alleged that on the night of the liaison there had been some snowfall. Official Weather Bureau records show that the first snowfall of 1981 did not occur until November 24, 1981, some nine days after the evening Roger visited the Watergate.

In conclusion, the Special Counsel has found that independent evidence totally contradicts Williams' allegations about Senator B and supports the conclusion that he lied in making this allegation.

### (ii) Allegations Regarding Other Two Members of Congress

Williams also told the FBI and investigators for this Committee that he had sexual relations with Congressman C and with Congressman D.

Congressman C: In the case of Congressman C, Williams initially told inconsistent stories. In his interview with CBS News, Williams said he had had sexual relations with the Congressman on three occasions. When he talked to the FBI two or three days later, however, Williams told them that he had had sexual relations with Congressman C on only two occasions.

In addition, details of the story that Williams told the FBI about his encounters with Congressman C differed from those he provided to investigators from the Special

Counsel's office.

Congressman C has denied ever propositioning or having sexual relations with Williams. He has said that he never met alone under any circumstances with Williams and does not know him. Congressman C took a polygraph examination, and the examiner's opinion was that the Congressman was telling the truth when he denied knowing Williams and denied having homosexual relations with him.

Investigators from the Special Counsel's Office have inspected the logs of the Congressman's Office and have interviewed his staff. His staff members have been shown photographs of Williams. No one recalls Williams visiting Congressman C's office on

any occasion.

Congressman D: In the case of Congressman D, Williams also told inconsistent stories to the FBI and to the Special Counsel's investigators. Williams told the FBI that Congressman D had initially propositioned him at a reception given by a Congressional Committee, which Williams named. Williams told the FBI he had declined that night, but that the sexual liaison occurred the following day after he was again propositioned by the Congressman. However, Williams told this Committee's investigators that he did go to Congressman D's office right after the reception and had sexual relations at that time.

Congressman D was interviewed by the Special Counsel's staff about Williams' allegations. He denied that he ever propositioned Leroy Williams or had sexual relations with him. He denied even knowing Williams. Congressman D also denied attending the reception at which Williams claimed to have met him as the sponsoring Committee did not involve an area of primary interest or concern to him. An inspection of his office records did not indicate any occasion when Williams was in his office. His staff could not recall that Williams had ever been in his office. Committee investigators showed Congressman B's staff

photographs of Williams. No one picked him out as someone they recalled seeing around the office.

In sum, all the available evidence supports the conclusion that Williams lied about Congressmen C and D.

(iii) Allegation of Procuring Prostitutes for a Congressman's A.A. and an employee of the Government Printing Office

Williams alleged for the first time in his July 7, 1982 FBI interview that in August, 1981 he had procured male prostitutes from Friendly Models for a Congressman's administrative assistant (AA) and for an employee of the Government Printing Office (GPO). Williams said both of these liaisons took place on the same evening at his apartment. Williams stated that he obtained a prostitute named "Donnie" for the AA and a prostitute named "Bob" for the GPO employee.

Evidence obtained by the Special Counsel supports the conclusion that Williams lied in making these allegations. The records of Friendly Models do indicate that on August 11, 1981, male models "Bob" and "Donnie," the prostitutes with whom Williams claimed he arranged dates for the GPO employee and the AA, answered calls from Leroy Williams. Investigators from the Special Counsel's office have located and interviewed both "Bob" and "Donnie." Both men confirm going to Williams' apartment on the same night in August, but both said that Williams was their only client and he did not procure their services for someone else. The Committee investigated and deposed

The Committee investigated and deposed the AA for whom Williams said he arranged a homosexual prostitution liaison in August. The AA testified that he did not have sexual relations with Leroy Williams or with

a male prostitute on any occasion.

Committee staff unsuccessfully attempted to locate the former GPO employee. GPO records, including credit union records, the GPO employee locator and the federal government communications operator did not list a present or former GPO employee with the name of the person for whom Williams said he arranged the date with "Bob."

(b) Further allegations by Williams.—Williams also repeated some allegations of sexual misconduct he had heard second-hand from others. These allegations amounted to little more than gossip, and, under other circumstances, would hardly merit serious investigation. But, to assure that the investigation was complete, these allegations have also been investigated. The evidence developed has, without exception, shown nothing to support them.

Allegation: Williams testified that he had been told that a female page whom he named had sexual relationships with two Congressmen, although he had no first-hand information of either liaison.

Investigative findings: Investigators interviewed the page and both Congressmen allegedly involved, and attorneys on the Special Counsel's staff took the page's testimony under oath at a deposition. They all denied the relationship.

Investigators showed a photograph array

Investigators showed a photograph array containing the page's picture to the staff of both Congressmen, none of whom recognized the page as someone who frequented

the offices.

The page's two roommates stated under oath at depositions that to the best of their knowledge she had not been dating or having an affair with a Congressman.

The two former pages who Williams said told him about one Congressman's relationship with the page were deposed. Both denied under oath knowing anything about any such relationship, and both denied telling Williams or anyone else about such a relationship.

Another former page, whom Williams said told him about the second liaison, was also deposed under oath. He denied ever making such a statement to Williams.

Allegation: Williams also testified that it was "rumored" that this female page was set up by a page supervisor with the second Congressman. Williams testified he heard this information from the page who told him about this liaison. Williams had no personal knowledge of such a liaison or whether the page supervisor had a role in setting up the liaison.

Investigative findings: Committee investigators identified those pages who worked most closely with the page supervisor, and interviewed and/or deposed each of them. None of the pages had any personal knowledge or had ever heard any rumor that the page supervisor had ever arranged or attempted to arrange dates between a female page and either of the Congressmen mentioned by Williams, or between any page and anyone else. The pages testified that they had no reason to believe that the page supervisor was arranging dates between pages and others or that any page was involved sexually with any Member of Congress.

The page who was supposed to have told this story to Williams denied under oath ever making such a statement.

The page supervisor named by Williams was also deposed under oath, and also denied having ever been involved in any such activity with a page or a Member of Congress.

Allegation: Williams also alleged under oath that a Member of Congress "propositioned" a female page. He testified that the Representative merely called the page desk in October, 1981, and asked to speak with the female page, who was unavailable. According to Williams, the Congressman later called the Cloakroom and asked her if she would drop by his office after adjournment; she reportedly declined, saying she was going home immediately after work because of school.

Investigative findings: The female page testified that she was never approached by the Congressman Williams mentioned, that she did not tell Leroy Williams, or any other page or anyone else that she had been approached, or that she was propositioned by that Congressman. She testified that some male pages "often" said to her that they were "sure" she had been propositioned by someone, but she insisted to them that this was not true.

The page's roommate testified under oath that she never heard anything about her roommate being propositioned by anyone.

### C. Jeffrey Opp

Jeffrey B. Opp was the other page who appeared, with his identity concealed, on the June 30 CBS News broadcast. In that broadcast, he alluded to one "homosexual approach" that a Congressman had made to him. But in interviews with the FBI and this Committee, Opp made two different types of allegations:

allegations based on his personal experience, and

2. allegations based on information that he had heard from other people.

The Special Counsel has found nothing to support any of these allegations.

At his deposition before this Committee,

Opp testified:

That interview was a-it was a 16 year old kid satisfying his ego. That interview was my being-was me being, as I have said, holier-than-thou, \* \* \* and being able to rationalize everything in my mind meant I had to be adamant, I had to be definite, I had to say this is the way it is and lay it on the line and not take into consideration my bias, which I did not at that point."
Opp further testified that his conversation

with the CBS reporter had left him:

"[P]anicked, scared, holier-thanthou, wanting to prove something, and I used what [the reporter] said and I convinced myself of it even though at the time he was saving it I didn't believe it. I convinced myself that it was true and then that this Hill just needed to be cleaned up.

In retrospect, Opp testified that he did not feel that he had acted responsibly in making the charges that he had made. He concluded that he had exaggerated the significance of his personal experiences in his discussions with the CBS reporter, with the staff of his congressional sponsor, and with the Justice Department.

A careful evaluation of information provided by Opp has yielded not a single instance in which there is responsible evidence that improper actions occurred. All the evidence we have developed-including significant changes in Opp's own story when he was questioned under oath-indicates that there is no support for his allegations.

#### (1) Background

Jeffrey Opp was appointed as a page under the sponsorship of Congresswoman Patricia Schroeder and served as a page from January 4, 1982 until June 12, 1982

Opp considered himself far to the left on the political spectrum and went out of his way to challenge authority and to make sure that people were aware of his extreme left-wing political views. For example, the Deputy Doorkeeper recalls a conversation in which he recommended to Opp that he open a checking account in order to deposit his salary and draw checks for his personal expenses; Opp responded that, for ideological reasons, he did not believe in using banks

There was substantial tension between Opp and his supervisors in the Doorkeeper's office. The supervisory staff who had contact with Opp had a strong negative impression of him. One supervisor told Committee investigators that he did not like Opp personally and believed that most of the pages did not like him. That supervisor also felt

that Opp had serious emotional problems. For his part, Opp felt that his supervisors believed that he should not have been a page. Opp felt that his supervisors' attitude toward him was based on the fact "that I preached socialist ideals, \* \* \* that I didn't look like a page, because I let my hair grow longer than I should have, I didn't tie my tie all the way while in session, I was not

your model page.

Opp also resented his involvement in the investigation of pages conducted by Sgt. Grossi of the Capitol Police. Opp said he believed this investigation would lead to his termination as a page, When Sgt. Grossi's investigation concluded, the Doorkeeper visited Congresswoman Schroeder to complain about Opp's conduct. Following the Doorkeeper's visit, Congresswoman Schroeder's staff admonished Opp. Opp's reaction to the investigation is evident from the telephone call he made to one of Congresswoman Schroeder's staff threatening that if the pages' conduct was going to be criticized, the pages would take a few Members of Congress down with them.

The allegations that Opp has made must also be considered against the background of his reputation for exaggeration and for blowing things out of proportion." Obviously, the evidence concerning Opp required that his statements be subjected to a critical and searching analysis.

#### (2) Opp's direct conversations with four individuals

In his interview at the Department of Justice and his interview by Committee investigators a few weeks later, Opp related four personal experiences that, he asserted, had overtones of homosexual solicitation.

(a) The four conversations.

Congressman E: Opp testified that on May 25, 1982 the House was working very late into the evening, and he was on duty on the House floor. Opp was asked to help Congressman E make copies of some documents to be distributed to House Members. Congressman E and Opp were in the Speakers Lobby, a small area off to the side where a copying machine is located. Opp said that he stood approximately two feet away from Congressman E while the machine copying. They stood silently for about 30 or 40 seconds, when Congressman E moved to within a foot of Opp. Opp recalled that the Congressman put his arm around Opp and pulled him "in an ingratiating move. gessman E then allegedly asked, "You want to come to a party tonight? I could show you some fun." Opp said he told the Congressman, no, and moved away. After the machine finished making the copies, Opp handed the copies to the Congressman, and the Congressman left the area. The entire incident took only two minutes.

Opp has consistently maintained that he interpreted the actions of Congressman E as being "an overt sexual proposal." He testi-fied, "I took it to mean that if I would have gone to that party, I would have had fun via having sex with him." Opp testified that he had no contact with Congressman E before this incident and had none after it occurred, except that the Congressman would look at him strangely when they encountered each

other on the floor.

Congressman E has said that he does not recall ever meeting Opp. He did not recognize Opp's photograph when it was shown to him. Congressman E said that he rarely asked pages to run errands for him and did not know many of them. Congressman E said that he had only attempted to use the copying machine in the Speaker's Lobby on one occasion, several years before, and had found the machine broken. He had not attempted to use the machine again; he habitually used another machine which he regarded as better. He speculated either that Opp has confused him with another Member or was inventing the entire incident. Congressman E recalled a somewhat heated exchange he had had on the floor with Congresswoman Schroeder, Opp's sponsor, some weeks before the alleged inci-Opp's dent. He thought it possible that Opp was retaliating against him out of a misguided sense of chivalry.

Congressman F: Opp's interpretation of a brief conversation with Congressman F has varied. According to Opp, on the night immediately after he had been approached by Congressman E, the House was also in session late. Opp testified that he was approached at his desk on the floor of the House by Congressman F who also asked him if he wanted to attend a party. According to Opp, the Congressman made a ges ture with his hands to his nose. Opp told the FBI that he interpreted this gesture to mean there would be cocaine at the party. He told Congressman F he was not into that sort of thing, and the Congressman said nothing else about it. The conversation lasted less than a minute, and Opp had no contact with the Congressman either before or after this one conversation.

Opp told the FBI that he did not feel that the Congressman was making homosexual advances toward him. But three days before the FBI interview he told Congresswoman Schroeder's staff that he did interpret the gesture to be sexual. When he first met with Committee investigators in July, he also said he considered Congressman F's invitation to a party and his sniffing gesture to be a sexual approach. Opp explained that the reason he perceived sexual overtones in the incident was that offering drugs to a page "goes hand in hand with homosexual

In his deposition in September, Opp reverted to the view that he did not believe there was anything sexual involved. Rather. he testified that he regarded the incident as

relating strictly to cocaine use.

Congressman G: Opp's interpretation of a conversation he had with Congressman G changed over the summer. He told the FBI in June that the conversation involved a sexual advance. In September, he testified that he was not so sure. The incident occurred while the House was in session, late one night in early May. The conversation with Congressman G occurred at approximately 11:00 to 11:15 p.m. in the Republican Cloakroom. Two employees who worked in the snack bar were within two or three feet of Opp and Congressman G when they were talking and there were other Congressmen milling around. He and Congressman G were standing at the snack bar, and the Congressman asked "Where do you go after this?" Opp said he responded, "Home, to bed." The Congressman then asked, "Don't you ever go out?" When Opp said yes, the Congressman asked where he went. Opp re-"Penn. Ave."—meaning the nearby and restaurants on Pennsylvania plied. bars Avenue. As Opp tells the story, the Congressman then said that he also went there and that "[i]t is strange we have not seen each other." Opp said the Congressman than said, "We should see each other sometime.'

The conversation lasted less than a minute. Opp said that he had had no further contact with Congressman G prior to that incident, other than taking messages to him on the floor, and that he had had no contact with him since that incident

Opp told the FBI that he considered the incident to have sexual overtones. But at the time of the deposition Opp testified that he was "not sure \* \* \* I am not positive. It strikes me as being odd; it strikes me as being strange, and certainly it could be, it could have been, but I am not positive.'

When asked the basis of his concern that there had been sexual overtones to the conversation, Opp said that Congressman G is "an aloof man" who "does not come on nicely to people." He also said that he had had some concern because of the reaction of the two women who worked behind the snack counter. At his deposition, Opp testified that one of these women told him upon his return a short time later, "Got to watch out." In previous interviews, he had described the women as "eyeing" him "warily" or clicking their tongues.

When the Special Counsel's staff interviewed Congressman G, he was incredulous. He did not know anything about Opp except what he had heard in the media. He said that he had never met Opp and did not now what he looked like. After being shown a photograph of Opp, he still said he did not recognize him. When asked specifically about a conversation that might have occurred late at night at the snack bar, Congressman G said that it was certainly possible that if the House was in session late at night he would get a sandwich from the snack bar and that if he did that, he would probably make conversation with someone standing nearby, including a page.

But he said that the notion that someone would sexually proposition a page in the snack bar was preposterous. The snack bar counter is only about seven feet long and there are two women who work behind it who would overhear any conversation. Furthermore, there are many other persons moving about in a relatively confined space who would also overhear. The Special Counsel's staff has visited this area and has found Congressmen G's description accu-

Lobbyist: Opp told the FBI in June that a woman lobbyist had been providing male pages for homosexual relations with Members of Congress. He did not know her

name. He described her to the FBI only as a "very large woman."

Opp explained to Committee investigators in July that this charge was based in part on an encounter he had with her. Opp did not know the woman's name, but described her as blond, obese, and having a prominent nose. He said he met this woman at a doorway to the House Floor and she remarked, "These guys could use some help from time to time. Do you think you could help?" Opp declined and went on his way. Based on this exchange, Opp had concluded she was seeking to arrange sexual liaisons. By September. Opp changed his mind about this con-

versation. He testified at his deposition that

he had "probably misread that incident."

## (3) Investigative findings.

It is difficult not to dismiss Opp's original stories, particularly about the lobbyist, as ludicrous on their face. Had it not been for the serious public concern about the "page scandal," Opp's charges would not have even warranted investigation. Nonetheless, to the extent possible, the Special Counsel attempted to investigate these charges. The Special Counsel looked for methods of investigating Opp's charges in ways other than by simply questioning the participants, who, assuming any wrongdoing, would be likely to deny it. This proved to be a difficult task. In each instance, the only thing which was alleged to have occurred was a brief conversation between Opp and another person. The two snack bar attendants Opp thought had overheard the conversation between Opp and Congressman G were interviewed by Committee investigators, but neither remembered the incident.

In an effort to seek some independent evidence, the Special Counsel deposed three former pages, all friends of Opp, whom Opp claimed he had told about his various experiences. if these witnesses could establish that Opp had at least related consistent versions of these events to them, more or less contemporaneously with those events, that consistency would have some limited corroborative effect. While all three former pages recalled Opp's informing them of at least one encounter with a Member of Congress, none of their recollections of these in-

cidents were consistent with each other, and all were different from Opp's version of

Finally, two of the three page friends testified that they did not believe aspects of Opp's story at the time he first told it to them last Spring. One testified that Opp was undergoing some difficult personal problems at the time. The second testified that aspects of Opp's story were "ridiculous" and that he was very concerned that innocent people named by Opp would be damaged if Opp's allegations appeared in the press.

It is the Special Counsel's view that Opp's interpretation of these incidents has more to do with his own idiosyncratic reaction to situations rather than misconduct on anyone's part. All his allegations of personal experiences were nothing more than brief conversations. There was no sexual contact, no sexual harrassment, no overt misconduct. The fact that Opp himself has retreated from his conclusion that two of the four incidents had sexual overtones and has expressed doubts about the third, further suggets that the "advances" were more imagined than real. The total absence of any corroborating evidence and Opp's general reputation only reinforce this conclusion. Under scrutiny, Opp's allegations of sexual misconduct arising out of these personal encounters simply collapse.

#### (4) Information from others

In his initial interview with the FBI, Opp passed on a number of stories of misconduct that he said were told to him by the CBS news reporter. These included a number of named Congressmen allegedly involved in homosexual activity as well as an alleged homosexual ring of 25 to 50 Congressmen for whom pages were procured for sex by an employee of the Doorkeeper's Office. Opp said his knowledge about these allegations was limited to what he said he has been told. The CBS reporter declined to discuss with the Special Counsel what he had said to Opp, much less the basis for any allegations that had been discussed.

Without the reporter's cooperation, only one of these allegations had sufficient detail to warrant investigation: that a sex ring was operating out of the Doorkeeper's Office. Investigators in the Special Counsel's Office interviewed every employee of the Doorkeeper's Office about this allegation and deposed four of the key employees. Every page or former page who was deposed was asked about these allegations. Absolutely no support was found for the charges. Indeed, it is almost impossible to imagine a sex ring of the magnitude alleged flourishing in secrecy in the fishbowl of Capitol Hill.

Opp did make three other allegations about sexual misconduct of Members of Congress which the Special Counsel did investigate. These all concerned incidents of which Opp had no first-hand knowledge. No

evidence has been found to support a single allegation.

Congressman H: Opp told the FBI he believed Congressman H was having sexual relations with a male page. Opp based this conclusion on four specific observations. First, Opp claimed that on three separate occasions, the page said that he was going to drive Congressman H to the airport so that the Congressman could fly to his home state. But Opp said that on each occasion, Opp saw Congressman H on the House floor or in one of the office buildings the next day. Second, Opp once overheard a House employee who worked on the Floor of the House say to the page, "You got to get to

know these people a lot better to stay here." The employee also told the page, "Go on about your business and I will tell you when it is time." Third, Opp testified that on one occasion he had asked the page "what the hell he was doing" after one of these conversations and the page said that he "needed to stay here." Fourth, the page had obtained appointments from several different Members of Congress.

Solely on the basis of these observations, Opp concluded that the page was having sex with Members of Congress and specifically with Congressman H in order to keep his

job.

Opp's view of these incidents had changed radically by the time of his deposition in September. He said that at the time he talked with the Justice Department officials

about this allegation.

"[Everything had the taste of, you know, perversion acts and that type of thing, and at this point I just, after rehashing with myself, using a bit of hindsight, and thinking that—back then I was doubting; I was doubting myself; I was doubting people I was in contact with; I was doubting all the congressmen who I had idolized at some point and so it was very easy to assume that.

"But after rehashing and hindsight, I was thinking the situation probably was that he was looking for an appointmentship."

In the Special Counsel's judgment, the basis advanced by Opp for his original allegation is so flimsy and farfetched that it is not credible on its face. Nonetheless, the page in question has been deposed. The page testified that he never told Opp that he was driving Congressman H to the airport unless he actually drove the Congressman to the airport. The page testified that he drove the Congressman on one occasion. The page further testified that he was not solicited by nor did he engage in homesexual relations with the named Congressman, with any other employee or staff member of the House of Representatives, or with any Member of Congress.

In addition, the House employee named by Opp was interviewed and provided a sworn affidavit. The House employee denied being involved in any homosexual activity and said that he cautioned the page to get to know the Members' faces so he could get

a job in the Cloakroom.

Congressman H has said that he sponsored this page after the page's prior appointment by another Member had expired. The page contacted someone on Congressman H's staff who investigated the page's credentials and recommended that Congressman H sponsor him; Congressman H did not interview or meet the page prior to sponsoring him.

Congressman H used his pages as drivers on occasion. On one occasion he had an early morning flight to his home state from Baltimore-Washington airport. Rather than leave his car at the airport, he drove to the page's house, picked up the page, drove to the airport, and left the car with the page to drive back to Washington. This incident may have triggered Opp's speculation about the page's driving him to the airport.

Congressman H noted that he never used any of his female pages to drive him anywhere in the evening because he was concerned that someone who spotted him getting into a car driven by a young woman would speculate about their relationship. He adhered to this position despite his wife's protest that he was discriminating against his female pages. (The pages liked to drive the Congressman because it gave them the

opportunity to talk to him and get to know him.) The Congressman found it ironic that he should be accused of having a sexual relationship with a male page because the page had driven him.

There is simply no evidence whatsoever to support Opp's initial allegation. Indeed, as Opp himself came to recognize, the "evidence" Opp cited in support of the initial al-

legation does not support it at all.

Congressman I: Opp told the FBI that an employee of the House of Representatives gave a party in April, 1982, at which Congressman I "came on physically" to a certain page. Opp said that the advances made by Congressman I were "groping stuff." Opp did not attend the party himself, but claimed to have had a conversation with a page who did. Opp named three other pages who were present at the party.

Based on Opp's allegations, the Special Counsel interviewed and deposed the page involved, and a number of other pages. The page who was reportedly the victim of the uninvited physical advances testified he had never been at the home of a House employee where Congressman I was present—totally contradicting what Opp had reported. The page further testified that he did in fact attend a party at Congressman I's house in April or May, 1982. There were ap-

proximately 12 other people in attendance, including the Congressman, his wife and children, one or two page supervisors and at least one of their wives, and several Cloakroom pages. The page testified that the Congressman made no advances to him. The page further testified he did not tell anyone that the Congressman had made any physi-

cal advances to him.

Another page who attended the party testified that the party occurred around May 25, 1982. In addition, this page testified he saw no advances by the Congressman or physical contact between the Congressman and any page. Nor was he told about any

such advances or physical contact.

Interviews with and depositions of more than half a dozen other pages and individuals who were present at the party, including page supervisors, corroborate this testimony that there was no such sexual advance at Congressman I's party by the Congressman. These individuals also said they knew of no party at the home of the House employee attended by the Congressman. Congressman I in an interview also denied the story. A photo array containing the photograph of the page was shown to I's staff. No one recognized the page.

It is wildly improbable that the Congressman would have made the type of advance described by Opp in the presence of his wife and children, whom, all of the witnesses agree, attended the party. No evidence supports Opp's allegation; to the contrary, all available evidence leads to the conclusion

that the allegation is false.

Congressman J: Opp testified that he had heard that Congressman J was sleeping with a female page. Opp said that the page's roommate, and Opp's own roommate had both told him about this relationship. According to Opp, the page's roommate had told Opp at a party that the Congressman was paying the page's rent. Opp said he was told that the page would purchase a money order, using funds supplied by Congressman J to pay her share of the rent. Opp's roommate repeated essentially the same information about this page and the Congressman approximately one month later—telling Opp this information also came from the page's roommate.

The Special Counsel's staff interviewed and deposed the page and her two roommates, one of whom had allegedly told Opp about the affair. Each of them denied any knowledge of such an affair.

The Special Counsel also took the following steps:

The Committee subpoenaed bank account records of the page and her roommate who collected the rent checks and sent them to the landlord. Those records reflect no evidence of a monthly payment from Congressman J. The records are consistent with the page's testimony that she paid her share of

the rent by check on a monthly basis. The Congressman's secretary who handled his personal finances was interviewed and deposed. She testified there were no records consistent with a pattern of regularly monthly payments in the amount of the page's rent, and that the records reflected no payments to any pages.

An investigator examined the House Finance Committee's periodic reports on Con-

gressman J's office expenditures. There were no payments from his office account to pages or for money orders. Nor were there any payments consistent with a pattern of monthly payments of the page's rent.

An investigator also examined the cancelled checks from the Congressman's personal account for the pertinent period. These checks reflected no payments to the page, no purchase of any money orders, and no pattern of payments consistent with the monthly payment of the page's rent.

The Committee investigators also showed to Congressman J's staff a group of unmarked photographs of female pages including the page supposedly involved in the affair. No one on the staff remembered the page as someone they had seen in Congressman J's presence.

man J's presence.

Congressman J responded to detailed questions from Committee investigators and

denied the affair.

In sum, no evidence could be found to suggest that Congressman J paid the page's rent or was involved in any sexual relationship with the page. The page's roommate testified that it was possible that this rumor resulted from a joke she had made about the fact that the page regarded the Congressman as attractive.

D. Other allegations

During the course of the investigation pursuant to H. Res. 518, the Special Counsel has received a number of allegations of improper or illegal sexual conduct by Members, officers, or employees of the House of Representatives. The Special Counsel has concluded his investigation of the allegations set out below. They fall into two categories. The first set of allegations proved unfounded. The second set of allegations proved to have insufficient grounds to warrant further investigation either because of the staleness of the incidents or because the allegations concerned individuals no longer associated with the House of Representatives.

Allegation: The Special Counsel received an anonymous letter charging that a Congressman had raped a participant in a university's internship program who had been placed in Washington, D.C. The anonymous author claimed that the director of the program was aware of the incident.

Investigation: The Special Counsel's staff interviewed the program director, two other university staff members, and an intern who had allegedly been placed in Washington, D.C. The director denied any knowledge of such an incident. The director advised the

Special Counsel's investigators that he had previously been questioned about this charge by three local newspaper reporters who had each received a copy of the same anonymous letter just prior to the 1982 congressional election. The other interviews established that there were no interns from this program in Washington, D.C., during the term of office of the accused Congressman.

Conclusion: The Special Counsel has found no evidence to support the allegation as described in the anonymous letter and has terminated the investigation of this matter. The timing of the allegation suggests that the anonymous source hoped to embarrass the Congressman immediately before the election.

Allegation: The Special Counsel's staff was told by two sources that a former female page had dated a House employee. Neither source could identify the employee, although one source said that the employee was a "page supervisor." Also, an anonymous caller named a particular page supervisor as being "involved with female pages."

Investigation: The Special Counsel's staff interviewed and deposed the female page. The page denied dating any Member, officer, or employee of the House, and was unable to recall anything she might have said that would have suggested that she had dated a page supervisor. However, she acknowledged that she often made joking remarks that others took to be serious. Her roommate testified that she was prone to exaggerate her social relationships. Other pages cited this female page as the source of other unfounded rumors. In numerous interviews and depositions of other pages, the Special Counsel inquired about whether the named supervisor was involved with female pages. No page knew anything about it. Many pages knew this supervisor and testified that the allegation was wholly inconsistent with their experience and perception of the individual in question. The individual was deposed and denied the allegation under oath.

Conclusion: The Special Counsel has found no evidence to support further investigation.

Allegation: A former page told the FBI and the Special Counsel's staff that a Congressman had asked a female page to go out with him. The female page asked two male pages to accompany her and the Congressman to Georgetown. At the conclusion of the evening the Congressman drove the pages home and remained in the car with the female page after the two male pages had gone inside.

Investigation: The Special Counsel's staff deposed the page who made the allegation as well as the female page allegedly involved. The third page named in connection with the incident was interviewed. The female page testified that the Congressman had never asked her to go out alone with him. On the evening in question, he had offered to give her and her friends a ride to Georgetown. She testified that the Congressman drove them to Georgetown, accompanied them to a club and drove them home. She testified that he never made a sexual advance to her. The statements of the second male page were consistent with those of the female page. Both the female page and the second male page stated that the page who made the allegation had consumed so much beer while at the club that his memory of the evening was unlikely to be reliable.

Conclusion: The Special Counsel has found no evidence to conclude that the Congressman made a sexual approach to the female page.

Allegation: A former page told the FBI of a conversation he had had with a Congres man in which the Congressman apparently

propositioned him.

Investigation: The Special Counsel's staff deposed the page who gave a different, wholly innocent, account of a conversation with the same Congressman. Other statements of the page who reported the allegation suggested that his initial interpretation of events was questionable and that he frequently tended to assert conclusions that, in the judgment of the Special Counsel, had no rational basis. The Congressman was interviewed and does not recall having met or conversed with the page, although he acknowledged it was his habit to "make small talk" in the Cloakroom where this incident was alleged to have occurred.

Conclusion: The Special Counsel has found no evidence to support the allegation. Allegation: In response to the Special Counsel's letter to former pages, a former female page wrote that, in the corridor of a House Office building, a male whom she believed to be a Congressman had put his arm

around her waist and invited her into an

office. She wrote that she "turned down the offer.'

Investigation: The Special Counsel's investigators interviewed this page twice. The page described the incident as a "joke," and recalled that she had laughed at the time. She reviewed photographs of all Congressmen who fit the physical description she gave and was unable to recognize any as the man who had approached her.

Conclusion: The Special Counsel has found no evidence to suggest that any mis-

conduct occurred.

Allegation: A former page alleged that statements and conduct of certain female pages led him to believe that Capitol Police been sexually involved with three female pages, two of whom had been Senate

pages.

Investigation: The Special Counsel's staff reinterviewed and deposed the page who made the allegation, and forwarded his statements about the former Senate pages to the Senate. The former female House page denied that she had had any sexual involvement with Capitol Police. Testimony of the page who made the allegation has been contradicted on a variety of matters by other evidence which has raised serious questions about his credibility. In addition, a former aide of his sponsor has questioned

his credibility.
Conclusion: The Special Counsel has

In several instances, the Special Counsel received allegations of improper or illegal sexual conduct that occurred many years ago, or by individuals who had once been but were no longer Members, officers, or employees. Further investigation of these allegations will not be pursued.

Respectfully submitted,

JOSEPH A. CALIFANO, Jr., Special Counsel. Dated: December 14, 1982.

APPENDIX A .- FEBRUARY 1982 PAGE INVESTIGATION BY U.S. CAPITOL POLICE

United States Capitol Police The (U.S.C.P.) conducted a brief investigation into allegations of misconduct involving pages in early February, 1982. This investi-

gation was triggered by the discovery in Leroy Williams' apartment of another page's missing wallet and by information from Williams' landlady about drunken par-

The Committee received allegations that the U.S.C.P. investigation had been prematurely terminated. These allegations implied that the U.S.C.P. had information relevant to the Committee's investigation pursuant to House Resolution 518. This Committee and the Special Counsel agreed that the Special Counsel should investigate the conduct of the U.S.C.P. investigation.

The Special Counsel has reviewed the written records of the U.S.C.P. investigation, and has interviewed or deposed (a) the Capitol Police detective who carried out the investigation and his superiors; (b) individuals in the offices of the Doorkeeper and the Sergeant-at-Arms; (c) Members of the House and their staffs who received information about the U.S.C.P. investigation, and (d) pages who were interviewed by the

The Special Counsel's inquiry has been directed at the following questions:

 What was the scope of the police investigation, and what information did it ohtain?

2. Was the investigation prematurely terminated?

3. What action was taken as a result of the investigation?

4. Did the police inquiry itself unintentionally contribute to rumors which later led to public allegations of sexual misconduct involving Members of Congress and pages?

#### FACTS

### A. Initiation of the investigation

The last day on which Leroy Williams worked as a page was Friday, January 29, 1982. That weekend he moved out of his apartment at 24 Third Street, N.E., and left Washington, D.C.

Following Williams' departure, his landlady found certain items in the apartment he had occupied. These included literature and other items strongly suggesting homosexual interests. In addition, she found a wallet be-

longing to a female page.

Williams' landlady contacted the House Doorkeeper's office and was referred to Sergeant John D. Grossi of the Capitol Police. Grossi had earlier been assigned to investigate the disappearance of the wallet found Williams' apartment. On February 2, 1982, Williams' landlady met with Grossi to give him the wallet. During this meeting, she told him that she had also found some pornographic literature in Williams' room, including what appeared to be a directory of male prostitutes. She also reported to Grossi that Williams' neighbors had complained to her about loud, late-night parties attended by pages at Williams' apartment. She and Grossi discussed the possible use of drugs and alcohol at these parties.

After his conversation with Williams' landlady, Grossi met with his superiors, Deputy Chief Gilbert Abernathy and Chief James M. Powell of the U.S.C.P., and related what he had learned. Chief Powell then telephoned House Sergeant at Arms Benjamin R. Guthrie, who is the representative of the House of Representatives on the Capitol Police Board. Arrangements were made for Grossi to brief Guthrie on the information he had received relating to pages.

Grossi met with Guthrie in Guthrie's office in the Capitol on February 2 or 3, 1982. After that meeting, Grossi and Guthrie met with House Doorkeeper James T. Molloy, whose staff supervises the work of House pages. In both meetings, Grossi discussed the information which he had received from Williams' landlady regarding page conduct. He told Guthrie and Molloy about the missing wallet and the homosexual materials found in Williams' room. He also told them about the allegations of page participation in loud, late-night parties at which drugs and alcohol may have been consumed. He was instructed to investigate the allegations, and to report back to Guth-

#### B. Grossi's interviews of pages

Over the period of a week, from February 4 through February 10, 1982, Grossi questioned eight pages. He reported back to Guthrie twice-once in the middle of this period and once at the end.

On Thursday, February 4, Grossi interviewed three pages about their personal activities and those of other pages. According to his interview reports, these pages told him about all-night "drinking parties" in Williams' apartment, attended by other pages; the use of drugs by Williams; and consumption of alcohol by pages at parties and at various commercial establishments. One or more of the three also told Grossi that Williams and a second page had taken pages to Fourteenth Street (an area of Washington frequented by prostitutes, which has a high concentration of pornographic bookstores and nightclubs). At least on the trips organized by the second page, the pages were alleged to have used the services of prostitutes. Grossi's report names eight pages as being "involved, directly or in the various activities deindirectly" scribed by the three pages.

On Friday, February 5, Grossi personally delivered the written report of his interviews with these three pages to Guthrie and discussed with Guthrie the information obtained in these interviews. Guthrie immediately arranged a second meeting with Molloy to provide him with the information in Grossi's reports.

By Monday, February 8, Grossi received information suggesting that Williams might have been responsible for the theft of a page's car, which had disappeared on January 6, 1982. On that day, he learned that both the car and Williams were in Tuscaloosa, Alabama. He conveyed this information to Guthrie on February 9 and also provided it to the Metropolitan Police who were responsible for investigating the stolen car.

Also on February 9, Grossi reinterviewed one of the pages he had interviewed earlier and interviewed another page for the first time. His written reports state that these pages told him that they believed Leroy Williams was a homosexual, that the pages "had no further information regarding any other pages that were homosexuals" or about homosexual activities among pages or nonpages. The report of Grossi's interview with the page he interviewed for the second time indicates that she said she did not know of any adults from the House or Senate attending any parties which she attended. The interview reports also included information about the use of alcohol by pages at parties given by Williams and others, the willingness of Washington commercial establishments to serve pages alcohol, the use of drugs by pages, and trips by pages to Fourteenth Street allegedly to pick up prostitutes. One of these pages also told Grossi about two separate fights involving two male pages.

Grossi's reports indicate that on February 10, he interviewed three additional pages. These three interviews focused on an incident at a page party in which a page had struck someone on the head with a bottle.

On February 11, 1982, Grossi wrote a summary report in which he listed eight pages whom he had interviewed.

The summary report included this para-

graph:

"With the exception of the few cases of misconduct as indicated by prior reports involving Pages, this investigation could find no further indications of sexual overtones or misconduct involving Male or Female Pages or non-Page adults."

Also on February 11, Grossi wrote a second report indicating that he met with Guthrie at 9:30 a.m. on that day, and that, at the direction of Guthrie, the page investigation was terminated. This second February 11 report indicated that, as a result of the investigation, four pages, including Leroy Williams, were being dismissed. Grossi wrote no more reports as part of his investigation. On June 25, 1982, he was contacted by a television reporter asking questions about the investigation. At that time he wrote a summary report of the investigation for his superiors.

Some of the pages whom Grossi interviewed have reported lines of questioning that are not reflected in Grossi's written reports. One page testified that Grossi asked her if she had ever been approached by a Member of the House or the Senate and if she had ever heard anything about Williams being approached by a Member of Congress. This page said that she heard that Grossi asked the same questions of everyone else. She also testified that Grossi's questions led her to believe that Leroy Williams had "some kind of sexual involvement with Congressmen."

Grossi himself has denied under oath that he asked any page about being propositioned by Members of Congress. He said that he had no reason to ask such questions. But he testified that he believes he did ask pages about propositions from "nonpage adults." He testified that the only conversation he had with pages specifically regarding a Member of Congress related to a Member who allegedly had asked some pages out for a drink. Grossi could not recall who had told him about this, and he had never learned the Member's name.

had never learned the Member's name.

A second page testified that Grossi asked her if Williams was involved with a prostitution ring, and if he was a liaison for Congressmen. Grossi testified that he asked the pages about sexual contact between pages and between pages and non-page adults, and he "probably" asked all of them if Leroy Williams was a homosexual. But Grossi does not recall asking the questions described by the page.

A third page testified

That Grossi told him that one of the reasons another page was dismissed was "conclusive evidence that he was prostituting himself on Fourteenth Street as well as picking (prostitutes) up;" and

That Grossi asked questions about these "prostituting activities" and about the sexual activities of yet another page.

Grossi said he heard early in his interviews that Williams and another page were taking pages to Fourteenth Street, and that he probably asked other pages about this al-

legation in subsequent interviews. However, he denies having told anyone any page was fired for prostitution. In fact, Grossi said he did not learn of any page's dismissal until the termination of his investigation. Thus he could not have given anyone any reason for a page's dismissal during his interview.

Based on the interviews and the evidence, the Special Counsel concluded that Grossi did ask about pages' sexual conduct and about contacts with adults, but did not ask about Members of Congress or about Williams and prostitution. Rather the Special Counsel has concluded that these subjects were the result of assumptions or speculation on the part of pages about what lay behind Grossi's investigation.

### C. Termination of the investigation

Grossi's reports indicate that Sergeant at Arms Guthrie instructed him to terminate the page investigation on February 11, 1982. Grossi has testified that the termination of the investigation at this stage was a surprise to him, inasmuch as he had not yet spoken to all the pages implicated in earlier interviews. In particular, he had planned to interview the second page, in addition to Williams, who was alleged to have taken other pages to Fourteenth Street. He said, however, that it was his understanding that the matter was to be handled "administratively," and that, while police involvement was no longer required, the questions raised by the investigation would be addressed.

Guthrie has testified that it is his recollection that, at the time of the termination, Grossi himself felt that he had pursued the matter as far as he could. Guthrie recalls that the pages who had not been interviewed had left Washington and were no longer accessible to the Capitol Police. In any event, on February 11, Guthrie felt that the investigation should be concluded. He pointed out that the investigation had been initiated by the police because of a page's missing wallet, and the primary suspect in the theft of the wallet, Leroy Williams, was then far from the jurisdiction of the Capitol Police. The information about page misconduct had been forwarded to the Doorkeeper of the House, who was responsible for the pages. Guthrie, therefore, felt that he and the police had done as much as they could.

Guthrie's recollection is supported by Grossi's first February 11 report, which the evidence indicates was given to Guthrie at the time Grossi met with him on February 11. In tone and in content that document suggests a final report.

Guthrie testified that he provided Grossi's written report to Molloy immediately following the February 11 meeting.

#### D. Action taken as a result of the investigation

(1) Notification of sponsors

Before the investigation ended, but after Guthrie and Molloy had received Grossi's report of his first interviews with pages, they met with House Speaker Thomas P. O'Neill to inform him that an investigation of pages was in progress. This meeting took place in the Speaker's office, probably on Friday, February 5 or Monday, February 8. Guthrie recalls that Molloy showed the Speaker the written reports of Grossi's interviews, but Molloy does not recall that he did so. Both agree that the meeting was brief; that it was solely to inform the Speaker; and that it was consistent with their practice to keep the Speaker advised of developments within their respective areas of responsibility.

Neither recalls with any specificity what was said at the meeting. Molloy says that he

told the Speaker that an investigation of page activity was being conducted, but is uncertain that he specified it was being conducted by the police. He also says that he may have mentioned allegations regarding the stolen car, wild parties, beer drinking, and homosexual activities. He says that he may have mentioned the possibility of homosexual activities involving Members of Congress, although he testified that he had not heard any allegations relating to Members and pages at this time. Guthrie recalls only that Molloy briefed the Speaker regarding the investigation. Both recall that the outcome of the meeting was that the Speaker instructed Molloy to inform the congressional sponsors of the pages of the information being developed about their pages.

The Speaker himself also recalls this meeting lasted only a few minutes. He remembers that Molloy told him there had been a problem with a page and that the problem involved the theft of a car and a wallet. He does not recall more than one page being mentioned. He does recall telling Molloy to inform the page's sponsor.

Over the next several days, Molloy contacted or attempted to contact the sponsors of pages named in Grossi's interview reports. Molloy recalls that he reached most of the sponsors or their staff, although he also recalls that he was unable to reach some of the sponsors. Most of those contacted by Molloy report that they received very little information regarding the substance of the investigation. Only Williams' sponsor, Representative Bethune, and one other sponsor reported receiving any indication of allegations of homosexual activity. In most cases Molloy simply reported that the page in question had been named in an investigation of misconduct.

Representative Bethune was visited by both Molloy and Guthrie on February 9. Guthrie and Molloy reported to Bethune about the items found in Williams' room indicating homosexual interests, the parties in his apartment, the allegations regarding trips to Fourteenth Street, and the evidence suggesting that Williams had stolen a page's wallet and another page's car. It is Bethune's recollection that there was no mention of any information relating to Members of Congress.

### 2. Dismissals

Molloy dismissed two pages. He testified that the performance of these two pages had been criticized by his staff in the past. In addition, Molloy said at the same time that Grossi reported they were misbehaving, he received reports from the Page School indicating that both had failed to meet minimum academic requirements. Considering all these factors, Molloy decided to send these pages home.

Grossi's final report indicates that a fourth page was also dismissed. In fact, this page was not dismissed. Molloy testified that he considered dismissing this page, because he had heard that the page had a drinking problem and that he was a source of trouble among the pages. But one of Molloy's subordinates told Molloy said that the page performed well on the job. Molloy said that the page's Congressional sponsor also argued against his dismissal. Molloy decided to let the page stay, but instructed one of the page supervisors to speak to him regard-

# 3. Warning to other pages

ing his behavior.

The Deputy Doorkeeper, Jack Russ, called a meeting of House pages in which he an-

<sup>&</sup>lt;sup>1</sup> No individual interview report appears to exist for one of the pages listed, but this page has confirmed that Grossi did in fact question him.

nounced that some pages would no longer be in the program. The purpose of this announcement was to warn other pages of the consequences of misconduct. Molloy testified he was not a participant in this meeting and did not know it occurred.

E. Rumors resulting from the police investigation

Grossi's questioning of pages clearly lead to speculation among the pages about the origin and purpose of the investigation. The rumors and gossip stimulated by the investigation in fact greatly complicated the task of reconstructing what actually occurred in the course of the inquiry. Two examples should demonstrate how some of the rumors began. The evidence obtained by the Special Counsel supports Grossi's testimony that he asked the pages he interviewed about sexual contacts between pages and "non-page adults." At least one page who was interviewed assumed from that question that she was being asked about approaches by Members of Congress. Undoubtedly that page in turn told other pages that the was investigating sex Members of Congress and pages.

The second example involves other pages interviewed by Grossi. A male page testified that Grossi had hinted about pornographic material, drugs, and a stolen wallet having being found in Williams' apartment. The page said that he had compared notes with a female page also interviewed by Grossi to try to figure out why Williams was involved in these things. At that time the female page had said that Williams was acting as a liaison between Congressmen and prostitutes. The male page said he believed his colleague was surmising this from Grossi's

line of questioning.

This testimony is corroborated by that of another male page, who said he heard the same female page say that Williams had been involved in setting up a prostitution ring for Members of Congress. He said this remark occurred in a conversation in which pages were speculating about the reasons

for the Grossi investigation.

Whatever the source of this rumor, it was plainly in active circulation before Grossi's investigation was even completed. On February 11, a staff member at the Democratic Study Group called a staff member of the Committee on Standards of Official Conduct to report a rumor that a page sponsored by Representative Bethune had been sent home. The rumor had a variety of de-tails-most inaccurate-including the claim that the page was a homosexual who had been "pimping" for Members of Congress. The staffer who called in this rumor reports that he heard it from a staff member in Representative Schroeder's office. staffer in turn heard the allegation from a page, Jeffrey Opp.

### CONCLUSIONS

A. Scope of the investigation

Based on the evidence obtained in the course of this investigation, the Special Counsel has found that the U.S.C.P. investigation was based on allegations of misconduct by pages, and that at no time in the course of the investigation did the police receive any significant allegations of misconduct by anyone else. The investigator conducting the inquiry did receive information that an unnamed Congressman had invited some pages to have a drink. But the investigator was also told that this invitation was not accepted. He asked questions of pages regarding their contacts with adults. While some pages recall that he asked questions

regarding Members of Congress, no one has ever said that any information about misconduct by Members was ever provided to the U.S.C.P. Sergeant Grossi himself has testified that he received no information about Members of Congress, other than the information regarding the invitation for a drink. There is no evidence that the police ever received any other information in the course of this investigation which suggested misconduct by any Member or nonpage employee of the House.

### B. Termination of the investigation

The Special Counsel has found it important to distinguish between two questions. First, from a law enforcement point of view, was the investigation prematurely terminated? In other words, were there indications of criminal activity that were intentionally ignored by the Capitol Hill Police when the investigation was concluded?

But this question must be distinguished from a second question that raises the broader responsibilities of the House of Representatives in supervising pages. That question is the following: Was appropriate follow-up action taken by someone in the House on the basis of the information developed by the Capitol Hill Police?

We turn first to the law enforcement question.

The Committee has deposed both House Sergeant-at-Arms Guthrie and Sergeant Grossi and has interviewed Grossi's police superiors. Deputy Chief Abernathy and Chief Powell, regarding the propriety of the termination of the police investigation. All agree that there was no longer any criminal matter to investigate when the inquiry was concluded on February 11. In their view, Grossi's effort began as an investigation of a stolen wallet. The prime suspect in that case, Williams, was hundreds of miles from the jurisdiction. Given the petty nature of the offense, there was no practical possibility of extradition. The stolen car, which did come to Grossi's attention in the course of the investigation, was a crime that was within the jurisdiction of and being investigated by the Metropolitan Police, not the U.S.C.P. (Grossi did inform the Metropolitan Police of the information he received regarding the car.) Grossi had received no other allegations of criminal activity within U.S.C.P. jurisdiction. Therefore, from the point of view of the Capitol Police, there was nothing further to investigate.

There is no evidence that the decision to terminate the Capitol Police investigation had its roots in any effort to conceal evidence of criminal misconduct or to conceal evidence of wrongdoing by Members, officers, or employees of the House. The Special Counsel has found no indication that the police possessed any such evidence or information.

But there clearly was a serious failure on the part of the House as an institution. While it may have been acceptable to conclude the police investigation, information had been developed that required further action.

Grossi's investigation left the following questions outstanding:

- 1. Had minor pages in fact visited Fourteenth Street area and used the services of prostitutes?
- 2. Were commercial establishments in the vicinity of the Capitol routinely and consciously serving alcoholic beverages minor pages?
  - 3. Were pages using illegal narcotics?

4. Were pages attending all-night parties. to the detriment of their school and work performance?

But no further official inquiries were made by officers or employees of the House to answer these questions, until allegations homosexual conduct involving Members of Congress and pages were publicized by the media in late June and early July, 1982.

No one took action that was plainly required. Specifically, nothing was done to determine with certainty whether pages had used the services of prostitutes. More importantly, nothing was done to prevent such activities in the future. No action was taken to stop several commercial establishments known to be patronized heavily by pages from serving them alcohol. No action, other than the implied threat in the announcement that two pages had gone home, was taken to stop the practice of all-night drinking parties by some pages.

In the judgment of the Special Counsel, the current fragmentation of responsibility for the pages resulted in a serious failure on the part of the House as an institution. Pages are sponsored by individual Members of the House. At work, they are supervised by the Doorkeeper's Office. The House requires the parents of a page to sign a written statement "assuring full responsibility for the safety, well-being and supervision of the [page] while living in the District of Columbia area." The Capitol Police have a narrow jurisdiction, and the Metropolitan Police can hardly be expected to focus on the welfare of pages scattered in apartments on Capitol Hill.

Based on the evidence received in the course of this investigation, the Special Counsel believes that there is an urgent need for the House of Representatives to fix responsibility-formally and in writing-for the supervision of pages after working hours. In the Special Counsel's judgment, the lack of clear responsibility led directly to the failure to address the serious problems of misconduct that developed among the pages in 1981 and 1982. If the House chooses to employ teenage high school pages, establishing a page dormitory and a Page Board are steps in the right direction. But unless responsibility for supervision of teenage pages after working hours is clearly established, the problems that developed in 1981-82 are likely to recur.

### APPENDIX B

U.S. HOUSE OF REPRESENTATIVE, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,

Washington, D.C., September 27, 1982.

Mr. John Ferrugia, CBS Television News. Washington, D.C.

DEAR MR. FERRUGIA: On July 13, 1982 the House of Representatives adopted House Resolution 518 which authorizes the Committee on Standards of Official Conduct to carry out an investigation of-

- (1) Alleged improper or illegal sexual conduct by Members, officers, or employees of the House:
- (2) Illicit use or distribution of drugs by Members, officers, or employees of the
- (3) The offering of preferential treatment by Members, officers, or employees of the House, including congressional pages, in exchange for drugs or sexual favors.

The Committee has appointed me as Special Counsel to conduct this investigation.

Copies of House Resolution 518, which authorizes the investigation, the statement of Representative Louis Stokes, Chairman of the Committee on Standards of Official Conduct, and my response at the time of appointment are enclosed.

In the course of our investigation, information has been received concerning statements you made in the course of interviews you conducted earlier this year. That information indicates that you stated to individuals whom you interviewed that you had knowledge of improper or illegal conduct by Members, officers or employees of the House of Representatives, within the scope of House Resolution 518, and that in at least some cases, you identified the person

involved in such conduct.

Since the Committee has charged me with the responsibility to conduct a thorough investigation, I am requesting that you provide us with any information that you have falling within the scope of the investigation authorized by House Resolution 518. As a first step, I request that you meet with Mr. Hamilton P. Fox III of this office to discuss these matters, in House Annex II, Room H-2-507, at 3:00 pm, October 6, 1982. We are aware of the delicacy of the relationship between any government investigation and the press, but I believe it is important that we seek the cooperation of the press where a reporter has already disclosed the names of individuals to a number of people he has interviewed.

Thank you for your assistance in this matter.

Sincerely

JOSEPH A. CALIFANO, Jr., Special Counsel.

CBS,

Washington, D.C., October 14, 1982.

JOSEPH A. CALIFANO, Jr., Esq.,

Special Counsel, Committee on Standards of Official Conduct

DEAR MR. CALIFANO: I am replying to your September 27 letter to CBS News Correspondent John Ferrugia requesting that he meet with your staff in connection with your investigation pursuant to House Resolution 518. In your letter, you state that you have received "information" that Mr. Ferrugia stated to individuals whom he interviewed that he had knowledge of illegal or improper conduct by Members, officers or employees of the House and that, "at least in some cases," he identified such persons. Based on subsequent conversations with your staff, it is our understanding that a principal purpose of questioning Mr. Ferrugia would be to help assess the reliability of information obtained from certain individuals already interviewed by your staff.

As we have indicated, we believe that sensitive First Amendment questions are raised by your request, even if it is limited to the above purpose. Because of the important issues involved, your request has received very careful consideration both by Mr. Ferrugia and the management of CBS News.

For many years, it has been the general practice of CBS News to provide to government agencies only that information concerning its news reports which is a matter of public record. In this respect, we are pleased to enclose transcripts of all television reports broadcast by CBS News on this story. However, your request for an interview goes beyond the as-broadcast materials, and into the area of unpublished information. It is Mr. Ferrugia's strong conviction, and that of CBS News as well, that a discussion concerning unpublished material would unacceptably compromise the independence which should characterize the relationship between the press and the government.

In our view, questions as to whether and why particular statements were made during interviews with news sources go to the heart of the editorial process and are beyond the scope of legitimate inquiry by the government. It is obvious that reporters must ask questions in the course of gathering information for a story, that those questions often involve inquiries as to specific facts, and often as well involve attempts to confirm information already in the reporter's possession. (In the instant case, these questions involved not only inquiries about alleged misconduct but inquiries as well about the efforts of Members of the House to investigate such reports.) To later be interrogated by government investigators about what questions were asked and answers given can only chill the news gathering process.

We also believe it important to emphasize,

in light of the significance which is apparently now being attached to statements allegedly made by Mr. Ferrugia, that CBS News believes that he acted entirely properly in his investigation and reporting of this story. Mr. Ferrugia's reports were completely factual, and dealt largely with allegations which were being actively investigated by the Justice Department, the FBI, the Arlington Police, the Speaker's Special Commission on Pages, and the Committee itself. Moreover, given these investigations by government authorities, it is reasonable to believe that information which you might seek from Mr. Ferrugia is obtainable directly from these authorities.

In sum, the reports aired by Mr. Ferrugia represented what he and his superiors at CBS News concluded could be responsibly broadcast. Other information collected or discussed in the course of his inquiry has remained and must remain private and privileged. For the Committee to seek out such information from the reporter would, in our view, constitute a serious and unwarranted intrusion into the basic right of the press to go about its business on reporting, editing and publishing without governmental interference. Accordingly, Mr. Ferrugia, with the full support of CBS News, respectifully declines to be interviewed by the Committee

Very truly yours,

JOSEPH DE FRANCO, Washington Counsel.

APPENDIX C

HOUSE OF REPRESENTATIVES. COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,

Washington, D.C., August 20, 1982.
——: The House of Representatives DEAR has authorized the Committee on Standards of Official Conduct to investigate alleged improper conduct by any Member, officer, or employee of the House in the following three areas: (1) alleged improper or illegal sexual conduct, (2) illicit use or distribution of drugs, and (3) the offering of preferential treatment to employees of the House, including Congressional pages, in exchange for drugs or sexual favors. The Committee on Standards of Official Conduct has appointed me as Special Counsel to conduct this investigation.

Copies of House Resolution 518, which authorizes the investigation, the statement of Representative Louis Stokes, Chairman of the Committee on Standards of Official Conduct, and my response at the time of appointment are enclosed. As those documents indicate, the Committee has charged me with responsibility to conduct a fair, impar-tial, thorough, and expeditious investigation.

One part of the investigation is specifically concerned with House pages, and I am writing each individual who, like you, has served as a page during the last three years. I hope your service as a page was an educational, personally rewarding, and worth-while experience. But we need to know whether you have any information that relates to the subjects under investigation. The Committee and the House need your assistance.

I am sensitive to the delicate nature of the subjects of this investigation. We intend to conduct this inquiry in a fashion which will embarrassment to avoid unnecessary anyone. We are not seeking rumor or gossip. Rather, we are seeking any information that you have from personal knowledge or that you have received from a source whom you believe to be reliable and truthful. If you have such information relevant to the three subjects of the Committee's inquiry mentioned in the first paragraph of this letter and the enclosed House Resolution, I urge you to provide us with it. To the extent your experience indicates that allegations of improper conduct in the areas under investigation have no basis, we would appreciate hearing from you on that score as well.

Please contact me by sending a letter or by telephone. A properly addressed, franked envelope is enclosed for your convenience. If you prefer, you may call Jerry McQueen, Hamilton Fox, or Richard Cotton of our Special Counsel's office. You can reach them at: 202/225-8891 or 202/226-7760, and you may call collect. Because it is important to conduct this investigation as expeditiously as possible, if you do have information, you should contact us by September 15,

Those of you who have information may feel yourself caught between a personal desire not to be involved and your responsibilities to the House, to future pages, and as a citizen. Having served as a page, you are more aware than most young Americans of the importance of the House of Representatives. I encourage you to assist the House and the Committee on Standards of Official Conduct in carrying out this investigation in order to preserve the integrity of the House and the confidence of the American people in our democratic institutions.

We are asking for your voluntary cooperation. It is important to the House of Representatives and your nation that you provide that cooperation, and I urge you to do so.

Sincerely

JOSEPH A. CALIFANO, Jr., Special Counsel.

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SIXTEENTH ANNUAL REPORT IN ACCORDANCE WITH THE AUTOMOTIVE **PRODUCTS** TRADE ACT-MESSAGE FROM PRESIDENT OF THE THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means.

(For message, see proceedings of the Senate of today, Thursday, December 16, 1982.)

PROPOSAL TO RESCIND BUDGET AUTHORITY AMOUNTS, TWO NEW DEFERRALS, AND REVISION TO PREVIOUSLY REPORTED DEFERRAL—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-268)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed.

(For message, see proceedings of the Senate of today, Thursday, December 16, 1982.)

### PROCEEDINGS AGAINST ANNE M. GORSUCH

Mr. HOWARD. Mr. Speaker, I rise to a question of the privilege of the House, and by direction of the Committee on Public Works and Transportation, I submit a privileged report (H. Rept. No. 97-968).

The Clerk read as follows:

#### REPORT

### I. INTRODUCTION

On December 10, 1982, the Committee on Public Works and Transportation, by a vote of 28 to 11, with five Members voting present, adopted the following resolution, offered by Congressman Elliott H. Levitas, recommending to the House of Representatives that Anne M. Gorsuch, Administrator, U.S. Environmental Protection Agency, be cited for contempt of Congress:

"Resolved, That the Committee on Public Works and Transportation report and refer refusal of Anne M. Gorsuch, Administrator, Environmental Protection Agency, to comply with the subpoena dated November 16, 1982, issued by the Subcommittee on Investigations and Oversight, together with all facts in connection therewith, to the House of Representatives with the recommendation that Administrator Gorsuch be cited for contempt of the House of Representatives to the end that she may be proceeded against in a manner and form provided by law."

This action followed the December 2, 1982, action taken by the Subcommittee on Investigations and Oversight which, by a vote of 9 to 2 found the Administrator in contempt for failure to comply with a subpoena ordered by the Subcommittee, and duly served upon her on November 22, 1982. The Subcommittee also instructed its Chairman to report the matter to the full Committee for such action as it deemed appropriets.

The issuance of the subpoena was necessitated by the Agency's refusal to make available to the Subcommittee pertinent and crucial information documenting how the Agency is carrying out certain of its enforcement and cleanup responsibilities under the

Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), the so-called Superfund stat-

The Subcommittee's review of the implementation of that law is part of a broader ongoing inquiry into the problem of hazardous waste contamination of the Nation's water resources. Refusal to provide the subpoenaed documents has prevented the Subcommittee from obtaining information necessary to the discharge of its responsibilities and duties.

This report outlines the Subcommittee's investigation into the Superfund program, highlighting the problems that are to be addressed by that law; the basis for the investigation, what the Subcommittee is attempting to assess with respect to the Superfund law, and the specific information being sought by the Subcommittee. It also reviews the actions of the Committee finding the Administrator in contempt, and discusses the general oversight authority of the Subcommittee as mandated by House and Committee Rules.

The action of the Committee in reporting the finding of contempt, an extraordinary sanction, reflects the importance that its Members place on the need to clean up abandoned hazardous waste sites, on protection of the health of millions of Americans, and the quality of the environment. Of course, the Committee has also acted in a manner consistent with the right of Congress, to obtain the information it deems necessary to carry out its legislative responsibilities, as vested in the Congress by Article I of the Constitution.

The Committee report concludes that the shroud of "enforcement sensitive" which has been placed by the Department of Justice over predominantly civil enforcement files within EPA as a basis for refusing to comply with the subpoena is legally unjustified, given the broad range of sensitive inteligence and national security information shared with Congress on a routine basis and would result in shutting off Congress from a significant source of information on how the laws it passes are administered, a responsibility repeatedly affirmed as within the constitutional authority of Congress. Watkins v. United States, 354 U.S. 178, 187 (1957)

Moreover, the Committee concludes that the assertion by the Department of Justice that by exercising its jurisdiction to examine the administration of laws the Congress is interfering, or becoming a "partner," in the prosecutorial process is unfounded. The Committee desires only to discharge its duty to see that the laws it passes are properly administered and has repeatedly disclaimed any intention to attempt to affect the prosecutorial decisionmaking process. The Attorney General, and no one in EPA, has cited the Committee to a single case which adopts this per se interference theory. Indeed, concurrent exercise of responsibility by units of the government, be they executive agencies, state governments or legisla-tive committees, is the rule not the exception. The power of Congress to probe the administration of laws by the executive dates from the beginning of the Republic. Indeed, the earliest examples of congressional inquiry related to examination of the manner in which executive agencies discharged their functions.

### II. BACKGROUND

Hazardous waste contamination of water resources

Hazardous waste contamination of the Nation's ground and surface waters may be the most significant and troublesome water quality problem facing the country for the remainder of this century. With their ability to render vast quantities of water unfit for use without treatment, the toxins that leach and flow from hundreds of active and abandoned waste sites all across the Nation pose costly and often controversial cleanup and public health problems for government officials at all levels.

The full scope of this problem is still emerging: new sites continue to be brought to the attention of regulatory officials, and thousands of known sites still need to be evaluated for the human health and water quality risks they pose. In part, this reflects the physical nature of the problem. Much of the waste is disposed in ways that first affect ground water, which moves much more slowly than water in surface streams and rivers. Consequently, it can often be months, even years before downstream of "down-gradient" drinking water wells and nearby surface waters become contaminated.

Relatively recent advancements in analytical technology that make it possible to detect extremely small amounts of chemicals have also contributed to the perception by some that the problem is only recent in nature. Others, however, believe that the problem has long been with us.

While it is difficult to show the causal relationships between the presence of extremely low, or "trade" levels of chemicals in a water supply to a given incidence of cancer, birth defects, or other diseases, it is not impossible, and there is now a growing body of data that does more than suggest that these waste sites cause actual harm to both the environment and the public's health.

While the epidemiologic data on the harm from some of these hazardous waste sites may be arguable, there is consensus on at least some aspects of this issue: the problem of containing and cleaning up chemical waste sites is widespread, and extremely costly. Further, these sites exist because of poor or inadequate, as well as illegal, waste handling, treatment and disposal practices that have been used by the rapidly expanding chemical/petrochemical industry since World War II.

# Causes of the problem

There are several ways hazardous wastes find their way into surface and ground waters. Two of these, leachate (the seeping or leaking of ground fluids) from solid waste landfills or garbage dumps, and "midnight dumping" into urban sewer systems appear to be the most common.

For years, one of the least expensive, and often most convenient methods to dispose of industrial waste products has been to put it in a landfill, or dump. Many of these were nothing more than local municipal "sanitary" landfills, designed to recycle domestic, biodegradable wastes back into the earth from which the materials comprising the wastes originally came. But they were never designed to handle the often toxic and persistent wastes of today's modern chemical world.

In many instances, this type of chemical disposal was often legal when it occurred. Many of these sites, whether publicly or privately owned, were designated by law or

local ordinance as qualified to receive "industrial" and "commercial" wastes. In others, however, the dumping was, and is, purely illegal. For example, investigations in Philadelphia and New York over the past few years by local and state authorities have led to the disclosure of unauthorized dumping of hazardous chemical wastes at municipal refuse sites and the arrest of some of the responsible parties. In the New York case, testimony and reports by the Select Committee on Crime of the New York State Senate indicates that this illegal disposal activity had been going on for years throughout several states, despite efforts by state officials to address the problem.1

The indiscriminate or haphazard stockpiling of waste-filled drums in open farm fields, empty city lots, active and abandoned warehouses, and the "back-lots" of small businesses or storage company properties are additional forms of land disposal. Run in a purely clandestine fashion, or under the guise of "recycling" and "recovery" operations, these sites often serve as convenient dumping or "holding" places for the chemi-cal industry's "cats-and-dogs" wastes, the wastes that have no further fuel or eco-nomically recoverable fractions that would be of value to anyone. And they often simply stay there, corroding their containers and leaching into the ground until some-

one happens on them.

The "Valley of the Drums" case, discovered a few years ago in Brooks, Kentucky, near Louisville, is a classic example. More than 17,000 drums of solvents, paint sludges, and other toxic and flammable wastes were strewn about this hazardous waste landfill and surface dump located just south of Louisville. The drums, and other wastes buried in the ground led to the contamination of a nearby stream which flows into the Ohio River, a drinking water supply for many communities

In yet another example, in Seymour, Indiana, approximately 60,000 drums of hazardous wastes and hundreds of thousands of gallons of chemical compounds in bulk storage vessels have contaminated the ground and surface waters, the former being source of drinking water for community residents. The costs of cleaning up these sites total into the millions.

As noted above, another frequently used disposal method is the illicit dumping of hazardous wastes into urban sewer systems. The existence of local government ordinances prohibiting this type of disposal in many sewered communities around the country makes such acts illegal, as well as

inappropriate.

Sometimes executed in broad daylight as well as in the dead of night, this approach for disposing of chemical wastes can accommodate a 5,000 gallon tank truck in a matter of minutes. And, while perpetrators of this type of disposal prefer to use storm sewers that by-pass local municipal waste water treatment works, they occasionally choose poorly. The result can, and has been the disruption of operations at the local treatment plant. And when this occurs, the results can be disastrous.

For example, in 1977, in Louisville, Kentucky, illegal dumping of highly toxic chemicals into that city's sewers rendered useless much of that city's new, multi-million dollar treatment works.2 While the parties responsible were ultimately identified and prosecuted, the plant was either totally or partially out of service for many months while special government and military teams attempted to rectify the situation. During that time, billions of gallons of raw or poorly-treated and chemically-contaminated sewage spewed into the Ohio River, a prime recreational resource and drinking water supply for numerous downstream

There are several other causes or sources chemical waste contamination which, while not necessarily as common or significant in scope as those just mentioned, are nonetheless of equal concern. They include (1) classic spills by transporters-sometimes intentionally; (2) the spreading of waste oil illegally laced with contaminants on rural roads-the spreading of oil itself being a common and apparently legal practice for dust control in some areas of the country; and (3) the literal pouring of liquid toxic wastes from tank trucks onto rural roadsides and wooded lots (often in the dead of the night) and into any other convenient place, including vacant urban lots.

Another illicit method for disposing of hazardous wastes is to mix it with waste oil and sell it as boiler fuel to unsuspecting commercial and industrial customers. A relatively "efficient" hazardous chemical disposal method, its impact on water quality is largely limited to "acid-rain" type fall-out from furnace stack emissions. For those in the area of the emission, however, the effect of burning this contaminated waste oil may be extremely hazardous as partially stroyed or heat-resistant toxics combine with furnace gases and enter the air.

The human and ecological effects of improper hazardous waste disposal

As noted earlier, the improper disposal of toxic chemical wastes can render ground water supplies, the source of drinking water for millions of Americans, unfit for use for decades without highly sophisticated and costly treatment. Toxins from abandoned hazardous waste sites have also contaminated surface waters in many areas, making them unsuitable for drinking and recreational purposes. In still other instances, these wastes have contaminated the very soil we walk on, that children play on, and in which we grow some of our food.

The presence of these toxic wastes are also believed to be the cause of many chronic illnesses, including cancer, to those who are routinely exposed to them. Simply living too close to an improperly managed and maintained site, according to some reports, can have seriously debilitating effects on public health.3

Concern about the effects of hazardous wastes have even triggered considerable interest in another medical area: neurotoxicity-chemical attacks on the human nervous system. Indeed, the risks to public health and welfare, as well as the damage these hazardous chemical wastes can wreak on this Nation's most valuable treasure, its water resources is almost unfathomable.

The Superfund law

In early December 1977, Congress enacted legislation to deal with abandoned and inactive waste sites: the "Comprehensive Envi-ronmental Response, Compensation, and Li-ability Act of 1980", commonly known as

Investigations and Review, July 1977, document No.

the "Superfund." The Act, which is also referred to by its acronym, CERCLA, is also intended to provide a means to respond to hazardous chemical spills.

Signed into law on December 11, 1980, the Superfund statute (P.L. 96-510) created a \$1.6 billion trust fund, to be used for cleaning up hazardous waste sites and spills of hazardous chemicals. The monies for the Fund, to be collected over a five-year period commencing in 1981, are derived primarily from taxes on oil and certain chemicals; 12.5 percent of the Fund's monies come from general tax revenues.

Among the key features of the Superfund Act is a grant of authority to the government to act to control and/or eliminate a hazardous waste situation when a responsible party cannot act, or cannot be identified in a timely fashion.

Another significant feature is the law's liability provisions. Essentially, those responsible for creating a hazardous waste site (or chemical spill), be they chemical waste generators, transporters, treaters, storers, or disposers, who do not act to clean up a site themselves, are required to reimburse the Fund for the government's cost of cleaning it up and for any damage to natural resources. Further, under the law, the Government can assess treble damages against responsible parties that refuse to cooperate in cleaning up a site.

On August 14, 1981, President Reagan issued Executive Order 12316, "Responses to Environmental Damage", which ordered, among other things, that:

"The responsibility for the amendment of the NCP (National Contingency Plan) and all of the other functions vested in the President by Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, gated to the Administrator of the Environmental Protection Agency."

Executive Order 12316 also makes the EPA Administrator responsible for (1) cleaning up abandoned or inoperative hazardous waste sites and/or determining that the responsible parties will do so; (2) carrying out the enforcement provisions of the Act, including the issuance of administrative orders and the initiation of action in the U.S. Courts for necessary remedies, including fines and penalties; and (3) managing the "Hazardous Substance Response Trust Fund." (E.O. 12316 of August 14, 1981, at 170 and 171.)

III. THE SUBCOMMITTEE'S OVERSIGHT OF THE SUPERFUND LAW AND THE U.S. ENVIRONMEN-TAL PROTECTION AGENCY

On March 10, 1982, the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation opened a series of hearings to examine the extent to which releases or discharges of hazardous and toxic wastes in the environment were being controlled or abated, and the effect that these releases have on the quality of the Nation's ground and surface water resources.

A central concern in this investigation and review by the Subcommittee was, and continues to be, the efforts being made by the U.S. Environmental Protection Agency to carry out the framework of Federal laws that address, in whole or in part, hazardous waste contamination of water resources. Among the statutes being examined, in addition to the Superfund law, are the Federal Water Pollution Control Act Amendments, P.L. 92-500, as amended (also referred to as

<sup>&</sup>lt;sup>3</sup> University of Medicine and Dentistry of New Jersey, July 1982.

<sup>&</sup>lt;sup>1</sup> Hazardous Waste Landfill Dumping, A Report by New York State Senator Ralph Marino, Chairman, Select Committee on Crime, March 25, 1982.

<sup>2</sup> Implementation of the Federal Water Pollution

Control Act, Hearings before the Subcommittee on

the Clean Water Act); and the Resource Conservation and Recovery Act, P.L. 94-580, as amended. (A review of the Department of Transportation's efforts to carry out the Hazardous Materials Transportation Act, P.L. 93-633, as amended, and its bearing on this issue, is also included.)

Of particular interest to the Subcommittee at the March 10, 1982, hearing was the EPA's February 18, 1982, action suspending its restriction on dumping "liquids in landfills". The Agency had previously banned the disposal of containerized liquid wastes in landfills that lacked the physical safeguards necessary to prevent toxic wastes from migrating into ground and surface waters. The EPA's lifting of this restriction raised the possibility that many new "Love Canals" might be created.

EPA officials testifying at that hearing, Mr. Christopher J. Capper, Acting Assistant Administrator for Solid Waste and Emergency Response, and Mr. Gary Dietrich, Director of EPA's Office of Solid Waste, acknowledged that they did not have adequate information on the potentially lethal effect that the dumping of these hazardous wastes into landfills would have on the Nation's ground and surface waters. They also advised, among other things, that many of the several hundred existing dump sites accepting hazardous wastes do not have anti-leaking (leachate) barriers or collection and treatment systems in place, and that the then EPA rules did not restrict the dumping of any type of hazardous waste, containerized liquid or solid, into any of those facilities.

In fact, the two EPA officials were able to provide the subcommittee with very little justification for suspending the "liquid in landfills" ban while they considered a new rules on this issue. Further, they acknowledged that no assessment had been made as to how much toxic waste had been stockpiled around the country because of the ban or how much toxic waste was being dumped as a result of the ban's suspension.

On March 17, seven days after the Subcommittee's hearing, the EPA announced that it was further modifying its regulations to partially reimpose the ban. (F.R. Vol 47, No. 55, March 22, 1982, pp 12316-12318.)

On March 30, 1982, the Subcommittee met again, to further question Messrs. Capper and Dietrich about the recent actions on the "liquids in landfills" ban suspension. Their response to the Subcommittee's questions seemed to conflict with their earlier testimony, raising questions as to whether there really was any need for EPA to suspend the ban on toxic liquid waste dumping in the first place.

On July 9, 1982, the Subcommittee held an additional day of hearings, in New York City, to examine more closely the progress being made by the EPA and other state and local officials in cleaning up some of the existing hazardous waste sites being addressed by the Superfund law. Witnesses included the Mayor of Oswego, New York, which is the site of the Pollution Abatement Services Company, an inactive liquid waste incineration operation that had been abandoned by its owners, and citizens living in the area of the Burnt Fly Bog and Lone Pile Landfill waste sites in New Jersey. The Burnt Fly bog site involves a 160 acre abandoned private dump, and the Lone Pile Landfill involves an inactive 85 acre landfill.

Vast quantities of toxic chemicals have been disposed of at these sites, creating water pollution and public health problems that may last for decades, and cleanup costs that may run into tens of millions of dollars. Of particular concern to the witnesses, and the Subcommittee, was why it was taking so long to get these sites cleaned up. Further, testimony by the Mayor of Oswego and another witness from that community indicated that much of the waste at the PAS site, and several satellite sites had yet to be cleaned up, and the possibility existed that some of it may never be dealt with.

Residents of Port Washington, N.Y. also testified during the hearing, raising questions about whether large quantities toxic chemicals may have been illegally disposed of in the community's domestic waste landfill. Despite the apparent litany of problems that have occurred, including explosions in nearby homes allegedly due to toxic gases escaping from the landfill, the witnesses expressed with some exasperation that they had been unable to get either the Federal EPA, the State of New York's Department of Environmental Protection, or the local community's officials to undertake the costly tests necessary to determine whether there were significant quantities of toxic chemicals present in the landfill that might contaminate the community's water supply and the nearby waters of Long Island Sound.

Finally, testimony by the U.S. General Accounting Office at the July hearing disclosed that EPA's efforts to carry out the Superfund law, including the development of implementing regulations and the "National Contingency Plan", called for by the Act, were significantly behind schedule, impeding the rate at which toxic waste sites were being cleaned up.

#### What the subcommittee is trying to assess

The Subcommittee's hearings and field investigations have raised a number of concerns about the adequacy of the Superfund law, and the extent to which the EPA's efforts to carry it out are both satisfactory and in keeping with the intent of the law. Further, public disclosure of alleged illegal hazardous waste disposal activities by a Waterbury, Connecticut chemical handling firm (New York Times, October 27, 1982, at B3), activities that may also be in violation of the Federal Clean Water Act, suggest that current efforts to prevent improper and illegal disposal of hazardous wastes are inadequate.

Testimony and additional evidence available to the Subcommittee also suggests that many identified hazardous waste sites are not being fully, nor expeditiously cleaned up, and that many of the companies responsible for the wastes are not being held fully liable for their share of the cleanup costs, as the Superfund law intended.

There is also evidence suggesting that resources devoted to the EPA for pursuing leads about responsible parties are inad-equate; that documents that would help to establish the responsibility of parties for some of these sites have not been expeditiously obtained; that contracts for cleaning up hazardous waste sites may be going to the very companies that had a hand in creating them; that wastes from some sites being cleaned up at public expense may appear to have been improperly disposed of, creating new cleanup problems; and, that EPA's efforts to impose administrative penalties on violators of hazardous chemical and waste laws over the past several years, have been oriented toward seeking minimum penalties, which are often further reduced during negotiations with responsible parties.

As a result, the Subcommitee's inquiry continued following the July 9, 1982, hearing and, with respect to the Superfund statute, focused heavily on the following areas:

Whether there are statutory requirements and/or administrative policies, practices and procedures that affect the government's (EPA's) ability to function effectively and achieve the objectives of the law, or whether amendments to the statute are needed;

Whether the Superfund law's enforcement provisions are being fully and effectively carried out;

Whether adequate efforts have been, or are being made to obtain and/or recover the full costs of cleaning up hazardous waste sites from responsible parties;

Whether the Fund, and the existing sources and amounts of revenue for it, particularly the tax on oil and chemicals, is adequate to address both known and potential hazardous waste sites and chemical spills; and

What information is being considered, or not being considered by the EPA, in its administration and management of the Fund, and its execution of responsibilities under the Superfund law.

Answers to these concerns will, in turn, assist the subcommittee in identifying weaknesses and/or deficiencies in the framework of Federal laws and the ways they are being carried out that may be inhibiting or precluding regulation and enforcement of hazardous waste disposal activities; in assessing the adequacy of existing statutory penalties for deterring the continuance of illegal or improper disposal of hazardous wastes; and in demonstrating how the several Federal statutes and their implementing regulations may be combining to create incentives and methods for generators of hazardous wastes to dispose of toxins illegally.

to dispose of toxins illegally.

In pursuit of information that would help the subcommittee make these assessments, efforts were undertaken by the Subcommittee's investigators to interview EPA Officials and others, and to review the agency's enforcement files. Among the questions

needing answers:

Why aren't responsible parties being held liable for their full share of the costs of cleaning up a hazardous waste site?

Why is the EPA agreeing to limit the liability of some responsible parties, and not others; and what is the effect of this on the program and the Fund's resources?

What is the basis for the agency deciding whether it will assess civil penalties, and how much those penalties should be?

What is the EPA's basis for deciding whether it will refer a case to the Justice Department for prosecution of either civil or criminal concerns?

What does the agency do when it finds that one or more of the responsible parties may be judgment proof?

Why are some cases being settled or handled administratively, and others going to litigation?

Is the agency capable of making substantive financial analyses of the responsible parties, and how does this affect their decisions on obtaining or recovering cleanup costs from responsible parties, or on pursuing penalties through litigation?

To what extent does the ability to identify responsible parties affect agency enforcement decisions about who should pay how much of the cleanup costs and whether efforts should be made to litigate, or settle out of court?

Is the agency able to move rapidly enough to ensure that valuable and critical evidence, particularly potentially criminal evidence, is not lost, or destroyed?

Is any consideration given to whether a responsible party is involved in more than one site?

Are cleanup and other efforts to negotiate settlements or proceed with litigation hindered in any way, or being stalled, and if so, why?

Are there weaknesses or deficiencies in the statute that affect EPA's ability to enforce?

The Attorney General and Administrator Gorsuch have repeatedly asserted that congressional inquiry into these matters wrest from the Executive its ability to "take Care That the Laws be faithfully executed," U.S. Const. art. II. Sec. 3.

As the opinion of the General Counsel to the Clerk in response to the Attorney General's opinion states:

"Congress does not forgo inquiry simply because it may produce information on the government's strategies and weaknesses; the only way to correct either bad law or bad administration is to examine these matters." See Appendix M.

The position of the EPA would mean that Congress would, in effect, destroy or diminish its own oversight power in passing laws. for once passed, administration of the law would fall exclusively within the "take care" clause power to the exclusion of oversight, sealing off from Congress an effective means for determining the sufficiency of existing law. This argument falls of its own weight. The power conferred by the Constitution under Article II, Sec. 3 is primarily to empower the President simply to carry out the laws enacted by Congress. It neither expressly nor impliedly authorizes the President, or any agency, to withhold documents essential to evaluating the administration of the laws passed by Congress which the President is to "faithfully" execute.

This kind of slipshod constitutional construction and the unsupported equivalency drawn between oversight and interference in execution of the law cannot withstand scrutiny and is rejected by your Committee.

Events leading to the subpoena of the EPA Administrator and the Agency's enforcement documents

As detailed during the Subcommittee on Investigations and Oversight's December 2, 1982 hearing, on September 13, 1982, the Subcommittee staff called and advised the Environmental Protection Agency's Region II Superfund program and legal enforce-ment staff of the Subcommittee's need and intent to review file materials related to the agency's efforts to carry out its hazardous waste disposal and spill cleanup mandates under the 1980 Superfund law; the Resource Conservation and Recovery Act (RCRA; P.L. 94-580, as amended), and the Clean Water Act (Pub. L. No. 92-500, as amended). EPA Region II staff (Mr. Robert Ogg and Mr. Walter Mugdun) advised that access to much of this information was restricted, and that EPA headquarters staff in the Office of Legal Enforcement Counsel, would have to be contacted. (Hearing transcript at

On September 14, 1982, the Subcommittee staff called EPA Headquarter's Office of Legal and Enforcement Counsel and spoke with Kathy Summerlee about the Subcommittee's investigation, and of the need to examine the agency's Region II Superfund enforcement files. Ms. Summerlee indicated that the person who normally handles such matters, Mr. Edward Kurent, was not in at

the time, and that she would have to call back with a response.

In a subsequent phone call from Ms. Summerlee on the same day, the Subcommittee staff was advised that there would be no objection to Subcommittee review of the enforcement files, so long as the confidentiality of the information in those files was maintained, a condition that was agreed to by the Subcommittee staff. These arrangements were confirmed with Mr. Mugdan in Region II. (Hearing transcript at 12.)

On September 15, 1982, Subcommittee staff traveled to New York City and met with Mr. Ogg and Mr. Mugdan of the EPA staff concerning the review of the agency's files. Mr. Mugdan advised that any of the engineering and technical studies that were being prepared on the several EPA Region II Superfund priority sites could be made available, but that the Subcommittee could not have access to the enforcement files.

Mr. Mugdan also advised that the Sub-committee staff were to contact Mr. Richard Mays in the EPA Office of Legal and Enforcement Counsel about this reversal in the previous day's arrangements. Upon doing so, Mr. Mays advised that he had discussed the Subcommittee's request with the EPA's Associate Administrator for General and Enforcement Counsel, Mr. Robert Perry, and that before the Subcommittee could have access to Superfund enforcement files, the agency wanted to have a formal letter from the Subcommittee requesting such access, as set out in section 104(e)(2)(D) of the Superfund law. (Hearing such transcript at 12.) (Section 104(e)(2)(D) stipulates that " . . . all information reported to or otherwise obtained by the President (or any representative of the President) under this Act shall be made available, upon written request of any duly authorized com-

mittee of the Congress, to such committee.) On September 16, 1982, a letter to the EPA Administrator, from the Subcommittee, dated September 15, 1982, was hand delivered to the EPA Administrator (and to others in the Agency, including Mr. Perry and Mr. Mays), requesting that information and materials, documents and other records pertaining to the implementation of the Superfund law be made available to the Subcommittee (Appendix A). Following confirmation of the delivery of the letter, the Subcommittee's staff, still present in New York City, met again with Mr. Mugdan, and requested access to the agency's enforcement files.

Mr. Mugdan immediately phoned Mr. Mays at EPA Headquarters, and asked for direction and guidance. Mr. Mays advised Mr. Mugdan that the Subcommittee staff could not have access to the enforcement files, and then spoke with the Subcommittee staff, by phone, personally confirming this directive to Mr. Mugdan (Hearing transcript at 13). Prior to leaving the EPA Region II headquarters building, the Subcommittee staff met with Mr. Warren Llullewan, Region II's General Counsel, and advised him of discussions between EPA and the Subcommittee staff, and that the refusal by EPA to grant access to the staff would have to be reported to the Subcommittee.

On September 20, 1982, EPA Associate Administrator and General Counsel, Robert Perry, called the Subcommittee staff to discuss the Subcommittee's access request, and indicated his willingness to cooperate. Mr. Perry suggested that he send an EPA head-quarter's official along with us to pre-screen their files and remove sensitive documents (emphasis added). He indicated that this

would be necessary because he wasn't sure what was sensitive or confidential in each file. This was deemed unacceptable by the Subcommittee staff, as it would obviously continue to preclude the Subcommittee access to necessary information (Hearing transcript at 13). The conversation ended with the scheduling of a meeting involving EPA, Department of Justice (DOJ) and Subcommittee staff on September 29, 1982.

On September 29, 1982, the Subcommittee staff met with Mary Walker and Stephan Ramsey of the Department of Justice, and Mr. Perry, Mr. Mays and Mr. Gerald Yamada of the EPA, at the Department of Justice. The EPA staff deferred to Mr. Ramsey, who advised the Subcommittee staff that he had serious problems with the Subcommittee's accessing active litigation files and other documents identifying "responsible parties" and the EPA's and DOJ's enforcement strategies.

Mr. Ramsey indicated that he believed that the Subcommittee did not have the authority to access that kind of information under section 104(e)(2)(D) of the Superfund law (Hearing transcript at 14). Mr. Prolman of the Subcommittee staff advised that the Subcommittee's inquiry was being pursued under the general authority of the Congress to conduct oversight and investigations, and the rules of the House granting jurisdiction to the Committee and not simply under the authority granted by section 104(e)(2)(D) of the Superfund law.

Mr. Perry and Mr. Ramsey asked the Subcommittee staff if they could be provided with a list of the documents being sought. They were advised that since the Subcommittee staff had not been allowed to conduct a visual review of any of the enforcement files, it would be impossible to provide such a list.

EPA and DOJ staff repeatedly advised that they felt that many of the types of questions the Subcommittee staff was asking, and the types of files or documents that would have to be seen to answer these questions fell into the area of those that they believed the Subcommittee could not see. Consequently, no agreement was reached, and Mr. Prolman of the Subcommittee staff advised those present that he would have to report the inability to reach an agreement to the Subcommittee.

# The subpoena

On September 30, 1982, the Subcommittee met in Executive Session and authorized the issuance of subpoenas to the EPA Administrator and other EPA officials, and for agency documents, if EPA continued to refuse the Subcommittee access to its enforcement files. (Committee Rules, Committee on Public Works and Transportation, 97th Congress, Rule No. V, at 4.)

On October 1, 1982, the Subcommittee Chairman, Mr. Levitas, Ranking Minority Member Mr. Hagedorn, Congressman Molnari and members of the Subcommittee staff, met with EPA Deputy Administrator John Hernandez, EPA Chief of Staff John Daniel, and Mr. Robert Perry, Gerald Yamada and Richard Mays of the EPA Office of Legal and Enforcement Counsel. The EPA officials present assured the Subcommittee that they would cooperate and provide access to, and copies of pertinent Superfund enforcement related files, and

<sup>&</sup>lt;sup>4</sup> After issuance of the subpoena, and at no time thereafter, has the EPA or representatives of the Department of Justice contested the jurisdiction of the Committee.

that they would so indicate in a response to the Subcommittee Chairman's September 15, 1982, letter to the Administrator. In response to questions by the EPA officials present, the Subcommittee Members assured that the confidentiality of the agency's sensitive materials would be maintained (Hearing transcript at 14, 15).

On October 7, 1982, EPA General Counsel Robert Perry transmitted a letter to the Subcommittee Chairman, in response to the Subcommittee's September 15, 1982 letter to the EPA Administrator, advising that the EPA would make their files available, with the exception (emphasis added) of memoranda by other agency or Department of Justice attorneys containing litigation and negotiation strategy, settlement posi-tions, names of informants in criminal cases, and other similar material," contrary to their stated intentions on October 1, 1982 (Appendix A).

On October 8, 1982, the Subcommittee's staff met with Mr. Perry, Mr. Mays, and Mr. Yamada of EPA at its headquarters to discuss several differences between the EPA October 7, 1982 letter and what had been stated at the EPA-Subcommittee meeting on October 1, 1982. EPA again advised that the desired information would be available and that a further letter would be sent to the Subcommittee to clarify the EPA Octo-

ber 7, 1982, letter.

On October 12, 1982, the above-referenced follow-up letter from EPA, signed by EPA General Counsel Perry, was received by the Subcommittee. The letter did not remove any of the restrictions or exceptions on access to critical information (Hearing tran-

script at 16).

On October 13-15, 1982, the Subcommittee staff traveled to EPA Regions I and II (Boston and New York) to review certain Superfund site enforcement related cases. and obtained a limited number of confidential documents concerning certain of the cases, but were advised that the decisions relative to enforcement actions were made by headquarters personnel, and that the records pertaining to those matters were at EPA headquarters.

On Friday, October 29, 1982, Subcommittee staff met with Mr. Gene Lucero and Mr. Tony Montrone, of EPA's Office of Waste Programs Enforcement. The purpose of the meeting was to obtain a general overview of that office's efforts to carry out the Superfund statute's enforcement requirements. and to review EPA headquarter's enforcement files on certain cases being addressed by the program, specifically the Bridgeport, New Jersey and Seymour, Indiana sites.

At the completion of general discussions, the Subcommittee staff asked to see the agency's enforcement files on the above two sites, including those files that contained enforcement strategy and settlement deci-

Mr. Lucero advised that he was under instructions not to let the Subcommittee's staff see these files, and that if the matter was to be pursued further, Mr. Perry, of the Office of Legal and Enforcement Counsel, would have to be contacted. At the Subcommittee's staff's request. Mr. Lucero and Mr. Montrone contacted Mr. Perry, and advised them of the situation. The meeting broke for lunch, and when the Subcommittee staff returned to Mr. Lucero's office at approximately 1:30 p.m., they were advised by Mr. Montrone to go to Mr. Perry's office.

When the Subcommittee staff arrived at Mr. Perry's office, they were informed that was not in Washington, and that they

were to meet Messrs. Michael Brown and Richard Mays of his staff. Also attending this meeting, apparently at EPA's request, was Mr. Stephen Ramsey of the Department of Justice.

Mr. Brown advised that he was only generally aware of the entire matter, and was unaware of Mr. Perry's letters of October 7 and 12, 1982, to Chairman Levitas, and the agreement that EPA Deputy Administrator John Hernandez, and EPA General Counsel Robert Perry, had made with the chairman and other Subcommittee Members on October 1, 1982, regarding the subcommittee's access to these files. Nonetheless, he advised that it was the EPA's policy that the information being sought was considered "enforcement sensitive" and would not be made

The Subcommittee staff asked both Mr. Brown and Mr. Ramsey why there had been this apparent change in the agreement that had previously been reached between the agency and the Subcommittee Members allowing access to these files and documents. They admitted that there had been a change due to the issuance of a subpoena for the same type of information by the Energy and Commerce Committee of the House (Hearing transcript at 17). Further, since they could not treat two Committees of the House differently, they were reverting to their original position on the matter. which was that they could not let the Subcommittee see these "enforcement sensidocuments. They also stated, when specifically asked, that the informal arrangements they had with the Subcommittee, as well as similar arrangements they with the Energy and Commerce Committee (apparently to review, analyze, make notes, and obtain copies of these enforcement sensitive documents), were null and void.

Both Mr. Brown and Mr. Ramsey advised that they felt that the Subcommittee did not have the authority to see this information (Hearing transcript at 17). Mr. Brown further advised that he felt it would be more appropriate if the Subcommittee would wait until the agency had finished its work before conducting a review, (Hearing transcript at 17). The meeting adjourned with no further resolution of the matter, and the Subcommittee staff reported this to the Subcommittee Chairman.

On November 22, 1982, the Subcommittee served a subpoena to EPA Administrator Anne M. Gorsuch, and required her to appear before the Subcommittee on December 2, 1982, and "to produce all books, records, correspondence, memorandums, papers, notes and documents drawn or received by the Administrator and/or her representatives since December 11, 1980, including duplicates and excepting shipping papers and other commercial or business documents, contractor and/or other technical documents, for those sites listed as national priorities pursuant to Section 105(8)(B) of P.L. 96-510, the "Comprehensive Environmental Response, Compensa-tion, and Liability Act of 1980"," (emphasis added.).

On November 30, 1982, the Subcommittee Chairman received a letter from Attorney General William French Smith, indicating that, in keeping with the "historic position of the Executive Branch that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees, except in extraordinary circumstances," and that it would be preferable if the Subcommittee would "no longer seek to compel production of this class of documents from the Administrator." (Appendix G.)

The letter further suggested that "the legislative needs of your Subcommittee can be met without the production by the Administrator of sensitive documents in open law enforcement files." Referenced in, and enclosed with this letter, was a copy of a letter, also dated November 30, 1982, from the Attorney General to Congressman Dingell, Chairman of the Committee on Energy Commerce's Subcommittee on Oversight and Investigations (Appendix H). This latter document contained similar admonitions, and several references as to the basis for the Attorney General's position on the matter.

### Subcommittee hearing on subpoena

On December 2, 1982, the Subcommittee held a hearing to receive testimony from EPA Administrator Anne M. Gorsuch, in response to the subpoena, and to either receive the requested documents, or explanation as to why they were not going to be provided.

In her opening statement, Mrs. Gorsuch advised the Subcommittee "... that sensitive documents found in open law enforcement files will not be made available to the Subcommittee." (Hearing transcript at 57.) Citing the President's instructions to her as set forth in a memorandum dated November 30, 1982, (Appendix I), Mrs. Gorsuch further noted that:

. . sensitive documents found in open law enforcement files should not be made available to Congress or the public except in extraordinary circumstance. Because dis-semination of such documents outside the Executive Branch would impair my solemn responsibility to enforce the law. I instruct you and your agency not to furnish copies of this category of documents to the Subcommittees in response to their subpoenas.

The legal claims of the Attorney General that "open law enforcement files" cannot be made available to Congress we believe have been effectively met by the opinion of the General Counsel to the Clerk. Indeed, the leading case of McGrain v. Daugherty, 273 U.S. 135, 177 (1926) expressly holds that Congress' inquiry into "whether the Attorney General and his assistants were performing or neglecting their duties in respect of the institution and prosecution of proceedings" (emphasis added) was a proper and lawful exercise of Congress' power.

The Attorney General relied not on any caselaw, but on letters from prior Department of Justice officials in instances involving FBI criminal investigative files, not civil law enforcement files.

The administrator of EPA pegged part of the argument on the "loss of control" resulting from production of these documents to Congress, yet when Chairman Levitas offered a proposal to permit EPA to show these documents to the Subcommittee in executive session without ever ceding actual control over the documents, this proposal was rejected by EPA. The nub of EPA's refusal is the assertion that merely permitting Members of Congress to see these documents would constitute loss of control.

While repeatedly denying that the EPA quated disclosure to Congress with public disclosure of release to litigants in pending EPA cases, EPA and Department of Justice officials returned again and again to the spectre of the damage to EPA's litigation efforts which release of enforcement sensitive files would have. At the Subcommittee hearing, Ms. Gorsuch stated:

"For example, analysis of, in a particular enforcement case against a particular defendant or group of defendants which, among other things, identifies weaknesses in either our information base or our legal position. If we were to allow that to become public, nothing could be of more service to defendant." (Hearing Transcript at 68.)

Despite repeated assurances that the Committee would not release the materials, EPA persisted in grounding denial to Congress on fear of release to defendants.

Noting that the Subcommittee had sought those documents associated with the priority sites listed pursuant to section 105(8)(B) of the Superfund law, Mrs. Gorsuch advised the Subcommittee that since "the agency has issued only an interim priority list, not under section 105(8)(b). The subpoena does not apply to any documents, therefore, in the possession or custody of EPA." (Transcript of Hearing at 55.) This statement appeared to be intended to raise a technical objection to the subpoena, and perhaps whether it provided adequate notice to the EPA concerning the documents required to be produced. Any lack of adequate notice was belied by two factors openly conceded by EPA itself. First, Administrator Gorsuch in the very next sentence of her statement indicated her understanding of the scope of the subpoena by informing the Subcommitthat she "directed my staff to begin to gather all documents pertaining to the 160 sites now on EPA's interim priority list." Id. Moreover, in response to the Subcommittee subpoena EPA dispatched a memorandum to regional administrators identifying documents to be gathered for transmittal to Washington in compliance with the subpoena. That memorandum instructed the regional administrators to "gather all of the documents encompassed in the Subcommit-tee's subpoena" and to "segregate all materials which are 'enforcement sensitive.'" (Appendix F). The suggestion that the Administrator either could not understand the scope of the subpoena or could not comply because the sites had not yet been designated is undermined by the Administrator's instructions and her statement before the Committee.

It is well settled that minor irregularities in the form of a congressional subpoena do not invalidate it where its meaning is clear to the person to whom it is directed. Flanner v. United States, 235 F.2d 821 (D.C. Cir.

1956.5

It is clear that the Administrator and her staff had long been aware of the type of documents the Subcommittee was seeking, and that steps had been taken earlier in an attempt to identify and separate them from the agency's files.

As early as November 15, 1982, before the Subcommittee issued its subpoena, but long after discussions had been initiated about access to the agency's files, EPA Associate Administrator Robert Perry sent a memorandum to all those in his Office of Legal and Enforcement Counsel, advising them "... that certain classes of deliberative or negotiating materials relating to the en-

Further, on November 24, 1982, two days after the Subcommittee served its subpoena to the Administrator, Mrs. Gorsuch, herself, issued a memorandum to EPA Assistant Administrator for Solid Waste and Emergency Response, Rita Lavalle, and to all ten of the agency's Regional Administrators, indicating that—

"... the Department of Justice (DOJ) has advised us that certain classes of deliberative or negotiating materials must be reviewed very closely before being made available to Congressional committees. Included among these categories of documents are "enforcement sensitive" materials, ..." (Appendix F.)

In fact, in EPA General and Enforcement Counsel Rober Perry's October 7, 1982, letter to the Subcommittee Chairman, almost a month before this hearing, the type and nature of the documents that would not be made available to the Subcommittee were well articulated: "These documents include, for example, memoranda by Agency or Department of Justice attorneys containing litigation and negotiation strategy, settlement positions . . . and other similar material." (Appendix B.) Further, the Subcommittee, as noted earlier, intentionally excepted from its subpoena the vast majority documents known to be in the agency's files; shipping papers and other commercial or business documents and various technical documents involved in these sites.

As noted above, Mrs. Gorsuch informed the Subcommittee that while the agency would make most of the documents in its files available in response to the subpoena, she would not provide the Subcommittee with the so-called "enforcement sensitive" documents, those being of a nature or type as referenced by Mr. Perry in his October 7, 1982, letter. However, as to the number of documents this actually involves, there remained a question.

During her testimony on December 2, 1982, and as indicated earlier, Mrs. Gorsuch noted: "To date, at least 23 such documents from our headquarters have been preliminarily identified." (Hearing transcript at 57.) She also acknowledged in response to questioning that steps were being taken to identify the remaining balance of those documents, and that the Agency had "only gone through a small percentage of the files so far." (Hearing transcript at 95.) Indeed, the Agency itself did not know which documents, or how many, were actually going to be subject to their own criterion of "enforcement sensitive" and, therefore, to be withheld from the Subcommittee.

Subsequent questioning by the subcommittee also disclosed that the EPA had identified some 35 "enforcement-sensitive" documents involved in the three sites being examined by the House Energy and Commerce Oversight Subcommittee. Yet, despite the fact that these same three sites were included in the 160 referenced in the Public Works and Transportation subpoena, the EPA had only provided the Subcommittee with a list of 23 documents at issue. (Testimony by the EPA Associate Administrator for Legal and Enforcement Counsel, Mr.

Robert Perry, before the Energy and Commerce Oversight Subcommittee on the following day, December 3, 1982, disclosed that there may be as many as 51 "enforcement sensitive" documents involved in the three sites being examined by that Subcommittee, raising the prospect that as many as 2,000 to 3,000 documents may ultimately be involved, and withheld by the EPA.)

Unfortunately, the Subcommittee, and for that matter, the full Committee on Public Works and Transportation, remains unable to address these statistical inconsistencies in the Administrator's testimony. Indeed, while she and other agency officials have repeatedly advised that they are prepared to make the vast majority of all Superfund documents available to the committee for inspection and duplication, in fact, up to the date of the Administrator's appearance, December 2, 1982, this had not been the case.

As noted above, the Administrator herself advised the Subcommittee on December 2, 1982, that the agency was still reviewing the vast majority of its enforcement files in an attempt to determine just which documents are, in their opinion, "enforcement sensitive", and therefore to be withheld from the Subcommittee.

Until the review of these files is completed and the sensitive documents are removed, any review of these files by the Subcommittee or its staff would obviously provide access to the information being withheld. Consequently, each time the Subcommittee or its staff sought access to the agency's enforcement files, with the exception of the Regional files on about 3 or 4 cases examined in New York and Boston on October 13-15, the agency's staff declined to make these files available, particularly those at EPA headquarters (Hearing transcript at 137, 139).

Also of concern to the Subcommittee is the EPA's and Justice Department's apparent intent to preclude the Subcommittee access not only to "open law enforcement investigative files," but from review of docu-ments in files of cases that have been settled or closed. In response to direct questioning about whether documents considered "enforcement sensitive" when a case was open, would be available in closed cases, EPA Enforcement Counsel, Michael Brown, advised: "Sir it would depend upon any of those documents (sic) were an ongoing instruction. For example, if there were involved in a case file an ongoing decision by the Administrator of an enforcement philosophy that would also pertain to ongoing cases, then that particular document would not." (Hearing transcript at 72.)

This statement makes clear that even closed and settled EPA cases might not be provided to the Committee. The qualification placed by Mr. Brown on even closed or settled cases further diminished the vitality of the Department of Justice claim that it sought to guard against disclosures which harm "live" cases.

Ironically, this is the very type of information required by the Subcommittee to fulfill its oversight mandate to "review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws . . . in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress . . . ", (H.R. Rule X, cl. 2(b)(1), Rules of the House of Representatives.)

Yet, as noted previously, the Subcommittee's interests and concerns must of necessity not be limited to "enforcement philoso-

forcement of EPA laws and regulations will not be made available to Congressional committees without first being screened by me or my designated representatives." (Emphasis added.) Included in his instructions were directives that even materials on closed cases be screened to assure that so-called "enforcement sensitive" documents would be withheld. (Appendix D.)

<sup>&</sup>lt;sup>5</sup> In Flaxner, the contemnor claimed a variance between the subpoena, which was directed to the "United States Professional Workers of America" and the indictment which alleged refusal to produce records of the "United Public Workers of America." The court rejected this argument, particularly because it was the witness who had called attention to the error. 235 F.2d at 826.

phies." It must seek to examine the adequacy of existing laws and the agency's efforts to make use of those laws, and to execute its Congressional mandates and responsibilities. It must seek to determine whether there are trends, nationally, that establish whether a law is being administered evenly and appropriately, and whether the circumstances that may cause for exceptions are reasonable and justified.

In short, the Subcommittee must be able to examine how and why the agency is making its decisions to enforce, or not to enforce, to litigate or not to litigate, to settle or not settle with some, or all of the parties that may be involved in the various Superfund cases. It must seek to establish just what is, and possibly more importantly, what is not being considered in the making of those decisions. Finally, it must asses whether there is a need for changes in existing legislation, or a need for new laws.

Following the testimony of the EPA Administrator and those accompanying her, and after further questioning of the Subcommittee's staff, the Subcommittee approved, in a 9 to 2 vote, the following resolution:

"Be it resolved. That the subcommittee finds Anne M. Gorsuch, Administrator, U.S. Environmental Protection Agency, in contempt for failure to comply with the subpoena ordered by this subcommittee and dated November 16, 1982, and the facts of this failure be reported by the Chairman of the Subcommittee on Investigations and Oversight to the Committee on Public Works and Transportation for such action as that Committee deems appropriate.'

### Attempt to negotiate

On December 8, 1982, a meeting was held with Subcommittee Chairman Levitas and various Administration officials, specifically, Robert Perry, EPA General Counsel; Theo-dore B. Olson, Assistant Attorney General, Office of Legal Counsel, DOJ; and Robert A. McConnell, Assistant Attorney General, Office of Legislative Affairs, DOJ. A number of Subcommittee and full Committee staff were also in attendance.

It was the Committee's understanding that the meeting had been requested by DOJ for the purpose of resolving the impasse which existed between the Subcommittee and the Administration.

For whatever reasons, the DOJ officials stated that they had not in fact requested the meeting and that, therefore, they had not come prepared to make "an offer."

Chairman Levitas, after restating the events to date and noting particularly the original understanding of the Subcommittee, proposed the following solution:

1. Subcommittee staff would be permitted to have access to all EPA documents relative to the 160 hazardous waste sites at issue.

2. Subcommittee staff would have the unrestricted right to examine the EPA documents and determine what documents it wished to have copied and produced for further staff work or made available to the

Subcommittee

3. EPA and/or Justice Department enforcement officials would then examine the documents which the Subcommittee staff designated for copying and designate those documents which were considered by the Executive Branch to be sufficiently sensitive to an open enforcement proceeding. Copies of those documents would be made and transferred to EPA headquarters in Washington but would not be provided to the Subcommittee. Copies of all the other documents designated by the Subcommittee staff would be furnished to the Subcommit-

4. Members of the Subcommittee and staff members would be permitted to examine the particularly sensitive documents at EPA headquarters in Washington under Executive Session Rules so that the documents would not be physically turned over to the Subcommittee and would not therefore have to be made available to every member of the House of Representatives pursuant to the Rules of the House of Representatives.

5. If the Subcommittee thereafter determined that it needed to have copies of any of the particularly sensitive documents, it would then have the right to pursue efforts to obtain copies of those documents through the mechanism of a subpoena.

6. Members of the Subcommittee and the staff would treat the information contained in the enforcement sensitive documents as confidential, recognizing the Subcommittee's right to utilize the information in any way which it found to be proper and appro-

Per discussion, the Administration officials noted the Chairman's proposal and

promised to get back to him on it The next day, December 9, 1982, a letter was sent to the Chairman from Robert A. McConnell, Assistant Attorney General. That letter (Appendix N) rejected the Chairman's proposal for the following reasons: under it, DOJ argued, it would be extraordinarily difficult to withhold access to a particular document to any committee or subcommittee of Congress if such access were made available to one Subcommittee and its staff; and, the proposal contemplates the Executive would part with control over the information in the sensitive enforcement documents. (Emphasis added).

The letter also included a counter-propos-

al, as follows:

1. The Subcommittee staff would be given access to all EPA enforcement files relative to the 160 hazardous waste sites in which you have an interest. Those files would remain where they are now, either at EPA headquarters or at the regional offices, respectively. Staff members would give notice, in advance, of which files were going to be examined so that EPA officials could initially examine the files to isolate those documents which were particularly sensitive from an enforcement standpoint. Those documents would be removed from the files and the remaining balance of the EPA enforcement files would be made available to Subcommittee staff and ultimately to the Subcommittee, subject to some appropriate understanding regarding confidential treatment with respect to certain materials in

those files. After examining the remaining files and after having been advised what documents had been set aside from the files, and after a briefing on the general nature of the contents of such withheld materials, staff could determine whether it was, in fact, necessary, in their judgment, to examine those files

2. Those withheld documents considered sensitive would then be analyzed by at least four persons two in EPA and two in the Land and Natural Resources Division of the Department of Justice. One person in EPA and one of the Justice Department individuals involved in this process would be professional, career attorneys engaged in the EPA enforcement process and, at Justice, in that section of the Department responsible for enforcement of CERCLA. In addition, one EPA official and one Justice Department official responsible for examining the withheld documents would be persons holding policy level positions. The Justice Department official would be a Deputy Assistant Attorney General. If those four individuals concurred that a particular document was sufficiently sensitive that its release would adversely affect the ability of the Executive to enforce the law, that document would be considered for withholding by the Executive Branch. Thereafter, those documents would actually be withheld only if the conclusions regarding their sensitivity were concurred in by an additional member of the Department of Justice in the Office of Legal Counsel and by an attorney in the Office of Counsel to the President.

'3. If the Subcommittee and its staff disagreed with the Executive Branch's position concerning the need for confidential treatment of the document in question or if it had additional reasons for why the document should be produced, those conclusions and those reasons would be articulated to the Executive Branch and the document in question would be reviewed again with those additional considerations in mind.

"4. Only if the foregoing process did not lead to a resolution of the dispute with respect to the document in question would it be necessary to proceed further. At that point if the Subcommittee was not satisfied with the good faith and the legitimacy of the position of the Executive Branch, the Subcommittee would retain all rights that it presently has to pursue all lawful efforts to obtain the document in question."

This counter-proposal was rejected since it was determined to be based on the premise that the Executive Branch has the right, through unilateral determination, to withhold any documents and information it so chooses from the Legislative Branch.

The kind of intricate and involved procedural safeguards which the DOJ proposal would have imposed on congressional access are, in the view of the Committee, more appropriate for highly sensitive national security documents, if at all, but totally unnecessary for the information sought primarily from civil enforcement files routinely developed within EPA

For the record, the counter-proposal was received in the early evening of December 9, the night before the full Committee consideration of the issue.

Full committee consideration of the issue

On December 10, 1982, the Committee on Public Works and Transportation, by a vote of 28 to 11, with five Members voting present, adopted the following resolution, offered by Congressman Elliott H. Levitas, recommending to the House of Representa-

The Administrator noted, in her testimony before the Subcommittee, that production of the volume of documents sought by the subpoena would involve significant copying and personnel costs but specifically declined to contest the Sub-committee's subpoena on this ground. In fact, Mrs. Gorsuch stated that "Although I personally have grave doubts about the wisdom and the cost of requiring EPA to deliver such a volume of paper, fol-lowing the direction of the President to cooperate with Congress wherever possible, the Agency is pre-pared to produce the majority of these documents as soon as possible." (Hearing at 56.) It is thus obvi-ous that while the Administrator has questioned the Subcommittee's "wisdom" in seeking a large number of documents she has not contested the Subcommittee's right to do so and has not raised the burden of complying with the subpoena as an excuse for her non-compliance.

tives that Anne M. Gorsuch, Administrator, U.S. Environmental Protection Agency, be

cited for contempt of Congress:

"Resolved, That the Committee on Public Works and Transportation report and refer refusal of Anne M. Gorsuch, Administrator, United States Environmental Protection Agency, to comply with the subpoena dated November 16, 1982, issued by the Subcommittee on Investigations and Oversight, together with all facts in connection therewith, to the House of Representatives with the recommendation that Administrator Gorsuch be cited for contempt of the House of Representatives to the end that she may be proceeded against in a manner and form provided by law."

Prior to taking this action, the Committee

Chairman noted the following:

"It is clear that the documents which the subcommittee seeks are essential to its full operation as a subcommittee in evaluating program that is under the basic jurisdiction of this committee; a program whose policy has been established by congressional action and enacted into law by the President; and a program which clearly mandates an agency to carry out the congressional policy.

to carry out the congressional policy.

"The issue here simply is whether the legislative body which passes legislation can see to it that the legislation is properly implemented and enforced as conceived. The Environmental Protection Agency has failed to comply with this mandate of the Congress and the Constitution of the United States. It has failed to turn over the essential documents that are needed for the committee and under the guise of executive privilege has determined unto itself that these documents cannot be made available to the responsible committee or subcommittee of the Congress." (Committee transcript at 5.)

# IV. AUTHORITY TO CONDUCT OVERSIGHT

The authority to conduct oversight as part of its lawmaking function is inherent in the legislative powers vested in the Congress by Article I of the Constitution. In fact, over the years, a number of Supreme court cases have not only firmly established legislative oversight as an appropriate and necessary function, but have generally interpreted the authority to be extremely broad and to include the conduct of investigations and inquiries of how government agencies are carrying out existing laws, and to search out and disclose corruption, waste and inefficiencies. (See H. Report No. 97-898, at 11, September 30, 1982).

Rules X and XI of the Standing Rules of the House of Representatives, as amended, and Rule IX of the Rules of the Committee on Public Works and Transportation (Feb. 19, 1981) mandate the authority of the Subcommittee on Investigations and Oversight to conduct legislative oversight. Pursuant to

these Rules:

'The Subcommittee on Investigations and Oversight and the appropriate subcommittee with legislative authority shall cooperatively review and study, on a continuing basis, the application, administration, execution, and effectiveness of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committe, and the organization and operation of the Federal agencies and entities having responsibilites in or for the administration and execution thereof, in order to determine whether such laws and the programs thereunder are being implemented and carried out in accordance with the intent of the Congress and whether such programs should be continued, curtailed, or eliminated. In addition, the Subcommittee on Investigations and Oversight and the appropriate subcommittee with legislative authority shall cooperatively review and study any conditions or circumstances which may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of the committee (whether or not any bill or resolution has been introduced with respect thereto), and shall on a continuing basis undertake future research and forecasting on matters within the jurisdiction of the committee."

In addition to this general authority, the 1980 Superfund law, under section

104(e)(2)(D), also provides:

"Notwithstanding any limitation contained in this section or any other provision of law, all information reported to or otherwise obtained by the President (or any representative of the President) under this Act shall be made available, upon written request of any duly authorized committee of Congress to such committee."

As the oversight arm of the Committee on Public Works and Transportation, the Subcommittee's jurisdiction is concurrent with that of the parent Committee, as enumerated in clause 1(p) of Rule X of the Rules of the House which includes jurisdiction on matters pertaining to pollution of navigable waters and matters of transportation, including transportation of hazardous materi-

On the basis of that authority, various bills, both during and after formulation of the Superfund law, which provide for establishment of certain priorities in the disposal or treatment of hazardous waste; for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment; and for cleanup of inactive hazardous waste disposal sites, have been referred to the Committee, at the least on a joint referral basis, for its consideration

### V. House Rules Requirements

Committee action and vote

Pursuant to clause 2(1)(2)(A), (B) of Rule XI, the majority of the Committee having been present, the resolution was reported by a vote of 28 ayes to 11 nays, with five Members voting present.

Compliance with rule XI, clause 2(d)(3)

(1) With reference to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, a separate hearing was held on the subject matter of this resolution on December 2, 1982, by the Subcommittee on In-

vestigations and Oversight.

(2) With respect to clause 2(1)(3)(B) of Rule XI (requiring the report of any committee on a measure to include a statement required by section 308(a) of the Congressional Budget Act of 1974, if the measure provides new budget authority or new or increased tax expenditures); and clause 2(1)(3)(C) of Rule XI (requiring a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Budget Act); neither is applicable as the measure reported by the Committee is neither a bill nor joint resolution.

(3) With respect to clause 2(1)(3)(D) of Rule XI, the Committee has not received a summary of the oversight findings and recommendations made by the Committee on Government Operations under clause 4(c)(2) of Rule X.

Inflationary impact statement

With respect to clause 2(1)(4) of Rule XI (the inflationary impact on prices and costs

in the operation of the national economy), no statement is required as the measure reported by the Committee is neither a bill nor joint resolution.

Changes in existing law

Clause 3 of Rule XIII (changes in existing law) is not applicable as the measure reported by the Committee is neither a bill nor a joint resolution.

Mr. HOWARD (during the reading). Mr. Speaker, I ask unanimous consent that the report be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from New Jersey?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, I want to get a clarification as to the amount of time that is going to be allotted to each side

for the purpose of the debate.

Mr. HOWARD. Mr. Speaker, if the gentleman will yield, I say to the gentleman that after this unanimous-consent request is disposed of, I plan to offer the privileged resolution, as the gentleman is well aware, and ask for its immediate consideration, and then, by agreement, I will ask unanimous consent that the debate time be extended to two hours of debate. I do this by agreement, because we have an agreement from the other side that there will not be an attempt by anyone on the other side to utilize parliamentary inquiries, motions to postpone, and such, and that, we feel, is in the best interest of this debate.

The time is to be controlled on our side. We naturally would intend to provide half of the time to proponents of the resolution and half of the time to opponents. However, there are many Members who wish to speak who perhaps have not decided how they will vote, so to the best of our ability, the time will be divided evenly.

Mr. CLAUSEN. Mr. Speaker, further reserving the right to object, do I understand that the gentleman from New Jersey will control half of the time, and the gentleman from California will control half of the time?

Mr. HOWARD. Mr. Speaker, all of the time will be controlled here, but that will be for the purpose of yielding to both sides, I say to the gentleman.

Mr. CLAUSEN. Mr. Speaker, further reserving the right to object, it was my understanding that the time would be divided equally under the agreement that we had.

Mr. HOWARD. Mr. Speaker, if the gentleman will yield, that is what we intend to do, but technically it will be controlled by this side. I am sure the gentleman knows that we will have no problem with that.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield me half of the time so that I can yield to some of my Members? That was the agreement we had.

Mr. HOWARD. I will, of course, also make a unanimous-consent request that all of the time, including that half of the time be yielded to the gentleman from California, for debate purposes only.

Mr. CLAUSEN. That is fine.

Mr. HOWARD. That is what I intend to do if I am permitted to do

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Speaker, by direction of the Committee on Public Works and Transportation, I offer a privileged resolution (H. Res. 632) and ask for its immediate consideration.

The Clerk read the resolution, as fol-

#### H. RES. 632

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Public Works and Transportation as to the contumacious conduct of Anne M. Gorsuch, as Administrator, United States Environmental Protection Agency, in failing and refusing to furnish certain documents in compliance with a subpena duces tecum of a duly constituted subcommittee of said committee served upon Anne M. Gorsuch, as Administrator, United States Environmental Protection Agency, and as ordered by the subcommittee, together with all of the facts in connection therewith, under seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end tht Anne M. Gorsuch, as Administrator, United States Environmental Protection Agency, may be proceeded against in the manner and form provided by law.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Howard ) is recognized for 1 hour.

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that the time be extended to 2 hours.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. Howard) is recognized for 2 hours.

Mr. HOWARD. Mr. Speaker, let me state that all the time yielded in this debate will be for debate purposes only, and I yield to the gentleman from California (Mr. CLAUSEN) 1 hour of that time, which he may dispense with for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, it is with deep regret that the Committee on Public Works and Transportation brings this privileged resolution to the floor. We have tried in every way to avoid this confrontation. We have been at it since September, and we are still hoping that an agreement might be met before the close of this debate today.

We are here for one basic reason, and that is to protect the rights of Congress and to assure that this Congress may meet its responsibilities

we represent.

The American people are taxed to support our Government. That money is used by Congress so that body may in its wisdom enact policy and programs for the good of our Nation, and we delegate the responsibility for carring out the congressional mandate to the administration. This House and the committees of the House are constantly reminded that we must insist that each committee have a nonlegislative investigative subcommittee to oversee the legislation that we have brought to the Congress and which has become law and to see to it that the money we have collected from the people is utilized with the intent and for the purpose that Congress set forth in enacting legislation.

A very, very important health matter for this Nation, the Superfund, was enacted into law. Millions of dollars have been appropriated for this program. The Subcommittee on Investigation of the full Committee on Public Works and Transportation is attempting to do its job to meet its responsibilities to all of us and all the people we represent, to see that the toxic wastes are cleared up and wrongdoers are prosecuted when necessary.

This Congress, all of us on both sides of the aisle, and all of our constituents have been thwarted by the administration. They have been telling us that we have no right to documents that they are using in order to implement the law that we passed and delegated the operation to them. So we have a basic fundamental question before us. Are we an equal branch of Government? Are we responsible for our actions in enacting legislation? The only way that we can be sure that our committee can report to all the Members in behalf of the people that the job is being done is if we have the information we need.

### □ 1900

This has been going on since September. We have tried to negotiate. Nothing has been rushed through.

The subcommittee made a determination. Your full committee made a determination.

We still attempted to work something out. We were not able to do it and that is why we are here at this

We cannot wait 10 or 15 years to see how this might work out or might not work out. The clock is running out. The clock is running out not only on the superfund which expires in 1985 and we have to make a decision on whether it is worthwhile to continue it or not. Time is also running out on the lives of the American people, lives which are threatened by this horrible toxic waste problem in the Nation.

If we should decide to act to shore up this Superfund enforcement we

under the Constitution to the people must act expeditiously and the unnecessary roadblocks that have been placed in the way of all of us on both sides of the aisle must be dealt with.

I emphasize this is not a partisan matter. This is a matter which will enable us to do the job which has been entrusted to us by the leadership in the Congress for our committee and by all of the people we represent. It is their money and it is their lives. We have to protect both.

I urge the adoption of this resolu-

Mr. CLAUSEN. Mr. Speaker, I yield 20 minutes to the distinguished gentleman from New York (Mr. Solomon).

Mr. SOLOMON. Mr. Speaker, at the outset Mr. Speaker, let me say that those of us that are opposed to this contempt situation do so because the last thing we want to do is to impede the programs of environmental cleanup through superfund or jeopardize any pending litigation now before the courts concerning the enforcement of this law.

While we support the concept of requiring the EPA to produce documents necessary for the subcommittee's investigation, we cannot support the committee's hasty and ill-conceived action in recommending that Administrator Gorsuch be found in contempt of Congress for failing to produce all of the documents subpensed by the subcommittee on November 22, 1982.

Our principal reason for not supporting the committee's recommendation is that it is not the product of careful, independent congressional deliberation. Instead, the resolution was called up with only 2 days notice to the full committee. This procedure did not give members a chance to adequately study the issues or to fully explore options for resolving the dispute.

We believe that this unfortunate confrontation was unnecessary and could have been avoided. We had presumed all along that the committee was interested in obtaining the documents in question, rather than to find Administrator Gorsuch in contempt of Congress.

In determining the wisdom and propriety of citing the EPA Administrator for contempt, we believe that a number of factors should be considered.

First. The power of Congress to find someone in contempt is an extraordinary power, and should not be used without clear reason to do so.

It is important to understand the full effect of citing the EPA Administrator for contempt. If the House cites Mrs. Gorsuch for contempt, the appropriate U.S. attorney is required by statute, title 2, United States Code, section 194, to bring the matter before the grand jury for its action. Ultimately, Mrs. Gorsuch could be subject to a criminal fine of not less than \$100 nor

more than \$1,000 and imprisonment for not less than 1 month nor more than 12 months.

This is an extremely serious matter, and one which should have received careful consideration. Yet the full committee was given only 2 days notice of the meeting. This simply was not sufficient time for the members of the full committee who are not on the Investigations and Oversight Subcommittee to review the facts of this case, or to research the extremely complex issues and precedents involved.

Furthermore, the full committee meeting itself was brief, and efforts to offer alternatives or to discuss the implications of the proposed actions were

given short shrift.

In fact, the ranking minority member of the committee was not even allowed to finish his opening statement. In addition, a motion to postpone the final vote until Wednesday, December 15, so that members could have time to study the issues, was rejected solely along party line.

Second. The committee's action fails to recognize that EPA has agreed to turn over to the subcommittee a substantial amount of information. Administrator Gorsuch agreed to provide approximately three-quarters of a million pages of enforcement file documents for the Investigations and Oversight Subcommittee, relative to 160 hazardous waste sites, including all technical and factual data and much confidential material. Neither she nor any other official of the administration has contested the subcommittee's authority to request and receive information relative to its oversight and investigatory task.

Third. The committee's action fails to recognize that the President directed Mrs. Gorsuch to withhold the document. With respect to the documents at issue, the Administrator has been specifically directed, by order of the President of the United States, dated November 30, 1982, that "sensitive documents found in open law enforcement files should not be made available to Congress" on the grounds that" dissemination of such documents outside the executive branch would impair \* \* \* (the President's) solemn responsibility to enforce the

law."

The President's decision and order to the Administrator of the Environmental Protection Agency was based upon the legal opinion of the highest ranking legal officer of the U.S. Government, an opinion and order which the Administrator has no standing to reject.

Fourth. The committee did not exhaust all means or resolving the dispute before resorting to the contempt citation. We are convinced that this dispute could have been avoided if the committee has not rushed into the contempt proceeding but instead had

taken the time to consider all alternative ways to resolve the problem. This can be best illustrated by a few examples.

Prior to the full committee meeting, White House officials asked to meet with the full committee chairman and ranking minority member. The meeting was not held.

White House officials offered to show the chairman and ranking minority member a sampling of the withheld documents so that they could better understand the administration's position on this matter. This overture was rejected.

A compromise proposal was offered which would have given the U.S. District Court in the District of Columbia the jurisdiction to determine the validity of the subcommittee's subpena.

White House officials indicated that the administration would not only support this legislation but would work in the House and Senate to enact it during the lameduck session. This

proposal was rejected.

The Administrator, in responding to a compromise proposal made by the subcommittee chairman, offered a counterproposal in a letter dated December 9, 1982. No formal response was made to the administration's proposal prior to the full committee meeting to cite Mrs. Gorsuch for contempt.

Fifth. The legal issues involved in this matter are extremely complex and should have been analyzed more carefully. Members of the committee did not have sufficient time, in our view, to review the competing arguments and to form an independent judgment on the merits of the issue.

Stated simply, the subcommittee chairman seems to be of the view that the subcommittee has a right to all of EPA's records and that staff should be given complete access to EPA's files, including the right to copy any documents it wants. It is alleged that the legal memorandum dated December 8, 1982 from the General Counsel to the clerk supports this position. A copy of this memorandum is included in the majority report.

The administration, on the other hand, disputes that Congress has an automatic right to each and every document in EPA's files. The Attorney General of the United States has taken the position that it is not in the public interest for sensitive documents found in open law enforcement files to be given to Congress or its committees except in extraordinary circumstances.

The cases construing executive privilege are very limited and no controlling judicial precedent exists governing attempts by a committee of Congress to obtain materials from the executive branch. That is, the Supreme Court has yet to be called upon to resolve the question of the respective rights of the executive and legislative branches in regard to a claim of privilege as a defense to compulsory legislative process for documents residing within the executive branch.

In our view, these conflicting legal opinions should have been more carefully analyzed before the committee proceeded to cite an executive branch official for contempt.

Sixth. The committee's action fails to adequately consider EPA's contention that ongoing enforcement cases might be jeopardized. While we are in agreement that the Congress has a legitimate right to information which it needs to carry out its oversight and investigative responsibilities, we are concerned over EPA's allegation that disclosure of certain files might jeopardize ongoing enforcement actions. The issue is certain documents in open law enforcement files. They are at the stage where EPA and/or the Justice Department are developing cases of prosecution, or are actually in the enforcement process by U.S. attorneys. What the committee is saying-by going forward with the contempt resolution-is that these documents, despite their sensitive nature and despite the fact that criminal prosecutions could be jeopardized, must be made available to the staff of this committee, the members of this committee and-by the rules of the House-to all House Members. We are not sure that we are prepared to go this far at this time. The issue is far more complex that it seems on the surface, and we have not had sufficient time nor information to form a judgment. We do believe that the committee should have availed itself of the administration's offer to look at some of the documents so that we could better evaluate EPA's claim with respect to these documents.

Seventh. The committee's action fails to recognize certain potential problems with respect to enforcement of the subpena issues on November 22, 1982. If the House cites Mrs. Gorsuch for contempt, the matter will be turned over to the U.S. Attorney for criminal prosecution. It is, therefore, relevant to consider potential problems that might come up with respect to the subpena.

First, the subpena is extremely broad, and this could become an important factor in a criminal prosecution for failure to comply. The subpena requests that virtually all documents created since December 11, 1980, pertaining to 160 hazardous waste sites be turned over to the subcommittee.

EPA has estimated that this would require the location, segregation, duplication and shipping of more than 787,000 pages of documents.

Second. EPA has stated that the subpena is technically defective. Since the Agency has so far only issued an interim priority list, not under section 105(8)(b), the subpena does not apply

to any documents in the possession or custody of EPA. No sites have been listed under section 105(8)(b).

Third. We are concerned that the committee has not yet reviewed the material which Mrs. Gorsuch was prepared to turn over to the subcommittee. According to EPA, she withheld only a small fraction of the total documents demanded by the subcommittee; moreover, no factual or technical materials are being withheld from Congress-only enforcement strategy such as analyses of strengths and weaknesses of the Government's case. It seems to us that the committee's case would be much stronger if we reviewed the materials which EPA did provide us before we conclude that there is a compelling need for us to have access to the remaining documents.

In conclusion, we have serious reservations about the wisdom and propriety of the committee's recommendation to cite the Administrator of the Environmental Protection Agency, Anne M. Gorsuch, for contempt of Congress. We are, therefore, unable to support the committee's recommendation at

Our principal reason for not supporting the contempt citation is that we feel that this matter was rushed through the committee without adequate time to study the complex legal and factual issues involved. Stated simply, a number of us feel that we do not have sufficient information to make a reasoned decision.

We also believe that this confrontation was unnecessary and could have been avoided had more time been taken at the full committee to evaluate various alternatives and options.

And finally, we note that this approach, that is, bringing criminal charges against Mrs. Gorsuch, will not necessarily result in the documents being made available to the committee. We believe that the committee's focus should have been to obtain the documents in question, rather than concentration on citing Administrator Gorsuch in contempt of Congress.

Consider these facts:

The Public Works Committee actions were factually, procedurally, and legally flawed.

The subpena was improperly drawn. As drawn, the subpena refers to hazardous waste sites designated under CERCLA [Superfund] section 105(8)(B). Although EPA has designated an "interim priority list" of sites, they were not designated under section 105(8)(B). Therefore, the subpena does not refer to any documents. Further, Chairman Levitas strongly opposed any attempt in subcommittee or committee to issue another subpena or to perfect the one already issued.

Because the subpena does not refer to any documents the Administrator is, in effect, in compliance.

The contempt resolution passed by the full committee differed legally from the one passed by the subcommittee.

The resolution of contempt passed by the subcommittee cited the Administrator with contempt for "failure" to produce the subpensed documents. The resolution passed by the full Public Works and Transportation Committee cited the Administrator for "refusal" to produce the documents. This citation of refusal is what stands before the House.

The term "refusal" means a willful intent not to comply. Normally, a legal determination of a refusal must be made by a court of law, not by a com-

mittee of Congress.

The committee made legal judgments without either due process or a full hearing of all evidence. Not only was there no testimony before the full committee, but the subcommittee proceedings denied certain witnesses the opportunity to expand or refute testimony by the subcommittee staff.

Further, without further testimony or any public discussion, the full committee took the subcommittee's finding of a failure to comply and made its own additional finding that the Administrator refused to comply. The Administrator had already made available to the committee the vast majority of documents and had offered the oversight subcommittee four boxes of documents.

The only refusal was the subcommittee's refusal to accept those documents.

Therefore, the full Public Works and Transportation Committee: First, is basing its action on an inoperative subpena; second, has acted without hearing all the evidence; third, has made an unsupported legal judgment of refusal; and fourth, wants the full House of Representatives to overlook the committee's failures and find the Administrator in contempt.

As we stand here, Mr. Speaker, there are six major environmental statutes which have expired:

The Noise Control Act expired Sep-

tember 30, 1979. The Clean Air Act expired Septem-

ber 30, 1981. The Clean Water Act expired Sep-

tember 30, 1982. FIFRA-Federal Insecticide, Fungi-

cide, and Rodenticide Act-expired September 30, 1981.
The Solid Waste Act—RCRA—ex-

pired September 30, 1982. The Safe Drinking Water Act ex-

pired September 30, 1982. Ocean Dumping Act expired Sep-

tember 30, 1982. We have not completed action on any of these. We have not even started action in any real sense on the Clean Water Act, and the Energy and Commerce Committee was unable to reach

a consensus on the Clean Air Act.

That's some environmental record this Congress has \* \* \* and here we stand, ready to pass the buck and blame someone else for our own failures.

But we do seem to be able to cite the EPA Administrator for contempt, and able to do so in but a few short weeks.

Will this contempt resolution pass the Clean Air Act?

Will it pass a Clean Water Act?

Will it resolve the difficulties stalling FIFRA?

Will it encourage the other body to act on RCRA?

We all know the answers. Of course, this contempt resolution won't solve any real environmental problems.

It also won't solve the questions of what constitutes executive privilege.

That is a question which the courts and the Congress have been unable to resolve fully in 200 years, and contrary to all the clearcut assertions, even if this case goes all the way to the Supreme Court, it may be years before an opinion is rendered.

So why are we voting on this?

All the published statements say that the question is not personal, that the supporters of the resolution do not have anything against the Administrator of the EPA.

Well \* \* \* if they don't have anything against the Administrator, if this resolution won't solve the environmental problems we face, and if it won't resolve the definitions of executive privilege, why should we support

The answer is-we shouldn't.

Mr. Speaker, one of the main reasons we find ourselves debating this matter today stems from an unfortunate but typical circumstance in most bureaucracies \* \* \* a breakdown in communication and cooperation between the staffs of EPA and the Public Works Subcommittee, resulting in misunderstandings, accusations, and ruffled feathers, to a point that negotiations completely fell apart between the staffs. It was at this point that members of the subcommittee, Mrs. Gorsuch, the Justice Department and the President's counsel became directly involved in a series of meetings resulting in a number of proposals and counterproposals that seemed about to succeed to the satisfaction of everyone \* \* \* when suddenly something hap-pened \* \* \* the subcommittee halted negotiations and with unbelievable speed, rushed the contempt citation through the committee, and here we are now on the House floor with no reasonable explanation as to what happened.

Mr. Speaker, we are faced with two alternatives:

First. To vote the contempt charge, which will accomplish nothing except to disrupt the EPA, or we can vote to lay this matter on the table and immediately pass the proposed legislation that would confer jurisdiction of the matter to the District of Columbia District Court to determine the executive privilege question as it pertains to the withheld enforcement sensitive documents. This legislation has the support of the President of the United States and he has assured us that he will work for its passage in the Senate and sign the bill. This will get results. And/or we can send the matter back to the subcommittee to continue their negotiations which I think will also bring results.

What will not get results is a vote to cite Mrs. Gorsuch.

Mr. Speaker, I am not a lawyer and I am not as eloquent as many distinguished Members of this House on both sides of the aisle, but, Mr. Speaker, like you, I have tremendous respect for this institution and its Members and, like you, I am so very proud to be a part of it \* \* \*

And the one thing that you and I and all of the Members do not want to do is abuse the powers granted to us as Members of this House \* \* \* we owe that much to this institution.

Let us find a better way.

And you, Mr. Speaker, as our leader and as one of the most powerful and respected men in America, can help us find that better way—for the sake of this institution—please do.

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Mr. HOWARD. Mr. Speaker, I yield such time as he may consume to the chairman of the Subcommittee on Investigations and Oversight, the gentleman from Georgia (Mr. Levitas).

Mr. SYNAR. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oklahoma.

Mr. SYNAR. Mr. Speaker, I rise in support of the resolution before us today citing the Administrator of the Environmental Protection Agency for

contempt of Congress.

As my colleagues know, the Energy and Commerce Subcommittee on Oversight and Investigations, on which I sit, voted this past Tuesday to cite Mrs. Gorsuch for contempt of Congress for refusal to release certain documents relative to three Superfund sites. For the most part, these are the same documents which EPA is refusing to release to the House Public Works Committee, which has brought forward this resolution of contempt.

I want to review for my colleagues a couple of facts which our own subcommittee has discovered, which point out how patently ludicrous the Adminis-

tration's position is.

As you all know, the Administration has asserted that this new category of so-called "enforcement sensitive" material cannot be released to Congress, for fear that we will somehow allow those documents to get into the hands of potential defendants. In simple

terms, the administration claims these particular documents are so sensitive, that under no circumstances can persons outside the executive branch—Congress most specifically—have these documents.

But there seem to be some exceptions which apply.

For instance, in testimony before our subcommittee this past Tuesday, Mrs. Gorsuch stated that the documents being withheld from Congress are available to outside contractors and, in fact may routinely be handled by secretaries and Kelly Girls.

Documents released to the subcommittee also show that since June, EPA itself has had reason to believe that at least two trade publications are in possession of one sensitive legal opinion memorandum related to mining sites—but that document was withheld from Congress. In fact, an EPA document released to our subcommittee states that an article in one of the trade pub-

lications suggests that the memo is in "wide distribution."

Other documents provided to the subcommittee indicate that EPA itself has released some of these enforcement-sensitive documents, upon request, to certain persons who are not within the executive branch, and who are not outside contractors.

Despite all of this, the administration is asserting that the documents are too sensitive to be released to Congress under any circumstances. Yet, at the same time, they freely admit that most of the documents are available to, and handled by, contractors.

It has become increasingly clear to me that this administration's claim that this new category of enforcement-sensitive documents can rightly or legally be withheld from Congress is, indeed, ludicrous.

This is not a political issue—it is an institutional issue. If ever we were serious about protecting the constitutional rights of this institution, now is the time.

If we vote down this resolution, we will effectively be letting this administration—and all future administrations—know that we will allow them to pick and choose what information will be provided to Congress. More important, we will be allowing any executive branch agency to throw the enforcement-sensitive cloak over virtually any information. We must not allow that to happen.

I strongly urge my colleagues to support the resolution before us today as a firm statement of our determination to protect the constitutional rights of this body.

Mr. LEVITAS. Mr. Speaker, I see there are two other gentlemen on their feet. I will be glad to yield to them if they would indulge me to make my opening remarks and then I will yield to the gentleman from Texas

and then to the gentleman from Missouri.

Mr. Speaker, I rise in support of this resolution, which originated in the Subcommittee on Investigations and Oversight of which I have the honor of being chairman.

This evening has been described by some as one of historic significance, and that may be. Certainly the issue before us is one of great gravity. This is not a partisan issue. This is an issue that deals with the Constitution of the United States and the prerogative of the Congress, a coequal branch of Government, to discharge one of its most important and solemn functions, that of oversight and assuring that the laws of this land are being implemented according to the way they were intended.

As far as the subject matter of the investigation that brought us to this point, I want to just take a moment to tell the Members just what we are engaged in. I can think of no other matter before us today that is more important to our Nation's quality of life and environment than the threat toxic chemical waste sites pose to the very health and well-being of the Nation's citizens and to one of our most valued natural resources, our water resources. These wastes are believed to be the cause of birth defects, cancer, and other chronic illnesses. Now there are reports from medical researchers that claim simply living in the area of one of these abandoned or illegal chemical dumps can jeopardize a person's health and threaten the very lives of our children.

Toxins from abandoned waste sites contaminate surface waters in many areas, making them unfit for drinking and for many recreational purposes. And where these wastes leak from the drums that contain them, drums that are often left to rust in fields or rot in the ground, they seep into the ground waters or run off into nearby streams, rivers, or lakes, making them unfit for use for years and perhaps decades.

The investigation initiated earlier this year by my Subcommittee on Investigations and Oversight has raised many questions about how the U.S. Environmental Protection Agency is executing the cleanup and enforcement provisions of the Superfund law that we enacted 2 years ago to address these very concerns. Our preliminary finding suggests that many hazardous waste sites are not being fully cleaned up, that chemical companies responsible for cleanup costs are not being held liable for their full share of the cleanup costs in every instance. That resource and staff deficiencies in the Environmental Protection Agency may be impeding the Agency's ability to follow up leads and obtain critical records and that the Superfund itself may be inadequate to address both

known and potential hazard waste sites and chemical spills. These are only some of the problem areas and concerns that we have already been able to identify and develop. But our ability fully to review and assess this program, to get at the hard information that is critical and necessary to make these determinations with certainty, has been blocked, obstructed, and delayed for months by the U.S. Environmental Protection Agency.

You have heard statements made that we have sought hundreds of thousands of documents. That is not the case. The fact of the matter is that there are only a very few documents that the committee actually needs in order to do its job, but when the door is slammed in your face and the file drawer closed, you have no way of knowing what documents are actually being sought. It is a total smokescreen and misrepresentation to say that 700,000 documents are being sought. That is not the case. We are talking about a very few. But the EPA has precluded us access to their files while they glean them of the very enforcement documents we must see, documents that may number in the hundreds by the time they are through with their sanitizing efforts.

Why are they doing this? What have

they got to hide?

The Attorney General and the Administrator have repeatedly asserted that our inquiry into this matter and our efforts to make mutually acceptable arrangements for our review and protection of confidential documents takes from the Executive its ability to take care "that the laws be faithfully executed."

My colleagues, Congress does not forego inquiry simply because it may produce information on Government strategies and weaknesses. The only way to correct either bad law or bad administration is to examine these

matters.

The position taken by EPA would mean that we in Congress would, in effect, diminish or destroy our own oversight power in passing laws, for once passed, their argument would have us believe that the administration of the laws we enact under the authority vested in Congress by article I of the Constitution would fall exclusively within the Executive's jurisdiction, to the exclusion of congressional oversight determination, sealing off from Congress an effective means for determining the sufficiency of existing law. This argument obviously falls of its own weight.

The power conferred by the Constitution under article II, section 3, to the President is primarily to enable the President simply to carry out the laws enacted by Congress. It neither expressly nor impliedly authorizes the President, the Environmental Protection Agency or any agency to withhold

documents essential to the evaluation of the administration of the laws passed by Congress, a coequal branch of the Government. This kind of slipshod consitutional construction, and the unsupported equivalency drawn between oversight on the one hand and interference with execution of laws on the other hand, cannot withstand scrutiny and must be rejected.

Let me turn to some of the comments made by the Member from the State of New York (Mr. Solomon). His basic contention has been that, somehow or other, the committee has rushed into the decision, and rushed into the action which is before the House tonight. Nothing could be further from the truth. The investigation that we are talking about was commenced in the early part of this year and has been ongoing ever since.

For a while, there was cooperation. But then the Environmental Protection Agency closed its files to our committee and its ability to do its job, After a great deal of effort a negotiated arrangement was made, but shortly after that arrangement was agreed to between myself, members of the minority, and the officials of the Environmental Protection Agency, they stopped even applying that arrangement as a means for access.

Therefore, on September 30, in executive session, so as to have no headline grabbing operation, the subcommittee voted to issue a subpena for those doc-

uments.

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That is when the decision was made that this Congress knew its right to get those documents and to assert that right. Let me say for the Members here that when that vote was taken, it was 11 to 0, 11 to 0.

Therefore, the people, who are now saying, "Did we have a right to get these documents or should we have done it?," were strangely silent when the issue was put. Thereafter, when the subpena was finally served in November of this year, there was plenty of notoriety given because rather than the information being made public by our subcommittee or committee that the subpena had been issued, it was leaked to the press by the Environmental Protection Agency itself.

When the hearing was finally held by the subcommittee and the Administrator of the Environmental Protection Agency and Assistant Attorney General appeared before our subcommittee, great lengths were taken to develop why we were not getting the information, and why the door was being shut in our face. The testimony revealed that we were not only being denied files with respect to ongoing investigations, to which we are also entitled if we are to stop the problem from happening, but we were told, my friends, that we could not even see

closed files on the settled cases. Those were being barred to the committee.

Now, the gentleman from New York suggests that somehow or other the committee should have provided some postponement of consideration of this matter to December 15, which was yesterday. Well, the whole game that has been played all along through this entire year-long investigation by the Environmental Protection Agency has been delay, put off, and stonewall.

This committee decided that enough was enough. The time for the American people, through its congressionally elected officials, to get the necessary information to do this vital inves-

tigation was at hand.

The gentleman from New York said that the White House requested a meeting with the ranking member and the chairman of the committee and that meeting was never held. Well, the fact of the matter is, the chairman of the committee told the members who had contacted him that if the White House wanted to have a meeting, they needed to meet with the chairman of the subcommittee, who was the person that had most of the information about the matter.

Indeed, a meeting was held in my office which the ranking member of the committee attended, a meeting that was called for by the Justice Department, and when the meeting began we asked, "What is your proposal?" That was before the contempt was voted.

Their answer was: "We have nothing to offer."

But, still going the next mile, at the suggestion of the gentleman from California, the ranking member, I, as chairman of the subcommittee, did make a proposal, did make an offer as to how we could resolve this problem so that the documents which were confidential would not become public in nature and would not even get into the custody and control of the Congress itself.

That proposal, my friends, was rejected, and the administration insisted once again that they, and they alone, were the determiner of what documents, what information this Congress had the right to have access to. Our proposals to compromise, to get the information, and to assure confidentiality was rejected.

As recently as today, this morning, I met with members of the leadership on the other side, with the chairman of the full committee and with representatives of the White House, again trying to come to some way to avoid this confrontation, and, within the last 2 hours, was advised that those proposals, once again submitted in good faith, had been rejected by the administration.

We have gone every mile of the way to avoid confrontration. I say to my colleagues that the very power and responsibility of this Congress to protect the American people through oversight and investigation will be crippled and destroyed if the contemptuous actions that have been taken in this case by officials of the administration are left unpunished.

That is why, for the integrity of this body, for the prerogatives of the House, and to uphold the constitutional balance, we must take this grave, regrettable step and vote the contempt resolution which the gentleman from

New Jersey has offered.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. SKELTON. I thank the gentle-

man for yielding.

Mr. Speaker, I have a very serious question to put to the gentleman in the well. He will recall when the person to whom this is directed, Ms. Gorsuch, was before his committee and, of course, refused the request put to her by the committee, she was then, at that time, being advised by the Department of Justice, as the Attorney General or Assistant Attorney General. I belived he was actually there at the hearing.

Procedurally, I think this Congress finds itself with a problem because should we, as a Congress, vote a contempt citation, that contempt citation then goes to the U.S. attorney, and the U.S. attorney being a subsidiary of the very same Attorney General or Justice Department, on which side does the Department of Justice find itself? Where do we, as a Congress, find ourselves, because we are entitled, should this come to pass, to have the full strength of the Department of Justice presenting this issue to the grand jury and henceforth should there be a positive return from the grand jury, in a court of law.

I ask this question of the gentleman because it is of great concern to me and it should be of great concern to

every Member of this House.

Mr. LEVITAS. Let me respond to the gentleman as follows: First of all, the gentleman is correct that, upon the adoption of this resolution, the matter will be referred to the U.S. attorney for the District of Columbia for prosecution under the law.

The statute requires that the U.S. attorney present this matter to the grand jury and, while I know the gentleman has experience as a prosecutor and may have different views on this, I have got to believe that the U.S. attorney will obey the law conscientiously and diligently and do what is expected of him under the law.

That is my personal belief. I should feel very badly to believe otherwise. So I, first of all, tell the gentleman that I am satisfied in my own mind that that

will be done.

Second, when the Assistant Attorney General was before our committee, I asked him the question, because there was a concern, I said: "As you are aware, these proceedings," I am now reading from the transcript-

Mr. SKELTON. Was this not under oath?

Mr. LEVITAS. This is testimony under oath. I am reading from the transcript: "As you are aware," I said to Mr. Olson, the Assistant Attorney General, "these proceedings may, as a matter of law, hopefully not, but may lead to prosecution under the congressional contempt statute. I am trying to inquire whether it is the Department of Justice's position that you may furnish information to Mrs. Gorsuch notwithstanding the fact that later prosecution for contempt may result from these proceedings and that furnishing such representation will neither inhibit nor prevent the Department from carrying out its statutory responsibilities.'

Mr. Olson responded. He said: "This is not the appropriate time for the Attorney General or Department of Justice to make a determination as to who might represent an individual in a particular case or what particular case may be prosecuted under circumstances that have not yet developed."

Then I said to him: "Therefore, it is your position that the fact that you have advised Mrs. Gorsuch concerning this matter and your participation in these proceedings would not prevent the Justice Department from discharging its statutory responsibilities under the congressional contempt statute if that should, which we hope it will not, eventuate?'

Mr. Olson said: "We do not believe anything we have done to date or intend to do at this hearing would jeopardize the ability of the Attorney General to discharge his responsibilities under the Constitution and laws of the United States.'

Let me also say if they do not do their job, that itself becomes an impeachable offense and, of course, there is always the opportunity for Congress to use its inherent contempt powers and take direct action against someone who is contemptuous of the Congress. But the congressional contempt statute was specifically defined in order to be able to bring contempt action against executive department officials.

Mr. SKELTON. So the gentleman is satisfied with that answer?

Mr. LEVITAS. I am satisfied, and I can say to the gentleman that if that is not done, then it would be my purpose to take such steps as may be necessary provided by law to see that it is

Mr. SKELTON. I thank the gentle-

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Mr. PAUL. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I will be glad to yield to the gentleman from Texas.

Mr. PAUL. Mr. Speaker, I would like to express my support for the resolution. Unlike many who are going to support the resolution, I do not find a lot of criticism for the administration nor the policies of Anne Gorsuch. I think the issue and the vote we have to cast is somewhat different than voting just on her policies.

I think the issue here is a Constitutional issue and the prerogative of Congress to assume responsibility for those creatures we are always creating, the bureaus. I feel very strongly that we must have control and that

they must answer to us.

The statement was made that this may jeopardize some cases. Well, if bringing these records out would jeopardize the cases, I would assume that the cases are rather weak, and even if they do, I think the overriding constitutional issue is much greater.

I do believe, though, if the Congress does not prevail, it would confirm the belief of many American citizens that the bureaucracy is out of control and that Congress does not care and does not assume responsibility. I, for one, think it is very important that the Congress prevails under these circumstances and that we vote on this issue rather than the policies of Anne Gorsuch.

Mr. LEVITAS. I thank the gentleman from Texas, and I think the gentleman is absolutely correct. If Congress does not demonstrate its willingness to take the position that it has constitutional responsibilities to discharge, and that requires getting information, then I think the American public will abandon any hope that their elected representatives can control the bureaucracy, and we will have engaged in a serious act of self-emasculation with respect to our responsibilities under the Constitution.

I say to my friends on the other side of the aisle, this is not a partisan issue. I plead with you not to make it one. I suggest to you that the time has come for us as Members of Congress to recognize our responsibilities in this matter, and I urge you to support in a bipartisan fashion these prerogatives of the Congress under the Constitution, and discharge our responsibil-

Mr. PAUL. Mr. Speaker, I am thoroughly convinced that a citation of contempt of Congress is the right course of action under the circumstances, I am, moreover, convinced that we are under an obligation to support this resolution, if we believe in constitutional government.

Those who are familiar with my record in the House can probably infer from that record that I am convinced that, over the last 40 years or so, power in this Government has shifted to a dangerous degree from the legislative branch to the executive; away from the people to the bureaucracy. This shift, I am further convinced, threatens the system of government that our Founding Fathers so wisely bequeathed us. With this in mind, I am not at all surprised by this latest turn of events, though I am outraged by it. Far from surprised, I think we should expect precisely the kind of defiance of the legislative branch that have merited the serious step we are taking today.

Let me make it perfectly clear that my concern for the actions of Mrs. Gorsuch and my belief that she should be cited for contempt are not motivated by any hysterical fears on my part about the potential hazards of hazardous wastes—which, in my opinion, have been wildly exaggerated.

On the contrary, my concern goes much deeper than that. It is a concern for the survival of constitutional gov-

ernment itself.

This resolution demonstrates the clash between the power of the bureaus and the responsibility of the people. Nothing less is at stake when we take up matters of this kind.

I have no question in my mind that the Environmental Protection Agency's claim to executive privilege is ridiculously broad, and that if we allow this bureaucracy to get away with such arrogance it would indeed serve as a dangerous precedent to avoid the disclosure of information in the years to come—and we would have only ourselves to blame.

I hardly need to remind you that this is not a national security matter. The information that Mrs. Gorsuch is withholding does not jeopardize delicate negotiations. It would not reveal military secrets. It might, at best, embarrass that agency itself and, we can only assume, the White House. This is hardly grounds for claiming executive privilege.

At its strongest, the opponents of this measure contend that while the committee's oversight position is valid, the actual information involved is not crucial to the committee's purpose. Well, with all due respect, that, I would submit, is up to the committee

to determine.

This said, there is no question of the course of action we must choose. We owe it to ourselves as Members of this body, of course. But more than that, if we have any sense of our obligation to the delicate balance upon which constitutional government depends, we must support this resolution.

Mr. PETRI. Mr. Speaker, will the

gentleman yield?

Mr. LEVITAS. I yield.

Mr. PETRI. Mr. Speaker, I just have one question that I hope someone

would address in the course of this debate. That is, if we do not exercise oversight over this agency or other agencies of this sort, who, should, and who will, exercise that oversight or

have the power to do so?

Mr. LEVITAS. Of course, the gentleman's question answers itself, and in this instance the real meat of the coconut is this: When we get to the point of saying that this is something that is critical, something that we have to look at, the person who is making the determination that we do or do not get that information is the person that is part of the subject of the investigation. That is totally unacceptable.

This subcommittee was created over 23 years ago at the direction of Speaker Sam Rayburn. It has an unblemished record in those 23 years of impartially, objectively investigating matters under its jurisdiction, and never has any confidential information that has come to this subcommittee ever become public, except by due process of law—not through leaks, Deep Throat was not a member of this subcommittee, he was in another

branch of government.

I just want to say one other thing to the gentleman, because I think he raises a very, very important point. We have got to be able to find out how EPA is administering this public health program, this multibilliondollar program, before it becomes a mess. We have got to find out whether sweetheart deals are being made in settlement of cases, whether the guilty are being pursued, or whether they are not being pursued, and not come around 3 years from now, after \$1.6 billion has been wasted and many communities have water supplies that are poisoned, and say that it is really a shame.

We have got the opportunity to come in now and put an end to the abuses rather than to wait until it is

too late.

Mr. CLAUSEN. Mr. Speaker, I yield 7 minutes to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I rise in strong opposition to the resolution citing the Administrator of the Environmental Protection Agency, Anne Gorsuch, for contempt of Congress. The issue before us today is one of the most important issues that this House will consider this year, and one that deserves our careful scrutiny.

At the outset, and before I proceed to the merits of the issue, I would like to make it clear that I totally support the efforts of the Committee on Public Works and Transportation to review and study the effectiveness of the Superfund law and the manner in which it is being implemented by the Environmental Protection Agency. The committee's inquiry, in my view, is extremely important and most ap-

propriate to assure that the Superfund law is working and being administered to the fullest extent and intent of the Congress. Moreover, I support as a general matter the efforts of the committee to gain access to EPA's enforcement-related files. Congress cannot legislate wisely or effectively unless it has available to it information needed for the efficient exercise of the legislative function.

The sole issue before us today, however, is whether to cite Administrator Gorsuch for contempt of Congress for failure to comply with a subpena issued on November 22 by the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation. The November 22 subpena basically requested that Ms. Gorsuch turn over to the subcommittee all-and I emphasize the word "all"-these books, records, correspondence, memorandums, papers, notes, and documents drawn or received by the Administrator and her representatives since December 11, 1980, for 160 hazardous waste sites.

Now, despite the broadness of the subcommittee's subpena, neither Administrator Gorsuch nor any other official of the administration contested the subcommittee's authority to request and receive information relative to its oversight and investigatory task. In fact, Ms. Gorsuch indicated that she was prepared to turn over to the subcommittee roughly 99 percent of the material which it requested.

Only a small fraction of the material requested by the subcommittee, about 1 percent according to EPA, was withheld. Now, the reason Ms. Gorsuch withheld these documents was quite simple. The President ordered her to do so. The President's position, based on a legal opinion from the Attorney General of the United States, is that, "Sensitive documents found in open law enforcement files should not be made available to Congress" on the grounds that "dissemination of such documents outside the executive branch would impair \* \* \* the President's solemn responsibility to enforce the law."

Now, against this background we must decide today whether to cite Ms. Gorsuch, who was acting on orders from the President, for contempt of Congress for refusing to turn over a small fraction of the materials requested by the subcommittee. I believe there are a number of compelling reasons why we should not cite Administrator Gorsuch for contempt based on the November 22 subpena.

As I begin, I would like to state what a very fine lady and public servant she is. We must, however, go beyond that.

First, the subpena is defective. It references hazardous waste sites "listed as national priorities pursuant to sec-

tion 105(8)(B) of Public Law 96-510.

Well, according to EPA, no sites have yet been listed under section 105(8)(B). Thus, technically, the subpena does not apply to any documents in the possession or custody of EPA.

Now, I think it is patently unfair for Congress to subject Ms. Gorsuch to a grand jury investigation—and let us face it—that is the effect of what we are doing here today. This action is based on failure to comply with a subpena which we know is defective.

Second, the subpena has another problem associated with it. It is extremely broad, and this could become an important factor in a criminal prosecution for failure to comply.

I have a great deal of trouble subjecting an executive branch official to criminal prosecution for failure to comply with a subpena which is too broad, and if ever a subpena looked like it was based on a fishing expedition, this is one.

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Now, my third reason for not approving the resolution is that the committee has not made the case that the withheld documents are demonstrably critical to the responsible fulfillment of its investigation. As I mentioned before, EPA claims it is prepared to turn over the vast majority of the material and that no factual or technical materials are being withheld from Congress.

It seems to me that it is extremely difficult that the disputed documents are critical to the investigation until such time as the committee has reviewed the voluminous materials which EPA is willing to provide.

A fourth reason why I believe that contempt resolution should not be approved is that the complex legal issues involved in this case have not been

sufficiently analyzed.

Mr friend, the gentleman from New York (Mr. Solomon) pointed that out.

The subcommittee's subpena is based on the assumption that Con-

gress has a right to all of the documents in EPA's files, even extremely sensitive enforcement strategy documents in an ongoing criminal prosecu-

tion.

I think I might very well depart for a moment to suggest that this Member knows of lawyers downtown—they are all around this town—who are most eager and anxious to get at any information available in the committee files here or through staff, if not through the Members themselves. Some of them will even frankly volunteer that within 3 days they can get all the information they want to either defend somebody or send them to the grave, depending on which side of the issue they are on.

The subcommittee's subpena is based on this assumption that the

Congress has a right, as I said, to all those documents in EPA's files. I just

have problems with that.

EPA and the Department of Justice, on the other hand, have taken the position that it is not in the public interest for certain sensitive documents found in open law enforcement files to be given to the Congress or its committees except in extraordinary circumstances.

The legal issues involved in resolving this dispute are complicated, to say the least, and I for one am not prepared to address the merits of these issues.

My basic position is that the Members of the House have not had sufficient time to review the competing arguments and to form an independent judgment on the merits. The legal memorandum prepared by the General Counsel to the Clerk of the House is dated December 8. The response from the Department of Justice is dated December 14. Neither of these documents have been available to the Members at large until today.

In my view, these conflicting legal opinions should be more carefully analyzed before the House proceeds to cite an executive branch official for

contempt.

A fifth reason why the contempt resolution should not be approved is because of due process problems in the way this matter has been handled.

The subcommittee held a hearing and approved a resolution finding Ms. Gorsuch in contempt of Congress on December 2, 1982, the same day EPA was due to comply with the subpena. Moreover, the subcommittee would not accept the documents which EPA was willing to turn over.

Then, with just 2 days' notice, the matter was brought up in full committee on December 10. The committee meeting itself was brief, and efforts to offer alternatives or to discuss the implications of the proposed actions were given short shrift. In fact, the ranking minority member was not even allowed to finish his opening statement, I understand.

Now we are taking this matter up on the floor under circumstances that guarantee that most of the Members will not know what is going on. The report was just filed yesterday evening and was not available to the Members until today.

I simply do not believe that the Members of the House should consider a matter as important as this one without having an opportunity to thoroughly review the committee's report and to form their own independent judgment on the merits of the issue.

In closing, Mr. Speaker, I must reiterate my strong opposition to the contempt resolution.

We are currently engaged in a confrontation with the executive branch. The issues involved in this dispute raise serious constitutional questions which have not yet been addressed by the Supreme Court.

It is my strong view that a matter of this constitutional significance should not be clouded by side issues such as a defective subpena, hasty procedures in committee, or hasty consideration on the floor.

Mr. Speaker, I take second place to no person as a defender of this body and its prerogatives. It is for that reason that I do not think we should proceed to a court determination saving what documents the House can obtain from the executive branch until we have an ironclad case. This case is not ironclad for the reasons I have listed, and for that reason I believe the matter should be put over until the next Congress. This will give us a chance to work out a compromise and will in no way jeopardize our case. We can always issue a new subpena early next year if an accommodation cannot be reached.

Frankly, here we are in the closing days of a lameduck session, a few days away from the convening of a new Congress, and I find it very, very difficult to interrupt the proceedings which have to take place with our continuing resolutionand all the rest of our business, to get ourselves to the point of citing Ms. Gorsuch for contempt.

I need not remind the Members that it would be the first time in our history that we have done that. I believe throughout the history of this country we have always had this conflict between the executive branch and the legislative branch. Just how far do we go? Up to this point we have always been able to rationalize that by giving and taking but never coming to the point of actually citing a member of the executive branch for contempt.

Mr. Speaker, I just think it is rather outrageous to do that.

Mr. LEVITAS. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey (Mr. Roe).

Mr. ROE. Mr. Speaker, I want to thank the gentleman for yielding me this time to spend a few minutes to discuss this matter and maybe take a different view of the issue.

I share the concern that has been raised by Members who have spoken and said that there unfortunately is an administrator or a person who is involved in this debate, but I think I come before this House with a little bit of special privilege, if I may say this to my colleagues, because of the fact that of the 160 sites that are being reviewed and investigated by the Oversight Committee of the Public Works Committee, 17 of those sites are in the State of New Jersey. Fully 10 percent of those sites affected are in the State of New Jersey. I remind

the Members of that here when we speak of a legal problem.

I do not consider this totally as a legal problem. I consider this a peoples' problem. I was proud when I first came to this House 13 years ago and they referred to this House particularly as the "peoples' house." That always gave me a little ring in my heart, because I felt that this was the place where 435 Members represented 220 million people in this country and most of the free world.

It seems to me the issue before us is life itself. The minority leader made the comment—and I applaud him—that perhaps this is the most important issue we are going to be faced with, because what we are talking about is the water supply of this country and the air supply, if you like, and the very substance of life itself. Can we even afford the 2 hours of debate? Because now it is degenerating or going down to the point that this is a legal issue.

This is not necessarily a legal issue. This is a question of whether or not the natural resources of the people of this country should be poisoned, and over what period of time. Is that dramatic? Is that emotional? Yes; it is, because when I go back to my State, people ask me: What did you do last week on that issue? Who is going to remove the 800 tons of thorium contaminated materials in my hometown?

We must debate and go through a whole waste of time, if I may, in determining what action we should take. The question is, Do the people of the country trust the people they elected? I think somebody made that point, whether the bureaucracy governs or whether the people they elected govern. That is the issue.

Is the issue such that the Members of this House cannot be trusted with the facts? What is there fundamentally to hide in an issue when we are determining whether or not the natural resources of this Nation should be poisoned? That is the issue before us.

I was taught when I went to school that the flow of information is knowledge. That is true, the flow of information is knowledge. We are talking about \$100 billion being expended in this Nation, between the Federal Government, the State governments, and the county and municipal governments, in cleaning up our pollution and developing a clean water supply. That is \$100 billion. We are attempting to revise and rewrite legislation to meet the needs and demands of the Clean Water Act, and we cannot secure the basic data that this House has asked for to make those determi-

So in the little bit of time perhaps that I have in this 5 minutes, I would like to say to all of us on Christmas Eve that it is a disagreeable experience. It is disagreeable that one of our

fellow citizens has to be subjected to this or become the focal point of the issue. It is not Mrs. Gorsuch's fault that this issue is before us. It is because of an executive memorandum that has been written that has denied the House of Representatives its knowledge to be able to pursue the needs of the people of this country. No matter what we did short of a nuclear war, the issue is whether or not a glass of water is usable to drink. That is the issue before us. There is not 20 years ahead of us to make that determination. It is momentarily and everyday that we have got to fight this issue.

#### □ 2000

Half of the water of this entire country, half of the water supply of this entire country is ground water.

All we have to do is have any accident with any toxic chemical anyplace and that water is destroyed for 1,000 years—it is nonretrievable—that is the issue.

So while we sit in debate as to whether or not the fundamental knowledge should be made to the people's House, to the people who are elected by 545,000 people each with a responsibility to this Nation for the very health of the people of this country, that is what the issue is, not the legal machinations.

The question is, Why not? The question is, Why not bring before the people of this country all of the mutual problems and let us try and solve them the way they ought to be solved in the interest of the people of this country?

Mr. CLAUSEN. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from New York (Mr. MOLINARI) a member of the Oversight and Investigation Subcommittee.

Mr. MOLINARI. Mr. Speaker, I rise in support of this resolution and it is not an easy thing for me to do. But I have a personal involvement in this matter because it was at my request that Chairman Levitas commenced the inquiry that is the subject and the point that we are discussing here tonight.

This goes back some time. I think we should mention the chronology of events so that we understand why we are here tonight.

The gentleman from Georgia (Mr. Levitas) came to my district. He accompanied myself, some law enforcement officials, some informants, in a helicopter and we went around the New York region. We heard about the problems that were occurring, the deadly problem of dumping of toxic wastes that we must deal with.

We should not be here tonight, Mr. Speaker. It really disturbs me as a new Member of this body that we have failed to be able to reach an agreement so that we did not have to take

up this resolution tonight. But why did we fail? Why did we fail?

Was the fault with Chairman Leviras? No, indeed not. For 3 months he has attempted to get the information. For 3 months we waited and, indeed, in the beginning the information was made accessible.

There came a time when the investigative staff of his subcommittee visited region II in New York City and they were told no more files will be made accessible to you. When asked why, the answer was "We have got orders from Washington not to release any more files."

Now we have a confrontation. I disagree respectfully with my colleague from New York (Mr. Solomon) a good friend of mine, that ample time was allowed. If it was not for the fact that a citation was issued, that a subpena was issued, backed up with a contempt charge, we would not have made the progress that we have made.

It is only within the last 48 hours that there has been any serious negotiation.

That is what it takes.

The issues are complex. But what it boils down to is this: We are told in committee hearings that 10 regions in this country have to sit down, their staffs have to sift through their files and unilaterally make a determination as to what are sensitive documents.

We, as Members of Congress, imagine, do not have the right to see those documents, yet all of the staff employees, and they could be GS-5 or whatever, have the right to look through those so-called sensitive documents.

I can tell you that I had a personal experience in my State where the New York State Department of Environmental Conservation oversaw the cleanup of a chemical dump and permitted hundreds of thousands of gallons of oil that they said was waste oil and was listed in the manifest as waste oil but which was heavily ladened with PCB's. I will tell you where we got that information. We got it from their own files. We did not know where to find that information. We picked out files at random, but not at first because they denied us access.

So I learned a lesson the hard way. I learned that indeed the agencies that we entrust to protect our loved ones, and we have evidence of children playing in toxic chemicals, and the GAO has testified that there are as many as 50,000 dump sites in the country. I do not think there is a more serious problem that we are going to be confronted with in this Congress and I am disturbed that we spend time trying to get the possession of documents when perhaps we should be spending more time at the root problem, stopping the dumping of toxic wastes in this country.

Only when we do that can we effectively cope with the cleanup problem.

But I must say that Chairman Levi-TAS has really extended himself and I myself have asked Ms. Gorsuch to cooperate, to offer recommendations so that we could break this impasse because it was obvious to me we were going to have this confrontation. But we were rebuffed and I must stand behind the gentleman from Georgia (Mr. LEVITAS) because I think he is doing the right thing. I think that we are all doing the right thing in supporting this resolution.

I am hopeful that as I am standing here and as we are debating this resolution that somebody at the White House or somebody at the Justice Department is going to call and say that

we have a solution.

I think that we are going to have to come to grips with this problem and we are going to have to determine whether we as Members of Congress are going to insist on the right to oversee these files.

I cannot buy the argument that they are going to tell us what is a sensitive

document.

How do we know whether it is a sen-

sitive document?

Let me tell you what I had offered by way of a compromise. I suggested let the gentleman from Georgia (Mr. LEVITAS) one person, examine those socalled sensitive documents and let him make a determination whether they are indeed capable of being investigated further.

Do we trust him? I do. If there are any leaks that came from the committee, obviously they could be traced to his doorstep because he could be the

only one to have access.

That was not accepted. So I am afraid that anything else that we might suggest at this point in an effort to get at those papers that EPA says is sensitive will not be accepted.

Let us talk about that for a moment. How many documents are we talking about? Do not be misled by the number of 23 because during the hearings it was said at least 23. But in response to questions Mrs. Gorsuch mentioned that it could be many, many times that number.

The gentleman from Louisiana (Mr. ROEMER) asked the question could it be 10,000 and she said, I believe, something to the effect that "I doubt that

it could be that much."

But, Mr. Speaker, I am not happy that we are here tonight since I did start this proceeding off so many months ago. But I am also not happy at the progress that we have made. So I have no hesitancy to stand up on this floor and to say that I am going to be voting for the resolution.

I am not going to ask, however, that my colleagues join me. I am going to ask, rather, that you make your own determination because it is a very serious step that we are taking and one we should not be taking lightly.

Mr. PEYSER. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I am glad to yield to the gentleman.

Mr. PEYSER. I thank the gentleman.

First I want to congratulate the gentleman for his statement. I know it is not easy being on that side of the aisle making the kind of statement the gentleman has just made. But it is a statement that is of great importance.

The one part of this issue that strikes me, and the gentleman touched on it, the minority leader spoke of it, was the fact that Congress really could not be trusted in the eyes of the administration on this information

that the EPA evidently has.

Yet I wonder. The CIA budget, which is certainly the most top secret information available, is open to every Member of this House to review who wants to sign a statement to see it. The Intelligence Committee deals with the most top-secret information that our country has.

#### □ 2010

What in the world can be so sensitive in the EPA files that they would not let a committee like the gentleman's review it?

Mr. MOLINARI. That point was made. I think it is an important point. I cannot for the life of me equate comparing CIA classified material to the so-called sensitive documents. I have seen some of these on a State level. And believe me, they are not sensitive. The question here really is, Do we

have a right to examine the documents in question or do we have an obligation to do so. It is my belief that we have an absolute obligation to insist on having access to the documents and for that reason, I will support the contempt resolution.

Mr. PHILIP M. CRANE. Mr. Speaker, will the gentleman yield?

Mr. MOLINARI. I yield to the gentleman from Illinois

Mr. PHILIP M. CRANE. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, let me preface my remarks by stating that Mrs. Gorsuch, in my opinion, is a fine woman, the best Administrator of EPA since the creation of that Agency, and a courageous and faithful supporter of the administration.

Having said that, I regretfully announce that I must support the resolu-

The President, as Commander in Chief, has a legitimate right-upon occasion-to invoke the right of executive privilege.

But that right must be confined to those areas where the President enjoys a unique responsibility as Commander in Chief. The Environmental Protection Agency does not fall under that umbrella.

The House of Representatives, the people's body, has the responsibility to originate all policy for our National Government. This derives from our control of the purse strings, the power to originate all taxing and spending bills.

In order to make enlightened decisions in the best interest of the people of this country, we must have access to all the information we can get.

Withholding that information impairs our capability to perform this function.

I am aware that some colleagues on my side of the aisle will view this resolution in a partisan context.

For them I would ask, if Jimmy Carter were the President involved in this dispute and if Ralph Nader were the Director of EPA, how would you then vote?

One must rise above the emotion of partisanship and look at the principle that is involved.

This decision was not personally an easy or pleasant one. As I said initially, it is one I make with sadness, but it is one that needs to be made nonethe-

Mr. ROE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. I thank the gentleman from New Jersey for yielding.

I want to begin by saying that I rise in support of the resolution for con-

I want to add further that as one Member of this body, small in stature and short in duration, I have learned a lot in the last 2 years. And it has come to a meaningful point to say to the gentleman from New York (Mr. Molinari) that what he said here tonight and what he has done over the last 5 months has meant a great deal to this country and to this Member. I thank him for that.

I want to finally say, before I hit the heart of my argument, on behalf of your consideration of the resolution for contempt, that I have thoroughly enjoyed the 2 years on the Oversight and Investigations Committee with my chairman, the gentleman from Georgia (Mr. LEVITAS).

However you think of the man, and however you judge his actions, we have the advantage, those of us on the subcommittee, of being there day in and day out with him and see him treat this with an even and fair hand.

My good friend, the minority leader, did his duty, spoke earlier, about the reasons that we should not vote for this contempt resolution. He suffers as most of us do from limited time and was not able to be at the subcommittee hearings, was not able to be at the committee hearings, does not know firsthand how long we worked, how deeply we felt that what we wanted was not confrontation but informa-

It was the denial of that information that we seek to redress in this resolution.

A lot of criticism from some has been made at the subpena and the contempt resolution—too hastily, there was another way to do it, they said, maybe the issue was not that important—these all are wrong in their own way.

Too hastily. It has been months.

Not important. It affects at least 160 and maybe as high as tens of thousands of cities in this country. And the attempt by this subcommittee and committee is not to find Anne Gorsuch derelict in her duty. The attempt by this Member is not to discover some dirt and expose it. The attempt of this subcommittee and committee in this House ought to be to find out what the truth is, and the truth is not some esoteric exercise of executive versus legislative.

In this instance, it is an exercise of health, of the future, of the way our money is being spent. Are the demands and the implementation policies of this Congress being followed? It is a question that I cannot answer tonight. But it is a question that we owe ourselves and the 500,000 people each who we represent to find an answer to.

Finally, there was the question that somehow Members of Congress are not to be trusted. We have all felt that privately on occasions. But in the history of this land, as the gentleman from Wisconsin (Mr. Petri), our colleague, asked, when it comes to oversight and review, if not us, who? If not us, who?

The law is with us. The public need is with us. The truth of the action of the men and women of this committee and subcommittee are with us.

I am hopeful, as we resolve this thing tonight and take the next step, as my colleague from New York has already stated—I am hopeful that the phone call will come. That those who do know, that those who have assumed the appointive responsibility of protecting the health of your children and mine, and your community and ours, give us the information, not to be flaunted in some newspaper, but to be studies for the benefit of all this country.

I urge the House, no matter what your philosophical persuasion, to vote yes on the resolution for contempt.

Mr. CLAUSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. Kramer).

Mr. KRAMER. Mr. Speaker, I rise in opposition to the contempt citation. I believe that certainly the House and the committees of this House are entitled to oversight, and indeed have that responsibility under the Constitution.

But I question whether or not really the issue tonight is not at this particular point in time do we pass a resolution of contempt for Mrs. Gorsuch.

What is the reason for our rush to judgment? If this is indeed the serious problem, one of historical significance, a first-time event in the history of this country, does it not deserve full and adequate deliberation by the House, and not in the waning moments of this lameduck session.

Can we feel satisfied about the work that we have done in this House to date about protecting our environment?

Bills that have been required by our own rules to have been completed have not been 3 months after the past due date. The Clean Air Act authorization has expired, and the committee cannot even finish a bill to bring to the floor. The Clean Water Act authorization has expired, and the administration submitted a proposal more than 6 months ago, but we have not acted.

We cannot get the Noise Control Act out of conference, because we have not appointed conferees. And we have been without an authorization for both FIFRA and the Clean Air Act for more than a year.

And yet somehow we have the time to assert in these waning moments of this session that somehow if we pass this resolution of contempt, we are going to do something to clean up our environment.

We are dealing with a law that is less than 2 years old, a very important law. And yet we are concerned about some esoteric information, perhaps important, perhaps not. But where are those arguing for consideration on this floor tonight of noise control, of clean air, of FIFRA, or ocean dumping, of solid waste, of safe drinking.

### □ 2020

I think that in our rush to judgment, we do a disservice to ourselves and to the process which all of us hold so dear.

Mr. LEVITAS. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. Florio).

Mr. FLORIO. Mr. Speaker, as chairman of the House subcommittee which oversees EPS's implementation and enforcement of the Superfund, over the past 2 years I have witnessed the repeated and willful disregard, by EPA of the intent and requirements of the Superfund law.

The Environmental Protection Agency has chosen to selectively interpret the clear intent, letter, and spirit, of the Superfund in a manner that invariably limits public scrutiny and jeopardizes protection of public health and the environment.

Serious questions have been raised by my committee and others regarding the integrity of several Superfund site settlements and negotiations with private parties. Only recently a settlement was entered into in Seymores, Ind., wherein the parties that inappropriately disposed of wastes were allowed to sign settlement agreements for one-third of the estimated cost of the clean up, which of course means that the taxpayers will pay the balance.

If the evidence from Superfund expenditures, enforcement and implementation are any indication, the Congress should be suspicious of the Agency's recent Superfund settlements and negotiations, and has every need to examine these files in detail.

Through the end of fiscal 1982, the Superfund trust fund had accumulated an unexpended balance of \$364 million, while only \$88 million had been expended on site cleanup and related work.

As a matter of fact, \$34 million has been earned from interest accrued on the unexpended balance. It would be nice if Superfund was to be a revenue raising mechanism, but it is not. It was to be a mechanism for cleaning up sites as rapidly as possible and that is not being done.

To date, of the 160 priority sites only 3 surface cleanups have taken place. At the same time, nearly one-quarter of the requests for emergency action have been denied by EPA head-quarters.

Turning to enforcement, which was to be the key to Superfund effectiveness, between fiscal years 1980 and 1981 one sees that civil case referrals from the EPA to the Justice Department under RCRA and Superfund, dropped by 82 percent (from 46 to 8 cases). In fiscal 1982, approximately 45 percent of the cases were referred on September 30, 1982, the last day of the fiscal year.

In addition to expenditures and enforcement, the EPA has failed to implement other key provisions of Superfund dealing with notification requirements for hazardous waste spills and failed to establish a national registry for victims and diseases resulting from hazardous waste exposure, a particularly arrogant disregard of the clear directive of the statute.

The present regime at EPA is dedicated to words, not actions. Given the Agency's Superfund record to date, the Congress would be derelict if it did not fully scrutinize the policies and procedures governing the recovery of Superfund expenditures from private parties, and the integrity of the Agency's approach to private settlements and negotiations.

In this instance, the skepticism of the Congress is more than justified; the requested documents must be examined. I urge my colleagues to affirm the contempt citation.

Mr. CLAUSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. Brown).

Mr. BROWN of Colorado. Mr. Speaker, as I listen here tonight, it seems to me we have had a discussion from those on one side who are sincerely and honestly interested in seeing a full and proper operation of this fund and in the proper function of overview.

I have also listened to Members who have a deep and I think sincere concern about executive privilege. They make the point that over 99 percent of the documents that have been asked for have been delivered. It seems to me they present a reasonable case as well.

What the exact answer will be with regard to this legal question I do not know. I suspect most of the Members here tonight do not know. It involves a legal issue that has not been fully litigated.

No one here tonight could be insensitive to the statement that there is danger in releasing criminal investigatory material. No one here tonight would want to ever endanger a drug investigation or an organized crime investigation. No one here tonight could fail to have a question about whether or not everything that is in those files should be made public if it would make it more difficult to prosecute offenders.

I would hope before we vote tonight that we give some thought to the human aspect of the issue. It is not Mrs. Gorsuch that refused to disclose the information. That refusal came from an order by the President of the United States. But, the action we vote on tonight relates to Mrs. Gorsuch.

It is not Mrs. Gorsuch that has rendered the legal opinion that this information falls under the executive privilege. It is the Justice Department, that rendered that opinion. The motion we vote on tonight deals with Mrs. Gorsuch—not the Justice Department.

Mrs. Gorsuch is a woman who has worked hard to serve her country. Mrs. Gorsuch is a woman who has come to hearing after hearing on this Hill. Mrs. Gorsuch is a woman who has acquired a reputation as knowledgeable, hardworking, and dedicated.

Do we really solve this problem by sending Mrs. Gorsuch to jail? Does this really provide the answer that we seek? I do not think so.

I think, upon reflection, the Members will find that we have the wrong target. A contempt citation against Mrs. Gorsuch is not the answer to our problems.

I think we will find that Mrs. Gorsuch is not the one that we should be punishing.

Mr. LEVITAS. Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Interstate and Foreign Commerce, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, at issue is not the person or the character of the lady who administers EPA. She is a gentlewoman, a real lady and a fine person. She is, it is true, only carrying out orders.

The question is not whether she shall go to jail or not, because she will not. What will happen will be that the matter will be litigated and the courts will order the documents presented.

What is at question here tonight is the prerogatives of the Congress. These prerogatives will enable the Congress to procure the information absolutely necessary for us to legislate, and to assure the fair and proper enforcement and administration of the laws and that they are properly being carried out. The power we assert tonight is as old as the Magna Carta. Justice Coleridge speaking of the powers of the House of Commons, from which we inherit these powers said that the House of Commons, and so the House of Representatives as its successor, are "the grand inquisitor of the realm." He went on to say that "it would be difficult to define any limits by which the subject matter of their inquiry can be bounded. They may inquire into everything which it concerns the public weal for them to know; and they themselves, I think, are entrusted with the determination of what falls within that category."

Let me say this. The administration says these are enforcement-sensitive documents and, therefore, they are to be excluded from the right of Congress to know. Never before have these words been used or held by courts to deny Congress its right to information.

The House of Commons inquired into the behavior of the King and his government in the most sensitive

# □ 2030

That was regarded as proper. In the case of McGrain against Daugherty, the Supreme Court expressly recognized the power of the Congress to inquire into enforcement decisions of the Department of Justice to prosecute or to decline to prosecute and the upholding of this power caused the Teapot Dome scandal to come to light.

Now, it is clear that we must understand what really is at stake here. Never before in history have enforcement-sensitive decisions been used in the description of "Executive privilege." Indeed, Executive privilege." Indeed, Executive privilege as recognized by the courts regarding the other branches of government is a fairly recent event. I will tell you that every President and every administration and every person who has been pressed by the Congress, with its awesome power, to procure the information that is necessary to act in the public interest has been compelled to

come forward with the information which has been sought.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Mr. DINGELL. Mr. Speaker, will the gentleman yield 1 additional minute to me?

Mr. LEVITAS. I yield 1 additional minute to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, it has been said that the administration can withhold and decide what documents they shall make available to us. Over 200 years ago, Pitt, the great English parliamentarian, had this to say about this kind of inquiry:

This enquiry, sir, will produce no great information if those whose conduct is examined are allowed to select the evidence.

What we are here to do tonight is to see to it that the Congress has the information that it needs to act on one of the great questions of the day, and that is the enforcement of the Superfund law and the cleanup of this Nation's dangerous and hazardous and toxic substances.

Criticism has been expressed by some members of the minority that the subpena of the Committee on Public Works and Transportation, which was served on November 22, 1982, and pertains to 160 hazardous waste sites, is overly broad. However, the Oversight Subcommittee of the Energy and Commerce Committee served a subpena on October 21, 1982, for documents concerning only three hazardous waste sites, and our subcommittee has been confronted with the same sweeping and unjustified assertions of executive privilege.

Given the limited number of documents which our subcommittee has requested, we have established that the withheld documents pertain only to civil actions. In addition, none of these documents relate to foreign policy matters or national security issues. EPA has also acknowledged that at the time the documents were transmitted to the Department of Justice for review, none of the withheld documents bore indicia noting: First, that they were prepared for the President or at the President's request; second, that they were prepared for or at the request of a member of the White House staff; third, that they were reviewed personally by the President; fourth, that they were reviewed by a member of the White House staff; or fifth, that they were sent to the President for his review.

What those documents, and what that information might be are for the Congress, and no one else to decide.

The historian Arthur Schlesinger had this to say about governmental secrecy, and I ask you to bear this in mind in coming to your decision. He

The secrecy system has become much less a means by which the government protects national security than a means by which the government dissembles its purposes, buries its mistakes, manipulates its citizens, maximizes its power, and corrupts itself.

I urge support of the motion.

Mr. CLAUSEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. I thank the gentleman

for vielding

Mr. Speaker, we have perhaps one of the quietest and attentive groups of Congressmen that I have seen this late in the evening in my 2 years in Congress. I think this really focuses upon the historic nature of the debate that we are having and perhaps it also focuses very readily upon the severity of what we are trying to do.

I have reviewed the statutes under which this Congress can hold somebody in contempt, and I find within the four corners of the law provisions for punishment. The law that we are talking about provides for, at a minimum, a month in jail and \$100 fine; at a maximum, a year in jail and a \$1,000

fine.

I fail in reading the sections that I have before me to see anything that would allow us to require the documents that we are after. I invite anybody here, if there is anything in here that I have missed, to please correct me because I should back away from this argument immediately.

But we have to ask ourselves, and we must ask ourselves, are we after the documents or are we after a pound of flesh? The law that we have is so limited that it does not even allow us to see the documents that we are after. We have a greater purpose here than just worrying about Ms. Gorsuch, worrying about EPA or these documents.

We have the very power of this institution and the subpena power. This power, I believe, should once and for all be placed before the courts. It should be placed squarely before the courts and the determination made. Each of us, Republican and Democrat here, have an obligation to this body, and that is an obligation so that we can enforce our subpena power. We should be able to enforce it in such a way that we can require these papers to come forward.

As I understand, the administration has offered a compromise that would require the production of these papers after that determination is made. This, I believe, by the special act that was put before us, would get us the papers. So if it is truly the papers that we want to know, truly if it is the information that we want to know, truly if it is a judicial determination with our own lawyers representing the House of Representatives, then let us take the administration on what is being offered as a compromise.

I think that it was put by the gentleman from Missouri (Mr. Skelton) very clearly in the early part of the debate about. "Is this not going to be in question, that the Judiciary, itself, is conducting this investigation?" And the gentleman from Georgia answered him, and I think in a very rightful way, the question is that they are sworn to uphold the law, and if they do not, it is an impeachable offense.

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. Shaw) has expired.

Mr. SHAW. Mr. Speaker, I ask for 1 additional minute.

Mr. CLAUSEN. I vield 1 additional minute to the gentleman from Florida.

Mr. SHAW. I thank the gentleman

for yielding.

Then I ask this body: Are we not putting an awfully unfair burden upon the administration here? Here we are asking them to go forward with their own lawyers, and we are asking them to prosecute an appointment of the administration under a misdemeanor, a quasi-criminal law, and then we are telling them right at the outset, "Unless you come back with an indictment, your very verdict, your very initiative, your very action is going to become very suspect and we may even call you back up here on an impeachable offense."

Now, what kind of action is this? If we want the papers, then let us proceed to get the papers. If you want a pound of flesh and if you want a scandal to carry you across the next year, then proceed with this situation that is before us.

Mr. LEVITAS. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. Gore).

Mr. GORE. I thank the chairman of the subcommittee for yielding this time to me.

Mr. Speaker, let me say first briefly in response to my respected colleague, the gentleman from Florida, that our right, the right of Congress to this information, is not in the statute; it is in article I of the Constitution . It is inherent in the right to legislate. Courts have always so held, and that matter is really not in dispute.

I would also say to the minority leader, in response to a point he made earlier, charging that the committee's request was too broad, he knows the Subcommittee on Oversight and Investigations, of the Committee on Energy and Commerce has also requested information. Our request is narrow. We have 52 documents we want relating to three sites.

But the situation is the same in that instance as well. The Environmental Protection Agency and the executive branch have said to the Congress, "No, you have no right to these documents." The reason they give is contained in a letter that was written to Chairman DINGELL, AND LET ME QUOTE FROM THIS LETTER OF OCTOBER 25:

Potential defendants could gain access to sensitive prosecutorial documents through their elected Representatives. We stress this point because one of the sites in which you have expressed a particular interest is located in the district represented by one of your subcommittee members and a number of the generators of hazardous waste materials contained in another of the sites maintain offices in the district of another subcommittee member.

I would say to my colleagues in this Chamber that that is an insult to the Congress of the United States. Make no mistake about that. The executive branch is saying that if they turn over documents to a subcommittee or a committee of the Congress, that members of that committee are going to run out and give them to defendants in proceedings that are underway. I think that is really insulting. And balanced against our right under article I to this information, it simply cannot be allowed to stand.

What is our right to legislate, and how does it relate here? This Superfund is a unique law. Most of the money comes from a fee on the industry involved, and some comes from the taxpayers, but it embodies the principle that we must first proceed against those responsible for dumping hazardous waste, so the money collected from those responsible will be used to replenish the fund.

If the enforcement program is not effective and efficient, then to that extent the fund will not be replenished and we will have to go back to the American people and say, "We have to raise your taxes because the fund has not been replenished."

Do we not as a people's House have the right to see how this law is working? Of course we do.

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The SPEAKER pro tempore. The gentleman from New Jersey HOWARD) has 14 minutes remaining, and the gentleman from California (Mr. CLAUSEN) has 9 minutes remain-

Mr. HOWARD. I have a unanimous consent request, Mr. Speaker.

Knowing the seriousness of this issue, we have many Members who wish to be heard, many of the members of the committee that is bringing this resolution, or members of other committees in the House that have passed, at least through their subcommittees, similar resolutions. We do not wish to deny them time to talk. We have taken it right to the point now of the minimum time requested, desired, and we believed deserved.

Mr. Speaker, we ask unanimous consent that the debate be continued an additional 16 minutes, 8 minutes to each side. This will minimally take

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. CLAUSEN. Mr. Speaker, reserving the right to object, and we will not object. I just wanted to say that we do concur with the request of the chair-

Mr. HOWARD. I would like to say that this is cutting down Members to a bare minimum of what they requested.

Mr. CLAUSEN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HOWARD. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MINETA), a member of the committee.

Mr. MINETA. Mr. Speaker, I rise to support the motion to cite the Administrator of the Environmental Protection Agency for contempt of Congress.

This Member, serves on the Public Works and Transportation Committee's Subcommittee on Investigations and Oversight. On that subcommittee, we are working to insure that the Superfund law is properly and adequately enforced. This is not only our right,

but indeed our responsibility.

We have been told that the documents in question are sensitive and too private to be shared with Congress. We have been told that the documents deal with enforcement strategies and are, therefore, protected by executive privilege. But it is precisely the EPA's enforcement-or their lack of enforcement-that we are attempting to review. This is a proper and appropriate subject for our study.

It may well be that some of the documents require handling with some degree of privacy. If that is so, then let us proceed to make whatever arrangements are necessary. As a member of the permanent Select Committee on Intelligence, I know that Congress and the executive branch have successfully dealt with this problem for many

Surely the administration is not arguing that the papers of the EPA are more secret, are more sensitive than those of the CIA or the NSA?

The issue here is simple. How good a job is the EPA doing in protecting this Nation from the dangers of toxic and hazardous pollutants? We seek nothing more than to be assured and shown that our health and safety are

being adequately protected.

Mr. Speaker, I made the original motion to cite the Administrator in the subcommittee, and I wish to urge my colleagues to support the motion of the distinguished gentleman from New Jersey (Mr. Howard) who chairs the Committee on Public Works and Transportation.

I remind the Administrator of the Environmental Protection Agency and the rest of the administration that as long as they refuse to disclose these documents, we in Congress and indeed people throughout the Nation will be left with one nagging question, "What are they trying to hide?"

I urge the administration to reconsider its position, to share these documents with us, and to let us get on with the business of protecting our health, our safety, and our environment.

Mr. CLAUSEN. Mr. Speaker, I yield 1 minute to the gentleman from Ar-

kansas (Mr. Bethune).

Mr. BETHUNE. Mr. Speaker, the great philosopher, Jeremy Bentham, once made a telling argument against the growing number of privileges and immunities which tended to make it harder to get the information when he just simply said, "Whence this fear of the truth?'

I, like other Members who do not serve on the committees, have not had enough time to study this matter carefully, but I have listened to the debate and I have read the report which was filed, and which was available just today. I feel rushed by this proceeding. I hope one day we will learn to do business in another way, but I have concluded-and perhaps it will be of some value to other Members similarly situated-if I make a mistake and if I err, I am going to err on the side of freedom of information.

So, I am going to support the resolution, but I do so with a great deal of discomfort. I hope one day we can correct this kind of proceeding so that we can do this in another way.

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. Donnel-

Mr. DONNELLY. Mr. Speaker, today we face one of the most serious issues brought before the 97th Congress.

Probably the most urgent issue is not the immediate one of contempt charges or the serious matter of congressional or executive privilege over sensitive matter. The overriding questions are two: Who is responsible for the health and well-being of the American public? Is there a need to review legislation which was intended to end years of environmental decay?

Enactment of the so-called Superfund legislation encompassed months of debate, review, and disagreement during the 96th Congress. Partially due to the urgency of the matter Congress provided the EPA with considerable discretion over much of the decisionmaking process. The EPA's ability or inability to make such decisions has a major bearing on the choice and costs of cleanup sites as well as the determination of the responsible party for litigation purposes. The House Committee on Public Works and Transportation is bound to review and

report to the House legislation which would make the Superfund statutes a stronger act. It is essential that the committees be provided with all pertinent materials needed to evaluate the performance of the EPA, as well as the strengths and weaknesses of the law itself. The documents withheld by Administrator Gorsuch deal with the most dangerous of the 9,000 waste sites. The committees cannot possibly perform their oversight function without this information.

The ranking members of the oversight committees have been more than fair in attempting to work with the executive branch. However the Attorney General in his response to Chairman DINGELL's promise that the committee would receive the documents in executive session and keep them confidential contends that, "promises of confidentiality by a congressional committee or subcommittee do not remove the basis for the policy of nondisclosure of law enforcement files." Mr. Speaker, there is extensive judicial, statutory, and historic precedent for the disclosure of the most sensitive material to congressional committees in executive session. In a 1980 case, Exxon Corp. against FTC, the District of Columbia Circuit Court of Appeals refused to accept that ground for withholding information from Congress holding that disclosure of information to a congressional committee is not tantamount to public disclosure. Thus, the executive branch has no right to withhold information to a congressional committee is not tantamount to public disclosure. Thus, the executive branch has no right to withhold information from Congress, a coequal branch, once it promises confidentiality.

As for the Attorney General's asserted policy of nondisclosure of law enforcement files, there is no case law to support the AG's position:

On the contrary, the Supreme Court has expressly recognized Congressional authority to examine and inquire into Department of Justice enforcement decisions. Congress investigative power "encompasses inquiries concerning administration of existing laws as well as proposed or possibly needed statutes . . . (I)t comprehends probes into departments of the Federal Government to expose corruption, inefficiency, or waste." Watkins v. United States, 354 U.S. 178, 187 (1957). There is a long history of legislative oversight of the Justice Department and its enforcement of the law. Past congressional investigations have even focused on particular cases. McGrain v. Daugherty, 273 U.S. 135 (1926).

Congressional oversight authority applies with equal, if not greater, force to the EPA: Congress must determine if the EPA is adequately and properly performing the re-sponsibilities delegated to it by Congress in the Superfund law.

In his November 30 opinion letter to Chairman Dingell, the Attorney General contends that Gorsuch may assert executive privilege to "decline to provide committees with access to or copies of law enforcement files." Since the Executive Branch has exclusive authority and absolute discretion to decide whether to prosecute a case, his argument goes, the Executive has absolute discretion to decide whether to inform Congress of the course of their investigative proceedings.

In arguing that Congressional inquiry into Superfund enforcement is inconsistent with the Executive's absolute prosecutorial discretion, the Attorney General is confusing prosecutorial discretion with oversight authority. The Subcommittee is not concerned with influencing individual enforcement decisions, but only with examining the effectiveness of decisions that have been made.

Mr. Speaker, the Superfund enforcement documents are necessary to review the effectiveness of a law which is barely 2 years old that if successfully implemented could save many American men, women, and children from potentially serious illness.

There are Members of both parties who have objected and offered to amend administrative decisions made by both the EPA and the Department of Justice. I do not believe that any Member of Congress takes pleasure in finding Mrs. Gorsuch in contempt of Congress. However, it is our only method of sending a message to the executive in fact to the President himself—that the Congress intends to do what is necessary to carry out its constitutional functions. There is much more at stake here than institutional prerogatives. The health and welfare of millions who have been or may soon be affected by hazardous spills must be our principal responsibility.

Mr. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. RITTER).

Mr. RITTER. Mr. Speaker, the hour is late and much of the legal jousting has already taken place. Taking another tack, I would like to address a question that the people are probably asking, How bad is this problem and what is EPA doing to solve it? Some Members have implied that somehow EPA has not shown proper concern and conducted itself with sufficient dispatch in the cleanup process. So, I would like to spend just a few moments on the question of whether or not the EPA is or is not doing the job in the cleanup of Superfund sites given the task at hand and the funds available.

First, we need to recognize that perhaps for 100 and more years this country and its various productive facilities have had a ofttimes haphazard approach to chemical wastes. Sometimes waste chemicals have been dumped into holes in the ground. Now in the past few years, we have begun taking a wholly different look and adopting a much stricter procedure in dealing with these waste chemicals, particularly hazardous wastes.

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EPA's responsibility in cleanup and the priorities set for cleanup are not just problems of what is present; it involves questions of whether what is present is a danger to the public health. Everything cannot be cleaned up at once. Some sites are more dangerous than others. The dioxin site in Missouri, was one of the three sites focused on in the contempt proceedings in the Energy and Commerce Committee. Had EPA rushed to judgment, it would have done so with three data points showing dioxin concentrations at 500 parts per billion in an area involving six residences.

Basically, there were some reservations about going ahead and moving thousands of yards of dirt or burning thousands of yards of dirt for hundreds of residences in this area, given only three data points. Even with these concentrations of dioxin well beyond the 1 part per 1 billion standard, an assessment of the health effects of these concentrations showed that a small child ingesting a teaspoon a day of this contaminated soil would take some 7 years to possibly show symptoms of chloracne. Later 312 samples were taken and 120 homes thought possibly to be contaminated contained no detectable dioxin.

Many Members have got up tonight and implied that we are close to going under in a sea of hazardous chemicals and implied that only strong action by congressional investigations will save the American people from the threat.

This just is not the case.

And we should not mislead the American people to believe that only powerful action on the part of the Members of this body or certain Members of this body will save them from the hazards of chemical dumps. It will take much hard work by people who know how to clean up and properly dispose of such chemicals.

It will take chemists, chemical engineers, technicians, and workers time and money. But it also takes something else. A climate which is dispassionate and allows sound technical and scientific judgments to be made is es-

sential.

If we are to effectively deal with hazardous waste dumps, not all will be cleaned up at once, priorities will be set. Those priorities should not be set only by litigators and politicians, by newspaper and TV reporters. No, they should also be set by public health specialists, medical doctors, scientists, and engineers who can use the resources available most effectively without being buffeted by abundant emotionalism.

Here is a part of the record on Superfund. Thus far EPA has appropriated \$221 million in the Superfund cleanup effort. That is 83 percent of the Superfund obligation of \$265 million some \$118 million has come from

cost recovery from private sources. Sites having received attention and solution include overflows, explosive potential, acids, pesticide wastes, and others. Current Federal activities underway number some 112 plus approved removal applications numbering 98; active removal operations 11; and completed removal operations numbering 85. Remedial actions contain some 160 sites and include remedial actions, cooperative agreements, and Superfund State contracts.

RCRA regulations are completed in this past year when after 4 years of the previous administration, no regulations were forthcoming.

As I said the hour is late so I am not going to continue with these statistics. Let me close by calling to your attention that some extremely dedicated scientists at EPA have worked closely with State, local, and private organizations to effect cleanup and enforcement in cases which warrant it.

Cleanup is the important thing as far as the American people are concerned. If the atmosphere is highly charged with provoked emotionalism and fear, politicians might well be the only victors and the losers will be the environment and the people. Citing Ann Gorsuch, EPA Administrator for contempt will not serve the cause of Superfund cleanup nor the American people.

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. WYDEN).

Mr. WYDEN. Mr. Speaker, I rise in support of this resolution because I believe that in denving the Congress this information we are being confronted with one of the most sweeping and unjustified assertions of executive privilege that has ever been made by a President. Its ramifications and sweep, if allowed to go unchallenged, will result in restricting the flow of information to every single committee of the House regarding the laws that are within their jurisdiction.

The documents being withheld are not even documents made by the President, Mr. Speaker. They are simply documents made by staff officials of the Environmental Protection Agency that were never intended to leave EPA. They have nothing to do with foreign policy or national securi-

Finally, Mr. Speaker, the misguided position the administration has taken with respect to this issue is illustrated by its policy respecting contractor access to documents withheld from the Congress. In a hearing that was held recently before the Congress, EPA Administrator Gorsuch conceded that dozens of employees, private contractors, including even Kelly girls, have had access to "enforcement-sensitive" files. These are the same files the administration has deemed too sensitive to release to Congress.

Mr. Speaker, I believe these are documents that the Congress deserves and documents the Congress needs to complete its oversight function. I urge support of the resolution.

Mr. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Cali-

fornia (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Speaker, we are a legislative body, but this evening we are sitting in our capacity as a quasi-judicial tribunal because that comes when we talk about citing somebody for contempt. The grounds of the alleged citation are for another

question entirely.

Why do I say that? Well, let me tell the Members that if they want to vote to hold Ms. Gorsuch in contempt on the basis of this document, I hope that will pause to reflect on the fact that we are going to fall flat on our face because a court is going to throw us out. I say that because the lawyer who assisted us in drafting this resolution failed to include one of the most fundamental and indispensible words that any citation of contempt must have to go anywhere in a court proceeding, and that word is "willful." It is a jurisdictional fact.

We have not said that Ms. Gorsuch willfully failed to do anything. We have just said she failed to do something, and you cannot hold anybody in contempt unless you charge them with willful disobedience of an act within the jurisdiction of the person asserting

the authority.

Second, let me tell the Members how a judge or a justice of an appellate court is going to look at this Record when we correct this resolution after we fail the first time.

we fail the first time.

The court will say, "Counsel, do you mean to tell me that the Congress refused to look at 786,977 documents the citee produced and yet is attempting to hold the citee in contempt for failing to produce 23 more? Get out of here. Commonsense dictates that Congress must first examine what is produced, then assert that such documents have been examined and the unproduced are needed to complete its investigative function.

Mr. Speaker, I am in opposition to this resolution which would cite the EPA Administrator as being in contempt of Congress. While recognizing that this institution has an important constitutional role in overseeing the implementation of the laws it has passed, a delineation has to be made between constructive oversight over, as opposed to counterproductive meddling in, the implementation of such laws

As a member of the Energy and Commerce Committee I have some familiarity with this issue in that our committee's Oversight and Investigations Subcommittee has also requested documents pertaining to Superfundalbeit a more reasonable number-and has been similarly denied. What is important to remember is that this denial of documents is not so much an exercise of executive privilege as it is a claim of separation of powers. Neither the Administrator nor the administration is claiming that certain documents should never be turned over. Instead, what they are claiming and what should be of concern to every Member of this House-is that should not be required to prejudice enforcement efforts while they are still in progress

The argument may be made that you cannot have effective oversight unless Congress can see what kinds of enforcement activities are going on. But the other side of that coin is, if we can look into all that is on while it is going on, we become a participant in the process. And that is not what the Founding Fathers had in mind. It was their intention that the executive branch enforce the law, not the legislative branch. As legislators our duty is to decide what the law should be, and then if it does not produce the intended results, to change it accordingly. But, in this case we do not know if the law has produced the desired results. Indeed, it has only been in effect for a year and a half and it still has 3 vears to run.

Also, it should be remembered that EPA is willing to turn over a vast majority of the documents requested-all but 300 to 400 pages out of an astounding total of 787,000. The pages being withheld go beyond the realm of summarizing actions taken or not taken; rather they involve legal analysis and possible legal strategies that might be pursued in the prosecution of the case. As a lawyer, I can share with my colleagues the thought that premature disclosure of such analyses and potential strategies would be most helpful to those suspected of noncompliance—the very people that I suspect the authors of this resolution would not want to see helped. Now I realize that none of my colleagues would ever think of leaking such information if it became known to them, but then again Capitol Hill leaks are not unheard of. So I do not think that it is any more unreasonable for the executive branch to try and protect itself against the premature disclosure of prejudicial information than it is for the legislative branch to try and obtain information essential to the fulfillment of its constitutional responsibilities. That being the case, I think this body should be seeking an accommodation that would balance the respective interests of the legislative and executive branches of Government rather than promote a confrontation between them.

One of the reasons I suggest this is that EPA has gone a long way toward

providing the requested material. Another is that EPA was not given very much time to do it. Indeed, it is my understanding that the EPA only had 8 days to comply with this subpena, not a very long period considering how long it has taken this Congress to pass appropriations bills, considering how difficult? it has been for this Congress to meet budget deadlines, and considering how many other environmental matters have been shuffled under the rug by this Congress. Just looking at the record, and comparing it with what is being requested here, and one could conceivably wonder if this is not a way to distract public attention away from what this Congress has not been doing. Of course, I realize that no Member of this august body would stoop so low as to put politics above principle in such a fashion-or in any fashion for that matter-but surely there are other matters just as much in need of attention, or more in need of attention, than this right now. Clean air legislation has been stalled for almost 2 years now, to cite one example, and I am reminded that clean water legislation, which was submitted to the Public Works and Transportation Committee early last summer has yet to be reported in any form. What an irony for the public to behold; a 22page clean water proposal cannot be marked up in 6 months, but 787,000 pages of documents covering 160 hazardous waste sites should be produced in toto, without regard to the sensitive nature of the contents, within 8 days. If this is not a case of the pot calling the kettle black, I am not sure what is. The real question is-Do we have the courage to admit as much to ourselves and the Nation. If not, is it any wonder Congress continues to rate so low in the public opinion polls.

One additional point needs to be made. Just because Congress has been lax in cutting spending and getting the Nation's fiscal house in order, it does not follow that that the executive branch should be held any less accountable. Two wrongs do not make a right. Hopefully, the next Congress will begin to get its act together, just as the EPA Administrator, in recent testimony before the Oversight and Investigations Subcommittee of the **Energy and Commerce Committee has** indicated that improvements should. and have, been made in EPA's internal operation. However, it is difficult for either Congress or EPA to make those improvements if a tremendous amount of time and resources are being expended in a questionable legal scrap. Which reminds me, quite a fuss has been raised by environmentalists over cutbacks in EPA's budget the last year or two and yet here we have something that will make it even more difficult financially for EPA to carry out its responsibilities. Another irony.

Speaking of reminders, this is not the first time in this Congress that a contempt citation has become an issue. The last time—back last winter—the problem was resolved through compromise. One hopes that the same thing could happen in this instance and, to that end, I urge that this resolution be defeated.

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentlewoman from New

York (Ms. FERRARO).

Ms. FERRARO. Mr. Speaker, I was listening before as my colleague, the gentleman from New York (Mr. Molinari) commented that he was not happy about the action we were taking tonight. I think that is very, very obvious from what has been going on during the course of debate. None of

us are happy about it.

But the question at this point is, What choice do we have? The subcommittee for the past 5 or 6 months has been trying to negotiate with EPA in order to get documents which we feel are necessary to do our job of oversight. All the compromising and all the negotiating has come to a total impasse. Right now what we are doing is putting the problem before an impartial panel, first a grand jury and then perhaps a petit jury.

It was suggested during the course of our discussions before the subcommittee that we submit it to an independent panel. No matter how we came to drawing a panel, we could not come up with one that was objective. The panel suggested was comprised of an EPA official, an administration official, and someone from the Department of Justice, obviously three people who could not render an objec-

tive opinion.

Mr. Speaker, what we are doing tonight is placing it before a proper tribunal, which is the court, and moving
it out of our hands so we can get on
with our job, and, hopefully the administration as well.

Mr. CLAUSEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio

(Mr. WEBER).

Mr. WEBER of Ohio. Mr. Speaker, I rise in opposition to the resolution of contempt, and I do so without judgment of the ultimate right of this House to have access to the documents labeled "sensitive" by the administrator, which the committee seeks.

I oppose the resolution because it is an extraordinary action which should be utilized only after all efforts to resolve the matter in dispute have been

exhausted.

With due respect to the chairman and other members of the committee who favor this extraordinary action, I do not consider the necessary point in time to have been reached in view of the offer of compromise contained in the letter of December 9, 1982, to the chairman of the subcommittee from Robert A. McConnell of the Depart-

ment of Justice—appendix N of the committee report—which contains an appropriate and reasonable effort to resolve this matter short of the confrontation, delay, and ultimate decision of the court which a citation of contempt will otherwise entail.

This offer by the administration deserves a reasoned consideration by the full committee which, it is apparent to me, has not been given to it. Rather, it has been rejected by the committee out of what I believe was an excess of zeal by the committee to assert a claimed prerogative rather than to pursue the objectives of its investigation. In the words of the committee:

This counterproposal was rejected since it was determined to be based on this premise that the executive branch has the right, through unilateral determination, to withhold any documents and information it so chooses from the legislative branch.

Mr. Speaker, I do not think we have the need at this moment in time for reaching a decision on this question of congressional prerogatives. I believe the counterproposal of December 9, 1982, transmitted from the Department of Justice should have been accepted and then, if it still proved necessary, to demand further documents, there would be ample time to consider a citation for contempt.

Mr. Speaker, that is why I oppose

this resolution tonight.

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Mr. LEVITAS. Mr. Speaker, I yield 1 minute to the distinguished member of the Judiciary Committee, the gentleman from Ohio (Mr. Seiberling).

Mr. SEIBERLING. Mr. Speaker, there are only 10 members of the Judiciary Committee who sat on the committee during the impeachment investigation in 1974. Six are Democrats, four Republicans. Next year there will only be six.

How quickly time passes, and how quickly we forget, yet everything that is passing today before our eyes has a very familiar ring: Stonewalling, covering up, refusal to respond to congressional requests for facts that are clearly within the power of the Congress to obtain.

I can only say this, that if we do not uphold the right of this institution to obtain from the executive branch whatever information is needed to fulfill our public responsibilities, then we might as well go out of business, fold up our committees, and just indulge ourselves with pleasantries and the passage of niceties, instead of doing the job the people elected us to do and which we have been charged to do by the Constitution and our oath of office.

The issue raised here transcends partisanship. The issue is whether the Members of this institution have the will to maintain its ability to see that the laws we enact are faithfully and effectively executed.

Mr. CLAUSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. Green).

Mr. GREEN. Mr. Speaker, I think it is important to spell out what this vote is about.

We are not voting about whether Mrs. Gorsuch has run EPA well or badly.

We are not voting about whether the Reagen administrations environmental policies are sound or unsound.

We are not even voting about the problem of toxic waste.

Instead, we are voting on the rights of Congress.

I regret that the Democratic leadership has given us less than half a day between the time the committee report was made available and the time when we must vote to review that report.

But, as I analyze the report, the issue comes down to whether a committee of this House can require documents, even though leaking of those documents—in this case relating to the settlement position the Government would take in litigation-would plainly prejudice the Federal Government. I think our position in the House must be that, at least in domestic matters like this, it can. It is our responsibility to discipline our Members if they act improperly. I do not think the executive branch can deny us documents on the assumption that our Members will act improperly.

I shall therefore vote for the resolu-

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. Scheuer).

Mr. SCHEUER. Mr. Speaker, I want to express my deep esteem to the gentlemen on the other side of the aisle who have stood up courageously and nobly. And brush partisan considerations aside in defending the institutional integrity of this body. I refer specifically to the gentlemen from New York, Mr. Green, and especially Mr. Molinari for his fine and moving statement, and the gentleman from Illinois (Mr. Crane).

I take great pride in the fact that they have helped us identify this not as a partisan issue but as an issue that goes right to the heart of our ability to carry out our constitutional oversight function, to supervise and scrutinize the operation of Government programs by the executive branch.

The fact that they have done so, the fact that they have reached across the aisle, should indicate to the Nation, Mr. Speaker, the gravity which we attach to the Environmental Protection Agency Administrator's wrong at EPA, not only in their specific inadequacies flouting of our constitutional responsibility. To oversee implementation of the Superfund.

I rise in support of the matter now before the House to cite EPA Administrator Ann Gorsuch for contempt of Congress.

I do so in recognition of this body's legitimate right of access to information that is necessary for the Congress to discharge its constitutional responsibility.

In the case before us, EPA and this administration has seen fit to withhold information on EPA's Superfund program that the Congress must have to insure that the law is carried out as intended.

The administration contends that this information is "enforcement sensitive" and, therefore, subject to executive privilege.

I find this argument totally without merit.

What the administration is really doing is hiding the facts about EPA's enforcement of Superfund from the Congress and the American people.

This leads me to believe that there is something very wrong with EPA's Superfund program and this administration's environmental protection policies in general.

This very morning at a hearing of my subcommittee on NRARE, we received a sworn affidavit from a recently resigned EPA assistant inspector general attesting to the fact that a top EPA official consciously and deliberately attempted to harass, intimidate, and fire one of the agencies most competent Superfund experts.

His only crime apparently was speaking out in the exercise of his constitutionally guaranteed right of free speech and criticizing EPA shortcomings in Superfund enforcement.

This hearing provided one more chip in the growing mosaic which portrays an agency totally out of step with its proper role in a representative democracy.

We cannot allow the withholding of information vital to our constitutional oversight function and we cannot allow and condone intimidation of Environmental Protection Agency employees who do properly perform their duties.

We cannot allow this critical issue to be swept under the rug and ignored, and any attempt to do so should be vehemently opposed.

The quality of our environment and the health of our citizens are at stake here.

I therefore find it necessary to support this action today and I urge my colleagues to join in preserving this body's constitutional oversight obligations and in fulfilling our obligations to the American people.

Mr. CLAUSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is truly a serious matter, one of the most serious matters that this House of Representatives has considered in the period of

time I have been privileged to serve in this House. I want to reiterate that this is not a partisan matter. As a matter of fact, I have done everything I can to avoid it becoming recognized as a partisan matter, as has the gentleman from Georgia.

I want to state categorically that there is no one in this House that I have more genuine respect for than the gentleman from Georgia (Mr. Levitas) who in my judgment is a man of impeccable integrity.

Mr. Speaker, I fully support the efforts of the Committee on Public Works and Transportation to inquire into the manner in which Superfund legislation is being carried out, and I recognize that access to the development of documents is critical to the success of such oversight efforts.

Further, I yield to no one in my efforts to enforce the clean water laws and in particular to the controlling of our toxic substances and my desire to uphold the prerogatives of the House of Representatives.

Therefore, it is a matter of considerable regret and disappointment to me that a conflict with the administration over access to files had been allowed to deteriorate into confrontation reflected in this proposal to cite the EPA Administrator for contempt of Congress.

I have believed throughout and continue to believe that this dispute can and should be resolved through negotiation leading to committee access to the documents in question and, therefore, accomplishing far more quickly what the contempt citation presumably is supposed to achieve when one considers the full range of potential court action that could be involved in this matter.

To date it has not been possible to develop, in as important a matter as a citation for criminal contempt, the same sort of strong, bipartisan consensus that normally characterizes the work of the Committee on Public Works and Transportation. That consensus over the years has not been achieved easily and I am very disappointed over the fact that we have not been able to achieve this.

But the principal issue, I think, and the concern of the administration is the question of precedent. I do not believe the administration is desirous of depriving the Congress of access to legitiniate requests for information to carry out its investigation. I do not believe that they are desirous of holding back on environmental enforcement information.

What I do believe is that they are concerned about some of the enforcement sensitive information and, even more importantly, concerned over the precedent that could actually cause problems in enforcement in other areas going beyond the environmental protection issue.

I am talking about areas of drug traffic and I am talking about organized crime as well as some of the SEC matters.

Mr. Speaker, the contempt power of Congress is an extraordinary power and should not be used unless all other avenues have been exhausted. The committee's action I think fails to recognize that EPA agreed to turn over to the committee a substantial amount of information, including some sensitive documents.

It would have been far more appropriate had the committee accepted the documents, analyzed them, and then used the knowledge thus derived to argue for any additional documents indicated. Indeed, the committee in my view would have been in a much stronger position had it done so.

As the gentleman from Colorado, Mr. Brown, correctly referred in his remarks, the Administrator, Ms. Gorsuch, has attempted to cooperate with the committee. Her refusal to comply fully with our subpena is a direct response to her instructions from the President and the Department of Justice.

### □ 2110

It is for that reason that I have serious reservations about issuing a contempt citation for the EPA Administrator when she is only following instructions from the President and the Department of Justice.

The legal issues are extremely complex and in my view could have benefited from extensive analysis.

The materials requested so far go far beyond the issue of how an agency is implementing the law. It involves such sensitive issues as prosecution strategy which involves a totally separate agency, the Justice Department. We may be plowing new ground in injecting the Congress into matters of prosecutorial discretion, tactics and strategy. This is not to say that such issues could not have been resolved given sufficient time. But they could well have required a mechanism along the lines of the U.S. district court finding which I mentioned earlier as one possibility.

One final point. One of the Members made a telling point during our full committee meeting on this matter. To paraphrase his point was this: We sought certain documents and failing to obtain them issued a subpena which was not complied with in full. The failure to comply was on the instructions of the Justice Department and the President.

Assuming this House votes a contempt citation, and a grand jury is convened and an indictment is handed down and a trial results in a conviction, who can doubt but that the President will pardon the Administra-

tor whose only transgression has been compliance with his instructions.

We still will not have achieved what started out as the original purpose of the exercise, acquisition of the file material in furtherance of our investigation. We would have failed in our purpose and achieved nothing but needless controversy. The upshot would reflect no great credit on this body.

So I therefore would urge the Members to reject this motion and lend their support to alternative efforts to resolve this dispute in as amicable and productive a manner as possible. I am very concerned about the gravity of creating this constitutional crisis when I genuinely believe a better solution is available.

Mr. LEVITAS. Mr. Speaker, will the

gentleman yield?

Mr. CLAUSEN. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentle-

man for yielding.

I take this time first of all to say to the Members that there is no one in this Chamber I consider a better friend than the gentleman from Cali-

fornia (Mr. CLAUSEN).

I say to my colleagues, the gentleman from California is truly a good man. He is a person who has worked for the best interests of his district, his State, and this Nation. And I want to say before we proceed to a vote that the gentleman from California did everything within his power to avoid this constitutional crisis of confrontation that we are here tonight dealing with.

If the suggestions and recommendations of the gentleman from California had been accepted by officials in the administration, many, many days ago, we would not be here tonight and this crisis would have been avoided.

I would like to also say that other Members of the minority, both on the subcommittee and the leadership, also worked very hard with all of us to

avoid our being here tonight.

I know that the choices that many Members are going to have to make are difficult choices. This is a matter of gravity, this is a matter that has to be resolved. And as we approach that vote, I just want everybody in this Chamber to know that the gentleman from California, a good man, did everything he could to avoid this confrontation.

Mr. CLAUSEN. I thank the gentle-

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. LaFalce), from Love Canal.

Mr. LaFALCE. Mr. Speaker, I think I have considerable experience with lawsuits that have been brought regarding environmental issues. There is a dilemma that is very often faced when a lawsuit is brought.

When a lawsuit is brought, you must make the worst possible allegations that can be made. That is the nature

of a lawsuit. When you do this, there is a tendency on the part of the bureaucracies to then bend over backward trying to justify those allegations and withhold any information that might differ from the worst possible scenario that has been posed in the lawsuit.

Truth is difficult to come by. The bureaucracies will not reveal truth.

Now, when the administration makes a judgment either not to bring a lawsuit or makes a judgment that they want to settle the case, you have

the exact opposite situation.

Mr. Speaker, whether the executive branch is bringing a lawsuit or whether the executive branch has made the decision to settle a lawsuit, the entire machinery of the executive branch attempts to justify that decision. The interest of the public can very often be secondary to the justification of the decision. Truth can become irrelevant.

There is only one way that we can protect the public and that is by having disclosure of as much information as there possibly can be, at least to the body that represents the public interest, the House of Representatives and the Senate, the Congress of the

United States.

The issue is quite clear. It happens to be our power to have information to make a judgment as to whether the executive branch is faithfully discharging those laws we have enacted. Reluctantly, we must pass this resolution of contempt.

Mr. LEVITAS. Mr. Speaker, I yield 2 minutes to the gentleman from Louisi-

ana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, we are debating really probably one of the most important health issues that will ever come before this Congress, how we are going to handle the disposal of toxic wastes which in fact can cause birth defects and other more serious impediments.

From the attention the national press is giving it, perhaps if we had a pay raise amendment we would get more attention from them on such an

important issue.

When I first came to the Committee on Public Works and Transportation and looked at this issue, my original position was to be against the resolution because I felt that it could have been worked out. I felt certainly that it should have been worked out. But after months and months of trying to work it out, we have come to the conclusion which I think is inescapable that it cannot be worked out other than by a resolution of this Congress.

What we are talking about is some 9,000 toxic waste sites in this country and how they are being cleaned up and whether prosecutions are being handled in a responsible manner.

My own State of Louisiana just recently levied a \$600,000 fine against a company for discharging toxic wastes. And we see examples of EPA looking at these cases and levying a \$25,000 fine in Connecticut, a \$25,000 fine in New Jersey for sites that are going to cost \$10 and \$20 million to clean up.

We have found that what they are doing is taking the very lowest minimum potential fine and then negotiating down from there. And what they tell us is that we cannot look at the documents because they are enforcement strategy documents.

I would submit that they are lack of enforcement strategy documents, that they do not want Congress or anyone else to look at because of what they might reveal.

I would submit that you and I and all of us cannot do a good job of seeing that the law that we pass is being properly enforced unless we look behind the scenes and see how the settlements are being handled, too.

Mr. LEVITAS. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I intend to vote with the gentleman from Georgia. I have followed this debate very carefully. I asked for this minute to point out that tonight I think the House acted in its finest and best tradition.

#### □ 2120

Mr. Speaker, I think the debate tonight represents the U.S. House of Representatives at its finest and highest tradition. No matter which side you are on in this issue, we saw reasoned debate take place. We saw Members address issues without anger, without violence, without being obstreperous.

I just wanted to share with you my idea. I know you feel at times, I wonder what is going on in the House of Representatives? I wonder why we act as we do; but tonight you acted, it seemed to me, in the finest tradition that one could expect of any legislative body and I think that needs to go on the record.

Mr. LEVITAS. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Speaker, I just would like to rise in support of this resolution.

I think that the gentleman from Georgia and the other members of the committee have laid out the case well. I want to associate myself with the remarks of the gentleman from Maryland (Mr. MITCHELL). I think the debate has been clear and concise and I hope that the Members of the House have looked carefully at the documents. This is a historic moment. It is a moment of difficult choices, but it is a choice that we have to make.

I commend the gentleman from Georgia for his work in this particular area that has been thoughtful, responsive and patient.

I think that the action that is taken tonight, as regrettable as it is, is a difficult action, but it is an action that must be taken.

Mr. Speaker, my colleagues have thoroughly aired the legal arguments surrounding this case. As one who is somewhat familiar with the environmental movement and actions of the Government affecting the environment, I think we ought to try to put the citation in perspective.

The gentleman from New York listed the number of environmental bills and acts which have stalled in the 97th Congress. I think we ought to face the fact that everyone here knows-the regressive polices of this administration have stalled progress on environmental legislation. At every turn the President, and the EPA, and Secretary Watt have proposed to weaken the law, to eliminate protections provided by Government regulation, to pander to industry and the polluters of the environment who are not forced to live with the mess they make of our world. We must achieve a balance of economic growth and concern for our environment, but we have seen a pattern over the past 2 years of indecent disregard for the natural resources which are our fundamental national treasury.

Ann Gorsuch did not labor long hours and late nights to enact the Superfund or the Clean Water Act; the people in this room did. Now we have entrusted the enforcement of these laws to bureaucrats who have an arrogant disregard of their duties, and will not even inform us of the actions they have undertaken. For those of us who have invested years of our lives to making environmental law, it is an outrage to know that our intent is being ignored, our trust is being violated, and our very right to information is being denied.

This is what this confrontation is about. From the beginning the environmental policies of this administration have shyed away from daylight. In his campaign President Reagan ridiculed concern for the environment, and until now we have not had the courage to confront that ridicule.

But, now we know that the progress we have made over the last dozen or so years will not be easily turned back. Memorandums from the Attorney General or even from the President himself cannot shield the true purposes or activities of those charged with a sacred trust. I feel confident that we will pass this resolution and reassure the American people that we hold their safety and health above all legalisms and privileges claimed by an irresponsible executive.

Mr. LEVITAS. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, we are rapidly approaching the end of this debate. I want to thank the Members of the House on both sides of the issue for their participation in this extremely important decision.

I want to emphasize in closing, this is not a partisan issue. It is an issue that fundamentally deals with the responsibilities under the Constitution

of the U.S. Congress.

It is not a happy decision, but it is a decision we have got to face up to. We have that responsibility. We cannot discharge the awesome task of oversight without information and we cannot let the executive branch of government in this administration or any administration to make the judgment as to what information this Congress, representing the American people, has the right to receive.

Mr. Speaker, I ask my colleagues, vote for this resolution, assert the prerogatives as well as uphold the responsibilities of the U.S. Congress. That is

our duty.

I urge you to join in supporting this resolution.

Mr. HOWARD. Mr. Speaker, I yield

myself 2 minutes.

Mr. HOWARD. Mr. Speaker, as has been stated, this is an historic moment in this body and as is so often the case, historic moments are not necessarily happy ones. This has been a very trying and difficult debate for all Members.

I would like to say that I believe the Members of the House on both sides have been truly statesmanlike and I am very, very proud to be a Member of this body at this time and very, very proud to have colleagues of the caliber of all of you.

Never before has this happened, because never before has a contempt citation been passed by the Congress of the United States concerning an offi-

cial at such a high level.

In just the past few years, this kind of an issue has been negotiated before it got to this point. Four former Secretaries, two Republican and two Democratic, provided the Congress with the information which we were entitled to before it got here, either after subcommittee or full committee action; former Secretary of Commerce Rogers Morton; former Secretary of State Henry Kissinger; former Secretary of HEW Joseph Califano; former Secretary of Energy Charles Duncan.

If we do not tonight uphold the right of this U.S. Congress, we may never have the opportunity again; so I urge all Members to vote for this resolution. I want to thank you for your patience. I want to thank you for giving us the additional hour and the additional 16 minutes beyond that.

We want to make sure that all Members have the opportunity to get to the floor here to cast his most historic vote. So I hope that you will please

forgive me one more time for asking to move a call of the House.

• Mrs. SCHNEIDER. Mr. Speaker, I rise in support of the resolution of contempt citing the Administrator of the Environmental Protection Agency for failure to cooperate in providing various documents to the Committee on Public Works and Transportation. It is never pleasant to reach such an impasse between two branches of government, and I believe that events have not in anyone's memory in this House deteriorated to this point. But, cooperation has not been forthcoming and it is our constitutional responsibility to oversee the programs we authorize.

I offer the following two thoughts for my colleagues consideration:

First, the privilege accorded to the executive to withhold information has always pertained to matters affecting the national security. Can information pertaining to the 160 hazardous waste sites in question possibly compare to sensitive CIA and Department of Defense national security data? Again, this cannot be treated as a partisan game but as a necessary denial of an inappropriate application of executive privilege.

Second, we must remember that the serious national problem of toxic pollution of our environment—particularly those many sites which we have probable cause to believe are particularly hazardous to the health of our citizens—is simply too critical a responsibility of this body to permit the denial of information we must have to carry out our responsibilities.

Mr. Speaker, simply put, the issue is not whether the parties involved are Democrats, Republicans, or anyone else. The issue is whether this information which is necessary for the proper conduct of congressional responsibilities, can be denied on grounds of executive privilege. I submit that it cannot, and the resolution must be supported.

Again, I regret that affairs have deteriorated to this unnecessary point, but they have. I must support this resolution. Politics cannot come before the welfare of the citizens of our country.

• Mrs. SCHROEDER. Mr. Speaker, rather than discuss the rights of the Congress to oversee the enforcement efforts of the executive branch. I would like to indulge my colleagues in a recollection. A similar situation arose in the late 1970's when several Members of the minority subjected an official of the Carter administration to numerous requests for documents. Ironically, that official was also a Coloradan. He complied with requests from Congress by providing not a few documents, but literally boxes of documents.

Without presuming an opinion on what the documents now requested will show, Congress certainly has ample reason to be suspect the Environmental Protection Agency's record on enforcement. This makes the request all the more justifiable.

EPA's entreatments about protecting the success of its investigations are laughable when one considers EPA's well-known mishandling of Thriftway, Sanderson, and Hugh Kaufman cases. So too are protests that Congress cannot keep a secret. The morale problem at EPA has created a sieve of its own making. The Agency need not look elsewhere for leaks.

Congressional oversight has been an ideal of both parties, let us stop pretending there is something else at stake.

• Mr. FRENZEL. Mr. Speaker, this matter is as disturbing to me as it is to other Members. It is a complex and sensitive constitutional matter which is best resolved in other bodies.

Whatever we do, we are likely to make a mistake. I do not want to vote away the House's rights to information and I do not want to vote against the rights of my Chief Executive.

Despite my affection for, and my natural inclination to support my President, and my doubts about the necessity for the Congress to have the papers in question, I am compelled to vote in favor of the congressional right to information. I cannot vote to limit the House's authority.

I have no confidence that the House's case will be sustained by a court. I am disappointed that the subcommittee could not negotiate with the EPA. Nevertheless, I must vote with the House on this citation.

• Mr. McGRATH. Mr. Speaker, I rise in opposition to the resolution which would cite Ann Gorsuch, Administrator of the Environmental Protection Agency, for contempt of Congress, and I want to set forth my reasons for doing so.

First, the Committee on Public Works has called for the production of some 787,000 pieces of paper. The committee has not demonstrated its need for all of this material in order to conduct a proper inquiry. Further, many of the documents requested by the committee are potentially evidence in litigation against firms which are allegedly violating Federal law.

Second, the Administrator's actions in no way show contempt of Congress. She appeared voluntarily before the committee, and her invocation of privilege came at the express order of the President of the United States and the Attorney General. She has remained willing to try and resolve the dispute in a manner which recognizes the preprogatives of the executive branch and respects the need of Congress to effectively perform its oversight function.

Third, the alacrity with which this contempt citation has been rushed through committee to the floor is not something for which this body can be proud. The resolution has moved from the subcommittee to the floor in less than 2 weeks. The 118 page committee report was available to Members only several hours ago. We are dealing in this case with a major constitutional question, and Members should, at the very least, have a respectable amount of time to study the evidence and make informed judgments. If the purpose of this contempt citation was, in some way a partisan attempt to embarrass the administration, then the leadership has certainly accomplished its goal.

Finally, there is very little indication that the EPA has improperly defied the will of the Congress in performing its responsibility to clean up toxic waste sites. The vast majority of EPA documents have been open for committee and subcommittee inspection.

and remain open.

• Mr. BROWN of California. Mr. Speaker, I have followed with great concern the proceedings of the House Public Works Committee and the Energy and Commerce Committee regarding documents being withheld by the Environmental Protection Agency involving hazardous waste disposal sites eligible for funding under the Federal Superfund program. I rise in support of the House resolution under

consideration.

The small community of Glen Avon in my district in southern California has known for years about the trauma of being located near a dangerous toxic waste disposal facility. The Stringfellow Acid Pits is on the Superfund priority list for receipt of Federal dollars. The State has been working on an interim solution to clean up the site which entails trying to secure the site against continued leaching of chemicals into the groundwater. A final solution has not yet been devised but I will continue to work toward this goal.

Our community had great hopes when the Superfund legislation was passed by Congress 2 years ago. I am sure that communities across the Nation were relieved to learn of the much needed help they would receive for cleaning up their most serious hazardous waste sites. But the great hopes have not materialized. I am disappointed that progress has been so slow in the case of the Stringfellow Acid Pits. State and local government activities involving this site could serve as a model for other sites because of the excellent work of all those involved. And while there has been Federal cooperation, it is now beginning to look like foot dragging.

Mr. Speaker, it is for these reasons that I rise in support of this House resolution. The public has a right to know what is holding up action in sites all over the country. The Congress has a right to know what is holding up the funding of a program we authorized. The reason we passed Superfund legislation was not primarily to collect cleanup costs from responsible parties although this is very important. This law was passed to clean up abandoned hazardous waste sites. The public and the Congress need to know what is holding this program up. I urge adoption of the resolution.

• Mr. RINALDO. Mr. Speaker, As the Administrator of the Environmental Protection Agency, Ann Gorsuch has my utmost respect. She is a competent manager and has been most helpful in expediting approval of Federal funding for the cleanup of dangerous hazardous waste sites in my New Jersey district. Earlier this year, after I had requested action on the cleanup of the Lone Pine landfill in Freehold Township, Mrs. Gorsuch came to New Jersey to endorse a joint agreement with Gov. Thomas Kean to provide \$3.4 million in Federal funds for Lone Pine and for the Kin-Buc landfill in Edison Township. In 1981, when Federal funds were about to be shut off for the final stage of the cleanup operation at the Chemical Control Corp., site in Elizabeth, I appealed to EPA for continued funding. The immediate response was to allocate additional funds for the project, and today the site is virtually free of toxic pollutants, with \$4 million of the cleanup cost having been contributed by the Federal Government.

In voting on the resolution to cite Mrs. Gorsuch for contempt of Congress, I had to weigh my respect for her against my obligation, as a Member of Congress, to see that Federal environmental protection laws continue to be actively enforced. My vote was not directed at her personally, but against the unconstitutional attempt by the executive branch to withhold information that is essential for Congress to fulfill its obligation to see that a crucial Federal program is effectively carried out.

As the State with one of the most serious hazardous waste problems, New Jersey has a vital interest in the enforcement of the Superfund program. I actively supported the creation of Superfund 2 years ago, but Congress responsibility does not end with the establishment of a Federal program. We have a continuing obligation to oversee its implementation, to insure that Federal agencies carry out the letter and the spirit of the law. This congressional responsibility overrides all consideration of personalities or partisan lovalties.

Without being able to examine the subpensed documents, the Public Works Committee is in the position of having to accept the administration's

Moorhead

Morrison

Murphy

Murtha

Myers Napier

Neal

Natcher

Nelligan

Nelson

Nowak

Oakar

Obey

Oxley

Parris

Paul

Pease

Petri

Peyser

Pickle

Porter

Price Pritchard

Quillen

Rahall

Rangel

Regula

Rinaldo

Robinson

Rodino

Roemer

Rogers

Roybal

Rudd

Savage

Sawyer

Scheuer

Schneider

Schroeder

Schumer

Seiberling

Shamansky

Shannon

Sharp

Shaw

Moore

Sabo

Roukema

Roth

Roe

Reuss

Ratchford

Pepper

Perkins

Oberstar

Ottinger

Panetta

Pashayan

Patterson

Patman

assurance that the necessary enforcement actions are being taken in the cases to which the documents relate. This situation completely negates the committee's authority to independently evaluate the performance of the ex-ecutive branch in carrying out the laws made by Congress. If Congress is unable to exercise this authority, we will be at the mercy of each administration's whim and each successive administration will be able to decide for itself which of the laws are to be enforced and which may be neglected.

As a rationale for refusing to produce the subpensed documents, the administration has given the thinnest of excuses, telling us that House Members in whose district hazardous wastes are located might alert the site operators that they were under investigation. This accusation is an affront to the integrity of the Members of Congress who are doing everything possible to see that the waste sites which threaten the health and safety of thousands of people are cleaned up.

When sensitive issues relating to national security and intelligence are considered, Congress routinely follows procedures that prevent the information from being disseminated to the general public. There is absolutely no reason why similar precautions could not be taken by the Public Works Committee in overseeing the enforcement of our environmental protection laws.

In view of the urgent need to eliminate hazardous waste dump sites, I find it extremely unfortunate that the administration has decided to take a hard line and refuse to cooperate with Congress, when we should be working together on the problem. I am hopeful that the administration will soften its stance so that we can continue to make progress in the prosecution of the real villains, those who threaten the public's health and safety by illegally dumping hazardous wastes.

Mr. SKELTON. Mr. Speaker, I rise to join my colleague from Georgia (Mr. Levitas) in expressing alarm at the cavalier, not to mention illegal, attitude apparently held by the administration and the Attorney General concerning the recent and extraordinary congressional contempt citation issued to Environmental Protection Agency Administrator Ann Gorsuch.

Mr. Speaker, it has been 10 years since we last saw this kind of all-powerful disregard of the law from an administration and never has one branch of the Government so arrogantly flaunted the powers, rights, and prerogatives of another branch.

Yesterday, the EPA announced a number of priority sites where life threatening hazardous waste is to be cleaned up under the "superfund law" enacted by this body. My home State of Missouri has at least five such sites. The citizens of Missouri have the right to know if they can count on the administration to carry out the law as they have been directed to do. Unfortunately, we may never know until it is too late. By their actions, the administration has made it clear that they will not tell us if they can avoid it.

Mr. Speaker, I would remind the Members and the administration that ample precedent exists for us to circumvent the formal statutory contempt procedure and order our Sergeant at Arms to take direct action. As for the Attorney General, I would remind him that obstruction of justice is certainly a high crime or misdemeanor within the purview of the Constitution. I urge this body and its Judiciary Committee to take such action as is necessary: direct, legislative, or otherwise to enforce our rights.

#### CALL OF THE HOUSE

Mr. HOWARD. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

### [Roll No. 470]

### ANSWERED "PRESENT"-348

Addabbo Conte Fish Fithian Akaka Convers Albosta Corcoran Florio Foglietta Anderson Coughlin Andrews Courter Foley Ford (MI) Coyne, James Coyne, William Crane, Philip Annunzio Ford (TN) Anthony Applegate Forsythe Atkinson Fountain Crockett AuCoin D'Amours Frenzel Bafalis Daniel, Dan Frost Bailey (MO) Bailey (PA) Daniel, R. W. Gaydos Geidenson Dannemeyer Gephardt Barnard Daschle Barnes Daub Gibbons Gilman Davis Beilenson de la Garza Gingrich Benedict Ginn Deckard Bennett Dellums Glickman Bereuter DeNardis Gonzalez Bethune Goodling Gore Gradison Bevill Dickinson Bingham Dingell Bliley Gramm Dixon Gray Boggs Donnelly Boner Green Bonior Dorgan Gregg Bonker Dornan Grisham Bouquard Guarini Dowdy Bowen Downey Dreier Gunderson Hall (IN) Breaux Brinkley Duncan Hall (OH) Brodhead Hall, Ralph Dunn Hall, Sam Brooks Dwyer Brown (CO) Dyson Eckart Edgar Hamilton Brown (OH) Hammerschmidt Brovhill Hance Edwards (CA) Edwards (OK) Hansen (ID) Byron Hansen (UT) Carman Harkin Emery Hartnett Carney English Chappell Erdahl Hefner Chappie Erlenborn Heftel Ertel Hendon Cheney Evans (IA) Evans (IN) Hertel Hightower Chisholm Clausen Hiller Hillis Clay Clinger Fazio Coelho Fenwick Hollenbeck Coleman Ferraro Hopkins Collins (IL) Collins (TX) Fields Hover Findley Hughes

Hutto Hyde Jeffords Jones (OK) Jones (TN) Kastenmeier Kazen Kennelly Kildee Kindness LaFalce Lagomarsino Latta Leland Lent Levitas Loeffler Long (LA) Lott Lowery (CA) Lowry (WA) Lujan Luken Lungren Madigan Markey Marks Marlenee Marriott Martin (IL) Martin (NY) Martinez Matsui Mattox Mavroules Mazzoli McClory McCollum McCurdy McDade McDonald McEwen McGrath McKinney Mica Michel Mikulski Miller (CA) Miller (OH) Minish Mitchell (MD) Mitchell (NY) Molinari Mollohan Montgomery

Shelby Shumway Siljander Simon Skeen Skelton Smith (AL) Smith (IA) Smith (NE) Smith (NJ) Smith (OR) Solarz Solomon Spence St Germain Staton Stenholm Stokes Stratton Studds Stump Swift Synar Tauke Tauzin Taylor Traxler Trible Udall Vento Volkmer Walgren Walker Wampler Washington Watkins Waxman Weaver Weber (MN) Weber (OH) Ritter Roberts (KS) Weiss White Whitehurst Whitley Whittaker Whitten Wilson Winn Wirth Wolf Wolpe Wortley Wright Wyden Wylie Yates Sensenbrenner Yatron Young (FL) Young (MO) Zablocki Zeferetti

### □ 2140

The SPEAKER pro tempore. On this rollcall, 348 Members have recorded their presence by electronic device,

By unanimous consent, further proceedings under the call were dispensed

### PROCEEDINGS AGAINST ANN M. GORSUCH

Mr. HOWARD. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HOWARD. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were-yeas 259, nays 105, not voting 69, as follows:

#### [Roll No. 4711

YEAS-259 Addabbo Frenzel Oberstar Frost Ottinger Albosta Gaydos Panetta Anderson Gejdenson Andrews Genhardt Parris Patman Annunzio Gibbons Anthony Gilman Patterson Applegate Paul Ginn Aspin AuCoin Glickman Pease Pepper Gonzalez Bailey (PA) Goodling Perkins Petri Barnard Gore Gradison Peyser Bedell Pickle Grav Beilenson Porter Green Bennett Guarini Price Bereuter Gunderson Pritchard Hall (IN) Bethune Rahall Hall (OH) Bevill Rangel Biaggi Hall Ralph Ratchford Hall, Sam Regula Bingham Boggs Boland Hamilton Reuss Rinaldo Hance Boner Harkin Rodino Roe Bonior Hefner Roemer Bonker Heftel Rostenkowski Bouquard Hertel Bowen Hightower Roukema Breaux Hopkins Roybal Brinkley Howard Russo Brodhead Hover Sabo Brooks Savage Burton, John Hutto Scheuer Schneider Byron Hyde Chappell Jeffords Schroeder Chisholm Jones (OK) Schumer Clay Coelho Jones (TN) Seiberling Kastenmeier Sensenbrenner Shamansky Coleman Collins (IL) Kazen Kennelly Shannon Kildee Kogovsek Sharp Conable Conte Shelby Convers LaFalce Simon Skelton Courter Leach Coyne, William Crane, Philip Leland Smith (IA Levitas Smith (OR) Crockett Livingston Snowe D'Amours Daniel, Dan Long (LA) Lowry (WA) Solarz St Germain Stark Stenholm Daschle Luken Davis Markey de la Garza Marks Stokes Martin (IL) Deckard Stratton Dellums Martin (NY) Studds DeNardis Martinez Swift Matsui Dicks Synar Dingell Mattox Tauke Dixon Mavroules Tauzin Donnelly Mazzoli McCloskey Traxler Udall Dorgan McCollum McCurdy Dowdy Vento Volkmer Downey Walgren Washington Dwyer McHugh McKinney Dyson Early Eckart Mica Mikulski Watkins Waxman Miller (CA) Miller (OH) Edgar Weaver Weber (MN) Edwards (CA) Edwards (OK) English Minish White Erdahl Mitchell (MD) Whitley Ertel Mitchell (NY) Whittaker Evans (IA) Moakley Whitten Evans (IN) Molinari Williams (MT) Mollohan Wilson Fary Fazio Montgomery Wirth Fenwick Wolpe Moore Wright Wyden Ferraro Mottl Murphy Findley Murtha Fithian Myers Yatron Natcher Florio Young (FL) Foglietta Neal Young (MO) Nelligan Zablocki Foley Ford (MI) Nelson Nowak Zeferetti Ford (TN)

Fountain

### NAYS-105

Atkinson Gingrich Morrison Bafalis Gramm Napier Bailey (MO) Gregg Grisham Oxley **Benedict** Pashavan Bliley Brown (CO) Hammerschmidt Hansen (ID) Quillen Ritter Brown (OH) Hansen (UT) Roberts (KS) Broyhill Hartnett Roberts (SD) Burton, Phillip Robinson Hendon Butler Hiler Rogers Hillis Carman Carney Chappie Hollenbeck Rudd Hunter Sawyer Cheney Clausen Johnston Shaw Shumway Kindness Clinger Collins (TX) Kramer Siliander Lagomarsino Skeen Smith (AL) Corcoran Coughlin Latta Lent Smith (NE) Loeffler Lott Coyne, James Daniel, R. W. Smith (NJ) Solomon Lowery (CA) Dannemeyer Spence Stangeland Lujan Daub Derwinski Lungren Staton Dickinson Madigan Stump Marlenee Dornan Dreier Marriott Trible Martin (NC) Walker Duncan Dunn McClory Wampler Weber (OH) McDade Emerson Emery Erlenborn McDonald Whitehurst McEwen Winn Fiedler McGrath Wolf Michel Wortley Fields Forsythe Moorhead Wylie

#### NOT VOTING-69

Frank Lehman Alexander Archer Fuqua Lewis Long (MD) Ashbrook Garcia Goldwater Badham Lundine Beard Hagedorn Moffett Blanchard Hatcher Nichols Bolling Broomfield Hawkins O'Brien Heckler Pursell Brown (CA) Holland Railsback Burgener Holt Rhodes Campbell Coats Horton Rose Rosenthal Hubbard Rousselot Santini Craig Huckaby Crane, Daniel Ireland Derrick Dougherty Jeffries Shuster Dymally Jenkins Smith (PA) Edwards (AL) Evans (DE) Jones (NC) Snyder Stanton Kemp Evans (GA) Lantos Thomas Vander Jagt Fascell Leath Flippo LeBoutillier Williams (OH) Young (AK) Fowler Lee

### □ 2200

The Clerk announced the following

### On this vote:

Mr. Fuqua for, with Mr. Craig against. Mr. Derrick for, with Mr. Badham against. Mr. Flippo for, with Mr. Burgener against.

Mr. Williams of Ohio for, with Mr. Jeffries against.

Mr. RALPH M. HALL changed his vote from "nay" to "yea."

So the resolution was agreed to.

A motion to reconsider was laid on the table.

The result of the vote was announced as above recorded.

### GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

### TWO FIGHTER PILOTS IN A DOGFIGHT

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, last week during debate on the Defense appropriations bill, the gentleman from Iowa (Mr. HARKIN) offered an amendment regarding the cutoff of funds to the CIA for the purpose of assisting any individual or group in carrying out military activities in or against the Sandinista Government of Nicaragua. The text of the amendment offered can be located in the Congressional Record of December 8 on Page 29457.

During the debate I rose in opposition to the amendment. Mr. Speaker, as you well know, often times in the heat of debate, Members say things which later, after contemplation and due consideration for the conduct of reasoned debate, one might wish had never been said. This is the situation I find myself in with regard to a small portion of an otherwise stimulating

exchange of opinions.

The day after the debate my friend, Tom Harkin-and I call him my friend even though we have quite different views on a broad range of issuescame to see me. Tom and I have traveled together not only to mainland China but to other countries, and let me just say that he has always conducted himself and presented himself in a manner that represents well our country and the best interests of our country. Tom and I have something else in common besides a burning desire to see things firsthand, up close and draw our own conclusions. IWT I call it, "I was there." We have both been fighter pilots and I know Tom shares my love and enthusiasm for aviation and the need for the United States to continue our lead in aviation throughout the world. This is one area in which we certainly agree. Even though we have different views on many issues, I have always found Tom to be reasonable and considerate of the views of others with whom he disagrees. So the day after the Nicaragua debate, Tom came to see me and brought to my attention the written words in the RECORD of what I had said the evening before. (Congression-AL RECORD, Dec. 8, 1982, on Page 29465 and continue through 29466.)

He asked that I reread those words and consider the impact of those words as they appeared in cold print. In reflection my remarks were not fair. I said, "I overheard Mr. HARKIN

in Communist China as he put on a Mao hat say, and he did not realize I could hear him, 'It is an honor to wear a worker's hat.'" The trip in question was taken in January 1981 and, quite frankly, it is unfair to try to recall exactly what people said almost 2 years ago in casual conversation. And so, I apologize to my friend for ascribing to him a quote which he sincerely maintains he never said. Again speaking fairly, most of us on that trip, bought one of those strange little Mao hats. including me, and wore them in good humor even taking pictures of one another. In fact one Member of the group, whom of course I will not name, had a full Mao outfit on at one point. But this is all done in good spirit and nothing more than that should read into it.

Mr. Harkin and I do find ourselves on different sides of just who we should be supporting in Central America. But certainly Mr. Harkin has never accused me of supporting terrorists and I in no way want to imply that he in any way supports terrorist activities either.

#### ALCOHOL ABUSE AND ALCOHOL-ISM AND DRUG ABUSE AMEND-MENTS OF 1982

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6458) an Act to amend the Public Health Service act and related laws to consolidate the laws relating to the Alcohol, Drug Abuse, and Mental Health Administration, the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill. The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert: That this Act may be cited as the "Alcohol Abuse and Alcoholism and Drug Abuse Amendments of 1982".

# TITLE I—ALCOHOL ABUSE AND ALCOHOLISM

### REFERENCE

SEC. 101. Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970.

### SHORT TITLE

SEC. 102. The first section is amended by striking out "Prevention, Treatment, and Rehabilitation" and inserting in lieu thereof "Research and Prevention".

# CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

SEC. 103. (a) Section 2(a)(3) (42 U.S.C. 4541(a)(3)) is amended by striking out

"\$43,000,000,000" and inserting in lieu thereof "\$49,000,000,000".

(b) Section 2(b) (42 U.S.C. 4541(b)) is amended to read as follows:

"(b) It is the policy of the United States and the purpose of this Act to provide leadership in the national effort to reduce the incidence of alcoholism and alcohol-related problems through—

"(1) a continued Federal commitment to research into the behavioral and biomedical etiology, the treatment, and the mental and physical health and social and economic consequences of alcohol abuse and alcoholism."

"(2) a commitment to-

"(A) extensive dissemination to States, units of local government, community organizations, and private groups of the most recent information and research findings with respect to alcohol abuse and alcoholism, including information with respect to the application of research findings; and

"(B) the accomplishment of such dissemination through up-to-date publications, demonstrations, educational programs, and other appropriate means;

"(3) the provision of technical assistance to research personnel, services personnel, and prevention personnel in the field of alcohol abuse and alcoholism;

"(4) the coordination, in cooperation with all governmental and nongovernmental sources of assistance for alcohol abuse and alcoholism, of Federal, State, and local planning for, and effective use of, Federal assistance to States to meet the urgent needs of special populations:

"(5) the provision of a Federal response to alcohol abuse and alcoholism which recognizes the importance of State decisionmaking with respect to treatment needs;

"(6) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, and the abuse of other legal and illegal drugs;

"(7) the development and encouragement of effective occupational prevention and treatment programs within Government and in cooperation with the private sector; and

"(8) the provision of a Federal response to alcohol abuse and alcoholism which encourages the greatest participation by the private sector, both financially and otherwise, and concentrates on carrying out functions relating to alcohol abuse and alcoholism which are truly national in scope.".

### REPORTS BY THE SECRETARY

Sec. 104. Section 102 (42 U.S.C. 4552) is amended—

(1) by inserting "(a)" before "The";

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) submit to the Congress on or before the expiration of the one-year period beginning on the date of enactment of this Act, and every three years thereafter, a report which shall include—

"(A) a description of the actions taken and funds expended under this Act, and an evaluation of the effectiveness of such actions and expenditures:

"(B) a description of the extent to which Federal and State programs, departments, and agencies are concerned and are dealing effectively with the problems of alcohol abuse and alcoholism, including information with respect to services provided for alcohol abuse and alcoholism under part B of title XIX of the Public Health Service Act;

"(C) current information on the health consequences of using alcoholic beverages;

"(D) a description of current research findings with respect to alcohol abuse and alcoholism:

"(E) such recommendations for legislation and administrative action as the Secretary considers appropriate; and

"(F) such other information as the Secretary considers appropriate;";

(3) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(4) by adding at the end thereof the following new subsection:

"(b)(1) In order to obtain the information required under subsection (a)(1)(B) with respect to services provided for alcohol abuse and alcoholism under part B of title XIX of the Public Health Service Act, the Secretary shall work with appropriate national organizations to insure that State and local governments use compatible means of data collection so that uniform national data with respect to the provision of such services will be available to the States and to the Secretary.

"(2) In carrying out paragraph (1) of this subsection and subsection (a)(i)(B), the Secretary may not require any State to submit any information which is not required under section 1916(a) of the Public Health Service Act.".

#### ABOLITION OF INTERAGENCY COMMITTEE

Sec. 105. Section 103 (42 U.S.C. 4553) is repealed.

#### GRANTS AND CONTRACTS

SEC. 106. Section 311(c)(4) (42 U.S.C. 4577(c)(4)) is amended by inserting "(including Native Hawaiians and Native American Pacific Islanders)" after "Native Americans".

#### RESEARCH

Sec. 107. Section 501(b) (42 U.S.C. 4585(b)) is amended—

- (1) by striking out "make available" in paragraph (1) and inserting in lieu thereof "disseminate";
- (2) by inserting "including the development of curriculum materials," after "appropriate means," in paragraph (1);
- (3) by striking out paragraph (3) and inserting in lieu thereof the following:
- "(3) make grants to universities, hospitals, laboratories, and other public or nonprofit institutions, and individuals for projects for such research, investigations, experiments, demonstrations, studies, and evaluations as are recommended by the National Advisory Council on Alcohol Abuse and Alcoholism and such Council shall give special consideration to projects relating to—
- "(A) the relationship between alcohol abuse and domestic violence;
- "(B) the effects of alcohol use during pregnancy:
- "(C) the impact of alcoholism and alcohol abuse on the family, social system, and health service systems;
- "(D) the relationship between the abuse of alcohol and other drugs;
- "(E) the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages;
- "(F) the cost and effectiveness of treatment, prevention, and intervention among youth, women, and the elderly; and
- "(G) the interrelationship between alcohol use and other health problems;"; and

(4) by inserting "or the impact of alcohol abuse on other health problems" before the semicolon in paragraph (5).

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 108. The first sentence of section 504(a) (42 U.S.C. 4587(a)) is amended by inserting before the period a comma and "\$32,911,000 for the fiscal year ending September 30, 1983, and \$32,911,000 for the fiscal year ending September 30, 1984"

#### NATIONAL COMMISSION ON ALCOHOLISM

SEC. 109. Section 18(b)(10) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note) is amended by inserting "Native Hawaiians, Native American Pacific Islanders," after "Alaskan Natives,"

## TITLE II-DRUG ABUSE

#### REFERENCE

SEC. 201. Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Drug Abuse Prevention, Treatment, and Rehabilitation Act.

SEC. 202. The first section is amended by striking out "Prevention, Treatment, and Rehabilitation" and inserting in lieu thereof "Research and Prevention"

#### CONGRESSIONAL FINDINGS

SEC. 203. Section 101 (21 U.S.C. 1101) is amended-

(1) by striking out "is rapidly increasing" in paragraph (1) and inserting in lieu there-

of "has rapidly increased";
(2) by striking out "abuse, especially heroin addiction," in paragraph (3) and in-

neroin addiction, in paragraph (3) and inserting in lieu thereof "abuse";
(3) by striking out "drug abuse, especially the causes, and" in paragraph (5), and inserting in lieu thereof "the";

(4) by inserting "and State" before "drug abuse programs" in paragraph (6);

(5) by striking out paragraphs (7), (8),

(10), and (11); (6) by redesignating paragraphs (9), (12), (13), and (14) as paragraphs (7), (8), (9), and

(10), respectively;

(7) by striking out "the Federal Government" in paragraph (7) (as redesignated by clause (6) of this section) and by inserting in lieu thereof "Federal and State governments"; and

(8) by inserting "State activities and" before "Federal international" in paragraph (9) (as redesignated by clause (6) of this section).

### DECLARATION OF NATIONAL POLICY

SEC. 204. Section 102 (21 U.S.C. 1102) is amended to read as follows:

### "§ 102. Declaration of national policy

"The Congress declares that it is the policy of the United States and the purpose of this Act to utilize the comprehensive resources of the Federal Government to provide a leadership role in reducing the incidence, as well as the social and personal costs, of drug abuse in the United States and to develop and assure the implementation of a comprehensive, coordinated longterm Federal and State strategy to combat drug abuse. To reach these goals, the Congress further declares that it is the policy of the United States and the purpose of this chapter to meet the problems of drug abuse through-

"(1) a continued Federal commitment to research into the behavioral and biomedical etiology of, the treatment of, and the mental and physical health and social and economic consequences of, drug abuse;

'(2) a commitment to-

"(A) extensive dissemination to States, units of local government, community organizations, and private groups of the most recent information and research findings with respect to drug abuse, including information with respect to the application of research findings; and

"(B) the accomplishment of such dissemination through up-to-date publications, demonstrations, educational programs, and

other appropriate means;

(3) the provision of technical assistance to research personnel, services personnel, and prevention personnel in the field of drug abuse;

"(4) the coordination, in cooperation with all other governmental and nongovernmental sources of assistance for drug abuse, of Federal, State, and local planning for, and effective use of, Federal assistance to States to meet the urgent needs of special popula-

"(5) the provision of a Federal response to drug abuse which recognizes the importance of State decisionmaking with respect to

treatment needs:

"(6) the development and support of community-based prevention programs;

"(7) the development and encouragement of effective occupational prevention and treatment programs within the Government and in cooperation with the private sector;

"(8) the provision of a Federal response to drug abuse which encourages the greatest participation by the private sector, both financially and otherwise, and concentrates on carrying out functions relating to drug abuse which are truly national in scope.".

#### ELIMINATION OF ANNUAL REPORT

SEC. 205. Section 207 (21 U.S.C. 1117) is repealed.

REVIEW OF NATIONAL DRUG ABUSE STRATEGY

SEC. 206. Section 305 (21 U.S.C. 1165) is amended by striking out "each year" and inserting in lieu thereof "each even-numbered year, beginning with 1982".

### REPORTS

SEC. 207. (a) Section 405(b) (21 U.S.C. 1172(b)) is amended-

(1) by striking out "with respect to each fiscal year" in the matter preceding para-

graph (1):

(2) by inserting "including a description of current research findings with respect to drug abuse," after "United States," in para-

(3) by striking out "and" after the comma the last place it appears in paragraph (4);

(4) by striking out the period at the end of paragraph (5);

(5) by inserting after paragraph (5) the

following new paragraphs: "(6) current information on the health consequences of marihuana use and such proposals for legislative and administrative action as the Secretary considers appropri-

ate: and

'(7) a description of the extent to which Federal and State programs, departments, and agencies are concerned and are dealing effectively with the problems of drug abuse, including information with respect to services provided for drug abuse under part B of title XIX of the Public Health Service Act."; and

(6) by striking out "each year" in the last sentence and inserting in lieu thereof "each even-numbered year, beginning with 1984".

(b) Section 405 is further amended by adding at the end thereof the following new subsection:

"(c)(1) In order to obtain the information required under subsection (b)(7) with respect to services provided for drug abuse under part B of title XIX of the Public Health Service Act, the Secretary shall work with appropriate national organizations to insure that State and local governments use compatible means of data collection so that uniform national data with respect to the provision of such services will be available to the State and to the Secre-

"(2) In carrying out paragraph (1) of this subsection and subsection (b)(7), the Secretary may not require any State to submit any information which is not required under section 1916(a) of the Public Health

Service Act."

(c) Effective January 15, 1984, the Marihuana and Health Reporting Act (42 U.S.C. 242 note) is repealed.

#### GRANTS AND CONTRACTS

SEC. 208. Section 410(d) (21 U.S.C. 1177(d) is amended by striking out "native Americans" and inserting in lieu thereof "Native Americans (including Native Hawaiians and Native American Pacific Islanders)"

#### AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH

SEC. 209. Section 503(c) (21 U.S.C. 1193(c) is amended by inserting before the period a comma and "\$46,356,000 for the fiscal year ending September 30, 1983, and \$46,356,000 for the fiscal year ending September 30,

#### DISSEMINATION OF MATERIALS

SEC. 210. Section 301 of the Public Health Service Act (42 U.S.C. 241) is amended by adding at the end thereof the following new subsection:

"(c) In carrying our subsection (a)(1), and in order to educate the public with respect to the health hazards of drug abuse, the Secretary shall take such actions as may be necessary to ensure the complete and widespread dissemination of up-to-date publications of the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards,"

## TITLE III-MISCELLANEOUS

### PUBLIC HEALTH SERVICES CORPS

SEC. 301. Section 207(a)(1) of the Public Health Services Act (42 U.S.C. 209(a)(1)) is amended by inserting "psychology," after "pharmacy".

The Clerk read the House amendment to the Senate amendment, as fol-

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—ALCOHOL AND DRUG ABUSE AMENDMENTS

### SHORT TITLE: STATEMENT OF POLICY

SEC. 101. (a) This title may be cited as the "Alcohol and Drug Abuse Amendments of 1982'

(b) It is the policy of the United States and the purpose of this title to provide leadership in the national effort to reduce the incidence of alcoholism and alcohol-related problems and drug abuse through-

(1) a continued Federal commitment to research into the behavioral and biomedical etiology, the treatment, and the mental and physical health and social and economic consequences of alcohol abuse and alcoholism and drug abuse;

(2) a commitment to-

(A) extensive dissemination to States. units of local government, community organizations, and private groups of the most recent information and research findings with respect to alcohol abuse and alcoholism and drug abuse, including information with respect to the application of research findings; and

(B) the accomplishment of such dissemination through up-to-date publications, demonstrations, educational programs, and other appropriate means;

(3) the provision of technical assistance to research personnel, services personnel, and prevention personnel in the field of alcohol abuse and alcoholism and drug abuse;

(4) the development and encouragement of prevention programs designed to combat the spread of alcoholism, alcohol abuse, drug abuse, and the abuse of other legal and

illegal substances:

- (5) the development and encouragement of effective occupational prevention and treatment programs within Government and in cooperation with the private sector;
- (6) the provision of a Federal response to alcohol abuse and alcoholism and drug abuse which encourages the greatest participation by the private sector, both financially and otherwise, and concentrates on carrying out functions relating to alcohol abuse and alcoholism and drug abuse which are truly national in scope.
- THE ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION AND THE NATIONAL INSTITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOL-ISM, AND THE NATIONAL INSTITUTE ON DRUG

SEC. 102. (a)(1) Title V of the Public Health Service Act is transferred to the end of the Public Health Service Act and redesignated as title XXI and sections 501 through 515 are redesignated as sections 2101 through 2115, respectively.

(2) Sections 217(c), 217(d), and 384 of the Public Health Service Act (42 U.S.C. 218 and 278) are each amended by striking out "501"

and inserting in lieu thereof "2101".

(b)(1) The Public Health Service Act is amended by inserting after title IV a new

title designated as follows:

"TITLE V-ADMINISTRATION AND CO-ORDINATION OF THE NATIONAL IN-STITUTE OF MENTAL HEALTH, THE NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM, AND THE NATIONAL INSTITUTE ON DRUG

"PART A-ADMINISTRATION AND INSTITUTES".

(2) Section 201 of the Act of May 14, 1974 (42 U.S.C. 3511) is transferred to title V of the Public Health Service Act established by paragraph (1), redesignated as section 501, and amended-

(A) by striking out "of Health, Education, and Welfare" each place it occurs;

(B) in subsection (c), by striking out "of the Public Health Service Act"

(C) by amending subsection (d) to read as follows:

"(d) To educate the public with respect to the health hazards of alcoholism, alcohol abuse and drug abuse, the Administrator shall take such actions as may be necessary to ensure the widespread dissemination of current publications of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse relating to the most recent research findings with respect to such health hazards.

(D) by adding at the end the following: "(e)(1) There shall be in the Administration an Associate Administrator for Prevention to whom the Administrator shall delegate the function of promoting the prevention research programs of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and coordinating such programs between the institutes and between the institutes and other public and private entities

'(2) On or before January 1, 1984, and annually thereafter, the administrator, acting through the associate Administrator for Prevention, shall submit to the Congress a report describing the prevention activities (including preventive medicine and health promotion) undertaken by the Administration, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. The report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with

such activities.

"(f) The Administrator shall establish a process for the prompt and appropriate response to information provided the Administrator respecting (1) scientific fraud in connection with projects for which funds have been made available under this Act, and (2) incidences of violations of the rights of human subjects of research for which funds have been made available under this title. The process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such fraud and violations.".

(3) Section 101 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is transferred to title V of the Public Health Service Act, inserted after the section 501 inserted by paragraph (2), redesignated as

section 502, and amended-

(A) in subsection (a)—(i) by striking out "this Act" the first time it occurs and inserting in lieu thereof "this

(ii) by striking out "assigned to the Secretary of Health and Human Services (hereafter in this Act referred to as the 'Secretary')" and inserting in lieu thereof "relating to alcohol abuse and alcoholism assigned to the Secretary", and
(iii) by striking out "of the Public Health

Service Act", and

(B) by amending the section heading to read as follows:

#### "NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM"

(4) Section 501 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 502 inserted by paragraph (3), redesignated as section 503, and amended-

(A) in subsection (a)-

(i) by inserting "Sec. 503." before "(a)", (ii) by striking out "this title" and insert-

ing in lieu thereof "this section",
(iii) by striking out "of the Secretary of Health and Human Services (hereinafter in this title referred to as the 'Secretary') with respect to drug abuse prevention functions" and inserting in lieu thereof "relating to drug abuse assigned to the Secretary by this

ct", and (iv) by striking out "of the Public Health Service Act",

- (B) by striking out "(hereinafter in this title referred to as the 'Director')" in subsection (b)(1), and
- (C) by striking out the section heading "§ 501. Establishment of Institute." and inserting in lieu thereof the following:

#### "NATIONAL INSTITUTE ON DRUG ABUSE".

(5) Subsection (a) of section 406 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to section 503 (as so redesignated), inserted after subsection (d), and redesignated as subsection (e).

(6) Section 455 of the Public Health Service Act is inserted in title V of the Public Health Service Act after the section 503 inserted by paragraph (4) of this subsection

and redesignated as section 504.

(7) The following sections are inserted in title V of the Public Health Service Act after the section 504 inserted by paragraph

#### "REPORTS ON ALCOHOLISM, ALCOHOL ABUSE, AND DRUG ABUSE

"SEC. 505. (a) The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report-

"(1) containing current information on the health consequences of using alcoholic beverages.

'(2) containing a description of current research findings made with respect to alcohol abuse and alcoholism, and

(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

"(b) The Secretary shall submit to Congress on or before January 15, 1984, and every three years thereafter a report-

"(1) describing the health consequences and extent of drug abuse in the United States;

"(2) describing current research findings made with respect to drug abuse, including current findings on the health effects of marihuana and the addictive property of tobacco: and

'(3) containing such recommendations for legislation and administrative action as the Secretary may deem appropriate.

### "PEER REVIEW

'SEC. 506. (a) The Secretary, after consultation with the Directors of the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse shall by regulation require appropriate technical and scientific peer review of biomedical and behavioral research and development grants, cooperative agreements, and contracts to be administered through the National Institute of Mental Health, the Na-tional Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse.

"(b) Regulations promulgated under subsection (a) shall require that the review of grants, cooperative agreements, and contracts required by the regulations be conducted-

"(1) in a manner consistent with the system for scientific peer review applicable on the date of the enactment of this section to grants, cooperative agreements, and contracts under this Act for biomedical and behavioral research, and

(2) to the extent practical, by peer review groups performing such review on or before such date.

"(c) The members of any peer review roup established under such regulations shall be individuals who by virtue of their training or experience are eminently quali-

fied to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(d) The Administrator of the Administration shall establish procedures for periodic, technical, and scientific peer review of research at the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse. Such procedures shall require that

"(1) the reviewing entity be provided a written description of the research to be re-

viewed: and

"(2) the reviewing entity provide the advisory council of the institute involved with such description and the results of the review by the entity.'

(8) The following heading is inserted in title V of the Public Health Service Act after the section 506 inserted by paragraph

(7):

#### "PART B-RESEARCH "Subpart 1-Alcohol Abuse and Alcoholism.

(9) Sections 501, 503, and 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the subpart 1 of part B of title V of the Public Health Service Act established by paragraph (8), redesignated as sections 510, 511, and 512, respectively, and amended as follows:

(A) Section 510 (as so redesignated) is

amended-

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism (hereinafter in this subpart re-

ferred to as the 'Institute')",
(ii) by striking out "make available through publications and other appropriate means" in subsection (b)(1) and inserting in lieu thereof "desseminate through publications and other appropriate means (includ-

ing the development of curriculum materi-

(iii) by striking out "; and such Council shall give" and all that follows in subsection (b)(3) and inserting in lieu thereof the following: ", giving special consideration to projects relating to-

(A) the relationship between alcohol

abuse and domestic violence,

"(B) the effects of alcohol use during

pregnancy,
"(C) the impact of alcoholism and alcohol abuse on the family, the workplace, and systems for the delivery of health services,

(D) the relationship between the abuse

of alcohol and other drugs,

"(E) the effect on the incidence of alcohol abuse and alcoholism of social pressures, legal requirements respecting the use of alcoholic beverages, the cost of such beverages, and the economic status and education of users of such beverages,

"(F) the interrelationship between alcohol

use and other health problems, and

"(G) the comparison of the cost and effectiveness of various treatment methods for alcoholism and alcohol abuse and the effectiveness of prevention and intervention programs for alcoholism and alcohol abuse.

(iv) by inserting "or the impact of alcohol abuse on other health problems" before the semicolon in subsection (b)(5), and

(v) by amending the section heading to read as follows:

"ALCOHOL ABUSE AND ALCOHOLISM RESEARCH".

(B) Section 511 (as so redesignated) is amended-

(i) by striking out the last sentence of subsection (a),

(ii) by striking out the second sentence of subsection (b).

(iii) by striking out "of the Public Health Service Act (42 U.S.C. 292a)" in subsection (b), and

(iv) by striking out subsection (c).

(C) Section 512 (as so redesignated) is amended to read as follows:

#### "AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 512. There are authorized to be appropriated to carry out this subpart \$33,480,000 for fiscal year 1983 and \$45,776,000 for fiscal year 1984. Of the funds appropriated under this section for any fiscal year, not more than 35 percent may be obligated for grants under section

(10) The following heading is inserted in title V of the Public Health Service Act after the section 512 inserted by paragraph (9):

### "Subpart 2-Drug Abuse Research"

(11) Section 503 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to the subpart 2 of part B of title V established by paragraph (10), redesignated as section 515, and amended—

(A) by striking out "The Director" the first time it occurs in subsection (a) and inserting in lieu thereof "The Director of the

National Institute of Drug Abuse' (B) by amending subsection (b) to read as

follows:

"(b) In carrying out the activities described in subsection (a), the Secretary, acting through the Institute, may—

"(1) collect and disseminate through publications and other appropriate means, including the development of curriculum materials, information as to, and the practical application of, the research and other activities under this section,

'(2) make grants or enter into contracts with individuals and public and nonprofit entities for the purpose of determining the causes of drug abuse in a particular area,

and

"(3) make grants to and enter into contracts with individuals and public and private nonprofit entities for research respecting improved drug maintenance and detoxification techniques and programs."

(C) by amending subsection (c) to read as

follows

(c) For the purposes of subsections (a) and (b), there are authorized to be appropriated \$47,374,000 for fiscal year 1983 and \$56,175,000 for fiscal year 1984."

(D) by striking out the section heading and inserting in lieu thereof the following:

### "Drug Abuse Research,"

(E) by inserting before "(a)" in subsection (a) the following: "Sec. 515."

(12) The following headings are inserted in title V of the Public Health Service Act after the section 515 inserted by paragraph

"PART C-MISCELLANEOUS PROVISONS RELAT-ING TO ALCOHOL ABUSE AND ALCOHOLISM AND DRUG ABUSE

Subpart 1-Provisons Relating to Alcohol Abuse and Alcoholism".

(13) Sections 301, 201, 321, and 333 of the Comprehensive Alcohol Abuse and Alcohol-ism Prevention, Treatment, and Rehabilitation Act of 1970 are transferred to the part C of title V established by paragraph (12), redesignated as sections 520, 521, 522, and 523, respectively, and amended as follows:

(A) Section 520 (as so redesignated) is amended-

(i) by striking out "the Institute" in subsection (a) and inserting in lieu thereof "the National Institute of Alcohol Abuse and Alcoholism'

(ii) by striking out "section 321" in subsection (a)(4) and inserting in lieu thereof "sec-

tion 522", and

(iii) by striking out "under this Act and under the Drug Abuse Prevention, Treat-ment, and Rehabilitation Act" and inserting in lieu thereof "under this title"

(B) Section 521 (as so redesignated) is

amended-

(i) by striking out "section 413(b) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act" in subsection (b)(4) and in-

serting in lieu thereof "section 525",
(ii) by striking out "title" in subsection (d)
and inserting in lieu thereof "section", and

(iii) by striking out subsection (e).

(C) Section 522 (as so redesignated) is amended by striking out "of the Public Health Service Act" in subsection (a).

(14) The following heading is inserted in part C of title V of the Public Health Service Act after section 523 (as so redesignated):

#### "SUBPART 2-PROVISIONS RELATING TO DRUG ABUSE".

(15) Section 502 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the heading inserted by paragraph (14), redesignated as section 524, and amended—

(A) by striking out "The Director" in subsection (a) and inserting in lieu thereof "The Director of the National Institute on

Drug Abuse"

(B) by striking out ", to promote the pur-

poses of this Act," in subsection (b)(2), (C) by striking out "section 407" in subsection (d) and inserting in lieu thereof "section 526".

(D) by striking out "under this Act and under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (d) and inserting in lieu thereof "under this

(E) by striking out the section heading and inserting in lieu thereof: "Technical Assistance to State and Local Agencies", and

(F) by inserting before "(a)" in subsection (a) the following: "Sec. 524.".

(16)(A) Section 413 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act is transferred to title V of the Public Health Service Act, inserted after the section 524 inserted by paragraph (15), redesignated as section 525, and amended-

(i) by striking out the section heading and

inserting in lieu thereof:

### "DRUG ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES";

(ii) by inserting before "(a)" the following: 'Sec. 525."; and

(iii) by striking out "section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970" in subsection (b)(4) and inserting in lieu thereof "section 521"

(B) Sections 407 and 408 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act are transferred to title V of the Public Health Service Act, inserted after the section 525 inserted by subparagraph (A), redesignated as sections 526 and 527 and amended as follows:

(i) Section 526 (as so redesignated) is amended-

(I) by striking out the section heading and inserting in lieu thereof:

"ADMISSION OF DRUG ABUSERS TO PRIVATE AND PUBLIC HOSPITALS";

and

(II) by inserting before "(a)" in subsection (a) the following: "Sec. 526.".

(ii) Section 527 (as so redesignated) is

amended-

(I) by striking out the section heading and inserting in lieu thereof:

"CONFIDENTIALITY OF PATIENT RECORDS"

(II) by inserting before "(a)" in subsection (a) the following: "Sec. 527."; and (III) by striking out "of Health and Human Services" in subsection (g).

(c)(1) Sections 102, 103, and 502 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 are repealed.

(2) Sections 405 and 504 of the Drug Abuse Prevention, Treatment, and Rehabili-

tation Act are repealed.

(d) Title V of the Medical Facilities Construction and Modernization Amendments of 1970 (Public Law 91-296) is repealed.

ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH REPORTS BY THE SECRETARY

SEC. 103. (a) The Secretary of Health and Human Services shall submit to the Congress, on or before January 15, 1984, report describing the extent to which Federal and State programs, departments, and agencies are concerned and are dealing effectively with-

(1) the problems of alcohol abuse and alcoholism.

(2) the problems of drug abuse, and (3) mental illness.

(b) The report required by subsection (a) shall include information with respect to the services provided for alcohol abuse, alcoholism, drug abuse, and mental health under part B of title XIX of the Public Health Service Act. To obtain information respecting such services, the Secretary shall work with appropriate national organizations to ensure that State and local governments use compatible means of collecting data respecting such services so that uniform national data with respect to the provision of such services will be available to the States and to the Secretary.

(c) In compling data for the report required by subsection (a), the Secretary may not require any State to submit any infor-mation which is not required under section 1916(a) of the Public Health Service Act.

### DRUG ABUSE STRATEGY REPORT

SEC. 104. (a) Section 305 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1165) is amended to read as follows:

"§ 305. Report.

"The President shall submit to the Congress, on or before August 1, 1984, and every two years thereafter, a written report de-scribing the strategy. The report shall specify the objectives, nature, and results of the strategy and shall contain an accounting of funds expended under title II.".
(b) Section 207 of such Act (21 U.S.C.

1117) is repealed.

#### TITLE II-HEALTH PLANNING **AMENDMENTS**

### HEALTH PLANNING AMENDMENTS

SEC. 201. (a)(1) This title may be cited as "Health Planning Amendments of

(2) Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

(b)(1) Section 1512(b)(2)(A) (42 U.S.C. 3001-1(b)(2)(A)) is amended—

(A) by striking out "shall have a staff" and inserting in lieu thereof "shall, to the extent practicable, have a staff", and (B) by striking out "at least".

(2) Section 1512(b)(2)(B) is amended—

(A) by striking out "not less than five" and inserting in lieu thereof "not less than

(B) by striking out "rounded to the next highest" and inserting in lieu thereof

highest" and inserting in lieu thereof "rounded to the nearest", and (C) by striking out "one hundred thousand" each place it occurs and inserting in lieu thereof "three hundred thousand".

(c) Section 1513(f) (42 U.S.C. 3001-2(f)) is amended by striking out "shall review" and inserting in lieu thereof "shall, upon the request of the appropriate State health planning and development agency, review".
(d)(1) Section 1515(b)(2) (42 U.S.C 3001-

4(b)(2)) is amended-

(A) by striking out "(which, except as otherwise provided in this paragraph, may not exceed twenty-four months)", and

(B) by striking out the second, third, and

fourth sentences

(2) Section 1515(b) is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(c) Section 1515(c)(3)(B) is amended—
(A) by striking out "for a period not to exceed twelve months" in the first sentence, and

(B) by striking out the second sentence. (3) Section 1515(d) is amended by striking out "another entity" and inserting in lieu thereof "an entity". (d) Section 1516(c) (42 U.S.C. 3001-5(c)) is

amended by striking out paragraph (2).
(e)(1) Section 1521(b)(2) (42 U.S.C 300m(b)(2)) is amended by striking out the second and third sentences of subparagraph (B) and by striking out "or by the secretary upon ninety day's notice to the Governor

in subparagraph (C).
(2) Section 1521(b)(4)(B) is amended—

(A) by striking out "for a period not to exceed twelve months" in the first sentence,

(B) by striking out the second sentence (3)(A) The first sentence of section 1521(b)(2)(B) (42 U.S.C. 300m(b)(2)(B)) is amended by striking out "the period set forth in subsection (d)(1)(3)" and inserting

in lieu thereof "March 31, 1985" (B) Section 1521(d) is repealed.

(f) Section 1523(a)(6) (42 U.S.C. 300m-2(a)(6)) is amended (1) by striking out "Review" and inserting in lieu thereof 'Review, to the extent feasible and", and (2) by inserting a comma before "at least

(g)(1) Section 1531(5) (42 U.S.C. 300n(5)) is amended by striking out "\$250,000" each place it occurs and inserting in lieu thereof

\$500,000"

(2) Section 1531(6) is amended by striking out "\$600,000" each place it occurs and inserting in lieu thereof "\$1,000,000".

(3) Section 1531(7) is amended by striking out "\$400,000" each place it occurs and inserting in lieu thereof "\$500,000".

(h) Section 1537 (42 U.S.C. 300n-6) is

amended to read as follows:

"AUTHORIZATIONS FOR FISCAL YEAR 1983 "SEC 1537. The following amounts are au-

thorized to be appropriated for fiscal year

"(1) \$42,000,000 for grants and contracts under section 1516(a).

"(2) \$21,400,000 for grants and contracts under section 1525(a).

"(3) \$1,500,000 for grants and contracts under section 1534(a).'

(i) Title XV is amended by adding at the end the following:

#### "REPEAL OF TITLE

"SEC. 1538. (a) Effective March 31, 1985, this title is repealed.

"(b) The repeal specified in subsection (a) shall not affect any suit, action, or other proceeding lawfully commenced before the effective date of such repeal, and all such suits, actions, and proceedings shall be continued, proceedings therein had, appeals therein taken, and judgments therein rendered, in the same manner and with the same effect as if subsection (a) had not been enacted.".

### TITLE III-MISCELLANEOUS **AMENDMENTS**

#### MISCELLANEOUS

SEC. 301. (a)(1) Section 311(c)(4) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4577(c)(4)) is amended by inserting "(including Native Hawaiians and Native American Pacific Islanders)" after "Native American".

(2) Section 18(b)(10) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979 (42 U.S.C. 4541 note) is amended by inserting "Native Hawaiians, Native American Pacific Islanders," after

Alaskan Natives.

(3) Section 410(d) of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1177(d)) is amended by striking out "native Americans" and inserting in lieu thereof "Native Americans (including Native Hawaiians and Native American Pacific Islanders)".

(b) Section 475(a) of the Public Health Service Act (42 U.S.C. 2891-4(a)) is amended (1) by striking out "the Directors of the National Institute of Mental Health, the Na-tional Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse and", and (2) by striking out ", the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug

Abuse," in paragraph (2).
(c)(1) Title 35, United States Code, is amended by adding after section 154 the fol-

lowing new section:

"\$155. Patent term extension "(a) Notwithstanding section 154, the term of each of the following patents shall

be extended in accordance with this section: "(1) Any patent which encompasses within its scope a composition of matter which is a new drug product if during the regulatory review of the product by the Federal Food and Drug Administration-

(A) the owner of record of the patent for such product was notified by the Federal Food and Drug Administration on February 20, 1976, that such product's application was not approvable under section 505(b)(1) of the Federal Food, Drug, and Cosmetic Act;

"(B) the owner of record of the patent conducted a health effects test to evaluate the carcinogenic potential of the product;

"(C) the product was approved on December 18, 1979, under section 505(b)(1) of such Act: and

(D) the facility for the production of the product was approved by the Federal Food and Drug Administration on May 26, 1981.

"(2) Any patent which encompasses within its scope a process for using the composition of matter described in paragraph

The term of any patent described in paragraph (1) or (2) shall be extended for a period equal to the period beginning February 20, 1976, and ending May 26, 1981.

'(b) The owner of record of any patent described in subsection (a), his heirs, successors, or assigns, shall notify the Commissioner of Patents and Trademarks within ninety days of the date of enactment of this section of the number of the patent to be extended. On receipt of such notice, the Commissioner shall promptly issue to the owner of record of each patent to be extended a certificate of extension, under seal. stating the fact and length of the extension and identifying the composition of matter or process for using such composition to which such extension is applicable. Such certificate shall be recorded in the official file of each patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.'

(2) The analysis for chapter 14 of such title 35 is amended by adding at the end the following:

"155. Patent term extension.".

(d) Section 1804 of the Public Health Service Act (42 U.S.C. 300 b-3) is amended-

(1) by striking out "for the fiscal year ending September 30, 1982" in subsection (a) and inserting in lieu thereof "for the period beginning October 1, 1981, and ending March 31, 1983"; and (2) by striking out "December 31, 1982" in

subsection (b) and inserting in lieu thereof

'March 31, 1983".

(e) Section 1926(a)(4)(A) of the Public Health Service Act (42 U.S.C. 300y-5(a)(4)(B)) is amended by adding at the end the following: "For purposes of this paragraph, the term 'State funds' does not include any funds collected from patients or third-party payors by a community health center for the provision of health care services.

(f) Section 709(d) of the Public Health Service Act (42 U.S.C. 2921) is amended to

read as follows:

"(d) Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title."

Mr. WAXMAN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from California?

Mr. MADIGAN. Mr. Speaker, reserving the right to object, I do so for the purpose of asking the gentleman from California to explain first exactly what the Senate amendment does and then also to explain the House amendment.

Mr. WAXMAN. Mr. Speaker, will

the gentleman yield?
Mr. MADIGAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, earlier this year the House passed H.R. 6458, a bill which reauthorizes appropriations for Federal alcohol and drug abuse research programs. Later, the other body passed a similar bill.

I am pleased to announce that we have been able to settle our differences with the Senate without going to conference. I am proposing today an amendment that embodies our

agreement.

The amendment provides for a 2year authorization of appropriations for the research activities of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse. In addition, the amendment repeals or consolidates conflicting and outdated reporting requirements and increases the Federal emphasis upon research into alcohol and drug abuse prevention.

This compromise was reached because of the strong commitment by both House and Senate Members to strengthen two areas of health research which are essential to reducing the economic, social, and health costs

of alcoholism and drug abuse.

Drug and alcohol abuse seriously threaten the health and welfare of our citizens, stunt educational growth of our young people, and reduce the productivity of our workforce. If we are to lessen the effects and reduce the frequency of alcohol and drug abuse, a national commitment to a strong research agenda is critical.

The framework for such an agenda was contained in H.R. 6458 when it passed the House. That commitment is further strengthened by the productive contributions of our Senate col-

leagues.

The compromise extends for 2 years the authorization of appropriations for research activities of the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism. The levels authorized reflect substantial increases over fiscal year 1982 funding but are consistent with the administration's policy and objectives for increasing research in these areas over the next 2 fiscal years

Although I would have preferred a longer, 3-year extension as contained in the original House passed bill, the Senate's request for a shorter period was not unreasonable in view of the major funding increases provided for

these programs.

The compromise also consolidates alcohol and drug abuse reporting requirements consistent with the original House bill. Several outdated reporting requirements have been repealed and others consolidated into two triennial reports submitted to the Congress.

Our agreement, like the original House bill, increases the emphasis upon prevention research by establishing a new position of Associate Administrator for Prevention within the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA). The Associate Administrator is charged with promoting and coordinating prevention activities sponsored by the Na-tional Institute of Mental Health (NIMH), National Institute on Drug Abuse (NIDA) and the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

The original bill also contained the requirement that each of the three ADAMHA research institutes establish an office to administer prevention research activities. These provisions have been removed and replaced by an annual report to Congress which details the prevention and health promotion activities of the agency. If prevention research activities are substantially increased during the 2 year authorization of this legislation, the establishment of individual prevention offices may not be necessary.

The House amendment also contains three provisions which would:

First, extend the patent term for a new drug product;

Second, make technical amendments to the health planning program; and

Third, extend the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research for 3 months.

Mr. Speaker I urge support for the House amendment and insert in the RECORD at this point an explanation of the research portions of the proposed compromise and a section-by-section analysis of technical amendments to, the health planning program.

EXPLANATION-HOUSE-SENATE COMPROMISE AGREEMENT

H.R. 6458-TITLE I, ALCOHOL AND DRUG ABUSE AMENDMENTS OF 1982

The proposed compromise agreement on H.R. 6458 provides for a two year extension of Federal research activities sponsored by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA). NIAAA and NIDA are research institutes of the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) which is an agency of the Department of Health and Human Services. The House had authorized a three year extension of alcohol and drug abuse research authorities. The Senate had authorized a two year extension.

### TECHNICAL REVISIONS

The principle purposes of ADAMHA and its three institutes are in the areas of research and education. The appropriate locus of the authority for these activities and relevant administrative entities is the Public Health Service Act (PHSA). The compromise consolidates Federal alcohol, drug abuse and mental health research activities and miscellaneous alcohol and drug abuse authorities within Title V of the PHSA.

In consolidating these authorities into a single Title of the PHSA, a careful analysis of the role of ADAMHA within the Public Health Service was conducted. The role of ADAMHA within the U.S. Public Health Service is unique. Although these activities include a strong biomedical component, its research and education functions involved social and behavioral disciplines that provide an important linkage between the social service and health fields.

The technical revision and consolidation of alcohol, drug abuse and mental health authorities within Title V of the Public Health Service Act reflects the Congress' support for maintaining ADAMHA as a discrete and independent agency of the U.S. Public Health Service.

#### PREVENTION

Increasing concern has been noted over the inadequate level of research and other support within the National Institute of Mental Health (NIMH), the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and the National Institute on Drug Abuse (NIDA) for prevention research and prevention activities. The predominant program emphasis within the institute involves basic research activities or those relating to the treatment of mental illness, or alcohol and drug abuse. While these activities are appropriate priorities for the research mission of the Alcohol Drug Abuse Mental Health Administration (ADAMHA), identifiable prevention research in high priority areas should be increased and made a management objective of each institute.

The compromise establishes an administrative structure for expanding the prevention related activities of the ADAMHA. H.R. 6458 establishes a new position of Associate Administrator for Prevention within the ADAMHA administrative structure and requires the Administrator to submit annual report to the Congress describing and providing a detailed statement of expenditures for prevention activities of the

NIMH, NIAAA and NIDA.
The Associate Administrator for Prevention is responsible for promoting and coordinating the prevention related programs of the three ADMAHA research institutes. These activities include not only prevention research but also activities in education, preventive medicine and health promotion which may be conducted under authorities other than Title V of the Public Health Service Act.

The Associate Administrator for Prevention is charged with primary staff responsibility for preparation of the annual prevention report required by Section 2(b)(1) of H.R. 6548. Although the responsibilities of the new Associate Director are intended to be predominantly those outlined in statute. the Administrator of ADAMHA is authorized to assign other responsibilities consistent with the effective management of the

Administration.

The annual report submitted to Congress by the ADAMHA Administrator will be an important measurement of the Administration's compliance with congressional directives to increase prevention activities and the emphasis upon research in prevention. Significant progress is expected in delineating the scope of mental health, alcohol and drug abuse prevention activities as well as expanding the level of Federal financial support for prevention research relative to other research priorities.

### INFORMATION DISSEMINATION

The rapid growth in the past several years of the private voluntary sector working to prevent alcohol and drug abuse, particularly among our young people, has substantially increased the demand for accurate up-todate publications on alcohol and drug abuse.

Unfortunately, this demand has not been adequately met. Not only have available supplies of publications distributed by NIAAA and NIDA diminished, but some of the publications available have included dated and consequently erroneous information concerning alcohol and drug abuse.

It is imperative that the Institutes set a high priority on the dissemination of accurate up-to-date information to meet the needs of the public. Accordingly, H.R. 6458 specifically charges the Administrator of ADAMHA with ensuring the widespread dissemination of current and accurate publications of the NIAAA and NIDA.

In view of the critical need for these publications, the Committee believes that any general moratorium on government publications which may be imposed by the Office of Management and Budget or the Department of Health and Human Services should not apply to the dissemination of materials on the adverse health effects of alcohol and drug abuse.

#### MARTITIANA RESEARCH

The compromise increases the authorization of appropriations for research conducted by the National Institute on Drug Abuse (NIDA). H.R. 6458 authorizes \$46.356 million in Fiscal Year 1983 and \$56.175 million in Fiscal Year 1984. In the use of these additional funds the Institute should consider expanding its support of research into the

health effects of marijuana.

In the February 1982 report, "Marijuana the Institute of Medicine Health," (IOM) concluded a 15 month study on the health effects of marijuana. The report concluded that the effects of marijuana on human health "justified serious national concern." The IOM noted that what is currently known about the health effects was inadequate. In view of the extensive use of marijuana by young people, particularly teenagers, the IOM recommended that the Federal government increase its support of investigator initiated research grants.

The NIDA is the principal Federal research agency involved in marijuana research. In view of the increased level of Federal support for drug abuse research anticipated in Fiscal Year 1983 and Fiscal Year 1984, efforts should be made to expand the agency's marijuana research base into those high priority areas outlined in the IOM study. Particular attention, consistent with the availability of high quality proposals, should be focused on resolving conflicting data concerning chronic or irreversible effects of marijuana on the central nervous system and on behavioral or personality changes such as those frequently referred to as the "amotivational syndrome."

### SUMMARY OF HEALTH PLANNING AMENDMENTS TITLE II OF H.R. 6458

Subsec. (a).-Provides that the provisions of the section amend the Public Health Service Act.

Subsec. (b).—Amends Sections 1512(b)(2) (A) and (B) to reduce required Health Systems Agency staff from five overall and one per hundred thousand residents of the area to three overall and one per three hundred thousand residents of the area. This section codifies a policy in effect in 1982 and 1983 under provisions of the Supplemental Appropriations bill in 1982 and the Continuing Resolution in 1983.

Subsec. (c).-Amends subsection 1513(f) to provide that HSAs shall review and make recommendations concerning new institutional health services upon the request of

the appropriate State agency. Currently HSAs are required to perform such reviews.

Subsec. (d).—Consists of four amendments to Section 1515 regarding designation of Health Systems Agencies:

(1) amends paragraph (b)(2) to remove the limit on the period during which a HSA may be conditionally designated. Currently such

period is limited to 36 months.

(2) deletes paragraph (b)(3) which provides authority for the Secretary to terminate a conditionally designated HSA upon 90-day notice.

(3) amends subparagraph (c)(3)(B) remove the limit on the period during which an HSA which has previously been fully designated may be conditionally designated. Currently such period is limited to 12 months.

(4) amends subsection (d) to permit the same entity to be redesignated as an HSA Present law only allows the designation of

another entity.
Subsec. (e).—Amends Section 1516 by deleting paragraph (c)(2) which permits the Secretary to reduce amounts provided to HSAs. This provision will assure that grants to HSAs will continue to be made under the same formula used in previous years.

Subsec. (f).-Includes three amendments to Section 1521 with regard to the designa-

tion of State agencies.

(1) deletes the provisions of subparagraph (b)(2)(B) which require conditionally designated State agencies to progressively increase their functions. Also deletes provisions of subparagraph (b)(2)(C) which provide authority for the Secretary to terminate a conditionally designated State agency upon 90 days notice.

(2) amends subparagraph (b)(4)(B) to provide that there is no limit to the period during which a State agency which has previously been fully designated may be conditionally designated. A State agency re-turned to conditional designation is now limited to 12 months in such status

(3) amends subparagraph (b)(2)(B) and deletes subsection (d) to provide that a State agency may be conditionally designated until March 31, 1985. State agencies may now be conditionally designated, generally, only through January of 1983. Also repeals the penalty of loss of funds for programs under the Public Health Service Act for States without a fully designated agency.

Subsec. (g).-Amends Section 1526(a)(6) to require State agencies to review the appropriateness of currently offered institutional health services only to the extent such review is feasible. Under present law, State agencies must conduct such reviews.

Subsec. (h).-Amends Section 1531 to increase the value of projects that the State Certificate-of-Need programs must review. Specifically, the value of capital expenditues is increased to \$1,000,000 from \$600,000, the annual operating costs of institutional health services are increased to \$500,000 from \$250,000, and the value of major medical equipment is increased to \$500,000 from \$400,000.

Subsec. (1).—Authorized the following amounts for FY 1983:

(1) \$42,000,000 for grants to HSA's under Sec. 1516 (a):

(2) \$21,400,000 for grants to State Health Planning and Development Agencies under Sec. 1525 (a); and

(3) \$1,500,000 for grants and contracts for Centers for Health Planning under Sec. 1534 (a).

Subsec. (j).-Repeals Title XV as of March 31, 1985.

Subsec. (k).-Provides that a State may not use funds collected by a community health center from patient services to match Federal funds for the primary care block grant.

Sec. (1).-Provides authority for funds appropriated under Title VII to be used to provide technical assistance for Title VII pro-

Mr. MADIGAN. Specifically I would like to ask the gentleman if the Senate amendment does in fact provide lower authorization levels than were contained in the House bill and provides for a 2-year authorization rather than the 3-year authorization contained in the House bill?

Mr. WAXMAN. The gentleman is correct.

Mr. MADIGAN. And specifically with regard to the House amendment being considered now I would ask the gentleman if in fact what that House amendment contains is the text of two bills already passed by the House, one dealing with health planning that passed by a vote of 302 to 14, and the other dealing with the extension of the Biomedical Commission which was passed by the House by a unanimous voice vote?

Mr. WAXMAN. The gentleman is correct that these provisions are consistent with the bills which previously

were passed by the House.

Mr. MADIGAN. So the purpose of adding the House amendment is primarily to provide a vehicle to get action by the other body on bills the House has already enacted by overwhelming votes?

Mr. WAXMAN. Yes, the gentleman

is correct.

Mr. MADIGAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure just considered.

The SPEAKER pro tempore. there objection to the request of the gentleman from California?

There was no objection.

### IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. RODINO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from New Jersey (Mr. RODINO).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STANGELAND, Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were-ayes 212, noes 65, not voting 156, as follows:

	[Roll No. 472]	
	AYES-212	
Anderson	Gibbons	Oberstar
Andrews	Gilman	Obey
Annunzio	Gingrich	Panetta
Applegate	Ginn	Pease
Aspin	Glickman	Pepper
AuCoin Bafalis	Gore	Perkins
Barnard	Green Grisham	Petri Peyser
Bedell	Gunderson	Pickle
Beilenson	Hall (IN)	Porter
Benedict	Hall, Ralph	Price
Bennett	Hall, Ralph Hall, Sam	Pritchard
Bereuter	Hamilton	Quillen
Bethune	Hammerschmidt	
Bevill	Hance	Ratchford
Biaggi	Harkin	Regula
Bliley	Hefner	Reuss
Boggs Boland	Heftel Hightower	Rinaldo Ritter
Bouquard	Hillis	Rodino
Bowen	Howard	Roemer
Brinkley	Hoyer	Rostenkowsk
Brodhead	Hughes	Roth
Brooks	Hunter	Roukema
Brown (CO)	Hyde	Rudd
Broyhill	Jeffords	Russo
Butler	Jenkins	Sabo
Carman	Jones (OK)	Sawyer
Cheney	Jones (TN)	Scheuer
Clausen Clinger	Kastenmeier Kennelly	Schumer Seiberling
Coelho	Kildee	Shamansky
Collins (TX)	Kogovsek	Shannon
Conable	Kramer	Sharp
Conte	LaFalce	Siljander
Corcoran	Lagomarsino	Simon
Courter	Lent	Smith (IA)
Crane, Daniel	Levitas	Smith (NE)
Crane, Philip	Livingston	Smith (NJ)
Daniel, R. W. Daschle	Lowry (WA)	Snowe
Davis	Lungren Madigan	Solarz Spence
de la Garza	Markey	Staton
Dellums	Marlenee	Stokes
DeNardis	Mattox	Stratton
Dicks	Mazzoli	Studds
Dingell	McClory	Tauke
Donnelly	McCloskey	Tauzin
Dorgan	McCollum	Taylor
Dornan	McDade	Traxler
Dowdy	McHugh	Trible
Downey Dreier	Mica Michel	Volkmer
Duncan	Mikulski	Walgren Watkins
Dyson	Miller (CA)	Waxman
Early	Miller (OH)	Weiss
Eckart	Mineta	White
Edgar	Minish	Whitley
English	Mitchell (MD)	Whittaker
Erlenborn	Mitchell (NY)	Whitten
Evans (IN)	Moakley	Wilson
Fenwick	Molinari	Winn
Ferraro Findley	Montgomery	Wirth
Findley Fish	Moore Moorhead	Wolf Wolpe
Fithian	Mottl	Wortley
Foley	Napier	Wright
Ford (MI)	Natcher	Wyden
Ford (TN)	Neal	Wylie

### NOES-65

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	Conyers
	Coyne, James
p	Dannemeyer
	Daub
	Dickinson

Nelligan

Ford (TN)

Gephardt

Bailey (MO)

Brown (OH)

Burton, Philli

Gaydos

Edwards (CA) Edwards (OK) Evans (IA) Fazio

Wylie

Zablocki

Fiedler Loeffler Fields Lott Fountain Luian Frenzel Marriott Martin (NC) Frost Gonzalez Matsui McDonald Goodling Hansen (ID) McEwen Hansen (UT) McGrath Morrison Hendon Myers Pashayan Hopkins Patman Johnston Patterson Kazen Paul Roberts (KS) Latta Leland Roberts (SD)

Robinson Roybal Sensenbrenner Skeen Smith (AL) Smith (OR) Solomon Stangeland Stark Stenholm Stump Walker Wampler Weber (MN) Young (FL)

#### NOT VOTING-156

Addabbo	Fascell	McCurdy
Akaka	Flippo	McKinney
Albosta	Florio	Moffett
Alexander	Foglietta	Mollohan
Anthony	Forsythe	Murphy
Archer	Fowler	Murtha
Ashbrook	Frank	Nelson
Atkinson	Fugua	Nichols
Badham	Garcia	O'Brien
Bailey (PA)	Gejdenson	Oakar
Barnes	Goldwater	Ottinger
Beard	Gradison	Oxley
Bingham	Gramm	Parris
Blanchard	Gray	Pursell
Bolling	Gregg	Rahall
Boner	Guarini	Railsback
Bonior	Hagedorn	Rhodes
Bonker	Hall (OH)	Roe
Breaux	Hatcher	
Broomfield		Rose
	Hawkins	Rosenthal
Brown (CA)	Heckler	Rousselot
Burgener	Hertel	Santini
Burton, John	Holland	Savage
Byron	Hollenbeck	Schneider
Campbell	Holt	Schroeder
Chappell	Horton	Schulze
Chisholm	Hubbard	Shaw
Clay	Huckaby	Shelby
Coats	Hutto	Shumway
Coleman	Ireland	Shuster
Collins (IL)	Jacobs	Skelton
Coughlin	Jeffries	Smith (PA)
Coyne, William	Jones (NC)	Snyder
Craig	Kemp	St Germain
Crockett	Kindness	Stanton
D'Amours	Lantos	Swift
Daniel, Dan	Leach	Synar
Deckard	Leath	Thomas
Derrick	LeBoutillier	Udall
Derwinski	Lee	Vander Jagt
Dixon	Lehman	Vento
Dougherty	Lewis	Washington
Dunn	Long (LA)	Weaver
Dwyer	Long (MD)	Weber (OH)
Dymally	Lowery (CA)	Whitehurst
Edwards (AL)	Luken	Williams (MT)
Emerson	Lundine	Williams (OH)
Emery	Marks	Yates
Ertel	Martin (IL)	Yatron
Evans (DE)	Martin (NY)	Young (AK)
Evans (GA)	Martinez	Young (MO)
Fary	Mavroules	Zeferetti

### □ 2220

Mr. RALPH M. HALL changed his vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

### IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 7357, with Mr. NATCHER in the

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. Rodino) will be recognized for 1 hour; the gentleman from New York (Mr. Fish) will be recognized for 1 hour; the gentleman from California (Mr. MILLER) will be recognized for 1 hour; the gentleman from Illinois (Mr. ERLENBORN) will be recognized for 1 hour; the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. WAM-PLER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from New Jersey RODINO), the chairman of the commit-

Mr. RODINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, 10 years ago I took this well and implored my colleagues to adopt legislation which would respond to the serious problem of undocumented aliens.

It was evident to me then, based on extensive hearings I and my Immigration Subcommittee held around the country, that undocumented aliens were being exploited by unscrupulous employers, by landlords, and by many others who were quick to take advantage of their precarious immigration status and their fear of being turned over to the Immigration Service.

While we can debate at length the causes of this problem and possible solutions to it, there are certain basic facts which cannot be debated.

My subcommittee found at that time clear evidence that it was common practice for employers to threaten undocumented aliens with exposure if they complained about substandard wages and working conditions or the denial of fringe benefits.

We heard from many witnesses who indicated that unscrupulous employers would frequently make a convenient call to INS right before payday in an effort to have their undocumented workers apprehended and removed from this country before they were paid. In fact, I recall a study conducted by the Mexican Government at that time which indicated that 67 percent of the aliens returned to Mexico were not paid regularly or were owed wages at the time of their deportation.

Others who were the victims of crime were fearful of reporting these incidents to law enforcement authorities due to their fear of detection and deportation.

Since that time-the early seventies—the problem has grown much worse. Instead of the 1 or 2 million undocumented aliens estimated to be in this country in 1972, current guesstimates range from 3 to 12 million. Further, many employers, bolstered by our Government's failure to address this serious national problem, no longer hide the fact that they are employing undocumented aliens. While

many have argued that these aliens are merely doing the "dirty work" that Americans will not accept, it is clear that some displacement of U.S. workers does occur and that the presence of large numbers of such aliens has a direct effect on depressing wages and working conditions in a particular locality or industry.

Clearly, the undocumented alien has become the unfortunate victim of the failure of this Government and the Congress to resolve this intolerable sit-

In recent years we have also witnessed the development of sophisticated smuggling organizations which recruit and deliver undocumented aliens to employers throughout the United States. In some cases, this trafficking in Human Cargo has resulted in the tragic death of aliens who are left to die in the desert or to smother in packed vans or trailers.

If they are successful in entering the United States-which some smugglers now guarantee-they become a docile and readily exploitable "shadow population" which lives in constant fear of

detection.

After a detailed examination of this problem, the Immigration Subcommittee concluded in 1972 that the status quo was unacceptable and that immediate action was warranted to eliminate the widespread victimization of this vulnerable subclass and to reduce the unfair competition that they presented to American workers.

This body agreed with our committee's basic recommedation that the only humane, reasonable, and effective way of dealing with this problem "demagnetize the magnet" was to which brings them here. This would be done by imposing civil and criminal sanctions on those employers who knowingly hire undocumented aliens. It should be emphasized that this legislation is not intended as a punitive measure against either employers or undocumented aliens. In fact, the committee believes that, by and large, most employers are law-abiding citizens, and when it becomes known that it is a violation of Federal law to employ undocumented aliens, most employers will immediately discontinue this practice.

Further, the committee has consistently resisted efforts to impose additional penalties on aliens who enter this country illegally or who remain here and accept employment after their nonimmigrant visas expire. The committee believes that additional sanctions on undocumented aliens would be inhumane and serve no useful purpose, since the vast majority of such persons enter this country for the sole purpose of sustaining them-

selves and their families.

The House overwhelmingly approved employer sanctions bills which authored in the 92d and 93d Con-

gresses, but regrettably the Senate did not act on those proposals. As a result, we have now lost 10 years in our efforts to bring this problem under control. And the problem has become one that cannot be swept under the rug. It will not go away. The illegal entrants will grow to such numbers that one day the problem will be beyond solution.

As I have stated on numerous occasions, further delays will in effect continue the current situation of an underground and exploitable segment of our population-beyond the protection of our laws-which by all accounts numbers in the millions.

As a result, I do not believe this Government and the Congress should tolerate further delay in responding to this urgent situation. It is a reality we have got to face.

I certainly understand the concerns that have been traditionally expressed by the opponents of employer sanctions legislation. Civil liberty groups worry about discrimination and national identifiers, as well as the prospect of massive deportations. Employer groups maintain that they should not be charged with the responsibility for enforcing our immigration laws. Others worry that legalization rewards lawbreakers.

These are all legitimate concerns, specifically since we are to a great extent entering into "unchartered waters." But I must stress that the bill has not ignored these concerns. In fact, it addresses each and every one of them.

It endorses good faith employers that they will be protected, and it contains numerous safeguards to insure that the potential of national origins employment discrimination is minimized.

Our committee was extremely diligent in assuring that mechanisms to monitor discrimination were included and that the bill would not be interpreted as authorizing the creation of a national identifier.

Further, the sanctions program should be welcomed by well-intentioned and fair-minded employers who are not seeking to hide behind the hypocritical augment that any sanctions may have a foreign appearance or who does not have total command of the English language.

Other employers argue that sanctions will create an onerous paperwork requirement. This is not the case under the bill and I am pleased to see that the Business Roundtable and the National Association of Manufacturers have come out in support of this legislation.

It is also my firm view that employer sanctions must be coupled with a reasonable legalization program. All who have closely studied this issue, including several executive branch

forces, as well as the Select Commission on Immigration and Refugee Policy, have reached this conclusion. Let us face it, that without a fair employer sanctions provision, there will never be any legalization. Nor would I support a measure that does not also provide for legalization.

Many of these persons living in an underground subculture have been here for many years and have become assimilated in their communities. Many have U.S.-born children who are attending our schools and probably know no other language but English. Many are law-abiding, upstanding residents paying their taxes and meeting their civic obligations, much as you and I are doing. We must address their situation with justice and fairness.

Without a legalization provision to accompany the employer sanctions program, we would be closing our eyes to this most difficult humanitarian problem. There is certainly no way, nor would we wish it, to round up thousands and thousands of people and deport them without considering each individual's circumstances.

I know it is a difficult and controversial subject for many of my colleagues, but we must face the situation realistically and resolve this problem once and for all. We have seen the problem worsen each year since 1972. Unless we take remedial action now, we will certainly face graver problems as each year passes.

Legalization will permit honest, hard-working persons who have developed substantial equities while living and working in this country to come out into the light of day and participate fully and openly in our social and political system. It would restore their pride in themselves and free them from the haunting fear of disclosure.

The bill as originally brought to the Judiciary Committee in September contained provisions calling for major revisions of the legal immigration portion of the Immigration and Nationality Act—the reshaping of our preferences and numerical limits on immigration.

In my opinion, and as a result of my long experience in dealing with this subject, I felt that before we could seriously address basic changes in our preference system, we must review the impact of the legalization program with regard to potential numbers of legal residents and relatives affected by this provision. For this reason, I offered an amendment at the committee markup to delete this section pending further study. This amendment was adopted. I hope that when we have had an opportunity to review the impact of legalization and the implementation of this legislation, we can return to a full consideration of this subject. We cannot undertake this until we have learned how many illegals will come forth and where they are.

The chairman and other members of the Immigration Subcommittee will discuss other specific provisions of the bill in greater detail. However, I would like to address briefly the adjudication and asylum provisions which are of deep interest to several Members.

I believe that the provisions in this bill have struck a delicate balance between advocates in favor of streamlining the adjudication process and those in favor of providing a full measure of due process. The provisions, in my judgment, are objective, fair, humanitarian, and above all, recognize our responsibilities under our international agreements relating to refugees.

If this Congress does not pass this bill, it will have missed an opportunity to address a problem of vital concern to the American people. This bill is a positive step toward injecting greater fairness and humanity into our immigration policies and establishing control over our borders.

This bill is supported by a diverse group of individuals and organizations, including several prominent national and local Jewish organizations, the U.S. Catholic Conference, the Business Roundtable, and the National Association Manufacturers.

Failure to approve this legislation will send a clear message to the American people and to aliens considering the possibility of entering this country illegally that the United States is not seriously interested in controlling its borders. We cannot let that happen, and I urge my colleagues' support of this meritorious legislation.

Mr. Chairman, at the appropriate time, I will ask permission to insert into the Record at this point numerous letters I have received supporting this bill or various provisions contained in it.

United States Catholic Conference, Washington, D.C., December 6, 1982. Hon. Peter Rodino,

House of Representatives, Washington, D.C.

Dear Mr. Chairman: On behalf of the United States Catholic Conference, the Catholic Bishops' national organization, I commend you for your efforts over the past thirty years to reform our immigration laws to make them more equitable and responsive to human needs. In recent months you have directed your energies to having your Committee report a comprehensive immigration reform act. As the bill enters the final phase of the legislative process, I wish to express some concerns about it.

Although the Conference continues to support H.R. 6514, it has serious reservations about some of its provisions and urges improvements if the bill is open to amendment on the House floor.

The Catholic bishops have always emphasized family reunification in their approach to immigration questions. They believe the family unit is the foundation both for a more humane society and for the integration of the immigrant into American culture. Therefore, the U.S. Catholic Confer-

ence strongly endorses your efforts to amend H.R. 6514 to increase the opportunities for family reunification through retention of certain family preference categories.

Like you, the Conference would also like to see the bill's legalization program made more generous by moving the cut-off date to January 1, 1982, I applaud your efforts in offering such an amendment in Committee, although unfortunately it did not pass. The Conference is also concerned about the pofor discrimination, particularly against Hispanic people, implicit in the legislation's employer sanctions provisions. Discrimination is present as well in the bill's denial to legalized aliens of benefits from Federal assistance programs based on financial need for at least three years. To place the legalized alien in a different, more restricted status than other admitted aliens in this way is against the tradition of equal treatment for all in this country. Finally, we are concerned that the proposed modifications of the "H-2" program will create another temporary worker system similar to the "Bracero" program of the past. It was a failure when tried before and should not be attempted again.

Once more, I thank you for your efforts to reform our immigration laws, particularly those dealing with family reunification, and assure you of full support for continued efforts to bring families together. Although USCC supports H.R. 6514, the Conference hopes for changes in the bill to prevent undue hardships to newly arrived aliens, permanent residents, and citizens of this country.

Sincerely yours, Rev. Msgr. Daniel F. Hoye, General Secretary.

THE AMERICAN JEWISH COMMITTEE,
December 10, 1982.

Dear Congressman: The American Jewish Committee considers the House Judiciary Committee's version (H.R. 7357) of the Immigration Reform and Control Act, slated to come before the House of Representatives for consideration shortly, to be a landmark measure.

We urge that members of the House approve this legislation because it rejects a single numerical limitation for the entry of immigrants and refugees, retains the generous provisions for family reunification contained in current immigration codes, and provides for a fair legalization and amnesty program.

In its deliberations on this legislation, we particularly urge that members of the House support these three provisions of the House Judiciary Committee's recommendation. We believe that such provisions will establish an orderly flow of entrants to the United States in a fashion consistent with the best humanitarian tradition and foreign policy interests of the United States.

First. The American Jewish Committee welcomes and strongly endorses the House Judiciary Committee's recommendation that the ceiling on normal flows of immigration, as contained in the Senate version is unnecessary. We are also pleased by the Committee's decision not to combine refugee and normal flow immigration under a single numerical ceiling. To place such limit on the number of refugees who could enter the United States by including refugee admission as part of the total number of people allowed into the United States each year would, under certain circumstances, close off avenues of escape to safe havens

and force refugees to remain in situations in which their lives are endangered.

Furthermore, this nation's ethnic and religious groups should not be compelled to contend for preference in admission for their counterparts abroad. This would happen if refugees were to be counted among the total number of people to be admitted to the United States each year.

Finally, such limitations would also reduce the flexibility of our State Department and Immigration and Naturalization Service to pursue our nation's aims and interests abroad.

Second. The Second and Fifth Preference categories, as contained in current immigration codes and as recommended by the House Judiciary Committee, should be retained. These provisions allow natives and naturalized American citizens to be reunited with close family members from abroad. Such reunifications are an expression of our nation's beliefs in the vital role that healthy and stable family lives and family values play in the creation of a free, productive and humanitarian society such as ours.

Third. A fair legalization and amnesty system to regularlize the status of immigrants who enter the United States illegally before certain dates, as provided for in the legislation under consideration, should be enacted. Such a measure is both practical and generous. Coupled with other measures that seek to ensure a more orderly flow of entrants in the future, legalization and amnesty will allow those who have established productive lives here to continue contributing to this society, free from fear of removal and disruption.

Like many others among the broad spectrum of our fellow citizens of differing ethnic, religious and cultural heritages, the American Jewish Committee believes that these three provisions contained in the House Judiciary Committee's version of the proposed legislation are the most important measures which ought to be enacted by the House of Representatives as it holds its deliberation.

Sincerely,

Dr. DONALD FELDSTEIN, Executive Vice President.

**AMERICAN JEWISH CONGRESS** New York, N.Y., December 9, 1982. Re H.R. 7357—Immigration Bill. Representative PETER W. RODINO, Jr., Chairman, Committee on the Judiciary, Washington, D.C.

DEAR CONGRESSMAN RODINO: I am writing on behalf of the American Jewish Congress to express our organization's support for the Immigration Bill now pending, in its present form, H.R. 7357.

We oppose any efforts that would change the preference system and favor the generous legalization/amnesty provisions now contained in the House bill.

We support your efforts to bring the bill to floor in its present form and urge you to assert your leadership in assuring no compromising or weakening amendments are added.

Most sincerely,

MARC A. PEARL Washington Representative. COUNCIL OF JEWISH FEDERATIONS, INC.

Washington, D.C., December 13, 1982. Hon. PETER RODINO,

Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: With reference to the Immigration and Refugee Act of 1982, presently scheduled for debate this week the Council of Jewish Federations, representing over 200 local federations nationwide, would like to thank you for your leadership in shaping a committee bill that addresses the legitimate concerns of the American people in a balanced and reasoned manner.

We are generally supportive of the Committee bill (H.R. 7357) and are especially pleased with the provision that maintains the current preference system and creates a generous legalization program. The Council would oppose attempts to weaken these pro-

Not included in the Committee bill are provisions relative to refugee admissions. We believe this is appropriate since procedures for refugee admissions and protections were adequately established in the Refugee Act of 1980.

However, amendments are expected to be offered on the floor that would (1) establish single numerical limits for immigrants and refugees combined and (2) provide for a congressional veto of refugee admissions above the "normal flow". We think both changes would be deterimental to refugees who enter the country via an orderly, legal process that may, in fact, be lifesaving. The Council supports your efforts to defeat these amendments.

Again, Mr. Chairman, we commend you and your Committee for your work on this

Sincerely.

MARK E. TALISMAN, Director.

THE AMERICAN JEWISH COMMITTEE, Millburn, N.J., November 29, 1982. Hon. PETER W. RODINO, Jr.,

Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN: The American Jewish Committee supports H.R. 6514, as reported out by the House Judiciary Committee. We urge passage of this bill.

On humanitarian grounds, we strongly support the family reunification orientation of the current immigration preference categories and oppose changes which would deny admissions preference to unmarried siblings of U.S. citizens and unmarried adult children of permanent resident aliens. We oppose attempts to impose a ceiling on legal immigration.

I hope you concur with our views on these matters and urge that you vote in favor of

Sincerely yours,

BENEDICT M. KOHL New Jersey Area President.

NATIONAL JEWISH COMMUNITY RELATIONS ADVISORY COUNCIL,

New York, N.Y., November 11, 1982.

DEAR CONGRESSMAN: The National Jewish Community Relations Advisory Council (NJCRAC) believes that H.R. 6514, the Immigration Reform and Control Act, represents a long-overdue and positive step toward achieving a comprehensive, humane and effective national immigration policy. Therefore, we urge you to act on this legislation during the post election session.

The National Jewish Community Relations Advisory Council is the national planning and coordinating body for the field of Jewish community relations, comprised of 11 national and 111 community member agencies listed on the reverse of this letterhead. National immigration policy, as a reflection of the nation's humanitarian values with respect to refugees and aliens, has always been an issue of paramount importance to the Jewish community. Based on careful scrutiny of H.R. 6514, we call your attention to our comments on several aspects of the bill that are of special concern to the field of Jewish community relations.

#### LEGAL ADMISSIONS/NUMERICAL LIMITATIONS AND PREFERENCES

NJCRAC supports an increase in the total number of immigrants allowed into the United States and is therefore pleased that H.R. 6514, by retaining current law on admissions, would not place a cap on immigration admissions of immediate relatives of United States citizens. We are also pleased that the bill retains the second preference to adults, unmarried sons and daughters of permanent resident-aliens, and the fifth preference to brothers and sisters of United States citizens. NJCRAC strongly urges you to oppose any amendments that would erode the principle of family reunification, including elimination of the second and fifth preference and the inclusion of immediate relatives under any immigration ceil-

#### REFUGEES

NJCRAC strongly supports the Refugee Assistance Act of 1980. We therefore urge you to oppose any dilution of it, including any amendments that would place refugees and legal immigrants under one ceiling or that would cap refugee admissions.

### ASYLUM AND JUDICIAL REVIEW

NJCRAC calls for full opportunity for fair hearings on requests for political asylum, and opposes the elimination of judicial review of such processes. We believe that the provisions of H.R. 6514 in these areas generally represent substantial improvement over the Senate bill. Specifically, while the Senate bill restricts review to habeas corpus, H.R. 6514 provides for review as a matter of right in a federal Court of Appeals of decisions of the United States Immigration Board (USIB) in cases of deportation, exclusion or asylum. Also, because of NJCRAC's concern for the independence of the USIE and administrative law judges, we support the provisions of 6514 providing for an independent, Presidentially-appointed USIB and for administrative law judges to be appointed by the USIB. The Senate bill places both the USIB and administrative law judges under the Justice Department.

NJCRAC urges you to support any amendments that would further strengthen the judicial review provisions of H.R. 6514, including increasing the time allowed for filing a petition for review.

Again, NJCRAC urges that the House of Representatives take action on the critical policy area of immigration reform during the forthcoming session. Thank you for your attention to our views.

Respectfully.

BENNETT YANOWITZ, Chairman. JEWISH COUNSELING AND SERVICE AGENCY,

Millburn, N.J., December 1, 1982. Hon. Peter W. Rodino,

Chairman, House Committee On the Judiciary, House Office Building, Washington, D.C.

DEAR MR. RODINO: We are one of the largest private, non-profit counseling agencies in the State of New Jersey. One of our primary missions is assisting immigrants on a nonsectarian basis. This assistance extends to their families and carries through the pre-application, application and resettlement processes. As such, we are a qualified agency, recognized for practice before the U.S. Immigration and Naturalization Service.

On the basis of this extensive service to the community, we are convinced of the wisdom of the message conveyed in your letter, published on November 5th in the Newark Star Ledger. We applaud the compassion indicated by your vigorous defense of the fifth preference category for brothers and sisters of adult U.S. citizens. Elimination of this preference, as proposed by the Simpson-Mazzoli bill, would be a disastrous blow to the principle of family reunification. We know from our work as a family counseling agency that the adjustment to their new life in this country is difficult. The presence of members of their extended family is, however, a stabilizing influence, influencing immigrant communities.

We must also voice our concern about the threat to introduce into the House version of the bill an amendment similar to the Huddleston proposal. We strongly urge that immigrants and refugees continue to be subject to separate ceilings. Our country ought to maintain its long-time leadership in human rights and humanitarian concerns. A single ceiling would be divisive, pitting ethnic groups against each other. It would set off competition between those with concerns for refugee needs and those seeking to

reunite families.

As we have in the past, we want to express our appreciation for your decades of leadership in liberalizing immigration statutes. On behalf of our membership and clients, we ask for your continued vigilence in this leg-

islative area. Respectfully,

Bernard Wallerstein, Cochairman, Family Advocacy Committee, Board of Trustees.

THE BUSINESS ROUNDTABLE, December 14, 1982.

DEAR MR. CHAIRMAN: The Business Roundtable urges your spport of H.R. 7357, The Immigration Reform Act as reported by the House Judiciary Committee. We recognize the need to establish control over our nation's borders and, at the same time, reaffirm our commitment to immigration.

H.R. 7357, as reported by the Judiciary Committee provides the most balanced approach to achieve immigration control with the imposition of employer sanctions and the establishment of record keeping requirements without placing an undue administrative burden on business. Finally, we feel that H.R. 7357 provides business and industry with reasonable allowances for critical skill needs.

Again, we urge floor consideration of H.R. 7357 during the 97th Congress and ask that you support its passage.

Sincerely,

JOHN POST, Executive Director. NATIONAL ASSOCIATION
OF MANUFACTURERS,

Washington, D.C., December 14, 1982. Hon. Peter W. Rodino, Jr.,

Chairman, Committee on Judiciary, Rayburn House Office Building, Washington, D.C.

Dear Mr. Rodino: The National Association of Manufacturers supports the need to establish control over our nation's borders and immigration. We have endorsed the Immigration Reform and Control Act (H.R. 7357), including the imposition of employer sanctions, as it was reported out of the House Judiciary Committee on September 22, 1982. However, we have serious concerns over a series of modifying amendments that will be offered by the House Education and Labor Committee when floor action will occur on the legislation.

The amendments proposed by the Education and Labor Committee would create greater employer liabilities than the employer sanctions provision of the legislation. These amendments would establish a new federal bureaucracy for litigating claims involving race or national origin discrimination, require employers to keep large amounts of data not required under present law, and create a presumption that any employer who declines to hire an ethnic minority has committed discrimination on the basis of national origin.

The immigration legislation has already caused substantial concern with some segments of the business community by authorizing the imposition of employer sanctions. We believe that these modifying amendments are not within the intent and purpose of the bill and will only create additional problems. If it appears that these amendments will be incorporated into the final legislation, NAM will withdraw its support for the bill and oppose its passage.

We certainly hope we can work with you to develop a reasonable approach to this vexing situation. We would be most willing to meeting with you to discuss how we can help in formulating a viable solution.

Sincerely,

RANDOLPH M. HALE.

AMERICAN COUNCIL ON INTERNATIONAL PERSONNEL, INC., New York, N.Y., December 15, 1982. Hon. Peter Rodino,

Chairman, House Judiciary Committee, House of Representatives, Washington, D.C.

Dear Mr. Chairman: The American Council on International Personnel (ACIP) is pleased to endorse the Simpson-Mazzoli proposal for reform of the Immigration and Nationality Act that is currently being considered by the Congress. As an organization comprised of 150 major multinational organizations concerned about the international transfer of personnel, ACIP has been keenly interested in the progress and form of this legislation.

The proposal, which has already been passed by the Senate, embodies many positive reforms of the immigration laws as they have an impact on the business community. While our position on proposed revisions to the bill currently pending before the House is well-known, particularly with regard to the inclusion of the "Independent Immigrant" categories provided in the Senate version of the proposal, we endorse without qualification the need for this legislation to be enacted in order to improve and update the current outmoded system for the admis-

sion of immigrants and nonimmigrants into the United States.

Sincerely,

AUSTIN T. FRAGOMEN, Jr., Chairman, Board of Directors.

CITIZENS' COMMITTEE
FOR IMMIGRATION REFORM,
Washington, D.C., December 14, 1982.
Congressman Peter W. Rodino, Jr.,
Rayburn House Office Building, Washington, D.C.

Dear Congressman Rodino: As organization concerned with the formulation of a reasonable, just and humane immigration and refugee policy, we should like to express our support for the Simpson-Mazzoli Immigration Reform and Control Act of 1982 (H.R. 7357).

As passed by the House Judiciary Committee, the bill substantially meets the criteria which we think is essential in a new immigration law-maintenance of the present system for legal immigration, including the current preference system; legalization program for those undocumented persons who have resided in the United States since January 1, 1977; an employer sanctions system aimed at employers who knowingly hire undocumented persons coupled with the establishment of a secure worker identification system; and the maintenance of the provisions of the current Refugee Act of 1980 under the terms which refugees are admitted outside of the ceiling on legal immigration after consultation between the President and Congress.

We shall continue to press for the passage of this legislation as long as the major pro-

visions remain intact.

Sincerely,
American Jewish Committee,
Anti-Defamation League of B'nai B'rith,
Council of Jewish Federations,
Hellenic American Neighborhood Action

Committee,
Lithuanian Cultural Institute,
National Italian American Foundation,
Polish American Congress,
Ukranian National Association

Ukranian National Association, UNICO National, United Hellenic American Congress, Vietnamese American Cultural Associa-

UNITED STATES

COMMITTEE FOR REFUGEES,

New York, N.Y., December 10, 1982.

Congressman PETER W. RODINO, Jr.,

Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN RODINO: Within days, the House of Representatives will consider the Immigration Reform and Control Act of 1982 (H.R. 6514). Many of us involved in refugee and immigration affairs look forward to the House producing a moderate reform bill that speaks directly to, but does not overreact to, the legitimate concerns the American people feel about undocumented immigration.

As the bill is now drawn, it does not include provisions directly related to the protection or admission of bona fide refugees. Several attempts were made in the Senate to include a single numerical limitation for both immigrants and refugees and a Congressional veto over refugee admissions above a "normal flow". These attempts did not succeed. We think this is wise and encourage you to oppose any efforts in the House to merge refugee admissions procedures into the bill, such as Congressman Sensenbrenner's amendment to place a

single numerical ceiling on immigrant and refugee admissions.

The Refugee Act of 1980 established a procedure in which the Administration and Congress consult in determining refugee admissions ceilings for subsequent fiscal year. This consultation procedure has been in place for three years and during that period actual refugee admissions have declined more than fifty percent.

This being the case, we do not see the necessity to enact modifications to the process which are both radical and, in fact, harmful. A single numerical limitation on refugee and immigrant admissions would be domestically diversive by forcing competition between family reunification and refugee admissions and would send dangerous signals to first asylum countries. A legislative veto of admissions numbers over "normal flow complicates the country's ability to react quickly at precisely those times when flexibility is most needed. Both proposals are irrelevant to mass first asylum emergencies, which are one of the public's major concerns in this area. Both in fact seem to be reactions to the concerns of the Congress and the public regarding undocumented immigration, misplaced reactions which will ultimately penalize refugees whose entry here by definition is orderly, legal and by the President's determination after consultation with Congress, in the best interests of the United States.

We the undersigned organizations, there fore urge you not to succumb to unjustifiable arguments to merge refugee and immigrant admissions or to establish a one-House veto over the process.

Sincerely,

American Council for Nationalities Service

American Fund for Czechoslovak Refugees.

American Committee on Italian Migration.

American Jewish Committee,

Anti-Defamation League of B'nai B'rith. Buddhist Council for Refugee Rescue & Resettlement.

Church World Service of the National Council of Churches,

Citizens' Committee for Immigration Reform,

Citizens' Commission on Indochinese Refugees.

Council of Jewish Federations,

Freedom House.

HIAS (Hebrew Immigrant Aid Society). Hellenic-American Neighborhood Action Committee,

International Rescue Committee,

Lutheran Immigration & Refugee Service, Migration & Refugee Service, U.S. Catholic Conference.

National Conference for Social Welfare. National Italian-American Foundation,

Organization of Chinese Americans,

Polish American Congress,

Polish American Immigration & Relief Committee,

The Presiding Bishop's Fund for World Relief-The Episcopal Church,

Tolstoy Foundation,

Ukranian National Association,

UNICO National,

United Hellenic American Congress,

Vietnamese American Cultural Organization.

World Relief of the National Association of Evangelicals,

YMCA of the USA.

US-ASIA INSTITUTE,

Washington, D.C., December 10, 1982. DEAR CONGRESSMAN: The immigration reform bill, HR 7357, will soon come to the floor of the House of Representatives for your vote. We want to express our concern regarding several crucial provisions in the

(1) We feel that the present provisions in HR 7357 are more sensitive to family reunification than the provisions under the original Simpson-Mazzoli bill. Therefore, we oppose any effort to modify or amend the preference provisions as submitted to the House by the Judiciary Committee.

(2) We also oppose any amendment similar to the "Huddleston Amendment" which would reduce the number of legal immigrants that would be permitted to come to the United States to join their families. Family reunification would be seriously impeded by imposing such a restrictive cap.

(3) We feel that the broadest type of legalization program should be implemented at this time, and that any employers sanctions program must include protection of minorities against direct and indirect dis-

crimination.

The US-Asia Institute Task Force on Immigration and Refugee Policy, which I chair, has received various communications from Asian American communities across the nation with the clear message that they support Chairman Rodino's version of the House bill as reported out of the House Judiciary Committee in September 1982. We feel that HR 7357 is a just and equitable compromise that deals fairly with the interests of all parties. A consistent and long range policy on immigration is of vital importance to our country and people. Thank you for your consideration.

Sincerely.

NORMAN LAU KEE. Chairman, Task Force on Immigration and Refugee Policy.

AMERICAN COUNCIL OF VOLUNTARY AGENCIES FOR

FOREIGN SERVICE, INC. New York, N.Y., December 6, 1982. Hon. PETER W. RODINO, JR.,

Chairman, Committee on the Judiciary, U.S. House of Representatives, Rayburn House Office Building, Washington, House D.C.

DEAR PETE: As you may know, in addition to being Executive Director of ACNS, I am currently serving as Chairman of the Refugee and Migration Affairs Committee of the American Council of Voluntary Agencies for Foreign Service. It is in this latter capacity that I am now writing on a subject of major concern.

The thirteen member agencies of the Refugee and Migration Committee represent the refugee and immigration service organizations of all the major religious faiths as well as the key non-sectarian agencies concerned with immigration and refugee matters. Accordingly we have followed the progress of the Simpson/Mazzoli immigration reform bill very closely.

The agencies represent many diverse and often overlapping constituencies and interests. Consequently, many of the individual agencies, as well as ACVA as a whole, have not taken a position on the entire bill, but rather have focused on individual components of the immigration reform legislation. Our views on specific issues are part of the record and are known to the staffs of the appropriate committees.

However, as the immigration reform legislation seems to be approaching the floor of

the House we feel it is important that you know where the agencies stand with regard to the bill in its entirety. While there are many elements we would like to see modified, there are three specific components we consider to be bottom line and on which our support of any immigration reform legislation would hinge.

1. We support a generous legalization program. It is our position that legalization is an integral part of any meaningful immigration reform proposal. We would have to oppose any bill that does not contain a gen-

erous amnesty provision.

2. We support the refugee admissions process established by the Refugee Act of 1980. Accordingly, we oppose any single numerical limitation imposed on refugee and immigrant admissions, as well as a Congressional veto on refugee admissions. We would have to actively oppose any immigration reform bill which includes such provisions.

3. We strongly support the immigration preference system reported by the House Judiciary Committee. Its recognition of the priority we must continue to place on family reunification is sound and in the nation's

best interest.

For us, the issues enumerated above are critical and will define our position in relation to immigration reform legislation. It is our collective hope, and my hope personnally, that you will make the necessary efforts uphold the three principles outlined

With best personal regards. Sincerely.

WELLS C. KLEIN Chairman, Refugee and Migration Affairs Committee.

ORGANIZATION OF CHINESE AMERICANS, INC. Washington, D.C., December 10, 1982.

Hon. PETER RODINO, Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington,

D.C. DEAR MR. CHAIRMAN: With the Immigration Reform and Control Act now pending before the House, the Organization of Chinese Americans strongly urges you to keep the door open for our American citizens to reunite with their families.

OCA strongly supports the maintenance of the current preference system, especially the retention of the full Fifth Preference. We laud the action of the House Judiciary Committee in retaining the current preference system. It is our sincere hope that, if the House enters into conference with the Senate, the House will not recede from its current position on the preference system.

We also strongly urge you to support an amendment to raise the quota for dependent colonies from 600 to 3,000. The effect of the colonial quota on legal immigration and family reunification from the British colony of Hong Kong has been devastating. As you will recall, the colonial quota is the last vestige of the discriminatory national origins quota system, and both the U.S. Commission on Civil Rights and the Select Commission of Immigration and Refugee Policy have recommended that it be eliminated. We urge that this racist provision in the law be eliminated or that the quota be raised to 3,000, so that our communities will not continue to suffer from this provision's adverse effects.

OCA is on record as supporting the pro-posed legalization of undocumented per-sons. We urge that the legalization provisions not be stricken from the legislation.

OCA is a national organization with 26 chapters in 20 States. We are a nonprofit, nonpartisan educational and civic organization. If we may be of further assistance to you and your office, please do not hesitate to contact me at our national office in Washington.

Sincerely.

LAURA CHIN, Executive Director.

AMERICAN COMMITTEE ON ITALIAN MIGRATION. New York, N.Y., December 9, 1982. Hon. PETER W. RODINO, Jr.,

Rayburn House Office Building,

Washington, D.C.

DEAR CONGRESSMAN RODINO: We understand that the House of Representatives in all likelihood will be considering the fate of H.R. 6514, the Immigration Reform and Control Act of 1982, in the final days of this Congress.

We would appreciate your keeping in mind our concerns which are expressed in the attached memorandum.

ACIM supports Chairman Rodino's version, primarily where it pertains to the retention of the present preference system

Our Organization is opposed to the elimination or restriction of the second and fifth preferences.

We urge you to vote against this bill rather than pass it with the above-mentioned restrictions.

Sincerely,

Rev. Joseph A. Cogo, C.S.

### AMERICAN COMMITTEE ON ITALIAN MIGRATION,

New York, N.Y. Why should the immigration preference system remain as it is-because it has served adequately in the past, and there is no reason to project that it will not serve ade-

quately in the future.

The Immigration Reform Bill 1965 structured the current preference system to provide for an overall number of 270,000 visas, exclusive of immediate relatives. This number has proved sufficient for all countries with the exception of: Philippines, Korea, China, Mexico and India. It further provides for immediate relatives to come outside the ceiling and for close relatives of U.S. citizens and permanent resident aliens to come under the quota limitations. Where demand exceeds supply, backlogs have occurred.

The Simpson-Mazzoli proposal seeks to eliminate the problems of backlogs by eliminating the sources of potential trouble. In effect, it would be like cutting off the entire arm in a desire to eliminate a disease in the

fingers.
The "arm" is quite sound. Most of the countries of the world are well served by the present law. It would be wrong to penalize the vast majority of the countries in order to correct a problem which occurs in five

countries.

Furthermore, it is very doubtful that the contemplated changes would resolve the problem in these same five countries. It is instead quite certain that these changes would prejudice our traditional pattern of immigration. They would, for example, result in discriminating against many countries in Europe which now rely on the fifth preference for most of their family-reunion type of immigration to this country: Greece 61%, Ireland 58%, Italy 61%, Portugal 70%,

Yugoslavia 52%.

The restriction of the second preference category (adult unmarried sons and daugh-

ters of permanent resident aliens) and the elimination or at least restriction of the fifth preference (brothers and sisters of U.S. citizens) are being sought also on the basis of projections which anticipate a "snowball" effect resulting in an exponential increase in immigration demand in the future due to the legalization of large numbers of immigrants, who will then be eligible to file petitions for their relatives.

Reasonable predictions cannot be made as to the numbers involved until the authorities have an actual count of how many will be eligible to regularize their status and how many will actually present themselves for legalization. While the situation must be closely monitored, the law should not be changed to suit an eventuality which might not even materialize. To change a basic principle of our immigration policy based simply on hypothetical prognostications is clearly injudicious

In addition, with regard to backlogs, experience has proven that they have an inherent way of dissipating into thin air over a long waiting period. Personal and family situations change and only the would-be immigrant with the closest ties, motivation and

need will eventually migrate.

Backlogs are, of course, odious. However, they are a fact of life. The United States will never be able to have a law which will satisfy the demand of all countries. Much more unpleasant is having to tell an American citizen that he cannot petition for his brother or sister, while at the same time permitting persons with no ties to this country, such as workers, or investors to be admitted on a preferential basis.

In view of these considerations we believe the Simpson-Mazzoli bill should concentrate on the immediate problem: to handle the illegal alien situation through some kind of legalization process, and especially to ensure that the illegal flow of immigration be prevented in the future. If these two objectives are achieved, the Simpson-Mazzoli bill will undoubtedly make an indelible contribution to our society.

Minor refinements on the preference system can always be achieved in the future, if experience shows them to be necessary, with later legislation.

Mr. MAZZOLI. Mr. Chairman, will

the gentleman yield?

Mr. RODINO. I yield to the chairman of the subcommittee, who has labored so long on this effort. I want to congratulate him for having diligence and patience, and for bringing to the attention of this House this deplorable problem. I hope the House will act wisely on this legislation.

Mr. MAZZOLI. I thank the gentleman for that compliment, but of course the gentleman is always too modest. It is he who is the expert in this body and this Congress on the

subject of immigration.

I just wanted to commend the gentleman on an outstanding statement. It was scholarly and inspiring. It was clear in its message that the House should move on, now on this kind of a

I want to thank the gentleman for his leadership over these many years, and commend to this House and to the Congress his words of wisdom.

Mr. McCLORY. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this legislation is indeed long past due. It has received, as the Members will gather, strong bipartisan support. I want to assure the Members that this administration is wholeheartedly in support of this legislation. Certainly the leadership on the Democratic side of the aisle-as evidenced by the remarks of the distinguished chairman of the House Judiciary Committee and the distinguished chairman of the Immigration Subcommittee—support the bill.

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There must be a full awareness of the strong bipartisan support for this legislation. At the same time that I commend those gentlemen from the Democratic side of the aisle, I want to commend the gentleman from New York (Mr. Fish) for his leadership and commend the other Republican members of the Subcommittee on Immigration who have contributed so much to this comprehensive immigration bill.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the distinguished gentleman for yield-

Mr. Chairman, I commend the committee chairman, the subcommittee chairman, the ranking minority member, and all of the members who have worked so diligently to try to bring about a change in immigration laws that is long overdue. It is 17 years since we have had that. I rise also to indicate that I do oppose one portion of this bill, the amnesty provisions.

Mr. Chairman, In the last days of the special session, this body will likely consider the Immigration Reform Act, H.R. 7357. This is a very complex and far-reaching piece of legislation—the first major overhaul of our immigration laws in well over a decade-which has broad implications for all regions of our country and, I believe, contains serious defects which severely undercut the many positive features of this bill.

The provisions granting amnesty to the unknown millions of illegal aliens who were here before January 1, 1980, could be the albatross of this bill for several reasons. First, there is the obvious element of unfairness for those who have exhaustingly, and many times unsuccessfully, sought entrance to America through the proper legal channels. Our Nation has perhaps the most open and generous immigration policies in the world, yet many people must wait months, and even years, before our vastly undermanned and underbudgeted Immigration and Naturalization Service processes them through.

Second, there is the very clear signal a "one-time" mass amnesty program sends to prospective illegal immigrants. It is without question a reward for those who have doggedly violated our Nation's laws, many of them more than once, rather than pursuing the legal course. Amnesty will not "clean the slate," as many of its proponents suggest in order to free more of our resources for other aspects of immigration enforcement. In fact, amnesty will probably encourage more prospective immigrants-legal or illegal-especially those who previously thought our Nation's laws meant something. I couldn't think of a more inappropriate way to greet prospective citizens-by telling them it is all right to break our

Of great interest to the Federal, State, county and local governments is the question of who will foot the bill for public services and welfare costs for millions of newly legalized residents. The Federal level has already sent a very clear message to our State and local governments: Don't expect us to pay for the added costs. Budgets at all levels of government are already straining, and are there enough new taxpaying jobs to finance the moderate estimate of Attorney General William French Smith of \$18 billion a year in combined Federal and State costs for amnesty? The State of Cali-fornia has already figured that without Federal funding, it would cost them \$1.3 billion a year in added welfare and medical expenses.

Perhaps the biggest "unknown" in the amnesty question is the number of illegal immigrants already in this country. Estimates of eligible illegals who have lived here since 1980 range from 3 to 12 million people. The administration currently uses estimates running between 3.5 and 6 million persons. It is not known how many of these people are currently working, dependent on welfare programs, or financially independent.

I oppose the very concept of such a mass amnesty, but I do believe there is a more reasonable alternative. The registry date provision approved by the Judiciary Committee would simply update an existing section of our immigration laws. The present law provides a "registry date" procedure allowing all aliens who can show good moral character and continuous residence in the United States since 1948 to receive permanent resident status. The committee proposal moves the 1948 date to January 1, 1973, allowing illegal aliens who can prove they entered the country prior to that date to apply through the INS. The registry date provision has been in our books since 1929, it is a tested and proven procedure, one that the INS is throughly familiar with, and I believe it is the fairest approach in dealing with the undocumented-illegal-alien problem.

Another very important aspect of this bill is the placement of an overall ceiling-or cap-on total annual legal immigration. The administration originally asked for a ceiling of 425,000 legal admissions per year, excluding refugee admissions and the spouses and children of U.S. citizens. The other body concurred with this proposed cap, but all ceilings were re-moved in the version passed by the House Judiciary Committee.

The United States currently accepts more than twice as many permanent residents annually as the rest of the world combined. No other country can boast of an "open door" policy more open or lenient than America's. We should continue this open policy, but only within reason. In my opinion, a fixed cap is necessary on legal immigrants, and that it be enforced so that we can get a grip on the problem this bill was originally intended to address: the control of our borders and reform measures to limit within reason the level of immigrants arriving in this

Further, if this Nation is to achieve true control over its immigration, all entrants should fall under the annual ceilings. An absolute ceiling should include refugees, immediate relatives of U.S. citizens, and all other categories currently not subject to the cap re-

quirements.

Another aspect critical to a successful immigration policy is that of having adequate enforcement officers along our borders and other INS officials to handle the backlog of admissions and projected admissions under this legislation. The immigration and Naturalization Service, and its enforcement arm-the Border Patrolhave been underfunded for many years, and certainly the new reform measures contained in this bill will further strain these limited resources. It is my hope that, in accordance with the language contained in this bill, the 98th Congress follow through by appropriating additional funds for increased activities in these agencies.

I would also urge my colleagues to oppose changes in this bill which would weaken the very limited temporary worker program now operating. The H-2 program, as it works now, primarily benefits the nonagriculture sector and allows foreign workers to enter the country on temporary visas to fill certain temporary jobs. This bill makes some modifications to streamline the H-2 admissions process, making it easier for both the employer and the worker to take advantage of the program. A respectable guest worker program is needed in many regions of our country, particularly in the United States-Mexico border States, to fill the need for many seasonal jobs not normally taken by American workers, and I believe it can be operated by our Government in a manner respectful of the rights of the employers and the guest workers.

Another focal point of the bill revolves around the use of employer sanctions to help control the flow of illegal aliens into this country. In the House version, as passed by the committee, civil penalties are imposed on employers who knowingly hire illegal aliens, with criminal penalties for those who repeatedly violate our laws. "paperwork exemption" is allowed for small employers with three or fewer employees, eliminating the requirement that they check a job applicant's documentation, but still places them under the civil and criminal sanctions as are other employers. The sanctions apply to new hires only.

While I have no strong objections to employer sanctions, I think it would be a serious mistake to presume that such penalties will by themselves deter illegal immigrants from crossing our borders. The penalties will be nearly impossible to enforce without substantially increased INS manpower, and even then the absence of a fraud-resistent identification system for determining work eligibility will undermine our attempts for tougher enforcement.

The legislation instructs the President to design and implement such an identification system within 3 years. In the meantime, rigid criminal penalties, including heavy fines and up to 5 years imprisonment, will be applied to those convicted of using, selling, or manufacturing counterfeit or altered identification documents.

Again, it will be necessary to bolster our enforcement activities if we hope for these penalties to carry any weight.

We do need to pass a comprehensive immigration bill to update, and hopefully strengthen the outdated laws now on the books. Outside of the fact that it has been some 17 years since we last signed into law major immigration reforms-almost a generation in which conditions have changed dramatically both domestically and on the international scene-we need to act decisively on a problem that the American public is overwhelmingly in favor of resolving.

In my own district, Arizona's Fourth, citizens are more cohesive on this one issue than almost any other problems facing our Nation today. Last year, I sent out a questionnaire survey on several issues and received more than 15,000 responses. By far the most onesided response was on a question relative to immigration. Over 94 percent of the respondents answered "yes" to the question: "Should Congress institute tougher reforms to prevent illegal aliens from receiving Federal bene-

Clearly, the public understands the seriousness of the problem and wants change. Many years of work are behind the "Simpson-Mazzoli" immigration bill, and I applaud those who have worked so diligently to mold this comprehensive bill. But more flaws remain in the House verson as I have indicated, and I urge my colleagues to thoughtfully consider amendments to be offered which would truly reform and put some long needed controls in our Nation's immigration policies.

There can be no perfect immigration bill, nor are there any easy answers to the very complex and seemingly uncontrollable influx of illegal aliens into our Nation. As a free and open society, we are committed to preserving the rights and liberties of our citizens. The luxury of permitting uncontrolled numbers of people into our Nation, as much as it has been ingrained into American tradition and benefitted our growth and prosperity, does have its limitations. No country in the world today can claim a more generous immigration policy and nothing in this bill, with the recommendations I have made, will change that distinction. Most all Americans recognize the need for reasonable reforms and will support them accordingly.

Mr. McCLORY. Mr. Chairman, the United States faces a serious crisis in immigration law enforcement. We have an illegal alien population numbering in the millions—with hundreds of thousands of new arrivals each year in direct contravention of American law. Large numbers of people wait abroad for many years to be reunited with relatives in the United States—at the same time that undocumented people short cut the process and find ways of entering immediately. Our loss of control over our borders requires decisive action by the Congress now.

U.S. immigration laws have received intensive scrutiny during the last 4 years. The Select Commission on Immigration and Refugee Policy-which included four Cabinet members from the previous administration, four Members from each House of Congress, and four public members-held exhaustive hearings all over the United States, heard testimony from 698 witnesses, and consulted with many experts and interest groups. I had the opportunity, together with several other colleagues on the Judiciary Committees of the House and Senate, to participate actively in the Commission's deliberations. In 1981, this administration prepared the Omnibus Immigration Control Act—a bill designed primarily to address the problem of aliens entering the United States illegally. Early this year, I served-together with the gentleman from Kentucky (Mr. Mazzoli) and the gentleman from New York (Mr. FISH)-as an original sponsor of H.R. 5872, legislation that built upon the work of the Select Commission. This was followed by thorough study by the administration and by months of

public hearings by the Immigration Subcommittees of the House and Senate. Senator Alan Simpson, of Wyoming, chairman of the Senate Subcommittee on Immigration and Refugee Policy, introduced an identical bill in the Senate—S. 2222 which passed the Senate in August.

The House Committee on the Judiciary has given this legislation most careful scrutiny. In May 1982 a clean bill-H.R. 6514-was introduced reflecting action taken by the Subcommittee on Immigration, Refugees, and International Law at its markup. The full House Judiciary Committee favorably reported an amended version of this legislation after exhaustive consideration of policy arguments on virtually every provision. H.R. 7357 conforms to the bill as reported by the Judiciary Committee-except for the addition last week of language designed to comply with the Budget Act.

Mr. STRATTON. Mr. Chairman, will the distinguished gentleman from Illi-

nois yield?

Mr. McCLORY. The legislation does embody the best thinking of the members of the subcommittee and those on the Commission on which many of us served.

Mr. Chairman, I now yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I have only had a preliminary opportunity to examine this bill. It is a complicated bill. I gather that, as the gentleman has indicated, this is going to authorize a number of illegal aliens, undocumented aliens, who have been in the country since 1977 to be pardoned and to be accepted as legal aliens from then on.

What does the bill propose to do? Mr. McCLORY. Mr. Chairman, I have not indicated that yet. Howev-

Mr. STRATTON. Mr. Chairman, let me try to ask this question, if I may, because I think this is on the minds of a number of people.

All right, we are going to accept all of the illegal aliens who have come in at a particular date and, presumably, some who have come in since then.

The CHAIRMAN. The time of the gentleman from Illinois (Mr.

McClory) has expired.
Mr. FISH. Mr. Chairman, I yield two additional minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I will

finish my comments.

Mr. STRATTON. Mr. Chairman, let me ask, if I may, what does the bill do to prevent this constant inflow that I understand is occurring at the rate of 1,000, 2,000, and 3,000 a day?

Mr. McCLORY. Mr. Chairman, I do not want to yield just now because the gentleman's question will be addressed in some of my concluding remarks.

The measure does provide two stages of legalization—one for persons in this

country prior to January 1, 1977, and another for those in this country prior to January 1, 1980.

Mr. STRATTON. Mr. Chairman, I understand that. My question is, What are we going to do to prevent the daily inflow from across the southern borders that I understand is occurring at the rate of 1,000, 2,000, and 3,000 a day?

Mr. McCLORY. Mr. Chairman, the theory, hope, and expectation of those who have worked diligently on this legislation is that the combination of a legalization program, an employer sanctions program, and an enhanced border patrol can enable us to gain control over immigration so that we can retard, if not stop, the flow of illegal aliens into this country.

Mr. STRATTON. How many more border patrolmen are we going to have to have? It is my understanding we have less than two border patrolmen permile down along some sections of the border.

Mr. McCLORY. Mr. Chairman, I am not going to yield to the gentleman to ask his questions. He will have to get his own time to discuss the subject of border patrolmen.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. McClory) has expired.

Mr. STRATTON. Mr. Chairman, will the gentleman from New York (Mr. Fish) yield time to me?

Mr. McCLORY. Mr. Chairman, I would ask the gentleman (Mr. Fish) to yield me 1 additional minute so I can finish my statement.

Mr. FISH. Mr. Chairman, I yield 1 additional minute to the gentleman from Illinois.

Mr. McCLORY. Mr. Chairman, I am not going to yield to the gentleman from New York (Mr. Stratton) because the gentleman wants to make a speech in opposition.

Mr. STRATTON. I do not. I want to ask a question.

Mr. McCLORY. The gentleman wants to make a speech in opposition to this legislation, and I would like to have the gentleman get his own time for that purpose.

The CHAIRMAN. The gentleman from Illinois (Mr. McClory) controls the time.

Mr. McCLORY. Mr. Chairman, 4 years of thorough and thoughtful consideration of our immigration laws must now be translated into legislative action. The need to act becomes more critical each day; failure to act will exacerbate a national crisis.

This bill recognizes that the attraction of employment in the United States serves as a magnet to illegal entry. A Federal law forbidding employers to hire aliens lacking work authorization is the key to removing the magnet.

The Select Commission recognized the link between jobs and illegal entry when it endorsed employer sanctions by an overwhelming vote. The related issue of the method for verifying work eligibility, however, proved deeply divisive. This bill resolves the Select Commission's dilemma by authorizing employers to rely-for the time being-on existing identifiers and requiring the President-within years-to implement "such changes in or additions to" the verification requirements "as may be necessary to establish a secure system to determine employment eligibility \* \* \*

The United States must act decisively to prevent illegal flows-but also must respond compassionately to the plight of those illegal aliens who have acquired important equities through years of living in the United States. The Select Commission pointed the way with its unanimous recommendation to legalize a substantial percentage of the undocumented population. That recommendation represented a recognition of the need to provide humane treatment for persons who possess a major stake in this country.

A mass deportation effort directed at persons who have lived among us for a number of years would prove seriously disruptive of our national life. The United States, moreover, simply lacks the tools to round up and expel millions of generally law-abiding people. This bill attempts to deal realistically with persons who can document years of residence in the United States and is designed to exclude both recent illegal arrivals and persons intent on violating our immigration laws in the

The Immigration Reform and Control Act of 1982 is a fair and balanced approach to our major immigration problems. I urge the Members of this body to pass this essential legislation.

The CHAIRMAN. The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield 8 minutes to the gentleman from California (Mr. Ep-

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for

yielding me this time.

Mr. Chairman, I thank Mr. MAZZOLI and the members of the Immigration Subcommittee for diligently trying to work through the thorny issues involved in revising our immigration laws. But I seriously disagree with many aspects of the bill and I don't think we should proceed with it.

The seriousness of the problems in the bill demand full debate and amendment. In the last days of a lameduck session, it is most unfortunate to take up this complex bill, around which there is no consensus. The lack of consensus is clear from the bill's narrow escape from being recommitted by the Judiciary Committee to the Immigration Subcommittee. The lack of consensus is clear from the 350 amendments pending on the

I would like to just briefly state some of my major concerns regarding this bill.

I believe the bill accelerates the potential for increased violations of civil and constitutional rights. The possible increase in discrimination is inherent in various provisions of the bill.

I have always been, and I remain, opposed to employer sanctions, which after all are the real heart of this bill. Putting the onus of law enforcement on employers is simply not appropriate to this problem and the U.S. Chamber of Commerce is justifiably opposed to this provision. In addition, I believe the employer sanction provision is discriminatory on its face. With the prospect of fines and criminal penalties looming over each employer, what employer would be willing to talk about employment to someone who looks or sounds foreign or bears a foreign surname?

I also remain adamantly opposed to the possibility of a national ID card for all citizens. In addition to the prospect of an Orwellian nightmare, this would simply be unworkable. As quickly as a card would be devised, a forgery would follow behind it.

The civil rights implications of the employer sanctions and possible ID card requirement are profound indeed.

On the H-2 workers provision, after working for years to abolish the old Bracero program under which the country suffered, I am deeply concerned that we do not start up another such program. I am afraid the H-2 provisions will do just that and I am opposed to them.

I wholeheartedly support legalization. However, the bill does not go far enough. I am deeply disturbed about the people the bill leaves in limbo due to the arbitrarily selected date for legalization and I am very concerned about the two-class system set up in this legalization provision, with its associated denial of Federal benefits.

I am also concerned about the possible costs of legalization to the States and local governments. And, let's be very clear, undocumented workers pay taxes. Even under this bill, to be eligible for resident status they must show that they have not been nor are they likely to be "public charges". However, in this period of recession, all workers are precariously employed. It is not clear if legalization will mean additional costs to State and local governments. If it does, the Federal Government should bear the burden of the cost. The bill currently contains such language and it is crucial that this language be kept in this bill.

In addition to the problems in the bill that I've discussed, this bill does not even address the management problems under which the Immigration and Naturalization Service operates. The bill also totally neglects the foreign policy implications inherent in

I will support amendments that address my concerns. I will offer a couple of my own, such as my amendment requiring the INS to secure a search warrant before any of its agents could enter a farm or other outdoor operation without the consent of the owner. This amendment has bipartisan and multiregional support and it has been my peasure working with Congressmen Dannemeyer and Fazio, among others, on it.

However, I must caution my colleagues that the House and the Senate versions of the Immigration Reform and Control Act are very different bills. Even if the House version could be amended to address our concerns. we would be faced with a Senate-House conference in which much of our work could be lost.

#### □ 2300

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman.

Mr. STRATTON. The gentleman is very knowledgeable on this subject and I may appear to be argumentative. I do not know anything about the bill at all except what little I have read. I have been expending my time on some of these other matters that have come one after another in this lameduck session.

My concern is, assuming that we legalize all of the illegal aliens that are now in the country at the present time, what are we going to do to prevent what I understand to be a constant, steady flow coming over from Mexico day after day?

I am told that it is some 1,000, 2,000,

The gentleman from Illinois says we are gong to hire some extra border patrolmen but in the 24 years that I have been in this body we have talked about hiring them but somehow they never seem to get hired.

My understanding is that they have about two patrolmen for every mile which obviously is not going to be very effective without a fence or without the kind of thing that they have over between the borderrs of West Germany and East Germany.

What does this bill propose to do, I would ask the gentleman, to deal with that problem, or does the gentleman feel that it does not effectively deal with it?

Mr. EDWARDS of California. I am not an expert on the subject because I have not been a member of the subcommittee, I would respond to the gentleman from New York.

However, having been a member of the Judiciary Committee for 20 years I can remember time after time that we have authorized increased surveillance of the border, our southern border, and administration after administration, including Democratic administrations and Republican administrations, have not responded to our requests.

The gentleman does go to the heart of the matter. Certainly a more efficient border organization and control, plus an improved foreign policy working with Mexico and our other sister countries in Latin America, would be a much better response to the problem of undocumented workers than this bill.

I would like to explain a little bit more on that in a moment as to why I

disagree with the bill.
Mr. MAZZOLI. Mr. Chairman, will

the gentleman yield?

Mr. EDWARDS of California. I am

happy to yield.

Mr. MAZZOLI. I appreciate the gentleman yielding and I will certainly re-

store his time if he needs it.

Let me answer my friend from New York in this fashion: traditionally we have rejected requests to increase the Border Patrol, the surveillance arm, but to your credit and the credit of the people in this House and in this Congress we have over the last year and a half added 300 people to the Border Patrol staff and we have increased its function by 20 percent and increased the money of the Immigration Service by fully \$67 million.

What this has done is for the first time in history allowed us to address the problem in the multifold way that it has to be addressed, in the law, but also on the ground, with a lean and

very ready service.

We went, for example, to San Diego last year and found in the Chula Vista sector that the helicopters were not flying. Now they are flying. They were not flying because they had no gas. The gentleman from New York joined with us in voting for more money for the service.

So one way we answer the question, I tell my friend from California, who has been a very stalwart member of our full committee, is to improve the

Border Patrol.

I would join in with what the gentleman has said by saying also that you deploy an army along this border and you will never hermetically seal it, nor should you. You will only control it. And this is a bill that is a first step toward control.

Mr. EDWARDS of California. I would not like the committee to think that all is sweetness and light on the Judiciary Committee. We are agreeable. We get along very well. But we have sharp disagreement on this particular bill.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman from California for yielding.

Is not the effect of employer sanctions as written into this bill turning over to the private sector of our economy the enforcement of the immigration laws rather than having law enforcement enforce these laws like they do all of the other laws?

Mr. EDWARDS of California. I agree with the gentleman from Wisconsin. The laws are being implemented after the people are in the United States and you are making every private employer in the United States who might hire an illegal alien, undocumented worker, an immigration agent.

Mr. ERLENBORN. Mr. Chairman, I yield myself such time as a I may con-

sume.

Mr. Chairman, the bill reported by the Judiciary Committee is a beginning on controlling immigration. I rise in support of H.R. 7357, but oppose the action of the Education and Labor Committee.

It is clear that U.S. immigration policy is out of control and that the country needs legislation to impose stronger restrictions on the influx of illegal aliens, an influx of increasing millions in recent years. We have no idea how many illegal aliens are in the country, but the Census Bureau estimates there are between 3.5 and 6 million illegal aliens in the United States, with an added half million entering each year. Other sources have suggested there are over 12 million illegal aliens in this country and that our border enforcement represents a large sieve. Whatever the number, the presence of such a large number of illegal aliens means that unscrupulous employers and their agents can bootleg illegals into jobs that are lower than the minimum wage compensation, the illegal workers are afraid to complain about wages and conditions, and jobs are taken from citizens or aliens with permission to work. This legislation under consideration would remove this incentive to hire illegal aliens and their resulting second-class status.

H.R. 7357 recognizes the illegal population and would offer permanent resident status to any alien who could prove residency before January 1, 1977. These people would then be eligible for citizenship in 5 years, under the rules for naturalization. In either recognized "legal" status, these workers would then be able to assert their

basic rights.

Furthermore, enactment of the proposed Immigration Reform and Control Act of 1982 will:

First, make it a Federal crime to knowingly hire illegal aliens,

Second, establish a national status verification program,

Third, stiffen penalties for violations by those using false documents,

Fourth, retain existing law to deny temporary and permanent status to Communists, criminals, dope users, and anyone who would threaten our national security,

Fifth, establish universal criteria for the legalization of current illegal aliens, granting a grace period, setting language standards and new naturalization requirements,

Sixth, streamline the process for po-

litical asylum, and

Seventh, continue to keep our doors open to refugees under terms of the 1980 Refugee Act.

In enacting stiff fines for employers who hire illegals, the act would reduce unemployment benefit fraud which has become a serious financial drain in a number of States and particularly in my own State of Illinois. Illinois Attorney General Tyrone Fahner recently estimated an annual loss of \$66 million in fraudulent unemployment claims.

Recent studies all conclude that America's immigration laws badly need reform. The last three administrations conducted studies, as did the House Select Committee on Population on which I served. This legislation would keep the welcoming torch of liberty burning, while protecting the best interests of our citizens. We are a nation of immigrants, and cannot close the doors to others seeking the opportunity to live in a free society.

Although I support the Immigration and Nationality Act amendments in general as reported by the Judiciary Committee, I cannot support certain amendments to the bill reported by the Education and Labor Committee. My opposition is directed to both the H-2 provisions proffered by Mr. MILLER and the discriminatory provision offered by Mr. HAWKINS and accepted by our committee.

As to the H-2 provisions, the basic thrust of those labor standards amendments created a regulatory straitjacket on the Attorney General and the Department of Labor in enforcement of the H-2 program. The committee amendments also penalize and unduly burden employers who, in good faith, attempt to secure either domestic workers or H-2 workers for employment.

This regulatory straitjacket is exhibited in the committee amendments requirement that a Department of Labor certification be a prerequisite to the Attorney General allowing admission of H-2 workers, a requirement not contained in present law or regulation. In reality, the Attorney General's authority is a safety valve for the failure of the Department of Labor to act in an expeditious manner, or for that matter, in an arbitrary manner. By requiring such a certification, the majority has forever foreclosed the Attorney

General, or the courts, from offering relief where relief may be needed. In other words, we need our crops planted and picked despite possible hangups in the administrative process. The safety valve continues to be a necessity

Another "straitjacket" provision of our committee amendments is the failure to allow an extension of time of employment for H-2 workers beyond 8 months, except those grandfathered in, such as sheepherders, timbermen, and cattlemen. Being unable to predict what the future may hold in terms and needs of agricultural employment, it would seem appropriate to provide for future contingencies to allow an extension for over 8 months in extenuating circumstances in the public interest.

The committee amendments also require a "cap" on admissions of H-2 workers unless the Department of Labor can certify to the Attorney General and to Congress that it can adequately enforce the program. I believe the Department of Labor's failures should not be imposed on employers who may comply in good faith with the law and need workers. A "cap," especially not this "cap," is not the proper way to assure enforcement. This "cap" is based on the number of foreign workers admitted in the 1982 year, prior to enactment of this legis-lation. Therefore, this "cap" would be unrealistically low in view of protections of future needs of agricultural workers because of the new employer sanctions.

The committee amendments would prohibit the certification of H-2 workers where there is a strike or lockout concerning a "labor dispute" as defined by INS regulations. In establishing definitions for strike, lockout, and labor dispute, it would seem the Secretary of Labor is the more appropriate authority to define such terms under his regulatory authority, rather than establishing those definitions in the law, particularly considering we have not had any testimony explaining the technicalities of interpretation of these terms. By adopting the INS regulations, the committee amendments recognize the agency with the least expertise in the area, and ignore those agencies with more expertise over labor disputes such as the National Labor Relations Board and the Department of Labor.

There are certain provisions in the committee amendments that are just unacceptable to those who endorse an equitable and workable H-2 program. For instance, the committee amendments claim to equalize payments by employers by requiring employers to pay social security and unemployment to foreign H-2 workers. In my opinion, such payments amount to a "windfall" for the H-2 workers, who would be getting more in their take-home pay

than domestic workers. This amounts to favored treatment to H-2 workers and is not fair to U.S. workers. Besides, this "equalization" allows those payments to leave this country rather than staying home where they could improve our own economy.

As well as creating a regulatory straitjacket for the agencies enforcing the H-2 program, the committee amendments fail to allow employers fair procedures in securing workers. The committee amendments require employers to file an application for certification of foreign workers at least 80 days before date of need, a time that may be long before an employer will even know if he will need workers. This extensive time requirement accommodates only those who wish to create a disincentive to hire foreign workers.

Under the present regulations and the committee amendments, employers are required to accept domestic employees who apply for employment for 50 percent of the period for which foreign workers have been certified. This requirement may mean an employer will have to hire well over 100 percent of his needs. Instead, I support the provisions of the original Judiciary Committee bill, which would allow a certification to remain effective only if the employers continue to accept domestic workers up until the time the aliens depart for work with the employers. In requiring the employers to hire domestic workers before foreign workers, the obligation should only extend to those domestic workers who are "able, willing, and qualified," standards parallel to the Judiciary Committee standards.

My concern for labor standards protections for workers is the reason I attempted to work out a compromise with the majority of our committee. The compromise never materialized. Instead of, in effect, "codifying" existing regulations, as the committee amendments do, I would require the Secretary of Labor, in consultation with the Attorney General and the Department of Agriculture, to establish new employment standards which are at least comparable to those under current regulations. Some flexibility is needed and all current regulations may not be applicable to this new law in their present form. There will be many changes in procedures and enforcement this whole bill will bring about. Because of these new concepts, for instance employer sanctions and amnesty, there is a need for at least moderate flexibility in regulatory writ-

Finally, the committee amendments contain a private right of action. It is my understanding such a provision is not needed to protect domestic workers. The employment offer to domestic workers, if accepted by them, becomes an "oral contract," enforceable under

current contract law. Additionally, many foreign countries, particularly the British West Indies, contract with employers in order to police the employer's job offers. Therefore, those countries can enforce those contracts against growers in this country. Another statutory right of action for either domestic or foreign workers is not needed, should not be created, and is redundant.

As to the discriminatory aspects of this legislation which Mr. HAWKINS' amendments, accepted by the committee, seek to address, I can appreciate his concern, but oppose his means. The committee amendments, in effect, authorize the Immigration Board to determine whether an applicant was discriminated against on the basis of race or national origin, discrimination already outlawed by title VII of the Civil Rights Act of 1964. Title VII, however, already contains sufficient protection of applicants to allay the concern that employers would refuse to hire applicants who appear to be "foreign." Under title VII, employers are prohibited from failing to hire any individual because of such individual's race, color, or national origin. Title VII also establishes an elaborate administrative scheme for the handling of complaints of discrimination and allows complainants to bring suit in Federal court to seek back pay, reinstatement, and other equitable relief. Title VII has proven to be an effective deterrent against employment discrimination, and has provided victims of discrimination with sufficient remedies where violations have occurred. At a time of fiscal austerity, there is no need for Congress to create another EFOC.

Under present law, only persons employing 15 or more employees are subject to title VII's employment discrimination prohibitions. The committee amendments, by permitting the Immigration Board to hear complaints of unfair treatment filed against persons employing more than three individuals, would effectively eliminate this exemption. Under H.R. 7357, therefore, "Mom and Pop" companies would not only be subject to criminal sanctions for violation of immigration laws, they would have to defend themselves against employment discrimination claims as well.

The immigration legislation has already caused substantial concern within some segments of the business community. Not only are all segments of the business community concerned with a proposal creating a second EEOC to process cases involving national origin discrimination, but Members of Congress should be concerned as well. If some feel that EEOC only cares about race and sex claims, then steps should be taken to deal with that problem. Such steps, however, should

not include creation of still another civil rights agency. We already have EEOC, the Department of Labor's Office of Federal Contract Compliance Programs, title VI enforcement agencies within each Federal department, and State and local fair employment practices commissions, among others. Establishing a new civil rights bureaucracy will not solve the illegal alien problem. For these reasons, I must oppose the committee amendment.

I would like to mention one additional committee amendment to this bill which I think makes good sense. My colleague, BILL GOODLING, offered an amendment to section 303 of the judiciary bill to provide for assistance to school districts charged with the responsibility of educating eligible legalized aliens. The amendment recognizes a limited Federal responsibility and merely conforms the Federal educational assistance program in this act to the program structure designed by the Refugee Education Assistance Act of 1980. It is a good amendment, it makes sense, it was adopted unanimously in committee, and I think the House ought to accept this amendment.

#### □ 1120

Mr. Chairman, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I

yield myself 4 minutes.

Mr. Chairman, I thank all of my colleagues for their patience. This is of course a very late hour, but this is a very important bill, landmark legislation, and it does deserve the careful attention all of the Members are giving

Mr. Chairman, I am pleased and proud to bring before the House H.R. 7357, the Immigration Reform and Control Act of 1982. This is an important and a highly necessary piece of legislation. Its enactment during this postelection session, the lameduck session of Congress, would be a noteable achievement and would constitute the adoption of landmark legislation.

I am proud of this bill and proud to have my name attached to it because it is a fair and a balanced piece of legislation. It is humane and sensitive and at the same time effective, and it is in the words of the New York Times "not nativist, not racist, and not

mean.'

But though the bill carries my name and that of the junior Senator from Wyoming, Senator SIMPSON, it in fact does not belong to us but belongs to a whole generation of legal scholars, academicians legislators, demographers, and others who have worked on the reform, the sensitive and humane reform, of the Nation's immigration policy.

This bill could, of course, be called the Rodino bill for if there is, as I said earlier this evening, one person in this country whose ideas are most clearly represented in this bill and who represents the best of legislating skill, it is the gentleman from New Jersey, our distinguished chairman.

The bill could be called the McClory bill or the Fish bill for these gentlemen, the gentleman from Illinois, the gentleman from New York, are both Members who served on the Commission headed by the President of my alma mater, Father Ted Hesburgh of Notre Dame. They served with distinction, and they are both, I am proud to say, cosponsors of our original bill.

It could also be called the Hesburgh bill because again it contains the elements which were in the Commission report following the 2-year tenure of Father Ted at its helm. There are hundreds of people who have contributed to our production of the bill.

I might say the preparation for tonight's debate and for tomorrow's debate and markup and eventual production of a bill began many years ago, back in 1970. Four successive administrations have studied this problem and made recommendations. The 16-member panel, the Commission, called the Hesburgh Commission, made its report beginning in the spring of 1981.

The committee I am privileged and proud to serve as chairman began its hearings along with our counterpart in the Senate. We had sessions together for the first time in 30 years as joint hearings. We heard from 300 witnesses. We had 14 separate days of separate hearings. It has been a magnificent effort from the standpoint of the energy expended and I think the talent devoted to the job.

I believe it has been in my view and I admit to some bias here, I think it is a magnificent effort in the finished product. I think it is balanced. I think it is sensible, I think it is humane. I think it is effective, I think it is a bill that there is not a Member of this House who would have any shame in voting for because it treats the people the way they should be treated, as human beings. It does not scapegoat, it does not take cheap shots, it has no hidden agenda. It simply treats human beings as human beings and gives them the dignity and accords them the justice to which they are entitled.

I would hope and I would implore my colleagues to listen to the gentlemen and gentlewomen who will be debating the bill. This is highly complex-it is a multifold bill. It is difficult to sometimes follow. The Members will perhaps think that we are speaking of esoterica, points that are so far out that they cannot be related to actual practice.

These are, however, despite the difficulty of comprehension, important points which should be given careful attention.

Mr. Chairman, I would like to salute the gentleman from Kentucky, the chairman of the Committee of the Whole House on the State of the Union, who has chaired many a committee meeting over his effective years in the House, and he has always chaired them with fairness. He is in the chair tonight. We appreciate his diligence.

But what I hope happens at the end of the day, whenever this bill reaches final passage, I hope that the bill is given a good strong vote of bipartisan support. My friend from California said that the 15-to-13 vote in the committee did not show bipartisan support. The 257-to-137 vote this afternoon in adoption of the rule does show indeed bipartisan support for this measure.

But I hope that we have the passage of the bill resoundingly.

Mr. Chairman, everyone who has worked in the production of this bill will find some elements in it which they have proposed or supported. But, and this should be noted, no one will find in this measure every single recommendation or element they support. That is because this bill is a consensus and a compromise. No true compromise satisfies everyone totally. But, a successful compromise must satisfy everyone at least partially. H.R. 7357 satisfies everyone partially. So, it is a good compromise.

The background and preparation for today's debate has been monumental. Starting in 1970, four successive administrations have studied the immigration issue and recommended changes in our immigration laws which are incorporated in this bill. In 1978, Congress appointed a 16-member Select Commission on Immigration and Refugee Policy which conducted the most exhaustive study in 70 years of immigration policy.

Beginning in the spring of 1981, my subcommittee and the Senate Immigration Subcommittee held the first of what ultimately turned out to be 6 full days of joint hearings on immigration reform. I should note that this was the first time in 30 years that such joint hearings have been held. My subcommittee went on to hold 8 additional days of its own hearings. In all, we held over 100 hours of hearings with more than 300 witnesses appearing.

My subcommittee and I also traveled to California and Florida for extensive investigative trips, and I traveled on my own to Texas and California for further meetings on immigration with concerned groups. And, needless to say, there were literally dozens of private meetings and briefings.

My subcommittee and I ventured to Mexico City to talk with Mexican Government officials about immigration. The gentleman from New Jersey (Mr. RODINO) and the gentleman from New York (Mr. Fish) traveled to Haiti to get firsthand observations of the situation there. My subcommittee and I also visited refugee camps throughout Southeast Asia and met with refugee officials in Europe, all to get a better purchase on the subject.

In short, I believe that although the study of such a complex subject is never complete, all the study that could be done has been done in preparation for today's debate.

The need for the legislation is clear and the time could never be better nor more clement.

Our immigration policy is in chaos. Hundreds of thousands of aliens enter our country each year either illegally or initially legally only to overstay their visas and become part of the large mass collectively known as undocumented aliens. Many of these undocumented aliens, though working and contributing to our economy and society, live in a netherworld because of their lack of legal status.

The process for determining political asylum for those who claim they have been persecuted or will be persecuted if returned to their home countries has become gridlocked, so that over 125,000 asylum applications are pending. And the system for allowing a limited number of temporary foreign workers into our country to take jobs Americans do not want is so cumbersome that employers hire undocumented aliens rather than use the legal system.

It is essential the House act promptly on this legislation. For one thing, the illegal immigration problem continues to grow just as we sit here. Apprehensions along this Nation's southern border have increased dramatically this year over last year, just as they have increased steadily over the last 15 years. And just as they will grow again next year, unless something is done.

Part of the reason the apprehensions have increased is because my subcommittee has strengthened the Immigration and Naturalization Service, particularly the Border Patrol, with increased personnel and funding. That battle is far from over, though, and we will continue to fight for additional funding.

But, the major reason for the increased apprehensions is the increased flow of undocumented aliens. The pull factor, the availability of jobs in this country, is very effective. As long as this magnet exists, as Attorney General William French Smith pointed out in hearings before my subcommittee, even an army along our border will not stop the flow of undocumented aliens.

The immigration reform bill will end the job lure, turn off the job magnet, by making it illegal for employers knowingly to hire undocumented aliens. That brings me to the second important reason to act now on this bill.

We are all exceptionally concerned about the high levels of unemployment in our country. The 11 million Americans out of work today are being drained of their vitality and energy because there are not jobs available. Congress must act to put these Americans back to work, and one vital action will enactment of H.R. 7357. Recent editorials in the New York Times have urged adoption of our bill, in part, because it will tend to return Americans to works.

Contrary to what some might believe, we are not just talking about jobs in agriculture, Undocumented workers come from all parts of the globe and take jobs in all sectors of our economy, frequently at very high wages. Experts estimate that as few as 20 percent of the undocumented aliens work in agriculture, with the bulk in manufacturing of service sector jobs.

During the Immigration Service's operation jobs, conducted earlier this year in major cities all across the country, the undocumented aliens apprehended were earning almost \$5 per hour on average, with many making \$10 an hour earning \$20,000 per year. While Americans may not want certain agricultural jobs, they would find these attractive.

No one knows exactly how many jobs will be opened by the immigration bill or how many jobs will be saved in future years, but even the most conservative estimates start with 500,000 jobs. Other estimates run to 1 to 2 million jobs enough to lower the unemployment rate in the United States by 1 to 2 percent.

Every unemployed American costs the American taxpayer about \$7,000 per year in transfer payments for unemployment insurance, AFDC payments, food stamps, and the like. Assuming that 1 million U.S. citizens can be put back to work under this bill, there would be a savings to the Treasury of about \$7 billion.

This bill will cost some money to implement. And, to have an effective Immigration Service, Congress will have to provide additional funding for the Service after the bill is enacted. But these costs are minimal compared to the potential savings it will bring about.

A third reason we should act now is that under the strong leadership of Senator Alan Simpson, the other body has finally taken a stand on immigration reform. This House twice overwhelmingly passed on immigration reform bill authored by Chairman Rodino, but the other body failed to act, leaving the immigration problems to worsen. But this year, by an 80 to 19 vote, the other body recognized what the House saw 10 year ago—our immigration policy is out of control and needs immediate attention.

We should do no less than the other body and pass H.R. 7357 this year.

Let me hasten to add here that if we enact immigration reform legislation this year, Congress will not be able to wash its hands of the subject. H.R. 7357 only scratches the surface of the migration problem.

The United States has responsibilities to the sending nations to help them increase the standard of living and the quality of life for their citizens so that these people will not have to leave their homelands to find a good life for themselves and their families. These programs will be costly but they will be richly rewarded.

I believe many Members are very familiar with the bill, and I appreciate the time each of them has already taken individually to study this complex legislation. Let me however here very briefly explain the major provisions of the bill.

H.R. 7357 contains sanctions against employers who knowingly—and I need to emphasize that word, knowingly—hire undocumented aliens. There are escalating penalties, but each violator is entitled to receive a warning for the first violation.

The bill contains various protections against possible discrimination arising from this provision, such as the requirement that all new hires—whatever their race, creed, or color—have their documents checked, and that there be monitoring of the program by the President and the Civil Rights Commission, and by a special task force composed of the Attorney General, the Secretary of Labor, and the Equal Employment Opportunity Commission.

The bill contains no requirement for a national identification card, and, in fact, specifically prohibits such a card. During the first 3 years after enactment, job applicants will have to present common identifiers, such as a driver's license and social security card. During those 3 years, the President and Congress, working together, will see what changes, if any, are necessary in this initial system.

The bill streamlines, but at the same time makes more fair, the process for determining asylum applications—those people who arrive on our shores and claim they cannot return home because of a fear of persecution. The Judiciary Committee added a provision guaranteeing judicial review for all asylum applicants whose requests are turned down at the administrative level. This is a valuable amendment.

The legislation provides for a limited and carefully circumscribed program for admitting temporary foreign workers to take jobs that Americans do not want, mostly in seasonal agriculture. This is not a guestworker program, which raises the possibility of foreign workers taking jobs from Americans.

This is a streamlined version of the H-2 program, which has been on the books for 30 years, which provides for admission of foreign workers only to take specific jobs and only when the employers have first been unsuccessful in recruiting Americans to do the jobs.

Finally, the bill provides a carefully controlled legalization program for those undocumented aliens who have lived in our country for a minimum of 3 years and who have demonstrated a willingness to work and contribute to our society. This is not—I repeat, not—a blanket amnesty, as some have charged, nor does it grant immediate citizenship to anyone, also as charged.

This proposal, which has been endorsed by three successive administrations, including the Reagan administration, and by the Select Commission on Immigration and Refugee Policy, chaired by Father Theodore M. Hesburgh of Notre Dame, would require the INS to interview each applicant individually. Only those of good moral character—those who are found acceptable after being tested against the 33 grounds in the laws for excluding prospective immigrants—would be allowed to adjust to legal status.

None of those adjusting could immediately become U.S. citizens. Those who arrived before January 1, 1977, in other words, who have already been continuously living and working in our country for 6 years, could become permanent resident aliens. After 5 years, during which they could be deported for various acts, they could apply to be

naturalized U.S. citizens.

Those who arrived between January 1, 1977, and January 1, 1980, would become temporary residents under the bill. Only after 3 years of good conduct, and only after another screening against the exclusions, could they become permanent resident aliens. Five years thereafter they could become naturalized citizens.

The bill bars newly legalized aliens from most forms of welfare, except emergency medical care and aid for the aged, blind, or disabled, for the first 3 years, in the case of pre-1977 arrivals, and for the first 6 years, in the case of the more recent arrivals. It also provides, subject to appropriations made in advance, reimbursements to State and local governments for welfare costs and educational costs associated with legalization.

Based on all the evidence my subcommittee has gathered, these welfare costs at the Federal, local, and State levels will be minimal. Aliens coming forth to be legalized are working people or else they will not be eligible for legalization. A condition of legalization is to forgo most forms of welfare. One who would flout these restrictions faces deportation.

Admittedly, the new legalized aliens will create some costs, but most work now and pay taxes—recovering almost

none since tax returns are not filed—and I strongly suspect they will continue to work and pay taxes when legalized. I do not believe they will become a major new welfare drain.

Mr. Chairman, I am aware that various Members may want to introduce amendments to improve the bill we are considering. Many have been printed in the RECORD as required under the rule.

Each amendment will be considered carefully. But, I am hopeful the Members of the House, before voting on an amendment, will keep in mind the essential fairness and balance now in the bill and give the benefit of all doubt—and all close calls—to the committee bill.

Some Members want a legalization cutoff date of 1982, some want 1973. The committee came down in the middle with 1977 and 1980 dates you find in the bill.

Some Members want a massive guest-worker program, some want no foreign workers admitted at all. The committee chose instead of either of these extremes a controlled and workable H-2 program.

Some Members want no employer sanctions, others want to put any person who hires an undocumented alien out of business. The committee chose the reasonable middle by creating an escalating set of penalties, starting with only a warning to the first time offender.

In short, the committee has achieved—for the most part—the solid middle ground position.

I also hope Members will realize that this is not the last word—the state of the art. It is a complete bill but does not solve—nor is it intended to solve all immigration or discriminatory problems in the United States. The bill contains the essential elements of a reform effort, with goodies for all.

I have looked through the amendments and realize that many of them have great appeal. But almost none of them have had any hearing or the detailed examination by my subcommittee and the full committee that I know this body would and should expect.

I have already stated publicly and repeat today that during the next Congress, I will be prepared to undertake hearings on many other parts of the Immigration and Nationality Act which are outdated and need revamping. I hope that Members would not offer these special amendments since they will be given full consideration next Congress.

In conclusion, Mr. Chairman, I want to once again commend all the Members of this body and all the outside groups who contributed so much to the legislation before us today.

We have a good bill, and I look forward to its enactment.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Fish).

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this debate opened with a statement from our committee chairman, the gentleman from New Jersey, typical of his continued wise leadership in the area of immigration. His was a message of urgency. The time for action to regain control over our immigration policy is long overdue. The burden in this debate rests squarely on those who at this late date object to effective enforcement policies.

One of the pleasures for me in this Congress has been working with the gentleman from Kentucky, the chairman of the subcommittee. Few men give of themselves so much to realize necessary but difficult changes in our immigration laws.

Mr. Chairman, I welcome the opportunity today to join my colleagues in speaking in support of H.R. 7357, the Immigration Reform and Control Act of 1982. This legislation represents the culmination of years of work. The Select Commission on Immigration and Refugee Policy held 12 regional hearings in different parts of the United States, conducted 24 in-depth consultations, and authorized extensive social science and legal research. A Cabinet-level task force carefully scrutinized the Select Commission's findings and recommendations. The Immigration Subcommittees of both the House and Senate heard from numerous witnesses from Federal, State, and local governments, business and labor organizations, industry and agriculture, religious and ethnic groups, and civil liberties organizations. The Judiciary Committee, although unable to please everyone, made a conscientious effort to accommodate very diverse concerns. The genius of the Simpson-Mazzoli bill is reflected in its balance of competing interests. The bill-by focusing on enforcement, adjudications, and legalization-addresses the major issues related to the presence of undocumented aliens in the United States today.

The American people, for many years, have called upon the Congress to confront our lack of control over our borders. We have the opportunity, in this Congress, to act with firmness to deter future illegal entry and at the same time reaffirm America's historic commitment to accept legal immigrants from other lands.

Employer sanctions, the centerpiece of immigration law enforcement, is a key provision in this bill. H.R. 7357 attempts to discourage the annual flow of hundreds of thousands of undocumented aliens by removing the major inducement to illegal migration—the magnet that draws people to our

shores—the opportunities for employment. The concept of employer sanctions has received the support of a number of administrations, favorable votes on two occasions in this body, and the endorsement—by a 14-to-2 vote—of the Select Commission on Immigration and Refugee Policy. Alternatives have been considered and found wanting. Employer sanctions is the only effective option—in the judgment of the many people who have focused on the problem of illegal immigration.

This legislation specifically guards against the possibility of making employers law enforcers. Sanctions are not imposed on employers who hire illegal aliens unknowingly. The language of section 101 provides that it is unlawful to hire an alien "knowing the alien is an unauthorized alien with respect to such employment An employer that "establishes that it has complied in good faith" with the verification requirements "has established an affirmative defense \* \* \*." I believe the statutory language as well as the legislative history will protect American businesses by limiting the application of employer sanctions to "knowing" violations. The Business Roundtable, by endorsing this bill, has expressed its faith that employers will receive fair treat-

Contrary to what has been said, the GAO did not say employer sanctions were ineffective. It said in other countries they will not be enforced.

H.R. 7357, moreover, has been designed to protect ethnic minorities against invidious discrimination. Four separate provisions of this bill are designed to prevent discrimination. Employers of four or more persons who ignore a warning and fail to follow paperwork/verification requirements will face a \$500 civil penalty-for each individual with respect to which such violation occurred-regardless of whether the individual turns out to be a U.S. citizen or lawful permanent resident alien. By following the paperwork requirement, the employer will know if the applicant is eligible. He need not fear making a mistake. The employer, I say to my friend from California, will discriminate against Hispanics at his peril.

I am confident that we strengthened the protections against discrimination in the course of our full Judiciary Committee markup. One important provision inserted by the committee directs the Civil Rights Commission to monitor the enforcement of employer sanctions. In addition, the bill directs the Attorney General, the Secretary of Labor, and the Chairman of the Equal Employment Opportunity Commission to review and investigate complaints of discrimination. Another provision requires the President to consult with Congress every 6 months

concerning the implementation of employer sanctions—including possible discrimination in employment.

The very extensive monitoring and reporting mechanisms are an expression of the importance the Judiciary Committee attaches to guarding against discrimination. We are confident that existing civil rights legislation, State and Federal, will provide an important measure of protection in many cases of discrimination based on national origin. Congressional oversight, moreover, will help insure that the new statute is properly enforced.

Another major focus of this legislation is reform of the immigration adjudication process. Today, exclusion, deportation, and asylum adjudications are beset with crippling delays. H.R. 7357 upgrades the administrative adjudicatory structure—by providing it greater independence and stature and thus minimizes the need for protracted judicial involvement. The Judiciary Committee has preserved the critical role of the Federal judiciary in adjudicating the important liberty-related matters that arise in some immigration cases but has eliminated needless layering of review. We have combined due process with necessary reforms.

This legislation, finally, recognizes that substantial numbers of illegal aliens are here to stay and responds realistically and humanely to their plight. At the same time that we act with firmness to deter future illegal entry, we must display compassion in our treatment of those aliens who have become a part of our society. The conferral of a legal status on undocumented aliens with years of U.S. residence will permit this population to come out of the shadows and contribute more to our country.

The Select Commission, by a 16-tozero vote, favored "a legalization program as part of its enforcement package." Precedents in U.S. law for legalizing the status of undocumented aliens can be found in the registry date—which serves as a statute of limitations on illegal entry—and the discretionary remedy of suspension of deportation.

H.R. 7357, in my opinion, sets appropriate cut-off dates for eligibility for legalization. They are the same dates incorporated in S. 2222. Persons who entered the United States prior to January 1, 1977, may qualify for permanent resident status, and persons who entered prior to January 1, 1980, may qualify for temporary residence status—a transition status leading to permanent residence after 3 years.

The approach of our Judiciary Committee and the other body represents an appropriate compromise between the views of those who would eliminate the legalization provisions entirely or only advance the registry date to 1973—and those who would provide

lawful permanent resident status to persons who entered prior to January 1, 1982. A failure to provide a substantial legalization ignores the equities of persons who have lived in the United States for a number of years, perpetuates the existence of a large underclass of illegal aliens, and continues to subject citizens and lawful permanent resident aliens to enormous social costs.

The distinguished chairman of our committee pointed out in his eloquent remarks that many years already have been lost in addressing a critical national problem—our lack of control over immigration. Any further delay would be unconscionable. The full Senate under the great leadership of the Senator from Wyoming acted in August—and the ball is now in our court. I am confident that we will run with it—and bring an important law reform effort to fruition.

#### □ 2340

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. I appreciate the gentleman yielding.

Mr. Speaker, I just want to commend the gentleman. He has been a stalwart force in this subcommittee. The gentleman has served for many more years in this subject area than I have.

There was a great learning process for me when I had the privilege to become subcommittee chairman. I have had the great honor of working with the gentleman from New York, the ranking member of our subcommittee, whose wisdom and diligence and willingness to really get on with a task has just impressed me from start to finish.

I want to thank the gentleman. He is being very modest in claiming his own role, which has been very substantial in reaching this point of progress on this legislation.

The CHAIRMAN. The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield 10 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. I thank the gentleman for yielding this time to me.

Mr. Chairman, it was my intention to offer a privileged motion, to adjourn, in protest to the scheduling of this bill at this late hour, but I decided not to do so in deference to my colleagues who were informed earlier today that no votes would be taken once this debate started. I did not want to place those Members in a position where they would have to miss a rollcall, and that is the only reason,

Mr. Chairman, why I did not offer that motion.

I still, however, protest the fact that this bill was taken up at 10:25 this evening. I suppose if we go through today's schedule that we will find that we did a tremendous job in passing several pieces of legislation. One of those is the Futures Trading Act of 1982. That bill is so important that it passed this House by a voice vote.

One of the other bills was the Paddy Creek Wilderness bill. I suppose that bill deals with wilderness, with frogs, with wild animals, and I am for that.

I voted for these bills. The other bill was the Mark Twain National Forest.

So as we look at the rest of the bills, we find that we can pat ourselves on the back for we took the time during the day to debate those bills that deal only with soil, with wild animals, with the wilderness of this Nation. I agree that they are important that we do these, they are worthy bills, but why I am protesting is the fact that they took precedence over a bill that affects millions of individuals the moment it becomes law, and millions of individuals in for generations to come.

To schedule this bill at this time, after having told Members that they need not be here, I think, is an affront to those whom this bill will affect, and it definitely shows insensitivity to the feelings of millions of people in this Nation.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. Not at this time.

It shows insensitivity to those people whose civil rights will be affected by this bill in its present form.

I have been told that there is great support for this bill. I wonder why it is that no minority group in this House or any place that I know of is in favor

of the bill in question?

Now, I must admit that the members of this committee are intelligent, hardworking individuals; that they are well intentioned and that they really be-lieve that this bill is truly a reform bill. Not too long ago, someone asked: "Will this bill stop the illegal flow of aliens coming from Mexico?" I did not hear an answer to that question at all. because the truth of the matter is that it will not, and it will not because this bill, or the drafters of this bill, have not consulted or enlisted the cooperation of high officials of the Mexican Government, men who would have the power within that governmental structure to enter into some agreement that would make it possible to stop that flow of illegal aliens to this Nation.

We all realize that this is a complex and controversial bill. In fact, this bill is called the Immigration Reform and Control Act of 1982. I want you to listen to the word "reform." There is no reform in this bill whatsoever. The truth of the matter is that the immi-

gration authorities are understaffed, that they have a tremendous backlog, that anyone in this House can go to the city of Los Angeles or Miami or any large city and find every day hundreds of people surrounding that building trying to get service, people who actually could adjust their status, but only three clerks are there to serve their needs.

These people come back early the next morning or sleep there that night in order to be the first in line.

If you are talking about reform, let us do something about the problems of the immigration authorities. Let us not depend on what was done here on this floor when we were debating an appropriation bill, when the gentleman from Texas (Mr. KAZEN) had to get up and offer an amendment that placed 100 more agents at the border.

Why does it have to be done in an appropriation bill? Why can it not be done by those authorizing committees that have all these fancy hearings? Why can it not be done properly?

Well, my friends, the under staffing, the back log of the Department of Immigration while we continue to call a discriminatory piece of legislation a reform bill. Employer sanctions we are told are designed to prevent these people from coming in? The truth of the matter is, that a hungry man is not going to be deterred from coming to the United States when sanctions are imposed against somebody else; no way.

None of these things are going to happen. What is going to happen, though, and this is the fear of the Hispanic community, that employers fearful of sanctions will not interview for employment anyone who may appear to be hispanic. This is the discriminatory aspect of this bill that we oppose and we believe this is what will happen.

We are told that by having sanctions we are placing the responsibility on the employer he will not hire these people and, therefore, sanctions will be effective. The truth of the matter is that there are 20 countries that have sanctions at the present time some with penalties as high as \$20,000 that now realize that sanctions do not work. A GAO report clearly indicates that it does not work in any of those countries, and it goes on to say that the reasons why it does not work, or one of the reasons, is that they do not have enough money to enforce the law.

What makes the Members of this body, or anyone, think that we can do better when we do not even put enough money to make the Immigration Service effective in the job that they are now assigned to do? We all know that they are not doing their job properly because the Congress is cutting back funds for the Service instead

of increasing funds sufficient for them to provide a proper service.

Then as we go on we find that there is a system of verification, an ID card, that will no doubt be selectively applied to Hispanics. That is not going to work either. We were told just a little while ago that we can depend on title VII of the Civil Rights Act.

The Civil Rights Commission has reported that, "after the fact remedies are rarely adequate to compensate American citizens and legal residents for full enjoyment and participation in our democratic society". Now, something that I find very inconsistent is that the bill is recommending that no cap be placed on people coming into the United States under an H-2 program.

#### □ 2350

One of the arguments that I heard not too long ago with regard to this bill is that this is a jobs bill. You know, I just could not believe that when I heard it, but that was said right where I am standing at this moment. This is not a jobs bill. If anything, it is another bracero bill. The bracero bill, if you remember, was put into place during the war, and 22 years later we repealed the law. Is this what the committee has in mind when they place no limit on their H-2 program?

I am baffled by the inconsistency of the proponents of H.R. 7357. The underlying urgency in pressing legislation is the apprehension that we have lost control of our borders. Time and again, I heard my colleagues state that we had to curtail the influx of undocumented workers who are taking jobs away from domestic workers. Yet when it came to debating the merits of the H-2 provisions, few rose to protect the interest of domestic workers. Instead, the committee passed a backdoor bracero program.

My overriding concern is the possibility that the H-2 program, as amended by this bill, will be used as a backdoor approach to revive a bracero program such as the one this country used to employ 4 and 5 million Mexican temporary guestworkers from 1942-64. This experience clearly showed that dependence on foreign labor only creates a pool of economically interdependent societies, and socially and politically disparate workers. Under the bracero program, employers held complete control over the workers' ability to remain in the United States. Consequently, highly vulnerable workers were subject to harassment and exploitation if they complained about working conditions. After 24 years of abuse we terminated the bracero program. I do not want to see this Congress sanction another temporary foreign worker program which does not adequately protect the rights of domestic and foreign workers.

H.R. 7357, as amended, overlooks the weaknesses and problems which now exist in the H-2 program. Instead of eliminating the present program, the committee voted to expand it. The changes adopted facilitate the entry of hundreds of thousands of temporary foreign workers, thus increasing the economic incentives for recruiting H-2 workers. This will only increase this country's dependence on cheap foreign labor to the detriment of U.S. migrant workers.

Since the inception of the H-2 program in 1952, the use of agricultural workers has not exceeded 30,000 annually. Employers who utilize the H-2 program are exempt from certain tax obligations. Neither the foreign worker nor the employer have to pay social security taxes (FICA). This means that an employer can save 6 percent of his cost by hiring an H-2 alien rather than an American citizen. Additionally, growers do not have to pay unemployment insurance taxes on wages paid to foreign contract labor, thereby saving an additional 2 to 4 percent more on their taxable payroll.

As a result of the amendments adopted to H.R. 7357, most restrictions which protect domestic workers have been weakened. Displacement of U.S. agricultural workers is more likely to occur as are civil rights violations against foreign workers.

The amendments to the H-2 certification process only require a minimal recruitment effort to find domestic workers before foreign workers are certified. This will result in a large-scale influx of foreign workers as was the case with the bracero program and most recent European guest worker programs.

Current certification procedures are designed to protect domestic workers. In order to bring in foreign H-2 workers under present regulations, an employer petitions the Department of Labor (DOL) through its local employment office 80 days prior to the date of need. In its petition the employer must establish that there are not enough qualified U.S. workers in the Nation and that the use of H-2 workers will not adversely affect the wages and working conditions of domestic workers similarly employed. DOL then makes a determination 20 days in advance of actual use. Under this arrangement, DOL has 60 days in which to recruit domestic workers. These deadlines insure that the interests of domestic workers are protected.

The amendments adopted by the committee shorten from 80 to 50 days the period DCL will have to determine availability of domestic workers. This change will have an adverse impact on the domestic farm labor force. DOL will only have 30 days in which to get job information to the migrant farm

workers. Due to the mobility of agricultural workers, it will be extremely difficult to find them within 30 days.

Presently, DOL is responsible for formulating the H-2 regulations. Only DOL can approve petitions for any kind of H-2 workers. Under H.R. 7357, the ultimate authority would be vested in DOJ. The Attorney General would then seek the input of DOL and for the first time the U.S. Department of Agriculture (USDA). This dilutes DOL's role. Although it would continue to issue all regulations relating to certification for H-2 workers, it would have to work in conjunction with the USDA in advising the Attorney General on regulations governing agricultural H-2 workers.

A further modification which weakens the restrictions of the H-2 program is the change in the recruitment standard. Under current regulations. employers must prove that there are no American workers available before foreign workers may be recruited. The national test provision is designed to protect domestic workers. Our domestic migrant workers travel long distances and cross many State lines to obtain agricultural jobs. The current standard is not excessively burdensome. In reality all that is usually required of an employer is that he place a job order with the local employment service which in turn transmits it to other employment offices.

As amended, the recruitment standard does not specifically mention the national test. Leaving this critical standard to regulations may very easily result in the denial of job opportunities to our domestic migrant workers. If, for instance, the employer is merely required to look within his local area or State, there is the possibility that the job notice will never reach the domestic migrant farm worker because they rarely remain stationary. The occupation requires mobility, therefore, job notices must reach the migrant stream.

The adoption of a ready, willing, able, and available at the time and place standard makes it easier for employers to reject U.S. workers from consideration. This is contrary to the intent of the current H-2 program to protect domestic workers. Farmers will have access to foreign labor even after turning away all but the most able U.S. workers.

The H-2 amendments also isolate and protect the unscrupulous H-2 employer by limiting the Secretary of Labor's power to deny certification to employers who, during the previous 2-year period, have substantially violated a material term or condition of the contract. The colloquy which took place between Mr. Butler and Mr. Mazzoli during committee consideration indicated that this new language had been requested by the administration. Furthermore the higher standard

requires material, breath, substance, and an element of knowingness. This change would prohibit unscrupulous employers from using H-2 workers for only 2 years versus the original bill's 5-year limitation.

History has clearly illustrated that reliance on temporary foreign labor creates many domestic and international problems. The bracero program was terminated because of the many Mexican workers who were subjected to exploitation and discrimination. Other European countries have also recently curtailed the use of guest workers because of similar problems.

All persons working in the United States should be protected by the same civil and labor rights as citizens. Anything less is economically unfair to U.S. citizens and permanent residents, and encourages the continued exploitation of foreign workers. The many inequities of the current H-2 program will only be increased by the adoption of these or any amendments which effectively create a guest worker program. The changes will further erode the civil and labor rights of U.S. workers while at the same time allowing for a larger number of temporary workers to be employed in the United States without the protection of those civil and labor rights.

Senator Alan Simpson has commented that "once employers can use foreign workers, they want to keep using them and discourage U.S. workers, thereby justifying a continued need for Mexican labor." Staff members of the Select Commission on Immigration and Refugee Policy recommended against any substantial expansion in foreign worker recruitment at this time. I respectfully concur and call for the deletion of the H-2 amendments to H.R. 7357 as reported by the Judiciary Committee. When taken in the context of the entire bill these changes are premature and may be altogether unnecessary given the labor force which will be given legal status through the legalization provision of this bill.

The CHAIRMAN. The time of the gentleman from California has expired.

The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield myself 7 minutes.

Mr. Chairman, I rise in support of the Education and Labor Committee substitute section 211, the temporary guestworker H-2 program in H.R. 7357. The Education and Labor Committee was granted a sequential referral of H.R. 6514 based primarily on our jurisdiction over labor standards and other provisions of this section affecting both American and guest workers. On December 1, our committee reported the bill with eight amendments, including a redrafted tempo-

rary worker program.

The Education and Labor Committee overwhelmingly approved my substitute in order to protect domestic workers from displacement by temporary foreign labor and to guard against abuse and exploitation of agricultural workers, be they alien or domestic.

As reported by the Judiciary Committee, H.R. 7357 utterly fails to provide adequate, or even current, protections for domestic or temporary foreign labor.

The current H-2 temporary worker program is a small program designed to meet the legitimate short-term labor needs of employers. Regulations were promulgated by the Secretary of Labor over the past 20 years to protect the domestic work force from adverse impacts resulting from the influx of alien workers under the H-2 program. These existing regulations require employers of temporary, alien labor to certify to the Government that there is an insufficient number of qualified American workers to fill the available jobs. Current regulations also contain basic labor standards protections for the temporary agricultural alien worker.

Nearly 100 percent of the applications for these temporary workers have been routinely granted. The number of alien agricultural workers involved in the program has hovered between 17,000 and 20,000 per year

over the last decade.

But the Judiciary Committee bill could increase the number of temporary workers by as much as 15 to 25 times. According to one of the bill's strong supporters, the Judiciary Committee version could produce as many as 300,000 to 500,000 H-2 alien workers at a time when there are millions of unemployed Americans looking for jobs.

Yet the Judiciary Committee has not even seen fit to maintain the current safeguards for American workers in H.R. 6514. The certification procedures intended to give first rights to a job to American workers have all but been discarded. The Judiciary Committee bill throws out nearly all the protections for the H-2 worker, too. In addition to expanding enormously the size of the program and weakening its protections, the Simpson-Mazzoli bill makes no provision to assure that its weak protections are enforceable. Under the current 18,000 agricultural worker H-2 program there have been only a handful of investigations by the Government to assure compliance with legal requirements. Less that 2 percent of the H-2 sites were inspected in 1981-11 sites out of nearly 900. Yet violations were found in nearly half the cases investigated.

Obviously, the Government has little means of assuring compliance with the current, small-scale program. The Judicary Committee bill is silent on safeguarding the legal and economic rights of 300,000 to 500,000 alien workers (and the Americans they might displace), especially if the protections themselves are weakened.

For these reasons, the Education and Labor Committee sought and was granted sequential jurisdiction over this legislation. The Labor Standards Subcommittee, of which I am chairman, has developed a substitute to the Judiciary Committee's section 211, which addresses the severe shortcoming in the Judiciary Committee's H-2 language, and which would assure that the H-2 program is enforceable and fair both to American workers and to work here.

The Education and Labor Committee substitute places the labor standards currently found in regulations, into the text of the new law. Having noted the Department of Labor's woefully inadequate effort to enforce current law and regulations, the substitute provides that the program may not be expanded unless the Secretary certifies that he has the ability to enforce the law thoroughly. The bill also provided access to the courts for any person aggrieved by a violation of this portion of the law.

The changes adopted by the Education and Labor Committee to protect American workers from displacement and to maintain labor standards protections for alien workers are of crucial importance. The AFL-CIO has stated that without the guarantees included by the Education and Labor Committee substitute "the H-2 program would undermine the very purposes of the Immigration Reform and Control Act." In fact the continued support of the Federation is contingent on the success of the Education and Labor substitute on the House floor. The minority members of the Education and Labor Committee, likewise have concerns over the Judiciary Committee temporary worker program. The committee report by the minority indicates that they intend to pursue the "adequate protections for foreign workers and the continued strong labor standards protections to domestic workers," in H.R. 7357.

At this time of record unemployment, the Congress must not send a message to the American worker that we will sanction efforts to rescind longstanding labor protections, while relaxing procedures which regulate the importation and protect the rights of foreign temporary workers in this country.

Mr. Chairman, I urge that when this bill comes under the 5-minute rule that the House in fact support the Education and Labor substitute to section 211.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield for a question?

Mr. MILLER of California. Yes.

Mr. LUNGREN. Mr. Chairman, am I to understand from the gentleman's comment that if the H-2 provisions the gentleman puts forth are adopted, the gentleman is prepared to support the bill?

Mr. MILLER of California. That is correct.

Mr. MAZZOLI. Mr. Chairman, would the Chair advise the gentleman from Kentucky how much time he has remaining?

The CHAIRMAN. The gentleman from Kentucky has 34 minutes remaining.

Mr. MAZZOLI. I would seek perhaps a clarification from the Chair. I believe that is the total time remaining, but I think under the general agreement of tonight, the gentleman from Kentucky would have 4 minutes remaining of the first phase of the general debate. Is that correct?

The CHAIRMAN. That would be up to the gentleman.

Mr. MAZZOLI. Mr. Chairman, the gentleman from Kentucky would yield himself 2 minutes.

Let me make reference—unfortunately my friend from California is not here in the Chamber; I do not see him—I have listened with care to his very eloquent remarks tonight about the chagrin that he feels about the placement of this bill, starting it at 10:25 tonight rather than at an earlier hour. He cited the parade of legislation we had, all of which was important, but not probably amounting to the complexity and the importance of the bill before us tonight. He indicated—I am sure it was accidental—that somehow that reflected an insensitivity.

I think that the gentleman, of course, was aware that the gentleman from Kentucky—in fact, all of us—urged the leadership of the House, and we have for the last 2 weeks, to get our bill up. We have done almost everything from begging to shining shoes to get it up. So, I would join the gentleman. It is certainly wrong that this bill reaches the floor at this hour, but I would have to say that the gentleman from Kentucky had not a thing to do with the scheduling.

The gentleman from California, my friend (Mr. ROYBAL) said something to the effect that, say, 500,000 people would come in under the H-2 provision. Well, of course, no one really knows, and that is the big conjectural part here. No one really knows how many people would be needed, how many temporary agricultural workers would be required in the event the employer sanctions work, and we think they will, and that will cut off the supply of jobs to the undocumented.

□ 2400

But one thing that the Committee on the Judiciary did, Mr. Chairman, was to put in our bill very severe limitations and very severe requirements which have to be met by the temporary workers who come in. They have to establish under our bill that there is no adverse effect upon the prevailing wages of American workers by these people who would come in from abroad. They would come in for a limited period of time. And we furthermore state that there woud be a requirement that there is no American worker willing to take the job.

Having made that clarification, Mr. Chairman, I for the moment reserve the balance of my time, which I be-

lieve is 2 minutes.

The CHAIRMAN. The Chair would like to state that the gentleman from Kentucky (Mr. Mazzoli) has 32 minutes remaining, the gentleman from New York (Mr. Fish) has 42 minutes remaining, the gentleman from California (Mr. MILLER) has 36 minutes remaining, and the gentleman from Illinois (Mr. Erlenborn) has 44 minutes remaining

Mr. FISH. Mr. Chairman, I yield 7 minutes to the gentleman from California (Mr. Lungren) a member of the

subcommittee.

Mr. LUNGREN. Mr. Chairman, I would just like to reiterate what the chairman of the subcommittee has just said. Those of us on this subcommittee who are in support of this bill in no way determined that this would be the hour we would be debating the bill.

I even thought facetiously that perhaps I might bring up a privileged resolution to extend the pay raise to Members of Congress so we could have more members of the press following this issue. It seems rather strange that when we deal with the subject of the pay raise, which averages a penny per constituent, we have the press galleries overflowing, but when we talk about an issue that has not been addressed in 30 years by this Congress or previous Congresses, we see very few of the members of the press there. One wonders, when we talk about the priorities of the Congress, about the priorities of the press as well. Nonetheless, this is the time we have, and this is the time we must use.

Mr. Chairman, some Members have gone before us and have reminded me almost as if we were in a debating society or in an academic setting in which we were talking about the ideal situation we would all wish for. But unfortunately we as legislators do not have that luxury. We are talking about the

real world.

Some would say that we cannot have employer sanctions, that they are too intrusive and they are unnecessary. The only problem is that if we do not have them, we are not going to demag-

netize the pulling effect that we see in immigration that is the promise of jobs that drives people from their other countries to come to the United States seeking opportunity.

Some say that we cannot have a guest worker program or an expanded H-2 program because we have problems of unemployment in this country. There is no doubt that we have unemployment problems here, and no one here intends to diminish the impact of

The fact of the matter is that we have a de facto guest worker program in this country. We did rid ourselves of the bracero program with all the problems that that entailed, but that did not stop the people from coming.

If anyone can honestly stand up here and say that we do not have a de facto guest worker program, I would invite them to accompany me to the Rio Grande or to accompany me to Chula Vista, Calif., and I would ask them to sit on the banks of the river in Texas, as I did several years ago, and talk to those coming from Mexico as they come across.

I talked to one person, and I asked him how often he comes across, and he said he comes across the river twice, once so he can seek employment in his regular job and then so he can come across to his regular class in a junior college on the American side of

the border.

I talked to people who come here on a monthly basis to their jobs. We would drive along the banks of the Rio Grande, and we saw, for instance, a woman dressed in maid's clothing sitting atop the shoulders of someone. presumably her husband or her brother. As we drove down in a border patrol truck and as they came across the Rio Grande, we could see them impassively, without any change in expression, turn around in the middle of the river and go back. And when we went down the river about 2 miles, as we were checking on other people coming across, we would see them come across because they then know we could not get back in time to stop

We have to realize that we are talking about realities here. We are talking about between 3.5 and 12 million people living here as second-class citizens. It is nice for us to say that we should not do something that could lead to discrimination. The reality is

that there is discrimination.

We have 12 million people living in this country, a large percentage of them living in my part of the country, who everyday have to worry that they are going to be picked up by the border patrol and sent back home. And when they send their children to school, they have to wonder if, when their children come home from school, mother and father are going to be on their way back down to Tijuana, and hopefully, whether they can try to get back across the border 2 days hence.

We are talking about the agricultural community in southern California and in Arizona. The total harvest employment in those two States alone is about 300,000, and no one will say it officially, but if you talk to people, you will find that half of that crew is here illegally. That means 150,000, maybe 170,000, and some say, "well, you can't have an H-2 program with more than 15,000 or more than 20,000," as we presently have.

We have an official H-2 program which does not work in the Southwest portion of the United States, which is a huge, humongous, uncontrolled H-2 program that everyone knows exists, a program that we say we do not have and that we ignore at our peril. And if we do not pass this bill, it is going to

continue.

So I think we ought to try to talk realistically here. There is discrimina-tion now. We can talk about the problems of discrimination or the potential for discrimination. Let us talk about the reality of discrimination. I would like to have a Member stand up and tell me why they think it is better or why Hispanics would be better served if we do not pass the bill when there is discrimination in my part of the country and when Hispanics are the subject of that discrimination.

In addition, I would just suggest this: When a law is not enforced year after year after year as this law is not enforced, what does it do with respect to the credibility of our society?

Theodore White in his recent book, "America in Search of Itself," says

One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty-it no longer controls its borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our nation, its culture, and ethnic heritage could become one of the central debates of the politics of the 1980's.

Mr. Chairman, it is not our fault that we are in the waning days of this lameduck session.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will yield in just a minute.

Mr. Chairman, we have been trying to bring this bill before Congress for several months. The question now is whether we are going to gather up the courage to deal with a very, very tough issue. And it is a tough issue, one that needs to be addressed, and we should not let the late hour prevent us from trying to address it.

Mr. Chairman, I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I am happy to find out that the gentleman is concerned about reality and he is

worried about the discrimination that is going on.

It just so happens that the gentleman from California (Mr. ROYBAL) might be equally as worried as the gentleman, maybe even a little bit more worried, with all due respect.

Let me ask the gentleman, why can he not give some respect to the leaders of the Hispanic community in the Congress and in this Nation and in their organizations who have been begging and pleading for years and saying that what you are trying to do now, sir, is going to create far more hardship, more privation, and more discrimination than all the discrimination and hardship that exists at this present moment? Do they not know anything about their own problem?

Mr. LUNGREN. Mr. Chairman, the gentleman makes a point about those who believe this will lead to more discrimination. In fact, for the last 4 years I have attempted to consult with the Hispanic community. Continually, as we have dealt with this issue, we have had the representatives of the major organizations talking with us.

The CHAIRMAN. The time of the gentleman from California (Mr. Lungren) has expired.

Mr. FISH. Mr. Chairman, I yield 1 additional minute to the gentlemen from California (Mr. Lungren).

Mr. LUNGREN. Mr. Chairman, one of the problems is that everyone seeks a perfect bill. Labor is not happy with this bill. I can guarantee that agriculture is not happy with this bill. The leaders of the Hispanic community by and large are not happy with this bill. Some church groups are not happy with this bill.

The problem is that there is no pefect solution, and if we continue to seek a perfect solution, as we have for 30 years, we will be frozen and paralyzed by inaction.

### □ 2410

What we have to do is try and bring as best we can a comprehensive approach to the problem. We have to try and bring, not giving the best for everybody, but the best we can do under the circumstances, giving a little bit here and giving a little bit there.

I would suggest to the gentleman that is precisely what we have done here.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from Michigan.

Mr. CONYERS. It did not sound like when I heard the gentleman from California (Mr. ROYBAL) that the gentleman had given anything anywhere to the leadership in that community. I think it is an insult to the Hispanic people of this country to be treated by this charade that is going on now.

Mr. MAZZOLI. Mr. Chairman, I

vield myself 1 minute.

Let me address my friend from Michigan and his concerns, and also my friend from California. I think the gentleman from California (Mr ROYBAL) will suggest and say that while this is not a perfect bill there are many elements in it which reflect the attention of the Hispanic community.

We have in there many protections. The Civil Rights Commission is involved in monitoring the application of employers' sanctions. We have in there a task force which was authored by our friend from Massachusetts (Mr. FRANK). That is in there at the behest of the community.

We have in the bill, as we know, a twofold system of penalties so employers have to keep paper on all applicants, not just those who might look different.

So I think there is much of the bill which is directly there because of attention to that community.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from California.

Mr. ROYBAL. Is the gentleman saying that the civil rights of individuals are amply protected in this bill?

Mr. MAZZOLI. I did not say that this was a civil rights bill. This is not meant to be a civil rights bill.

Mr. ROYBAL, I am asking the gentleman if he thinks those rights are adequately protected.

Mr. MAZZOLI. I think they are; yes. Mr. ROYBAL. Then the gentleman will not accept any amendments correcting any possible inequities?

Mr. MAZZOLI. I did not say that. The gentleman and I have had extensive conversations in the last 2 days. There are amendments that the gentleman has offered which may well be elements of addition and betterment to our bill.

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Gonza-

Mr. GONZALEZ. I thank my distinguished colleague from California for giving me this opportunity to speak tonight. I want to say by way of preface that I join my equally distinguished colleague from California (Mr. ROYBAL) and the gentleman from California (Mr. MILLER) in what they have said here in both areas of great concern with respect to guest workers and all.

In my freshman year here I was either correctly or incorrectly blamed for the demise of the bracero program. The first year I came here that is what I concentrated on and I just hate to see the continuation of the misery of one country being fed on the misery of another country.

So I want to compliment the gentleman from California (Mr. MILLER) for

his sensitivity in this very important area.

No one of conscience could reflect on our history of immigration law and be untroubled. Our Nation of immigrants has a proud history of offering refuge to the oppressed, opportunity for the ambitious, and shelter for the unwanted. Ours has truly been the golden door.

Yet our immigration laws have been marked by fear and racism more than anything else. There was a shameful exclusion act which tried to bar Orientals. The longstanding quota system itself tried to preserve our Nation's opportunity solely for the nationalities that had already arrived, a policy of blatant racism.

Incidentally, in this act I notice that there is a special proviso for a pilot program and also for waiver in certain cases involving those countries that have been respectful of our immigration laws.

What does that mean? It means that a country like Mexico is not going to be able to have any entitlement to this privilege provided for in this bill.

That system was left somewhat altered but not essentially changed by the preference system that went into effect with the last reform written in 1965. It was that same law that for the first time established an unrealistic and unenforceable quota on immigration within our hemisphere and led to our present dilemma.

The RECORD will show that I was the only one to rise in 1965 and got severely chastised. In fact, voices were raised and I was shouted at by the then Representative McGregor from Minnesota because I dared question his amendment.

The quota was appended to that act on an amendment from the floor, even though the then chairman of the Judiciary Committee had assured me when I sought to approach the committee during hearings, because I had been told that such amendment would be entertained in the committee, that no such possibility would occur.

Then in the middle of the debate the committee chairman abjectly accepts the McGregor amendment, no restraints to it.

I was the only one to get up and question it, the RECORD will show. I did not hear anybody from any part of society later or at any time coming up and saying, "Hey, look, what about this question?"

I predicted then that if that absurdity was adopted into law we would be within I said less than 10 years facing the dilemma that we are now trying to address.

Then I sent a telegram to President Johnson asking him to veto the bill. This was the apple of his eye. He even went to the base of the Statue of Liberty to sign that bill and I dared send

It was the same law that established that quota.

Our policy is torn between spite and generosity, between fear and charity. We accept more refugees than any other land, maybe more refugees than the rest of the world combined, yet even there the policy is at random and unpredictable.

Central Americans fleeing from imminent danger are turned back but Cubans who were simply an inconvenience to Castro were welcomed until we found out that most of them were black. Then all of a sudden that welcome mat was removed.

All of a sudden we had a dilemma here and we start saying, well, these are all castoffs that Castro wished on

Southeast Asians swept up in the tides of war have been welcomed, but not Haitians who live in oppression and misery as grim as any on the face of this Earth. The policy is not directed by any clear and consistent idea of what a refugee really is, but by the politics of the moment, by impulse. Some refugees find us generous; others find our hearts stony cold. It depends on whether we are feeling fearful or whether we are feeling charitable.

It is this same contest between spite and generosity that marks our overall immigration policy.

The bill before us is at once too

much, and too little.

It is too little because it does not undo the fundamental error of the 1965 law, the error that assigned totally unrealistic quotas on immigration from Latin America. Those are quotas that give no consideration to the history of the Southwest, that ignore the inextricable ties that have been in place since long before the American Revolution, and that seek to defy the unchangeable facts of geography. These are quotas that make legal immigration all but impossible for the typical Mexican or Bolivian or Central American—quotas that perforce create illegal immigration on a very large scale.

Enactment of this bill will not end illegal immigration. The fact is that Latin Americans are attracted to this country by a powerful set of forces. I might more accurately say driven, because these people are more driven than anything else. They are driven by warfare. They are driven by political oppression and persecution. They are driven by economic desperation. This bill does not change any of that, indeed, does not even address these forces at all.

Take the case of Mexico. The new President of Mexico has just set out on an austerity program that makes Reaganomics look like an economic boom, and in his own words, says that

him a telegram asking for him to veto his country will have "a couple of very tough years." In the words of Deputy Secretary of the Treasury McNamar, the people of Mexico are going to face 'a real drop in living standards." What they are telling us is that Mexico is sinking beyond poverty into mass deprivation. Hundreds of thousands, maybe millions of Mexicans, face a likely choice between slow starvation and a stab at decency, by moving across the border. If there is no chance for legal immigration to the United States, and no real chance for anything like a decent life in Mexico. the conclusion is obvious: The flow of illegal entry that we see today is destined to become a tidal wave.

The bill tries to address that prospect in a way that is too little: it seeks to penalize employers of undocumented aliens, but then it does not require a universal, uniform means of identification. The bill seeks not to offend Americans by requiring us all to carry an internal passport. It places the onus of identification only on those who happen to have a foreign look, maybe an accent of some kind. It establishes an identification system that is too loose to be really effective, but too discriminatory in its impact, too subjective in its application, to be either just or fair. It leaves enforcement up to private citizens, more than to any police apparatus. It, in fact, not merely invites the most odious kind of discrimination, but comes perilously close to compelling it. What could be more unreasonable, arbitrary, or unfair? What could be less in the spirit and letter of the Constitution? The identification system set up by this bill would not actually require people who have some kind of foreign appearance to carry a passport-but makes plain that for such people a passport would be the only practical thing to have. Thus, for those who have an alien appearance, there has to be effective proof of citizenship or legal status. For anybody else, there is no requirement to carry around a passport or birth certificate, plus one other form of good identification. Any law that sets up this kind of subjective, uneven standard, fails to meet the fundamental test of either fairness or effective-

Let us be honest about this. If the employer sanctions are going to work, then everybody in this country who applies for work will have to be required to submit a passport or other identification. If we really aim to limit jobs in this country to people who are legally present, we are going to have to enact the same kind of universal identification, and set up the same kind of alien police forces and invite the same kind of oppression that exists elsowhere. If we really mean to carry out the employer sanction provisions, we have to set up a passport and police system that the vast majority of

would find Americans unacceptable, and a dangerous extension of police powers. As it is, this bill puts the burden on just a few-those who in some way look alien, sound alien, or maybe just arouse the dislike of a prospective employer. It is too little to be effective, too unfair to be acceptable.

The bill provides for an amnesty for those illegal aliens already here, at least some of them. Those who have been here at least 5 years would be able to obtain permanent status. Those who have been here more than 2 years could become permanent residents, if they satisfy a maze of tests. Those who came in after 1980 would be plain out of luck. All of this differentiation reflects an effort to achieve a Solomon-like wisdom in determining who is deserving and who is not. It is arbitrary, it probably cannot ever be enforced, and it probably will not work. Despite the complexity of the amnesty provisions, what they reflect is, in fact, a stately throwing up of the hands-for the authors of the bill cannot choose between enforcing the law and giving up entirely. Thus, they would not punish old offenders, only the relatively new offenders, though there is no practical difference in their history, motivation, or qualification. The amnesty section simply falls in a middle ground, generous to some but devastating to others.

It is, of course, beyond the scope of the pending bill to address the real root causes of illegal entry-poverty, oppression, degradation, desperation. Yet, we all know that if those conditions could be alleviated in the countries from which illegal entrants come, we would not now be facing the dilemma that we do. Let us face the fact: unless we are willing and able to help alleviate the forces that sweep these people to our shores or unless we are willing to build up high walls and establish an army of police to make us all prove our legal status, each and every day, this bill will not stay the tide. It will not even create a pause. Those who come here out of desperation and in search of hope are not going to be deterred. Those who fear the undocumented workers will not find their hearts eased.

The pending bill is a commendable effort to slide between hard-maybe impossible-choices. But if fails to address the reality that for tens of millions of people living next to our border, people whose misery is already great, people whose desperation will mount quickly under the lash of depression and austerity, cannot now find legal entry and will not be able to do so under this bill. It does not open the border, but does not close it, either. It makes no fundamental change. It starts us down the road to an internal passport system, but in an

insidious and fundamentally flawed way.

It may be impossible to establish an immigration policy that is at once reflective of our historic open door and our fear of inundation. Yet, that is what this bill seeks to do. It would have us avoid being a police dominated state on the order of, say, Switzerland, yet achieve the same result. The bill is too little, in that regard; it will not enable effective border control. Yet it lays a great burden on a considerable minority of legal residents and native born citizens, who have the fate to bear an alien appearance or maybe speak with an accent of some kind. It seeks to grant a generous amnesty, yet harshly penalizes people who are identical in all but date of arrival. The bill moves to little to alter a fundamentally flawed quota system, too much in the direction of a police state, and too awkwardly to make any real difference in our historic dilemma.

Mr. FISH. Mr. Chairman, I would like to reserve the balance of my time. Mr. MILLER of California. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it has been said time and again that this legislation is about this country getting control of its borders.

Let me suggest to the Members of the House that they ought to look very carefully, that to suggest that we are going to take in a substantial increase in the number of temporary workers when all of the evidence is that the Department of Labor is unable to enforce the existing program, the existing laws, the existing rights and protections both for American workers and for the temporary alien workers, in fact it would be a sham to suggest to American citizens that this program will get control of our borders by this program if, in fact, we go ahead and pass a law that does not provide adequate protections and adequate civil rights for those work-

We have a body of law that has grown up over 25 years that employers work with today. What the Education and Labor Committee amendments do on section 211 is seek to incorporate that into the law so that we can err on the side of protection of both foreign workers and American workers.

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Mr. MAZZOLI. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, let me congratulate my colleagues at this very late hour, now nearly 20 minutes after 12. I think everyone has really benefited a great deal from this debate. We will have additional debate on tomorrow.

I would just simply ask Members of the House, our colleagues: If not this bill, then what bill? And if not now, then when?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from Michigan.

Mr. CONYERS. Well, the gentleman asks at 12:20 on Friday morning: If not this bill, what bill?

Mr. MAZZOLI. That is right.

Mr. CONYERS. I think the gentleman is insulting the Congress and people who have been working-

Mr. MAZZOLI. Mr. Chairman, I reclaim my time.

Mr. CONYERS. All right.

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky (Mr. Mazzoli).

Mr. MAZZOLI. I thank the gentleman from Illinois for his courtesy.

Mr. Chairman, I certainly resent what the gentleman from Michigan has said. Certainly there is nothing in my Congressional Record that indicates any intention to insult anyone nor anything indirectly insulting. This is a serious bill. And I simply ask the question: If not the bill that is before the House, then what bill? And, of course, there is no bill pending. And if not now, this time of the year, at this moment in the legislative session, then

I would say that there is no better time, and there is no better bill. So I would suggest and urge my colleagues in the House to give serious consideration to all of the offerings. The gentleman from California will have some serious amendments he intends to offer. There will be many more. We will have a full and fair debate. At the end of that debate I would urge all Members of the House to vote the committee bill up and to vote it up and vote it out proudly because it is a good bill and a balanced bill.

• Mr. WIRTH. Mr. Chairman, no one can deny that our immigration policy is in need of reform. Our country's immigrant flows have increased dramatically in recent years, and the American people have every reason to be alarmed especially at the level of illegal immigration we face. We are of course a nation of immigrants-but uncontrolled today immigration strains our economic and governmental resources, and must be addressed.

H.R. 7357 is the product of a long and arduous effort directed at comprehensive immigration reform, and its sponsors deserve our gratitude for focusing attention on this issue. But while this legislation would make sweeping changes in our immigration laws, it contains a number of very significant problems, and threatens the civil rights and liberties of Americans in the attempt.

H.R. 7357 requires employers to examine identification documents of prospective employees to determine if the individual is a U.S. citizen, or a legal or ellegal alien. Employers who hire illegal aliens would be subject to graduat-

ed civil penalties that increase with repeat violations. These employer sanctions are likely to result in dis-crimination against Hispanics and other minorities, and should not be en-

Employers intent on excluding minority applicants can conceal their discriminatory practices under the pretext of complying with the prohibition on the hiring of illegal aliens. On the other hand, well-meaning employers might avoid hiring minorities or "foreign-looking" applicants for fear of being subject to employer sanctions. Either way, minority applicants would likely be asked to provide more complete documentation than other applicants.

H.R. 7357 provides no expedited administrative or judicial recourse for applicants who are unfairly denied a job by a prospective employer.

The extent to which the rights of "foreign-looking" people can be abused was demonstrated by "Operation Jobs," a misnamed crackdown on illegal aliens conducted nationwide by the U.S. Immigration and Naturalization Service in April 1982. INS agents concentrated their efforts on Hispanic neighborhoods and gathering places, detaining many actual citizens who could not produce proof of their citizenship. In Boulder County and in Denver, Colo., for example, life in Hispanic communities was cruelly disrupted, leaving wounds that will not heal

In addition to the potential for discrimination inherent in employer sanctions, there have been serious questions raised about their effectiveness. A recent General Accounting Office report on the experience of employer sanctions in 19 other countries concluded that they are "not an effective deterrent to stemming illegal employment," because employers are able to evade responsibility for illegal employment and because of problems with enforcing the sanctions. The GAO report was not brought up during consideration of this bill in the House Judiciary Committee.

H.R. 7357 calls for development of a "secure" work-eligibility verification system within 3 years of enactment. Despite a weak disclaimer in the bill, this provision puts us on the slippery slope toward a national identification card. Such a document would be an intrusion into the privacy of our citizens and a violation of their civil liberties. The bill provides no safeguards preventing the new identification system from being used by employers or the Government for purposes other than employment eligibility verification.

H.R. 7357 creates a new guest worker program for the legal entry of temporary agricultural workers. The existing H-2 program in the Department of Labor is designed to provide employers with temporary labor only during unique and emergency situations. H.R. 7357 codifies the H-2 program and makes it permanent, regardless of market conditions and the need for workers. In addition, the dramatic expansion of the program-with a likely tenfold increase in the number of workers admitted-is unwarranted considering domestic levels of unemployment. Any guest worker program written into the law should more carefully account for conditions in the U.S. labor market and more closely attend to the problem of poor working conditions.

Legalization of current illegal aliens is the only practical and humane solution to a staggering enforcement problem, as the authors of this legislation have recognized. However, the various restrictions in H.R. 7357 contradict the intent of the legalization program and leave many aliens in a legal limbo. Workers in the United States since 1977 could be permanent legal residents, but would be denied public assistance benefits for 3 years. Those here since 1980 could be temporary legal residents, but would be denied benefits for 6 years. All of these legalized aliens, however, would be fully liable for taxes.

The purpose of legalization is to bring illegal aliens into the mainstream of society, abolishing a permanent underclass. Unfortunately, the legalization restrictions in H.R. 7357

would only perpetuate it.

Whatever the flaws of H.R. 7357, they pale in comparison with the draconian provisions of its companion bill, S. 2222. S. 2222, for example, strips the Federal courts of their role in reviewing asylum and refugee cases. Judicial review of Government action, regardless of an affected individual's status, has always been and must continue to be an essential feature of our legal system.

In addition, S. 2222 overhauls the preference system for legal immigration, limiting the admission of the "nonimmediate" relatives of citizens. As a member of the Commission on Security and Cooperation in Europe, I am concerned that these provisions run counter to the principle of family reunification underlying our immigration laws and the Helsinki accords of 1975, our most important internation-

al human rights agreement.

In coming to grips with the very real shortcomings of our current immigration policy, we must address the problem of border enforcement. There is no possibility that illegal immigration can ever be curbed unless the long stretches of our border that are currently unpatrolled are monitored. The Immigration and Naturalization Service, charged with enforcing immigration laws, is the most notoriously underfunded of our Federal agencies. H.R. 7357 includes a vague sense-of-

Congress provision on increased enforcement funding, but no actual authorization.

Given its lack of resources, we find that the INS enforces immigration laws the cheapest way it can—unfortunately, the cheapest way is neither effective nor humane. For example, the overwhelming majority of those rounded up and deported during the "Operation Jobs" crackdown had crossed the border and were back at work within days.

In addition to better border enforcement, an alternative to employer sanctions would be better enforcement of minimum wage and fair labor standards laws. By ameliorating the substandard conditions in which illegal aliens are compelled to work, we can reduce the economic incentives to hiring illegal aliens, and put alien smuggling operations out of business.

Finally, no immigration reform can be considered in a foreign policy vacuum. Mexico's economic difficulties must be recognized as the major cause of illegal immigration—a cause that has grown even greater in importance with the recent devaluations of the peso. The impact of changes in our immigration laws on the political and economic stability of our southern neighbor and third largest trading partner will be felt by our own economy. Yet we have not fully consulted the Mexican Government on the pending legislation.

The "push factors" leading to increased immigration cannot be ignored. The only effective long-term answer to the problem of migrant and refugee flows is economic development of our poorer neighbors, along with the vigorous promotion of human rights in other countries.

I oppose H.R. 7357 in its present form, and will support amendments that address the concerns I have outlined.

• Mr. SHAW. Mr. Chairman, today we are considering a most important bill, H.R. 7357, the Immigration Reform and Control Act. I would like to compliment the tremendous effort of Representative Mazzoli, chairman of the Immigration, Refugees and International Law Subcommittee of the Judiciary Committee, and all the subcommittee members. Without their dedica-tion, this bill would never have reached the floor and a bill of this type is long overdue. As a new member of the full Judiciary Committee, I am very pleased to have been able to work on this bill. I have the dubious distinction of representing a district where immigration is now cited more often than any other as the most important problem facing the district today. Therefore I was very proud to have the opportunity to help shape what I consider to be the most important immigration legislation in many decades.

Right now our immigration situation is clearly out of control. Due to our lack of a coherent policy we have sent a signal to the rest of the world which broadcasts that the United States is unable to secure her own borders. It was only a matter of time before someone put this to a test. Two years ago, the world watched as the dictator of an unfriendly country singlehandedly dictated U.S. immigration policy as he defiantly emptied his prisons and mental hospitals and sent people to the U.S. shores. The reaction of the United States to this hostile action was slow, indecisive, and inadequate. More than any other, this crisis clearly showed the urgent need for a strong, clear policy.

I believe this bill, H.R. 7357, will go far toward accomplishing that goal. To call a halt to the long, drawn-out process of hearings and appeals, the bill would streamline the proceedings so that decisions could be made swiftly regarding who should be admitted. To remove the lure of employment which draws most illegal aliens to the United States, the bill would penalize those employers who knowingly hire illegal aliens. Both these measures and many others in the bill would show the world that the United States is once

again going to decide who is admitted here and why.

While most of the bill does indeed strengthen our laws, one provision would have the exact opposite effect. An amnesty provision, which would "forgive" illegal aliens here before 1980 and give them legal status, is included. In my opinion this provision should be removed.

I have several reasons for my position. The idea of rewarding law-breakers is entirely contradictory to the idea of toughening our laws. The provision makes a mockery of the actions of the thousands of people around the world who have been waiting patiently to emigrate legally to the United States. Also, once these aliens receive citizenship, their family members are eligible for admittance so we will see a ripple effect that may result in literally hundreds of thousands of potential "citizens." And, finally, in these budget-conscious times, there are serious questions as to who will pay for the services needed by the aliens. The bill attempts to address this aspect, but since no one has any idea of the real number of illegal aliens who would be eligible for legalization, no one knows what the real costs will be.

Aside from all this, there is the practical concern of just how this legalization program would be carried out. According to a confidential INS planning document obtained by the Miami Herald and dated November 1, the INS has no idea how to effectively carry out the amnesty provision. For exam-

ple, applicants for amnesty must document the fact that they have been residing in the United States since before 1980. But INS has not been able to decide what type of documentation could be reasonably required. The potential for fraud and abuse is frightening.

It is because of these concerns that I plan to support amendments which will be offered to strike the amnesty provision. I also plan to push for final passage of this legislation. Imperfect as the bill may be, it represents a crucial first step in regaining control of our borders. We urgently need to take

that step. Mr. FAZIO. Mr. Chairman, as you know, a high level of controversy and debate continues to surround H.R. 7357, the Immigration Reform and Control Act that is before us today. Members continue to hold strong reservations about a wide variety of issues raised by this complex and comprehensive measure, and I am concerned that we will not have adequate opportunity to address these issues in the time remaining in the lameduck session. I am concerned that in our haste to adopt some kind of immigration reform, we will inadvertently

create poor public policy.

My own hesitations about this legislation persist. I am concerned about the costs that my home State of California and the other States will be forced to bear without adequate Federal support as a result of this measure's amnesty provisions. I support a reasonable amnesty policy, but recognize that State and local coffers which have already been strained by Federal budget cuts will bear the brunt of the amnesty program. California officials have estimated that the annual costs to the State under this bill would reach \$1.2 billion, plus another \$130 million in locally funded general assistance programs. I urge my colleagues to support the bill's provisions authorizing full Federal reimbursement to the States and to reject any attempts to block-grant Federal reimbursement or to significantly reduce the Federal Government's responsibility for the costs of amnesty.

I am also concerned about the enforcement burden placed on employers by the employer sanctions authorized by this legislation, and about the opportunities for discrimination that are inherent in such a program. And I am concerned that the agricultural sectors of California and across the country will be hard pressed by the implementation of employer sanctions, without adequate provision for the industry's

labor needs.

Further, I have reservations about the immigration reform bill as it is now written because it makes no attempt to address the problems and abuses of the enforcement arm of the INS that have become especially ap-

parent in the last year in California and in many other areas of the country. In their efforts to apprehend and deport illegal farmworkers, Border Patrol agents have been allowed to storm onto private farm property without a search warrant because the property is considered "open fields." In so doing, they have destroyed crops and farm property, harassed and frightened American and legally documented farmworkers, and have denied farmers and their employees their rights under the fourth amendment against unwarranted searches and seizures.

For these reasons, I strongly support an amendment that will be offered to title I of the bill by my colleague from California (Mr. EDWARDS), to require owner consent or a search warrant before an immigration official could enter onto a farm or other outdoor op-This amendment would eration. extend to this country's farmers and farmworkers the same constitutional protection that is currently enjoyed by business men and women and their employees whose operations are enclosed by walls. It would put a halt to the abusive treatment of farmers, farmworkers, and farm property that has been rampant in the enforcement practices of the Border Patrol, without hindering their legitimate efforts. I encourage the House to adopt this amendment.

• Mr. GARCIA. Mr. Chairman, the legislation that we are debating is one of the most significant bills to be considered by the 97th Congress. Control over the entry of noncitizens is key to how we determine our national soverignty. But it goes beyond that, our immigration policy shapes our national identity.

This bill, H.R. 7357, has the potential to affect that identity for generations to come. It is a reflection of how we want to structure our society, how we want our great Nation to continue to develop. Our immigration policy is also key in determining what kind of

future we will have.

A nation is made up of people. It is only as healthy and as capable as its people. That is why the United States is such a good nation. It is made up of decent, hard-working people who share common dreams and a common destiny. We are unique because we are a product of all the nations in the world.

The castoffs from every other nation, generation upon generation, have come to the United States to find opportunity, to prove themselves. That has been our source of strength,

our key to success.

We are not debating the way in which we will continue to determine that formula for success. H.R. 7357 is not mean spirited. It was written by honorable individuals. Unfortunately, I cannot support this bill. I have not

reached that conclusion without a great deal of consideration. I am convinced that we can come up with a better bill.

Our immigration problems—and we do have problems—have been with us for some time and will be with us for some time to come, but we will not be able to resolve this issue by passing this bill. I am concerned that we could make matters worse.

We could make matters worse because this bill will not work. It will not solve our problems; it will not stem the tide of immigration; it will not help us control our borders any better. The U.S. House of Representatives is made up of 435 very capable individuals. We were elected to serve the people of the United States by writing laws that would better provide for their needs and their future.

If H.R. 7357 passes, we are failing the people of this Nation because we have not lived up to our commitment to enact only just laws—only those laws that live up to the spirit of American democracy.

Clearly the House is divided on this bill. There have been 297 amendments introduced from both sides of the aisle. What it indicates is that we must consider this legislation further in the next Congress when we can sit down and deliberate more fully and in less haste.

H.R. 7357 must be fine tuned and reworked so that it better reflects the spirit as well as the letter of the law. It is not a tragedy if we do not pass a new immigration bill right now. It may, however, prove to be a tragedy if we pass this bill.

This issue is complex and longstanding. We will never solve our immigration problems completely, but we can get a better handle on them. H.R. 7357 does not do that. It does not effectively address this issue.

This is bad public policy. It is bad because as I said, it will not work, and because it is potentially discriminatory toward brown, black, and yellow people. I am certain that the intention of this bill is not to discriminate, but it is perceived that way by minorities, and if it passes its implementation will have that effect.

My specific difficulties with the bill are not unique. They are a familiar litany to those who have closely watched the evolution of the bill.

I have difficulty with the employer sanction provision. As a State Senator in New York, I worked hard against a State bill that would have imposed sanctions on employers. I thought it was wrong then. I think it is wrong now.

The proposed ID system will be expensive to implement, and I feel, finally, ineffective. The legalization program does not go far enough, and it

will prove to be an administrative nightmare.

The H-2 program is a thinly disguised bracero program. For those who have supported this bill because they feel it will open up jobs for our multitude of unemployed, how do they explain the expanded H-2 program? We do not need a guest worker pro-

Another difficulty with this bill is that it does not address the foreign policy aspect of immigration reform. Last week the Government of Mexico passed a resolution opposing this bill. We are trying to build better relations with Mexico. And while I do not believe that we should tailor our immigration policy to the needs of Mexico or any other nation, we must, nevertheless, realize that this bill has definite implications for that nation. It is part of our responsibility as a great power to develop policies that will not hinder our relations with our allies.

I am sorry that this bill was even brought up during the closing days of the 97th Congress, but since it has been I hope that it will be defeated.

The CHAIRMAN. The Chair announces that the gentleman from Kentucky (Mr. Mazzoli) has 30 minutes remaining; the gentleman from New York (Mr. Fish) has 34 minutes remaining; the gentleman from California (Mr. MILLER) has 30 minutes remaining; and the gentleman from Illinois (Mr. Erlenborn) has 41 minutes remaining.

The CHAIRMAN. For what purpose does the gentleman from California

(Mr. MILLER) rise?

Mr. MILLER of California. For the purpose of clarification, Mr. Chairman. It was my understanding under the agreement reached earlier today, that if you did not use your full allotment of your time in these 2 hours, you would lose it, and that tomorrow we would have 3 hours of debate, an hour remining for Education and Labor an hour remaining for Judiciary, and an hour for Agriculture.

ary, and an hour for Agriculture.
The CHAIRMAN. The Chair advises the gentleman from California that the only way you would lose your time, you would have to yield it back.

Mr. ERLENBORN. Mr. Chairman, I yield back all but 30 minutes of my time.

The CHAIRMAN. The gentleman from Illinois (Mr. ERLENBORN) yields back all but 30 minutes.

The Chair will inquire of the gentleman from California (Mr. MILLER), does the gentleman reserve all of the balance of his time?

Mr. MILLER of California. Yes, I do, Mr. Chairman.

Mr. MAZZOLI. Mr. Chairman, I reserve the balance of my time.

Mr. FISH. Mr. Chairman, I reserve the balance of my time.

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. Gonzalez) having assumed the Chair, Mr. Natcher, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7537) to revise and reform the Immigration and Nationality Act and for other purposes, had come to no resolution thereon.

#### GENERAL LEAVE

Mr. MAZZOLI. Mr. Chairman, I ask that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter on the bill just considered.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

#### GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and entend their remarks and to include there in extraneous material on the subject of the special order today by the gentleman from Texas (Mr. Frost).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

#### GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from California (Mr. EDWARDS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

# CLEAN UP THE TOXIC WASTE SITES

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. ECKART. Mr. Speaker, in the next several days the House is going to have an opportunity to vote on an issue of most critical importance for us all: The cleanup of hazardous waste sites throughout our countryside.

At stake is the prerogative of this House to properly oversee the actions of a particular administrative agency, in this instance the Environmental Protection Agency. While I appreciate the assistance that the EPA has given to me in helping to clean up two toxic waste sites in my district, the issue

here is whether Congress is going to have the proper tools to oversee the administration of this very important program.

My new district has six toxic waste sites in drastic need of immediate action. I would like to insert in the Record articles from a local newspaper in my district that serves to emphasize the importance of ridding our areas of these toxic waste sites and preserving the prerogatives of the Congress to insure that the laws of our country relative to the timely cleanup of hazardous waste sites are fully complied with by the Environmental Protection Agency.

The articles follows:

## SIX HAZARDOUS SITES LITTER ASHTABULA

(By Bonna Savarise)

Ashtabula County could be called the hazardous waste dump of northeast Ohio.

Of Lake, Geauga and Ashtabula counties, only the latter has hazardous waste sites—six of them.

Environmental scientist Gary Gifford of the Ohio Environmental Protection Agency said it is possible EPA may find more as it investigates the sites already in the county.

The six sites include three landfills, one in Kingsville Township, another on the border of North Kingsville and Conneaut and a third in New Lyme; the Eaton Mill site in Rock Creek; Poplar Oil Co. in Jefferson; and Fields Brook and Ashtabula city.

Almost \$2 million of federal emergency Superfund money has been spent to partially clean up Eaton Mill and Poplar Oil and to study Fields Brook.

Superfund was established to stabilize extremely hazardous sites in the country. Superfund money is allocated by federal EPA.

Eaton Mill and Poplar Oil were emergency sites before partial cleanup by EPA. The primary danger at the Eaton Mill site, located on Mill Street in Rock Creek, was that the chemicals were extremely flammable. Later, EPA found that 61 of the 55-gallon drums on the site contained high concentrations of polychlorinated biphenyls, known to be toxic. The other drums also had toxic wastes.

The last of 1,200 drums originally found on the site were removed by EPA in September. A total of \$160,000 was spent to remove them.

But Rock Creek residents say they want the soil on the site cleaned up too. EPA is still investigating the soil and residents' well water to see if it is contaminated.

Poplar Oil, located on Poplar Avenue in Jefferson, contains polychlorinated biphenyl contaminated oil. It took \$1 million in Superfund monies for partial cleanup.

Open tanks of the oil have been drained but several closed tanks still contain the contaminated oil. EPA plans to assess the site in the early part of 1983 before continuing with the cleanup.

Fields Brook in Ashtabula got \$200,000 in Superfund monies for a study to determine if it is contaminated. Chemicals from area industries were allowed to run off into the brook for several years.

According to Gifford, a preliminary study of the brook will be done this year and samples will be analyzed through Region 5 of the federal EPA in Chicago.

The three landfills, all closed, are not considered emergencies now because EPA does

not know what they contain. They are not eligible for emergency Superfund money.

Both the New Lyme landfill on Dodgeville Road and the Conneaut/North Kingsville landfill off Route 20 are being monitored now through wells, Gifford said. EPA is currently waiting for results of what may be in the landfills.

A clay cap was recently put on the landfill located next to the Big D Kampground on Creek Road in Kingsville by Olin Corp. of Ashtabula, at the company's own expense

Olin dumped chemicals in the landfill for

several years.

But EPA still wants money to see what is in the landfill and will be monitoring the site to see if the cap is effective in control-ling leaching, which occurs when rainwater goes into the landfill and comes out contaminated with chemicals, Gifford said.

Poplar Oil was placed on the National Interim Priority List in July. The list, which is in effect until the National Priority List is completed, contains only 160 sites in the country. By inclusion on the list, the site became eligible for more Superfund cleanup money.

#### LIVING WITH HAZARDOUS NEIGHBORS

People in Ashtabula, Lake and Geauga counties live alongside industries that store or treat hazardous chemical wastes, some of which are toxic to humans.

Approximately 30 firms scattered throughout the three counties generate a

variety of waste products.

Most of the wastes are solvents, like paint thinner, according to Pat Morrison, public information spokeswoman with the Ohio Environmental Protection Agency.

Corrosive solvents are those that can corrode steel at more than one-quarter inch a year. Reactive, or unstable, ones react violently with water or heat. The most dangerous reactive substances explode or release toxic gases when mixed with water.

Some solvents are ignitable, which means they can burst into flame in the presence of a spark, by friction or by absorbing water. Some solvents are toxic. They may be hazardous to humans even at low levels.

When a company is producing solvents as a waste material, it must either test the solvent to see if it is hazardous or check the federal Environmental Protection Agency's list of chemicals which are know to be hazardous. Morrison said.

"The primary danger is ignitability," she

Some of the waste produced by companies is acid-based or contains lead. Lead is also toxic to humans.

All Ohio companies are required to have a permit to store, treat or dispose of hazardous wastes.

The sites are inspected at least annually, Morrison said, but more if the company has a particularly large volume of waste. ones more likely to need it get it more often," she said.

Some of the companies test themselves by using monitoring wells and submit regular

reports, she said.

All of the companies with permits must also submit a closure plan, Morrison said. If the company closes, EPA must know what will happen to containers and tanks of

#### WHERE WASTES ARE HANDLED IN THE AREA

Below is a list of companies, by county, which deal in hazardous wastes. The information, for the most part, was obtained from permits on file with EPA.

#### ASHTABULA COUNTY

Reactive Metals, Inc., Metals Division, East 21st Street, Ashtabula, manufactures titanium sponge. Wastes are disposed of by burning. Scrap sodium is burned in one process and metallic sodium is burned in a second process.

RMI's Sodium plant on East Sixth Street Extension has a permit for chemical treatment of sodium calcium residue. The company burns reactive wastes from the manufacture of sodium metals.

Premix Inc., Harmon Road, North Kingsville, stores paint sludge and resin paste, and steel bottoms, another hazardous waste.

General Tire and Rubber Co., Middle Road, Ashtabula, can burn a half ton per hour of ignitable solvents and can store up

to 25,000 gallons of wastes in drums.

General Electric Co. at Reig and Maple Avenue in Conneaut stores up to 165 gallons

of wastes in drums.

General Electric Co., 82 W. Ashtabula St., Jefferson, stores solvents. The company manufactures light bulb parts and can store

up to 1,100 gallons of waste.

Detrex Chemical Industries, Inc., State Road, Ashtabula Township, stores up to 110 cubic yards. of solid waste in a waste pile. The company's waste is eventually inciner-

Diamond Shamrock, State Road, Ashtabula Township, can store chromium waste, corrosive solvents and reactive solvents-up to 390,000 gallons.

Cleveland Electric Illuminating Co., has two plants with permits, both on Lake Road in Ashtabula Township. CEI can treat up to 64,800 gallons a day of chromium and lead by burning. The other plant does the same type of burning but can burn up to 180,000 gallons a day.

IMC Chemical Group Inc., Middle Road, Ashtabula Township, stores spent pickle liquor, which is an acid bath used to treat steel. The spent pickle liquor is recycled to a form of iron chloride, a solution which can be reused. The sludge from the recycling process is shipped out of the area for dispos-

Olin Corp., Middle Road in Ashtabula Township, stores ignitable and corrosive solvents. The company can store 327,500 gallons of wastes and 12,800 cubic yards of solid wastes. It can treat 9,100 gallons of wastes a day.

Plasticolors Inc., 3129 Middle Road in Ashtabula Township, has a storage and treatment permit for solvents and heavy metals, including lead. It can store up to 5,000 gallons of waste in drums and can

treat 50 gallons per batch.
True Temper, Center Road, Saybrook Township, can store up to 660 gallons in drums and 1,500 gallons in tanks of solvents and ignitable wastes.

Reserve Environmental Services, Middle Road, Ashtabula Township, has a permit for surface impoundment-a minilandfill. Waste acid from acid storage is neutralized with lime and then pumped to the landfill. The waste is corrosive and reactive.

## GEAUGA COUNTY

Geauga County has only three sites, all in Chardon. Two are Diamond Shamrock plants. One, a metal casting division, recovers chrome from chromium waste, up to 2,000 gallons a day, and can also store 5,000 gallons of wastes in drums and 3,000 gallons in tanks.

The other Diamond Shamrock plant is a esearch and development facility which handles a wide variety of wastes, including corrosive solvents. It stores up to 8,000 gallons of waste in tanks and 2,000 gallons in containers

The third site in Geauga County is Chardon Rubber, which has a permit to store up to 550 gallons, or 10 55-gallon drums of industrial solvents.

#### LAKE COUNTY

The Diamond Shamrock T. R. Evans Research Center, 7528 Auburn Road in Concord Township, has a storage permit only. Public Relations Director Frank Hawkinson said the company stores the waste in various sized containers and then ships them to the Ashtabula facility and from there out of state.

The research facility can store up to 16,500 gallons of waste in containers. It stores approximately 360 different chemi-

cals.

A former Diamond Shamrock plant in Concord Township-the Plastics Divisionhas a treatment permit for 22,800 pounds of a solvent per year. An incinerator was used to burn PVC (polyvinyl chloride). The plant was sold to B. F. Goodrich earlier this year.

The Eastlake Electric Generating Plant, Erie Road, Eastlake handles corrosives, chromium and lead. It treats 1,150,000 gallons per day, and 122,400 gallons in thermal

treatment per day.

The Georgia Pacific Corp., 786 Hardy Road, Painesville Township can store 11,000 gallons per year of solvents and can treat 200,000 gallons a day. It also handles 700 pounds of corrosive waste and 690 pounds of ignitable waste per year.

Lubrizol Corp., 155 Freedom Ave., Paines-ville, stores and treats ignitable and toxic solvents. The company can store 319,000 gallons per year, and 132 cubic yards per year of solids. It can treat 40,000 gallons per

Russell, Burdsall and Ward Corp., 8100 Tyler Blvd., Mentor, Treats 156,000 tons per

year of corrosive waste.

Acco Adhesives Plant, SMC-Glidden Coatings and Resin Division, 30400 Lakeland Blvd., Wickliffe stores 7,100 gallons of mercury, and 23,100 pounds of ignitable solvent wastes.

Uniroyal Inc., Fairport-Nursery Road, Painesville, stores ignitable waste and toluene, a solvent, in the amount of 35,000 gallons per year.

Ohio Rubber, 3911 Ben Hur Ave., Willoughby, can store solvents, asbestos, ignitables and toluene, up to 85,000 gallons.

Lubrizol Corp., Lakeland Blvd., Wickliffe, stores or treats solvents, ignitable, corrosive, or reactive materials, and metals like lead, chromium and selenium.

### SOVIET ATROCITY IN **AFGHANISTAN**

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PETRI. Mr. Speaker, December 27 will mark the third anniversary of the Soviet invasion of Afghanistan. I noticed a UPI story on Afghanistan in a local newspaper yesterday, and I want to share it with you.

Mr. Speaker, last September 13, in a village 36 miles south of Kabul, Soviet troops apparently poured a flammable liquid into an underground irrigation channel and burned to death 105 Afghan civilians hiding inside. Eleven children were among those killed in

the flaming massacre.

To trap the hiding civilians, the Soviets first adjusted a small dam to make the channel's water rise. Then they poured in a flammable liquid, probably gasoline or kerosene, and ignited it. Everyone in the underground irrigation channel was burned to death.

For some reason, we have not been hearing a lot about Afghanistan recently. I think it is time for more people to speak up, to express moral outrage, and to demand that the Soviets get out of Afghanistan.

[From the Washington Times, Dec. 15, 1982]

SOVIET ATROCITY REPORTED IN AFGHANISTAN

New Delhi.—Soviet troops poured inflammable fluid into an underground irrigation channel and burned to death 105 Afghan civilians hiding inside, diplomats said yesterday.

Eleven children were among those killed in the flaming massacre Sept. 13 in Padkhwab-e-Shana village in Logar province, 36 miles south of the Afghan capital of Kabul, the diplomats said.

The diplomats based their report on an investigation by an American, Michael Barry, who made a clandestine journey to the vil-

lage to investigate the incident.

The Soviet-controlled official Afghan news agency, Bakhtar, said, "The incident was fabricated by Western media and never occurred in Logar or any other region" of Afghanistan.

Barry led a three-member team from a Paris-based organization called Bureau International Afghanistan to the village from Nov. 26 to Dec. 4.

Barry said 105 Afghan civilians—mostly migrant workers and refugees—hid in the underground irrigation channel because

they were afraid of the approaching Soviet and Afghan troops.

To trap the hiding Afghans, the Soviets first adjusted a small dam to make the channel's water rise. The Soviets then poured in an inflammable liquid "probably petrol (gasoline) of kerosene, which would float on the water's surface" and ignited it, the diplomat said.

"Everyone in the underground irrigation channel was burned to death," Barry re-

ported.

Sixty-one of the 105 victims were "still recognizable because their faces were partly protected from the flames by the soft mud they pressed themselves into to escape the flames," a diplomat said.

Barry, who speaks the Dari language of Western Afghanistan, claimed "he had interviewed eyewitnesses, been inside the underground irrigation channel, taken photos and brought back samples of the thick, sooty deposit now lying in the irrigation channel," a diplomat said.

In Islamabad, capital of Pakistan, which borders Afghanistan, diplomatic sources said the regime in Kabul was considering drafting students to beef up the country's

depleted army.

It was not immediately known why the Soviets burned the trapped civilians, but it was believed the victims were suspected of being sympathizers of the Moslem rebels fighting the Moscow-backed communist regime.

The sources said desertions and casualties had reduced the strength of the Afghan army from 80,000 at the time of the Marxist revolution in 1978 to nearly 30,000.

# FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, anounced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7019) entitled "An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate numbered 2, 6, 11, 15, 17, 43, 45, 46, 47, 53, 56, 59, 66, 72, 93, 96, 97, 98, and 101 to the above-entitled

bill.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 271. Joint resolution to make technical corrections on certain banking and related statutes.

#### ON THE NATURE OF TAX-EX-EMPTIONS, SUBSIDIES AND TAXATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DORNAN) is recognized for 60 minutes.

Mr. DORNAN of California, Mr. Speaker, during the course of the debate on the floor 2 weeks ago regarding the issue of tax-exempt status for the private and religious schools of this Nation, I was amazed to hear some of my colleagues repeatedly refer to tax exemptions as being the equivalent of Federal subsidies or Federal financial assistance. This simply is not the case. Furthermore, it is one of the most dangerous assumptions regarding the nature of taxation that we keep hearing from our liberal colleagues. Implicit in such an assumption is that nontaxation of certain organizations which fall under the 501(c)(3) category of the Internal Revenue Code is somehow an abnormal condition and that the Government has the right and the duty to tax everything that lives and moves and has being. Anything that escapes taxation, according to this logic, is therefore conceived to be enjoying some kind of special privilege or immunity at the expense of the rest of society.

The practical justification for exempting charitable organizations from Federal taxation is a recognition of the fact that they are nonprofit, non-wealth producing entities. As Prof.

Boris Bittker of the Yale Law School points out, when Congress first wrote the modern income tax statutes, the Revenue Act of 1894 and the Revenue Act of 1913, only net income was to be taxed, thus excluding all nonprofit organizations which have no net income. Professor Bittker goes on to point out:

The exemption of nonprofit organizations from Federal income taxation is neither a special privilege nor a hidden subsidy. Rather, it reflects the application of established principles of income taxation to organizations which, unlike the typical business corporation, do not seek profit.—("The exemption of Nonprofit organizations from Federal Income taxation," 85 Yale Law Journal, at 299, (1976).

Mr. Speaker, it is of utmost importance to stress the operational distinctions between a tax exemption and a subsidy. Please, my colleagues, heed this. These are the facts.

First. In a tax exemption, no money changes hands between Government

and the organization;

Second. A tax exemption, in and of itself, does not provide 1 cent to an organization; without contributions from its supporters, it has nothing to spend. Government cannot create or sustain—by tax exemptions—any organization which does not attract contributions on its own merits;

Third. The amount of a subsidy is determined by a legislature or an administrator; there is no amount involved in a tax exemption because it is open ended; the organization's income is dependent solely on the generosity of its several contributors, each of whom freely and individually determine how much he or she will give;

Fourth. Consequently, there is no periodic legislative or administrative struggle to obtain, renew, maintain, or increase the amount as would be the case with a subsidy; the energies of the organization are not expended in applying for, defending, reporting, qualifying, undergoing audits and evaluations, et cetera, and the resources of Government are not expended in administering them;

Fifth. A subsidy is not voluntary in the same sense that tax-exempt contributions are. When the legislature taxes the citizenry and appropriates a portion of the revenues as a subsidy to an organization, the individual citizen has nothing determinative to say as to the amount of the subsidy or the selection of the recipient; and

Sixth. A tax exemption does not convert the organization into an agency of State action, whereas a subsidy—in

certain circumstances-may.

The Supreme Court underscored the distinction between a tax-exempt status and a subsidy in its celebrated case of Walz v. Tax Commission of the City of New York (1970) in which it said:

Tax-exemptions and general subsidies, however, are qualitatively different subsidy involves the direct transfer of public moneys to the subsidized enterprise and uses resources exacted from taxpayers as a whole. An exemption, on the other hand, involves no such transfer. It assists the exempted enterprise only passively, by relieving a privately funded venture of the burden of paying taxes. In other words, in the case of direct subsidy, the state forcibly diverts the income of both believers and nonbelievers to churches, while in the case of an exemption, the state merely refrains from diverting to its own uses income independently generated by the churches through voluntary contributions.

I might add that the assumption that tax exemptions, Federal subsidies and Federal assistance are synonymous is troublesome for another reason. Recently, tax-exempt status has been granted for organizations sympathetic toward such practices as witchcraft, homosexuality, lesbianism and abortion (see revenue rulings 78-305 and 73-569). Are we, in effect, subsidizing such groups? No person in his right mind would make such an absurd argument.

I repeat: To insist that tax exemptions are the equivalent of subsidies and Federal assistance is one of the most pernicious assumptions of our time. It assumes that the Government owns all the wealth, a thoroughly totalitarian assumption at variance with our entire Anglo-Saxon-Celtic tradition which holds to the proposition that the State is made for man, not man for the State. The hundreds of thousands of voluntary organizations which, as Alexis de Tocqueville observed in his classic 1830's work "Democracy in America," have made this country strong and vigorous, would, under this pernicious doctrine, be considered subsidized by the Government. No longer would such organizations provide a buffer between government and the individual and the family and provide the basis for resisting an oppressive and tyrannical government. "The power to tax is the power to destroy," warned Chief Justice John Marshall. Let us once and for all rid ourselves of this fallacious and dangerous way of thinking and instead recognize the tremendous contributions that our tax-exempt organizations are making toward the welfare of our Nation.

Mr. Speaker, at this time I would like to insert into the Record an excellent editorial by my good friend and superb political analyst Bruce Herschensohn on how some of our leaders in Congress believe that the Government owns all the wealth and that the people are the servants of Government rather than the Government rather than the Government being the servants of the people. Some Members should commit Mr. Herschensohn's observations to memory.

(KABC-TV News: Political Analyst, Nov. 8,

BRUCE HERSCHENSOHN COMMENTARY

Congressional arguments about how the economy of the Nation should be handled have been so frequent during the past couple years with the same old points being raised so often, that at times it's hardly worth listening to. But, yesterday, something was said that I've never heard before and I believe it to be one of the most dan-gerous statements yet made by a politician regarding the economy of the United States: so dangerous that I would hope it would be corrected rather than allowing it to become a part of the national dialogue. It was said House Majority Leader Jim Wright, as he explained why he wants to eliminate the next tax-rate reduction of 10 percent scheduled for next July. Why he doesn't want the tax-rate reduction to go through. He said this, get this, that the tax-rate reduction "is robbing the Treasury of 96 billion dollars this year."

That sentence can't be allowed to just pass by as a new defense for taxation. That sentence shows what's going on inside his head, and perhaps the heads of others in regard to their thinking about taxation. A tax-cut will rob the Treasury of 96 billion dollars? Do we now cast those who work for a living as the robber and the government as the innocent victim? Who did the earning and who does the taking? Have we turned around our thinking 180 degrees to believe that unless the wage-earners of the United States pay the exorbitant taxes that they are paying today that they are thieves, rob-bing Washington? How much do wage-earners need to pay before they can be considered honest by politicians? Should we hand it all over? The truth is that people who earn money, earn money, earn it.

Each week, however, there is a demand to give a good deal of that earned pay-check to Washington. It's not a request. It's demand, with penalties and punishments if the money isn't handed over. Handed over, in fact, in most cases, before the worker is even allowed to see it. But because of a taxrate reduction, voted upon in 1981, you'll owe a little less. A very little less this July. Because of that are we now to believe that we have become the robbers and we have stolen from the one who has taken the money, and we discover, wants to continue to take the same amount, and in fact even more? The House majority leader, Jim Wright, has revealed his thinking and I believe, the thinking of some others in the Congress, and if it doesn't warn us, it should. Because by saying that we're robbing the Treasury, he's saying that we're the servants of Government rather than Government being the servants of the people.

# TRIBUTE TO THE HONORABLE MARGARET HECKLER

The SPEAKER pro tempore. Under a previous order to the House, the gentleman from Massachusetts (Mr. Conte) is recognized for 60 minutes.

Mr. CONTE. Mr. Speaker, I am privileged and honored today to have been able to request this special order for my good friend and fellow Republican from Massachusetts, Margaret Heckler.

Peggy came to the Congress after working as a practicing attorney in

Boston, Mass. She has been the first women ever elected to the Governor's Council in the Commonwealth of Massachusetts, the first accomplishment in a countless list.

In 1966, she won a seat in the House of Representatives representing Massachusetts 10th Congressional District. This earned her the distinction of being the second woman ever elected to this body from the Commonwealth, She handily won reelecton seven times.

Throughout her years here she championed the causes most important to her State and, ultimately, to the Nation, She was particularly concerned with banking and commerce, small business, transportation, and, most importantly to our State, the development of the high-technology industry. In fact, her accomplishments include writing the Small Business Advocacy Act, the Geriatric Research Act, and the Equal Credit for Women Act. Additionally, she has focused on energy and environmental legislation—especially in the fields of synthetic fuels.

In terms of the high-technology industry-which I want to discuss because of its tremendous importance to the strength of our Nation's economy-PEG has helped our State tremendously, Massachusetts is highly dependant on these firms-located from Holyoke to Cape Cod-which provide our State with growth and economic expansion and jobs for our people. When the President first proposed the Economic Recovery Tax Act which passed last year, PEG, fought to insure that the high-technology industry would be affected favorably by the legislation. All of the high-technology firms in Massachusetts appreciated her hard work and assistance.

In a much larger context, PEG's concerns have affected the Nation as a whole. She has championed the cause of the equal rights amendment, and her work in the congresswomen's caucus tells of her concern for women's issues generally. But she fought hardest for the equal rights amendment, and, more importantly, equal rights for all. No one-no onecan deny the important leadership role Mrs. HECKLER played during the long and difficult journey traveled by the ERA. PEG was there from the beginning-fighting for this amendment every step of the way. Advocates and sympathizers with the ERA-if they thank anyone-should recognize the enormous efforts of Mrs. Heckler. I was proud and honored to be able to help with this struggle.

In fact, PEG worked her hardest to insure that the equal rights amendment would be a part of the Republican Party platform. In 1980, she was not successful, as we know, but all of us who support equal rights for all

Americans were thrilled at her hard work for the amendment.

Throughout her 16 years of service in the House of Representatives, Mar-GARET HECKLER was a true leader. She was a Member of Congress who fought hard and vocally for the people of her district and for the interests of those who had no other voice in Congress. PEGGY really kept the campaign promise made to her constituents-she promised to be a "heckler" in Congress. For example: She fought for consumers when the sugar industry interests invaded the Hill. She fought for veterans and veterans' rights from her seat on the Veterans' Affairs Committee, and all those who served this Nation appreciate the help that she gave to their causes. Those causes became her own.

In addition to the national role played by Mrs. Heckler as the ranking woman in Congress, Peggy was genuinely concerned about the welfare of her district. As difficult as it was to represent the 10th Massachusetts Congressional District, it was represented by Peggy well. From Wellsley to Taunton to Fall River, she listened and brought her constituents' views, concerns, and problems to Washington. But she was not only a messenger; Peggy earned her reputation as a fighter when the interests of her district and her constituents were at stake.

When the textile manufacturers in Fall River were threatened, she was there

When an elderly lady in Taunton was harassed by bureaucrats, she was there

When a veteran in Natcik was denied his rightful benefits, Peggy Heckler was there to remind the officials who they were paid to serve—the people.

The record of Mrs. MARGARET HECK-LER speakes for itself. She concerned herself with issues that we must all concern ourselves with. She represented her people—but she never lost sight of her higher cause, for she represented her Nation, and she did both well. I can tell you that I will miss those attributes.

As the years go by, all of us will have the opportunity to look back with pleasure and pride at having served with Peg. I can tell you personally that I—the last bastion of Republican strength in Massachusetts—will miss her help to that extent. But more than that, Mr. Speaker, and in a much larger sense, I will miss her dedication, her warmth, and her friendship.

I know that I speak for all of my colleagues on both sides of the aisle when I wish her, her husband John, and her three children Allison, Belinda, and John, Jr., the best of luck, health, and happiness in the days and years to come—now and forever more.

Peg, we are going to miss you. Thank you, Mr. Speaker. • Mr. O'NEILL. Mr. Speaker. I am pleased to have this opportunity to honor my colleague from Massachusetts, Peg Heckler. She has a distinguished record in the Congress and in the service of her State and country.

She has made a special contribution to the Nation's veterans, particularly Vietnam veterans. She has been a consistent champion of their cause over the last 10 years.

In addition, she has been in the forefront of the women's rights movement during her terms in Congress. She was instrumental in gaining passage of the equal rights amendment in 1972 and just as instrumental in getting it extended by Congress in 1978.

When the equal rights amendment is finally ratified, and I am certain it will be, PEG HECKLER'S early work will be a major reason for its ratification.

Peggy has had an impressive career in public service since 1958. She has served in local office, State office and in the Congress. She has always represented her constituents with great energy and admirable independence.

For the eight terms she served in Congress, she worked closely with me and her other colleagues from Massachusetts on behalf or her State. Despite the fact that she was not a member of my party, we are close friends. I respect her talent and acknowledge her achievements. I will miss working with her. But I know she will be available to serve her country in the future because she is able and talented, young and energetic, and most of all, a real patriot.

• Mr. EARLY. Mr. Speaker, I am very glad to join in this well-merited tribute to my dear friend and esteemed colleague from my own State of Massachusetts, Congresswoman Margaret Heckler.

Throughout her 16 years of service here her exceptional initiative and achievements in furthering our national progress and for the benefit of the people in her own district have rightfully earned her the wide acclaim in which she is held as a national legislator.

Her personal concern and compassion in helping constituents with individual and family problems connected with Federal agencies is a legend in her home area. Her special interest and leadership in the promotion of equal opportunity and treatment for women in all walks of American life is universally acknowledged and applauded.

Mr. Speaker, Margaret Heckler enjoys the highest regard of all Members on both sides of the aisle as a person of absolute integrity and patriotism. All of us know her to be a most effective Member of Congress, a very eloquent and persuasive advocate and an unusually formidable but fair adversary.

She brought superior research and competence into our discussions in this Chamber and, equally important, she brought beauty, grace, and dignity into all her activities here.

Margaret Heckler is, by profession, an attorney of vast knowledge, great skills and extraordinary experience. Without doubt she will be eminently successful in whatever field of work she decides to engage in outside of this legislature. She will leave behind an example of dedicated public service to her constituency and her country that will be a continuing inspiration for all of us. I earnestly hope she will frequently renew her friendships with us and that good health and good fortune will follow her in all her future endeavors.

• Mr. MAVROULES. Mr. Speaker, when the House adjourns this week, a good friend, and a diligent and conscientious member of this body will be leaving us after gracing this Chamber for 16 years.

I am, of course, referring to the gentlelady from Massachusetts, Mrs. Heckler

It is thus with great pleasure that I rise and associate myself with the remarks of her other many friends here this evening.

For 16 years, for eight terms, the gentlelady has been more than equal to the task of being a Member of Congress. A scrapper and a strong believer that none of us should ever turn a deaf ear to our constituents, she has demonstrated, through example, just what it means to be a Member of this august body. Time after time again, she has reminded us of our principal responsibilities to our districts and to the half million men, women, and children who each of us represents. As a member of her own State delegation, I know how hard the gentlelady has worked on behalf of her constituents not only under this dome but at home, as well.

And, although we are members of different parties, I can also speak to her unflagging willingness to work together with the other members of the Massachusetts delegation for the betterment of our home State. Democrats and Republicans, to be sure, all of us are. But first we are public servants serving a public trust for the common good. The gentlelady's exemplary conduct in office has never failed to remind me of that.

As she embarks down a different road, I am sure that all here tonight hold the very best and fondest wishes for the gentlelady of Massachusetts.

May all your future endeavors be as rewarding and fruitful as your years in Congress have been.

 Mr. MONTGOMERY. Mr. Speaker, I want to add my name to the list of colleagues paying tribute to the distinguished gentlelady from Massachusetts, the Honorable Margaret Heck-Ler.

She and I came to Congress at the same time in 1967, and I have a great amount of respect for the job she has done as a Member of this Chamber. MARGARET has been a very articulate speaker, who always had a clear understanding of the issues.

We have worked closely together in the Veterans' Affairs Committee and I can say that she has always been a most diligent and informed member of the committee. Her contributions on behalf of this Nation's veterans have been outstanding.

In addition, she has been active on the Science and Technology Committee, as well as the Joint Economic Committee. She can be most proud of her accomplishments as a Member of the House of Representatives.

We will miss her input and experience on the Veterans' Affairs Committee, where she served on the Hospitals and Health Care Subcommittee and the Education, Training and Employment Subcommittee. I know many of my colleagues will agree that she has been a positive force for progress in this Congress.

♠ Mr. MOORHEAD. Mr. Speaker, I would like to thank the gentlewoman from Colorado and the gentleman from Massachusetts calling this special order. Surely, it is most fitting that we take 60 minutes to say goodby to a lovely and capable Member of the House. Margaret Heckler.

After an effective and distinguished career in the House of 16 years, paying tribute to the most senior woman in the Congress is surely warranted. During her tenure here, she has given to all of us. Her educational background, her expertise regarding our system, her grace and charm, her loyalty and integrity have contributed a great deal to every aspect of our political process.

MARGARET will be missed by all of

Mr. GILMAN. Mr. Speaker, I thank my colleague, the gentleman from Massachusetts (Mr. Conte), for giving us the opportunity to honor Margaret Heckler this evening. To her much honor is due. It will be hard to imagine this Chamber without her keen wit and hard working spirit. Personally, I am losing a friend and coworker that I admire deeply and whose counsel I valued in getting to the heart of a controversial issue.

No issue was so small that it did not demand absolute study and thorough understanding by MARGARET before she took a stand on it. She thoroughly studied legislation and carefully consulted with her constituency to determine what was best for them and for our Nation. I respected her decisions because I knew she had done her homework and that her integrity and commitment to the people of her dis-

trict and our Nation governed all of her actions.

Since 1960, Congresswoman Heckler has worked tirelessly for the veterans of our Nation. Regardless of what public opinion may have been, from the beginning she has led the fight to assure that our Vietnam veterans receive the benefits and the respect to which they are entitled. In my work on the missing in action, I have constantly run into families expressing deepest admiration for this great lady. Our veterans have lost a true friend and a woman of action on the Veterans' Affairs Committee. In times of budget cuts, she has waged battles on behalf of those programs that so contribute to enhancing the quality of life of our veterans.

MARGARET, we wish you and your family good health and joy in the future, which I am certain will be a continuation of your fight for the people of Massachusetts and the rest of our Nation. These halls will not be the same for any of us without your informed voice and your courageous actions. Thank you for the inspiration of your example of placing duty above privilege and service above seniority. Onward, MARGARET. May your fighting spirit toward the goal of a better life for all Americans stay with us and hold you in good stead as you forge ahead in further service to our Nation.

• Mr. MAZZOLI. Mr. Speaker, my friend and colleague MARGARET M. HECKLER will be leaving the House after many years of service. I have worked with Peg over the years especially on pro-life issues and have always found her to be a pleasant and dedicated person. She has made many fine contributions to the House and to her district, and I wish Peg the very best. Her presence will certainly be missed here in the House

missed here in the House.

Mr. MOAKLEY. Mr. Speaker, I commend the gentleman from Massachusetts (Mr. Conte) for providing this House with an opportunity to pay tribute to our distinguished colleague, the gentlewoman from Massachusetts (Mrs. Heckler).

PEGGY has always been one of the Commonwealth's hardest working legislators. With her departure at the end of this Congress, she will be greatly missed by all her friends in the Massachusetts delegation.

Her first elective office was the Governor's Council, which she entered in 1962 and left for her successful election to Congress in 1966. During her eight distinguished terms in Congress, Progressed developed a well-earned reputation as an effective advocate for the causes in which she believes; as a tenacious fighter for the interests of the people she represents; and as a tireless campaigner for her party.

campaigner for her party.

Throughout her career in Congress, she has held a seat on the Committee

on Veterans' Affairs. There she has been one of the best friends of veterans and has worked tirelessly for their concerns and needs. She has been a leader in the movement to recognize the special needs of Vietnam era veterans.

PEGGY has served on a number of other committees during her long service here and presently is a member of the Committee on Science and Technology, the Joint Economic Committee, and the Select Committee on Aging. She has served effectively on these committees and on the House floor to advance the causes she considers important.

Serving with her has been a great honor and I extend my best wishes to Peggy.

• Mr. RINALDO. Mr. Speaker, with the close of the second session of the 97th Congress, Congresswoman Mar-GARET "PEGGY" HECKLER'S service as a Member of the House will end. What will not cease, however, is the lasting effect of her dedication and able service to the residents of Massachusetts' 10th District.

During her 16 years of service, she has brought to the deliberations of the House a strong sense of personal conviction, integrity, and high moral character. In establishing an outstanding record of public service, Peggy has contributed creatively and constructively to legislation advancing the welfare of the Nation.

She has been a tireless, dedicated, and independent legislator, and her love of her district, State, and country has had a positive influence on all who have known and worked with her. She has won the respect of her colleagues on both sides of the aisle and others familiar with her legislative accomplishments.

A prime mover in support of the high-technology industry, she took the initiative in getting President Reagan to expand his 25 percent research and development tax credits to include more than wages for the high-technology industry, and to add other similarbeneficial industry-related provisions to the 1981 tax package. It would be fair to say that PEGGY's 16 years of congressional service have been characterized by broad guaged activity, with specialization in the fields of banking and commerce, international trade, small business, high technology, and transportation.

She will also be remembered by her colleagues as the founder and steering committee member of the Textile Caucus and the Travel and Tourism Caucus, and as the founder of the Congresswomen's Caucus, which she has cochaired since 1976.

Her record reflects one success after another. After earning her law degree from Boston College Law School, she was a practicing attorney in Boston. She later became the first woman elected to the Governor's Council in the Commonwealth, and in 1966 she was elected to the House, therby becoming the second woman Member of Congress in the history of Massachusetts. Her able and effective representation gained her the lasting respect of her constituents who returned her to Congress in the next seven elections. A remarkable achievement for a Republican in a heavily Democratic, labor-oriented district.

During her tenure in Washington she gained the distinction of being the ranking woman Member in the Congress and the 24th ranking Member of the House.

Now, on the eve of her departure, I join my colleagues in bidding my good friend farewell and Godspeed. In politics she found scope for unfettered expression of prodigious talent to serve her fellow citizens, and I want to express my gratitude for the noble service she rendered to her constituents and the country. It has been a great privilege to have served with her. I wish Peggy much success, happiness and the best of everything in the years ahead.

 Mrs. HOLT. Mr. Speaker, I believe all of us feel a sense of loss because the gentlewoman from Massachusetts, MARGARET (PEG) HECKLER, will be leaving us at the end of this session.

We enjoyed the high spirits of this energetic woman, her quick mind, and her competence as a legislator. The people of our Nation and her congressional district have been well served by Congresswoman Heckler, and she was an asset to this House. She was my inspiration to run for Congress and I am sure all Members of the House join me in best wishes for her success in whatever endeavors she pursues in the years ahead.

• Mr. FUQUA. Mr. Speaker, our esteemed colleague Margaret Heckler will be concluding her career in the House of Representatives when the 97th Congress ends and it is fitting that we should take note of the marvelous job she has performed for her constituents and her country.

First elected to the 90th Congress in 1960, Peggy Heckler has been returned to Congress in every subsequent election until this year when she failed to carry the vote in a redrawn district.

I know Peggy best as a member of the Committee on Science and Technology where she distinguished herself as the ranking minority member of the Subcommittee on Science, Research and Technology.

She has been a firm advocate of a strong Federal program of research, development, and demonstration to keep America in the forefront of the highly competitive high-technology marketplace.

While accumulating more tenure in the House than any other female Member, Peggy Heckler used that seniority to sharpen her knowledge of the subjects in which she specialized and to hone the legislative skills which translated that knowledge into law.

She has been an effective and dedicated Member of this House of Representatives and her sound, thoughtful contributions to our deliberations will be sorely missed when she departs.

• Mr. CARMAN. Mr. Speaker, it is an honor for me to rise today and pay tribute to Margaret Heckler on the occasion of her retirement from the House of Representatives. Peg has distinguished herself in Congress since she was first elected in 1970. In her 16 years of service she has been an effective advocate for the interests of her constituents and for the country as a whole. She has served on both the Science and Technology and the Veterans' Affairs Committees in this Congress and has many special legislative accomplishments.

As the woman who has the longest tenure of any woman in Congress she will be especially missed. She should be proud of her role in passing the Equal Credit Act and also of her efforts on behalf of small business in establishing the Office of Advocacy. It was a pleasure to serve in the Congress with her and I wish her all the best in the days ahead.

• Mr. SHUMWAY, Mr. Speaker, I would like to express appreciation to SIL CONTE and PAT SCHROEDER for requesting this special order, enabling us to say farewell to Margaret M. Heckler, and to pay tribute to the outstanding performance she has delivered as a legislator, and as an accurate representative of her constituents' needs. For 16 years, she has selflessly served the people of Massachusetts and the Nation, and has been a credit to our membership.

I know that we will all miss her able contributions when she has returned to private life, and I extend every best wish for continued fulfillment and reward to her as she prepares to leave the House of Representatives.

• Ms. OAKAR. Mr. Speaker, I would like to take this opportunity to pay tribute to an outstanding Member of Congress, the Honorable Margaret M.

I have had the pleasure of serving with Representative Heckler on the Congressional Caucus for Women's Issues, a group that Margaret helped found and cochair. Her dedication to women is exemplified by her strong support for ERA, the Women's Economic Equity Act, and Women in Science. In addition, Congresswoman Heckler pioneered the Equal Credit Opportunity Act, an important piece of legislation which increased financial independence for women.

Through her perseverance in the areas of high-technology industry, energy, and her support for issues of grave concern to people, Congresswoman Heckler has gained the respect of her colleagues since her swearing in to Congress in 1966.

Mr. Speaker, the constituents of Massachusetts and the Members of this Congress will be losing a fine politician and legislator. Peg, I wish you all the best. Thank you.

• Mr. SENSENBRENNER. Mr. Speaker, I would like to join with my colleagues in recognizing the commitment with which Representative Margaret Heckler has engaged this Congress for more than 15 years.

Since first taking office in 1966, MARGARET HECKLER has proven to be a strong advocate and tough legislator when taking up an issue. During her tenure in Congress, she has been an articulate spokeswoman for the rights of women on a multitude of issues. From the ERA to equal treatment when applying for loans, mortgages, or credits, MARGARET HECKLER has worked to assure fair treatment under the law.

As the second ranking Republican on the House Veterans' Affairs Committee, she has had a great impact on the programs designed to serve the Vietnam veterans. She also proved to be an able voice in the Agriculture Committee in curbing the minimum price supports for sugar.

Her persistent drive on such issues has provided the kind of representation that make this Congress work. To borrow from an old slogan we truly needed "a Heckler in Congress." From your distinguished service and through the future, I wish you the best of life.

• Mr. BOLAND. Mr. Speaker, I am pleased to join in this tribute to a distinguished Member of the Massachusetts congressional delegation, Margaret Heckler.

I have had an opportunity to work with Peggy Heckler frequently, during the 16 years she has been in Congress, on issues of concern to the people of Massachusetts. As dean of the Massachusetts delegation, I want my colleagues in the House to know how valuable the people of the Commonwealth consider her service in this body to have been. She has been a tireless and effective advocate for the interests of her fellow New Englanders.

Peggy arrived in the House with a well-deserved reputation for political independence, and with the distinction of having been the first woman ever elected to the Governor's Council in Massachusetts. In Washington, she quickly became a respected voice for the rights of women, and the interests of consumers and veterans. She waged a difficult, but successful struggle for the passage by Congress of the equal

rights amendment, and for the extension of the ratification deadline on the amendment when that became necessary. While these are clearly issues of paramount concern to women, it was Peggy's belief, and she successfully convinced her colleagues that she was correct, that these issues were, first and foremost, matters of simple justice.

Mr. Speaker, it is always difficult to say goodby to a colleague, and the task is especially hard when that colleague is a member of your State's delegation. I know, however, that PEGGY will continue to be active, both in Massachusetts and around the country, on those issues in which she deeply believes. The House will miss her, but I want to wish her every success as she turns her considerable talents toward new challenges.

• Mr. ANNUNZIO. Mr. Speaker, I rise today to pay tribute to the Honorable MARGARET M. HECKLER, who has ably represented the people of the 10th District of Massachusetts in the U.S. House of Representatives for the last 16 years. Peg's tireless efforts in the advancement of woman's rights, and her activities on behalf of her constituents and on behalf of all citizens of this Nation are most commendable.

PEG HECKLER has compiled an outstanding record of achievement as ranking minority member of the Subcommittee on Science, Research, and Technology of the House Science and Technology Committee, and as ranking minority member of the Subcommittee on Education, Training, and Employment of the House Veteran's Affairs Committee. She also has served with diligence and distinction as a member of the Joint Economic Committee.

PEG is a woman of the highest integrity, and a legislator of outstanding ability, who has provided exemplary service to her constituents. She will be missed by those of us in the House of Representatives who have had the pleasure of knowing and working with her.

I extend to Peg Heckler my best wishes for continued success in devotion to the highest principles.

• Mr. LENT. Mr. Speaker, I would like to take this opportunity to pay tribute to my friend and esteemed colleague, Peggy Heckler, who, unfortunately, will be leaving the Congress at the end of this session. Those of us on both sides of the aisle who have been privileged to know Peggy recognize that her contributions to this body have been of measurable significance to the district she has so capably represented, to her State of Massachusetts, and to our great Nation.

PEGGY was the first woman elected to the Governor's Council in the Commonwealth of Massachusetts, when in 1966 she won a seat in the House from Massachusetts 10th Congressional District. She thereby became the second woman Member of Congress in Massachusetts history.

Peggy's 16 years of diligent congressional service have been characterized by a wide range of activities which have benefited the good citizens of the 10th Congressional District. Her outstanding work in the fields of banking and commerce, international trade, small business, high technology, and transportation issues have earned her a reputation as an effective and capable legislator, respected by Republicans and Democrats alike. As a strong supporter of small business throughout her career, Peggy wrote the Small Business Advocacy Act and numerous other bills to help the small businessman. Peggy's legislative leadership contributed greatly to the passage of the Equal Credit Act for Women, a major step for women's rights in this country. She founded the Congresswoman's Caucus and has served effectively as cochairperson since 1976.

Mr. Speaker, these are only a few of Peggy's numerous accomplishments during her 16 years in the Congress. Her outstanding record speaks for itself. We are indeed losing a fine and effective Member of Congress in Peggy Heckler. It has been my privilege to work with Peggy on many legislative projects during my 12 years in Congress. I hope that she continues to apply her many talents to endeavors she chooses to pursue in the years to come. Peggy, I speak not only for me but for my colleagues when I say that we will miss you in January.

♠ Mr. McKINNEY. Mr. Speaker, Congresswoman Margaret M. Heckler reminds me of the nursery rhyme from my youth about the little girl with the big curl right in the middle of her forehead. When she was good, she was very, very good. But when she was bad, she was horrid.

I quickly realized when I first came to Congress that it is always more comfortable having Peggy Heckler working on my side of an issue. There is no Member of the House of Representatives more skilled at turning out the public for a legislative battle, no one more tenacious in seeing that the battle is fought to its fullest. Happily, we are usually working for the same causes. From my view, she is very, very

Peggy Heckler has been a crusader during the 16 years in Congress, a crusader for the people. She has been a friend of women seeking equal rights, a friend of frequently forgotten or ignored Vietnam veterans, a friend of children whose mothers need to work, a friend of consumers demanding fair prices at the grocery store. I am proud to have worked with her on those crusades. I am proud to say I am her friend. I am one among many who will miss a very good friend and a very

great lady when Congress convenes next year.

• Mr. WALGREN. Mr. Speaker, I want to join the other Members of Congress in speaking today in honor of Congresswoman Margaret Heck-Ler. The gentlewoman from Massachusetts has served with great distinction on the Science, Research, and Technology Subcommittee. As chairman of that subcommittee during the 97th Congress, I cannot speak highly enough about her dedication, fairness, and insight into the issues facing the committee.

Her leadership on a broad range of issues facing high-technology industry is especially significant. Recognizing that technological change accounted for almost one-half of all growth in the American economy over the last 100 years and that high-technology industries will comprise close to 50 percent of our GNP by the end of the decade, Mrs. Heckler has strongly championed high-technology issues from a position of strength and respect within the Congress.

On the issues before our subcommittee, Mrs. Heckler as made a wise distinction between those areas where the Federal Government can support the private sector and those—like regulation and overtaxation—where she feels the Government should just plain step out of the way.

She is a leading supporter of reforming antitrust regulations to allow joint R&D efforts of tax credits to stimulate research, of patent policy reform, of Federal measures to encourage the special innovative capacities of small science- and technology-based firms, and of renewed national attention to the quality of science, math, and engineering education.

In a recent interview with the National Association of Manufacturers' Magazine Enterprise, Mrs. Heckler described herself as being "primarily concerned with the application of science and technology to the Nation's productive resources in order to improve the economy." She said she would like "an environment that encourages the natural forces of innovation and productivity embodied in our free market system." She sees the clear need for balancing intelligent fiscal policy with the social needs of an increasingly complex and rapidly changing American society.

I know Margaret worked hard on those in the Reagan administration during the development of the Economic Recovery Tax Act. As a result of the President's favorable response to her requests the 25 percent tax credit was broadened to include R&D expenditures, and section 861-8 of the Internal Revenue Code, which previously sent valuable high-tech jobs overseas, was suspended.

Recognizing that much more still needs to be accomplished, Mrs. Heckler supports a broad legislative agenda of keen interest to high-technology industries. Perhaps of greatest importance is the Joint Research Act (H.R. 6262) which would grant limited antitrust protection from criminal and civil prosecution for companies entering into joint R&D consortia approved by the Department of Justice or the FTC.

Margaret is a cosponsor on four bills (H.R. 1539, H.R. 2473, H.R. 6023, H.R. 6024) which provide various tax credits for research and experimental costs, amending section 861-8 of the IRC in order to include all domestic R&D in tax incentives—regardless of foreign production applications.

Mrs. Heckler was a key supporter of the Small Business Innovation Development Act, H.R. 4326, which would increase small business participation in Federal R&D. She has also sponsored legislation (H.R. 5294) intended to provide additional assistance to small business concerns in acquiring procurement information and contracts from the Government. Last, she has cosponsored H.R. 4215, to provide long-term capital gains treatment for distribution of earnings with respect to certain small business participating debentures, and H.R. 6575 which would permit the pooling of smallissue development bonds to preserve a means of access to capital for small business.

#### SCIENCE EDUCATION

Congresswoman Heckler was one of the first Members of Congress to recognize the crisis in science education in America. In addresses before meetings sponsored by such prestigious organizations as the National Academy of Sciences and the American Association for the Advancement of Science, she has elaborated on appropriate Federal Responses to a growing national problem.

Her bill, the National Science and Technology Improvement Act (H.R. 6930) has been introduced in the Senate by Senator Harrison Schmitt and has already been favorably discussed by President Reagan's Cabinet Council on Human Resources. Don Fuqua, the chairman of the Science and Technology Committee, has included her bill in committee legislation dealing with the issue.

Through inservice training, the bill seeks to improve the qualifications of secondary science and math teachers, and provides research grants to encourage college science, engineering, and math faculty to stay on the job. Moreover, it authorizes Federal agencies with large R&D budgets to support university research efforts in conjunction with the private sector through grants for equipment, facilities, fellowships, scholarships, or other means. She has also cosponsored the

precollege teacher assistance bill (H.R. 6775) that would provide low-interest loans to college students who pursue math or science degrees and who intend to enter the precollege math and science teaching professions. In addition, she has promoted a variety of tax credit measures (H.R. 1864, H.R. 5573, H.R. 6774) that would: First, credit business for amounts contributed to a research and experimentation reserve to be used by institutions of higher learning; second, encourage contributions of computers and other sophisticated technical equipment to elementary and secondary schools; and third, credit employers for compensation paid to employees who are practicing precollege math or science teachers. She is also an original cosponsor on my bill, the National High Technology Technician Training Act (H.R. 6950) which would utilize community colleges in the training of students for jobs as technicians and technical paraprofessionals in the electronic industries.

As you can see, Mrs. Heckler has been a major leader in high-technolgy issues vital to the continued prosperity of Massachusetts and the national economy. Her seniority and respect in the Congress have combined with her masterful grasp of issues to single her out as a special asset worthy of our support.

Let me conclude, Mr. Speaker, by thanking the Congresswoman from Massachusetts for her leadership and cooperation on the subcommittee. I sincerely say that I could not have had a better informed or dedicated ranking minority member. You will be missed.

Sometimes I think only another Member of Congress can fully appreciate balance of personal qualities that sometimes continue to make an individual excel as a representative in a legislative body. As a lawyer with a certain passionable energy to change circumstances for the better, and as a personable woman with the wisdom and maturation that comes from raising an exceptional family, Margaret Heckler excelled in the Congress of the United States. Our society is better off because of her quality.

• Mr. SAM B. HALL, JR. Mr. Speaker, MARGARET HECKLER has enjoyed a distinguished career in the House, and I think her place in history is secure. She is an able, effective legislator, and I have enjoyed our service together.

Our Vietnam veterans have had a tremendous friend in Peg Heckler. She has championed their cause on the Veterans' Affairs Committee, and it has certainly been a privilege for me to serve with her on the committee. Her committee work like all of the legislative activities she has been involved in demonstrate a great love of people. She is known as a humanitarian of the first order.

All over America more and more women are taking an active role in politics. An inspiration to young women who aspire to political office is Peg Heckler. Her success in the political arena is well-established, and she has paved the way for increased political activity by American women. She has dared to challenge the establishment from her earliest days in politics and has succeeded even with the odds often against her.

I appreciate the forthrightness of Peg Heckler. While our views may not always coincide, she is ever the lady and has demonstrated the greatest courtesy, charm, and respect toward me.

While redistricting put PEG HECKLER at a disadvantage this past election, I have the confidence and assurance that she will continue to be active in public service. She has fought the good fight. She has provided leadership and inspiration to people throughout the Nation, and we all owe her a debt of gratitude. I look forward to hearing more from her in the years ahead.

• Mr. WINN. Mr. Speaker, 16 years ago, Margaret Heckler and I came to the 90th Congress together, along with 57 other freshman Members. Since then, she has represented the 10 District of Massachussetts with devotion and distinction. I had the pleasure to serve with Margaret on the Science and Technology and was always impressed with her tenacity, knowledge, and preparation. She also served admirably on the Veterans' Affairs Committee and the Joint Economic Committee.

Margaret has been a strong voice for women and their participation in the American political process since she entered Congress in 1966. Margaret combined her concern for women's issues with a belief in fiscal conservatism. She never believed government should take a meat-ax approach to cutting the size of public programs and she was a strong believer in lifting the burdensome load of taxes off the people. She never flinched in her belief that the United States should be at parity with the Soviet Union in strategic armaments.

I respect MARGARET HECKLER immensely. I wish her the best of luck in future endeavors. She will be missed on Capitol Hill.

#### GENERAL LEAVE

Mr. CONTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

#### A TRIBUTE TO CONGRESSMAN JIM MATTOX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Frost) is recognized for 60 minutes.

• Mr. FROST. Mr. Speaker, I rise today today to accord special recognition to our friend and colleague, Jim Mattox of Texas, who is leaving Congress after 6 years of distinguished service. Jim, however, is not leaving public service but within a matter of weeks will be sworn in as attorney general of the State of Texas, having won the Democratic primary against a strong field of contenders and then having defeated his Republican opponent this November.

JIM MATTOX is truly an extraordinary public servant. His career as an elected official began 10 years ago when he was elected to the Texas State Legislature from his home district in east Dallas. He served there for 2 years and then was elected to Congress in 1976 from a district in Dallas. While a Member of this body, JIM has served on the Banking Committee and on the Budget Committee. He chaired the defense task force of the Budget Committee and has served on the executive board of the Democratic Study Group. He also served a term as chairman of the Texas congressional delegation.

Mr. Speaker, Jim Mattox has approached every task with the same vigor and resourcefulness. He is a fighter for the people—especially for the little people of the Fifth District of Texas. He is an advocate of the blacks, the browns, and of the working people that make up his constituency. Jim is true to principle, he stands up for what he believes is right and he shows no quarter for his opponents, particularly when they threaten to deny the rights of the people he represents.

I have known JIM MATTOX personally during his entire career in elective office and have admired his capacity for hard work, his brilliance, and his ability to cut through the rhetoric and get down to brass tacks. To some, JIM may appear to have a somewhat rough exterior, but our State of Texas and our Nation would surely be better off if there were more like him in public office.

I am sad to see him leave this body but I most assuredly look forward to working with him in his new role as attorney general.

• Mr. HIGHTOWER. Mr. Speaker, I want to take this opportunity to say a few words about a colleague of ours here in the House and a member of my own State delegation—Jim Mattox. Jim will not be rejoining us in the 98th Congress, but will be returning instead to Austin, Tex., to take up a new life there.

JIM MATTOX has always approached his legislative work with the kind of spirit and dedication that his constituents can be proud of. For the three terms that he has represented the Fifth District of Texas, he has met the needs of his urban constituency very well. We in the Texas delegation have appreciated his tenacity in the pursuit of his responsibilities; he has been a strong and active member of the delegation, and his contribution will be missed.

Even though Jim will be leaving the particular service of his constituents in the Dallas area, he is not leaving public life. Instead, he is going on to serve the people of the entire State of Texas in his new capacity as attorney general. We in Texas look forward to great things from Jim as he approaches the new challenges of his job in his own unique and special manner.

• Mr. BROOKS. Mr. Speaker, my good friend and colleague, JIM MATTOX, will be leaving Congress at the end of this session and we will miss him deeply. As dean of the Texas delegation, I can tell you that Congressman MATTOX has been an important member of our legislative team. During the 6 years that he has served with us we have grown to admire his skill and dedication as an effective spokesman for his Dallas constituency.

I have had the good fortune of working closely with Congressman Mattox on a great many issues of importance to the State of Texas and have observed the outstanding representation he has given to his district and his country. The people of Dallas' Fifth Congressional District could not have had a stronger advocate and he will leave an admirable record of public service in the House.

He has always had the ability to present arguments on complex issues in a clear and reasoned manner, and those of us who will return to the 98th Congress will miss his contributions to our legislative debates.

While the Texas delegation will miss his hard work and dedication, and the Congress will miss his contribution to the legislative process, I can assure you that the people of Texas have gained an outstanding new State attorney general who will represent them with the same skill and dedication that we have observed here on the floor of the U.S. House of Representatives.

• Mr. LOEFFLER. Mr. Speaker, as we bid farewell today to Jim Mattox, those of us who have the privilege of representing the State of Texas in this House know that we are not saying goodby—but only "auf Wiederschen," for while our paths will not cross quite so often, we shall all have the pleasure of keeping in touch with Jim as he assumes his new responsibilities as our State's attorney general.

We shall miss our daily contact with you, Jim, but we are pleased that our friendship will endure as we visit with you in Austin and work together on matters of mutual interest and concern. We salute you for your past service and wish you much success and happiness in your new endeavors.

• Mr. DE LA GARZA. Mr. Speaker, paraphrasing the old cliche, "The Nation's loss is Texas' gain," JIM MATTOX is going back home to be the attorney general of Texas.

In the last election Jim stood right at the top of the sweep that put Democrats in all the top Texas offices.

Since his election to the 95th Congress he has served with verve and excellence on the Committee on the Budget and the Committee on Banking, Finance and Urban Affairs.

Back in 1967 Jim came to Washington as a congressional intern in the office of the late Congressman Earl Cabell of Dallas. When he came Jim set his sights on someday representing his area.

Being a man who makes a career of getting what he goes after he came up here to make his mark and to go back home to serve his State in a sensitive area.

We wish him well.

• Mr. SAM B. HALL, JR. Mr. Speaker, I commend the gentleman for taking this special order to honor my good friend and fellow Texan, JIM MATTOX. As we know, JIM will be leaving the House to assume the position of attorney general of the State of Texas.

Jim will make an outstanding attorney general. He scored impressive victories in the Texas Democratic primary and the general election with a broad coalition of support. He has a tremendous legal mind and brings solid experience to this all-important State position. All of his friends here in the House are justifiably proud of him.

As we know, JIM MATTOX is an active, independent legislator who takes a back seat to no one. He is strong in his views and manifests great courage in expounding his philosophy of government. On occasion we have disagreed, but we have disagreed as friends and gentlemen.

JIM has a well-rounded background in budgetary matters. He has given exemplary service on the Budget Committee and the Banking and Currency Committee. This experience will be invaluable to the people of Texas in his role as attorney general.

As members of the Texas delegation can attest, JIM MATTOX has been an important participant in legislative activities affecting our State. We are going to miss his counsel at our delegation meetings. On items of concern to my own congressional district, JIM

MATTOX has always been willing to help out.

JIM MATTOX has made a positive impact on the House. He has a bright political future, and I am looking forward to our continued association as he represents the people of Texas as their attorney general.

## ANALYSIS OF HOUSE RULES CHANGES PROPOSED BY THE DEMOCRATIC CAUCUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. Lott) is recognized for 30 minutes.

Mr. LOTT. Mr. Speaker, I have taken this special order to discuss in greater detail the proposed House rules changes for the 98th Congress adopted by the Democratic Caucus on December 7 and 8 behind closed doors. I regret that much of this debate must be conducted in the pages of the RECORD, but the fact is, when these changes are presented to the House on January 3, 1983, the House will have only 1 hour to debate these far-reaching proposals, and no opportunity to amend or vote separately on the eight rules changes unless the minority, by some miracle, manages to defeat the previous question.

Perhaps the most glaring paradox of this whole exercise is the fact that on the one hand the caucus would make it impossible for a simple House majority to force the consideration of amendments to the Constitution, while on the other hand it has managed to violate the spirit if not the letter of the Constitution in several respects.

In the first place, the very procedure for considering these rules at the beginning of a Congress violates the constitutional provision of article I, section 5, clause 2, that "each House may determine the rules of its proceedings." The fact is that the rules are actually determined by a majority of the Democratic Caucus in secret session, and the caucus is then admonished by informal instructions to support the entire package on opening day by unit rule or risk future discipline.

This presents the bizarre prospect that on the opening day of a new Congress, rules may be adopted which do not have the actual support of a majority of the House. This is possible because in the case of controversial and closely contested rules in the caucus, minority caucus opposition combined with the unified opposition of the minority party to a rule may actually comprise a majority of the House membership. Moreover, the minority party may have additional rules changes not considered by the Democratic Caucus which could, if put to a vote, garner majority House support. But, since the caucus is bound to support its own rules and oppose the minority party's even offering its rules, it is clear that the House is not permitted to determine the rules of its proceedings as required by the Constitution.

It may come as a shock to many Members that this is not how it has always been done. There was a time when the House complied with its consitiutional mandate to determine its own rules rather than swallow whole a caucus-imposed rules package. According to George Galloway, in his "History of the House of Representatives":

The customary practice in post bellum days, when a new House met, was to proceed under general parliamentary law, often for several days, with unlimited debate, until a satisfactory revision of former rules had been effected.

This practice continued even after the 1880 general rules revision. To again quote from Galloway on this period:

On three of these occasions 2 months or more elapsed before the amended code was finally adopted, in striking contrast to the celerity with which the old rules have been rushed through in recent times.

It is especially ironic that our body of rules, which are ostensibly designed both to facilitate majority rule and protect minority rights, are not even subject to amendment by the minority. It is little wonder that these rules have increasingly eroded minority protection in the House in favor of majority tyranny over the years.

Mr. Speaker, let me now turn to the specific rules changes proposed by the Democratic Caucus and the ways in which they subvert certain constitutional protections and requirements.

#### THE NO-QUORUM CONGRESS

Mr. Speaker, article I, section 5, clause 1 of the Constitution provides that,

A majority of each House shall constitute a quorum to do business.

This seems like a fairly self-evident and necessary requirement: A majority of the people's Representatives should be present to consider the people's business. But, the concept of what constitutes business was drastically altered by House rules adopted at the beginning of the 95th Congress. Under those rules changes, the determination of a quorum is left to the Speaker in the House and the Chairman of the Committee of the Whole unless a pending motion or proposition is put to a vote. Put another way, the only business conducted by the House for constitutional quorum purposes is voting. Everything else, including debate in the House, general debate in the Committee of the Whole, and debate on amendments, is nonbusiness. It may come as a shock to our constituents that consideration of some of the most vital matters affecting them is not really considered important enough to require the presence of a majority of their Representatives. It is just nonbusiness as usual for the no-quorum Congress.

Now, to add insult to constitutional injury, the Democratic Caucus has proposed two additional House rules to make it possible for the House to operate for a good part of the legislative day without a constitutionally quired majority quorum. First, the caucus would make it possible for the Speaker to postpone a vote on the Journal until later in the legislative day. The approval of the Journal is the second "order of business" of the House each day after the prayer under rule XXIV. Since the rules have already left it to the discretion of the Speaker to entertain a point of order that a quorum is not present at the beginning of a day, a vote has frequently been called for on approving the Journal by the minority to accomplish the same purpose—establishing that a quorum is indeed present on that day. The caucus would now preclude that opportunity.

Second, the caucus has proposed a rule that once a resolution from the Rules Committee has been adopted providing for the consideration of a bill in the Committee of the Whole, the Speaker may declare that the House is in the Committee of the Whole, eliminating the possibility of a vote on resolving into the Committee of the Whole as may now be ordered under the rules. At first blush, this may seem a reasonable change, but only if the vote on going into the Committee of the Whole comes immediately after the adoption of the Rules Committee resolution on that bill. Unfortunately, the proposed rules change is not confined to such situations. It may well be that the House has adopted one or more Rules Committee resolutions on a bill or bills on a previous day. Under the new rule, following the prayer and a nonvote on the Journal, the Speaker could declare that the House is now in the Committee of the Whole for consideration of a bill that had not even been scheduled for that day—a not implausible prospect given the rapidity with which the program is changed around here. In such a situation, the majority may well be prepared to move forward on that unscheduled bill, but the minority could be left completely unalerted and unprepared. Debate on the bill could go as far as the beginning of consideration of amendments under the 5minute rule before a quorum call could be forced-and even then the Chair could make that a notice or short quorum, meaning the call would be terminated as soon as 100 members, a majority in the Committee of the Whole, had registered their presence. In other words, it is possible that the full House might not be called to the floor until the first vote on an amend-

The point is that the vote on resolving into the Committee of the Whole is a very important question of consideration: Does the House want to proceed to consider this particular bill at this particular time? It may well be, even though the House has previously agreed to a resolution providing for the consideration of that bill, that it may not want to resume consideration of it at a later date. Members having important amendments may be absent intervening circumstances have made consideration politically or practically inadvisable. full The House, and not the Speaker unilaterally, should retain the right to decide whether a bill should be considered. Not only is the abuse of minority rights possible under the proposed procedure, but the will of the majority might be thwarted as well.

#### APPROPRIATIONS RIDERS

Mr. Speaker, article I, section 8, clause 7 of the Constitution provides that "no money shall be drawn from the treasury but in consequence of appropriations made by law." There can be no question that the congressional power of the purse is one of the most important it possesses under our form of government. This is as it was intended by the Framers. In Federalist Paper No. 58, Madison had this to say:

This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.

And yet, Mr. Speaker, the Democratic Caucus has proposed a House rule that would severely cripple the congressional power of the purse by making it more difficult to offer socalled limitation amendments to appropriations bills which prohibit the expenditure of money, in whole or in part, for specific activities. Under the terms of the proposal, while the Appropriations Committee could still report such limitations, they could not be offered as amendments on the floor unless the House votes down a motion that the Committee rise after all other amendments have been disposed of. If the initial motion is voted down, it could be renewed again after the vote on each limitation amendment.

The argument raised in defense of restricting such limitation amendments is that they deal with subjects more appropriate for consideration in authorization bills. This argument ignores the fact that many matters are not subject to periodic reauthorization and therefore are not subject to such control. Moreover, even those which are subject to periodic reauthorization are increasingly never enacted into law. One need only witness the current fiscal year and all the waivers necessary on appropriations bills for unauthorized agencies and programs.

More and more agencies and programs are continued only through the appropriations process and not in connection with enacted authorizations as intended. In a study conducted by Dr. Louis Fisher of the Congressional Research Service of matters requiring annual authorizations in fiscal year 1982, it is revealed that 13 of the 24 annual authorizations were never enacted into law. To quote Dr. Fisher,

A remarkable fact is that few of the annual authorizations were ever enacted into law. This may appear to be an ineffective and fruitless process, but the act of marking up an authorizing bill and reporting it for floor action meets many of the needs of substantive committees and agencies.

As real control is being lost through a diminished authorization process, it makes little sense to make it more difficult to assert that control through the appropriations process.

What is the need for the new restriction on appropriations amendments? Is it that the House is being overwhelmed by rollcall votes? No. To date in this Congress there have been roughly 780 rollcall votes, nearly a 40-percent drop from the 1,276 votes in the 96th Congress, and a 50-percent drop from the 1,540 votes in the 95th Congress.

The only justification and explanation given in the Democratic Caucus rationale for this rule change is that such riders have included "such matters as abortion, school prayer, and busing." While that is true in part, it ignores the fact that such riders have been effectively used by Members of all political and ideological persuasions. According to a 1978 Democratic study group report, during the Nixon-Ford years, Democrats offered nearly 60 percent of the limitation amendments, whereas, during the Kennedy-Johnson years, Republicans offered nearly 80 percent of the limitation amendments. During the first year of the Carter administration, Democrats still offered about 50 percent of the limitation amendments. Not only have they been used by conservatives to force votes on their issues, but they have been used by liberals on such matters as terminating funding for U.S. combat operations in Southeast Asia, terminating the SST transport and the B-1 bomber.

The Patterson Select Committee on Committees in the 96th Congress studied various proposals to limit appropriations riders, and one of its task forces concluded in its report to the select committee that.

Limitation or retrenchment amendments have often been the only way legislators could bring major issues to the floor.

It went on to quote then Budget Chairman Robert Giaimo as saying that the House—

Should carefully preserve and protect this great right that we have today, which is to write limitations on appropriation bills.

The task force concluded:

Perhaps because present rules and practices serve the interests of different Members at different times, the House has yet to formally change House Rule XXI and ban or restrict appropriation riders.

One final note on this proposal: The only certain effect it will have will be to increase the number of recorded votes in the House. These will occur with increasing frequency on special rules for appropriations bills as Members try to waive the new rule against certain amendments, and on various motions that the Committee of the Whole rise after considering each such rider. In short, the proposal will only further frustrate and prolong the present workings of the appropriations process, as imperfect as it may now be.

#### CONSTITUTIONAL AMENDMENTS

Mr. Speaker, article V of the Constitution provides that two-thirds of both Houses may propose amendments to the Constitution which shall become effective when ratified by three-fourths of the State legislatures. Such an amendment may now be considered by the House once it has been reported by the Judiciary Committee or has been discharged from committee on the signature of a majority of House Members, and a House majority subsequently votes to discharge the committee from further consideration of the amendment.

The present discharge procedure, found in House rule XXVII, clause 4, applies to the discharge of bills and constitutional amendments alike, as well as to resolutions referred to the Rules Committee providing for their consideration.

The Democratic Caucus has proposed an amendment to this rule which would require the signature of two-thirds of the House membership to call up a discharge motion on a constitutional amendment or a special rule providing for its consideration. A simple House majority would then be necessary to effectively discharge the committee.

The present discharge rule dates back to 1931, and replaced a 1910 rule providing for a motion to instruct a committee to report a bill or resolution. The concept is based on the simple democratic notion that a majority of the House should always be able to work its will, even over the objections and resistance of the committee of jurisdiction.

The Democratic Caucus proposal undermines that democratic concept by requiring a supermajority of the House to even call up a discharge motion for the consideration of a constitutional amendment. Put another way, a minority of the people's Representatives may block a House majority from even considering an amendment to the Constitution.

What has prompted this proposed change? Have all manner of constitutional amendments been forced to the floor in recent years by the discharge procedure? The answer is "no." In the last Congress one such discharge move was successful on a constitutional busing amendment, but it failed the requisite two-thirds vote for passage. In this Congress the requisite 218 signatures was gained on a constitutional amendment to require a balanced budget, but the amendment was never officially discharged by the House since the issue was brought to the floor by a special rule in the interim.

According to a Congressional Research Service study, "discharge petitions have rarely been successful." Since their first use in 1910, only 25 bills have been discharged from committee by this procedure, including only three constitutional amendments: An ERA amendment in 1970, a school prayer amendment in 1971, and the busing amendment in 1979. In this Congress, while 24 discharge petitions have been filed, including 7 relating to constitutional amendments, only the balanced budget constitutional amendment received the requisite 218 signa-

The statistics would seem to indicate that the Democratic Caucus proposal requiring two-thirds signature on a constitutional amendment discharge petition is a case of constitutional overkill.

#### REMOVAL FROM COMMITTEES

Finally, Mr. Speaker, the Democratic Caucus has proposed a House rule to permit the automatic removal of a Member from a committee once that Member ceases to be a member of his or her party caucus. Under the proposed rule, the removal of the Member from committee would automatically occur on notification of the Speaker by the caucus chairman that the Member is no longer a member of the caucus. The Speaker would then notify the chairman of the standing committee that the Member's election to that committee is vacated.

This rule seems to overlook the reason we now have election of Members to committees by the House. The former power of the Speaker to appoint and remove Members from comittees was stripped in 1910 because of the arbitrary way in which this power was wielded. Under present rules it is understood that, since Members are elected to committees by the House, they may only be removed by vote of the House.

Granted, Members are nominated to committees by their respective party caucuses, and House election is simply a pro forma ratification of that decision. Likewise, the House would probably respect the decision of a caucus to remove a Member from the committee if that Member has voluntarily left the caucus or has been expelled. Nev-

ertheless, action by the House is an important safeguard against arbitrary removal. Caucus rules may or may not specify conditions under which a Member may be expelled, and those conditions may or may not be reasonable. But the proposed House rule does not spell out those conditions, leaving room in the future for caucuses to expel Members for unreasonable reasons. Moreover, the rule does not even provide that the Member must have left the caucus voluntarily or by action of the caucus. It simply states that all that is required to remove a Member from committee is for the caucus chairman to notify the Speaker that the Member is no longer a caucus member and for the Speaker to then notify the appropriate committee chairman that the Member is no longer a committee member. There is no requirement that the House even be notified of the caucus and committee membership stripping. Presumably, under this rule, a caucus chairman could simply declare that a Member is no longer a caucus member. without explanation, and the Speaker would be required to declare that Member's committee seats vacant. In short, there is nothing in this rule to prevent a caucus chairman from unilaterally expelling a Member from the caucus and thereby strip him of his committee seat. If this does not pose the prospect of "King Caucus" once again rearing his ugly head, I wonder what does.

#### CONCLUSION

Mr. Speaker, the five rules changes proposed by the Democratic Caucus which I have cited are indeed a return to the days of "King Caucus" and all the excesses associated with that period. They continue to move us in the direction of conducting the people's business without a majority of the people's representatives actually being present. They make it more difficult for a House majority to even consider such important matters as controlling Government activities through the appropriations process and amending the Constitution. And they open the door to the old "King Caucus" and "Czar Speaker" tricks of jerking Members off committees for arbitrary reasons. Taken together they demonstrate a cynical rejection of the democratic notion that a majority of this House is capable of governing itself or the Nation.

#### COMPUTER CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. NELSON) is recognized for 5 minutes.

Mr. NELSON. Mr. Speaker, I would like to call to the House's attention an article which appeared in my hometown newspaper on December 5, 1982. The article relates the story of a man who has allegedly stolen \$100,000 worth of trade secrets from the memory banks of his former company's computer. This incident is of particular interest to me as I have introduced a bill, H.R. 3970-the Federal Computer Systems Protection Act, which will make computer-assisted crime a specific Federal offense. The Subcommittee on Civil and Constitutional Rights, which is currently considering this legislation, held hearings on September 23, 1982, to examine the potential legal problems inherent in the use of computers; the potential for abuse; the existing mechanisms to prevent abuse; the adequacy of these mechanisms; and the need for additional solutions. One of the major concerns expressed during the hearings was the lack of concrete data regarding the extent of computer-assisted crime. I turn your attention to this newspaper article, which I would like to enclose at this point in the RECORD, as evidence of this growing problem.

#### EXEC CHARGED WITH THEFT OF COMPUTER TRADE SECRETS

SAN JOSE, CALIF.-Investigators searching for stolen trade secrets made an unprecedented "raid" on a computer's memory banks and accused an executive of stealing confidential design information.

Paul Magnuson, 39, co-founder of a once highly promising but now troubled computer company, was charged Thursday with conspiracy, trade-secrets theft, bribery, possession of stolen property and soliciting another to steal trade secrets.

He allegedly transferred \$100,000 worth of trade secrets from his old company, Magnuson Computer Systems Inc., to Prodigy, an electronics company he founded last summer-four months after leaving Magnu-

#### WILSON RILES

The SPEAKER pro tempore. Under previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

 Mr. EDWARDS of California. Mr. Speaker, I rise to salute a great American who has devoted his life to democracy, and especially the future of democracy through the education of our

I speak of Wilson Riles, who will soon step down after 12 years as State superintendent of public instruction in California. The accomplishments of this man are known to many across this Nation. The first black statewide elected official in California history, Wilson Riles has been a nationally recognized leader in education for more than a decade. It is less well known that the true story of Wilson Riles' life makes Horatio Alger appear to be an underachiever.

Wilson Riles was born in 1917 in Elizabeth, La. In those days the streets were dust and the houses were crude three-room structures of unpainted wood. There was one store, a movie house, and a bar that, until Prohibition, served the town population

of 2,000.

Young Riles' father worked sunup to sunset in a turpentine camp and could scarcely afford to provide his family with material comfort. Still, Riles' memories of his childhood are fond memories. Even today, Riles speaks of the love and feeling of belonging which were his only family inheritance when he was orphaned at the age of 11.

The young Riles was taken in by friends of the family. He attended Elizabeth Colored Elementary School, where the principal, F. Paul Augustine, believed that education was the salvation for black people in America. His tiny school produced many teachers, a New York doctor, a playwright, an Arizona State senator and a California State school superintendent.

There was no high school in Elizabeth, so the extended black family at the African Methodist Episcopal Church, where his mother had been a tireless volunteer, raised \$40 for Wilson to buy a suit and a bus ticket

to New Orleans.

In New Orleans, Riles attended a black high school and lived with an elderly man in a one-room shack between an alley and train tracks—a shack with no paint, plumbing, or address. Riles found a job delivering milk, for \$2.50 per week plus a quart of milk.

After high school, Riles moved with his foster family to Flagstaff, Ariz., where he became the only black student at Arizona State Teachers College, now Northern Arizona State University. He earned his way by taking food trays to sick students in the dorms, and by working at other jobs with a small stipend from the New Deal's National Youth Administration.

After graduation, Wilson Riles served his country in the Army Air Corps and, following the war, returned to Northern Arizona State to complete

a masters degree in education.

Riles' first teaching job was in a oneroom black school in Pistol Creek, Ariz., with 12 students who had run off the previous three teachers. He was firm about discipline, insistent that they learn the value of education. Several in turn became teachers and one a lieutenant colonel in the Air Force.

After Pistol Creek, Riles became principal of a three-teacher school in McNary, Ariz. From that first administrative job, Riles embarked on a career through the ranks that earned him deep respect and a strong following in the educational community. In the midsixties he was appointed to take charge of the then, and still, largest compensatory education program in the Nation. His talents attracted the attention of President Johnson who appointed him to the President's Task

Force on Urban Education. This was just one of scores of honors which have been accorded Wilson Riles in the last two decades.

In 1970, at the urging of friends and educators, he ran for the California superintendency and won against all predictions and seemingly impossible odds. Now completing his third term in this, the only nonpartisan statewide office in California, riles worked successfully with both Ronald Reagan and Jerry Brown, whose gubernatorial terms spanned his own tenure.

From one room schoolhouse to superintendent of the largest school system in the United States, Riles never failed to improve, reform, and lead his colleagues in pursuit of excellence in education. In schools of education, in universities around the Nation, would-be-teachers take courses in "early childhood education," "compensatory education" and "mainstreaming" for handicapped. Each of these concepts began in the fertile mind of Wilson Riles and was brought into reality by his considerable skills of politics and adminsistration.

Wilson Riles has accomplished a great deal as he has led California's massive school system of 7,500 schools and 4 million students. Last year, he was elected by his peers to be president of all chief State school officers. This man has been awarded no less than nine honorary doctorates and received numerous prestigious awards of

recognition.

Moving as it is, the story of Wilson Riles' life is really no more inspiring than the man himself. Congenial and charismatic, Riles never falls to win an audience, though his favorite public gathering remains a classroom of children. One student once asked the 6-foot 4-inch Riles just how tall he was. Wilson Riles' answer summarized his approach to his work. He said, "let's just say I'm tall enough to see a future for all of the children."

UPDATE ON THE PRESIDENT'S COMMISSION ON FOREIGN LANGUAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA)

is recognized for 5 minutes.

• Mr. PANETTA. Mr. Speaker, as a former member of the President's Commission on Foreign Language and International Studies, it has been my custom to periodically update my colleagues on the status of this issue and on the progress that is being made toward implementation of the Commission's recommendations. As the 97th Congress draws to its close, I would like to take this opportunity to once again outline the developments in the field of international education since the issuance of the Commission's final report, in the hope that the 98th

Congress will place an even stronger emphasis on the need to educate our citizens in the languages and customs of other nations.

First of all, I would like to briefly summarize some of the major recommendations contained in the Commission's report, which was issued in November of 1979. Among other measures the Commission advocated:

The establishment of foreign language and international studies, high schools, summer institutes, and regional centers.

Incentive grants to schools and colleges based on their foreign language enrollment.

Funding for national centers for advanced research and training in foreign language and international studies.

Measures to improve the skills of foreign language instructors.

Coordinated efforts at the State level to explore, develop, and implement international studies programs for elementary and secondary students.

Appointment of foreign language specialists in all State departments of education.

Development of foreign language proficiency tests.

Reinstitution of language requirements for college admission and graduation, and requirement of two or three courses in international studies for the granting of a bachelor's degree.

Obviously, many of the Commission's suggestions require action at other levels of government, by State and local education authorities, and in the private sector, and I can assure my colleagues that progress is being made on these fronts. For example, Mr. Speaker, I would like to draw attention to the Monterey County international studies program, which began operation this past September. Under this program, students from five area high schools are participating in adanced language and culture courses in three languages at four different sites. I believe the Monterey international studies program is an excellent example of the kind of innovative programing which is essential if international education is to receive the emphasis it deserves.

Other developments have included the recent appointment of a foreign language consultant in the California Department of Education; creation of the National Council on Foreign Language and International Studies, a privately funded group, to follow up on the work of the Commission; formation of an informal international education group here in the Congress; and designation of the week of March 1, 1981, as "National Foreign Language Week."

However, I would like to focus today on the legislative efforts which have succeeded the issuance of the Commission's report, and on the current funding situation at the Federal level. I am glad to report that legislative action in the field of foreign language and international studies over the past several years has included passage of the following measures:

A 1979 amendment-Panetta-which resulted in a GAO report concluding that more competence in foreign languages was needed among U.S. person-

nel overseas.

An amendment-Simon-to the bill that created the Department of Education, making foreign language and international studies one of the new department's seven priority concerns.

A 1980 amendment-Simon/Panetta-to the Foreign Services Act requiring the establishment of at least two foreign language competence posts at American diplomatic missions abroad.

A 1980 amendment—Panetta—to the International Security and Develop-ment Cooperation Act, directing the Peace Corps to develop a plan to better utilize the special talents and knowledge of returned Peace Corps volunteers in international education.

A provision-Simon-in the 1980 reauthorization of the National Institute of Education-the research arm of the Education Department-making encouragement of the study of languages and cultures one of NIE's research

projects. House Concurrent Resolution 301-Simon-expressing the sense of the Congress that local education agencies and institutions of higher education should consider strengthening the study of foreign languages and cultures.

An amendment-Simon-to the authorizing legislation for the Department of Defense, directing the Department to study the feasibility of requiring proficiency in at least one foreign language for all cadets and midshipmen at U.S. Military Academies.

This impressive list of achievements is supplemented by a long list of legislative initiatives which are still pending in the 97th Congress. This list includes, but is by no means limited to:

H.R. 5738-Panetta-which would improve the translation and interpretation services available to the Department of State and other Government agencies by creating a Bureau of Language Services at the State Department.

H.R. 3231-Simon-which would provide grants to States to establish model foreign language programs at the elementary and secondary level, and grants to postsecondary institu-tions based on their enrollment in foreign language courses.

House Concurrent Resolution 243-Panetta-which expresses the sense of the Congress that the educational and

cultural programs at the International Communication Agency should be strengthened.

H.R. 4389-Gonzalez-which would establish a National Commission for the Utilization and Expansion of Language Resources.

H.R. 5588-Conable-which would increase the tax deduction for maintaining an exchange student in the

taxpayer's household.

H.R. 7211-Hamilton-which would establish a Soviet-bloc Research and Training Fund to promote advanced research and training in the field of Soviet and East European studies, including reciprocal programs with the U.S.S.R. and Soviet-bloc nations.

As you will see from this list, Mr. Speaker, interest in the field of international studies is bipartisan and wideranging. The fact that funding for international education and exchange programs has continued to fare well in the last 2 years-a period as you know of increasingly strict budget limitations-is further evidence of congressional support. To briefly summarize:

The Educational and Cultural Affairs Division of the U.S. International Communication Agency is responsible for the tremendously successful and popular Fulbright program, as well as other international exchange programs. When a 12 percent across-theboard cut was imposed on Federal agencies in 1981, ICA announced that most of its reduction would come out of ECA programs. The Fulbright program would have been cut by over 50 percent, terminating the program in 6 countries. However, the expression of congressional support which succeeded this announcement has resulted instead in slight increases in funding, to \$100.6 million for ECA programs-including about \$77 million for the Fulbright and other exchange programsin the 1983 appropriations bill recently approved by the House.

The Department of Education administers various international education programs under title VI of the Higher Education Act, including funding for 90 national resource centers; grants and fellowships for foreign language and area studies; grants for undergraduate international education programs; and research grants used primarily for the development of instructional materials. The administration's 1983 budget request allowed \$8.8 million for these programs, a 54 percent reduction from the fiscal year 1982 level of \$19.2 million. However, the appropriations bill for the Department of Education recently approved by the House rejects this recommendation, and contains \$20 million for the

programs in 1983.

The Education Department also administers certain programs under the Fulbright-Hays Act, such as support for doctoral dissertation research fellows, faculty research fellows, and overseas specialists brought to this country to help in the development of foreign language curriculum. The administration's 1983 request included \$1.5 million for these programs, versus \$4.8 million in 1982; the House education appropriations bill contains \$5 million—still a decrease from the fiscal year 1981 level of \$6.2 million.

The administration requested drastic reductions in funding for the National Endowment for the Humanities, which supports foreign language education among many other programs, in both fiscal 1982 and fiscal 1983. However, the appropriations bill for the Department of the Interior recently approved by the House continues NEH funding at the fiscal year 1982 level of \$130.6 million.

Mr. Speaker, I have been gratified by the 97th Congress willingness to provide Federal funds to support foreign langauge and international studies. In view of rapidly improving communications technology, decreasing distances between nations, and delicate international relations which involve almost inconceivably high stakes, it is essential that we develop among our citizens a knowledge and understanding of other nations, languages, and customs. I am hopeful that the incoming Congress will be even more receptive to this need, both in terms of legislative action and in appropriating funds for international education and exchange programs. I look forward to participating in a new and energic effort in this area in the next 2 years, and welcome the support and help of my colleagues.

### SOUTH KOREAN GOVERNMENT'S RELEASE OF KIM DAE JUNG

The SPEAKER pro tempore. Under a previous order of the House, the gen-Washington tleman from Bonker) is recognized for 5 minutes.

Mr. BONKER. Mr. Speaker, last night the South Korean Embassy called me with great news. Kim Dae Jung, the popular leader, has been transfered to a hospital in Seoul and is due to be released in the next few days. I commend President Chun for taking this action. For more than 2 years I have been calling on the Korean Government to release Mr. Kim.

I was in South Korea in the spring of 1980 during the brief period following President Park's death and before General Chun's ascendency to his current position. I lead a delegation of Members to meet with the various political leaders of the opposition, including Kim Dae Jung, whom we met at his residence. We saw nothing but political tranquility and stability in the country. It seemed like the Koreans were well on their way to adopting a constitution. They had established an election date. There seemed to be an air of freedom and optimism in the country. Shortly after our visit there was a military coup, and Kim Dae Jung and many of the democratic opposition were jailed.

As one who has been critical of the Korean Government's human rights record, I am deeply pleased by Mr. Kim's release. It should serve as a precedent and should be followed by other similar acts until all political pri-

sioners are released.

President Chun has taken a large step to further the unity of South Korea and the reconciliation of the Korean people. It is my hope that he will continue on this course until democracy is restored in South Korea.

### PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Carolina (Mr. DER-RICK) is recognized for 5 minutes.

Mr. DERRICK. Mr. Speaker, be cause of official business I was unable to vote on the House floor today, December 16, 1982. Had I been present I would have voted:

S. 1965, Paddy Creek Wilderness,

"yea."

H.R. 7019, Transportation Department appropriations for 1983, "yea." EPA contempt of Congress, "yea."

## ENTITLEMENTS

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

• Mr. PICKLE. Mr. Speaker, we all hear a lot about "entitlements" these days, about what a great proportion of the Federal budget is now devoted to paying out benefits under the entitled programs, about how we must "come to grips with entitlements" before we can ever really ease our deficit dilemma. Yet very few of us, even here in Congress, really have a thorough understanding of what these programs represent, why they are in the budget, or what to do about them.

The following article, researched and written for the Atlantic Monthly magazine by James Fallows, is the best thing I have seen on the subject. Mr. Fallows, a former speechwriter for President Jimmy Carter, the author of "National Defense," and the Washington editor of the Atlantic, is a thoughtful, perceptive, and gifted writer. As we prepare to enter a new session of Congress that is likely to be dominated by questions of what to do about military and civilian retirement, medicare, veterans benefits, social security, and the other entitlements, I believe that Mr. Fallows' work could be of great benefit to every Member of Congress.

Mr. Speaker, I insert the article from the November 1982 issue of the Atlantic here in full. I urge all Members to read this thoughtful article.

#### ENTITIEMENTS

(By James Fallows)

Early last spring, Hastings Keith tried to return some money to the federal government. For fourteen years, Keith was a Republican congressman from the Massachusetts district that includes Cape Cod. After leaving the Congress in 1972, he worked for a few months in the Nixon Administration and then went into business. Together with the five years and ten months he had spent in the military before, during, and after World War II, Keith had put in twenty years on the federal payroll; and so, in 1973, at the age of fifty-eight, he was eligible for the early retirement benefits the government provides.

combined congressional/civil-service pension provided him initially with \$1,560 a month, or \$18,720 a year. He also received retirement pay, \$551 a month, for service on active military duty and in the reserves, which he began getting in 1975. And in 1980. when he turned sixty-five, Keith drew a government benefit, his monthly

Social Security check.

Like other federal benefits, Keith's were fully "indexed" against inflation, which meant that they were increased once, and in some cases twice, a year, in step with changes in the Consumer Price Index (CPI). Because of these increases, Keith, whose highest salary as a congressman had been \$42,500, found himself by 1982 taking in nearly \$61,000 a year in federal pensions. His congressional pension had more than doubled since 1973, to \$3,419 a month. His military pension had risen to \$903 a month, and his Social Security payment was \$691 a month. Another round of cost-of-living adjustments made this summer raised Keith's federal pensions yet again, to a total of more than \$65,000.

And that was not the end of federal benefits for the Keith household. Keith's wife had retired from the federal government during a "reduction in force," or RIF, when she was forty-six years old. Since she had put in twenty-five years of federal service, she was, as a victim of a RIF, entitled to a pension, which started at \$550 a month in 1976. By this year, it had nearly doubled, to some \$1,000 a month. All told, then, the Keith family's federal pensions came to more than \$77,000 as of last summer—and all of it was fully indexed to future in-

creases in inflation.

To Hastings Keith, this seemed excessive. He wrote a letter to the secretary of the Treasury, Donald Regan, explaining why he wanted to turn over three checks, totalling \$3,107, each representing a portion of his monthly allotments that he considered unwarranted.

Keith's hope had been to present his checks in a public ceremony, where he would register his complaint about the system that depleted the Treasury to finance windfalls such as his. The government shared little of his enthusiasm for the plan. Instead, he was granted an audience with an assistant secretary of the Treasury, who listened politely to his case, but did nothing.

His rebuff at the Treasury did not stop Hastings Keith, who has been telling his story to congressional committees and devoting his extra money to the effort to change the federal retirement system. But the government's lack of interest in his cause helps explain some of the current agonies over the federal budget and federal deficits.

Although the generosity of congressional pensions makes the sums in this example extreme, they illustrate a basic fact of modern government. Benefits that are indiscriminately awarded, and then ceaselessly increased, add more to the federal budget than do those more familiar evils "cost overrun" and "welfare fraud." Yet politicians of every camp have found it perilous to tackle, or even to acknowledge, this problem.

Since early this year, both friends and foes of the Reagan Administration have understood that the next four years might well produce the largest sustained budget deficits in American history. When the administration released its budget proposals for fiscal year 1983 last spring, it did what no other administration had ever done: for the years ahead it predicted a smooth, robust return to national prosperity, yet it still foresaw budget deficits that would hover in the vicinity of \$100 billion a year.

Last year's reductions in tax rates are part of the reason for the deficits, as are the administration's plans for a sustained military buildup. But while these two policies have been debated to death, neither the administration nor its critics have yet wrestled with the largest single force behind the deficits. Neither liberals nor conservatives have yet devised a confident approach to that portion of federal spending known as "entitle-

ments.

Entitlements, sometimes called "payments to individuals," are technically defined as benefits for which people qualify automatically, by virtue of their age or income or occupation. Social Security is such an entitlement, by far the largest. So are medical programs such as Medicare and Medicaid, civilservice and military pensions, unemployment insurance and price-support payments for farmers, and (with certain technical quibbles over definitions) subsidized housing and food stamps.

From a budgetary point of view, the significance of such programs is that, at least in the short run, their costs cannot be controlled. If the Congress appropriates \$2 billion to build a dam or a highway, it can be confident that no more than \$2 billion may legally be spent. But when it authorizes extended unemployment benefits, or a different reimbursement formula under Medicare. it can set no limit on the money that will ultimately flow from the Treasury, since the government is legally obligated to provide benefits to anyone who can prove that he is

The Reagan Administration took office committed to a fundamental redefinition of federal responsibilities, but it will almost certainly depart having made no dent in entitlements. From less than one third of federal spending in 1970, entitlements rose to represent nearly half (of a much larger total) in 1980. Even if the Reagan Administration should continue to be granted its every wish for more military spending, and even if Congress were to concur in all its proposed cuts in the rest of the budget, entitlements would still make up nearly half of the budget in 1983 and 1984.

The two national parties have virtually raced each other to distance themselves from this dangerous issue. Oldstyle liberals "neo-liberals," the Democrats have attacked almost every other part of the administration's economic plan, without volunteering their ideas about this half of the budget. In its top-to-bottom re-examination of government spending, the administration exempted from Budget Director David Stockman's scrutiny not only the military but also the largest and fastest-growing entitlements.

The "entitlement problem" is often thought of as a "welfare problem." To a trivial extent, it is: most federal programs for the needy, including the classic welfare program, AFDC (Aid to Families with Dependent Children), do fall within the entitlement budget. But they make up a small part of the whole. Only a sixth of all the money spent on entitlements is for programs that are "means-tested," or aimed at the poor, and those programs are the slowest-growing part of the entitlements budget. For example, AFDC, at \$7 billion, costs one-third as much as civil-service pensions, and it shrinks while the pensions grow. Rather than a "welfare problem," the growth of the entitlements is actually a "retirement problem."

October 1 marks the beginning of the government's fiscal year, and in fiscal year 1983, just begun, the federal government will, according to the latest congresional budget resolutions, spend some \$770 billion for all its varied activities. Of that total, \$362 billion will go toward entitlements; of the \$362 billion, \$264 billion will be for retirement programs. In other words, one out of every three dollars the federal government spends this year will be spent on pensions or on medical care for those over the age of sixty-five.

age of sixty-five.

Social Security, of course, heads the list of retirement programs; it will cost about \$170 billion in 1983. Medicare, the medical-care program for people over the age of sixty-five, is second largest, at \$49 billion. Together, these two programs account for more than half of the entitlement budget and more than a quarter of all federal spending. Two other major retirement items are civil-service pensions, \$21.2 billion in 1983, and military retirement pay, \$16.2 billion. By way of comparison, the largest means-tested program, Medicaid (Medicare's counterpart for the needy) is expected to cost \$18.5 billion in 1983, and food stamps will be about

\$12 billion. Retirement programs not only dominate the federal budget, they also represent its largest area of growth. The basic reason for this growth is demographic: over the past generation, more people have been surviving to retirement age, and the birthrate has declined. In 1950, roughly one American out of every forty-three drew benefits from the main Social Security account, known as Old Age and Survivors Insurance. Now about one in seven receives payments (including those who draw from the newer Disability Insurance account). In 1950, every 100 working Americans had to provide, through their Social Security taxes, the support for six retired people. Now each worker's obligation is five times as great (thirty-one retirees per 100 workers). That ratio should remain steady for the next twenty-five years, while the children of the postwar baby boom remain in the workforce. But early in the next century, the ratio should shift again. Fifty years from now, each person in the office or on the assembly line may be responsible not only for his own livelihood but also for half the support of a retired countryman.

The average single man who retired in 1960 received six and half times as much money in benefits as he ever paid in. (These comparisons are adjusted for inflation, and for the interest that the taxpayer could have been earning on his contributions.)

The man who retired in 1970 got back more than three times as much as he contributed, and the man who retired in 1980 should eventually receive two and a quarter times as much money as he paid in. But by the time one of today's teenagers retires, in the year 2030, he will have paid more into the system than he will ever get back.

Moreover, while lifespans were increasing, the retirement age was being lowered. The average man who turned twenty in 1940 could expect to live six months past his sixty-eighth birthday. Since the retirement age was then sixty-five, he could expect to spend three and a half years receiving the retirement benefits toward which he had contributed during his forty-five years of work. In 1956, the Social Security retirement age for women was lowered to sixtytwo: it was lowered for men in 1961. Retiring at sixty-two instead of sixty-five means maximum reduction of 20 percent in Social Security benefits, but most of those eligible choose to take their benefits as soon as possible.

The average man who turned twenty in 1977 could expect to live to the age of seventy-five, or thirteen years past his retirement age. Consider how this young man's expectations would differ from his older counterpart's. The thirteen years he would spend in retirement would be nearly one third as long as his forty-two-year working career. Forty years ago, the average retirement was only one twelfth as long as the average working career.

Demographic trends, powerful as they are, do not fully explain the growth of the retirement programs; political maneuvering deserves much of the credit. The explosion in retirement benefits derives in large part from a reform gone away.

The reform in question was an attempt to take the "politics" out of federal benefits. In 1962, Congress undertook a reform of civil-service pensions. Until that time, Congress had to approve each pension increase, in rituals very much like its regular votes to raise the ceiling on the national debt. Goodgovernment spokesmen argued that this sapped the Congress' energies and debased its deliberations, by enticing congressmen to play politics with pension adjustments. It would be far better, they said, to delegate adjustments to the automatic workings of a formula.

The reformers also recommended an improvement over the military's system of raising pensions whenever active-duty pay went up. In those days when federal salaries were considered to be "low," it was argued that the government might need to increase its pay selectively to attract the right talent; there was no logical reason to pass this on as a windfall to retirees. Pensions should rise only in accordance with the cost of living.

Starting in 1962, therefore, pensions for civil servants were to be adjusted once a year, in proportion to the rise in the CPI. Indeed, starting in 1969, the adjustment was one percent more than the CPI increase. This one percent "kicker" was supposed to make up for the lag between the rise in prices and the annual adjustment in the checks.

The other major step came in 1972, when Congress voted to index Social Security benefit to the CPI (but with no "kicker"). Until than, Social Security benefit levels had also been adjusted by the Congress. Switching to the index plan was, once again, supposed to shield the system from political demagoguery. The logic seemed so compelling that by

the end of the 1970s, 30 percent of all federal spending was directly indexed to the CPI, and another 14 percent was indexed to other measures.

The architects of indexing failed to foresee what would happen next, and understandably so: through most of the fifties and sixties, inflation had averaged less than 2 percent a year. But at just the moment when so large a share of federal spending was being tied to the CPI, the historic American inflation of the 1970s began. As prices increased by 8, 10, 12 percent each year, exactly in pace rose federal payments.

No, not exactly in pace. In fact, the payments rose faster, because of peculiarities in the design of the indexing formulas. The kicker for federal pensions, for one thing, put federal retirees far ahead of the game. until it was removed in 1976. Civil-service retirement pay cost \$2.8 billion in 1970; after ten years of sustained inflation, it reached billion in 1980, an increase of 525 per-Perversely, indexing meant that it could be more profitable to retire than to work. Eric Heimel wrote in the Journal of Contemporary Studies that a four-star general who retired in 1971 would have seen his retirement pay increase, through indexing, to \$64,000 in 1981, while a four-star general still on active duty in 1981 would be earning

In principle, indexed increases did nothing more radical than enable federal pensioners to keep even with inflation. But in practice, their effect was quite different. During the inflation of the 1970s, few prices rose faster than those of energy and housing; but the increases in those prices, dramatic enough in reality, were exaggerated by the formulas used to calculate the Consumer Price Index. The costs of home ownership, which made up one quarter of the "market basket" of goods whose prices determined the CPI, were calculated in a way that made the index extremely sensitive to changes in the mortgage rate. For example, if the mortgage rate were to rise by one point in a month, from 10 percent to 11, that change would, all by itself, raise the CPI for that month by almost one full point, which could be "an-nualized" into an inflation rate of 12 percent. The Congressional Budget Office has estimated that his and other quirks in the CPI's treatment of housing costs exaggerated the real rise in consumer prices by as much as 5.1 points between 1978 and 1980, with each of those points triggering an extra \$2 billion in federal spending each year. As for the cost of energy, the CPI market basket assumed that families would keep buying the same amounts of gas and oil and electricity, no matter how much prices might rise or fall. The real market basket of American consumers has of course changed markedly from that of 1972. The era of cheap fuel ended, and consumers cut back, but the CPI ignores such adjustments totally.

Beyond these technical defects in the index was a larger question of fairness, for "full indexation" led to very different fates for different segments of the American public. It created a class that had nothing to fear from the inflation that was the scourge of the rest of the populace. Those who retired from private companies were, if anything, more vulnerable to inflation than their working counterparts, since more than 90 percent of private pension plans offer no cost-of-living protection. (Hastings Keith's pension from the private firm where he spent twenty years started out at \$150 a month and dropped to \$100 when he began

receiving Social Security.) But because of the technical oddities of the CPI, those who received federal pensions and Social Security could come out ahead when prices rose. For one class of beneficiaries, indexation all but shattered the connection between the nation's productivity and their economic welfare.

There is one further engine of growth at work within the retirement accounts: medical insurance. In financial terms, the medical programs are potentially the most explosive of all; they also present the most intractable of the entitlement dilemmas.

Through the past decade, no major program run by the federal government has grown more quickly than medical care for the aged. Between 1970 and 1980, federal payments for medical entitlements, of which Medicare makes up three quarters (Medicaid accounts for nearly all of the rest), rose by 133 percent in real dollars (i.e., adjusted to remove the effects of inflation). Medicare now costs less than one third as much as Social Security, but it is increasing at a much faster rate. According to projections based on the 1981 Social Security Trustees' report. Medicare could, by the year 2005, surpass Social Security to become the largest single item in the federal budget.

That Medicare should be outstripping Social Security suggests that it is subject to pressures other than demographics, since the clientele of the two programs is almost the same. The pressures driving Medicare costs ever higher are built into the medical

system.

American doctors, researchers, and hospitals have proven far more brilliant in combating the ravages of age than in figuring out how to do so at a controllable cost. This imbalance presents choices that are inescapably cruel: who shall be denied kidney dialysis if the cost of serving everyone is too high? Who shall pay the cost if no one is to be denied? These are precisely the sorts of choices that democratic governments find most awkward to make, and medical-entitlement plans reflect that uneasiness. Under Medicare and Medicaid, the choices finally do get made, but only in a backhanded fashion that does not pretend to be rational and does not succeed in being economical.

The choices fall to the doctors: if your physician authorizes a trip to the hospital and elaborate tests. Medicare will pick up the costs of the next sixty days (after you pay the first \$260). In principle, the brake on expenditures is the cumulative effect of half-a-million doctors' prudent decisions. In practice, the limit is often set by local availability of hospital beds, of specialists, and of

machines.

After years of bitter struggle, Congress enacted the Medicare program in 1965. Organized medicine, led by the American Medical Association, represented the principal opposition; as part of the political bargaining that ensured congressional passage, Medicare took on features that guaranteed that doctors and hospitals would not suffer financially under the plan, Doctors would be reimbursed according to a schedule of permissible fees-but the schedule would be based on rates set by the doctors themselves. Moreover, the doctors were free to bill their patients for supplements on top of the charge to Medicare. Hospitals unlike doctors, agreed to accept Medicare's reimbursement as payment in full for a patient's bill. But that reimbursement would be based on the hospital's rendering of "reasonable costs" of care. Hospitalization insurance was automatic under Medicare. To get the extra coverage for doctors' bills, each person had to pay a premium, now \$12.20 a month. Nearly everyone chooses the additional coverage, and so is effectively shielded from rising medical costs—which was, of course, one of the fundamental purposes of the plan.

The result of these arrangements was another of the "cost-plus" schemes so common in government contracting. No party to the transaction had both the incentive and the ability to economize on care. A hospital-building boom left new beds waiting to be filled. Filled they soon were, and the charges were passed on to Medicare or to private insurers. These "third-party reimbursers" watched their payments shoot through the roof—hospital charges have typically risen by 15 to 20 percent each year.

This general quandary for American medicine has created a particular challenge for Medicare, because expensive new medical techniques are most often used to treat older patients. Nearly a quarter of all Medicare payments are made in the last year of a recipient's life. While Medicare has been a resounding success in enabling retired Americans to meet their routine medical needs without financial terror, its budget is tremendously skewed by the costly last efforts to fend off death.

Political arguments about medical care have simmered down in the past half-dozen years, because of the near-universal assumption that the time has not been right to create another expensive new entitlement, in the form of a national health system. Yet the very difficulty of balancing our public accounts may soon refocus political attention on the basic questions of who gets what kind of medical care, and how we can pay for it.

As it drew up its proposals for the 1983 budget, the administration decided not to recommend any reductions in Social Security, and only minor adjustments in Medicare and federal pension plans. In so doing, it started out by declaring one third of the budget off-limits for spending cuts. Another quarter of the budget belonged to the military, and its share was supposed to increase to one third over the next few years. A further 15 percent of the 1983 budget was committed to repaying interest on the national debt

Together, these three areas account for nearly three fourths of all federal spending, without even counting the other entitlements. If they could not be cut, an administration pledged to frugality and embarrassed by mammoth deficits had little choice but to slash everything else. The administration proposed "zeroing out" most job-training programs, cutting research-and-development funds, and taking other difficult steps. There was one final possibility for savings: the "other" entitlements, those aimed at the poor. This possibility the administration seized.

Between Jimmy Carter's budget for fiscal year 1981 and Ronald Reagan's proposals for 1983, the major pension programs increased by 20 percent and Medicare increased by 30 percent. But in the same period, AFDC was cut by 25 percent, the low-income energy-assistance program by 30 percent, and a variety of nutrition programs, including food stamps, by 15 percent.

percent, and a variety of nutrition programs, including food stamps, by 15 percent.

The unequal sharing of the sacrifice became one of the administration's central political problems; it led even conservative pillars such as Senator Robert Dole to complain about shoving the burden onto the

poor. Even so, the cuts were not enough to solve the budget problems. No matter how deeply it might probe elsewhere, an administration that chose not to confront the biggest entitlements (to say nothing of the military) was left with the prospect of deficits so stupendous that they could double the national debt within five years.

In the middle sixties, it took the simultaneous pursuit of a war on poverty and a war in Vietnam to throw the federal budget into chronic deficit. Now it might require nothing more ambitious than meeting our rou-

tine obligations.

Can the entitlements explosion be contained? The ultimate answer demands a reconsideration of basic political premises that we have found comforting since the New Deal. Yet certain technical changes, primarily involving pensions for public employees, provide a place to start.

The single most important technical change is to begin dismantling preferential federal pensions and bring new federal employees into the Social Security system.

Federal employees now enjoy the nation's most generous pension plan. Most private pensions aim at replacing 20 to 25 percent of a worker's previous earnings. Social Security, reduced living expenses, and, yes, savings are supposed to make up the rest. A federal employee with thirty years' service will typically receive 56 percent of the average salary for his last three years on the job, congressmen 80 percent. All of it is fully indexed, of course (although the Congress did, this summer, limit indexing for retirees under the age of sixty-two, on the theory that most of them were holding other jobs). Federal retirees receive more in pensions than retirees from all private businesses combined.

The pension plans of private businesses usually require the worker and his firm to invest, in varying proportions, the resources that will pay dividends during retirement. Federal pension plans don't come close to doing so. The largest contributions come neither from the workers nor from the agencies that employ them but from general federal funds. Patrick Owens reported in Newsday that in 1980, federal workers and their agencies contributed a total of \$3.6 billion toward their retirement funds. The Treasury contributed an extra \$11.9 billion. The unfunded liabilities of the federal retirement systems-the commitments made to workers but backed by no investment or trust fund-now amount to some \$1 trillion. roughly as much as the entire national debt. According to Hastings Keith, unfunded liabilities average \$149,000 per person in the military, \$173,000 in the civil service, and \$530,000 in the foreign service.

The generosity of federal pensions is a legacy of the 1920s, when federal pay was poor. For the past twenty years, the federal government has embraced the principle of "comparability," offering salaries comparable to those in business. Why should the principle not extend to pensions as well?

"Integrating" federal employees into Social Security would ultimately mean more generous benefits for low-paid federal employees, especially those who do not work for the government long enough to earn pension rights, since they would be able to count their years in government service toward their Social Security benefits. At the other end of the scale, it would mean an end to the windfalls now available to "double-dippers": government employees who, having qualified for pensions while still in their late forties or fifties, take private jobs

and become eligible for Social Security as well. Robert Myers, a former chief actuary for Social Security who now directs a presidential commission on Social Security, which will recommend reforms for the system this winter, contends that threequarters of all retired government workers are either receiving a second pension or are working in a job that will qualify them to do

A few groups of federal employees have already set an example that might be widely emulated. The retirement plan for the Tennessee Valley Authority has since the 1950s been integrated with Social Security, like most private pension plans; it does not count military service toward its pensions; it applies its disabilty standards more strictly than does the civil-service retirement system; and it discourages early retirement. Except for the provisions for early retirement, it offers benefits comparable to those of other civil servants; yet, unlike most other systems, it is actuarially sound. The Federal Reserve pension plan and a few others operate on similar principles.

The logic of comparability also suggests a change in military pensions. Career soldiers can now retire on half pay after twenty years of service, or three-quarters pay if they serve for thirty years. (Members of the military are also eligible for Social Securi-

The demands of military duty obviously differ from those of any other work. But the twenty-year career costs a greater deal while adding very little to our national defense. Gradually converting the military to a thirty-year career might mean increasing active-duty pay, especially for the sergeants and petty officers who are now the services scarcest resource. In the long run, this would probably cost less than adding to the mountain of unfunded pension liabilities; and by reducing many officers' sense that their military duty can be only a "first career," it might well enhance the services' integrity.

Yet all such reforms take us only so far. No matter how we might crack down on the retired colonels and GS-15s, it will not make much more difference in the entitlements budget than cracking down on welfare mothers would. Our national accounts will remain out of balance until we wrestle with the IOUs that middle-class America has issued it itself, through Social Secuirity and Medicare. The two awesome challenges of the entitlements are to control medical costs and re-examine our notion of who

"needs" public help.
The budgets for Medicare and Medicaid, in their leaps to the sky, reflect the same pressures that are driving Blue Cross premiums and personal medical bills up and up. Tinkering with the government programs is the minor solution to this problem; the major one is changing incentives in the medical system. In forcing this issue to the center of political attention, the entitlements mess may indirectly do some good.

One political camp, exemplified by Senator Edward Kennedy, contends that the government can never contain medical costs unless it controls the medical system. To that end, Kennedy has tirelessly pushed for a nationwide, largely publicly financed, centrally planned approach to health care. The opposite view, espoused by David Stockman in his days in the Congress, holds that rising medical costs reflect imperfections in the medical market. The answer, therefore, is to unleash market forces through more compe-

Of the two views. Stockman's seems more in harmony with the politics of the time. The Reagan Administration plans to unveil a new medical-reform scheme, emphasizing "market forces," about the time of the President's State of the Union address next January.

The logic of the market means encouraging the pre-paid medical plans known as health-maintenance organizations. It also means-though this may or may not be a feature of the President's plan-removing some of the padding that now protects the typical patient from his medical bills. Economists lament "third-party" payment schemes, whether run by Blue Cross or by the U.S. government, because they blunt the instinct for frugality that is so powerful when one's own money is at stake. When the patient can pass the bill to someone else, why should he worry about unnecessary tests? Why should he wait two weeks for an appointment at the doctor's office when he can use the hospital emergency room as a clinic? He will ultimately pay the bill, of course, through higher taxes or insurance premiums; but the market functions poorly when its messages are so long delayed and so weak.

One government economist, who chooses to remain unnamed, has taken reliance on the market a radical step further, Medicare's biggest economic problem, the economist argues, is the last-resort measures taken before an elderly patient's death, which dwarf the costs of previous care. When patients and their families decide how hard the doctors should fight, and with what machines, finances do not color the deliberations, because Medicare covers nearly all hospital fees. The economist argues that when such a patient dies, his estate should be tithed to recover a share of his "Medicare profit"-the difference between the premiums he has put into the system and the benefits paid on his behalf. This, the argument continues, would repair the social contract between the generations. It would also build into individual decisions the same realities that the nation faces, as high-priced medical possibilities grow more rapidly than resources.

This may seem a ghoulish suggestion, as its author is aware, but when public leaders dismiss out of hand the possibility of questioning the rules, even though those rules lead straight to bankruptcy, are a few ghoulish thoughts so much more dangerous than the conventional wisdom? Whether or not this specific proposal is workable, the spirit behind it is constructive, because it demonstrates a willingness to think of new

ways out of a predicament.

The main idea waiting to be spoken is that people have different claims on public support. Yes, there are cases in which the state bestows its benefits equally on all. The children of rich and poor alike should be entitled to schooling at public expense. But to extend that logic to pensions and subsidies leads to commitments beyond our national means. The people who really need help need more than they are now getting. If they are to have it, other people must have

In the case of medical care, there are certain obligations that the state should assume on everyone's behalf. Any burn victim, to choose one example, should be entitled to the best care that is available, regardless of the cost. But there are other obligations that the nation cannot assume, simply because there would never be enough money to pay for them. Medical technology now offers answers to many of mankind's universal complaints. Corneal surgery can eliminate much of the need for ses. Joints can be rebuilt, arteries reamed, gums surgically lifted and the underlying bone scraped to remove plaque. We all "need" such services, but if all these innumerable repairs to all parts of all bodies were carried out, the cost would rival the gross national product.

How, then, can we decide where to draw the line? One way is to ask each patient to share more of the cost, giving him a stake in the decision about costly care. But if that is done without recognizing the differences in economic need, it will deny some people a

more basic level of medical care.

A twenty-dollar physician's fee, or a \$500 deductible for hospitalization, would mean quite different things to a retired couple with pensions and dividends of \$30,000 and a widow surviving on \$4,000 from Social Security. For the one, it would mean some sacrifice; for the other, denial of care. Yet our retirement plans, in their magnificent evenhandedness, treat the poor widow and the well-off couple the same. When we provide for some, we must provide for all. If we change the rules so as to balance the budget, we revoke the widow's right to treatment. But if we do not, we lose control of our financial future.

The original genius of Social Security was precisely that it did treat everyone the same. No one need feel humiliated by accepting its benefits, because it was not welfare. Everyone was included in the plan. As a political ideal, this is most attractive; but, in Social Security as in Medicare, it may simply have become too costly to sustain.

Consider two of the major proposals for bringing Social Security's commitments into line with its resources. One is to raise the retirement age, in recognition of medical improvements and demographic shifts. Raising the retirement age to sixty-eight by the end of this century would keep the average time in retirement one quarter as long as the average adult life-span—the same balance that has prevailed for the past few years. Another proposal is to hold down the automatic increases in Social Security and other benefits, perhaps by gearing them to the Consumer Price Index or the average increase in wages, whichever was less in a given year. If wages rose faster than prices, the buying power of the pension would be fully protected. If the reverse, people of all ages would share in the sacrifice of a less productive economy. (The CPI will, in any case, soon be revised to eliminate the housing-cost bias.)

But if changes like these were applied "fairly," with equal effect on all, the results would be unfair. Some people need the pay-

ments; others do not.

To speak of "the aged," or "Social Securi-ty recipients," as one homogeneous group no longer makes sense. As recently as twenty years ago, it did. Those above sixtyfive were then an economically distinct group. Like black Americans or single women heading households, they were on the whole poorer than other people. The economic differences within the group were less important than the gap between them and the American norm. To aim a program at all retired people not only made political sense, in avoiding the taint of welfare: it also made economic sense, for it transferred money to people in need.

That has changed. Older Americans are now economically very much like their children's generation, and their grandchildrens'.

Michael Hurd and John B. Shoven, of the National Bureau of Economic Research, have reported that the per capita income of people over sixty-five is now higher than for the population as a whole. In 1978, it was 121 percent of the national norm. Two thirds of all people over sixty-five own at least one home.

As the differences between the generations have diminished, the differences among older people have grown more acute. On average, those above sixty-five enjoy parity with those below; but the average conceals many retired people who are desperately poor. About a fifth of all retired couples have incomes above \$24,000; but of the 5.8 million single women sixty-five or older, fully half have incomes below \$5,000. As the world works, the wealthiest couples generally receive the highest Social Security benefits (because they earned more when working) but depend on them least. For the couples making more than \$24,000, the comparatively large Social Security check represents about one sixth of their income. For the poorest elderly women, their smaller check is more than 80 percent of their total support.

Can it be fair to treat these people "equalto hold the widow's \$300 a month and the couple's \$900 a month to an "even" percent increase? Only a perverted sense of fairness is thereby honored; yet it is this kind of equity that our evenhanded entitle-

ment policy now serves.

In practical terms, the solution might be to provide a full cost-of-living adjustment for only a certain portion of Social Security benefits—say, the first \$500 a month. A more significant step might be to make Social Security benefits subject to federal income tax. The automatic workings of the IRS are administratively far simpler than any other means for concentrating scarce resources on people in need. Social Security is already subject to a tax of sorts—the "earnings test," which reduces benefits by \$1 for each \$2 a recipient earns above \$6,000 per year. (The limit is \$4,400 for those under the age of sixty-five.) But the test does not apply to people above the age of seventy-two, and next year the age will fall to seventy. More important, it applies only to earnings, from jobs, and not to investment income or other pensions, which are the major source of income for the most affluent older people.

Yet to tax Social Security would be heresy: that attitude is nearly universal, its emotional and political power a legacy of the era when we could effortlessly afford to treat everyone "equally." As I have tried to suggest, that era has ended, but adjusting our assumptions takes time. The only political proposition more challenging than taxing Social Security would be carrying the logic to its next step, and asking why there should be extra exemptions on form 1040 for everyone over the age of sixty-five. Since older Americans are, on the whole, economically even with everyone else, why are the exemptions necessary? And since they transfer money to the wealthiest members of the group (those who pay taxes) and do little or nothing for the poorer 50 percent,

how can they be defended?

We are understandably reluctant to face seemingly mean-spirited questions such as these. Yet our reluctance helps explain why the entitlements have grown so large, and why we seem so powerless to control them. We are also hindered by a widespread misunderstanding of where most people stand on the economic pyramid, and who should

therefore be "entitled" to help. A family whose income is in the mid-\$30,000s is part of the richest 20 percent of all Americans. A family in the mid-\$50,000s is in the upper 5 percent. Yet most such people would be horrified to think that they were anything but "middle class," entitled to public help in financing their homes or sending their children to school and to the rewards of a lifetime of work in the form of monthly Social Security checks. As individuals, they undoubtedly deserve help; but if all of us are entitled, where will the money come from?

The entitlements problem has forced such questions upon us. The cost of ignoring them is not simply the obvious-the automatic growth of federal spending-but also the subtle destruction of other public goals. This effect transcends ideology. It matters little whether you want to improve education for all children, or build more aircraft carriers, or lift the burden of taxation from the shoulders of America's entrepreneursall causes are in jeopardy as long as more and more of us are "entitled" to support from everyone else.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CAMPBELL (at the request of Mr. MICHEL), from 7 p.m. for the balance of the day, on account of illness.

Mr. ALEXANDER (at the request of Mr. WRIGHT), for today, on account of attending a funeral.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted

(The following Members (at the request of Mr. BEREUTER) to revise and extend their remarks and include extraneous material:)

Mr. Lott, for 30 minutes, today. Mr. CARNEY, for 15 minutes, today. Mr. LATTA, for 60 minutes, on De-

cember 17.

Mr. BUTLER, for 5 minutes, today. Mr. Dornan, of Califorina, for 30 minutes, on December 17.

Mr. McDade, for 60 minutes, on December 17.

Mr. Nelligan, for 30 minutes, on December 17.

Mr. McDade, for 60 minutes, on December 18.

Mr. BEREUTER, for 60 minutes, on December 20.

Mr. BEREUTER, for 60 minutes, on December 18.

(The following Members (at the request of Mr. Mazzoli) to revise and extend their remarks and include ex-

traneous material:) Mr. BINGHAM, for 30 minutes, today.

Mr. Gonzalez, for 30 minutes, today. Mr. Annunzio, for 5 minutes, today.

Mr. STARK, for 5 minutes, today. Mr. Nelson, for 5 minutes, today.

Mr. EDWARDS of California, for 5 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Bonker, for 5 minutes, today.

Mr. DERRICK, for 5 minutes, today.

Mr. Brooks, for 60 minutes, on December 17.

Mr. ALEXANDER, for 60 minutes, on December 20, 21, and 22.

Mr. STRATTON, for 60 minutes, on December 20 and 21.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Michel, to include remarks prior to passage of conference report on H.R. 7019.

Mr. Pickle, to revise and extend his remarks and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$2,023.

Mr. Wylle, to revise and extend his remarks on the special orders on HENRY REUSS and PAUL FINDLEY.

Mr. Dornan, to revise and extend his remarks and to include extraneous material notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost \$1,904.

(The following Members (at the request of Mr. BEREUTER) and to include extraneous matter:)

Mr. FIELDS in three instances.

Mr. Lott in two instances.

Mr. CLAUSEN.

Mr. MARRIOTT.

Mr. DANNEMEYER.

Mr. WINN.

Mr. WILLIAMS of Ohio.

Mr. McCloskey.

Mr. KEMP.

Mr. GREEN.

Mr. FORSYTHE. Mr. BROYHILL.

Mr. CARMAN in four instances.

Mr. Dornan of California in four instances.

Mr. BETHUNE.

Mr. GILMAN.

(The following Members (at the request of Mr. Mazzoli) and to include extraneous matter:)

Mr. Roe in two instances.

Mr. Solarz in two instances.

Mr. MOFFETT in two instances.

Mr. MAZZOLI.

Mr. Washington in two instances.

Mr. MOTTL.

Mr. SHANNON.

Mr. JACOBS.

Mr. Jones of Oklahoma.

Mr. DINGELL.

Mr. ST GERMAIN.

Mr. MURTHA.

Mr. PANETTA.

Mr. FASCELL in six instances.

Mr. LAFALCE.

Mr. TRAXLER.

Mr. Garcia in two instances.

Mr. Walgren in two instances.

Mr. FORD of Michigan.

Mr. DERRICK.

Mr. Gore in two instances.

Mr. AuCoin. Mr. BARNARD.

Mrs. Schroeder.

Mr. O'NEILL.

Mr. HAWKINS.

Mr. HOYER.

Mr. D'AMOURS.

Mr. Long of Maryland.

Mr. SKELTON.

Mr. FOUNTAIN.

Mr. McDonald in five instances.

Mr. John L. Burton.

#### SENATE BILLS AND A CONCUR-RENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1908. An act to provide for the reinstatement and validation of U.S. oil and gas lease NM-A26947 (Oklahoma); to the Com-

mittee on Interior and Insular Affairs. S. 2118. An act to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes; to the Committee on Interior and Insular Affairs, the Committee on Agriculture, and the Committee on Rules

S. 3073. An act to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson"; to

the Committee on Foreign Affairs. S. Con. Res. 131. Concurrent resolution to express the sense of the Congress concerning Americans missing and unaccounted for in Southeast Asia; to the Committee on Foreign Affairs.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 816. An act to amend the Clayton Act to modify the amount of damages payable to foreign states and instrumentalities of foreign states which sue for violations of the antitrust laws.

## ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964; and

H.R. 6758. An act to authorize the sale of defense articles to United States companies for incorporation into end items to be sold to friendly foreign countries.

## ADJOURNMENT

Mr. MAZZOLI. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 31 minutes a.m.) the House adjourned until today, Friday, December 17, 1982, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5300. A communication from the President of the United States, transmitting a request for appropriation amendments and amended appropriation language for fiscal year 1983 (H. Doc No. 97-268); to the Committee on Appropriations and ordered to be printed.

5301. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during November 1982, pursuant to section 234 of Public Law 91-510; to the Committee on Government Operations.

5302. A letter from the Secretary of Agriculture, transmitting his recommendation, together with the final environmental impact statement and study report, that the Shawnee Hills study area on the Shawnee National Forest in Illinois not be designated a national recreation area, pursuant to section 502 of Public Law 94-518; to the Committee on Interior and Insular Affairs.

5303. A letter from the Commissioner of Patents and Trademarks, transmitting a report on automating the patent and trademark office, pursuant to section 9 of Public Law 96-517; to the Committee on the Judici-

### PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI: H.R. 7429. A bill to amend title IV of the Social Security Act to provide that information concerning an applicant for or recipient of aid to families with dependent children must be made available (by the applicable State agency) to any Federal, State, or local law enforcement authority who requests such information for use in a felony investigation or prosecution; to the Committee on Ways and Means.

By Mr. BINGHAM (for himself, Mr. OTTINGER, Mr. UDALL, Mr. FASCELL, Mr. Wolpe, Mr. Shamansky, Mr. Bonker, Mr. Eckart, Mr. Barnes, Mr. Studds, Mr. Edgar, Mr. Gejden-Mr. SEIBERLING, and Mr. SON. MARKEY):

H.R. 7430. A bill to promote the nuclear nonproliferation policies of the United States; to the Committee on Foreign Affairs.

By Mr. FLORIO (for himself and Mr. [ADIGAN):

H.R. 7431. A bill to amend the Railroad Retirement Act of 1974 to help assure sufficient resources to pay benefits, to make technical changes, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LEVITAS (for himself, Mr. SAM B. HALL, JR., and Mr. KINDNESS): H.R. 7432. A bill to amend title 5, United States Code, to make regulations more cost effective, to insure review of rules, to improve regulatory planning and management, to enhance public participation in the regulatory process, and for other purposes; jointly, to the Committees on the Judiciary and Rules.

By Mr. PERKINS:

H.R. 7433. A bill to repeal section 278 of the Tax Equity and Fiscal Responsibility Act of 1982 which imposes the hospital insurance tax on Federal employment; to the Committee on Ways and Means.

By Mr. WASHINGTON:

H.R. 7434. A bill to repeal certain changes made by the Omnibus Budget Reconciliation Act of 1981 to the extended unemployment compensation program, and for other purposes; to the Committee on Ways and Means.

H.R. 7435. A bill to extend the Federal Supplemental Compensation Act of 1982 and to increase the number of weeks for which compensation is payable under such act; to the Committee on Ways and Means.

By Mr. WHITLEY: H.R. 7436. A bill to amend the Agricultural Act of 1949; to the Committee on Agricul-

> By Mr. DIXON (for himself, Mr. Gray, Mr. Lowry of Washington, Mr. Wolpe, Mr. Barnes, Mr. Bedell, Mr. Bonior of Michigan, Mrs. Chis-HOLM, Mr. CROCKETT, Mr. DELLUMS, Mr. Dymally, Mr. Edgar, Mr. Fazio, Mr. Fauntroy, Mr. Foglietta, Mr. Fowler, Mr. Frank, Mr. Garcia, Mr. GUARINI, Mrs. HALL of Indiana, Mr. HALL of Ohio, Mr. KILDEE, Mr. LEHMAN, Mr. LELAND, Mr. PANETTA, Mr. PEPPER, Mr. RANGEL, Mr. RATCH-FORD, Mr. SCHUMER, Mr. STARK, Mr. WASHINGTON, and Mr. WAXMAN):

H.R. 7437. A bill to require that the U.S. Government oppose the furnishing of assistance by the International Monetary Fund to any country which practices apartheid; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TRIBLE:

H.R. 7438. A bill to amend the Internal Revenue Code of 1954 to provide that interest on certain real estate mortgages made by savings and loan institutions and mutual savings banks will be exempt from Federal income tax; to the Committee on Ways and Means.

By Mr. FISH:

H. Res. 633. Resolution to recognize the successful resettlement of hundreds of unaccompanied Haitian children; to the Committee on Post Office and Civil Service.

## ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4588: Mr. Gore, Mr. Moorhead, and Mr. QUILLEN.

H.R. 6800: Mr. Jacobs. H.R. 7066: Mr. Roe.

H.R. 7108: Mr. CAMPBELL.

H.R. 7126: Mr. KINDNESS, Mr. LEBOUTIL-LIER, Mr. ROBERTS of Kansas, Mr. FOGLIETTA, Mr. Dornan of California, Mr. Hagedorn, Mr. Young of Florida, and Mr. TAUKE.

H.R. 7271: Mr. KILDEE and Mr. JACOBS. H.R. 7333: Mr. FRENZEL, Mr. EDGAR, Mr. SHAMANSKY, Mr. FISH, Mr. WHITEHURST, Mr. BAILEY of Pennsylvania, Mr. BEILENSON, and Mr. VENTO.

H.R. 7373: Mr. STOKES and Mr. FLORIO.

H.R. 7386: Mr. MILLER of California and

Mr. Sabo. H.R. 7411: Mr. Gore. H.J. Res. 294: Mr. Paul and Mr. Dornan of California.

H.J. Res. 420: Mr. WHITTEN.
H.J. Res. 591: Mr. LeBoutillier, Mr. Fog-Lietta, Mr. Smith of Pennsylvania, Mr. Sol-omon, Mr. Quillen, Ms. Fiedler, Mr. Hance, Mr. Dannemeyer, Mr. Hunter, and Mr. RHODES.

H.J. Res. 592: Mr. Kogovsek and Mr.

Brown of Colorado.

H. Con. Res. 427: Mr. Sabo, Mr. Clausen,
Mr. Hall of Ohio, Mr. Daub, Mr. Parris,
Mr. Shamansky, Mr. McDonald, Mr. Long
of Maryland, Mr. Solomon, Mr. Bevill, Mr.

WOLPE, Mr. KINDNESS, Mr. WEBER of Minne-WOLPE, MI. KINDNESS, MI. WEBER OF MINITE-SOTA, Mr. BEARD, Mr. BEILENSON, Mr. JEF-FRIES, Mr. HYDE, Mr. LUNGREN, Mr. GUARINI, Mr. EDGAR, Mr. WOLF, Mr. FAZIO, Mr. ED-WARDS OF OKLAHOMA, Mr. FISH, Mr. WAXMAN, Mr. RAHALL, Mr. CARNEY, Mr. SCHUMER, and Mr. STOKES.

#### PETITIONS, ETC.

Under clause 1 of rule XXII,

678. The SPEAKER presented a petition of the International Good Neighbor Council, Mexico, relative to the Committee for Freedom and Justice; which was referred to the Committee on Foreign Affairs.

#### AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

#### H.R. 7397

By Mr. GEPHARDT:

-On page 11, after line 16, insert the following:

"(2) tuna, prepared or preserved in any manner, in airtight containers; or,".

Renumber the following paragraphs accordingly.

# **EXTENSIONS OF REMARKS**

HISPANICS AND JOBS: BARRIERS TO PROGRESS

## HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. GARCIA. Mr. Speaker, I wish to recommend to my colleagues the report by the National Commission for Employment Policy. This report, "Hispanics and Jobs: Barriers to Progress," focused on the difficulties Hispanic Americans have in finding and keeping good jobs.

The report emphasizes that Hispanic Americans face three barriers to success in the job market: lack of proficiency in English, low levels of formal schooling, and discrimination. By far the most important barrier is difficulty with English.

Hispanics are a sizable and growing part of the U.S. population. They fare almost as badly as blacks in the labor market, judged by unemployment and wages. Moreover, their school-dropout

rates are higher than either blacks or

whites. The Hispanic subgroups, however, suffer in very different ways and to different degrees. This diversity of problems reflects the varieties of location, education, and immigration/settlement histories of the peoples called "Hispanics."

I have enclosed a summary of the National Commission for Employment Policy report and encourage my colleagues to read it.

#### EXECUTIVE SUMMARY

Hispanic-Americans are a sizeable and growing part of the U.S. population. Many have problems finding good jobs and earning a decent income even in prosperous times. The dimensions of their difficulties are often hidden by figures on the position of all Hispanic-Americans, since the type of problem differs among Mexican-Americans, Puerto Ricans, Cuban-Americans, and persons irom Central and South America. For some, finding work is a severe problem; for others, low pay is the major issue.

At the same time, Hispanics generally experience common barriers to labor market success: lack of proficiency in English, low levels of formal schooling, and discrimination. Difficulties communicating in English directly reduce their prospects for good jobs, impede their educational attainment, and operate as a vehicle for labor market

discrimination.

## CHARACTERISTICS OF HISPANICS

The 1980 census estimates that there are 14.6 Hispanic-Americans living on the U.S. mainland and another 3.2 million in Puerto Rico. They are 6.5 percent of the population on the mainland, up from 4.5 percent a decade ago.

Hispanics differ from the rest of the U.S. population in several important ways.

Hispanics are geographically concentrated in a few States. Two-thirds live in California, New York, Texas, and Florida; less than one-third of the total population lives in these States.

Hispanics are more likely than the rest of the population to be immigrants. In 1970, about 1 out of every 4 Hispanics was foreign born, compared to 1 out of 20 in the total population.

Hispanic adults have fewer years of schooling than either whites or blacks. Among persons over age 25 (when most people have finished their schooling), half of the Hispanic population has completed fewer than 11 years of schooling, about 2 years less than whites, and 1½ years less than blacks.

Many Hispanic adults, whether native or immigrant, have problems communicating in English. Almost 15 percent of those 21 years or older speak only Spanish and almost 30 percent consider Spanish to be their major language.

Hispanics are a young population. Half are under age 24 and almost one-third are under age 15. Half of the white population is under age 31 and about 20 percent are under age 15.

Many Hispanic youth leave school before graduation. Their dropout rate is about 1½ times that of blacks and almost 3 times that of whites

Many Hispanic youth have problems with English. About 70 percent of those age 5 to 14 (or 1.7 million children) who have been raised in Spanish-speaking homes have limited proficiency in English.

The experiences of Hispanics in the job market differ from those of blacks and whites.

The rate of participation in the labor force among Hispanic men is as high as that of whites and above that of blacks. Hispanic and white women have about the same rate of participation, which is below that of black women. Hispanic youth participate in the job market at a rate below that of whites but above that of blacks.

The unemployment rates of Hispanic men, women, and youth are above those of whites, but below those of blacks.

Hispanics are more likely to be in bluecollar jobs than either whites or blacks.

Hispanic men earn less per hour than black or white men. All groups of women earn less than men and Hispanic women earn the less per hour among women.

earn the least per hour among women.

The annual income of Hispanics is between that of blacks and whites.

THE DIVERSITY OF THE HISPANIC POPULATION

The majority of Hispanics on the mainland are Mexican-Americans (60 percent). Fourteen percent are Puerto Rican, 6 percent are Cuban-American, 8 percent are from Central and South America, and 12 percent are "other Spanish." This last group includes persons of mixed Hispanic background.

Because most Hispanics are Mexican-American, statistics on Hispanics as a group largely reflect the experiences of Mexican-Americans and tend to obscure trends and problems of the other groups. The several groups of Hispanics differ in important ways.

They are located in a few widely separated regions of the U.S. with different rates of economic growth and different occupation/industry mixes. In general, Mexican-Americans are located in the Southwest; Puerto Ricans on the mainland live mainly in the Northeast; and most Cuban-Americans in Florida.

The groups become citizens in different ways and at different times. Mexicans' land was annexed by the U.S. in the mid-1840's. By 1970, about 50 percent were at least second-generation Americans and less than 20 percent were immigrants. Puerto Ricans also became Americans when the island was annexed by the U.S. in 1898. A unique characteristic of this group is their frequent migration between the Spanish-speaking island and the English-speaking mainland. The vast majority of Cubans are immigrants and children of immigrants who began arriving in the U.S. in the early 1960's. Most Central/South Americans are also recent immigrants.

Mexican-Americans and Puerto Ricans are, on average, a young population. Their median age is 22 years, 8 years below the median age of non-Hispanics. By contrast, Cuban-Americans are a relatively old group; their median age is 36 years.

Mexican-Americans and Puerto Ricans have a low level of education. Those over 25 years old have a median education of 9 and 10 school years, respectively. The comparable figure is about 121/2 years for the total U.S. population. The low levels of education are partly due to the lack of schooling of immigrants, who comprise a larger proportion of these groups than of the non-Hispanic population. However, native Mexican-Americans and mainland-born Puerto Ricans average at least 1 year less of schooling than white non-Hispanics of the same age. By contrast, Cubans are a well-educated group. Their median formal education is about the same as that of the non-Hispanic population.

Due to their different characteristics, the Hispanic groups have different experiences in the job market.

Difficulties finding work—as indicated by low rates of participation in the labor force and high rates of unemployment—are especially severe for Puerto Rican men and women both on the island and on the mainland. By these two measures they fare no better than blacks.

Mexican-American men have the largest proportion in blue-collar jobs and they earn less per hour than any other group of men. Mexican-American women have high rates of unemployment and earn less than the other groups of Hispanic and non-Hispanic men and women.

Compared to the other Hispanic groups, Cuban men and women do well in the labor market: their participation in the labor force is high, unemployment is low, and their median personal income is also high. On the other hand, their income position is substantially below that of non-Hispanic whites. Also, these figures exclude a large number of Cubans—the recent Mariel refu-

gees, of whom a substantial number are jobless.

REASONS FOR HISPANICS' PROBLEMS IN THE JOB MARKET

Determining the reasons for Hispanics' difficulties in the labor market is an empirical problem. The goal is to disentangle the effects (for example, on wages) of various characteristics such as location, immigrant status, age, education, and proficiency in English.

Research shows that while the several groups experience different labor market problems, the major causes are the same: lack of proficiency in English, low levels of formal schooling, and discrimination in the labor market. In this context, "lack of proficiency in English" means not only a limited ability to speak and understand the language, but also an infrequent use of English."

Research also suggests that the Hispanic groups are treated differently in the job market. However, due to Hispanics' widely scattered locations and to limited data, it is not possible to determine whether these differences reflect the effects of (1) belonging to a particular Hispanic group or (2) living and working in a particular place.

In general, Hispanic men who have problems with English earn less than those who are proficient. Language difficulties for women are associated, on average, with reduced participation in the labor force. Language is also associated with reduced earnings among women who have 12 or more years of education.

Hispanics' low levels of education, operating separately and in combination with their language problems, are another important reason for their low wages and poor occupational position. Lack of formal schooling has a particularly strong effect on the wages of Mexican-American men and women.

Language deficiencies are one vehicle through which discrimination against Hispanics occurs in the labor market. Even among men with similar language problems, Hispanics are in lower-paying occupations than non-Hispanics. Evidence indicates that discrimination against Hispanic men on the basis of their ethnic, as well as their linguistic, characteristics contributes to their low wages, although its severity varies among the several groups of Hispanic men. Discrimination has not been found to be a cause of differences in pay between Hispanic and non-Hispanic women.

GOVERNMENT ACTIONS TO IMPROVE HISPANICS'
POSITION

There have been several important governmental actions that seek to reduce Hispanics' problems in the job market. Bilingual education was designed to help all language minorities, but it is considered by the Hispanic community to have been a major instrument of the Federal Government to help Hispanics enter the American mainstream. Federal training programs are also considered here.

#### BILINGUAL EDUCATION

Over the past two decades the Federal Government has supported educational programs sensitive to the needs of young people whose first language is not English. The three major components of this support are title VI of the 1964 Civil Rights Act, the Bilingual Education Act of 1968, and the Supreme Court's 1974 decision in Lau v. Nichols. The Supreme Court ruled that students whose first language is not English do not receive an education free

from unlawful discrimination if they are instructed in English, without regard to their language difficulties.

There are several approaches to teaching language-minority students: English as a second language, transitional bilingual, bilingual bicultural, and structured immersion. The goal of each program is to teach English to the students while continuing their education in other subject areas. Bilingual bicultural programs give equal emphasis to parallel development of the students' own languages and cultures.

There are examples of successful projects for each of these approaches, but there is no consensus regarding which program works best. The literature does show that to be effective, individual programs should consider the students' age, social background, and educational needs. Also, the programs must have sufficient teaching materials and adequately trained staffs.

#### PEDERALLY SPONSORED TRAINING PROGRAMS

Federally sponsored training programs, such as those authorized by the Comprehensive Employment and Training Act of 1973 (CETA), are available to economically disadvantaged persons who wish to improve their skills. In general, more Hispanics participated in CETA training programs than would be expected on the basis of their proportion of the national eligible population.

The services and treatment Hispanics received did not differ from that of blacks and whites, once differences in program-relevant characteristics were taken into account. However, Hispanic women were more likely than men to be training for (or working in) low-paying jobs.

Analyses of all racial and ethnic groups of participants indicate that after completing the training program, men's yearly earnings did not increase above those of otherwise similar men who had not been in a training program. Women's yearly earnings rose above those of the comparison group, largely due to higher levels of employment, and somewhat to higher wages.

## LAW OF THE SEA: A RIP-OFF

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. FIELDS. Mr. Speaker, I enter into the Record for the benefit of my colleagues a recent editorial from the Dallas Morning News concerning the President's decision not to sign the Law of the Sea Treaty.

Rena Pederson, an editorial staff writer, has done a highly commendable job of presenting the essence of the treaty's problems. If more members of the media would follow her example, the anger of the American people over this treaty would surpass any we have seen in years.

The article follows:

[From the Dallas Morning News, Dec. 15, 1982]

Law of Sea: A Rip-off (By Rena Pederson)

The diplomatic tug of war over the law of the sea treaty is one of those issues that tend to make your eyes glaze over at the first mention.

Yet the treaty is considered the most important document since the adoption of the U.N. Charter.

It affects every aspect of the seas. It confirms the right of ships to pass through important straits and waterways. It settles disputes regarding fishing rights. It covers overflight rights for aircraft. And it sets out rules for seabed mining, which some say is the underwater bonanza of the future.

Thanks to new developments in technology, made by Dallas companies such as SEDCO and Dresser Industries, some 1.5 trillion tons of manganese, nickel, copper and cobalt can be harvested in the coming decades as potato-sized nodules on the ocean floor.

Now mining cobalt potatoes may not seem a red-hot issue. But considering that much of American industry depends on those minerals, you can imagine why the United States is interested in a treaty to determine the territorial rules of the game. And considering the trillion-dollar treasure at stake, you can also imagine why all the under-developed countries in the United Nations want a piece of the action.

That's where the problems come in. The treaty also contains some cockeyed requirements for forcing industial countries to share their profits and technology with other countries—including the PLO and Soviet Union. It was those later provisions that caused the United States, which helped start the Law of the Sea negotiations nine years ago—to decide not to sign the treaty.

It has not been a popular decision abroad. Countries such as France, which caters to the Third World countries dominating the United Nations, have supported the treaty. And so has the Soviet Union, which would dearly love to have access to the American seabed mining technology, much of which has strategic applications.

And it has not been a well-understood decision domestically. Editorials have been savaging the Reagan administration for abandoning the treaty.

But ask yourself what you would do. To get an exploration contract, a company would have to provide the Seabed Authority with detailed research on two sites, so the authority could use one or give it to a poor nation. To use the other site, the company would have to agree to share its technology with the atuhority. Even if the company finally got approval to mine, the rate of removal would be governed by the authority so as to protect countries with land-mining operations, such as the Soviet Union and Gabon (manganese), Zaire and Zambia (cobalt), Canada (nickel) and Chile (copper).

Along the way, the company would have to pay stiff fees up to a million dollars every year until production began, and taxes as high as 50 percent. Fot only that, but the authority's governing board would be weighted with Third World countries and the Soviet bloc. The United States, whose companies are expected to do the bulk of any privately financed seabed mining would not be guaranteed a single seat on the 36-member board.

Such a deal. Would you sign the treaty and hold your country's vital industries hostage to a global bureaucracy in which you have almost no voice? Probably not. And that's what the Reagan administration reluctantly decided, even though its negotiators approved of 90 percent of the rest of the treaty.

Over the weekend, 117 other nations did sign the treaty at a meeting in Jamaica. That's nearly twice the 60 countries needed for implementation. But 22 other countries chose to delay signing, pending further study, including Great Britain, West Germany and Japan. That keeps alive the slim hope that if enough major industrial countries back away from the treaty, the seabed

provisions will be restructured.

In the meantime, legislation is being offered in Congress to establish a 200-mile economic zone, define the limits of the U.S. continental shelf and set procedures for scientific research in U.S. waters, things that also would have been covered in the treaty.

What the administration is trying to do is keep debating the critical issues while trying to set up mini-treaties of its own. It's a risky gamble, but agreeing to give away American technology to hostile countries would be even more dangerous. That's what the public needs to understand, if they can be convinced to care about something that sounds as boring as the Law of the Sea Treaty.

#### TRIBUTE TO ADAM BENJAMIN

## HON. ANDREW JACOBS. JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

. Mr. JACOBS. Mr. Speaker, the following is the well-deserved tribute paid by the Indiana Legislature to our dearly departed colleague, Adam Ben-

INDIANA LEGISLATURE RESOLUTION

A concurrent resolution urging the Congress of the United States to authorize a small boat marina within the Indiana Dunes National Lakeshore to be named "The Adam Benjamin, Jr. Memorial Marina."

Whereas Congressman Adam Benjamin, Jr. worked unceasingly for the betterment of Lake County, Indiana, by supporting, during his tenure as United States Congressional Representative for the First Congressional District of the State of Indiana, numerous programs and projects designed to improve the quality of life in his district and county; and

Whereas one of the primary projects developed and nurtured by Congressman Adam Benjamin, Jr. was the expansion and development of the Indiana Dunes National Lakeshore; and

Whereas one of the dreams of Congressman Adam Benjamin, Jr. and the constituents he represented was construction of a small boat marina as part of the west unit of the Indiana Dunes National Lakeshore; and

Whereas the construction of a small boat marina within the west unit of the Indiana Dunes National Lakeshore Park was identified as a first priority development element in the park's general management plan; and

Whereas in 1980 the Congress of the United States reviewed the general management plan and the United States Department of Interior approved the plan; and

Whereas through the continued support and coordination of Congressman Adam Benjamin, Jr., several hundred thousand dollars have been spent by the City of Gary, the Lake County Parks and Recreation Department, and the United States Department of Interior for the planning of such a marina; and

Whereas the people of Indiana believe that Congressman Adam Benjamin, Jr. should be honored and forever remembered for the dedicated service he gave to the citizens of his district, county, and state: Now, therefore, be it

Resolved by the Senate of the General Assembly of the State of Indiana (the House of Representatives concurring therein):
Section 1. That we urge the Congress of

the United States to authorize the construction of a small boat marina in Lake County, Indiana within the west unit of the Indiana Dunes National Lakeshore Park, to be named "The Adam Benjamin, Jr. Memorial Marina"

Section 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the President of the United States the Secretary of the Interior, the leadership of each party of each House of Congress, and each member of the Indiana congressional delegation.

Adopted by voice vote this sixteenth day of November, 1982.

#### THE STATEMENT OF PATRICIA BREWER

## HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

. Mr. MOFFETT. Mr. Speaker, vesterday I submitted to the RECORD a statement from a constituent with which I did not agree. Today, I am doing so again. My colleagues may wonder why I am doing this. At a hearing I held on child welfare and the New Federalism in Connecticut. two persons felt that they had not been provided the opportunity to present their views. One gentleman is opposed to abortion; he had his say in the RECORD yesterday. Patricia. Brewer, coordinator of the Connecticut Catholic Conference, is in favor of tuition tax credits. Although I do not share her views, I did want to fulfill my promise to her that those views would be presented to this body.

Ms. Brewer's statement follows:

I am Patricia J. Brewer. I am a Doctor of Philosophy with an academic concentration in Anthropology and Folklore. I am a longtime participant in the Connecticut educational scene having taught in Connecticut's nonpublic school system on the elementary, secondary, and collegiate levels. I am presently associated with the Connecticut Catholic Conference.

I speak in favor of that aspect of the New Federalism which would allow parents to retain enough of their own earnings to choose the education they want for their children. Specifically, I speak in favor of the Educational Equity and Opportunity Bill: the tuition tax credit legislation which is set for mark-up this week in the Senate Finance Committee. I am here to ask that you give some fresh and clear thought to the justice of our present system of educational finance and that you cease active opposition and begin active support of legislation that would aid many of your constituents in the performance of the most sacred of their duties: the formation of the minds and hearts of their children.

Parents have the moral responsibility and the constitutionally guaranteed right to educate their children according to their religio-cultural values. Until recently, parents who chose to educate their children in an institution which transmitted Judeo-Christian values had little trouble doing so. They had access to the public, the private, and the parochial schools. All were Judeo-Christian in orientation. Two of them—the public and the parochial were tuition free, the public schools being supported by the state tax dollar, the parochial by both the Church tax and the contributed services of religious teachers.

Not so today. Today, in recognition of our society's religio-cultural pluralism thanks to several supreme court decisions, the specific teaching of Judeo-Christian values is prohibited in our public schools. Today, in response to the dramatic decline in the contributed services of religious teachers and the inability of the Church tax to sustain the full cost of parochial educa-

tion, parish schools charge tuition.

Consequently, for most of the poor and the nearly poor and for many of the middle class, there is today no educational choice, there is no educational freedom. Compelled by law and conscience to send their children to school, and unable to pay the tuition to send them to a nonpublic school, some parents are in a real sense coerced to educate their children in a manner abhorrent to their religio-cultural values. It seems clear that, whatever may have been its justification in the past, our present system of educational finance is neither just nor democratic. Coercion is hardly a principle sacred to democracy.

I am aware that both you, Representative

Moffett, and you Representative Kennelly, concerned as you are, and as you should be, with maintaining a quality school system, accessible to all, presently oppose tuition tax credit legislation. I am aware also of the cliched bugbears which are bandied about by the organized, vested-interest opposition to the legislation. Because I recognize in your prepared statements of rationale for opposition to tuition tax credits these bugbears, I would like to confront some of them with you.

The opposition says: Tuition tax credits would lead to the demise of the public school system. They would serve as an incentive to parents to remove their children from the public school. Only the dregs would be left in the public schools.

I say: Nonsense. Tuition tax credits when fully funded would pay only half of actual tuition cost up to a maximum of \$500. Parents sending their children to public schools presently receive an average benefit of \$3000 per child from their tax dollars.

The opposition says: Tax credits would take badly needed money from the public schools.

I say: Not so. During the first year of its implementation the tax credit would cost the federal government \$100,000,000 in federal revenue loss. In its out-year, when fully funded, the estimated loss would be \$1,500,000,000. That revenue loss, when prorated against the entire federal budget would be miniscule. The loss to the budget could easily be balanced by manufacturing one less Trident Submarine. There is no reason to believe that Congress will appropriate one penny more or less to public education because it has allowed citizens who have chosen nonpublic education to withhold some of their earnings to help finance that choice.

The opposition says: The tuition tax credits would benefit the wealthy and not the

I say: It is the marginally poor who will [From the Wall Street Journal, Sept. 16, benefit most from the tax credit. It is to the 19821

parent who can scrape up \$200 to pay half his child's tuition-but can't get together the \$400 to pay the full tuition that the tax credit will make the difference between educational freedom and educational coercion.

The \$500 maximum tuition credit will hardly influence the decision of a parent paying \$8500 to send his child to a Cheshire Academy-or a Choate Rosemary.

The opposition says: Tuition tax credits are unconstitutional.

I say: There has never been a Federal Tuition Tax Credit. A decision on the constitutionality of that legislation is yet to be had. Students of the Constitution argue for constitutionality. The Supreme Court will and should make this decision-not the legisla-

Representative Moffett-Representative Kennelly, words, whether full of reason or full of sound and fury signify nothing to the ears of those who will not hear. I hope that my words this morning have been somewhat reasonable. I trust that they have not fallen on deaf ears. It would be a privilege to discuss this matter in detail with either or both of you.

THE SOUTH BRONX'S ECONOMIC REVIVAL

# HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. GARCIA. Mr. Speaker, the South Bronx is in the early stages of a dramatic revitalization effort. Decreases in arson and burglary, as well as signs of economic recovery, are driving businesses back into this once highly prosperous region.

In the past 12 months, 134 companies have moved into or expanded in the South Bronx. Electrical demand, commercial phone usage, and business activity are up for the first time in years. Perhaps the most encouraging statistics are those showing that robberies and burglaries, the most common problems for businesses, are down by as much as 36 percent in recent months.

Our reviving community offers numerous attractions for an incoming business. Rents are inexpensive, there is a large supply of trainable labor, and the location provides easy access to Manhattan's profitable market. In addition, a strong transportation network and an innovative Con Edison electricity savings program have served to entice prospective business-

I submit this article, a testimony to the atmosphere of revitalization that has taken hold in the South Bronx, for the benefit of my colleagues:

NEW YORK CITY'S BURNED-OUT SOUTH BRONX STARTS A COMEBACK AS FIRMS

SLOWLY RETURN

(By Luis Ubinas)

New York.-The South Bronx, long a national symbol of ruin and despair, is slowly rebuilding itself.

Electrical demand, commercial phone usage and business activity are all up for the first time in years. The New York State Department of Commerce reports that in the past 12 months five businesses have been moving into or expanding in the South Bronx for every three that leave or cut back. Businessmen point to cheap rents, available labor and good location as reasons for moving into the area.

And local businessmen and politicians have begun to tackle what is perhaps the most difficult task, that of improving the area's image.

Many Americans were introduced to the South Bronx in 1977, when President Carter stood before television cameras on Charlotte Street in one of the most devastated sections of New York City. Amid acres of burned-out buildings and rubble-strewn vacant lots, the president promised to rede-

velop the area.

#### TEN-YEAR-OLD PROBLEMS

That plan fell through. Working against optimism were problems that had had more than 10 years to take root.

In the mid-1960s, drug use, arson and robbery had begun to drive out the tool makers, metal smelters and textile mills that were the backbone of the South Bronx economy. Old-timers in the area tell of prominent businessmen being murdered and of business deals ruined when visitors were accosted by derelicts.

Only minutes from midtown Manhattan and some of the world's most expensive real estate, the South Bronx came to be portrayed by the news media as a battlefield where arsonists and thieves were winning the fight against police and nearly half a million residents.

By 1979, when street crime and arson peaked, the area was at rock bottom and the future looked bleak. Donald DiMuro, executive director of the Bronx Chamber of Commerce, says, "We were left with nothing."

## SOME COMPANIES MOVE IN

But lately, things have begun to look up. Aircraft Supplies Inc., a manufacturer of airplane parts, has moved from New Jersey into the South Bronx. Arlene Blatt, the company's executive vice president, says, 'At first I was a little afraid, but rent of \$2.50 a square foot on a long-term lease was unbeatable." When it reaches full production later this year, the company will employ as many as 450 workers.

Panorama Windows Ltd. also moved in to take advantage of low rents. The company relocated last month from fashionable quarters on Manhattan's East Side to a factory near the Triborough Bridge. The company's president and owner, Peter Folsom says, The 5,000 square feet of yard space and 5,000 square feet of interior space we were able to buy here didn't exist in Manhattan

at any price.' Richard Slavin, of Houlihan-Parnes. Realtors, says, "Over the past few months there

have been fewer vacancies than there have been in years." Rents now are up to between \$5 and \$7 a square foot, but are still below costs in Manhattan and most nearby suburban locations, according to Realtors.

CHEAP, TRAINABLE LABOR

Some companies find the South Bronx attractive because of what an executive calls "cheap, trainable labor." The Welbilt Electronic Die Corp., a defense contractor, considered leaving the area. But Frederick Neuberger, a company vice president, studied the labor situation elsewhere without finding what the South Bronx offered, a "human reservoir of quality workers willing to start at minimum wage."

Another advantage, businessmen say, is the South Bronx's location. Herbert Klein, a director of mattress distributor Klein Sleep Products Inc., says he has seen other companies "offered everything from the Easter Bunny on down to move from the South Bronx," but he himself would never consider such a move.

#### TROUBLES STILL EXIST

"Forget the low-cost real estate and good work ethic of the people," Mr. Klein says. What keeps my company in the South Bronx is being right smack in the middle of 20 million potential customers. I'm 12 minutes from Manhattan."

In the past 12 months, 134 companies have moved into or expanded in the South Bronx, more than the total for the previous 22 months. Yet the picture isn't all rosy. A New York Department of Labor "micro-area study" of the South Bronx puts unemployment at 14.8% as of June. And companies are still moving out. Electrical costs, crime and image problems continue to be major concerns.

Businesses are getting a break on New York City's electricity costs, among the highest in the nation. Consolidated Edison Co., the local utility, has started a program that saves new companies in the South Bronx as much as 25 percent on their bills. In recent months, about 90 businesses a month have applied to the program, up from 25 in the same period last year.

Leonard Fuchs, an executive vice president with M. Tucker Co., a food-equipment distributor moving to New Jersey, says crime was one reason his company decided to move out. "We were broken into two times in one weekend," he says.

But more police and more precautions, such as alarms and dogs, have driven the crime rate down. Lt. Nicholas Dechiaro of the 40th police precinct in the heart of the South Bronx, says statistics show that robberies and burglaries, the most common problems for businesses, are down by as much as 36 percent in recent months.

#### PERSISTENT IMAGE PROBLEM

Some workers still find the streets unsafe, however. "Of course coming to work is dangerous," says Robert Cummins, an employee of Guardsman Elevator Co. "Anything can happen," he adds. "You could be mugged, you could be killed, anything."

That sort of attitude goes along with the area's persistent image problem. American Banknote Co., which prints foreign currencies, has split itself up to accommodate the image. "What we've done," says Robert S. Ivie, vice president, "is keep our executive offices in Manhattan and just have the people on the production end" in the South Bronx. After all, he asks, "Would you want to work in a place where you could be robbed, where your car could be stripped?

Bronx politicians have established forums at local colleges, a complaint hotline at Bronx borough hall and a chamber of commerce committee to help new businesses adjust to the area. Even New York Yankee pitching ace Ron Guidry has been enlisted in the effort to make the South Bronx appeal to companies. Starting this fall, cards in city hotel rooms will inform tourists that they can call a number and hear the Cy Young Award winner describe all the "interesting things to do in the Bronx."

But that venture doesn't stir optimism in

But that venture doesn't stir optimism in everyone. "Not many people are going to be coming up," says Donald DiMuro of the chamber of commerce. "You see," he adds, "it's like the rungs of a ladder—you go down one step at a time and you go up one step at a time. Right now we're just getting off the ground."

# TELEPHONES FOR THE HEARING IMPAIRED

## HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. FORD of Michigan. Mr. Speaker, I was extremely pleased when the House overwhelmingly passed S. 2355, the Telecommunications for the Disabled Act of 1982, on Monday. Upon enactment, this measure will prevent an ill-conceived Federal Communications Commission regulation from taking effect on January 1. This rule would have prevented State regulators from making specialized telephone equipment available to the disabled. This bill will insure that the hearing impaired have access to the telephone system of our Nation.

In our society, the telephone has become more than an integral way of life; it can mean the difference between life and death. This is particularly true for the elderly, who may often be homebound alone, and their only access to the outside world is via the telephone. One-third of Americans over 65 have hearing impairments which require the use of a hearing aid. S. 2355 will insure that newly manufactured telephones will be compatible with hearing aids. In addition, this measure encourages phone companies to provide specialized equipment at affordable prices to people with other physical disabilities. The immeasurable benefits which this legislation provides far outweigh the insignificant cost of this measure.

## THE PEOPLE'S PARADISE

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual socialist practices.

Though socialism is a god that fails continuously, and causes more human

suffering and tragedy than any idea of practice in history, there are those who stubbornly cling to its high-minded idealism. They religously close up their eyes to the reality that the socialist promise of instant utopia brings only the tyranny of a real dystopia.

It is for them that the following glimpse of reality is provided.

[From Chronicles of Culture, November 1982]

### LETTER FROM PARIS: MITTERRAND'S FRANCE (By Thomas Molnar)

Since I have never traveled behind the Iron Curtain, I can only compare Mitterrand's France with socialist Burma, where Dictator-General Ne Win's heavy hand lies heavily even on tourists. France is not yet a Soviet-style state, but a few verbal snapshots can provide a picture of developments in summer 1982, after twelve months of the present regime.

The setting is in a new building, the office of a leftist-Catholic professor-editor. He has just finished writing his third semiclandestine (samizdat?) "letter to friends," calling on them to resist the ideologues who are demolishing the country economically and culturally. "In this office," he remarks with a wry smile, "we may still speak openly; as far as I know the walls have no microphones."

At France's border with Switzerland many travelers are stripped and searched in order to stop their fleeing francs from reaching the safe-deposit boxes of Swiss banks. Address books are photocopied by customs officials, later checked for names of friends whose monies you may be helping escape. A matchbox bearing the name of a Zurich bank can make one a suspect. Not only are the smaller fortunes fleeing (the big ones escape more officially as "transfers" or "investments"), but new investments—by Arabs, Japanese, Germans—are not forthcoming. One year's socialist-communist management has sufficed to make France's economic future bleak. I talked with young, enterprising businessmen, lawyers, scientists, all of whom contemplate emigration and spend their days devising ways and means to do so. Perhaps Mitterrand believed Pol Pot when he claimed that people are expendable and that one million hard communist Cambodians are enough for the country's future. During the summer, 2,000 gendarmes spread through France, checking for conformity to the postfreeze price of butter and eggs. Meanwhle, the minister of justice freed thousands of criminals after abolishing, through parliamentary majority, his predecessor's semitough law on security. Industries—the ones not yet bankrupt—are working halftime, while hopelessly struggling against worker demands encouraged by the government. Unemployment has risen beyond two million, and the number of those out of work continues to rise. Some expect that the communists might wait for more bitterness, then organize the unem-

ployed into "worker-militias."

Is "communism" indeed Mitterrand's objective? He is known to be strongly against it. A close friend of his whom I queried said that the first adjective coming to his mind describing Mitterrand is opportunist. There may be no contradiction here; the four communists in the cabinet can scarcely do more damage than some of the socialist hierarchs, who are more Marxist than Marx. The whole picture recalls the Allende regime in Chile: fanatic, incompetent social-

ists trying to prove to their communist col-leagues that Muscovite obedience is stifling-whereas socialists bring new techniques and strategies to the pink international. While Mitterrand is increasingly Buddha-like in his inscrutability, his minister of industry and technology, Jean-Pierre Chevènement, a man 20 years younger, emerges as the chief activist and ideologue. Again: is Chevenèment a Marxist? The term is irrelevant, since "we are all Marxists now" and Chevenement represents simply a new, perhaps already international, Marxian activist model. Some 12 years ago, it is said, he wavered between leftish Gaullism and socialism; since then, he has fused the two and combined that explosive mixture with the utopian socialism (Engels dixit) of the French 1840's-Comte, Proudhon, but particularly Fourier. Chevenement's avowed goal-which he admits only in private-is a monolithic France, frugal and efficient, a model for the Third World. He brings to mind St. Just, the fiery young orator of the Revolution who narrowly missed stepping into Robespierre's shoes. Chevenement, whose ambition is limitless, regards himself as a stricter, less literary Mitterrand-and as a future president.

I love France, so I should not be suspected of deliberately painting a dark picture of the country. Voltaire's observation that every man has two countries, his own and France" certainly applies to me. Thus I may close one eye when socialist leaders Quiles and Mermaz (the latter the speaker of the National Assembly) threaten the opposition with the line "heads will roll," or when moderate minister of economics Jacques Delors calls the opposition spokesmen "fascist loudmouths." But I am less tolerant with minister of culture Jack Lang, who ordered that on June 21, 22 and 23 (the summer solstice) France be turned over to "music and fun," with the result that screeching noise filled every arrondissement in Paris, and amateurish clowns stopped pedestrians at every corner. This is the socialist notion of "people's culture," while at the same time serious journalists—if they are critical of public policy-are denied newsprint, and television airs pornography and propaganda—or hour-long analyses of Mit-terand's books. To an unprejudiced eye, the officialization of fun has saturated France with a mood which is obviously morose. The abuses continue: unannounced strikes block vacationers at airports, company executives are sequestered in their offices, an old chateau is burned down by protesting workers. And the regime that once promised paradise now is already shopworn, fighting ridicule with threats instead of positive measures or competence. Even the small bourgeoisie—the country's backbone ever since the peasantry drastically diminished in numbersup in arms. But, unlike the summer of 1789, their anger is turned against the left, supposedly their official representative. From rich man to cafe waiter, they all exclaim: "Monsieur, cela ne va plus du tout, cela ne peut pas continuer!" What do they foresee? It is expected that the March 1983 municipal elections will clearly signify that the nation has had its fill of demagogic promises and catastrophic results. The regime is trying to meet this challenge by redistric' ing, most notably by fragmenting Par (which, for a change, is now in an anti-reve lutionary mood) into 20 independent-and socialist-fiefdoms. But the mayor of Paris, Jacques Chirac, is head of the opposition and a popular man. He asked the obvious question: why not divide Marseilles, too?

The mayor of Marseilles is E. Deferre, minister of interior; the issue was quickly

Mitterrand came to power largely on the implied promise that his would be a "social-ism with a human face," the slogan of the Prague Spring and of the later vogue of Eurocommunism. Those who voted for him in 1981 have had a rude awakening and have yet to digest communist participation in important ministers. My feeling is that if Mitterrand, even now, dismissed the four communist cabinet ministers, popular opinion would turn in his favor. Much of the fled capital might also return. It may be worthwhile, therefore, to speculate on Mitterrand's motives in keeping them on. He obviously regards himself as a leftist de Gaulle, heir to the policy of an alternative to both Moscow and Washington. When he nationalized banks and other enterprises, he reasoned that "in the world of multinationals the government must watch over the country's sovereignty." Next comes Mitter-rand's conviction that France has for too long been a bourgeois country, and must regain a position of leadership among those who look toward a new revolution. This accounts for its aid to and rhetoric about Nicaragua and the like. It should not be forgotten that de Gaulle, too, tried to awaken national consciousness—and a "third option"— from Phnom Penh to Quebec. There is a greater continuity of French policies than meets the eye.

The most frightening aspect of Mitterrand's France is its egalitarian impulse. Igor Shafarevich theorized that socialism is the symptom of a nation's tiredness. I think that is a dangerous half-truth. Egalitarianism is a passion of envy and brutal ambition: in the end, it manipulates and reduces society to a geometrical pattern. A socialist society is not peaceful and passive but restless and combative. Most of the people I talked with in France were either cynical regarding the future ("plus ça change, plus c'est la mème chose") or despairing. But there were others, too, new Jacobins with eyes ablaze at the prospects of drastic change. Chevene ment is reputed to have suggested that all Frenchmen should think alike on issues of national and global import. His acolytes warn—so far, discreetly—intellectuals and professors that debates "in a critical vein," are not desirable. The consequence is, of course, that students spy on teachers, col-leagues report colleagues, journalists, researchers and bankers look over their shoul-

ders when talking, writing, deciding.

An often-heard adjective of Mitterrand's regime is "generous": a new and generous policy, a generous interpretation of the law, mistakes made out of generosity. Let us remember that while sending thousands to be "married to the guillotine," Robespierre had his mouth full of virtue.

STATE OF OUR NATION

# HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. TRAXLER. Mr. Speaker, I want to share with the Members of the Congress an eloquent and articulate capsulization on the state of our Nation. The article which follows is reprinted from the Tuscola County Advertizer, a highly respected weekly newspaper which serves a large rural portion of my district. It was written by Mr. Rudy Petzold, publisher and owner of

the newspaper.

Mr. Speaker, I share this article with you because I was highly impressed, as I am sure you will be too, by the commitment and concern evidenced in this writing about the direction which our Nation is taking. This article truly captures a sense of what is going wrong in our country.

It calls for moderation from the White House and a return to the true basic American values such as compassion, realistic economic policies, fairness to the little guy, a lean, strong and credible national defense, protection for our elderly, and hope for all our youth. I could not agree more wholeheartedly.

This article reflects the unwavering commonsense of the American people. I think it merits the recognition of

this Congress.

[From the Tuscola County (Mich.) Advertizer] TRICKLE-UP (By Rudy Petzold)

Mr. President . . . it's getting awfully tough for us out here to understand what

you're trying to do up there.
Your "trickle down" supply side economics is turning into a major waterfall . . . and a lot of the ordinary folks that trusted and believed in you on election day are wondering whether you've lost your handle on things.

These people-and I was one of them-believed that you would bring sense and moderation to government. You talked sensibly. You talked with compassion. And those were the things that I believed necessary to gradually bring America out of the economic mess it has gotten itself into.

But as time goes on, I am having trouble believing you. And I am having great trouble in understanding your approach.

It took us 40 years to get into the mess we're in-we can't get out of it in less than 40 years. Both you and I are going to be dead and buried before the job is completed. This generation and its children simply cannot make up four generation's worth of free-wheeling.

In the last few weeks I've watched the television shows . . . hungry people, people living in tents, people seeing their little business fold, people suddenly left jobless and without hope. And even that would be bearable if everyone was feeling the bite.

But they aren't. The rich truly are getting richer. The poor are truly getting poorer. And those of us caught in the whipsaw of the middle-class which makes up the country's biggest segment, are feeling themselves sliding and sliding and sliding.

Most of the jobs in America are provided by the middle class that is being destroyed. Most of the taxes that are used to build schools and roads, support churches and charities, build towns and maintain themcome from the middle class that your "trickle down" theory is now destroying.

Instead of building new production facilities and expanding the hard production capabilities of America—the rich are gobbling each other up in endless mergers and takeovers. They sit at their corporate tables playing gargantuan "Monopoly games" and

the little people who built their pyramids and palaces matter not one iota. Only the 'bottom line" matters to them-to hell with the people that create the bottom line.

You brag about inflation being brought under control. Yes, the inflation in the private sector is slowing-but what about the tax hogs of the government? The property tax on my home went up 30% in one year. The property taxes on my business went up 20% in one year. And these increases are at a time when no one wants to buy them, or could afford to buy them. The tax is even higher when related to the declining value both homes and businesses represent in these times.

This "trickle down" business surely has not trickled down to county, township and school tax collectors who have just blasted us with another horrendous tax increase in dollar terms. And still they do not have enough money.

Your paranoia about national defense is disturbing. The MX and the other toys of destruction that the military keeps on wanting are sucking billions and billions of little people's dollars into the cesspool of military extravagance. We need a defense to save us from defense.

This nation has to be strong-but you've got the wrong idea about what strong means. Strength is not determined by the number of swords, but by the will, who wield them. Your bull-headed refusal to back down on the extravagance of military spending destroys a lot of credibility and it disgusts me.

What will the horrible force of destruction defend-if America itself is gutted by the rich and left in economic disaster by bull-headed refusals to moderate the longterm job of reconstruction and rebuilding of our nation's economic strength.

Our business is having the worst times since the depression. We are flowing in red ink. But at least we can still afford the red ink. My heart goes out to the millions of little people, young people, elderly and hope-shattered people who are seeing what little they have evaporate and who are left with the feeling that this land is now run in the interests of the wealthy who live like fat and uncaring pharaohs off the slaves out in the brick pits.

You want to move the tax cut up from July to January 1983. Do it-but divert the entire tax cut to people who make \$25,000 a year or less and exempt everyone whose income tops that. We don't need any more "trickle down" . . . we need some "trickle up.

Give the benefits, the money, the breaks to the little guys-there are millions of them. They will begin spending the benefits, the breaks and the money because they have to survive. Giving them to the rich just sends more gold to their vaults and gives them more chips to play with in their games of corporate wheeling-dealing.

Mr. President, we cannot rebuild America in just four years. We desperately need a strong dose of moderation, the kind of moderation that most of us Americans who voted for you thought we would be getting. WESTERN HEMISPHERE CON-FERENCE OF PARLIAMENTAR-IANS ON POPULATION AND DE-VELOPMENT

# HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. McCLOSKEY. Mr. Speaker, at your direction, the Honorable John E. Porter, of Illinois, and I attended the recent Western Hemisphere Conference of Parliamentarians on Population and Development in Brasilia, Brazil, from December 2 to 5.

This conference followed a world conference held in Sri Lanka in 1979 and the earlier world conference in Bucharest in 1974. Delegates from 20 Western Hemisphere countries concluded the conference with a unanimous declaration including the following key recommendation calling on parliamentarians of the Western Hemisphere to:

Establish National Committees of Parliamentarians on Population and

Development which can:

Increase understanding among parliamentarians of the interrelationship between population and development.

Promote a dialog between parliamentarians and social, economic, and population planners and administrators.

Review, propose, and modify—according to the needs of each country—legislation that relates to population

and development.

Insure that all individuals can exercise their basic right to decide freely and responsibly the number and spacing of their children, by providing family planning information and services. Family planning services must be voluntary and be provided in ways that respect human dignity, individual rights, and spiritual values.

Include parliamentarians in official delegations to the United Nations and other conferences, particularly the United Nations Population Conference to be held in Mexico City in 1984.

A copy of the unanimous declaration of the conference is attached:

DECLARATION UNANIMOUSLY ADOPTED BY THE WESTERN HEMISPHERE CONFERENCE OF PAR-LIAMENTARIANS ON POPULATION AND DEVEL-OPMENT BRASILIA, DIGEST, DECEMBER 5, 1982

We, the parliamentarians attending the first Conference of the Western Hemisphere Conference of Parliamentarians on Population and Development

Wish to express our sincere gratitude to the government and people of Brazil for their generosity in hosting this historic con-

The beauty of this unique city of Brasilia is exceeded only by the gracious hospitality of its people and its parliamentarians.

We record our appreciation of the honour of having had his Excellency Aureliano Chaves, the Vice-President, and the Honorable Nelson Marchezan, President of the Chamber of Deputies, perform the opening ceremony of the Conference.

We also record our conviction that the full success of the Conference is due in great part of the magnificent efforts of the Brazilian Parliamentarian Group for the Study of Population and Development and the Brazilian Society for Family Welfare in Brazil, Brazil. To them we express our thanks

#### PREAMBLE

1. We, parliamentarians from 22 countries of the western hemisphere attending the first Western Hemisphere Conference of Parliamentarians on Population and Development, held in Brasilia December 2-5, 1982, having considered the development implications of population dynamics, migration and urbanization, the status of women, and the protection of children:

2. Consider that the goals of development policies as well as population policies are to improve the quality of human life, and the population and development variables are closely linked. Effective development planning cannot be done without considering population phenomena. Likewise, population factors must be harmonized with other

elements of development effort.

3. Acknowledge that development is a complex process which involves many aspects of social, political, economic, and cultural change. Different countries have chosen different paths toward development. Population and development policies must respect the social, cultural, and political characteristics of each country and of each ethnic group within the country. Achievement of meaningful social and economic development implies a fairer distribution of goods and resources within countries and among countries.

4. Recognize that the nations of this hemisphere have accumulated a substantial social debt to their citizens, as indicated by the millions who are without adequate housing, education, health care, nutrition,

and employment opportunities.

# THE CURRENT SITUATION OF THE WESTERN HEMISPHERE

### Population and development

5. The 1982 population of the Western Hemisphere is estimated to be 634 million, composed as follows: Latin America—348 million; Caribbean—30 million; U.S. and Canada—256 million. Although rates of population growth have decreased throughout the hemisphere, tremendous demographic momentum remains. In Latin America and the Caribbean the population is projected to double by the year 2005. This means that by the year 2005, development planners must devise ways to feed, house, educate, employ, and provide other basic services to a new population as large as that which inhabits the region today.

6. Although considerable economic and social progress has been made over the past decade, serious problems of economic growth and distribution of resources persist. Among countries in the region, there is a wide disparity in indicators of development such as per capita income, literacy nutritional status, and life expectancy. Economic growth, which increased rapidly during the 1960s has slowed during the 1970s. Prices for raw materials produced in the region have remained low while the cost of importing manufactured goods from the industrialized nations has continued to increase. Inflation has reached 100 percent annually in some countries of the hemisphere.

7. Rapid population growth threatens to deplete natural resources and to outpace im-

provements in food production. It also seems sure to increase the already high levels of unemployment in the Western Hemisphere, since many countries would have to double their 1950-1980 rate of economic growth to generate enough jobs to absorb those who will be entering the labor force.

#### Migration and urbanization

8. More than 60 percent of the population lives in urban areas. In Latin America, urban migration has grown at more than 5 percent a year and urban population will almost double from now to the year 2005. This rapid urbanization will continue to generate acute problems. Many major cities in the region are characterized by shanty-towns surrounding the "downtown" areas. inhabited by people who live without adequate shelter, sanitation, water and other basic services. The situation is further complicated by high rates of urban unemployment and underemployment in some countries which generate international migration, which is difficult to regulate. In many ways, the region is fast becoming a regional labor market, regardless of immigration laws. The migration of undocumented workers has become an important economic, social, human and political issue in both countries of origin and destination.

#### The status of women

9. Women have not attained rights equal to men in some countries of the western hemisphere. This inequality is manifested in either de jure or de facto discrimination in employment, education, family rights, and political rights. In some countries married women cannot hold property, receive credit, or inherit property in their own names, and even the basic right to regulate fertility does not exist in many countries. The ability of women to plan, manage and control their own fertility is a pre-requisite to equality.

#### The protection of children

10. Children represent the future of our contries, consequently the problems of children in this hemisphere must be of great concern and high priority. Infant mortality remains high, and in some areas one out of every 10 children born die before reaching their first birthday. Although there are wide variations between and even within countries, more than 3000 small children die every day in Latin America and the Caribbean. Deaths of young children could be reduced dramatically utilizing preventive medicine which is currently available. The abandoned child constitutes a most painful social reality in our countries. Behind every abandoned child there is an abandoned family of an unwanted pregnancy. The abandonment, if not addressed, leads to anti-social behaviour. The prevention of abandonment requires policies of economic, social, educational, cultural and moral reinforcement of the family. Assistance to the abandoned child should be provided within the family whenever possible, or in a substitute family, be it by adoption of by foster parents, and only as a last resort by institutionalization.

#### OBJECTIVES

11. In view of the concerns and challenges describes above, the Conference addressed itself to the following objectives:

To promote cooperation and collaboration among parliamentarians of the Western Hemisphere \* \* \*.

To improve the quality of life of the people of the Western Hemisphere, by pro-

moting equitable and rational population

and development policies.

To encourage the adoption of legislation which will rationalize internal and international migration policies, improve the status of women, and provide greater protection to children.

#### A CALL

12. To achieve these objectives, the Conference calls on:

Parliaments of the region to:

Establish National Committees of Parliamentarians on Population and Development which can:

Increase understanding among parliamentarians of the inter-relationship between population and development.

Promote a dialogue between parliamentarians and social, economic, and population

planners and administrators.

Review, propose, and modify-according to the needs of each country-legislation that relates to population and development. Government of the region to:

#### POPULATION AND DEVELOPMENT

13. Strengthen and expand socio-economic development programs and ensure that development is directed toward reducing social and economic disparities, thus helping to build more equitable societies.

Ensure that all individuals can exercise their basic right to decide freely and responsibly the number and spacing of their children, by providing family planning information and services. Family planning services must be voluntary and be provided in ways that respect human dignity, individual rights and spiritual values.

Include parliamentarians in official delegations to the United Nations and other conferences, particularly the United Nations Population Conference to be held in Mexico

City in 1984.

Establish National Population Councils which can serve as a focal point for the initiation and co-ordination of population and development policies.

#### MIGRATION

14. Encourage more balance growth by formulating national and regional development plans which promote the growth of smaller and intermediate sized cities and give priority to development of rural areas.

Improve the quality of life in marginal urban settlements by adopting policies designed to solve the problem and, in any event, to provide basic social services

Support the efforts of the United Nations to conclude an international treaty on international migrant workers, and in the meantime, encourage both origin and destination countries to negotiate bilateral or multilateral agreements in respect of international

#### THE STATUS OF WOMEN

15. Guarantee full equality of women and men under the law and in actual practice. To ensure such equality, family codes, employment laws, and other legislation should be examined and those which discriminate against women or men should be modified. Where appropriate, equality between men and women should be guaranteed by the constitution of each nation.

16. Emphasize in primary health care programs, services for women, including family planning information and services as well as care for pregnant women and lactating

mothers.

#### THE PROTECTION OF CHILDREN

17. Give high priority to those health interventions which can save children's lives and protect their health. Among these are: family planning, immunization, oral rehydration therapy; also implement the recommendation of WHO concerning breast feed-

18. Improve the social and economic conditions which provide a basis for the welfare of children, particularly, housing, nutrition, sanitation, domestic water supply, primary education, recreation and strengthening family structure.

19. Develop programs to reduce the inci-

dence of adolescent pregnancy.

20. Support the Inter American Institute of the Child in its programs to improve and modernize birth registration and adoption procedures.

Governments of the world to:

21. Increase the overall amount of development assistance and, in particular, to increase the allocation of international assistance to social programs including populathe United Nations recommendation that the governments of the developed nations devote at least 1 percent of their gross national product to development assistance, and reaffirms the call of the Colombo Declaration on Population and Development to achieve an annual target of one billion dollars for population assistance in 1984.

Development banks, intergovernmental agencies, and nongovernmental organiza-

tions to:
22. Increase their financial support for government and nonorganizations in the countries of the Western Hemisphere, in order to sustain and expand projects and programs in population and development.

Support the organization of similar conferences in the Western Hemisphere region at least once every three years; and also to support a World Conference of Parliamentarians on Population and Develop-

ment in 1984.

24. Support the establishment of national committees of Parliamentarians on Population and Development and a regional Forum of Parliamentarians on Population and Development which will promote the activities of parlimentarians in the countries of the region and will coordinate the exchange and dissemination of experiences of the various national committees.

#### COMMITMENT

25. We, the Parliamentarians at this Conference, in our capacities as legislators, representatives of our people, and leaders of the community, commit ourselves to:

Create national awareness and under-standing of the relationships between population and development particularly among parliamentarians in our own countries.

26. Promote the formation of national committees of Parliamentarians on Population and Development, and participating

fully in their activities.

27. Request the Steering Committee of this Western Hemisphere Conference to coordinate the actions of Parliamentarians on Population and Development in the Western Hemisphere region; and urge it to maintain close contact and cooperation with the UNDP, UNFPA, IPPF, OAS, UNICEF, WHO, World Bank and other relevant orga-

28. Encourage the passage of legislation necessary to improve the status of women, to provide better protection for children, to rationalize patterns of migration both within and among countries, and to integrate population considerations into development planning.

29. Finally we commit ourselves to initiating and pursuing the actions required to realize the aims and objectives of this Declaration of Brasilia.

INDICTMENT OF CUBAN OFFI-CIALS FOR NARCOTICS SMUG-GLING

## HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. FASCELL. Mr. Speaker, I would like to take this opportunity to bring to the attention of our colleagues a recent development in the continuing fight against illegal narcotics trafficking. Last month a Federal grand jury in Miami handed down indictments against 14 individuals-including four high-level Cuban Government officials-for involvement in the international narcotics trade.

These indictments mark a welcome, forceful step in the struggle by the United States against the international drug scourge. For the benefit of our colleagues, I would like to place in the RECORD at this point two informative articles from the New York Times and the Washington Post.

[From the New York Times, Nov. 6, 1982] U.S. DRUG CHARGES CITE FOUR CUBAN AIDES TEN OTHER MEN INDICTED IN MIAMI IN LARGE-SCALE SMUGGLING

(By George Volsky)

MIAMI.-Four high-ranking Cuban officials, including the chief of the Cuban Navy. were among 14 people indicted here today on Federal charges of smuggling narcotics into the United States.

Stanley Marcus, United States Attorney for the Southern District of Florida, who announced the indictment, said he believed this was the first time an official of the Government of President Fidel Castro of Cuba had been charged with such offenses. He said the indictment was strictly a criminal matter and was not a foreign policy maneuver.

A Cuban official in Washington said today that the charges against the four Cubans were "all lies." There was no immediate comment from Havana.

#### BASED ON 3-YEAR INVESTIGATION

While officials here would not comment for the record, the indictment was preceded by a three-year investigation by agents of the Drug Enforcement Administration.

Peter F. Gruden, head of the agency's Miami office, said the case "is important in view of the substantial amount of drugs involved." According to the indictment, more than 5 million methaqualone tablets and more than 1,000 pounds of marijuana were smuggled into Florida in two separate operations between the fall of 1979 and January 1981.

Mr. Gruden said the four Cubans indicted are presumably in Cuba. It was considered unlikely that the four would come to the United States to face trial.

Eight of the 10 others indicted, mostly Cuban-Americans, were reported in Federal

Before this year Cuban officials have not been linked to drug trafficking. But in April Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, said the United States had evidence that Cuban intelligence authorities were using drug trafficking as a guise for running guns to guerrillas in Latin America.

The Cubans indicted were:

Vice Adm. Aldo Santamaria Cuadrado, who is also a member of the Central Committee of the ruling Communist Party of

René Rodriguez Cruz, another Central Committee member, who is president of the Cuban Institute of Friendship with the Peoples, the government agency that coordinates activities of foreigners visiting Cuba;

Fernando Ravelo Renedo, who used to be Cuba's Ambassador in Bogota, Colombia, and who is now a high offical in the Foreign Ministry;

Gonzalo Bassols Suarez, minister-counselor in the Bogotá Embassy at the time of the activities charged in the indictment

One of those indicted, Jaime Guillot Lara, a Colombian, is reputed to be an international drug trafficker, and his whereabouts are unknown. He was arrested several months ago in Mexico, charged with smuggling. He is also wanted by Colombia, where he has been accused of smuggling arms from Cuba for Colombian leftist guerrillas. But late last month he was released by Mexican authorities and left Mexico City for Spain, from which he traveled to an unknown destination.

#### NINE CUBAN-AMERICANS CHARGED

The nine others indicted, all Cuban-born Americans, were David Lorenzo Pérez Jr., Hector Gonzalez Quinones, Jorge Felipe Llerena Delgado, Jose Domingo Martinez Valdes, Jose Rafael Martinez, Cornello Ramos Valladares, Alberto Cortes, Levinio Orobio Michelena and Julian Losanda.

Of the nine Cuban-Americans, only Mr.

Losada is at large, according to Mr. Gruden. The indictment asserts that the 14 con-"to commit certain offenses against the United States." Part of the conspiracy was purportedly an agreement between Ambassador Ravelo, Mr. Bassols, Mr. Rodriguez Cruz, Mr. Guillot and others to "use Cuba as a loading station and source of supplies for ships transporting methaqualone tablets and marijuana from Colombia to the southern district of Florida, by way of Cuba."

According to the eight-count indictment, Admiral Santamaria and others "would supervise, in Cuba, the protection and resupply of ships transporting methaqualone tablets and marijuana" from Colombia to the

United States. Admiral Santamaria and Mr. Rodriguez Cruz are known to be close friends of President Castro. Both belong to a small group that was the core of the guerrilla movement under Mr. Castro that overthrew the dictatorship of President Fulgencio Batista in

A State Department source said today that the Justice Department had discussed the case with the State Department before obtaining the indictments. Another State Department official said he could not say whether Washington had been in touch with Havana about the case.

Mr. Marcus also said that once criminal charges were filed against an individual, he could be arrested at any time. "The U.S. may be able to apprehend them in another country," he said.

In response to the indictment of the four Cuban officials, Miguel Martinez, the press officer of the Cuban Interest Section in Washington, which handles Cuban affairs in the absence of an embassy, said today: "It is all lies. There is not a single truth in those allegations and that's that."

Asked to discuss the indictments further, Mr. Martinez said, "We are not going to elaborate.

In a telephone interview, Mr. Marcus, the United States Attorney, said the indictment of the Cuban officials simply represented the "application of American law by the grand jury" and was in no way a foreign policy maneuver. "I'm not involved with foreign policy," he said.

[From the Washington Post, Nov. 6, 1982] FOUR CUBAN OFFICIALS INDICTED IN DRUG SMUGGLING

#### HAVANA SAID HAVEN FOR COLOMBIA GOODS (By Mary Thornton)

Two members of the Cuban Communist Party Central Committee and two other high-level Cuban officials were among 14 persons indicted yesterday by a federal grand jury in Miami on charges of conspiring to import marijuana and methaqualone from Colombia to the United States by way

of Cuba.

The Cuban officials were charged with allowing Cuba to be used "as a loading station and source of supplies" for drug smugglers bringing drugs from Colombia to the United States from 1978 until April of this year.

The indictments marked the first time that Cuban officials have been formally accused of drug trafficking, although there have been widespread reports that the Castro government was heavily involved in smuggling drugs from Colombia to the United States via the communist island nation.

The Reagan administration announced last month that it intended to get tough on drug traffickers by setting up 12 regional task forces covering the country with 1,200 new agents and prosecutors

Drug Enforcement Administration officials said yesterday that they decided to seek indictments against the Cuban officials to draw attention to the role of the Castro government in drug trafficking in the Americas. Sources said there is little hope of prosecuting the Cubans, since the United States does not maintain diplomatic relations with Cuba.

Jim Judge, a DEA spokesman, said the indictments followed a three-year investigation. During that period, he said, Colombians brought into this country 2.5 million pounds of marijuana, 23 million methaqualone tablets, known as Quaaludes, and 80 pounds of cocaine. Those drugs would have a street value of more than \$800 million, officials said. Much of the marijuana and methaqualone came through Cuba.

A DEA source alleged that the smugglers were led by a Colombian named Jaime Guillot-Lara, also indicted yesterday, who is accused of paying off Cuban officials so that his boats could stop at Cuban ports for supplies and refueling.

In return, the source said, Guillot-Lara was allegedly paid by Cuban officials to smuggle arms to the M19 leftist guerrilla movement in Colombia. One of his boats was seized by the Colombian government in 1981 with 100 tons of weapons aboard.

Guillot-Lara was wanted by U.S. authorities for a 1978 drug indictment and by Colombian authorities on weapons charges. He was arrested last year in Mexico City and charged with being involved in terrorist activities. But Mexican authorities released him last month. He fled to Spain and is believed to be in hiding in Europe.

The Justice Department has sent a formal protest to the Mexican government over his

A DEA source said that all of the boats allegedly used in the operation were renamed "Viviana" and that the Cuban navy was under orders not to fire upon any boat bearing that name.

The Cuban officials named in the indictment include:

Rene Rodriguez-Cruz, reportedly an official of the cuban intelligence member of the Cuban Communist Party Central Committee and president of the Cuban Institute of Friendship with The Peoples. It was in the last capacity in 1980 that Rodriguez helped organize the boatlift of nearly 125,000 Cubans to the United States as refugees-including some convicts from Cuban jails.

Aldo Santamaria-Cuadrado, also known as Rene Baeza-Rodriguez, who the indictment identifies as a vice admiral in the Cuban navy and a member of the Cuban Communist Party Central Committee. He "would supervise in Cuba the protection and resupply of ships transporting marijuana from Colombia to the United States by way of Cuba," the indictment says.

Fernando Ravelo-Renedo, Cuban ambassador to Colombia until the embassy in Bogota was closed as relations between the countries worsened in 1980. He is godfather of a 2-year-old daughter of Colombian drug trafficker Juan (Johnny) Crump. Crump is now in the federal witness protection program.

Gonzalo Bassols-Suarez, identified as a former minister-counsel of the Cuban embassy in Bogota and a member of the Cuban Communist Party.

A DEA source said that Rodriguez-Cruz and Santamaria-Cuadrado are both close associates of Cuban President Fidel Castro.

Two of the men indicted were arrested yesterday in Miami. They were Cubans Jose Domingo-Martinez and Alberto Cortez.

Others indicted include five Cubans who are already serving time in American prisons on drug charges: Cornelio Ramos-Valladares, David Lorenzo-Perez, Jorge Felipe Llerena-Delgado, Jose Rafael Martinez and Hector Gonzales. A Colombian named in the indictments, Levino Orobio-Michelena, is also in a U.S. prison on drug charges.

Another indictment listed charges against Julian Losada, who is still in Colombia.

#### RAILROAD RETIREMENT LEGISLATION

## HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. FLORIO. Mr. Speaker, I have today introduced legislation which addressed the serious financial problems currently facing the railroad retirement system. As a result of the serious recession this Nation is now in, employment in the railroad industry has dropped by 70,000 in the last year and a half-a decrease far in excess of what anyone could have predicted. This decrease in employment has, in turn, resulted in decreased payroll tax revenues to the railroad retirement SOME COMMONSENSE FROM LLOYD McBRIDE

## HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. MURTHA. Mr. Speaker, this week United Steelworkers of America President Lloyd McBride appeared before the Congressional Steel Caucus. His testimony was an excellent presentation of problems facing the steelworkers, and in particular how the TRA program has been cut back to the point where it has been destroyed.

Mr. McBride began with a very concise overview of the steel situation facing our Nation.

The American steel industry and its employees are locked in an economic depression unlike anything since the 1930s. The outlook for the immediate future is bleak and no one has any idea of when or how the steel industry will recover. Many of our members—some 120,000—are facing economic disaster . . . Another fact that you already know is that at a time when our industry is operating at below 40 percent capacity, steel imports are approaching record highs, averaging 22.4 percent of our market which is about 25 percent higher than last year.

Mr. McBride moved from there to look at the cutbacks in the TRA program and how that has adversely affected the steelworkers across the United States. Mr. McBride noted that "TRA was based on the idea that workers who were injured because of liberalized international trade policies should receive special consideration in an effort to help them adjust to changing trade patterns," but went on to conclude "for all practical purposes those special considerations and, in fact, the whole notion underlying TRA have been largely eliminated."

Mr. McBride outlined that since late 1981, the union has filed TRA petitions covering 93 steelmaking facilities. The scoreboard since then shows: 2 cases certified by the Labor Department plus 2 partial certifications; 7 petitions have been denied; 84 petitions remain pending, some for as long as 14 months.

Mr. McBride concluded that:

The combination of adverse administrative actions and legislative cuts have all but eliminated TRA as a viable program for workers subject to trade-related unemployment.

He added these recommendations:

First, review the critieria used by the Labor Department in determining TRA certification in order to identify and correct any flaws in that criteria. At the very least the Labor Department should be requested to review its criteria and methods in light of exising circumstances and steel import levels;

Second, examine the Labor Department's long lag time in making a determination on TRA certification; and

Third, address the question of should we have a trade adjustment assistance program or not. This would involve a series of hearings and investigations that could contribute to any final decision on the TRA program which is scheduled to expire in September, 1983.

I have talked to many steelworkers in the area I represent who are frustrated by this inaction in the TRA program. I believe we need a strong, active TRA program and will certainly be working for that goal in the coming Congress.

OUR FEDERAL BUDGET: A CALL TO ACTION

# HON, JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. JONES of Oklahoma. Mr. Speaker, Robert D. Kilpatrick's speech of December 8, entitled "Our Federal Budget: A Call To Action," merits careful consideration. Mr. Kilpatrick points to the dangers to our economy if we do not control Federal spending and reduce the staggering deficits that we face if we leave the Federal budget on automatic pilot.

Mr. Kilpatrick believes, as I do, that "Americans are willing to do their fair share, to sacrifice if others do, to tighten up if it is done as part of a program to strengthen the Nation." have called for a national needs budget that would encompass some of the recommendations made by Mr. Kilpatrick. I hope my colleagues will read Mr. Kilpatrick's speech because I think it represents a substantial concern that the business community, in particular, and the American people in general have with the need for a sound and effective fiscal policy that will promote economic growth.

OUR FEDERAL BUDGET: A CALL TO ACTION
(By Robert D. Kilpatrick, President and
Chief Executive Officer, CIGNA Corp.)

I very much appreciate the invitation to join you this evening. I know that every visitor who comes to Washington has heard more than his fair share of economics speeches. Therefore, I shall try to be as brief and direct as I can be.

I want to underscore my strong support for the work you are discussing. This conference comes at an important time for me, for the Business Roundtable, and for my company, CIGNA Corporation. If all of the construction industry cost effectiveness recommendations are addressed, savings of \$10 billion a year could be achieved. That means that you've got your eye on the ball. Those kinds of savings are of particular interest to folks like me who are involved in financing and insuring much of the construction of this nation. My company, CIGNA, is very much involved in the development of your business. And indeed we are currently building over one million square feet of new office space for our own use. My own experience is an example of why the Chief Executive Officers of the Business Roundtable are

action. As a result, the Board may face the need to reduce benefits in fiscal vear 1984. Of course, Congress will do its utmost to prevent that from happening. I expect that rail labor and management will come to a prompt agreement on recommendations to solve the financial problems facing railroad retirement and that Congress can act on those recommendations early in 1983. But-let me make this clear-if no agreement is reached promptly, Congress will not sit idly by and let benefits be cut. I am particularly concerned that rail management may believe that no action is necessary at this time, since under the law, benefits are cut automatically if there is a cash

Under section 22 of the Railroad Re-

tirement Act, the Railroad Retirement

Board has the authority to reduce

benefit payments if, in a particular

fiscal year, the Board projects there

will be insufficient funds to pay full

benefits. As a result of the recent large

and thus payroll tax revenues-caused

by the current recession, it is possible

that there will be a cash shortfall in

fiscal year 1984, absent corrective

reductions in railroad employment-

shortfall. As the introduction of this legislation should show, Congress will not let that happen.

However, if the Board is faced with a financial crisis, its sole option at the present time is to reduce benefits. This is grossly unfair to railroad retirees. To remedy this inequity, this bill would amend section 22 of the Railroad Retirement Act to require the Board to raise taxes at the same time

would amend section 22 of the Railroad Retirement Act to require the Board to raise taxes at the same time that it reduces benefits, if it is ever forced to take such emergency action. Under this bill, the tier II—or private pension component—payroll tax paid by employers would automatically increase by 3 percent and the tier II payroll tax paid by employees would automatically increase by 1.5 percent, simultaneously with any reduction in

benefits.

This would result in greater equity, as all parties—including the carriers—would have to share the burden. In addition, the increased taxes would add revenue to the system, minimizing any benefit cuts that would be required. While it is my expectation such emergency action will never take place, it is clear that if it ever does, it is most unfair and inequitable to have railroad retirees bear the full burden of a cash shortfall beyond their control.

While this bill would make any emergency action more equitable, we must avoid the need to take the sort of emergency action contemplated by section 22. Thus, I urge rail labor and management to promptly submit joint recommendations to Congress which address the financial problems of the railroad retirement system.

fully committed to and supportive of the CICE project and objectives.

More important, your business is fundamental to the growth of the nation's economy. We can take some modest pleasure that spending on new construction rose 1.1 percent in October, the biggest gain since June. Some of the other indicators are also beginning to point upwards.

So, there may be some light at the end of the tunnel. Our problem is to make sure it's not merely the headlight of a train coming

the other way.

What do I mean? Simply this. The longterm health of the construction business, the financial services and investment businesses, and of the entire nation depends on the vitality of private capital-raising and investment activity. Yet our national fiscal and monetary policies over the past decade have not been adequately indusive to capital formation.

The problem is clear. We have for many months endured a severe recession. We are showing early signs of recovery. But the federal budget continues to be out of control. We can't afford to carry government spending and debt at these levels and have the needed resources left to restore the private sector of our economy. At current and projected levels of federal budget deficit—\$175 billion in Fiscal Year 1983 and over \$200 billion in Fiscal Years 1984 and 1985-the resources of our country won't be committed to increases in productivity. In 1974 the federal deficit was only \$6 billion, the closest to a balanced budget in the last decade. When compared to the total spending that year the deficit was four-tenths of one percent of the Gross National Product. During the Fiscal Year that just ended, the deficit was \$110 billion and four percent of the GNP. This is a tenfold increase since 1974. At this we will be trapped by servicing the highest debt levels in our history.

I recently attended a meeting with the President at which Martin Feldstein, Chairman of the Council of Economic Advisers, reported that federal borrowing needed to service these deficits would soak up 75 percent of all private savings. I don't need to tell you what that would do to the cost and availability of investment funds for business, especially your business. Every dollar that the Federal Treasury borrows is a dollar that is not being spent on new plant and equipment, money that is not available to put people to work. There would be real crowding out of private investment, just at the time the economy is trying to begin a sustained recovery. That's the train coming

the other way.

The private sector simply cannot sustain such a distortion in federal taxing and spending. When the cost effectiveness study was initiated four years ago, how many of you would have contemplated federal spending in excess of \$2 billion a day? In the 1984 fiscal year we will edge close to our first trillion dollar budget. Since 1975, federal spending has more than doubled and is consuming a larger portion of the GNP.

Let me give you a snapshot of the federal budget. The automatically appropriated entitlement programs—Social Security, Medicare, Medicaid, Veterans' Benefits, Food Stamps—when added to contracts that the federal government has become obligated for, amount to 45 percent of the budget. Social Security alone—the largest single entitlement—amounts to 23 percent of the

budget.

The second category is national defense. Defense spending accounts for 29 percent of the budget. Add the 14 percent of the budget which is the necessary interest to pay for the debt, and we find that a staggering 88 percent of our three-quarters of a trillion dollar federal budget is in the so-called "untouchable" area.

These so-called uncontrollables or sacred cows cannot be sacred any more. We simply will never see another balanced budget without reductions in the planned increases for defense and Social Security which are each scheduled to exceed \$1 trillion over the next five years. We simply do not have enough discretionary programs with room left to be cut.

I have described this composition of our budget to make a basic point. The federal budget is virtually on automatic pilot, and it's headed toward disaster. The problem is not just restraining spending. It's worse than that. The problem is cutting back on the pre-programmed spending which already consumes 88 percent of the budget, is growing steadily, and will require positive action to be brought under control. There are some obvious solutions, and I will discuss them briefly. Our difficulty is not in recognizing what must be done, but in putting our national interest above the political difficulty of taking the action needed.

For a Senator or a Congressman or a business leader to recommend changes in entitliments or defense or revenues is to invite harsh criticism. That's understandable. People fear changes in entitlements, our defense is vital to our security, and we are already taxed heavily. The point is that there is a greater danger than inaction, and that is the crippling effect of triple digit deficits. We have to discuss the national interest in the face of such a threat. I believe the President is the best defender of our national interest and the single person best suited to take unpopular steps for the country's interest.

I strongly believe that Americans are willing to do their fair share, to sacrifice if others do, to tighten up if it's done as part of a program to strengthen the nation. The President will find that the American people prefer strong leadership with bad news but a way to solve the problem. I think a major television address describing the dimensions of the serious crisis we face would produce political support for the President's efforts.

What must be done? The answer is everything! This means a balanced economic package which takes something from all of us and to which we all contribute.

Further reductions in spending must be the first priority. I realize that Congress and the Administration have teamed up during the past two years to begin to turn back the spending patterns of the last twenty years. But we simply have not gone far enough, as our triple digit deficit makes clear. And some dublous reductions, through such practices as overestimating management savings or tax receipts, or by shifting costs between sectors, are not the answer. Tough program reductions on an across-the-board basis, with no area of the budget being held sacrosanct, are what is needed.

Take Social Security, for example. Benefit growth has grown dramatically in recent years. In 1970, Social Security expenditures were \$34 billion and consumed 17 percent of the federal budget. Today those costs are \$172 billion, and they absorb over 20 percent of the budget. Unless growth is slowed, it is projected that Social Security costs will total \$400 billion by the end of this decade.

To pay for these benefits, workers and employers have been forced to shoulder an incredible weight. In 1970, the maximum posible tax on a worker was \$374. Today, it is \$2,170 and by the end of the decade it will be almost \$8,000. As we so well know, this tells only half the story because each employee dollar is matched by one from business.

Even though some individuals pay more Social Security taxes than federal income taxes and even though Social Security taxes are adding weight to business's burden during a time of record business failures, the Social Security system is going broke. Actuaries predict that the retirement fund will require an additional \$75-200 billion over the next five years. And the picture for the long-term is even bleaker. Where five workers are barely able to support one today, only two-and-one-half workers will be around to pay for each beneficiary in forty years.

Let me deal candidly with the element of fear in discussing Social Security. We are not talking about cutting benefits. We are talking about preserving the Social Security system so that current beneficiaries receive their checks. And we are talking about the changes necessary to ensure that today's young people have a solid system intact for their retirement. That basic security is essential. We cannot have it if we continue to expand without control. We will have to grow more slowly. We will have to restrict the rate of increase in benefits. We must do this to save a system which faces bankruptcy. The American people, I am sure, will choose a healthy Social Security system expanding more gradually to one on the rocks which threatens our future security. That's the hard truth, but if we face it we can protect both our elderly and our youth.

The other large area of federal spending is defense. Defense is the single most important part of our budget. It's the one category we can honestly say must come first, because without a strong national defense in this world all else is threatened. But national security also requires a strong national economy, and our economy is threatened by the crushing weight of our deficits.

Current budget requests call for defense spending to double by 1987 when it will consume 31 percent of the federal budget and 9 percent of GNP. While I support a strong defense I also underscore that our federal budget cannot admit any sacred cows. Unless we change the projected growth in defense spending it will grow twice as fast as all other federal spending during the next five years. I know that we can remain strong and yet grow more slowly. As part of a fair package of budget reform, defense must be included.

Slowing the growth of entitlement programs and defense spending simply cannot be avoided—I repeat, cannot be avoided.

As I observed, entitlements, defense, and interest on the debt amount to over three-fourths of the federal budget. There just is not enough room in the rest of the budget for significant spending cuts which will reduce the deficit. Let me give you an example. You are well aware of the Administration's aggressive campaign to curtail waste, fraud, and abuse. The Administration now calculates that its effort has saved \$8 billion—an impressive achievement, but not much of a dent in a \$175 billion deficit. If we continue to concentrate on only non-defense and non-entitlement spending, whole programs and departments will have to be eliminated, including education, conserva-

tion, housing assistance, road construction and foreign aid. I think you will agree that this is a fruitless endeavor. If there is one message I want you to take away this evening, it is that entitlements and defense spending must be subjected to the same budget discipline that has already been visited upon the discretionary parts of the budget.

Finally, let me talk about taxes. Business strongly supported the steps taken by the Administration and Congress to spur investment, savings and capital formation in 1981 even though we thought further business tax incentives could have been added. Many in the business community also reluctantly lined up behind the President earlier this year in support of the 1982 tax bill as a means to reduce the projected budget deficit below a \$100 billion threshhold, even though many viewed the legislation as a retreat. I personnaly do not think further tax increases are the answer. Additional taxes on business will only serve to deter our economic recovery and future growth. Spending cuts must be the first priority. Yet in the vein of common sacrifices for the national good, revenues may have to be part of a general package designed to attack the deficits.

The bottom line of my message to you tonight is a call to action—a call for action by the President, the Congress and the business community. Only the President can take the lead to effectively restrain budget growth. He has to communicate to Congress and the American people that uncontrollable deficits are unaffordable.

As for Congress, the political squabbling must end. Congress must begin to work with the President on a bipartisan basis. Only immediate action to slow the growth of entitlements and defense will send the right signals to the marketplace and the financial community. We must see a convincing pattern of future deficits sloping toward zero.

The nation badly needs a broad public constituency behind the drive for budget constraint. Business must put management of the federal deficit at the top of its agenda, and so must every other interest group. It's simply too important to leave to someone else, and there is not one else. Nor is there more time. We're about to begin 1983. It will be a critical year. And before it ends, the politics of 1984 will be with us. The time for action is right now! It is your job and my job to do whatever is necessary to convince members of Congress and the Administration that our country cannot afford the budget deficits facing us in the next few years. I am confident that our country will not hide from reality and ignore a real danger. The danger is here, and I invite all of you to put the national interest first. Let's stand up for our future and be remembered as having shown political courage when it mattered.

SOVIET WATCH: SPEAKING OF BREZHNEV AND DEATH

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. FIELDS. Mr. Speaker, I enter into the Record the following for the benefit of our colleagues:

[From the Washington Times]
Speaking of Brezhnev and Death

(By David Brudnoy)

Boston.—All tyrants should go out to such pleasantries. Of Leonid Brezhnev it was said that he was "a lusty and vigorous man" (John J. McCloy), that he was "a warmhearted man" (Armand Hammer), that his life was "meritorious" (President Mauno Koivisto of Finland), that he was "well-briefed" (Haroid Wilson), that he was a "dedicated leader who relentlessly worked for his country" (Egyptian Minister of Foreign Affairs Boutros Ghali), that he "devoted every effort to world detente and to the strengthening of cooperation between states" (UN Secretary General Javier Perez de Cuellar).

Jimmy Carter and Ronald Reagan mouthed pap that amounts to nothing, but Richard Nixon said the truth of Brezhnev: "As a Russian he was warm, effusive and ebullient. As a communist, he was a ruthless schemer and relentless aggressor." Gotta hand it to Dick Nixon, he knows how to put those world leaders into perspective. (See Nixon's recently published book on leaders if you have any doubt about that. In fact, make no mistake about it....)

The art of saying nothing ill of the dead is venerable, probably more than casually useful in the world of diplomacy, and yet so at variance with the commonly accepted canons of truth that, presumably, normal people never quite get the hang of it, except maybe when some relative they've always loathed dies and they have to face the bereaved and not grin.

Examples of utter balderdash uttered about the recently departed are legion and certainly anybody can think of some that particularly tickle the funnybone, though possibly our contemporary eulogizers, like those quoted on Brezhnev above, would best be able to speak nothing but good of the dead of all ages. Consider some choice reflections on the recently dead by that paragon of rectitude and even-handedness, the secretary general of the United Nation, Sr. Perez de Cuellar, who thinks Mr. Brezhnev "devoted every effort to world detente and to the strengthening of cooperation between states."

Of Lizzie Borden, Sr. Perez de Cuellar would say: "She honed her household utensils as she honed her wit, and drove deeply into the consciousness of her parents, leaving an indelible impression on them as on her community."

Of Tokyo Rose, the good secretary general would say: "She devoted her life to informing a waiting, watching world of events throughout the world, bringing messages of comfort and welcome to lonely hearts of lonely valiant soldiers far from their homes and much in need of succor."

Of Attila the Hun, friend Javier Perez de Cuellar would say: "He strode forth with determination and firm insistence on upholding his values and those of his people, and in bringing the message of the Hunnish people to neighboring lands, he saw to it that no stone was left unturned lest anyone be ignorant of his purpose."

Of Pontius Pilate, the chief officer of the United Nations would probably have said, if given the chance: "He stood foursquare for the brilliant value structure of the empire which he served so nobly, and in carrying out the sometimes awkward assignments that fell to him owing to his high station, he always gave the people a choice so that they, too, could participate in the affairs of

state. His best remembered trial ensured him a place in the history of mankind."

And one day, of the likes of Sr. Perez and those others who can't call a mass murderer, like Brezhnev a mass murderer, may it be said: "They hadn't a clue about common honesty and intellectual decency, and they went out sniveling like the hypocrites that they were."

#### TRIBUTE TO BESS TRUMAN

# HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. FORD of Michigan. Mr. Speaker, the death of Bess Truman saddened me a great deal. She was an outstanding woman who lived a long, full life, and was loved and respected by people all across the United States.

Although quiet and unassuming, Bess Truman left her mark on America. The former First Lady was best known for her quiet dignity and her marvelous sense of values. I think that the Washington Post editorial on Bess Truman expresses my thoughts very clearly. I would like to call it to your attention at this time.

#### ELIZABETH WALLACE TRUMAN

Women under 30 may wonder why Bess Truman, who died in Kansas City, Mo., this week at the age of 97, was an object of such affection and respect for those with a memory of postwar America. Surely she was not a political power in her own right, like Eleanor Roosevelt, or glamorous and exciting, Jacqueline Kennedy. She had no causes of her own, no protégés, no press conferences. Her husband said she looked "just the way a woman who has been married 25 years should look," and she described the role of first lady as requiring that a wife "sit beside her husband, be silent and be sure her hat is on straight." Why, then, was she so special to us?

In the years immediately following the turbulence of Depression and world war, Americans found reassurance and inspiration in the virtues Mrs. Truman personified. She was from the heartland and appeared to cherish all the good values of small-town America that we like to believe are universal in this country. She was warm, modest, friendly and home-loving. Her family came first, and that feeling was reciprocated by her husband and daughter. There is something touching about childhood sweethearts who marry, have a family, live in a white clapboard house and are still holding hands and enjoying private jokes on their 50th wedding anniversary. If President Truman held a personal grudge against anyone— public figure or private citizen—who had anything bad to say about his "girl," as he called his wife, we think better of him for it, and envy her.

Mrs. Truman had a sense of duty, dignity and quiet pride, and a sense of proportion. She was correct and gracious about everything she did in the White House and she served the country and her husband well. When it was all over, she was delighted to return to Independence, to her friends and to privacy. Within hours of leaving office, she was telling the former president to "go

up into the attic and put away the suit-

In each of our families there is a woman who looks rather like Bess Truman and who embodies the same down-to-earth virtues. She reminds us of someone we love—a mother, a teacher, a favorite aunt. We mourn her not so much as a public figure but for what we knew of her private role as a wife, mother and model for so many women of her generation.

### GARY A. LEE

# HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

• Mr. MITCHELL of New York. Mr. Speaker, I would like to take this opportunity to pay tribute to my colleague and good friend, Congressman Gary A. Lee. Although Gary will not be returning to Congress in 1983, he has certainly left his mark during the two terms he has served in the House of Representatives.

Gary came to Congress in 1979 with a solid background in State and local government. Drawing upon this experience, as well as his immense reserves of energy, imagination and enthusiasm, Gary became an active and ag-

gressive Member of Congress.

During his years in House of Representatives, GARY has been a forceful advocate of restrained and responsible Federal policy. With an ever-watchful eye, Gary has closely guarded the concerns of American taxpayers and citizens. As a member of the Energy and Commerce Committee, he worked to acheive an orderly transfer of the Conrail railroad system to private ownership. As a member of the House Administration Committee, he has kept a close watch on the practices and policies of this legislative body. He has fought welfare fraud and abuse. He has proposed serious reform of congressional compensation procedures. He has represented his constituency well and effectively. He will be missed.

I wish him much good fortune in all future endeavors. I am sure he will be as successful in them as he was here in the House of Representatives.

# THE UNDEMOCRATIC HOUSE

# HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. DANNEMEYER. Mr. Speaker, it is indeed a bitter irony that, at a time when the American public grows increasingly weary, restless, and angry because they feel that—regardless of who is in power—their voices are not heard here in Washington, the majority party finds a way to make these

voices even less audible. Rather than fashioning a more democratic (with a small "d") system whereby the public will can at the very least be given a proper hearing, the majority is attempting to further circumvent any such contact with the "rabble" of this Nation.

This autocratic power grab, under the guise of innocent-sounding "rules changes," is somewhat reminiscent of previous governments in history which retrenched when confronted with the stirrings of popular democratic spirits. And, if we recall that history, those governments were ultimately over-thrown by those same citizens whose rights had been abridged and whose yearning for some element of democracy had been stifled. France, Austria, Russia, Germany, Italy-most of continental Europe suffered the consequences during the 19th century. And of course there is always the example of how a few contemptuous brigands had the gall to rebel when they were forced to pay taxes without being properly represented

This body has already suffered years of inequity due to the failure of the majority to provide committee memberships in proportion to party ratios in the whole House. This has been bad enough; considerable legislation has waltzed through committees which otherwise would have undergone more diligent scrutiny had committees been

properly apportioned.

But this adds insult to injury. Proposed rules changes will impose nothing less than one-party rule here in the House. Naturally, from the perspective of the majority party, it will be easier to pass legislation favorable to that side, the changes will facilitate the handling of controversial matters, and the legislative process will, ostensibly, be speeded up. But there are risks for the majority as well. There will no longer be any doubt in the public mind where responsibility will rest for every measure that passes muster under these new rules. Every thwarting of the public will-be it the stifling of balanced budget constitutional amendments or the ramming through of odious appropriations schemes-will bear the indelible stamp of the majority party upon it.

The attached statement issued December 10 by the House Republican leadership spells out the proposed changes and why they serve to undermine democracy in this body. This action is a travesty of governmental ethics and makes a mockery of our democratic process. And it is certainly beneath the dignity of any party which calls itself Democratic with a capital "D."

# STATEMENT BY THE HOUSE REPUBLICAN LEADERSHIP

The proposed changes in House rules adopted by the Democratic Caucus this week are an exercise in political expediency

that will concentrate more power in the hands of the Speaker and further erode the democratic process in the House.

These new rules extend years of steady and systematic assaults on free and open debate and the rights of the minority in the House.

To deny Members of either party their right to influence the expenditure of public funds or vote on the merits of proposed Constitutional amendments or be alerted to and informed of critical legislative issues before the House is inexcusable and indefensible.

There is a clear distinction between rules changes designed to streamline and expedite legislative proceedings and those intended to subvert the process. The Democratic rules changes make no major contribution to the improved management of the House or the flow of legislation, but they do make major assaults on the Members' abilities and rights to influence the legislative process.

Making the House of Representatives more effective and more productive cannot be the ultimate goal of rules that muzzle the Membership.

Specifically, the amendment to Rule XXI, Clause 2, restricting riders to appropriation bills in order to limit use of public funds, deprives Members of all political persuasions of their ability to exercise full oversight responsibility. Deryng that right is a mock-

The advent of omnibus appropriation bills and budget resolutions makes the need for limiting amendments even more critical. These rules changes virtually disenfranchise anyone who disagrees with spending levels reported from Committee unless, of course, the Democratic Leadership itself sanctions an amendment to reduce spending.

The new rule requiring a two-thirds majority vote on the discharge of a Constitutional amendment is an outrageous attempt to prevent any consideration of Constitutional change that does not conform with the will of the Democratic Leadership. The House must be given the opportunity to consider, debate and vote on the merits of Constitutional change in accordance with the intent of the founding fathers, who saw the need for such deliberation.

The intent of the Constitution is also thwarted by rules changes which prevent the call of a quorum to the floor prior to

consideration of legislation.

The Constitution's Article I, Section 5, specifically instructs the Congress to have a quorum present to conduct business. Postponement of votes on the Journal and eliminating votes on consideration of bills would allow the Democratic Leadership to conduct legislative business without the Constitutionally-required majority quorum. These new rules merely perpetuate "phanton legislating," and enable the Speaker to stampede the House into actions it may regret.

Rules such as these do an injustice to the House and thwart the legislative process.

They must not be adopted.

### SUMMARY OF DEMOCRATIC CAUCUS HOUSE RULES CHANGE PROPOSALS, 98TH CONGRESS

(1) Appropriations Riders Restrictions.— Clause 2, Rule XXI would be amended to prevent the offering of limitation amendments on the Floor unless already authorized by law for the period covered by the bill or if the House votes down a motion that the Committee rise after other amendments have been disposed of. Limitation amendments could still be reported by the Appropriations Committee. The amendment also confines "retrenchment" amendments (e.g., those reducing salaries and personnel) to reductions in amounts of money covered by a bill, and to those recommended by the Appropriations, thus precluding authorizing committees from offering retrenchment amendments on the Floor.

- (2) Resolutions of Inquiry.—Clause 5, Rule XXII would be amended to permit committees 14 legislative days to report back to the House after referral of such a resolution requesting information from the heads of executive departments, and permits a committee, by majority vote, to extend the period for reporting by an additional 14 legislative days. The current rule permits only 7 legislative days for reporting back to the House, after which a motion to discharge the committee is in order.
- (3) Closed Hearings.—Clause 2(g)(2)(B), Rule IX, would be amended to permit the Committees on Appropriations, Armed Services and the Select Committee on Intelligence to vote in open session to close hearings for up to seven consecutive days. Current House Rules permit all committees to vote to close hearings for two consecutive days.
- (4) Resolving into the Committee of the Whole House.—Clause 1, Rule XXIII would be amended to permit the Speaker to declare that the House is resolved into the Committee of the Whole House on the State of the Union at any time after the House had adopted a resolution from the Rules Committee providing for the consideration of a measure. Under present rules, the motion is subject to a vote by the House.
- (5) Approval of the Journal.—Clause 5(b)(1), Rule I would be amended to permit the Speaker to postpone a vote on the approval of the Journal until later in the same legislative day. Under present rules, approval of the journal is the second order of business in a legislative day and a vote may be demanded immediately.
- (6) Committee Membership.—Clause 6, Rule X would be amended to make removal from committee membership automatic once a Member ceases to be a member of his party caucus or conference. Member would still be elected to committees by vote of the House on nominations from the party causcuses. Under the interpretation of present rules, it would take a vote of the House to remove a Member from a committee.
- (7) Tax Legislation.—Clause 5, Rule XXI would be amended to prohibit non-tax committees from reporting any measure containing tax or tariff matters and the House from considering any amendment in the House or proposed by the Senate on a bill reported by a committee not having jurisdiction over tax matters.
- (8) Constitutional Amendments.—Clause 4, Rule XXVII would be amended to require that a discharge motion for an amendment to the Constitution, or a resolution referred to the Committee on Rules providing for the consideration of a constitutional amendment, must contain the signatures of two-thirds of the membership of the House in order to be called up in the House.

STATE OF NORTH CAROLINA IS COMMENDED

## HON. IKE ANDREWS

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. ANDREWS. Mr. Speaker, I am pleased that the outstanding public university system in North Carolina comprising 16 campuses with the excellent "flagship" University of North Carolina at Chapel Hill has been recognized by an editorial in the Washington Post as having raised the level of education and maintained excellence in the higher education system while at the same time lowering costs. Since its inception in 1785 and in article 9 of its constitution adopted in 1868, public education has been valued

in North Carolina. I am respectfully inserting the attached editorial from the November 21, 1982, Washington Post in the Con-GRESSIONAL RECORD of Thursday, December 16, 1982, along with my commendation to Gov. James B. Hunt, Jr., President William Friday, Chancellor Christopher Fordham, Chancellor Bruce Poulton, and the other chancellors of the other members of the University of North Carolina system, and all those who share a part in this excellent record in higher education in North Carolina. Certainly, all of us in the Old North State can take pride in maintaining a high level of education while at the same time lowering costs. This is a notable record which we

trust can be enjoyed by every State. [From the Washington Post, Nov. 21, 1982]

TUITION, FEES AND QUALITY
From time to time, various listings and guides rank the colleges by tuition and the cost of a year's education. It's generally pretty depressing, especially for the parents of children in their last years of high school. Most of the attention generally goes to the top of the list, a position currently occupied by Massachusetts Institute of Technology, where tuition and fees now run \$8,700 a year, and the total cost of a resident undergraduate is around \$13,500. But it's more interesting to look down the list for those institutions that maintain superior standards while managing, somehow, to keep the price down.

The leader in that more difficult test, among the large universities, is the University of North Carolina. Tuition and fees there come to \$702 this year for local students. (Those who are not fortunate enough to be North Carolina residents are charged a less unusual \$2,260.) Including living expenses and all, a resident student can typically get through the year on \$3,800. Throughout the country, on the average, college costs in both public and private institutions have been rising at just about the rate of inflation, which is to say that in the past four years, they have gone up by nearly half. At the University of North Carolina, they have gone up by less than a third. Why does the student pay less? Because the state pays more.

Public education is a creed and a passion in North Carolina. The people of the state make it a point of pride not only to run a university that is manifestly one of the finest in the country, but to keep its doors open to students who haven't much money. North Carolina is not a rich state, but it has clear ideas about priorities.

Here in Washington, there is much urgent talk about the need to strengthen the national economy and the country's technological base. That talk usually drifts eventually toward tax gimmicks to push companies into more industrial research. How about investing that money, instead, in the people who are going to be running the companies and doing the research?

Congress, so far, has done a fairly effective job of protecting the student-aid programs from the administration's budget-cutters. But much of that aid is delivered in the form of loans, which means that young people emerge from four years of college with substantial burdens of debt. As public policy, that practice grows more questionable as the tuitions, and the debts, grow larger. A more useful and elevated example can be found in North Carolina, where the state keeps the threshold costs low and collects its interest in the broad benefits of a rising level of education.

### ENERGY CONSERVATION COALITION

# HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

- Mr. DINGELL. Mr. Speaker, on Monday of this week I attended an awards reception sponsored by the Energy Conservation Coalition, which is a 2-year-old organization consisting of many groups dedicated to sensible energy policies and environmental protection.
- I was extremely pleased to see my good friend and colleague, Mr. Ottinger, who chairs the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce, receive the group's annual energy conservation award. As Deborah Bleviss, president of the ECC said:

1982 will be remembered as the year when foreign oil imports reached their lowest levels since 1974, but we cannot count this as progress as long as recession, not efficiency, is reducing demand. Dick Ottinger understands this problem. He is one of Congress's strongest proponents of a least-cost energy strategy to stimulate a growing na-tional economy while keeping our energy bills and oil imports to a minimum. He is a leading advocate for weatherizing the homes of poverty families, saving them and the nation millions of dollars in unnecessary energy costs. His persistence and dedication to the goal of an energy efficient society deserve particular praise at a time when many have become complacent about this country's energy needs.

I second Ms. Bleviss' remarks, and commend my good friend from New York for his continuing efforts on energy, and congratulate him for his receipt of the Energy Conservation Coalition's award.

The ECC made a second award presentation at its reception on Monday, and this was to the Wallingford Auditing Technical Team, of Wallingford, Conn. This group consists of some 21 high school students and their dedicated teacher, Carol Wilson. After performing energy audits of the various school buildings in the Wallingford school district, the group reduced heating oil consumption from 711,000 gallons to 492,000 gallons, and reduced electrical consumption by a million kilowatt-hours, which saved the local taxpayers a whopping \$260,000. The cost of achieving this was a meager

I was fortunate on Monday to meet some of these youngsters, many of whom are now energy auditors certified by the State of Connecticut, and to talk with them about their accomplishments. The possibility of seeing their efforts duplicated in other communities across the country is very exciting, and I want at this point to share with my colleagues a short paper describing what WATT has done, which was prepared by Carol Wilson, the energetic and marvelous lady who organized the group. I ask unanimous consent that "Teenagers as Energy Advocates" be inserted in the Record at this point.

# TEENAGERS AS ENERGY ADVOCATES (By Carol A. Wilson)

Wallingford, Connecticut has been fortunate to have an unusual group of teenagers, whose enthusiasm and concern for energy conservation has saved the community's schools over half a million dollars in two years.

The students, who call their group WATT (Wallingford Auditing Technical Team), did energy audits of schools and municipally-owned buildings. Their recommendations were heeded by the school board, with no expectation that any substantial savings could be achieved. To the amazement of all, in the first year oil consumption was reduced from 711,000 gallons to 492,000 gallons, and electrical consumption was down more than 1,000,000 kilowatt-hours. In the second year, similar savings were achieved. The dollars invested to achieve these savings were minimal, less than \$12,000.

Publicity about WATT's success, and efforts to tell the community how energy might be saved, have made Wallingford unusually energy-aware. In addition, teenagers in this New England community are viewed as worthwhile, contributing citizens, instead of nuisances.

WATT has received two grants to promote their efforts. They are presently making a videotape of the development of their group so that other communities can develop similar groups.

Imagine an energy conservation program that saves more than \$500,000 in two years, with an investment of less than \$12,000. Impossible? Not at all. This was accomplished in a New England school system—and by a group of high school students and their science teacher. What was done can be duplicated in any high school in the country.

The community where this happened is Wallingford, Connecticut, a town of 36,000 people which dates back to the seventeenth century. It is proud of its colonial roots and its tradition of Yankee independence. Perhaps this is why the town fostered an unusual group of teenagers, teenagers who have helped the community become energy aware, and have saved the town substantial energy dollars.

The students call themselves "Wallingford Auditing Technical Team" (WATT). Members range from ages 13-18, freshmen to seniors, both male and female. The goals of WATT are to reduce energy waste in the schools, to increase awareness of the potential for conservation in all buildings of the community, and to educate people about the potential for renewable energy sources.

WATT grew from a classroom study of energy in grade 9 Earth Science. Reinforced by world events and attitudes acquired at home, these young people expressed a need to affect the energy future of their community. The summer of 1979 was spent struggling to do an energy audit of a middle school. An energy audit is a scientific analysis of energy use in a building. An auditor needs knowledge of heating systems, building materials, and building use patterns. The middle school audit showed many areas of energy waste. The students took their findings to the school board, and urged that a vigorous energy conservation program be instituted. The school board was doubtful that much energy could be saved, but appointed the students and their teacher as the Energy Management Committee for the school system. A custodian was designated Energy Conservation Officer to work with them.

WATT continued auditing schools and made recommendations based on these audits. Many of the students and their teacher became State Certified Energy Auditors. This certification made the town eligible for funds to pay for the audits through the Schools and Hospitals Program.

WATT conducted workshops for teachers of several schools in the community, in an effort to involve building users, both teachers and students, in the conservation program. Peer pressure was used to motivate schools to save electricity. Arrangements were made to have WATT receive copies of each school's electric bills. Usage was compared with that of the same period of the previous year, and the percentage of decrease or increase was noted. The schools were ranked in order of improvement, and copies of the rankings were sent to each school principal. In the first month, about half of the schools showed an increase, and half a decrease. After the initial report came out, there was a marked change. In the second month, only three of the schools had an increase, and ten a decrease. For the rest of that school year, no school showed an increase, and the school system saved more than a million kilowatt-hours of electricity without spending one cent.

WATT found that positive reinforcement was an effective tool in encouraging behavioral changes. Teachers and students who cooperated by reducing their energy use were commended publicly. Those who did not cooperate were not mentioned. It became desirable to save energy because you received recognition for your actions.

The Energy Conservation Officer met frequently with WATT, and acted on their suggestions. He closely monitored oil use, checking to see that temperatures were set back one hour before the close of school. Custodians were taught at monthly meetings how to manage their heating systems.

On days when warm temperatures were forecast furnaces were not turned up to 65 degrees in the morning, the anticipation that the sun would warm the building sufficiently. Serious leaks in building envelopes were repaired, furnaces were cleaned regularly, lighting was brought down to new state recommended level by the removal of excess bulbs and ballasts, and air conditioning was limited to occupied areas of the buildings.

The results of this program surprised everyone. In the first year, oil consumption was reduced more than 200,000 gallons, and electrical consumption was reduced 1.17 million kilowatt-hours. This saved the taxpayers of Wallingford more than \$260,000. The cost to the school board was the salary of the Energy Conservation Officer (less than \$9,000) and materials costing approximately \$3,000. In the second year, there was no Energy Conservation Officer because the school board did not fund the position. However, oil consumption remained down 175,000 gallons from the year prior to WATT, and electrical consumption remained about one million kilowatt-hours between the 1978-79 year. This saved another \$260,000 plus. Total dollars saved by the Wallingford schools now total over half a million dollars.

WATT also performed energy audits of all municipally-owned buildings in Wallingford, schools in Connecticut communities which had no Certified Energy Auditors, churches, business establishments and homes. An Appropriate Technology grant allowed WATT to sponsor an Energy Fair as a means of putting information about conservation and renewable energy sources into the hands of the people of the community. Publicity about the success of the WATT program has made the community unusually energyconscious. The new Wallingford library gets 30 percent of its heat from the sun, and has solar-heated water for domestic use. Many energy conservation measures were incorporated into this new building, and WATT was invited to recommend energy-saving measures prior to its opening.

In September of 1981, the Governor of Connecticut recognized forty companies in the state for outstanding energy conservation programs. Five of these awards went to Wallingford companies, the school system among them. A community with one percent of the population of the state has received 12½ percent of the awards.

The WATT members have benefitted from the program. They have learned how important and effective a knowledgeable individual can be. They have developed leadership qualities far beyond their peers. They have gained academic skills in communication, organization of both time and information, mathematics, geometry, and physics. They have been recognized by their community and peers as an energy resource, and have done much to remove the barrier between senior citizens and teenagers. They have gained insight into career opportunities, and have gained a marketable skill. Many of them have earned money for doing energy audits.

WATT continues to find ways to help people learn about saving energy. WATT has worked with the Connecticut Energy Division in planning and presenting workshops aimed at developing groups similar to WATT in other Connecticut high schools. WATT members have made presentations at state and national conferences on energy and science education. WATT provided the major impetus for Connecticut Energy Edu-

MICHAEL LEWAN: A LAST AT BAT

# HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to Michael Lewan, my able administrative assistant, and an extremely talented young man, with whom I have been associated for the last 9 years. Without Mike's help, I might not be standing in the well of this House today.

All too often, congressional staffers labor in anonymity. Now that Mike is leaving the Hill to embark on a new career in the private sector, I want to acknowledge the debt that I and the people of the 13th Congressional District of Brooklyn owe to him.

A graduate of Nazareth High School in Brooklyn, and an alumnus of the Baruch College and the Maxwell School of Public Administration, Mike has been my administrative assistant since my election to Congress in 1974. Mike organized my staff, set up and managed my district offices, and ably represented me in Brooklyn and in Washington.

He is an exemplary public servant who has always been willing to do whatever needed to be done. He is conscientious and thorough, dedicated and tenacious, creative and diciplined. He has been my right hand man.

I would not want you to think that Mike is totally serious. In fact, he would probably be hard pressed to say which is his greatest accomplishment: keeping my office running smoothly and happily or captaining the "Solarz System" softball team to the House Softball League "A" Division championship in 1982.

More than being the key member of my staff, Mike has been my friend. It is difficult for me to briefly express what Mike's friendship has meant to me, and to my wife Nina. He has become a part of our family.

Mike is leaving my office to take advantage of a new opportunity. I am certain that he will be successful because he succeeds at whatever he does. I want to wish him well and to say to him what the poet Yeats so well expressed about loyal and true friends: "Think where man's glory most begins and ends, and say my glory was I had such friends."

# MRS. BESS TRUMAN

# HON. DON FUOUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 15, 1982

• Mr. FUQUA. Mr. Speaker, Bess Truman, wife of President Harry S.

in the United States with its own WATT group, and every community saving hundreds of thousands of energy dollars, and million of BTUs as Wallingford has done.

Paula Clogher, 1 David Combs, 1 Jonathan Duke, 1 Kathleen Goodrich, 1 Brendan Goodrich, Seth Hillman, 1 Kimberly Hoover, Gina Juliano, William Karlon, Michael Kischkum, Thomas Masse, Maryrose Meade, Lauren Montgomery, Valerie Phil-brick, Fred Rutcho, Stuart Schouten, Lisa-Anne Soucy, <sup>1</sup> Michael Sullivan, <sup>1</sup> David Wargo, 1 Alan Zupka.

MEMBERS OF WATT

cation Day in 1982, and will again lead the

project in 1983. WATT recently received a

grant from the American Public Power As-

sociation to make a videotape about the de-

velopment of WATT. This videotape will be

made available on loan to any community

served by a public power company. The dream of WATT is to see every high school

Advisor: Carol A. Wilson. 10

## ED WEBER

# HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. OXLEY. Mr. Speaker, I would like to take this opportunity to pay tribute to a good friend and fine Member of Congress, ED WEBER, who has represented the congressional district neighboring mine to the north for the past 2 years.

Ep has capably served the 9th Ohio District throughout the 97th Congress. He has distinguished himself as a Representative closely attuned to the needs and concerns of his constituents, traveling home to Toledo virtually every weekend to meet with area groups and participate in local activi-

A well-known member of the Toledo legal community, he diligently applied his extensive knowledge of the law to his duties as a member of the House Banking, Finance and Urban Affairs Committee. As a member of this panel, he was a leader in efforts to bolster the urban development action grant (UDAG) program, of particular importance to his inner-city Toledo.

Although he held no public office before coming to Congress in 1980, ED proved to be a very effective legislator and dedicated public servant. He learned the ropes quickly and earned the respect of his colleagues on both sides of the aisle.

It is my understanding that ED now plans to return to private law practice. I know my collegues will join with me in telling him we will miss him and in wishing him every success in future endeavors.

Truman will be remembered by Americans not only as a First Lady but as a great lady.

Her death at age 97 on October 18, at her home in Independence, Mo., came as sad though inevitable news.

We shall always remember Bess Truman as the quiet, dignified, and graceful lady who was so much a part of our national scene at the side of her husband, our President, during the later years of World War II and the difficult years which followed that

Who can assess the comfort and devotion she lavished upon our President to make his days more bearable during the times when he was called upon to make decisions which framed our national and international lives for dec-

My deepest sympathies go to the members of the Truman family.

## **BOB SHAMANSKY**

# HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. BINGHAM. Mr. Speaker, I deeply regret that our colleague from Ohio, Bob Shamansky, will not be returning to the House and the Foreign Affairs Committee in the coming year.

In the one term that he has been in the House. Bos has made a major contribution to the work of the Foreign Affairs Committee and especially to the work of the Subcommittee on International Economic Policy and Trade, which I have the honor to chair. He has brought to the consideration of the difficult and technical problems that come before that subcommittee a keen analytical mind, as well as a broad background in law and a familiarity with conditions around the world. His questions of witnesses have been probing and his suggestions for amendments valuable.

Bos has become expert in a number of fields. One, which I consider of transcendent importance to the United States and the world, is the problem of the proliferation of nuclear weapons capability. Bos has correctly brought out the weaknesses of the so-called safeguards system operated by the International Atomic Energy Agency and has energetically called for its strengthening.

In addition to his substantive contributions, Bos has invariably been a pleasure to work with, not least because of his delightful sense of humor. My wife June and I have enjoyed his company on a number of occasions.

We wish him well in all his future pursuits and hope that he will soon return to the House.

<sup>&</sup>lt;sup>1</sup>Certified energy auditor.

SUPPLEMENT TO STATEMENT ON H.R. 5121

# HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. MARRIOTT. Mr. Speaker, since the difference between the House and Senate versions of the Federal oil and gas royalty management bill is in the Miller-Marriott amendment (sec. 114 of H.R. 5121), I would like to say a few words in explanation of that amendment.

Section 114 gives the Secretary discretionary authority to increase the royalty rate for noncompetitive onshore oil and gas leases from the currently mandated 12½ to 16% percent. The section also sets forth certain standards or findings which must be met or made by the Secretary prior to any increase above 12½ percent; that is, first, the impact on future oil or gas exploration, development, or production and second, the impact on overall revenues to the Federal Government generated by such activity.

The Linowes Commission recommended that onshore oil and gas lease royalty rates be increased from 121/2 to 16% percent. However the Commission based its recommendation on the rationale that the royalty should be the same for both onshore and offshore leases, and on the belief that royalties in the private sector had been rising. Commission envisioned The the higher royalty as a means to finance improved royalty collection procedures.

It is a matter of record that the Linowes Commission made no formal study to substantiate its position, making no distinction between the very different circumstances of offshore and onshore leasing, and thus did not analyze the true impact higher royalty rates might have. The Comptroller General of the General Accounting Office in a September 3, 1982, report to the Interior Committee on the subject, points out that not only did the Linowes Commission fail to study the issue, it was acting on beliefs which were not substantiated. The Comptroller General found that "121/2 percent is still the predominant royalty used in the private sector." Further, his report concludes:

We found no conclusive arguments either for or against a higher royalty.... Such a decision ideally should consider the total cost to a lessee to acquire, hold, and develop Federal lesses.

Both the report of the U.S. General Accounting Office "Possible Effect on Increased Royalty Rate for Federal Onshore Oil and Gas Leases" (September 3, 1982) and the study completed by the Interior Department entitled "Final Report on Potential Impacts of Changing Royalty Rates and Systems

for Federal Onshore Oil and Gas Leases" (May, 1982) indicate that the advantages and disadvantages of a royalty rate increase are uncertain, primarily because of the two factors to which section 106 directs the Secretary's attention: First, the impact on future oil or gas exploration, development or production and second, the impact on overall revenues to the Federal Government generated by such activity. Both factors are interrelated.

At least two responses to an increase in royalty can offset the prospective revenue gains. First, gross royalties are tax deductible so the increase in gross royalty payments is much larger than total revenue increase. Second, increasing royalty obligations can cause fields that are only marginally profitable at the lower royalty rate not to be developed and may induce firms with access to other, cheaper sources of oil and gas to reduce production from these fields. Both the Interior Department report and the GAO reports agree that it is entirely possible that the increased tax deductions resulting from a royalty increase and possible decreases in production from fields subject to Federal royalties will actually reduce Federal revenues instead of yielding the hoped-for in-

Increased royalty rates for onshore noncompetitive leases may also impact exploration and hence downstream revenues as well as future domestic production. A large percentage of the exploration done in the wildcat areas for which noncompetitive onshore oil and gas leases are issued is performed by smaller independent companies. These companies may be discouraged from exploring in areas where the oil or gas potential is unknown when faced with a royalty burden which exceeds 121/2 percent. The less exploration activity there is, the less likely it is that domestic production will be coming onstream to generate muchneeded energy supplies as well as the desired revenue generated by such

As as result of these uncertainties, the Interior Committee chose to give the Secretary the discretion to raise the royalty rate on noncompetitive onshore oil and gas leases but conditioned the exercise of his discretion to insure that he will take into acount the long-range, overall impacts of his decision. The committee believed that by requiring the Secretary to take into account these effects, this section will force him to consider the impacts of his decision in the public interest.

A GREAT IDEA FOR HELPING ELDERLY WITH UTILITY BILLS

# HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. LOTT. Mr. Speaker, my hometown of Pascagoula, Miss., has developed a unique approach for helping elderly or handicapped people with their utility bills. Project COPE is further explained in this article from the Mississippi Press of December 6, 1982. I urge my colleagues to read this article and decide whether it can be made applicable in their own districts. Its innovation is truly outstanding.

[From the Mississippi Press, Dec. 6, 1982]

PROJECT COPE SET TO BEGIN; TO AID ELDERLY WITH UTILITIES

(By Gloria Moore)

Pascagoula's Project COPE (Caring Offered to Pascagoula's Elderly) will get under way Tuesday with the mailing of city utility bills.

Utility customers will be given the opportunity to add \$1 to their payment, a dollar that will help the elderly and handicapped with payment or natural gas bills, electric bills, propane-butane expenses or furnace repairs.

The project is voluntary and has been structured so that each dollar a person gives goes directly to help someone. No salaries or other expenses will be paid out of the gifts.

City Manager Charles Fulghum said similar programs have been successfully operated by natural gas and electric companies on a regional basis but Pascagoula is the first city in the country to undertake this method of assisting the elderly handicapped with home energy related expenses.

The criteria for receiving help is as follows:

- 1. Must be a resident of Pascagoula.
- 2. Elderly age 60 years or over.
- 3. Handicapped-disabled physician-certified
- No other obvious resources available for payment of the energy-related expense.
- 5. Needs of a last-resort nature without regard to age.

Fulghum explained customers may simply add \$1 to their utility payment and the city will direct each of these donated dollars to the American Red Cross which will distribute the money. The city computer has been programmed to handle the extra \$1 donations and persons desiring to give more than \$1 per month should send their gift to Project COPE. American Red Cross, P.O. Box 276, Pascagoula, 39567.

Information on applying for assistance may be obtained by contacting the Information and Referral Service of the United Way, 1309 Market St., telephone, 762-8557. The I&R staff will help the Red Cross to screen applicants.

A pamphlet outlining the the details of COPE will be mailed with the December utility bills.

Fulghum said COPE provides a way for residents to assist those in need. He shared with The Mississippi Press a letter he received following the announcement of the COPE project in the newspaper.

I am an elderly woman myself and on Social Security. But God is so good to me and I know He takes care of me.

This isn't much, but I would like to help.

Enclosed is \$2."

Fulghum explained the assistance of the United Way and the Red Cross in receiving applications and disbursing funds makes it possible for every dollar received going to assist the elderly-handicapped.

He said the program will be monitored by an independent committee representing the elderly, handicapped ethnic groups and

THE 70TH ANNIVERSARY OF THE COLLEGE OF COMMERCE AT DE PAUL UNIVERSITY

# HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. RUSSO. Mr. Speaker, a 16month celebration is underway to celebrate the 70th anniversay of the College of Commerce at DePaul University. As a graduate of DePaul, I want to take a moment to congratulate the college, the 10th business school formed in the country and the first at a Catholic university. The city of Chicago, the State of Illinois, and the Nation have been well served for 70 years by this fine educational facility.

Established in 1912, the College of Commerce at DePaul is the sixth largest accredited graduate school of business in the country and the ninth largest accredited undergraduate school of business at a private university. Nearly 7,000 students are currently enrolled in the graduate and undergraduate programs of the college and nearly 49 percent of all students attending DePaul are enrolled in commerce, graduate or undergraduate, day or evening.

The theme for the celebration-September 1, 1982 to December 31, 1983, is "DePaul: Educating Chicago business leaders for 70 years." Over 35,000 alumni live and work within 150 miles of the downtown and Lincoln Park Campus so it is certainly an appropriate theme. Other graduates live throughout Illinois and the country as well as abroad. The influence of the

college is far reaching.

The anniversary will focus on the contribution of DePaul's College of Commerce to business, industry, and the professional lives of the community. As the dean and professor at the college, Brother Leo V. Ryan, C.S.V., reminds us, DePaul was founded to provide opportunities for five generation Chicagoans to go to college and to achieve upward social and economic mobility through higher education. DePaul alumni have achieved this goal and continue today to be faithful to the original mission. DePaul offers opportunities for thousands of men and women of all ages to develop competence enhanced by values and to serve both through business and also through their family, church, civic, and social activities.

I know many people will be joining in this important celebration in recognition of this milestone in the life of the College of Commerce and that my colleagues join with me in commending the college and congratulating them on 70 years of excellence.

## TRIBUTE TO FORMER FIRST LADY MRS. BESS TRUMAN

# HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

Mr. CORRADA. Mr. Speaker, I am pleased to join my friend IKE SKELTON and our colleagues in paying tribute to former First Lady Bess Truman, who passed away on October 18.

Mrs. Trumen was a loving wife and devoted mother who, according to President Truman was "the Boss" in the Truman household. She was a gracious First Lady, although by nature she was a shy and unpretentious woman.

Vice President When Truman became President under tragic and difficult conditions following President Roosevelt's death, Mrs. Truman undertook her responsibilities with dignity and a sense of duty to her Nation.

Mrs. Truman lived a full and long life and she will be remembered with love, respect and gratitude by her fellow citizens in the 50 States as well as in Puerto Rico.

## IN MEMORY OF GEORGE KISTIAKOWSKY, 1900-82

## HON. GEORGE E. BROWN. JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

. Mr. BROWN of California. Mr. Speaker, George Kistiakowsky, who died December 7, set an example of public service that has inspired many, both within the science community and throughout the Nation. His outstanding 47-year career in basic chemical research was combined with involvement in the Manhattan project and with giving advice to the Federal Government. During 1959-61, he served as President Eisenhower's science adviser.

Today and in the future, when many policy decisions will require technical expertise and when many technical developments will demand public attention and concern, we will miss George Kistiakowsky. He took very seriously his responsibility to use his intellect and wisdom to work for a livable world. Because he was an outstanding scientist and bipartisan public servant, his clear and honest critique of the nuclear arms race carried great weight and could not be easily dismissed. His arms control efforts over the past decade have helped lay a foundation for rational debate over nuclear arms policies. It is now our responsibility to build on that foundation.

I wish to insert articles from the December 14 edition of the Washington Post and the December 13 issue of Chemical and Engineering News which capture some of the respect and affection felt by those who knew him.

The articles follow:

[From the Washington Post, Dec. 14, 1982] GEORGE B. KISTIAKOWSKY, 1900-82

(By Boisfeuillet Jones Jr.)

In an awesome way nuclear weapons have forced the question of scientists' responsibility for the potential use of their technological achievements. George B. Kistiakowsky, an eminent American scientist who died Tuesday at the age of 82, faced this question for several decades in advising on weapons to deter and on arms control. His dedicated efforts contributed to the nation's security.

A Harvard chemistry professor and explosives expert Kistiakowsky designed the triggering device for the atomic bomb at Los Alamos, N.M., in 1945. He has been widely quoted as remarking, after seeing that first explosion, "I am sure that at the end of the world-in the last millisecond of the Earth's existence-the last human will see what we

Saw.

This apprehension did not presage a sentimental or idealistic reaction on Kistiakowsky's part. He was later a scientific adviser to the Defense Department, serving on various weapons committees, including one which in 1954 urged that top priority be given to the development of an intercontinental ballistic missile. He served for a year and a half during 1959-61 as President Eisenhower's science adviser, a post created as a consequence of Sputnik in 1957 and carrying considerable influence during that period. He continued to advise the government on military and foreign policy matters until 1967, when he ceased because of disagreement with the Johnson administration over the Vietnam War.

For those of us who knew Kistiakowsky in his later years, when he was a strongly opinionated and vocal commentator on the implications of security issues, it is impossible to think of the man as a subservient technician. He attributed his growing skepticism about defense policies in large part to the personal influence of President Eisenhower, whom he came to admire greatly, and who turned to Kistiakowsky as a source of independent advice during his years on the President's Science Advisory Committee and

as science adviser.

Afterward, from 1962 to 1969, Kistiakowsky served on the advisory board to the U.S. Arms Control and Disarmament Agency. By the early 1970s he was criticizing the extent that federal resources were allocated to research and development for defense and space programs while civilian technological programs went relatively unsupported. In his last years, Kistiakowsky expressed outrage and pessimism at the seemingly uncontrollable escalation of the nuclear arms race. His death deprives the nuclear debate of a critic whose credentials

and basically non-ideological background meant that his views had to be seriously dealt with on their merits.

Quite apart from his absorption in these public issues, Kistiakowsky lived a rich and useful life. He was born in Russia in 1900, the son of a law professor, and served in the anti-Soviet White Russian army after the revolution in 1917. Thereafter he escaped to Germany, earned a PhD, and came to the United States in 1926. After four years at Princeton, he joined the Harvard faculty in 1930 and remained there for the rest of his life.

I knew him as a neighbor in Cambridge, where he lived in a modest style with his wife, Elaine. With characteristic rigor and attention to detail, Kistiakowsky concentrated late in life alternately on publishing the diary of his White House years, writing about arms control issues, gardening at his "dacha" on Cape Cod, and overseeing the life and times of his corgi. He was amiably crusty and blunt, the object of affection among his colleagues, students and acquaintances. At times, his biting wit and scathing judgments on people and issues could astonish.

Eisenhower wasn't the only one who respected Kistiakowsky for his outspoken, independent views. It was a privilege to have known him.

[From Chemical and Engineering News, Dec. 13, 1982]

George Kistiakowsky, 1900-82 (By Michael Heylin, Editor)

This reporter never knew George Kistiakowsky well enough to call him "Kisty," as his friends did. We really met only once. That was in his office at the Harvard chemistry department one cold afternoon in January 1981 to talk at length about his efforts to lessen the danger of nuclear war. He was the kind of man you only had to meet once to appreciate his incredible intellect, sparkle, and wit.

Now he is dead at 82. But the struggle for rational arms policies goes on. Ironically, he died the day the House of Representatives voted to delete initial funds for deploying 100 MX intercontinental ballistic missiles. This vote may not represent Congress' final disposition of this matter. But it is the first time since World War II that either house has voted to deny a President a major new arms program.

Very few scientists, and no other chemists, were better qualified than Kistiakowsky to speak out on nuclear arms. His outstanding 47-year career in basic chemical research, much of it related to explosives, was interlaced with involvement in the Manhattan Project, and with advisory roles to the federal government—including science adviser to President Eisenhower.

For his government service he was honored with medals by three Presidents—Truman, Eisenhower, and Johnson. His enormous scientific contributions were recognized by a host of awards, including ACS's highest honor, the Priestley Medal.

As he said that January afternoon, his life was divided into four equal parts (C&EN, Feb. 2, 1981, page 20). The first involved growing up in prerevolutionary Russia and experiencing war first hand. The second was all chemistry—a Ph.D. at the University of Berlin before moving on to Princeton and then Harvard. The next 20 years were half chemistry and half weapons buildings. And, as he put it, "The last 20 years I have been trying mostly to undo the nuclear weap-

ons—and this has been my least successful [period]."

His disillusionment with U.S. arms and defense policies came slowly. He said he began to see all the lies, such as the socalled missile gap." By then, in his position as President Eisenhower's science adviser, he knew there was no such gap. As he explained, "I began to realize that policy was being formed in a way that was really quite questionable." Finally, in January 1968, he esigned from his government advisory positions as a protest against the Vietnam war. After retiring from active research in 1971 he devoted all his vast energies to the prevention of nuclear war. In recent years he served as chairman of the Council for a Livable World, a group founded in 1962 by nuclear physicist Leo Szilard to strengthen security through arms control.

Kistiakowsky will be sorely missed in the rising national debate over nuclear arms policies-a debate that cries out for clear, totally honest and scientifically trained minds such as his. But his efforts over the past decade or so have helped lay a foundation for rational debate. He and others of like mind are not calling for unilateral U.S. disarmament, as some suggest they are. They realize a deterrent force is necessary. They are not working against U.S. security and to the advantage of the Soviet Union, as those in the highest places have charged. All they are saying—and all a growing portion of the public is saying-is that the superpowers must find ways other than a headlong race to ever more sophisticated nuclear weapons to handle their differences and so assure the security of all mankind.

PERSONAL EXPLANATION

## HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

• Mr. MARRIOTT. Mr. Speaker, I was unable to be present on the floor of the House of Representatives Monday, December 13, 1982, for roll-call votes Nos. 435 and 436. Had I been present I would have voted "yea" on S. 2355 Telecommunications for the Disabled Act of 1982; and "nay" on House Joint Resolution 429, State commissions on teacher excellence. ●

# THE NORTH AMERICAN LAKE MANAGEMENT SOCIETY

## HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. CLAUSEN. Mr. Speaker, several years ago the U.S. Council on Environmental Quality noted that more than one-third of the Nation's publicly owned lakes were degraded by toxics, silt, algae, or weeds and need restoration. The significance of these problems ranges from old deposits of toxic substances that threaten public drinking water supplies to accumulations of sediment caused by urban development that totally fill lakes. I would

like to share with you a few words about the efforts of an organization that is concerned about these lake quality problems and about the impairment of public benefits from these waters.

I would like to acknowledge the efforts of the North American Lake Management Society (NALMS) in focusing attention on these polluted lakes. Often regulatory agencies are more concerned about controlling pollution to rivers and streams and have not devoted sufficient resources to the more complex pollution problems existing in or threatening lakes and impoundments. The society was formed by citizens interested in cleaning up dirty lakes and protecting clean lakes. Planners, engineers, government officials, scientists, and citizens have joined NALMS to work for safe drinking water, unimpaired recreation, useful industrial water supplies, and fishing opportunities so that these lake quality benefits can be inherited and enjoyed by future generations of Americans.

Members of NALMS have promoted clean lakes by holding annual conferences on lake management and restoration around the country and in Canada. The scientific reports from these meetings are like those mandated by section 304(j) of the Clean Water Act to be submitted to Congress as an update of information describing lake quality problems and current restoration capabilities and techniques. What is clear from these reports is that our Nation's lakes are still very much in trouble from polluting substances and need vigorous attention. NALMS promotes information exchange among scientists, consultants, and lake managers through a newsletter to share new information or techniques. The NALMS board of directors frequently prepares legislative positions and gives testimony before Congress to acquaint us with lake management problems and the need to support Federal and State programs for resolving these problems. The society is also working with State administrators and legislative bodies to build State programs capable of addressing this serious national problem. The society provides information to citizens and urges them to let their U.S. congressional and State delegations know what they think and need. With the overwhelming citizen support for environmental protection and improvement, and particularly with our vital lake resources that has surfaced in recent public opinion polls, it is important that we support their concerns.

While debate on the Clean Water Act will continue into the next session of Congress, I am concerned about this debate and would like to share with you the position statement on key sections of the Clean Water Act that was prepared by members of the North American Lake Management Society:

#### POLICY STATEMENT

While the Nation can be proud of the progress made in controlling conventional pollutants, much remains to be accomplished in correcting water quality problems from nonconventional and toxic pollutants. The flowing waters of rivers and streams have the ability to flush pollutants downstream and cleanse themselves once controls are implemented, but impounded and lake waters have less capability to do so, and they continue to suffer from decades of deposited pollutants. Congress recognized in 1972 that the Nation's water quality goals could not be reached without a lake restoration program to clean up this accumulation of pollutants and enacted the Section 314 Clean Lakes Program. After almost a decade of struggling in building an experimental program to demonstrate the effectiveness of lake quality restoration, the Clean Lakes Program became operational in 1980 with the publication of formal regulations. However, the program was eliminated from EPA's proposed budget in 1981.

Likewise, Congress recognized in 1972 that cost effective pollution control can only be achieved by considering point and nonpoint source abatement tradeoffs on an areawide bases as specified in Section 208 of the Act. While EPA devoted funding to nonpoint source planning, point/nonpoint source control tradeoffs were often ignored and a mechanism for ensuring the implementation of "208 plans" was never established. EPA devoted funding for this important concept of planning cost-effective pollution

abatement in 1981.

The elimination of funding for lake restoration, point/nonpoint source abatement tradeoff planning, and other activities mandated by Congress has been called a backdoor repeal of the Clean Water Act by the public and by some members of Congress. NALMS recommends that Congress reaffirm the importance of such essential programs by specifically calling for their implementation in the amended Clean Water Act as well as in the Conference Report.

### CLEAN LAKES PROGRAM

The Clean Lakes Program has demonstrated that its State-Federal partnership can motivate local participation to address pollution problems in lakes in a very cost-effective manner. NALMS strongly urges that the impaired use caused by toxics contamination, sedimentation, and excessive growths of algae and weeds (conditions that plague more than 10,000 publicly owned lakes) be considered a national problem worthy of modest Federal involvement through continuation of the Section 314 Clean Lakes Program. With the increased burden of programs being transferred to the States, most of them cannot be expected to develop expertise and establish programs to provide leadership in lake restoration. Section 314 should be reestablished at its present authorization for a five-year period so that this 50 percent Federal, 50 percent local and State implementation program may be continued. EPA should be directed to encourage State assumption of the program after the five years, at which time the Federal program will sunset.

## NONPOINT SOURCE POLLUTION

NALMS supports the retention of the mandatory planning mechanism that will ensure cost-effective implementation of pollution controls through point and nonpoint source abatement tradeoffs on a compre-

hensive, watershed-wide basis. Originally established in Section 208, this mechanism must be institutionalized into the waste-load allocation, water quality standards, Construction Grants, and NPDES processes, and the planning mechanism recently established in Section 205(j) as part of P.L. 97-117 may not be sufficient to do so.

NALMS recommends that Congress address the national problem of nonpoint source pollution by requiring in Section 208 the consideration of point/nonpoint source abatement tradeoffs in watersheds with priority water quality problems. A 50 percent Federal, 50 percent non-Federal matching grant program would be established under Section 208 to conduct specific interagency nonpoint source implementation projects in urban and rural problem watersheds. The Section 208(j) Rural Clean Water Program would be reestablished as part of this cooperative, interagency approach to nonpoint source pollution.

#### CLEAN WATER ACT GOALS

Public opinion has shown overwhelming support for retaining the goals and approaches specified for pollution control in the Clean Water Act. NALMS reaffirms its support for the two national goals specified in Section 101, but recommends that they be modified to reflect a more realistic time-frame for compliance and to recognize the importance of controlling toxic substances. NALMS suggests that the "zero discharge" goal be modified to read "It is the national goal that the discharge of toxic pollutants into waters of the United States be eliminated by July 1, 1987" and the "fishable, swimmable" goal be revised to reflect a new target date of July 1, 1987.

#### WATER QUALITY CRITERIA

Some industry and business groups have criticized the scientific adequacy of water quality criteria and technology-based effluent standards established by EPA. These groups wish to abandon effluent standards in favor of State criteria and standards established for local conditions. The local water quality standards-based approach to pollutant control was abandoned in the early 1970s because scientific inadequacy, insufficient State funding for monitoring and analysis, and political pressure often stymied pollution control efforts. There is no reason to believe that a return to the same system will work today, especially with new questions concerning the scientific adequacy of criteria and recent criticism by the U.S. General Accounting Office of frequently used water quality monitoring programs.

NALMS recommends that a national research program be authorized to resolve the scientific questions surrounding water quality criteria, point/nonpoint source abate-ment tradeoff methodologies, cause/effect relationships between impaired water use and upstream pollution sources, and methods for improving lake water quality. This would be accomplished by amending Sections 104 and 304 of the Act. Special emphasis should be placed on a cooperative effort between EPA and the States to develop regional watershed specific water quality criteria for toxics to protect designated uses. Such a nationally coordinated approach would be more cost-effective than each State duplicating such efforts. The goal would be to implement a water quality based system for establishing effluent limitations after BAT, BCT, and secondary treatment are installed over the next five TECHNOLOGY-BASED EFFLUENT LIMITATIONS

NALMS supports the retention of technology-based effluent limitations, BAT and BCT requirements for industry, and secondary treatment for municipalities. BAT variances may be provided if bioassays and/or biomonitoring show no acute or chronic toxicity problems and "fishable" use designations are being attained. Case-by-case variances for secondary treatment may be given if water quality standards are not being violated and "fishable-swimmable" uses are being attained. Section 301 should be amended to specifically appropriate funding for all BAT limitations to be developed by 1984 and to set a compliance deadline of mid-1987.

#### CONSTRUCTION GRANTS PROGRAM

Congress established the Construction Grants program to hasten the initial construction of publically owned treatment works (POTW's). In some cases, industries and businesses that discharge into these municipal plants receive a significant public subsidy in treating their pollution problems. A recent report to Congress by U.S. General Accounting Office documented the existence of this subsidy and warned that the future successful operation of these municipal treatment works (and protection of water quality) may be in jeopardy because most municipalities are not charging adequate user fees. Most are not setting aside funding for plant replacement or improvement and other public revenues are used to subsidize operation and maintenance.

In 1972, Congress specified that an industrial cost recovery program and sufficient user charges be established so that public funds would not be used to treat industrial wastewater. Congress also mandated a pretreatment program so that industrial wastes would not overload or interfere with operation of these treatment works. In recent years, the industrial cost recovery program was eliminated and pretreatment regulations were suspended. It appears that the intent of Congress to avoid public subsidy of industrial treatment was not carried out. NALMS strongly urges Congress to address this deficiency by amending the Act to set a deadline (10 years hence) to phase out the Construction Grants Program. The amendment would contain a provision for all industries discharging to POTW's improved with Federal funds to contribute "industrial cost recovery" payments to a State trust fund for making POTW's self-sufficient.

This could be supplemented by State established construction grants programs financed by sales of bonds. The amendment should specify sufficient user charges for improved operation and maintenance and national minimum standards for pretreatment programs. Industry should be required to handle toxic sludge from the pretreatment process rather than saddle the public with costly disposal of contaminated sludge. NALMS recognizes the need to streamline complex pretreatment regulations, but most municipalities cannot be expected to effectively implement pretreatment programs for political reasons without national categorical pretreatment standards.

### DREDGE AND FILL PROGRAM

NALMS recognizes the importance of wetlands in protecting water quality and providing habitat for fisheries and wildlife resources. We oppose the current pressure from developmental groups to limit the Section 404 Dredge and Fill program to strictly navigable waters rather than the valuable headwaters wetlands they wish to develop. NALMS supports a reauthorization of Section 404 in its current form and recommends that a strong Congressional mandate be included that clearly opposes any artificial drainage, land conversion, or development of wetlands classified by the U.S. Department of Interior through refusal of the 404 permit or through enforcement action.

GROUND WATER

Ground water is a valuable resource for recharging lakes and rivers as well as for providing inexpensive drinking water. Comprehensive planning for protecting both ground water and surface water has not been implemented under the Clean Water Act despite the existing statutory requirements in Sections 102, 208, and 304. Because of the fragmentation of responsibility for ground water among many pieces of legisla-tion, NALMS recommends that the Clean Water Act be amended to provide the planning and coordination mechanism for assuring that ground water uses are protected. NALMS supports amending Section 304 to authorize funding for developing regional ground water quality criteria for protecting ground water uses and to mandate State adoption of the criteria. The Act should be amended to include consideration of ground water impacts under the NPDES program and to coordinate ground water planning and protection strategies as part of an element of State water quality (recognized as both surface and ground water) management programs under Section 208. This would provide a national framework to improve performance of both Federal and State programs in a coordinated fashion.

#### DAMS AS POINT SOURCES

A recent court decision established that discharges from dams/impoundments are subject to Section 402 NPDES requirements if they cause downstream impairment of water quality. Despite the very serious nature of these water quality problems in many sections of the Nation (not only impacting aquatic life and municipal water supplies but also suppressing economic development), some groups are petitioning Congress to amend the Act to exempt dams from Section 402 requirements. NALMS opposes this action because water quality problems downstream of dams can often be traced to upstream pollution sources that also impact lake water quality. Congress should amend Section 402 to confirm the applicability of the NPDES program to all point source discharges, including dams that cause downstream water quality problems.

CONGRESSIONAL SALUTE TO THE HONORABLE HARRY CONRAD NAGEL OF WAYNE, N.J., DISTINGUISHED CITIZEN, SENIOR CONFECTIONER, AND GREAT AMERICAN

## HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. ROE. Mr. Speaker, on Sunday, January 9, the residents of my congressional district and the State of New Jersey will join together in testimony to an outstanding confectioner, distinguished citizen, and good friend, the Honorable Harry Conrad Nagel, whose birthday celebration commemorating the 85th year of his birth will provide an opportunity for his relatives and many, many friends to express tribute to his lifetime of good works. I know that you and our colleagues here in the Congress will want to join with me in extending our warmest greetings and felicitations to him, his good wife Virginia, three sons, Harry William, Robert Henry, and Theodore Christian; daughters-in-law, seven grandchildren and four greatgrandchildren on this most joyous occasion in testimony to the quality of his leadership and professional expertise in his field of endeavor, the warmth of his friendship, and his standards of excellence in our American way of life.

Mr. Speaker, the pleasure of great personal dedication and always working to the peak of one's ability with sincerity of purpose and determination to fulfill a life's dream—that is the success of the opportunity of America—and the mark of distinction in our society of "the self-made man." The aspirations and success of Harry Conrad Nagel in the mainstream of America's candy industry does, indeed, portray a great American success story.

We are proud to boast that Harry Nagel was born and raised in our great sovereign State of New Jersey. He was the son of German immigrants, born in Dundee Lake, N.J., January 2, 1898. The house of his birth still stands on Orchid Street in the borough now named Elmwood Park, Bergen County, N.J.

Harry is New Jersey's senior confectioner, having started his own business in West New York, N.J., in December 1921. He was a bookkeeper for the Hackensack Water Co., before joining the Homemade Candy Co., of New Jersey as a salesman. He sold more candy than they could produce and that is when he started his own company to fill the balance of the orders. As the members of the Homemade Candy Co., retired and finally closed their doors, Harry was in full swing as a leading entrepreneur in the art of a confectioner. He would load his pickup truck as a route man 3 days a week and called on stores throughout northern New Jersey and New York City.

ern New Jersey and New York City.

After World War II, the mode of business changed. With the coming of home freezers and refrigerators, the homemade candy and ice cream stores started to disappear and Harry seeing this trend decided to move to the highways. He opened his first store in Wayne, N.J., followed by a second in Randolph, N.J. Both stores were instantly successful. It is interesting to note that his first confectioner's shop in West New York is still in operation. At the age of 83, Harry decided it was time to retire and turned the business over to his son Robert although old

habits are hard to break and Harry still visits his candy stores regularly.

Harry Conrad Nagel has attained excellence and national prominence in the compounding, mixing, and preparation of delightful taste treats. He received two distinguished service awards from the New Jersey Confectioners in December 1975 and February 1982 in recognition of more than a half century of outstanding expertise and dedication to our State's candy manufacturing industry.

Mr. Speaker, there is so much that could be said of the friendship and good will that Harry Nagel has so willingly and abundantly given over these many years that mean so much to the lives of all of us who have had the good fortune to know him.

As we join together in a birthday celebration to a good friend and distinguished citizen, we extend the appreciation of the Congress to Harry for his outstanding contribution to the quality of life and way of life here in America. We do, indeed, salute a great American, the Honorable Harry Conrad Nagel of Wayne, N.J.

APPOINTMENT OF RICHARD STILL AS GENERAL COUNSEL OF BANKING, FINANCE AND URBAN AFFAIRS COMMITTEE

# HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. ST GERMAIN. Mr. Speaker, I wish to announce the appointment of Richard L. Still to the position of General Counsel of the Committee on Banking, Finance and Urban Affairs, effective immediately.

In addition to serving as General Counsel, Mr. Still will continue as staff director of the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance, a position he has held since 1973.

A graduate of the U.S. Naval Academy, Mr. Still received his LL.B. in 1957 and his LL.M. in 1960 from Georgetown University. He served as Chief Counsel and Commissioner of the Community Facilities Administration during the period 1962-66, and assumed his present position after service with the House Government Operations Committee, during which time he directed investigations of the operations of the Federal Housing Administration and the Law Enforcement Assistance Administration.

December 16, 1982

THE PEDESTRIAN HAD NO IDEA WHAT DIRECTION TO GO, SO I RAN OVER HIM

# HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

HEFTEL. Mr. Speaker, our good friend and former colleague, the Honorable Clare Boothe Luce, recently forwarded to my attention a very amusing article on bureaucracy and our seeming inability to master its various intricacies. The article discusses the trials and tribulations of relating to an insurance company the details of an unfortunate automobile accident. Many of us have experienced the frustration of an accident and the subsequent anxiety of reporting it. I offer the following article which recently appeared in the San Francisco Herald Examiner as an aside, a moment of humor for our colleagues. I hope that you will find it as amusing as I did.

The article follows:

THE PEDESTRIAN HAD NO IDEA WHAT DIRECTION TO GO, SO I RAN OVER HIM (By Neal Leavitt)

Thousands of drivers nationwide have been involved in automobile accidents and the insurance rigamarole that follows afterwards. Filling out the myriad and often confusing insurance claim forms can befuddle even the most stalwart semanticist. The following are actual excerpts culled from various auto insurance company files in North-

ern and Southern California:

Coming home, I drove into the wrong house and collided with a tree I don't have. The other car collided with mine without giving warning of its intentions. I thought my window was down but I found out it was up when I put my hand through it. I collided with a stationary truck coming the other way. A truck backed through my windshield into my wife's face. A pedestrian hit me and went under my car. The guy was all over the road: I had to swerve a number of times before I hit him. I pulled away from the side of the road, glanced at my mother-inlaw and headed over the embankment.

In my attempt to kill a fly, I drove into a telephone pole. I had been shopping for plants all day, and was on my way home. As I reached an intersection a hedge sprang up obscuring my vision. I did not see the other car. I had been driving my car for 40 years when I felt asleep at the wheel and had an accident. I was on my way to the doctors with rear end trouble when my universal joint gave way causing me to have an accident. My car was legally parked as it backed into the other vehicle. To avoid hitting the bumper of the car in front of me I struck the pedestrian.

I was unable to stop in time and my car crashed into the other vehicle. The driver and passengers then left immediately for a

vacation with injuries.

As I approached the intersection a stop sign suddenly appeared at a place where no stop sign had ever appeared before. I was unable to stop in time to avoid the accident. An invisible car came out of nowhere and

struck my vehicle—and vanished.

I told the police that I was not injured, but on removing my hat I found that I had

I was sure that the old fellow would never make it to the other side of the roadway when I struck him.

The pedestrian had no idea what direction to go, so I ran over him.

I saw the slow moving, sad faced old gentleman as he bounced off my car.

The indirect cause of this accident was a little guy in a small car with a big mouth.

I was thrown from my car as it left the road. I was later found in a ditch by some stray cows.

The telephone pole was approaching fast. I was attempting to swerve out of its path when it struck my front end.

And you wonder why it takes weeks, sometimes months to receive restitution from automobile insurance companies? It takes them that long to decipher what their clients are trying to tell them!

CURBING SKYROCKETING NAT-URAL GAS PRICES; CONGRESS MUST ACT NOW

# HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

. Mr. WALGREN. Mr. Speaker, I am pleased to share with my colleagues testimony I gave to the House Subcommittee on Fossil and Synthetic Fuels on the need for Congress to act promptly to hold down natural gas prices.

Mr. Chairman, I appreciate the opportunity to testify before your subcommittee today and want to commend you and the subcommittee members on the thorough job you have done in exploring the causes of skyrocketing natural gas prices-a problem which will vitally affect millions of Americans this winter.

As a member of the Energy and Commerce Committee, it is clear to me that we need to take immediate action, before we adjourn, so that we can moderate the high gas prices predicted for the winter months. If we fail to act, there will be thousands of people literally forced to choose between feeding their families or heating their homes.

Representative from Allegheny County, Pa., I represent an area especially hard hit by the natural gas crisis. High energy prices have a double impact on Pennsylvania. Not only do they raise the cost of living beyond the reach of many, but, because they hamper economic recovery, we lose more jobs.

Our heating bills in Pennsylvania are unusually high for three reasons. First, our winter climate is 20 percent colder than the national average. When you are one-fifth colder than the rest of the Nation, you obviously can expect to need at least one-fifth

more heat to keep warm.

Second, we in Pennsylvania are especially dependent on natural gas and other fossil fuels for heat. Our low-income households are heavily dependent on natural gas with over one-half of these residents using gas for heating. Oil provides the heat for onethird of these households.

Finally, energy prices in the northeast are substantially above the U.S. average. For natural gas, Pennsylvanians pay at least \$3 more per 100 therms than the national average. Pennsylvanians in the three largest

metropolitan areas-Philadelphia, Pittsand burgh, Scranton-Wilkes-Barre-pay above one-fifth more on average for natural gas than do residents in major cities in the South.

Since November of 1978, residents of Pennsylvania's three largest cities have seen natural gas prices rise, on average, by 70 percent.

Financial advisors used to say that no more than 29 percent of your pay should be needed to finance your home. Today, it takes 29 percent of your income to pay your heating bills. In my home area of Pitts-burgh, the three major gas companies are projecting to increase their rates by up to 25 percent, with the average gas bill for the month of January expected to be \$146.

There could be no worse time for this economic shock. The Pittsburgh area has 135,000 people out of work with no hope of employment before the spring, and that does not count those forced to take parttime jobs or those who have given up looking for work. Under the best of conditions, an unemployed steelworker collecting maximum benefits in Pennsylvania brings home \$728 a month. After paying the gas bill, that leaves only \$145 a week to pay the mortgage, buy food and clothing, and meet family medical bills.

What about the elderly poor in Pennsylvania? An elderly widow, living independently and totally dependent on SSI, receives \$316 a month. If she heats with gas, her January energy bill will total 46 percent of her income, leaving only \$39 a week for her

other expenses.

There are those who argue that these high prices are necessary to reflect the true cost of energy in a free market and that the answer is to expand energy assistance programs to help the poor meet these bills.

Certainly we need a strong energy assistance program. The business-sponsored Committee for Economic Development has estimated that \$5 billion is a sufficient approximation of the need for this program. But, regretably, the Reagan administration, instead of increasing the funding for energy assistance, has repeatedly tried to hold low income energy assistance below \$1.5 billion, less than one-third of what is needed.

And even with a strong low-income energy assistance program, it is important to understand that these rising gas prices are destroying the budgets of middle-class families as well as the poor and elderly. Middleincome families do not qualify for energy assistance.

Second, the current gas prices are a perversion of the free market and not a fair reflection of supply and demand. As other witnesses have pointed out, the take-or-pay contracts made several years ago locked pipeline companies into buying the most expensive gas-even when cheap gas is either burned off or vented into the air. Demand is down; supply has increased. It should follow that prices fall; but they do not.

The legislation we are supporting here today, the Temporary Natural Gas Market Correction Act of 1982, gets to the root of one of the problems by forcing major gas pipelines to renegotiate take-or-pay contracts and offer the least cost mix of gas to distribution companies. This legislation, developed by the Northeast-Midwest Coalition, is important emergency legislation that must be considered and approved quickly if it is to help hold down gas prices in cold climates this winter.

I hope this subcommittee and the Full Energy and Commerce Committee will act during this session. It is already cold in our part of the Nation, and we simply cannot wait until a new Congress gets organized in late January and early February.

#### EXPLANATION OF VOTE

# HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. GREEN. Mr. Speaker, earlier today I voted "Present" during the vote on final passage of H.R. 3191, tax deductions for cruise ship conventions. I have an interest in one hotel and have an option to acquire a second. Both of these hotels conduct extensive business with conventions and, consequently, I thought it would be a conflict of interest to vote any other way on this matter.

## TRIBUTE TO THE HONORABLE ROBERT H. MOLLOHAN

# HON, MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, November 30, 1982

Mr. PRICE. Mr. Speaker, I rise to pay tribute to Bob Mollohan, a loyal and valued member of the Committee on Armed Services for many years and an old friend.

BoB was first elected to the Committee on Armed Services in 1954 during his second term in the House. He served with us during the 84th Congress and then left to run for Governor of West Virginia. Upon his return to the Congress in 1969, Bos was once again elected to our committee. During the intervening 14 years, he has been one of our most dedicated supporters of national defense legislation. We have always been able to count on him for guidance and advice. And we have known that in a tight situation BoB is always there to support the committee.

I believe that at one time or another he has served on all of our subcommittees. Most recently, I have been privileged to have him as the ranking member of the Research and Development Subcommittee where he has generously assisted us with his knowledge

and experience.

Bob is also the ranking member of our Seapower and Investigations Subcommittee. His many years of service on the Seapower Subcommittee have given him a vast knowledge of the Navy and its needs. He has worked diligently on behalf of a Navy that is second to none. I believe that much of our recent success in modernizing and enlarging the Navy can be attributed to his tireless efforts.

While he has left his mark on many military programs, perhaps Bos's

greatest achievement was in the improvement of defense communications, command and control. In 1969 he was assigned by Mendel Rivers to chair an examination of Department of Defense communications. In that Congress and in the next three, Congresses, Bos conducted a thorough examination of defense communications and command-control (C3) systems. The reports of his subcommittee's examination are referred to in the C3 community as the Mollohan reports. Those reports are considered the dawn of congressional recognition of the critical importance of C3. Communicators also credit the Mollohan reports with awakening the military services to the necessity of improving C3 in order to realize the full potential of our weapons systems. Senior C3 personnel in the Armed Forces trace most of the significant improvements in their system during the past decade to the determination of Bos to provide the forces with reliable, responsive C3 equipment. It is their consensus that the capabilities of our defenses have been vastly improved as a result of his efforts to identify deficiencies and to obtain funding for their correction.

We will also miss Bob, and his wife Helen, on our committee travels. We have always enjoyed their company. In those travels Bob has always been very interested in learning of the living conditions of our troops overseas as well as their equipment needs. He has used that knowledge to bring about an improvement in the troops' quality of life and to improve and modernize their weapons and equipment.

Mr. Speaker, I know I speak for all of our committee members on both sides of the aisle when I wish Bos and Helen many happy years of retirement.

WESTERN HEMISPHERE CON-FERENCE OF PARLIAMENTAR-IANS ON POPULATION AND DE-VELOPMENT

# HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. McCLOSKEY. Mr. Speaker, between December 2 and 5, I was privileged to represent the House at the Western Hemisphere Conference of Parliamentarians on Population and Development in Brasilia, Brazil.

In the course of the 4-day agenda, I was called upon to deliver some remarks on the immigration problems between the United States and Latin American countries.

A copy of those remarks is attached.

Address to the Western Hemisphere Conference of Parliamentarians on Population and Development December 3, 1982

Mr. Chairman, I would like to congratulate the host Government of Brazil, and the Brazilian Parliamentary Group for organizing and hosting this first Western Hemisphere Conference of Parliamentarians on Population and Development.

I am particularly glad that Mr. Bustamante of Mexico was able to be with us today. Many of us in the United States recognize him as the leading expert, in this hemisphere on the subject of immigration between Latin American countries and the

United States.

It is simply outstanding that countries and more than 20 international and government organizations are represented in this hall here today. The fact that more than 90 parliamentarians have agreed to discuss these issues demonstrates real hope for our future cooperation in their solution.

#### VAZ DA COSTA

I particularly appreciated Mr. Vaz Da Costa's challenge yesterday—that when executive branches of government fear to act or do not wish to act, parliamentarians should do so. In all of the major U.S. initiatives for family planning it has been the Congress, not the executive branch, which has provided the leadership. Our major population legislation for example was led by Senator Tydings and our present Vice President George Bush who was then a Member of our House of Representatives.

The population explosion in Latin America and the Caribbean that started more than 30 years ago is now taking its toll on the region's ability to modernize and develop. According to the United Nations Latin American Demographic Center (CELADE), the population of Latin America and the Caribbean is projected to more than double from 208 million in 1960 to 545 million in

the year 2000.

The consequences of this drastic population increase becomes evident when we consider a comparison drawn by Robert Fox of the Inter-American Development Bank. He said: In its best year since World War II, from 1945 to 1977 the United States created 4 million jobs, but Latin America, with perhaps one-fifth of the economic base of the United States must from now to the end of the century annually create 4 million jobs, just in order not to fall behind in its present high rate of unemployment. This seems literally impossible if the present rate of population growth in many countries continues.

Population growth seems therefore to be one of the main causes of the poverty, under development, high levels of unemployment, and political instability that ignite internal and external migration in the hemisphere. It also can prevent human immigration policies. Consideration of new immigration policy has become a priority item on the political agenda of many industrialized nations, and is also emerging as a critical concern of many developing countries. It is an issue that affects most of us in

this room.

For some of us here, massive migration means the loss of our best talent, the loss of time and effort that was employed in educating and training our most intelligent and industrious people, and the imposition of limitations on our development potential. For others of us, it means increased competition in our labor markets in the face of unprecedented levels of unemployment and severe economic difficulties. I think we must

accept a basic fact. When good people cannot find jobs in their own country, they will undertake almost incredible hardships to migrate to countries where they can find work. No law that we can pass in the United States or any other country can stop this basic human desire and action to achieve a better life.

Traditionally, the United States has been known as a willing recipient of successive waves of immigrants from different parts of the world. In recent years, more than 600,000 legal immigrants and refugees have been admitted for permanent residence in the United States annually. Furthermore, between 1 and 2 million illegal immigrants a year are estimated to be flowing into the United States, 200,000 to 500,000 of whom

Our current economic uncertainty in the United States is aggravated by record unemployment rates of more than 10 percent. Under these conditions there is an understandable adverse public reaction against recent waves of immigrants. This, in turn, affects the ability of policymakers to develop a rational and humane immigration

policy.

The countries of Latin America have every right to hope that the United States will seek to reduce deficit spending and high interest rates. To do this the United States must seek to find jobs for its own people, since our high unemployment is the direct cause of both our deficit spending and our high interest rates. To assist the economies of Latin American countries by reducing our own unemployment therefor, many of our people argue that we should take strong action against the present flow of illegal workers into the United States and to legitimize the rights of people from Latin American countries whose labor contributes to our economy.

Presidents Carter and Reagan both appointed task forces to study immigration problem. Many of the recommendations of these task forces are reflected in a major immigration bill, known as the Simpson-Mazzoli bill, now pending before Congress. This legislation would grant amnesty to millions of illegal aliens who are already in the United States, while imposing severe penalties on employers who hire illegal immigrants in the future. The proposal also calls for substantial increases in the immigration ceilings for Mexican nationals and the upgrading of immigration law enforcement.

The legislation has been referred to several committees in the House and Senate, and has been subjected to more than 100 hours of hearings at which more than 300 witnesses testified. Whether this legislation will be enacted into law is hard to predict. Mr. Porter and I will welcome advice from each of you in these next few days as we may have a vote on this issue when we return to Washington next week.

A comprehensive response to the immigration issue requires both an international approach and dealing with the root of the problem: The high rates of population growth and the poverty, political chaos, and underdevelopment which are enhanced by

such growth.

It is clearly in the interest of sending and receiving countries alike to cooperate in the development of both comprehensive migration and population programs. What you do in your respective countries and what we do in the United States is a matter on which we parliamentarians should try to agree upon if possible.

Through regional conferences like this one, we Americans hope for once to be lis-

tening to you rather than talking. We hope to coordinate our programs with yours. Hopefully this conference will help us immensely in laying the ground work for future cooperation between our respective parliaments.

The key to addressing the problem is of course for the United States to help in promoting the long-term economic, social, and political development of people-exporting countries. President Reagan's Caribbean Basin Initiative, a series of measures in the areas of trade, aid and investment, is a start, but we think there are two other things we

can do and should do.

First, we will try to continue to do all we can to assist national and international organizations in collecting information and conducting research on international migration and other population-related matters. Lester Brown's world watch information that he gave us yesterday morning is typical of the kind of information that can change parliamentarians' thinking and lead to major changes in national policy.

Second, we believe we should continue to assist you in any programs you devise to permit couples to choose the number of their offspring. Our population assistance, directly and indirectly to Latin American countries today totals approximately \$75 million a year. During hearings conducted by the Subcommittee on Inter-American Afairs, which Mr. Barnes has the honor of chairing, he was able to obtain the commitment of the Reagan administration to continued support of population programs despite our overall deficits which, for the first time in our history, have exceeded \$100 billion per year in the past 2 years.

To the extent that Latin American parliaments adopt effective programs of family planning, I think you can be assured of continuing U.S. assistance both from our Government and our private organizations. Most of us in the U.S. Congress would far prefer to vote for population assistance to your countries than for military assist-

ance.

## PERSONAL EXPLANATION

## HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. FORSYTHE. Mr. Speaker, since I am recuperating from surgery and under doctor's orders, I was not able to be present for several of the votes on H.R. 5133, "Fair Practices in Automotive Products Act." I would therefore like to take this opportunity to state for the record how I would have voted had I been present.

Rollcall No. 457: An amendment that sought to define the purposes of the bill as the following: to reduce competition in the automotive industry, protect jobs in one industry to the detriment of jobs in other industries, and to increase the price of automobiles to consumers; I would have voted

Rollcall No. 458: An amendment, as amended, that sought to exempt Japanese automobile manufacturers from requirements if the balance of trade deficit with Japan declined based on

the ratio of the automotive products balance of trade to the deficit in goods and services; I would have voted "nay."

Rollcall No. 459: An amendment that provided that nothing in the bill should be deemed to supersede the terms or conditions of any treaty, international convention, or agreement on tariffs and trade in existence on the date of enactment to which the United States is party; I would have voted "aye."

Rollcall No. 460: Passage of H.R. 5133 to establish a domestic content requirement for motor vehicles sold in the United States; I would have voted

"nay."

TEDDY GLEASON, PRESIDENT OF THE ILA SPEAKS OUT AGAINST PROTECTIONISM

# HON, JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. KEMP. Mr. Speaker, Thomas W. "Teddy" Gleason, president of the International Longshoremen's Association, AFL-CIO, is a statesman of the American labor movement. No one understands better the anxiety of American workers whose jobs are subject to international economic markets. And no one understands better why, in the interest of preserving and creating American jobs, we must refrain from shortsighted "quick fixes" like the domestic content bill which Congress has debated this week.

Today, in testimony before the Senate Commerce Committee, Teddy Gleason outlined the reasons why the domestic content legislation is a bad

idea-

not because it is ill meant but because it is ill-conceived. It is a fragmentary approach that will complicate our own reponses, hamstring our negotiators and create far more dust than it can settle.

The issue of fair trade in other markets is a fair issue, he argues persuasively, but our response must be—

in the context of an overall reconciliation of conflicting national and international policies and interests. \* \* In a sense, all American labor and industry today is in the same vulnerable boat. We have to stay afloat together, not separately and certainly not by going our own ways. We must all pull together in supporting our trade bargainers. That's how the job will get done the right way, not, as this bill will tend to do, the wrong way.

This is excellent advice, and I commend this excellent testimony to my colleagues.

PREPARED STATEMENT OF THOMAS W. GLEA-SON, PRESIDENT, INTERNATIONAL LONG-SHOREMEN'S ASSOCIATION, AFL-CIO

Gentlemen: My name is Thomas W. Gleason. I am the International President of the International Longshoremen's Association,

AFL-CIO. The ILA represents over 100,000 longshoremen and employees in other occupations affecting—and affected by—domestic and international trade.

The ILA can appreciate the motives and responses of S. 2300, The Fair Practices In Automotive Products Act. It is an attempt to seek relief for an important home industry that is facing rapidly increasing competition, in particular, from the Japanese auto industry.

I submit that the solution that that industry seeks, through passage of the bill before you, is not the appropriate or most effective answer to a serious problem. It attempts to handle the situation on an ad hoc basis, without ample consideration of the impact on our country and its trade relations as a whole and the implications for other American industries as well.

The longshore industry is a case in point. Over the past two decades, the results of automation and the adverse actions of federal agencies have eliminated many millions of longshoreman-hours and thousands of jobs on the waterfront. In their wake, all sorts of additional jobs in backup industries such as trucking, warehousing, insurance, processing and so on which depend for their very existence on shorefront activities, at a ratio of about five backup positions for every longshoreman, have disappeared.

If the intended effects of S. 2300 actually come to pass, then we foresee extensive loss of international cargo which our members handle, to be followed by raised tariffs, cuts in foreign shipments of American products, and other retaliatory measures. These will further erode whatever work remains in the already hard-pressed longshore and ship-

ping industries.

This piece of legislation, though it seems narrowly-addressed and confined to a single industry, will be used as a precedent to open the door to similar bills yet to be sponsored on behalf of industries that also face trouble because of over-reaching and inequitable trade practices. It will not be long before we conduct our international trade by congressional statutes written in stone, rather than through flexible negotiations and the selective uses of economic power. This traditionally and for pragmatic reasons has been the province of the Executive branch of government, which conducts our day-to-day foreign relations.

In the case of the Japanese, the measure before you will aggravate and harden the situation, rather than seek changes thru persuasion and appeals to self-interest. We all know that trade with Japan has become too much of a one-way proposition. It hasn't only been limited to automobiles; it encompasses full or partial bans on a whole range of American products that are not permitted to meet the existing and potential demands of the Japanese consumer market, so that Japan's balance of trade—but not ours—artificially remains favorable.

Japan, like other governments who perform the same trick, must be made to understand we will not deal piece-meal with them like they do with us. American industry and the American economy is an integrated one. Whether it be autos, or farm products, or steel, or computers or services, there are ripple effects elsewhere within our system. The example that I gave you of the potential effects of this bill on our own industry can be multiplied a hundred or a thousand fold when one considers the actions of—and counteractions to—Japanese trade policies. The time for action is upon us!

What we need, then, is a broad-not a limited-approach to the underlying problem. It really has to do with Japanese and other foreign attitudes that overprotect and subsidize their constituents, while seeing American industry and consumers as ripe for the picking. That is the type of "foreign aid" you don't-possibly can't-legislate, unless we're going to go back to those days when we were an "island republic". The President, through his Trade Representative, is the appropriate party to drive the message home to our trading partners: that protection and invasion are not the answer; rather, responsible, even-handed trade policies are the only way to keep all of our economies in balance if the Free World is to stick together

I therefore urge you table this bill, not because it is ill meant but because it is ill conceived. It is a fragmentary approach that will complicate our own responses, hamstring out negotiators and create far more dust than it can settle.

and succeed.

This does not mean that the basic problem is to be swept under the rug. To the very contrary! It is precisely because the proponents and supporters of this bill have felt the need to go to such great lengths to remedy what they and our own members see as a festering and growing adversity, that the Administration must devote more strenuous efforts and determination to rectify it through the means at their disposal.

We in the ILA intend to do whatever may be required of us to back up the Administration's posture in bringing these matters to a head. It must be done in the context of an overall reconciliation of conflicting national and international policies and interests.

As Ambassador Brock commented in his statement regarding the corresponding House bill:

"[The Fair Practices In Automotive Products Act] is another manifestation of an afliction that Americans what left behindthe easy answer. They are tired of "quick solutions", that invariably become non-solutions resulting from simplistic analysis of problems. Increased import share is not the problem, but rather a symptom of a decline in U.S. international competitiveness. The answer to this real problem is that management, labor, and the Government must take those actions, separately and together, that improve productivity, that reduce costs, that encourage economic investment, and that put us on a level playing field with respect to our major trading partners.

"In contrast, the passage of [The Fair Practices In Automotive Products Act] creates new problems. It would be viewed as both a renunciation of reciprocal trade liberalization policy, currently being pursued by this Administration, and a revocation of free trade policy that has been supported by all Administrations and Congresses for over 30 years."

In a sense, all American labor and industry today is in the same vulnerable boat. We have to stay afloat together, not separately and certainly not by going our own ways. We must all pull together in supporting our trade bargainers. That's how the job will get done the right way, not, as this bill will tend to do, the wrong way.

Thank you for inviting me to present our position on this important matter.

TRIBUTE TO JACK BRINKLEY

# HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 2, 1982

• Mr. PRICE. Mr. Speaker, as the gavel sounds for the adjourment of the 97th Congress, it will mean the loss of the experience and talents of a number of our most able colleagues.

Jack Thomas Brinkley is one of those persons. Had Jack chosen, he could have spent many more years in public life with great challenges and honors awaiting him. But he has chosen to retire at the end of this Congress to devote more time to his family and the private practice of law. Although I understand the personal reasons behind his decision to bring his House service to a close, I am deeply saddened at his departure.

JACK has served unselfishly and with distinction as a member of the Armed Services Committee since his election to the 90th Congress. As chairman of the Subcommittee on Military Installations and Facilities, he has worked tirelessly to upgrade the living and working conditions of the men and women in uniform and their dependents. Under his leadership, new and innovative technologies have been introduced in the construction of military facilities and military family housing with good results. Signficant cost savings to the taxpayers have been realized because of his initiative and con-

Jack has always stood for the finest qualities in our humanity: Integrity, courage, tenacity, ability, and dedication. He belongs, first of all to Georgia; but the entire Nation is richer because of his unselfish and excellent service during 16 years in the Congress.

I wish to extend to Jack and his family my sincere best wishes for the future as well as my thanks for diligent service in the past.

AMERICAN STRATEGIES FOR PRODUCTIVITY AND PROFITABILITY

## HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

• Mr. LaFALCE. Mr. Speaker, to say that our Nation suffers under the weight of a serious productivity dilemma is to belabor the obvious. The inability of our economy to achieve real growth is, in great measure, due to the failure of the Government, the business community, labor, academia, and citizens at large to recognize that productivity improvement, in all its di-

mensions, is an integral factor in lowering inflation, increasing profits, and returning people to their jobs.

One of the most perceptive individuals to comprehend the enormity of our productivity problems is Thomas J. Murrin, president of Westinghouse Corps. Public System's Co. In a truly superb speech delivered at Fordham University, Mr. Murrin outlines the reasons for our productivity dilemma, the impact it has on our economy and international competitiveness most importantly, what we as individuals and as a nation need to do in order to solve our productivity problems

A year and a half ago, I traveled to Japan with Tom Murrin on a tour of Japanese industry sponsored by the American Productivity Center. I benefited greatly from his perceptiveness on the productivity issue. I know that our colleagues will also benefit greatly from Tom Murrin's insights if they take a few moments to read his important remarks:

The remarks follow:

AMERICAN STRATEGIES FOR PRODUCTIVITY AND PROFITABILITY

Thank you-and good evening, ladies and gentleman.

It is a pleasure and privilege for me to participate in this Sievers Memorial Lecture Series.

As we enter the decade of the '80s, an increasing number of discerning Americans grow more concerned about our prospectsas a nation-of being able to come to grips with the economic and industrial challenges that we are facing.

Our country is poised on the brink of a major industrial and economic crisis brought on by more than a decade of low capital investment; limited R&D spending; high labor demands; and too little management attention to productivity and quality improvement-to cite just a few factors. This has been encouraged by a myriad of federal laws and regulations which have inhibited capital formation-and constitute an implicit industrial policy that has led to a disastrous decline in U.S. productivity.

In addition, this industrial and economic crisis makes much more difficult the concurrent revitalization of our national-securimilitary capabilities-necessary counter the growing Soviet military and political threats. But that is a separate sub-

As you probably are aware, the growth rate of America's industrial productivity slowed down in the "70s—and came to a screeching halt at the end of the decade. Our productivity actually declined a couple of points in 1981.

As a result, we as a nation are steadily becoming non-competitive in much of the

world market place.

During this same period, productivity kept rising in most other industrial nations-and particularly in the Far East. Consequently. some foreign companies which could once survive only in their protected home mar-kets can now compete with American industry everywhere-including our home markets here in the United States.

The challenge to American industry-and consequently to the American economy, and our people's security and prosperity-is awesome. In industries in which America was preeminent-steel, ship-building, automobiles, consumer electronics—our leadership

has been stripped away.

To help calibrate you on this challenge. let me cite the following information from a recently published report, which we've verified with our own analysis-concerning a product that we're all familiar with; the automobile: "Ford Motor Company's better plants turn out an average of two engines a day per employe using 777 square feet of space; the plants have up to three weeks of backup inventory, and use over 200 labor classifications. In contrast, a Toyota plant turns out nine engines a day per employe, or more than four times as many as Ford's; it uses only 454 square feet of plant space per engine, or less than 60 percent of Ford's. A Toyota plant has only one hour of backup inventory and only seven labor classifications, less than 4 percent of Ford's"

Of crucial concern to industry, and the future health of much more of our American economy-is the current targeting by the Japanese of micro-electronics, computers, communications, machine tools, and robots-as the next industries for Japanese

world dominance.

In regard to robots, for example, Japan has in place several times the number of robots as the United States-and is far in advance of the rest of the world.

By 1981, they had installed over 60,000 robots-while we in the United States have

installed about 4,000.

There are now over 200 companies in Japan producing robots. Last year they produced some 24 thousand-and they expect to double that this year. Their typical robot producer is apparently planning to triple production over the next four to five years suggesting output by then to be 150 to 200

thousand robots per year.

America must not lose these current battles for industrial supremacy-since these advanced technologies will be the foundation industries for every industrialized nation's economy for the next several decades.

While we in the United States have the technology, the people, and the other resources to meet these economic challenges, our response will probably be insufficent-if things continue on their present course.

So, doing it the same way we've always done it will no longer be sufficient!

Consequently-during the last three and a half years-we at Westinghouse have been studying extensively the "behind the scenes" reasons for the progress of many Japanese companies.

One of the most important lessons we've learned from these studies is that management must be willing to discard outmoded business practices-and embrace new ideas.

Consequently, we are successfully adapting much of what we have learned-and combining what we adapt with some of our own innovations, to keep our business healthy, and to establish productivity and quality improvement as a way of life throughout the corporation.

We have established six fundamental strategies for the improvement of our per-

formance

Three of these strategies are coequal. The first is to improve the management and motivation of our people-with particular emphasis on getting our people involved in the identification and solution of problems, through a participative management approach. Second is the introduction of new technology in both the office and the factory. And the critical third strategy is quality improvement-which must permeate the implementation of all our other strategies.

Note that quality improvement has equal emphasis! It is the quality of their products that has given the Japanese a strategic advantage in world markets-not just their productivity. It appears to me that many of their productivity improvements are actually byproducts of their emphasis on quality. That is, by literally "doing it right the first time", they don't waste resources fixing it, and this automatically improves productivi-

Productivity improvement, in its broadest sense, means improving the way we use all business resources-people's knowledge and labor; technology; energy; raw materials; plant and equipment; money, and time.

Our final three strategies address broad definition of productivity . . .

Our fourth strategy is to increasingly apply the techniques of value analysis to improve our products, processes, services and organizations. The fifth strategy is to improve the utilization of all our resources—including energy, raw materials and money. And the sixth strategy is what Peter Drucker calls "transnational production"-that is, strategically locating our new manufacturing facilities, particularly our feeder facilities, around the world, in a way that reduces our product costs, and improves our access to world markets.

In my view, this is the most challenging and promising program that we have ever undertaken. It may also be the most impor-

tant!

Similar progress must be made throughout American industry! Equally important, an effort from every segment of our society is needed to stimulate our national productivity.

Encouragingly, more and more voices from the boardrooms of Corporate America are speaking out. We see interest in productivity on our college and university campuses-and an ever increasing number of the nation's labor leaders are beginning to talk about it. Even the federal government has begun to acknowledge the problem-and to ponder their role in improving quality and productivity.

A recent study by Yankelovich, Skelly and White found that "the problem of the Japanese challenge to American industry arouses more concern among America's leaders than any social or economic issue that has been investigated by their organization in over 20 years.

The challenge would be grave enough if it were viewed simply as traditional competition in which production capability, management skill, and market forces largely determine the outcome.

But the Japanese challenge poses fundamental questions about the way we do business-about business and government relations, and about several features of our society, and the American character.

In other words, meeting the Japanese challenge is beyond the reach of any one company or industry-though company and industry efforts are certainly essential. In my judgment, even if every major corporation in the United States were to undertake programs to improve their productivity and their competitiveness, their efforts would not suffice against Japan's National Industrial Policy.

The goal of the Japanese has for sometime been to catch, and then surpass all others in economic performance. They have created a strategy and a set of institutional relationships to implement it-a cooperative

relationship among industry, government, labor, and academe and an organization, MITI, to orchestrate the process. As if the economic success of this system to date were not proof enough of its effectiveness compared to the American system, recent studies in South Korea, Taiwan, Hong Kong and Singapore indicate that it is the Japanese not the American-model that is being emulated by these newly industrialized coun-

Our competitive model is no longer being copied-because, to a worrisome extent, it has been rendered obsolete!

These East Asian countries-without significant natural resources-have achieved rapid growth by developing efficient, specialized manufacturing organizations backed by a system of social and economic incentives designed to promote work, savings, risk taking, investment, and labor mobility. They have achieved success by better organizing human and financial resources. Their rapid industrialization has grown out of an economic strategy designed to promote productivity, and international competitiveness.

Their game plan is national economic growth; their strategy is worldwide preeminence in selected industries-and their facilitating mechanism is a relationship among industry, government, labor, and academe that is fundamentally different from our American counterpart. We are being surpassed by a political/economic system that creates growth, strength, and wealth for a nation's economy-and thereby promises to provide for an improved prosperity, and standard-of-living for its people.

This game plan is well described in the new book, "The East Asia Edge". I support former Ambassador Reischauer's commentary on this book-which I quote: "Americans have become accustomed to the concept of Japan as no. 1", as Ezra Vogel put it in his book. Now, Roy Hofheinz and Kent Calder have thrown us a larger and more alarming challenge; it is clear that some of Japan's smaller neighbors are capable of repeating much of the Japanese miracle. Throw in the billion people of China, and you have a quarter of the world's population set to outpace the West and the rest of the world.

"The authors' thesis is not just stimulating; it is mind boggling. This is a fascinating and deeply significant book."

Accordingly, business, government, labor and academe in America can no longer maintain an attitude of indifference toward the industrial policies of other nations-nor can our institutions any longer continue in their present roles and relationships, and expect to witness anything other than the continuing decline of American industry's productivity, and international competitive-

A truly effective response to our economic problems requires a unified effort by these key segments of American society. We need a national commitment—and an explicit strategy for American Productivity Im-provement and International Competitive-

Thus, a major role by government is essential to the restoration and maintenance of America's industrial preeminence. Andas has been demonstrated by the recent comparative successes of the East Asian countries in productivity, and international competitiveness-that role must change substantially from the present governmental philosophies, policies and relationships toward business. The role of government aimed principally as a regulator and a watchdog of industry to "project" the people—leads to an adversarial relationship. that restricts and restrains industry, and hence, the nation's economy. This hurtsrather than protects-our people.

Our new model must recognize the responsibility of government to assure an increasing level of prosperity and standard of living for its people-and must recognize that that goal can be achieved only through a strong and growing national economy; attainable through increased industrial strength and growth. Government's role in such a process is active, cooperative, and supportive of industry.

I am not suggesting that we must copy our competition's political systems. Rather, the challenge is to find in ourselves a uniquely American response. A response that calls upon our creativity and ingenuity—to protect our standard of living, and assure our

national security.

To that end, let me suggest that the role of government in a National Strategy for American Productivity Improvement and International Competitiveness should focus on fundamental changes and actions in several areas; including: a global strategy for trade and investment; technology; education and training; domestic saving and investment policy; and to achieve these, we must develop a concensus-based process for policy formulation.

Let's look at these areas individually: First, in the area of international trade and investment, recent trends have given rise to the observation that other nations export unemployment—whereas we export jobs. While tariffs have generally fallen, nontariff barriers, investment requirements, offset demands and export incentives often fall with disproportionate severity on the U.S. economy.

The United States is too heavily engaged in the world trading system to ignore these trends. In 1980, for example, the United States exported almost one-quarter of its manufactured output, and imported over 21 percent of its manufactured consumptionmore than double the percentage of ten years earlier. Consequently, trade is no longer an "also ran". The line between what "domestic"-and what is "foreign"-is increasingly blurred. What other governments do to promote exports, and restrict investment, now impacts heavily on America's domestic economy.

The U.S. government should be applauded for intensifying its effort to break down foreign barriers to U.S. exports. But if we cannot be successful soon, then our policymakers should consider selective measures to enable our industries that are targeted by foreign industrial policies to compete fairly.

At the same time, the U.S. government should propose new negotiations aimed at establishing a set of common rules that apply to all.

In an era when export markets are becoming the world's most promising-and sometimes only-opportunities for economic growth, the United States government sometimes seems intent on dealing itself out of export opportunities abroad. For example, while other governments put together attractive financing packages in support of their exports, the U.S. government has adopted a negative attitude toward the Export-Import Bank. Studies by Wharton Econometric Forecasting Associates have estimated that for every dollar of interest differential that Exim loans out, the Federal Government gets back roughly nine to ten dollars in net revenues-and state and local

governments another four dollars-mainly through increased tax revenues from in-creased economic activities, and the reduction of various welfare payments.

What is needed is a binding international agreement on export financing that sets firm limits on interest rates, and the duration of loans financed by governments.

To encourage serious international negotiations, the U.S. government should meet other governments' financing offers in whatever way it takes to compete effectively. Present lending ceilings could be greatly increased, or removed entirely, with instructions to match foreign offers on an equal basis. Also, Congress could let the Ex-Im Bank compete for funds in the private sector-and appropriate only those interestequalization funds needed to meet foreign competition.

Overall, our United States maintains more export disincentives than any other nation in the world. While many-if not all-may justified individually, their collective effect is frightful.

Therefore, much must be done to attack these disincentives; including:

The clarification of the Foreign Corrupt Practices Act, so that present ambiguities do not frustrate legitimate business opportuni-

The revisitation of antitrust problems generally-with a view to examining these problems in the context of a global market where global competition exists; and,

A revisitation of the tax structure to enhance export opportunities, and stimulate U.S. participation in global markets.

Our future economic survival depends upon our increasing participation in world markets, it is imperative that we develop a global strategy for trade and investment by providing incentives which match foreign competition-and by removing the disincentives that we currently have in place.
Second, technology. While the United

Second, technology. While the United States leads the world in spending for basic research and development, our technological leadership has eroded in several key areas that have a profound effect on our world competitive position. The economy of a modern industrial society is driven by rapid development and application of technology in products, services and manufacturing processes.

Our major competitors include a Technology Stragegy as an explicit part of their National Industrial Policy.
For example, the Japanese and the

French are concentrating on aerospace, electronics, communications, robots, ma-chine tools, and computers. These are all major industries of the United States that are driven by rapid technological evolution.

Recent history suggests that a foreign national thrust into a chosen market or technology will successfully acquire very large U.S. and world market shares from American firms competing individually.

Therefore, an American response must be formulated and implemented to ensure our competitive strength, and avoid an erosion of our national capabilities. Such a response should include:

Joint multi-firm, government-laboratory and university research ventures that have government approval-and are focused to supply basic technology to meet market requirements.

Manufacturing Technology programs to stimulate the development and deployment of advanced manufacturing techniques-as exemplified by the Department of Defense's Manufacturing Technology and Technology

Modernization programs. Through this mechanism, the government removes barriers and provides incentives for its contractors to pursue higher risk-and higher payoff-technologies. These advances result in substantial savings to the government, contribute to the national-security-and help create a domestic capability that is of substantial value to the economy. And

Intelligence gathering; in which

Government-through its branch agencies-cooperates with industry and academe to assess the direction and nature of foreign competitive threats. This is an essential ingredient for effective executive policy and legislative initiatives-as well as business planning. Such coordinated efforts are necessary to provide the quality of information required to support successful government and business strategies.

Third, we must recognize that America's education and training system is poorly matched with the skills needed for modern U.S. occupations. While Americans are among the most educated people in the world, they are not as well-trained, in many cases, as are workers of our foreign competitors. Consequently, we are faced with a serious and growing shortage of critical scientific and vocational skills that are in high demand, and essential to improving Ameri-

can productivity.

The response to our education system's shortcomings ought to be similar to our response to the Sputnik launch-that is, a national effort to improve the quantity and quality of college trained engineers and scientists at all levels. Japan graduates more engineers than the U.S.—even though it has half our population. And France has decided to double its national force of computer engineers over the next four years-in response to industrial needs and opportuni-

Recently, the Nation Science Foundation reported that about 10 percent of the fulltime engineering faculty positions were vacant at the beginning of the 1980-81 academic year—while the IEEE reported that more than 37 percent of the PhD engineering graduates in 1981 were not available to U.S. industries or universities because they are non-US nationals with temporary student visas. Action must be taken to upgrade faculty salaries and capital facilities for higher education in engineering and the sciences-and we must provide loans and loan guarantees, for students in engineering and the sciences.

In addition, the typical Japanese factory worker-such as those who produce the Toyotas noted earlier-has had about 30 percent more classroom hours than our workers; has passed a rigorous Japanese fluency test, and acquired the ability to read English. When first employed, he goes through a several month orientation program-and then he becomes a career-long member of a quality circle.

Obviously, we have much catching up to do in our factories-as well as our offices

and laboratories.

Such efforts must be coupled with effective vocational training for those skills are obsolete by the application of technologically advanced manufacturing.

We need leadership, on a national scale, to formulate an effective alliance of private industry, labor and government with commu-nity colleges and vocational training schools to emulate for industry the enormous beneficial impact that the Land Grant Agricultural Colleges have had over the years. This suggests an expanded role for many community collleges that should have a very beneficial effect on the work and personal lives of many Americans.

Local organizations—such as "Councils for Needed Skills"-could be created which would bring together educational institutions with industry and labor to develop curricula; define training equipment needs; and identify part-time faculty from industry and labor to satisfy the needs for increasing skill

Assuming the other elements of our strategy are in place—including an aggressive trade policy; strategic education programs; joint R&D projects, productivity including government procurement policies and flexible anti-trust policies-we must recognize, fourthly, that the program may still fail without sufficient capital resources for the critical growth industries. While capital is available in the U.S., its availability does not necessarily coincide with the long term interests of the U.S. Economy. This problem exists for several reasons, such as:

Historically, U.S. firms have tended to focus on short-term profits. In large part, this reflects our reliance on the equity markets for capital-and our preoccupation

with stock market prices

Since World War II, the U.S. has enjoyed a technological advantage over the rest of the world-and has not had to critically examine the relationship between capital investments and its technological base; and

Our earlier history of long-term, realgrowth meant that there was a sufficient capital supply to fund almost any ventureand apparently this has bred inattention to

our current capital needs.

Our inattention to the problem of capital formation and strategic domestic investment has led to a situation where now the future of the technological and hence, industrial base of the U.S. is by no means assured. A Commerce Department study indicates that in 1980, 45 percent of all new U.S. investment in high technology plants and equipment came from foreign sources. In a sense we are losing control of our own economic destiny!

While the Economic Recovery Act of 1981 has helped with this problem, there are several other opportunities available to us .

Promising ways to encourage savings and capital formation include elimination of taxation on interest earned on savings-and allowances for a speedier write-off for investments in new plants and equipment.

This is demonstrated in Japan, where earned interest is tax-free-when one invests in government savings programs. This explains, in part, why the Japanese level of

savings is several times ours.

Two relevant proposals recently emerged at a hearing before the Joint Economic Committee offer an opportunity to enhance the capital resources for new ventures.

One calls for a revision of federal laws governing pension funds—in relation to the Employees Retirement and Income Security Act—to permit some of the 800 billion dollars in pension funds to be invested in venture capital projects.

The GAO estimates that if only one percent of the total pension funds were made available, that would be six to eight times the total venture capital invested last year.

The second proposal would allow for "dif-

ferential" capital gains tax rates. Currently, all long-term capital gains are taxed at 20 percent—whereas the proposal calls for taxing "new" business ventures held for a certain period of time-at a lower rate, or possibly not taxing them at all.

If we are to regain control of our economic destiny, then we must ensure that adequate capital resources are available.

Fifth and finally, there is virtually no disagreement that when Government, Management, Labor and Academe all work in a complementary fashion toward shared objectives, the most difficult challenges become manageable. But what is lacking are effective mechanisms to bring the leaders of these facets of society together, on neutral ground-in pursuit of common goals.

Therefore, we encourage the Executive Branch to adopt a Consensus-Based Policy Formulation Mechanism-to provide leadership in resolving issues on which there is a broad agreement that solutions must be developed and implemented.

For example, the retraining and relocating of displaced workers is the kind of high priority problem that requires the concerted and coordinated effort of Industry, Labor, Government, and Academe. It is an issue on which industry, labor, government, and academic policies and actions must be cooperatively devised-and carefully coordinated.

This is an issue that has near universal consent on the need for action-but no consensus yet on the appropriate actions. There are approximately fifty bills in the Congress to address aspects of the current dichotomy of having critical shortages of skilled workers in some industries-while tens of thousands of workers from other industries swell the ranks of the unemployed.

To this end, a legitimate and necessary role for the Cabinet Council on Economic Affairs-in close cooperation with industry, labor and academe-would be to assist in the adjustments from mature and declining industries into new and emerging opportunities.

Consensus-Based Policy Formulation pilot project should be initiated to develop a detailed and comprehensive set of recommendations for Executive policy, legislation, industrial and academic initiative. The project could begin by soliciting the full participation of the major labor organizations, the major industrial organizations, the principal associations of academic institutions; and the involved departments of government, and their oversight committees in Congress.

Such a Policy Formulation Task Forcewith expertise from these organizationshas the capability to effectively integrate the political and economic needs, and constraints, of all effected segments of society.

This specific training and education project could be the first in a series of efforts to formulate a national consensus on issues that require national attention and

These are some of the key things that we as a nation need to do to effectively mobilize our resources in the face of today's economic challenges.

These then are "American strategies for productivity and profitability".

If we take such actions soon, we can regain our position of economic leadership during this decade-and the United States of America will be healthy, vibrant, and secure, once again.

Thank you.

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## TRIBUTE TO MR. JOHN HOOVER

# HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr. John Hoover, an exceptional member of the American Embassy in Tokyo, Japan. Mr. Hoover recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Embassy in Tokyo. Through Mr. Hoover's efforts my meetings with trade officials in the public and private sectors in Japan

were very successful.

Sharing with you a little of Mr. Hoover's history is my pleasure. He was born in Florida in 1945. He holds degrees from the University of Kansas. Mr. Hoover has served in the U.S. General Accounting Office, in the Consular Office is Ecuador and presently holds the post of economic officer in the American Embassy in Tokyo.

Mr. John Hoover's exceptional efforts bring credit to himself, the American Embassy in Tokyo, and to the United States. We are truly fortunate to have him as a member of the U.S. Foreign Service.

A VOTE OF THANKS TO MAINE POTATO GROWERS FROM THE STEEL TOWNS OF PENNSYLVA-NIA

## HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

Mr. WALGREN. Mr. Speaker, on behalf of the unemployed steelworkers and all citizens in my 18th District in western Pennsylvania, I want to express our thanks to the Maine potato industry and the Northern Maine Family Farm Core for donating 90,000 pounds of Maine potatoes to unemployed steelworkers in Pittsburgh.

This Saturday, hundreds of Pittsburgh steel families will be able to receive 10-pound bags of potatoes at Three Rivers Stadium because of the generosity of these potato growers in Maine. With 135,000 Pittsburgh area residents now out of work and with little hope for economic recovery, this assistance is very much needed and welcomed.

The American steel industry, hard hit by this depression, has been one of the many victims of unfair, illegal foreign trade practices. The American potato industry shares the same plight.

In 3 years the volume of foreign potatoes entering the United States has increased by 700 percent. In 1976, Canada exported \$3.3 million worth of potatoes to the United States. By 1981, that figure had risen to \$32.3 million.

The entry of foreign potatoes into the U.S. market has been accelerated because of unfair government subsidization practices by Canada. The U.S. International Trade Commission has determined that Canada has a wide range of programs, including a comprehensive low-interest loan program and a freight-rate assistance program, which clearly aids the Canadian producer's effort to sell potatoes in the United States below the cost of production. Experts believe that the Canadians now have a 3-to-1 advantage over the American potato grower.

At the same time Canadian law prohibits the importation of bulk loads of American potatoes into Canada, and the redtape associated with trying to sell other American potato products in Canada has severely hampered American potato marketing in that country.

The difficulties experienced by potato growers in Maine and other American States are very similar to those that we have endured in the steel industry. Illegal, foreign subsidization has threatened thousands of steel jobs every year.

Clearly the time has come for citizens and their representatives in Congress from all the beleaguered sectors of our economy to join together on behalf of fair trade. In appreciation of the generosity of the Maine potato growers and in recognition of the importance of their case, I have today added my name to a letter that Congresswoman Olympia Snowe has sent to U.S. Trade Representative William Brock urging prompt negotiations with Canada for an orderly marketing potato agreement.

I hope all Pittsburgh residents will join me in writing to Ambassador Brock, The White House, Washington, D.C. 20500, on behalf of our friends in Maine. We will either all join together to save our steel industry, our potato industry, and all the other targets of unfair illegal foreign trade practicesor we shall surely each fall victim one after the other.

TRIBUTE TO HON. JOHN L. NAPIER

## HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 9, 1982

• Mr. DERRICK. Mr. Speaker, I would like to thank my friend and colleague from South Carolina, FLOYD SPENCE, for reserving time today to honor a departing Member of our State delegation, JOHN L. NAPIER.

JOHN NAPIER has represented the Sixth District of South Carolina in the 97th Congress, after winning the seat in 1980 in his first effort as a political candidate. Prior to that he ably served the people of South Carolina as a top aid to Senator STROM THURMOND and as chief minority counsel, first of the Senate Veterans' Affairs Committee and then of the Senate's Special Committee on Official Conduct.

JOHN was born and raised in Marlboro County, S.C. He is a graduate of Davidson College, with a degree in political science, and he earned a law degree from the University of South Carolina. He is admitted to practice before the Supreme Courts of the United States and South Carolina, and is a member of the American and South Carolina Bar Associations.

JOHN and I sit on different sides of the aisle and we do not always vote the same way, but I value his friendship greatly and can attest to the devotion and vigor with which he has supported the interests of our State and Nation. His work on the Agriculture Committee and Veterans' Affairs Committee showed him to be an unusually able legislator for a freshman.

John, I will personally miss your presence in this Chamber. I would like to wish you and your family the best of luck in what is certain to be a very

bright future.

## TRIBUTE TO RALPH E. SMITH

## HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Thursday, December, 1982

• Mr. MOTTL. Mr. Speaker, I should like to give recognition today to a man who has both served his country in the U.S. Army and as a dedicated public servant assisting fellow veter-

Ralph E. Smith, director of the VA Regional Office in Cleveland since 1977, does an excellent job of providing veterans in Cleveland the best service possible.

While representing the 23d Congressional District the past 8 years and serving on the Veternas' Affairs Committee, I have frequently called upon

Mr. Smith for assistance. He has provided it without fail.

Veterans who go to Ralph's office with a claim or some problem are assured of receiving fair, courteous, and professional treatment.

His fine work has not gone unnoticed. In 1980, he received the Senior Executive Service Performance Award. In 1970, 1971, 1972, and 1977, Mr. smith won the Superior Performance Award. His effectiveness in implementing cost savings measures won him the Presidential Commendation in 1965.

Mr. Smith joined the Veterans' Administration in 1959 as a claims examiner at the Pittsburgh, Pa., regional office. He has held several positions in data processing management and was named Director of the Systems Development Service for the VA in Washington, D.C., in 1972. From 1973 until 1977, he was project management officer for the development of the VA advanced computer system now in operation throughout the United States. He is a graduate of Duquense University and the University of Pittsburgh. Mr. Smith is a resident of Broadview Heights. He and his wife. Sylvia, are the parents of three children, Alexander, Robert, and Rebecca.

The 97th Congress and our predecessors have enacted some worthy legislation for our veterans, but the legislation is not worth much if we do not have good people in the field carrying out our policies. For this reason, Directors like Mr. Smith make us all more effective legislators. For this I offer him my deepest gratitude.

BESS TRUMAN

# HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 15, 1982

• Mr. DE LA GARZA. Mr. Speaker, it is fitting that we have set aside a day to pay official tribute to Bess Truman. When I think of Mrs. Truman, I remember the autographed picture her husband, President Truman, gave me. I will keep it always with pride. Bess Truman was like her husband in that they both shared a special strength of character that reflected the times, and endured her to the American people long after leaving the White House. Always she put her husband above all else. She was first and foremost a loving wife, and the President was a fortunate man to have such a woman at his side. The recent passing of Mrs. Truman marks the close of an era for those of us old enough to remember this silent, but dedicated woman behind the man.

MRS. HARRY S. TRUMAN

# HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Mr. BOLLING. Mr. Speaker, Mrs. Harry S. Truman was one of the finest and most effective women who ever lived in the White House as a President's wife. She felt that her role was to support and to help her husband and her daughter, Margaret. She did that quietly, with great dignity and effectiveness. She never allowed the welfare or the privacy of her family to be impaired by those whose interest was primarily a story. For that reason she was not as well known as many first ladies.

It was my privilege to know the Trumans, the President, Mrs. Truman, and Margaret, well enough to know the truth that she had great influence on both of them. In my experience her influence seemed always benign. Beyond that she was a loving and delightful person with an abundance of character and charm. Mrs. Truman was at the same time a great lady and a simple person with whom it was a lot of fun to be with.

At crucial times in my life she was of enormous help to me.

I will miss her.

CLINCH RIVER MEETS ITS DEMISE

# HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. AuCOIN. Mr. Speaker, I would like to take a moment from the hectic pace of these last days before adjournment to urge the Senate to follow the recent action taken by the House and eliminate funding for the Clinch River breeder reactor.

Earlier this week, a bipartisan majority of the House voted to kill the project. As a long-time opponent of this boondoggle, I could not be more pleased.

The Clinch River project makes no sense economically or technologically and holds about as much promise for solving our energy problems as the MX has for reducing the size of the deficit.

If Clinch River was cost effective, there might be reason to support it, but it is not. The initial price tag for the Clinch River breeder reactor read \$422 million. Today, the General Accounting Office has pegged the cost at \$9 billion. That is 20 times the original estimate—20 times more out of the people's pocket.

If the breeder's design was technically up to date, there might be some jus-

tification for it, but it is not. The Clinch River breeder is a technological dinosaur. It is already outmoded by current breeder research and development efforts in the United States and other nations.

If Clinch River was vital to the U.S. energy security, the project might have merit, but it is not. Originally we were told there was an escalating demand for electricity and diminishing supplies of uranium. Both assumptions have proven false. Electrical demand has plummeted and domestic uranium supplies have doubled in the last decade. Private industry has not beaten down the door to invest in the breeder because they know that breeder technology would not be economical until well into the 21st century.

For only one-quarter of the project's cost, we could insulate enough homes to save the equivalent of 48 million barrels of oil for the next 25 years.

If Clinch River was a priority for the American people, I might give it my support, but it is not. The cheering section is empty. Members on both sides of the aisle as well as the National Taxpayers' Union and environmental and church groups agree that Clinch River must go. Even the utilities have given up their front row seats. Their share of the project's cost has shrunk from 50 percent to less than 9 percent.

I have heard a number of my colleagues, many who support Clinch River, stand in this well and point to budget fat to justify slashing health care for the elderly, education for our children and housing for the poor. How do you explain to the people back home that we can afford to spend billions on a project of dubious value, but cannot afford to put them back to work? Is not the average American bearing a heavy enough burden in these trying economic times without having to shoulder this political pork too?

Proponents of Clinch River have tried to sell Congress and the American people a bill of goods. The House did not buy it and I hope the Senate will see fit to join us in killing this boondoggle of a breeder once and for all.

TRIBUTE TO MR. KENT M. WIEDEMANN

# HON, GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr. Kent M. Wiedemann, an exceptional member of the American Embassy in Shanghai, China. Mr. Wiedemann recently assisted me during a special factfinding mission on behalf of the

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U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Embassy in Shanghai. Through Mr. Wiedemann's efforts, my meetings with trade officials in the public and private sectors in China were successful.

Sharing with you a little of Mr. Wiedemann's history is my pleasure. He holds degrees from San Jose State University and the University of Oregon. Mr. Wiedemann has served in the Peace Corps and presently holds the post of deputy principal officer and chief of the economic section in the American Embassy in Shanghai.

Mr. Kent M. Wiedemann's exceptional efforts bring credit to himself, the American Embassy in Shanghai, and to the United States. We are truly fortunate to have him as a member of the U.S. Foreign Service.

HON. KEN HOLLAND

# HON. BUTLER DERRICK

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

• Mr. DERRICK. Mr. Speaker, I am certainly pleased to have this opportunity to address this body in recognition of my dear friend and colleague who will be leaving this Congress shortly—Ken Holland.

During his tenure in this body Ken has served South Carolina well. He has worked hard to serve the interests of our State and those of his constituents and has likewise served the Nation with distinction. Those of us who have had the privilege of working with Ken personally on various issues agree that he is an independent thinker who remains loyal to his convictions and who keeps his commitments.

As a member of the House Ways and means Committee, he has worked hard to preserve the textile industry, which is so vital to the economic base of South Carolina.

In addition to his great ability as a legislator he has established quite a reputation as a country musician and as an after dinner humorist. I know that he will be successful in whatever he attempts to do in the private sector and am confident that he will continue to live life to the fullest as he returns to South Carolina. Although I am losing a respected colleague, I know the friendship we have developed over these years will remain strong in the years ahead.

TRIBUTE TO DR. ANDRES D. ONATE

# HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Dr. Andres D. Onate, an exceptional member of the American Embassy in Beijing, China. Dr. Onate recently assisted me during a special factfinding mission on behalf of the U.S. House of Representatives Banking Committee to promote international trade.

I was very impressed by the organization of the American Embassy in Beijing. Through Dr. Onate's efforts my meetings with trade officials in the public and private sectors in China were very successful. Sharing with you a little of Dr. Onate's history is my pleasure. He was born in Arizona in 1940. Dr. Onate holds several degrees from the University of Arizona and has served in the U.S. Air Force. He has written the book, "Mao and the Chinese Communist Party." Dr. Onate presently holds the post of economic officer at the American Embassy in Beijing, China.

Dr. Andres Onate's exceptional efforts bring credit to himself, the American Embassy in Beijing, and to the United States. We are truly fortunate to have him as a member of the U.S. Foreign Service.

VOLUNTARISM IN GASTON COUNTY, N.C.

# HON. JAMES T. BROYHILL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. BROYHILL. Mr. Speaker, for years I have encouraged the people of my congressional district to become involved in volunteer activities in their communities. Government does not have the resources to do all that needs to be done, but even if it did, I believe that the concept of voluntarism would still be a much needed one.

Recently I wrote my weekly newsletter on the subject of voluntarism with an emphasis on the involvement of President and Mrs. Reagan in promoting this activity. I have received a letter from my good friend, Barbara Voorhees, the president of the Junior League of Gaston County, N.C., and I would like to share it with my colleagues:

I just finished reading your most recent Washington Report and your excellent comments concerning voluntarism. I felt compelled to write and say that the Junior League is committed to promoting voluntarism in Costne Country.

tarism in Gaston County.

For almost twenty-five years, League members have given hundreds of thousands

of hours in service to local agencies and on community boards. We initiated such agencies as the Family Counselling Service, Gaston County Speech and Hearing Clinic (now a part of Gaston Memorial Hospital) and the Information and Referral Service.

Our most recent project has been the creation of a voluntary action center—Volunteer Gaston—which was started last spring in coalition with the United Way. Set to "go public" after the first of the year, Volunteer Gaston aims to bridge the gap between agencies needing volunteers (especially service agencies) and individuals of all ages seeking to volunteer.

This fall, we also directed a Foster Family Media Campaign and have begun preparing a slide presentation to increase the number of foster families in the county. This has been done jointly with funds from the First Presbyterian Church and resources from the Department of Social Services with League volunteers doing the leg work.

I cite these two examples to demonstrate that the League is realizing the importance of broad-based community involvement through coalitions as the best hope of solving community problems, in the light of diminishing resources. I am excited about the possibilities facing us in the future, not only in terms of projects, but also in terms of the expertise our members can share as highly trained advocates and volunteers.

Thank you for recognizing the importance of volunteers and voluntarism.

SISTER OLIVE LOUISE DALLAVIS, C.S.J., LAUDS HON. RICHARD BOLLING

# HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. O'NEILL. Mr. Speaker, I had the pleasure of participating in a tribute to the Honorable Richard Bolling in Kansas City, Mo., on October 3. Sister Olive Louise Dallavis, C.S.J., president of Avila College in Kansas City, offered the invocation and I want to take this opportunity to share her words with my colleagues:

"The quality of a person's life is in direct proportion to his commitment to excellence regardless of the chosen field."—Vince Lombardi.

And the wind blew and the rain beat And the house stood firm Being built on the rock of faith.

Richard Bolling is a man about whom this Gospel verse could be written—the weather-beaten public servant who stood his ground. A public servant is a whipping boy. He must stand above interest groups and must muster all his talents to do his political job for the good of the United States first and then its constituencies. Only he as an elected public servant knows his job and its tremendous scope. The areas of government demand representatives with courage, stamina, fortitude to withstand the pressure of myopic forces.

Public thanks are given to our distinguished citizen, Mr. Bolling, who dedicated decades of his life to being that public servant. He loved his work, he was faithful, he did his best.

From Proverbs:

The wise man, Richard Bolling has the sincere desire for instruction;

His desire for instruction is his love of wisdom;

And his love of wisdom is the keeping of laws;
And the keeping of laws is his assurance of

immortality; And immortality brings him to God.

So be it.

Bless us, Oh God, and these your gifts which we are about to receive from your Bounty. Amen.

NATIONAL SCIENCE CENTER FOR COMMUNICATIONS AND ELECTRONICS

# HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. BARNARD. Mr. Speaker, I want to bring to your attention the Foundation for the National Science Center for Communications and Electronics, a nonprofit, tax-exempt organization created in 1980 by a partnership of industry, science, education, and government. This dynamic group under the leadership of Mr. Robert W. Sarnoff, chairman, and Dr. George M. Snead, Jr., president, is developing plans and raising funds to construct the National Science Center for Communications and Electronics. You will recall that the creation of this center was endorsed by a concurrent resolution passed by this Congress on December 13, 1982.

Those of us in position of responsibility nationally and in Georgia share with the foundation a strong interest in the continuing and critically important role that communications and electronics, science, and technology play in the national security and economic well-being of this country.

The rapidly expanding requirements for highly skilled personnel, particularly in the high technology areas of communications and electronics, are already straining manpower resources. Further, I am advised that the U.S. communications and electronics industry forecasts a need for twice as many technicians and paraprofessionals in the next 5 years, while problems remain in attracting and training qualified personnel. The same forecasts also predict a serious shortfall in engineers during the same period. In addition, the need for trained technical personnel will increase dramatically in the military. The U.S. Army will double its requirements for communications and electronics personnel in the same 5 years, with similar patterns in the other military services.

The importance of trained scientists, engineers, technicians, and other technical personnel to the future of this country becomes even more evident when you consider some basic facts. In terms of economic impact, communica-

tions/electronics is the largest growth industry in the United States. Currently it provides in excess of \$200 billion annually in goods and services. This is forecast to grow to \$400 to \$500 billion annually by 1990. At the same time, communications/electronics industries face the most extensive modernization and technological replacement programs in history as fiber optics, microprocessors, robotics, integrated computer/communications networks, and other products of communications and electronics research and development enter production and expanding use.

The competition for these market opportunities will be aggressive. We must all be aware that our communications and electronics industries have been facing and in the future must be prepared to respond to increasing international competition for their established and created markets in the United States and overseas. Experience should teach us that losses in both domestic and overseas markets are difficult to recover. It is therefore in our national interest to insure that qualified engineers, scientists. and technicians are available in the numbers required by our communications and electronics industry to operate effectively and competitively. We must also be aware of the much greater emphasis being given to science, engineering, and mathematics education in countries of Western Europe and in Japan and the U.S.S.R., and the resulting higher numbers of graduates

at all levels. The National Science Center for Communications and Electronics Foundation has developed a unique response to this challenge, drawing upon the partnership of industry, scientific, military, and academic communities. The foundation proposes to fund the design and construction of the National Science Center for Communications and Electronics and to donate the facility for use onsite and through electronic extension for the introduction to science and technology and the education, training, and retraining of the broadest possible range of Americans, including:

Forty thousand students annually from all military services who attend the U.S. Army Signal School at Fort Gordon, the largest most advanced training center in the world for communications and electronics.

Young people from the elementary to the postgraduate levels in our educational systems.

The general public, with emphasis on understanding the extensive role of communications and electronics in our everyday lives and in our national well-being.

I am pleased that the Augusta-Fort Gordon, Ga., area has been chosen as the site for the Center. This combines the multiple advantages of a location

near the major supporter and user of the Center, close to existing major transportation routes, in an area permitting easy year-round access by multiple means, and in a community dedicated to the support of the Center as a national asset.

I am also confident that the NSCCE Foundation will succeed in its efforts to raise from the private sector of the United States the \$18 million needed to construct the center. I urge all interested individuals and organizations to contact the foundation at its offices in the Armed Forces Communications and Electronics Association International Headquarters Building at 5641 Burke Centre Parkway, Burke, Va. 22015; telephone (703) 425-8517.

Recognition is due to the community of Augusta and the central Savannah River area for growing pledges and support, to the New York Council of the U.S. Navy League for its sponsorship of the center as a supported project, and to the following initial corporate supporters: AT&T Co., Bell Laboratories, BDM, Ford Motor Co., Harris Corp., Litton Industries, Magnavox Government and Industrial Electronics Co. (a subsidiary of North American Phillips Corp.), Rockwell International Corp., Southern Bell Telephone Co., United Technologies, and Western Electric.

TRIBUTE TO REX LAYTON—CITY CLERK OF THE CITY OF LOS ANGELES

# HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. HAWKINS. Mr. Speaker, as dean of the Los Angeles city congressional delegation, I would like to pay tribute to a dedicated public servant, Rex Evans Layton, the retiring city clerk of the city of Los Angeles.

Born in Safford, Ariz., in 1920, Rex moved to Califorina where he and his lovely wife Helene have raised their three children, Kristine, Steven, and Robert. Rex is a graduate of the University of Southern California and a registered public accountant in the State of California.

Rex Layton has served Los Angeles as city clerk for the past 14 years. Rex began his employment with the city of Los Angeles in 1946, when he started as a registered public accountant for the city clerk's office. He became city clerk of Los Angeles in 1968 and, since that time, has carried out the numerous responsibilities of this job with honor and distinction.

The city clerk is responsible for the collection of hundreds of millions of dollars in various taxes for the city, and for the administration and ex-

penditure of the budget funds of the city clerk and the city council.

The city clerk is responsible for the appointment, discharge, suspension and transferring of hundreds of employees of the city clerk's office and of the city council, the supervision and conducting of all city municipal elections, and the maintenance of liaison relations with the mayor, city council, city departments, and the public.

The city clerk is also responsible for the city seal, maintenance of an index of all records, maintenance and updating of records for each of the more than 800,000 parcels of real property within the city, direction of the activities of the city's record management program, and the administration of oaths of office to elected and appointed officials.

The presence of the city clerk or a deputy at each meeting of the city council and at each meeting of the 15 standing committees of the city council, and preparation of the minutes of these proceedings is, in itself, an awesome task, and Rex has overseen this function with dedication and thoroughness.

During his term as city clerk, Rex has received two outstanding evaluations from Mayor Sam Yorty and four outstanding evaluations from Mayor Tom Bradley.

Rex Layton is the only general manager for the city that has achieved a fourth step merit rating. He was also recently chosen as "Employee of the Year" for the city of Los Angeles for 1982.

Rex Layton is a member of the International Institute of Municipal Clerks, a world-wide organization of city clerks with a membership of nearly 6,000 persons. Rex served as president of the organization from 1979 to 1980, chairman of its regional reorganization committee in 1980, and chairman of its membership committee from 1972 to 1978.

Rex Layton is also a past office holder in the City Clerks' Association of California; past president of the Southern California City Clerks' Association; past president of the city clerks' department and former board member of the League of California Cities; and is active in the Municipal Finance Officers' Association and the Optimist Club.

Members of Congress, as well as numerous Federal agency officials, know well the name of Rex Layton, for it is under his signature that we have received all official documents from the city over the past 14 years.

It is my pleasure today to extend the gratitude and appreciation of the Los Angeles city congressional delegation to Rex Layton for his many years of service to the city of Los Angeles.

A TRIBUTE TO MR. AND MRS. WILLIS BURKHARD CARMAN

## HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

Mr. CARMAN. Mr. Speaker, I rise today to offer special recognition to my parents, Mr. and Mrs. Willis Burkhard Carman, and the many contributions they have made to Long Island.

Like his father, grandfather, and great-grandfather, my father, Willis Carman, was born in Amityville, Long Island. He is a 10th generation, direct descendent of John Carman, one of the founders of Hemstead, N.Y., in 1643. My father graduated from Fordham Law School and set up a prvate practice in Farmingdale, N.Y. Willis Carman has been extremely active in the bar association of Nassau County, as well as in many charitable and civic enterprises. He has served as the Farmingdale village justice for many years, and has also served as judge of the Nassau County District Court.

My mother, Marjorie Sosa Carman, attended Skidmore College and married my father in 1927. She has raised a family of three, and, since the death of her father, Gregory Sosa, in 1952, has managed a thriving real estate concern.

As the son of Willis and Marjorie Carman, it is with deep pride and great pleasure that I recognize their valuable contributions to the citizens and communities of Long Island. The Christmas season is a time to remember and reaffirm the strong bonds between parents and their children. I feel extremely fortunate to have witnessed firsthand the contributions my parents have made to the growth and success of our community in Long Island. My brother, Willis Jr., my sister, Joan, and I have been nourished and enriched by their wisdom, devotion, and love. Whatever success I have achieved in my public service career, I owe, in large part, to their firm instruction and sound example.

I wish them continued health and happiness in their life together.

THE HUMAN DIMENSION OF THE HOUSE

# HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. MOFFETT. Mr. Speaker, I wrote a long goodby speech that presented my views about this institution, its problems, and its future. It sought to articulate what I have learned about the Congress in my 8 years here and it offered some proposals for reform.

But I decided instead to talk briefly about the human dimension of the House. When I came here in 1974, as part of that famous group of "Watergate Babies," I never anticipated that I would grow to love the institution in the way that I do. I never in my wildest dreams thought that I would develop such a respect for the Members here.

I keep thinking what a tragedy it is that the American public cannot see this place from the inside, in the way that those of us who serve here do.

The press and media people pack the gallery upstairs during a debate on a pay raise, but they rarely write or speak about the personal ramifications of the job here. This is not to complain. Every Member here feels that it is a supreme horor to serve as a Member.

But it is important that the public know more about what kinds of people serve here, how hard they work, the personal toll that is taken on individuals and families.

I have seen grown men here cry when their marriages were destroyed. I have seen grown men depressed about missing events that were important to their children.

In sports they have a term called "playing hurt," when players participate even when injured. Well, I have seen Members of the House "play hurt," Members who were ill and dragged themselves to the airport to keep an important commitment back home.

I have seen Members with serious illness or disease struggle to do a good job, to make rollcall votes and committee meetings.

The picture of the Congress presented to the public via the Abscam scandal was not a fair one. This is not a place where you can reach in and pick any seven Members and expect that they will accept money in a brown paper bag. It is not that kind of place and it is an insult to all who have served well here that such a picture of the Congress be presented.

Scandal is what sells newspapers and soap on the evening news. Pay raises and debates over them in this body are in the same category. But these things do not begin to tell the story of what happens here on a day-to-day basis.

What happens here on a day-to-day basis is a struggle to get things done, to do the right thing for our districts, for the Nation and the world. What gets in the way of that is familiar to all of us.

The hectic schedule is a problem. The lack of predictability in the scheduling. The tug and pull of various people and interests wanting our attention. The seemingly constant attention to getting reelected. The accompanying preoccupation with raising money. And, of course, the impact

that such a preoccupation has on policymaking.

There must be a movement developed to deal with these problems. I believe we should move to a 4-year term with a limit of three terms in the House and two 2-year terms in the Senate. I believe we should move to a 2-year budget and plug in a requirement that the Congress do meaningful oversight for 3 or 4 straight months each year.

Most importantly, we need campaign reform-a limit on PAC's, public financing, free access to media, and many other important changes. The political system is being contaminated by money and we must do something

about it.

Such dramatic changes must take place with pressure from the outside and I intend to do my share as a private citizen in that regard.

Being a private citizen again will not be altogether unhealthy. Getting out of politics for a time will give me an

important perspective.

But there will never be anything to take the place of the warm friendships I have developed here. I have not had the chance to thank each of my colleagues and staff for their kindness. I hope this statement will at least partially serve that purpose.

## WHITE-FROEB STUDY DISCREDITED BY SCIENTISTS

# HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. FOUNTAIN. Mr. Speaker, after 30 years of service to the people of the Second District of North Carolina, I am about to retire from the U.S. House of Representatives. Before leaving I would like to submit, for the RECORD, an item dealing with an issue with which I and many others have long been interested; namely, the alleged effect of smoking on the health of the nonsmoker.

Mr. Speaker, let me briefly place the issue into its proper context. In 1978, the Subcommittee on Tobacco of the House Committee on Agriculture heard testimony from a vast array of eminent scientists and physicians on the issue of the effect of tobacco smoke on nonsmokers. Those individuals who testified generally agreed that no conclusive scientific evidence exists to support the claim that smoking affects the health of nonsmokers. in 1980, however, an article appeared in the New England Journal of Medicine by Drs. White and Feoeb entitled "Small Airways Dysfunction in Nonsmokers Chronically Exposed to Tobacco Smoke," in which the authors concluded that smoking in the workplace adversely affects the lung function of nonsmokers. This conclusion appeared to conflict with the testimony presented to the Subcommittee on Tobacco.

Since its publication, the White-Froeb study has been used to support both regulatory and legislative activities in the United States. For example, the study was referred to in testimony before the Civil Aeronautics Board during its recent consideration of rules regarding smoking aboard commercial aircraft. The National Research Council report entitled "Indoor Pollutants" which was issued in 1981 under an EPA contract also relies on the study. Finally, the White-Froeb study has received widespread attention in both State and local legislative and policy-

making bodies.

The White-Froeb study continues to play an important role in legislative considerations, despite the fact that the study itself has been heavily criticized by scientists and health practitioners. Most recently, at the 1982 joint meeting of the American Lung Association-American Thoracic Society, Dr. Michael D. Lebowitz, professor of internal medicine, college of medicine, University of Arizona and special consultant to the Subcommittee on Tobacco, presented reasons why, in his own words, "the results of this study cannot be used to demonstrate an effect of passive smoking on forced expiratory flows in adults exposed in the workplace." Dr. Lebowitz, a noted specialist in epidemiology and respiratory diseases, said that the basic problem with the White-Froeb study is that it "improperly designed" and that "there are problems with the whole data set and with the conclusion." Dr. Lebowitz also expressed concern that the significance of the White-Froeb data appeared to depend upon their unexplained omission of data from 3,000 subjects originally included in the study.

Mr. Speaker, Dr. Lebowitz wrote a letter, dated July 10, 1981, to our colleague, Congressman Charles Rose, Chairman of the Tobacco and Peanuts Subcommittee of the House Agriculture Committee, as a result of a personal interriew which Chairman Rose and Dr. Lebowitz had with Dr. White. With the personal consent of Chairman Rose, I am inserting herewith Dr. Lebowitz's letter. It more fully explains the author's views regarding

the White-Froeb study.

I also want to mention another evaluation of the White-Froeb study, one which was made by Dr. J. G. Gostomzyk, director of the department of health of the city of Augsburg, West Germany. After an extensive, detailed review of the White-Froeb study, Dr. Gostomzyk has concluded that the White-Froeb data were incompletely presented and did not satisfy the prerequisites for scientific credibility. In addition. Dr. Gostomzyk remarked that "Dr. White's methodology is not scientific but that of a lay person with convictions," and concluded that "we assume that Dr. White's study is an attempt at scientific validation of his credo and that he possibly is unaware of the inadequacy of this methodology." It is obvious that Dr. Gostomzyk is referring to Dr. White's outspoken antismoking activities in California, including Dr. White's endorsement of public smoking referendums which were, incidentally, twice rejected by the California voters.

Given these and other criticisms of the White-Froeb study, it would appear that the New England Journal of Medicine has, perhaps unwittingly, performed a disservice to its readership. It is extremely unfortunate that a study so fraught with methodological problems, as indicated through numerous criticisms by scientists in the United States and elsewhere, should have been published in such a reputable journal of medicine. The White-Froeb study should, therefore, not be relied upon by the Congress, Federal agencies, or other legislative or policymaking bodies when considering restrictions on smoking in public places.

> THE UNIVERSITY OF ARIZONA, COLLEGE OF MEDICINE,

Tucson, Ariz., July 10, 1981.

Congressman Charles Rose,

Chairman, Subcommittee on Tobacco and Peanuts, House of Representatives, Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN ROSE: The following is summary of my notes on our visit to Dr. James White at UC San Diego, as per our discussion. Unfortunately, despite the statement in the editorial of the New England Journal of Medicine (27 March 1980), Dr. White and his co-author did not "faultlessly demonstrate a reduction in measures of small airways of healthy non-smokers exposed to cigarette smoke in the work place". It is apparent from our visit and the article that there were various faults in the present study, which shall be discussed.

The problems with the research design are as follows:

The participants were not only volunteers, but generally had to pay for the physical fitness course; this is the reason most were white-collar. Employees in specific factories invited White to run the physical fitness course in their factories as well, which would also bias the population sample. Bluecollar workers were not distributed randomly. [It has to be assumed that volunteers in the physical fitness courses fall into unrepresentative categories: the highly motivated, with an interest in health and usually healthier, those who are worried about health and generally less healthy; the first group would include fewer smokers and the second group would include more smokers.1

The questionnaire utilized was not a validated one per se; test-retest comparisons were made only on the smoking questions and very small groups of subjects. smoking information was not validated. There were no test-retest or validations on symptoms asked in the questionnaire. The questionnaire itself was derived by the investigator, and included some questions from standard questionnaires; this did not

appear to include standard respiratory questions, and in fact various typical respiratory questions (such as phlegm) were not asked. The questionnaire did not include questions on attitude, but did include questions on activity levels and jobs (duration, type). The questionnaire did ask how many smokers were in their work area, room size, and nature of the air conditioning. It also included questions about residences in the last 20 years (zip codes), so that exposures away from work were assessed by residential location. A question was asked about smokers in the home. [Thus, the smoking information is not validated, but is probably relatively accurate. The information about exposure to passive smoking is only approximate, as is the information on other occupational exposures. Exposures to air pollutants or to unknown toxic gases in the working place is only approximate, and their effects underes-

Dr. White presented a paper to the American College of Sports Medicine, the abstract for which in 1977 indicated there were 7.122 subjects enrolled between 1969 and 1977. However, in the New England Journal of Medicine article, he states that the base population analyzed is only 5,210 smokers and non-smokers enrolled between 1969 and 1979. Although he excluded all the ex-smokers, some whose zip codes were missing, his answers as to why the rest of the subjects were excluded were entirely unclear and tend to indicate potential bias in selection of subjects for consideration for analyses. It might be added that the 2,100 subjects analyzed in the NEJM article and those analyzed and presented in the Sports Medicine abstract appear to be the same as they yield exactly the same table of results (as determined from comparison of the table in the Sports Medicine manuscript and the NEJM table).

In addition to the sources of bias mentioned above, it is apparent that the non-smokers in clean work environments and those in smoking work environments have not only chosen not to smoke, but it is likely that those non-smokers working in smoking environments may be different for a variety of reasons from non-smokers working in clean environments. Furthermore, it is apparent that the non-smokers in non-smoking environments are quite different in that their lung function is "super normal" in comparison even with the Seventh Day Adventists (the source of the Morris prediction equations).

Dr. White did state that from the questionnaire and from the baseline tests that there were no significant differences in the three non-smoking/non-inhaling groups in terms of the amount of previous exercise or oxygen consumption, but he was unsure of the difference in percent of body fat. Smokers did have less body fat, were less in terms of having lower oxygen consumption, and had less activity. He says further that there were no differences between the groups in terms of childhood respiratory history (lower respiratory tract illnesses) from his submitted questionnaire information, but he did not ask about family history. He did not ask sufficiently about respiratory questionnaires to appropriately exclude groups on the t-ses of productive cough ("cough bronchitis"). He states that there were no differences in prevalence rates of questionnaire responses by zip codes; if so, this contradicts other evidence vis-a-vis the effects of air pollution in these areas. He was not able to assess other exposures such as those from hobbies, exposures to gas stoves, or transportation. In terms of passive smoking in the home, he excluded such passive smokers from the non-smoking and passive smoking groups, but not from any smoking groups. He was not able to provide any information about the distribution of characteristics in those eliminated from the original 7,000 or the 2,208 that qualified because of other questionnaire results.

With regards to the pulmonary function testing done by Dr. White, it must be first noted that the instrument used is not considered a satisfactory instrument in that it is non-linear (highly biased) at both high volumes and low volumes. [This has the effect of maximizing differences in that anyone with minor aberrations of total vital capacity or of flows at the end of the flow volume curve would have very different, that is, low, flows.] The comparisons that Dr. White did and reported on in his response letter in the NEJM (14 August 1980) would not in any way modify this opinion. Furthermore, Dr. White has the only pulmonary function technician and reader. Even though he was trained at the VA hospital and his techniques were evaluated by test-retest and by comparison to other readers, any biases inherent in Dr. White's thinking (see below) would affect the way he read the tests. Furthermore, he took the FEV, and flows off the same spirogram using an approximation technique published by Morris, et al., which is not an adequate or accurate representation of those measures. All of his tests were baseline tests done after two and a half hours in the classroom in the evening on those without acute respiratory illnesses (usually on a Monday Tuesday evening); thus, there is probably little diurnal variation or pretest biases other than those experienced by the workers during their work day and in their activities prior to the classroom. Although it is difficult to judge the effects of these factors, they may have influenced the test results, especially in those with any significant exposures during the day.

The major problem with the pulmonary function test results as reported is that they are not age- and height-adjusted, since lung volumes and flow rates are associated with both of these factors. In other words, Dr. White used raw values of flows and volumes to do comparisons. He did this on the assumption that the mean age and height were similar for the different groups. This is a mistake, since the distributions for those ages and heights could have differed. Furthermore, his quoted figures for percent predicted are strictly for the average person, age 49, with an average height, and does not represent the group for which they are provided. In terms of these statistical analysis, he just chose the SNK package among many. There is no correlation coeffi-cient per se. "Normality" was not an objec-tive of this study, so he cannot state anything about the normality of the subjects studied, including those he considered to have significantly different results from the non-exposed non-smokers. He does not understand the difference between clinical meaningfulness and statistical significance. It is quite obvious that the majority of those in the passive smoking and in the noninhaling group are quite normal and that very few would be considered abnormal by any criteria.

In his reported results, he quotes as incorrect significance level of p.<.005, whereas the level provided by the technique is p.<.05. This is very different, given the number of comparisons made, and indicates

that some of the results would not be significant if corrections were made for the number of comparisons. Furthermore, the data presented in Table 1 was used to recompute the SNK analysis by Mary C. Townsend, MPH (Department of Epidemiology, University of Pittsburgh). Those results differ from those published by Dr. White and are provided in the attachment. The most important of the differences is the finding that the passive smokers and light smokers differ for the male FEV 75-85 percent. Thus, the effect of passive smoking on non-smokers is still unconfirmed, despite Dr. White's unfailing conviction that it is confirmed.

Other minor points: In terms of the carbon monoxide sampling, although it is stated that it was randomized, it was really on only 40 smoking and 40 non-smoking situations chosen by chance but not by random selection. Dr. Froeb, the co-author with Dr. White, is a private practitioner in La Jolla and helped Dr. White in drafting the NEJM manuscript from the manuscript presented at the American College of Sport Medicine. It might be pointed out that San Diego is not strictly low in air pollution concentrations, nor uniformed throughout the area; this may bias some results. Dr. White performed the pulmonary function tests until "reproducible curves were obtained", but they do not necessarily follow the Intermountain, Snowbird, or ATS recommendations

In reviewing Dr. White's response to the letter to the Editor in the NEJM (14 August 1980), it is quite clear that Dr. White did not satisfactorily answer all the questions raised, many of which are similar to those raised in this letter. It is questionable, from the discussion, whether Dr. White would pursue any further re-analysis of the data, nor necessarily could it be pursued. It is questionable, given the basic underlying problems in the research design, that reanalysis of the data would be worthwhile. On the other hand, given other results that contradict Dr. White's, including those now in press (such as Comstock et al., Johns Hopkins, presented at the Society for Epidemiological Research in June of 1981), it would be likely that a panel discussion of passive smoking might be valuable. I will be glad to furnish further discussion or help in that matter.

Sincerely

MICHAEL D. LEBOWITZ,
Ph. D., F.C.C.P.,
Professor of Internal Medicine.

#### TOM BUTTEPFIELD

# HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. SKELTON. Mr. Speaker, as 1982 draws to a close, it is customary to reflect upon the events of the past year. I would like to talk about an experience I had just over a year ago and about some sad news I heard just this week.

In December of 1981, a movie called, "The Children Nobody Wanted" was televised. This moving story depicted the work of a man named Tom Butterfield and the help he gave to foster-

lings in Marshall, Mo. On Monday, December 13, my longtime friend, Tom Butterfield died of respiratory failure.

"The Children Nobody Wanted" is a true story. When Tom Butterfield was a freshman at Missouri Valley College in Marshall, Mo., he discovered the problems of children who have nowhere to go, and for whom the law makes few, if any, provisions. Boy by boy, he made a life for these homeless youngsters. Tom fought increasing odds, from the lack of money, to outdated laws. He became the youngest single adult-and the first bachelorto be a legal foster parent in the State of Missouri. He and his boys rented an old country club and turned it into their ranch. Today, there are four ranches, giving a homelife to over 100 voungsters.

During this special time of the year, it is good to stop and think about the road we are traveling. Looking at the trail of Tom Butterfield's life, I can see that, although he died at the young age of 42, his contributions will go on for a very long time to come. It is appropriate, at this time of gift-giving, to look back at all the giving this man has done in his lifetime.

## ADMINISTRATION'S INSENSITIVE APPROACH TO CANCER

# HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. GORE. Mr. Speaker, present administration appears to be headed down a regulatory path that will needlessly expose millions of people to many known, cancer-causing chemicals at levels well beyond those traditionally accepted as safe and prudent. One example, documented in hearings held before the Investigations and Oversight Subcommittee of the Committee on Science and Technology which I chaired, was EPA's failure to take rapid action in setting reasonable limits for exposure to formaldehyde, although it is unquestionably an animal carcinogen. My colleague, Hon. George E. Brown, Jr. has done some excellent work in this area and has found similar evidence of EPA's failure to regulate certain pesticides that have been clearly shown to cause tumors in animals. Two recent articles in the New York Times (Dec. 4, 1982) and the Baltimore Sun (Dec. 8, 1982) provide further documentation of the new, high-risk approach to Federal cancer policy. I commend them to the attention of my colleagues. It is time for us to halt this administration's crass and insensitive bottom-line approach in which costs to industry are balanced against increased human suffering. We all owe a debt of gratitude to the gentleman

from California and I am looking forward to his forthcoming subcommittee report on this subject.

The articles follow:

[From the Baltimore Sun, Dec. 8, 1982] EPA and Cancer: The Shifting Standards

(By Ken Cook)

Washington.—In what some critics charge is a fundamental and unjustified change in federal cancer policy, the Environmental Protection Agency (EPA) has determined that an insecticide which caused cancer in laboratory animals poses no cancer risk to human beings.

The decision removes the last barrier to the permanent registration of the insecticide permethrin for use on dozens of U.S. crops.

As a result of emergency exemptions granted by the agency since 1977, permethrin already is one of the country's major insecticides, used on millions of acres of vegetables, beans and cotton each year. Permethrin is marketed under the trade names Pounce and Ambush.

A leading critic of the EPA decision, Representative George E. Brown, Jr., (D., Calif.) characterizes the permethrin ruling as "one of several actions that suggest the EPA has adopted a new set of scientific principles in reaching regulatory decisions on proven animal carcinogens."

Federal pesticide law does not prohibit registration of cancer-causing chemicals if dietary and occupational exposure can be kept below the safety level established by the agency. By contrast, the Food and Drug Administration must by law prohibit the use of any food additive shown to cause cancer in laboratory animals.

The practical effect of a decision to brand permethrin as a human carcinogen would have been a greater restriction on the number of crops for which it could be registered. Such a ruling might also have left the manufacturers, FMC Incorporated of Philadelphia, and ICI, a British firm, more vulnerable to product liability suits.

John W. Melone, director of EPA's hazard evaluation division and author of the permethrin decision (which appeared in the Federal Register in October), said that one of the long-term animal studies submitted by a manufacturer in support of the chemical's registration "was clearly positive" for cancer, it reported that tumors had appeared on mice after they had been fed permethrin over an extended period. Mr. Melone said five other studies submitted by manufacturers were accepted by EPA as showing no cancer-causing effects in labora-tory animals. However, Mr. Melone described one of those studies as "quite controversial" because EPA scientists could not agree on the results. A seventh study, also conducted by a manufacturer, was rejected because of irregulatories in the way it was conducted.

Mr. Melone described the permethrin case as "unique" for having so many long-term studies available for scrutiny by EPA scientists. Only two such studies normally are required for pesticide registration.

"We concluded that the weight of evidence suggested this chemical is highly unlikely to be a potential human oncogen tumor-inducing substancel," Mr. Melone said in a telephone interview. "And since we have to make a decision, we believe permethrin should not be regulated as a potential human oncogen."

Regarding the permethrin ruling, Mr. Melone said, "There's no question it's a change in perspective."

Representative Brown, chairman of the House Subcommittee on (Agriculture) Department Operations, Resarch and Foreign Agriculture, which has jurisdiction over EPA's pesticide program, said that "for the agency to adopt a policy which, in effect, attempts to balance positive tests with negative ones is clearly a bold step."

Mr. Brown considers the action "a monumental and quasi-scientific leap of regulatory faith."

There is a continuing debate among cancer experts over how to weigh various types of evidence to determine a chemical's potential to cause cancer in humans. Although the precise mechanisms of cancer remain unknown, scientists have for some time agreed that proven animal carcinogens do not all pose an equal risk of cancer to humans. Traditionally, cancer regulatory decisions, including those made by EPA, have been made as if they did.

In the past few years, several cancer researchers and research institutions have proposed detailed systems by which regulatory agencies might distinguish between "strong" and "weak" carcinogens, based on information gained from long-term animal studies such as those submitted in the permethrin case. Regulatory actions might then take the form of an outright ban if such a system ranked the chemical as a strong cancer risk. Chemicals judged to be weak would be regulated less stringently, or not at all.

Last summer, EPA circulated to a select group of experts a draft of a proposal to modify the agency's original cancer policy guidelines promulgated in 1976. The draft proposed a ranking system similar to one developed by the Intenational Agency for Research on Cancer. According to Dr. Betty Anderson, head of EPA's office of health and environmental assessment, which issued the proposal, the experts who reviewed the document "essentially were not very comfortable with the issues raised. It is unplowed turf."

Dr. Anderson said, "There was an endorsement of the idea of stratifying (ranking) evidence." But the experts did not agree on exactly how to go about it.

However, the agency did apply several ranking schemes in the course of evaluating the carcinogenic potential of permethrin. The outcome of this classification was an important part of the agency's justification for the final decision.

In the past, when faced with ambiguous scientific information on a chemical's cancer-causing potential, EPA scientists generally had assumed that the chemical posed a hazard. A carcinogen ranking scheme, if strictly applied could push the agency's scientific assessments in the opposite direction, making it more likely that chemicals would be approved at the political level, where ultimately all EPA regulatory decisions are made.

Mr. Melone conceded that the agency's cancer policy has not been revised officially to incorporate the ranking approach already used in the permethrin decision. He noted that the 1976 policy "mandated a weight-of-evidence approach but did not lay it out in detail." The permethrin ruling was an example of change in "practice underneath the broad policy," he said.

Some experts familiar with EPA's pesti-

Some experts familiar with EPA's pesticide policy consider the agency's earlier cancer decisions to have been overly conservative, setting an unrealistic precedent the agency cannot now easily change. For example, even though serious environmental problems justified EPA's ban on DDT in 1972, the human cancer threat posed by DDT is now widely thought to have been overstated by the Agency.

Mr. Brown's subcommittee staff is nearing completion of an investigation of EPA's cancer policy for pesticides. As part of the study, the staff contacted "a number of noted cancer researchers" and, a according to Mr. Brown, "most of them agree that major regulatory reforms based on these ranking schemes are premature."

"I think the Congress and the public deserve a a thorough documentation that this major change is based on adequate science before, not after, the policy is adopted" Mr. Brown said.

Mr. Melone agreed that "ideally the policy would change and then decisions would adhere precisely to it."

"But business goes on and we have to make decisions on chemicals," Mr. Melone stated, "and sometime this drives changes in policy."

The significance of the decision extends beyond its timing. Some scientists inside and outside the agency consider the adoption of a ranking scheme as a legitimate attempt to reform the agency's 1976 cancer guidelines. But others fear a ranking scheme is a means by which EPA Administrator Ann Gorsuch could weaken the agency's regulation of cancer-causing substances.

[From the New York Times, Dec. 4, 1982]
Administration Drapting New Policy on
Regulating Cancer-Causing Agents

## (By Philip Shabecoff)

Washington, December 3.—The Reagan Administration is drafting a new, Government-wide policy that would change the way Federal regulatory agencies protect the public from cancer-causing substances.

Adminstration and industry officials say the new cancer policy is needed to reflect recent advances in science and to provide more flexibility in regulating carcinogens.

But environmentalists and many public health scientists charge that the policy is being designed to ease restrictions on industry and that in practice it would permit a substantially greater amount of cancer-causing substances in the country's air, water, food supplies and working places.

The administration has generally abandoned carrying out the Government cancer policy developed by the Interagency Regulatory Liaison Group in the Carter Administration. One major aspect of that policy required Federal agencies to view cancer-causing substances as a potential risk to human health at any level of exposure.

The Reagan Administration's approach is still being developed, and concrete policy recommendations are not expected to be ready until next spring. But the Interagency Staff Group, which under the President's Office of Science and Technology is preparing the new policy, recently issued a draft "Part I" of its report, a thick document reviewing the state of knowledge about cancer.

## CRITICS FEAR MAJOR CHANGES

The draft report proposes no specific policies and is somewhat bland in tone. But critics said they saw in it the potential for major departures from established regulatory policy regarding cancer. The critics also said the Environmental Protection Agency, the Occupational Safety and Health Administration, the Food and Drug Administra-

tion and other Federal agencies had already departed from past practices since this Administration took office in regulatory decisions that reduced the protection of humans from cancer-causing chemicals.

From this report, from other agency documents on cancer policy and from the decisions made by the regulatory agencies over the last two years, the Administration appears to be heading toward these changes in cancer policy, according to environmentalists, public health officials and other concerned parties.

To assume risks to human health at varying "thresholds" of exposure rather than as in the past, assuming that any exposure, no matter how low, conveys a measurable risk of cancer.

To differentiate between cancer-causing substances that change the genetic properties of the cell and those that act by other means, and then to alter regulatory approaches accordingly. Under the former policy, all carcinogens were treated the same.

To rely less on laboratory tests on animals and to wait instead for epidemiological studies of sickness and death in human populations in deciding on the dangers of chemicals and other carcinogens and how to regulate them.

To raise the level of risk considered significant for human exposure to cancer-causing substances and to regulate them according-

ly.

To place more emphasis on voluntary "life style" causes of cancer, such as smoking, and less on environmental causes, such as chemicals in the air, water, food and workplace.

To give increased weight to the costs as well as benefits of regulatory decisions on protecting people from cancer.

#### SUPPLY-SIDE CARCINOGENESIS

Myra L. Karstadt, director of the Environmental Cancer Information Center at Mount Sinal Hospital in New York said the Reagan Administration effort was being described in toxicology circles as "supply-side carcinogenesis."

But Administration officials interviewed recently insisted first that no new policy had yet been established and, second, that whatever policy did emerge would be based on the weight of scientific evidence, not on political considerations.

Denis Prager, chairman of Interagency Staff Group, said the cancer policy promulgated under the Carter Administration was "a little too definite in areas where there are still uncertainties and often stated principles as immutable facts."

Dr. Prager, who is assistant director of the Office of Science and Technology, said new information on the mechanisms of carcinogenesis was emerging almost daily. He said the new policy now being prepared "hopefully will add to the scientific credibility" of regulatory activities.

## FULL DISCUSSION PROMISED

He also said that the process of developing the policy "will be as open as possible" and that whatever emerges would not be regarded as the final word on the subject but part of a continuing process.

Dr. Prager also noted, however, that the revision of cancer policy was being conducted "under the aegis" of Vice President Bush's office, which has been given responsibility for President Reagan's regulatory changes.

"There is no way we can separate this exercise from other Administration pro-

grams," he said. But he added: "Neither the President nor the Vice President has said to come up with a cancer policy more liberal than the current one. We are not politically constrained."

Some Administration officials do not see the need for revising Federal cancer policy. J. Donald Millar, Director of the National Institute of Occupational Safety and Health, which does research and makes recommendations on workplace hazards, said in a recent interview: "We felt the prior carcinogen policy was useful. We don't see any reason to change it."

Dr. Millar said he believed the policy was being revised because "the chemical industry finds it to be an onerous responsibility." He also said he had not been consulted about plans to change policy, although his agency deals with carcinogens in the work-place.

#### CHEMICAL INDUSTRY WANTS CHANGES

The chemical industry has, in fact, been pressing hard for new approaches to regulating carcinogens. Gordon Strickland, deputy director of the Chemical Manufacturers Association, a leading industry group, said, "Cancer policy is outdated and should be changed to reflect today's science."

He said public fears of the danger of cancer from chemicals in the environment were exaggerated and "would simply dissapate if we have good science." He said that cancer rates were stable and that the "common perception that cancer mortality related to the production of chemicals is mistaken."

"The old cancer policy had been founded on the notion of zero exposure to cancer," Mr. Stickland said. But with increasing sophistication in measuring, he said, it is now possible to find chemicals in parts per trillion where measurements used to be in parts per million and the definition of zero exposure keeps changing. Because of this "vanishing zero," he considered, "the concept of zero exposure is not realistic anymore."

While regulating cancer-causing substances is difficult because of moral as well as scientific issues, "we have to look at the costs and benefits and balance them," he said. He added that all carcinogens should not be regarded as posing the same level of risk.

## SOME SEE NO NEED FOR CHANGES

But several scientists and public health officials said the developments of scientific data does not justify changes in the cancer policy. Dr. Arthur C. Upton of the New York University Medical Center, who was director of the National Cancer Institute from 1977 through 1980, said he did not personally see a need to change "a cancer regulatory policy that has evolved for 20 years and was the basis of the Carter Administration's regulatory policy."

The accepted public health approach holds that "it is unproved but reasonable" to assume that there is no threshold below which a carcinogen poses no risk to health, Dr. Upton said. He added that he could understand that "it is difficult for many people to accept this concept, especially when it results in a heavy economic impact."

Dr. Upton said he had not followed to regulatory practices of the Reagan Adminitration closely and was reluctant to be "harsh" about it.

"But I must confess I have been troubled by indications of efforts to relax vigilance and set aside evidence," he said adding, "There is seemingly less readiness to classify substances and to take regulatory precautions that prudence would dictate."

Much of the criticism of the Administration's evolving cancer policy has focused on
the Environmental Protection Agency. An
agency decision not to regulate formaldehyde as a carcinogen, even though formaldehyde has caused nasal cancer in laboratory mice, provoked sharp attacks. John Todhunter, the agency's assistant administrator
for toxic substances, said that while the animals had shown susceptibility to the widely
used chemical, there was no evidence that it
posed a significant risk to humans at low
levels of exposure.

#### PROPOSAL ON DIOXINS ASSAILED

Recently the agency was assailed for weighing a policy option that would consider a higher level than what was previously accepted for human exposure to dioxins, an extremely toxic substance, at several places in Missouri.

Something of an uproar among environmentalists and public health scientists was created by a recent memorandum by Dr. Roy Albert of the New York University Medical Center, who is chairman of the environmental agency's carcinogen assessment group, suggesting that a distinction might be made between genotoxic substances that cause cell mutations and other carcinogens that do not have that impact. Dr. Albert suggested the possibility of treating the genotoxic substances as if there was no safe threshold but using a conventional toxicologic approach to the nonmutagenic substances by limiting exposure to a "no observable effect level."

Dr. Albert said the response he has gotten indicated that the scientific community is split evenly on the value of this approach. But he said there was wide support for the concept of stratifying the degree of risks of various cancer-causing agents as a first step toward "attuning a regulatory approach to the weight of evidence."

Frederica P. Perara, senior staff scientist for the Environmental Protection Agency, opposed Dr. Albert's approach on the ground that "knowledge of the mechanisms involved in cancer is still very limited." The proposed policy change, she said, could result in a "significant lessening of health protection against carcinogens."

John P. Hernandez, assistant administrator of the E.P.A., said the general cancer policy left by the Carter Administration "froze us into place," instead of giving the flexibility necessary to deal with the wide range of laws the agency administers.

#### 'RADICAL CHANGES' FEARED

But Ellen K. Silbergeld, chief toxicologist for the Environmental Defense Fund, charged that the Administration and the agency were seeking to change the overall policy "in order to support radical changes in regulation." She said the agency would soon have to make regulatory decisions affecting hazardous air pollutants and volatile organic compounds in drinking water and was seeking to establish an "intellectual framework" in which it could increase the acceptable levels of cancer-causing agents in the air and water.

Dr. Silbergeld asserted that an effort is being made to prepare the public for "the revolutionary revisionism of carcinogen policy which is in progress in this Administration and the E.P.A."

Marvin Schneiderman, former associate director for science policy and for field studies and statistics of the National Cancer Institute, said the Reagan Administration "is trying to demonstrate something they really believe—that there are far fewer things in the world that are hazardous and need to be controlled."

"But if you are health oriented," said Dr. Schneiderman, now a teacher and consultant, "you want to find things that cause cancer and regulate them."

### SUPPORT FOR DOMESTIC CONTENT BILL

# HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

Mr. D'AMOURS. Mr. Speaker, I was unavoidably absent from the floor of the House yesterday evening and thus missed the votes on the Fenwick amendment to the Domestic Content bill and on final passage of H.R. 5133. I regret that the Fenwick amendment was adopted because I believe it guts the major provisions of the bill. Had I been present I would have voted against the Fenwick amendment. I also would have voted for final passage of the Domestic Content bill. I am delighted that the House passed this legislation by a vote of 215 to 188 as I believe it will send a strong message to our trading partners, and to the American people, that the Congress is serious about protecting American jobs from unfair foreign competi-

# THE GAS TAX IS NOT A JOBS BILL

## HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

 Mr. BETHUNE. Mr. Speaker, I recommend the following article from the Washington Post to my colleagues who may still be wondering about the gas tax.

## STOP THE "QUICK NICKEL" GAS TAX (By Richard A. Snelling)

No matter what combination of the three "quick nickel" highway bills now before Congress is ultimately passed as a result of the current steamroller in Washington, the bill will not do the things its backers have promised. Specifically, the quick nickel will not do anything about the current severe unemployment problem (except possibly make it worse) and it will not fill potholes.

The White House (correctly) denies that this is a jobs bill. Nevertheless, the Department of Transportation tells anybody who will listen that precisely 170,000 jobs will be created. The only reason the bill is being considered at all in the lame-duck session is the great need of Congress to appear to do something about the unemployment situation.

The bill is not going to create jobs. In its early years, it takes more money out of the economy than it puts back in. Neither a Keynesian nor a supply-side economist

would claim that sending more money to Washington is a way to create jobs.

If we don't have to send that \$5.5 billion a year to Washington, we will presumably spend it to buy something else. If we do send that money to Washington, we won't be able to use it to buy something else. Whoever makes that "something else" will lose his or her job. Eventually, some of the money will result in creating some new construction jobs while eliminating jobs elsewhere in the economy.

Since the money leaves our pockets well before it ever comes back from Washington, the short-term effect will be a loss of jobs and not a gain. To make things even worse as far as jobs are concerned, it is unlikely that all states will be able to spend all the money that will theoretically be available to them. This federal money must be matched by state money. Since many states are already having difficulty matching the federal funds they are now eligible for, it is unlikely that these states will be able to match any more federal funds—especially since the federal government is planning to preempt their ability to raise state gas taxes.

The bill is touted as a way to fill the nation's potholes. There are certainly plenty of potholes that need filling. However, this bill simply extends existing federal highway programs, and federal highway money is not available for filling potholes under these programs unless the whole road is repaved. As a matter of fact, the road also has to be "wide enough" and "straight enough" to meet federal standards in order to qualify for this repaying money.

There are roads that do need to be completely reconstructed. There are also other roads that simply need to have their potholes filled and their cracks sealed. It is because of a lack of pothole-filling and crack-sealing over the last decade that so many roads need to be completely repayed or reconstructed now. This bill continues the tradition of encouraging massive reconstruction rather than simple preventive maintenance.

Many states, including Vermont, already need to raise their own gas taxes this year to meet unmet maintenance requirements. It is unlikely that those states will want to impose any further "user charges" on top of a large federal increase. When states raise their own gasoline tax, they can use the money from that increase to meet their most urgent priorities—whether those priorities be pothole-filling or new construction. It has been know for a long time that state-only projects are cheaper and can be done more quickly than projects using federal money.

It is easy to understand why those who have been frustrated by Congress' inability to pass a multi-year highway bill are jumping aboard the quick-nickel steamroller. They are afraid that, if Congress does not pass this bill now, it will never address highway needs constructively. They are willing to accept any bill, even a bad bill, as long as there is some more money for highways.

Nevertheless, a bad five-year bill passed during the lame-duck session will be worse for the nation than no bill at all. It will neither create jobs nor fill potholes. It will frustrate the ability of the states to achieve these goals themselves.

Although many states will be winners from the quick nickel, others will be substantial losers. The Reagan administration dedicated itself to a restructed federalism, which recognized the diversity of needs and problems in the different states. It is ironic

that this administration is pushing a bill that extends federal decision-making even further and cripples the ability of states to meet their individual highest priority needs.

This lame-duck Congress ought to go home. After the Christmas recess, a new Congress should come back and address the nation's transportation (and other) problems in a constructive way. The quick nickel ought to be allowed to die a quick death.

(The writer, governor of Vermont was president of the National Governors Asso-

ciation during 1981-1982.)

BOWIE HIGH SCHOOL SOCCER TEAM

## HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. HOYER. Mr. Speaker, I am pleased to bring to the attention of my colleagues the outstanding achievement of the Bowie High School soccer team and its coach, Lou Reck.

Working with a young team short on experience but long on heart and enthusiasm, Mr. Reck led the Bowie Bulldogs to an undefeated 15-0 season, setting the stage for the Maryland Class AA State soccer championship battle. In the finals of the State championship, Bowie was victorious with a 2-1 victory over Severna Park in a hard-fought, double-overtime battle.

As a junior varsity coach, Lou Reck led his Bowie team to an astonishing 30-0 record and three Prince Georges County titles. Bowie qualified for the State playoffs during Lou's first 2 years as head coach, yet the State title

always alluded him.

This year, Mr. Speaker, was quite a different story. Under the excellent goaltending of Terri Curran, the fighting Bulldogs allowed only one goal to be scored against them the entire season and only then in the doubleovertime final.

The Bowie High School soccer team members and its coach deserve our special attention and congratulations. Each athlete performed magnificently and each made that all-important extra effort to insure victory. Mr. Speaker, I know that the Members of the body join me in saluting the championship athletes of Bowie High School and its outstanding coach, Mr. Lou Reck, on an accomplishment well deserved.

THESE ARE OUR SONS WHO ARE DYING

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. DORNAN of California. Mr. Speaker, today, in my State of California, another aging U.S. Air Force B-52 crashed killing the entire crew of nine young officers and airmen. How many more dedicated, fine young public servants in the flight uniforms of our military services have to die to stop the yearly attacks on the B-1 in this Congress and the attempts to terminate this SAC bomber replacement

Please stop this ignorant demagoguery. It is killing our pilots and their crews to extend the life of our oldest B-52's beyond its designer's wildest es-

timates and hopes.

I submit for the RECORD an excellent speech by Mr. S. F. Iacobellis last May defending our B-1. Mr. Iacobellis is the B-1B program manager, North American Aircraft and Operations, Rockwell International.

The speech follows:

It is an honor and a pleasure to be here to speak about the production of the U.S. Air Force B-1B long range combat aircraft.

I understand you've been having these Wednesday gatherings for 57 years without a miss. Obviously you have a proud heritage and a fine tradition at the Los Angeles Breakfast Club.

It's just the same with Rockwell. We've been in the aerospace business for nearly 55 years. From that activity has come our own proud heritage and fine tradition in building aircraft.

I've learned something very important in my time with North American Aviation Incorporated, now Rockwell International.

Companies don't build aircraft.

People build aircraft. People built the North American B-25 Mitchell. In 1942 sixteen Mitchells flew from the deck of the USS Hornet to strike Tokyo under the command of Lieutenant Colonel Jimmy Doolittle.

People built the North American P-51 Mustang. Assigned to the Eighth Air Force it helped the Allies ruin the reputation of the Luftwaffe in raid after raid over Germa-

People built the North American F-86 Sabre Jet. During the Korean War it gave the United States air superiority over the

Russian MIG-15 by a 10 to 1 kill ratio.

People built the North American F-100 Super Sabre. On its very first test flight it established a world speed record on the way to becoming the United States first operational supersonic fighter.

People built the North American X-15 rocket research aircraft. With such pilots at the controls as Astronaut Neil Armstrong, the X-15 set world altitude and speed records for winged aircraft in its flights at

Edwards Air Force Base.
I'm sure you're aware that our people at Rockwell International are building the space shuttle. And before that, they played a major role in building the Apollo vehicles and propulsion systems for the successful lunar landings and returns.

Today, people of my company are building the B-1B.

They are building it because the Department of Defense has determined that a critical strategic imbalance exists between the United States and the Soviet Union.

The B-52 is the air breathing mainstay of the Strategic Air Command. But some models of the B-52 are a quarter-of-a-century old. Many of the pilots who fly them are younger than the aircraft itself. Counting the FB-111, as well as the B-52, the Strategic Air Command has about 412 serviceable strategic aircraft. That number compares to the Soviet Union's more than 800 strategic aircraft. They include the Backfire bomber. which has been rolling off the line month after month for several years.

And that doesn't take into account the fact that the strategic U.S.-U.S.S.R. balance also is tipped heavily in favor of the Soviets with respect to submarine launched ballistic missiles and intercontinental ballistic mis-

The B-1B is ideally suited to help redress that imbalance. It is a new aircraft.

Using advanced technology now available, the B-1B is an outstanding improvement over the B-1A prototypes, which the people at Rockwell also built. The B-1A was not delivered to the Strategic Air Command because production was cancelled by President

The B-1B is designed to be a multi-role aircraft, able to perform conventional, nuclear and cruise missile missions. By contrast, the B-1A's primary mission capability was as a low-altitude penetrator to deliver nuclear weapons. The B-1B's range has been significantly upgraded. It will be able to fly intercontinental missions without need of refueling. And the Air Force is extremely confident about the B-1B's prospects for survival against probing radar and other threats.

In a hearing before the U.S. Senate's Subcommittee on Strategic and Theater Nuclear Forces, Air Force Chief of Staff General Lew Allen said, and I quote:

Even though we expect the Soviets to make major improvements in their air defense capabilities the B-1B, flying at low altitude and with dramatically reduced radar profile and advanced electronic countermeasures, will be able to penetrate and strike targets throughout the Soviet Union well into the 1990's. And this could be extended by further progress in electronic iamming.

As I said a few moments ago, the B-1B is a new aircraft, but it enjoys the best of two worlds.

It incorporates the proven capabilities of the B-1A prototypes, which compiled an outstanding record at Edwards Air Force Base during almost 2,000 hours of flight test. The B-1B also incorporates many improvements to further extend its capability.

I have already mentioned multi-role ability and range. There are other significant

As General Allen implied in his Congres sional statement, we have made very significant progress in assuring that the airplane will be extremely hard to detect. For example: The B-1A radar image was ten times smaller than that of the B-52. The B-1B radar image is already ten times smaller than the B-1A. That's a 100 to 1 image reduction over the B-52.

Another important improvement is payload carrying capability. The airplane's maximum gross takeoff weight has been increased from 395,000 pounds to 477,000 pounds. This allows more fuel and/or weapons to be transported.

Payload flexibility is another key item. The two weapons bays in the forward portion of the aircraft will have a movable blukhead which can be moved in the field. This means that many different size weapons-like cruise missiles-can be accommodated. Fuel tanks can also be carried internally to extend range. At the same time, weapons and fuel could be carried externally on the under-side of the fuselage for even greater mission capability.

The list of B-1B improvements is much longer. It includes items like vastly improved electronics and greater aerodynamic efficiencies. The point is simply this: The B-1B is designed to be the most capable strategic aircraft in the world.

The B-1B will be a tremendous deterrent to any act of aggression by any adversary today or anyone who may become an adversary in the next 30 years. They will think twice before they enter into an act of aggression against this nation because of the existence of the B-1B. Russian strategists know that the B-1B carrying nuclear weapons will be able to take off from the U.S. mainland and penetrate the Soviet Union at an altitude of only 200 feet to evade radar detection. It would then be able to fly to a recovery base completing the entire mission without need of refueling.

Or it can carry cruise missiles for a Soviet strike and return to the continental U.S. without need of refueling.

Let me be even more graphic to illustrate the B-1B's mission capability and flexibility. A few minutes ago I mentioned the B-25

raid on the Japanese mainland in the early days of World War II.

Just think of the immensity of that under- taking. Besides the months of planning and training it required the following minimums:

An aircraft carrier, the USS Hornet, with all its crew and support equipment.

A complement of support ships, with all their crews and equipment, to protect the carrier.

Sixteen B-25s, carrying a combined weapons load of 64 500-pounders.

Eighty airmen, led by Colonel Doolittle.

The airplanes left the deck of the Hornet when they were about 800 nautical miles from Tokyo. After conducting the raid they were supposed to recover as best they might on the Chinese mainland. We all remember what a hit and miss proposition that turned out to be. There was the loss of life and many of the airplanes ran out of fuel. Doolittle, himself, bailed out over China and was lucky to survive.

Now what could a single B-1B have done on the same raid?

Well, right off the bat, one B-1B could have carried more 500-pounders than the entire complement of 64 which the Doolittle Raiders had on board their 16 B-25's.

Then, too, there's the tremendous range of the B-1B. Carrying more payload than all the Doolittle Raiders combined. The B-1B could have left the continental United States just before dawn and flown all the way to Tokyo. After completing its mission, the B-1B could have flown all the way back to its U.S. base in Alaska and been there in time for the dinner hour at the club.

All this nonstop, without need for refuel-ing—in fact with plenty of fuel to spare.

All this with survivability enhanced be-cause of high speed and on board counter-

All this with only one airplane instead of 16, and four airmen instead of 80.

All this without the stupendous expense of an aircraft carrier and support ships and

all their crews and equipment. Looking at all that. I think you could say

the B-1B has capability. The B-1B production program calls for 100 aircraft to be produced at the cost of \$20.5 billion, expressed in 1981 dollars.

The North American Aircraft Operations of Rockwell is the over-all systems contractor on the program. General Electric is responsible for the engines. Boeing is producing the offensive avionics for the aircraft, and AIL, a division of EATON, is producing the defensive avionics.

The production schedule is ambitious, but we are determined to beat it. The contract calls for the first B-1B to be delivered to the Air Force and enter flight test in March 1985. That's 38 months after contract goahead. Any veteran aircraft builder will tell you that's a very short time, indeed when it comes to a very advanced aircraft like the B-1B. But we're even ahead of that time line. We're nearly three months ahead of schedule and intend to remain so.

The first fifteen B-1B's will be delivered in 1986 and the 100th aircraft will be completed in early 1988.

As I indicated, since going on contract with the Air Force on January 20 for the B-1B full scale development and production go-ahead, we have made outstanding progress on the program at Rockwell.

All our major subcontractors throughout the United States have been turned on full bore. They will build approximately 55 percent of our portion of the aircraft so B-1B

production is national in scope.

Our facilities expansion program is in full swing at Rockwell. We occupied a new 341,000 square foot engineering building in January. In March we began construction of an \$83 million. 950,000 square foot final assembly complex at Palmdale, California, In all we will have more than seven million square feet of space for the program at Rockwell.

We are on plan with other capital investments. The first deliveries have been made of major milling machine components for the heavy machining centers at our El Segundo, California and Columbus, Ohio plants. The order has a approximate value of \$40 million. In addition, more than \$20 million in key high technology equipment is in place or on order. Rockwell's total capital investment in the B-1B program will be more than \$400 million.

Our manpower build up is going forward as planned at El Segundo, Columbus, Ohio, Palmdale and Tulsa, Oklahoma. We anticipate no significant manpower problems. Our buildup requires no steep climbs since we started with a proven cadre of veteran B-1B employees. At the peak of production in 1986/87, more than 20,000 Rockwell employees will be working directly on the B-1B employment will be approximately 55,000. That will involve more than 3,000 subcontractors and suppliers in addition to Rockwell. Boeing. AIL and General Electric.

On many other fronts we are on or ahead of schedule. More than 21/2 shipsets of stored B-1 assets are being speedily put back into work. The first B-1B parts have been fabricated. In fact, the production goahead occurred on January 20, and only nine days later the first part for the B-1B was made. To date we have over 1.500 new parts fabricated. More than two-thirds of the needed structural engineering drawings have been released to manufacturing. We have over 30,000 tool orders and manufacturing directives issued to the shop so we're well on our way. The program is going extremely well. I believe that we are going to meet or beat all of the delivery schedules that I mentioned.

That, in a nutshell, is the status of the B-1B program.

But, let me emphasize, again, people build aircraft, not companies

So it is with the B-1B.

It will be an airplane which fits right into the tradition of the great airplanes produced at Rockwell, built by very dedicated people. The T-6, the P-51, the B-25, F-86, F-100 and X-15, now the B-1. Thoroughbreds all.

Thank you.

## A TRIBUTE TO KANSAS UNIVERSITY

# HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

Mr. WINN. Mr. Speaker, for 16 years, I had the opportunity of representing the University of Kansas in Lawrence. Because of redistricting, Lawrence and Douglas Counties are no longer in the Third District. My association with the university will not be as direct, but I will still be very close to KU, my alma mater.

I will miss representing the University of Kansas-its fine faculty and students, the physical beauty of the campus on Mount Oread, and the excellent curriculum the university possesses. I will miss dealing with the need and problems of a major university like KU even though I will remain an active member of the alumni association, which is one of the best in the

I graduated from KU in 1941 and I have always been thankful for the educational opportunity it provided me. In addition to the academic credentials I was able to secure, KU gave me a strong sense of loyalty to the university in particular and the State of Kansas as a whole. I will never forget walking down the hill on graduation day and feeling the deep pride associated with graduating from college-especially a school like KU. Of course, you might say I am partial and prejudiced, but let me point out that recently, my alma mater received national recognition from a variety of publications for its academic standards and I thought it would be appropriate, at this time, to pay tribute to a great university.

Washingtonian magazine, in its December issue, included Kansas among a group of universities that provide a top-flight education at a reasonable cost. In these days of rising tuition and fees, KU remains very affordable to the thousands of undergraduate and graduate students who matriculate there every year.

"Kansas is a comprehensive, doctoral granting institution that, in selective areas, has some of the finest programs in the country," writes Edward B. Fiske, author of the "New York Times Selective Guide to Colleges." Fiske describes the campus as "beautiful, sitting atop Mount Oread." The Changing Times is another publication which rates KU as a desirable university at a reasonable cost.

Another aspect of KU that makes me especially proud are the caliber of its graduates. Many KU alumni have moved on to successful careers in all walks of life and all of them remember vividly the impact that KU had on their lives. I remember the second Space Shuttle launch when astronaut Joe Engle, a KU graduate, took the university flag with him while in orbit. Later, he proudly presented the flag to KU in a ceremony at the halftime of a football game. Joe presented the flag with pride and appreciation to Chancellor Gene Budig epitomizing the spirit of Jayhawk graduates.

I bid the main campus at KU an official goodby, but Mount Oread will always be a special place to me and I intend to remain a loyal alum and a good friend of the University of

Kansas.

I continue to be proud representing the University of Kansas Medical School in Kansas City, Kans.

## "FROM CUBA WITH HATE"

## HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

• Mr. DORNAN of California. Mr. Speaker, never has an article been more aptly entitled than Peter Michelmore's "From Cuba With Hate," in the current Reader's Digest. I am submitting this article to inform the Members of Congress of the darker implications of one ugly aspect of this Nation's unprecedented crime wave.

# FROM CUBA WITH HATE (By Peter Michelmore)

Claribel Benitez was a pretty 19-year-old who worked as a receptionist in a legal office. She lived with her parents in an apartment on NW 37th Avenue, in a middle-class section of Miami. Early one evening she agreed to drive her brother Leo to a used-car lot to inspect an automobile. In the manner of well-brought-up Cuban-American girls, she left a note for her parents explaining her absence.

On the way back home, Claribel detoured into the neighborhood shopping plaza. Leo wanted to be dropped off at a supermarket to see his girlfriend. It was a little past 9:30 p.m., March 12, 1981. Stores around the perimeter of the brightly lit plaza were empty-

ing of late shoppers.

Claribel kept the motor running while Leo hopped out and hurried into the market. As Claribel began slowly driving away, the car door beside her was wrenched open. She looked into the face of a dark-haired stranger with a gun in his hand. As the gunman pushed Claribel across the seat to make room for himself behind the wheel, a swarthy accomplice scrambled through the back door. The gunman screamed a curse, and began shouting at the second man in Spanish. The accomplice had been ordered to invade the front seat, not the back to trap the girl between them.

While the argument raged, Claribel reached about the floor for a knife concealed there. Her fingers gripped the handle. Gamely, she struck at the gunman. The blade grazed his left hand and his side.

Startled, the man in the back seat raised a can of Mace and filled the car with the stinging chemical spray. Bellowing in fury, the gunman in front thrust his pistol at

Claribel's chest and fired.

Blood gushed from her wound as the two men leaped from the car. One was carrying Claribel's purse. The girl herself struggled to stay conscious. Propping herself behind the driving wheel, she had the car moving even as she saw her attackers join a third man in a station wagon. She weaved through the plaza for 80 yards, and then lurched across the main avenue to the parking lot of a roadside restaurant. She had friends there. Somehow she held on long enough to get out of the car and stagger inside, only to collapse on the floor.

Horrified waitresses rushed to her side.

"Caribel! What happened?"

She was slipping into delirium, fighting for coherence. A police officer, arriving just ahead of the ambulance, knelt to smooth her dark-brown hair. She looked up at him. "Marielitos," she whispered. "Three Marielitos..."

At 12 minutes past midnight Claribel died in surgery at Jackson Memorial Hospital. She had repeated Marielitos many times. To those who heard her, the word needed no

explanation.

They had come in the thousands during the spring and summer of 1980 with the great refugee tide from Cuba's Mariel Harbor, gaunt men with stone-hard eyes and crude tattoos on their bodies. Many had been released from prisons and put on the boats, but they carried no records of their past. They were just men from Mariel—Marielitos. The name set them apart from the host of true refugees.

Almost from the beginning there had been an uncommon menace about these men. In recent months it had become a reality. They had plunged into crime with a savagery and recklessness that bordered on lunacy. Other Cuban-Americans were ashamed of them and called them escoria

scum).

The American government, during the Administration of Jimmy Carter, had been duped by Cuba's Communist dictator, Fidel Castro. Under cover of the Mariel boat lift, Castro set among an open society a vicious new criminal force. The scope and predictable effect of his infamous deed should have been detected early, but it was not. To this day, Castro's outlaw invasion has not been recognized, or confronted nationally.

### "I'M THE BADDEST"

Through the 1960s and '70s, vast numbers of Cuba's most skilled and productive citizens had fled to the United States. In later years, people from the working classes joined their ranks. The revolution, supposedly the workers' revolution, could no longer even provide adequate food for their tables.

Demonstration of the discontent in Cuba was given on Easter weekend in 1980. Twenty-five Cuban men, women and children were inside Havana's Peruvian embassy at the time, claiming asylum. Radio Havana described them as lumpen, an expression meaning contemptible.

pression meaning contemptible.
In a typically theatrical act, Castro had the police guards removed from outside the embassy on Good Friday. Cuba could well do without hungry lumpen mouths, he said.

Let Peru feed them. But he badly miscalculated the numbers of his disenchanted. By Easter Sunday, when the guards returned in force, more than 10,000 citizens had Jammed into the embassy grounds. They included carpenters, mechanics, physicians, housewives, students.

Several countries, the United States included, offered to take a share of the fugitives. But plans for orderly transport were sabotaged when Cuba released 37 of the embassy crowd to a man who sailed free-lance from Key West to Cuba. Within a week, the waters between Forida and Mariel Harbor, about 30 miles west of Havana, were alive with boats. They ferried refugees pouring out from the embassy, the cities, the towns, the farms. Florida began taking them in at the rate of 3,000 and 4,000 a day.

To save face and turn the confusion to advantage, Castro decreed: "If they want ex-

coria, let's give them escoria."

Throughout the island, from Pinar del Rio to Oriente Province, local Committees for the Defense of the Revolution were instructed to flush out "undesirables." Under threat of punishment if they refused, exconvicts, homosexuals, suspected black-marketeers, vagrants and troublemakers were offered one-way passage to the United States. A huge, heavily guarded camp was established at El Mosquito plantation, near Mariel, as a departure base for the outcasts. They were taken directly from there to the docks and escorted aboard boats bound for Florida.

With no sign in Washington that the illegal boat lift would be blockaded, Castro extended his roundup to the prisons, insane asylums and juvenile-delinquent farms. Legitimate refugees were upset by what they saw as an attempt to stigmatize them. But they also reasoned that many of those released from prison would be political prisoners; others, men and women who had been jailed for such crimes as stealing shoes; still others, innocent victims of a justice system in which innocence was never presumed.

The fact was, however, that Cuba did have a substantial population of hardened felons. And, much more ominous, they had been incarcerated under such prolonged torment that many were mentally twisted or broken. Humanity was not forgotten in the prisons; it was lost. Men were objects for abuse. Sadism was rampant. Guards beat inmates with clubs and machetes. The toughest inmates preyed mercilessly on the weakest. Common criminals, a large proportion of them poor, ill-educated Afro-Cubans, were very often remade into psychopaths.

Typical of their experience was that of a man called Harpo. At age 36 he was a terminal convict, no trace left of the lad of 16 who was first jailed as a petty thief. His life was reduced to day-by-day survival, his world to a dark proving ground of his machismo. A man was measured by his capacity for violence. The meaner he was perceived to be, the more he was protected against being beaten, raped, robbed or killed by his fellows. Fights were unceasing in the open galleries of San Severino Castillo prison in Matanzas Province where Harpo was held. Victors wore their scars with a swagger. "I'm the baddest" was their common brag.

Harpo himself had not seen the sun in more than a year and was racked with a tubercular cough. Once, as punishment for escape, he had spend six months in solitary in a cell smaller than a closet. Stripped naked, lacking bed or mattress, he could neither stand upright nor lie full length. A thin

stream of water, operated from the outside, flushed his body waste through a drain in the floor. He knew of only one worse punishment. At some prisons the practice was to break spirit in a man by sealing him into a round, nine-foot-deep hole in the ground.

Tattooing, despised in conventional Cuban society, was high machismo. For criminals, it was like war paint. Harpo had had, since the early '60s, an image of Santa Barbara tattooed on his right upper arm. It was done by a cellmate who bound three sewing needles together and pricked at the skin with black soot collected from the burnt handle of a toothbrush.

In the same manner, other outlaws adorned themselves with religious figures, dragons, mermaids, ships, swords and castles. Girls' names and such strangely sentimental phrases as "Without you, I am nothing" were included in the skin gallery. Tattoos covered the entire torsos of some of them. The toughest had numbers and names pricked painfully inside their bottom lips, on their eyelids, even on their genitals. The web of the hand, between thumb and index finger, was used for domino dots, stars and hearts. These hand designs sometimes denoted membership in a macho prison gang. Gangs, for mutual protection or mass attack, were pervasive in the prisons.

#### THE EASY ROAD

Of the 125,000 Cubans who crossed from Mariel before Castro closed down the harbor in September, it was later unofficially estimated that about 25,000 were criminals. The Castro regime refused to give an accounting, and the American social workers and sociologies who interviewed sample groups came up with different numbers.

Officials of the immigration and Naturalization Service (INS), ignorant of the significance of the tatoos, identified fewer than 2000 of the criminal outcasts at the screenings of the new arrivals. These people either confessed a criminal past or were pointed out by refugees who knew them. Most were sent to the federal penitentiary in Atlanta. The State Department tried to get Castro to take some of them back. He flatly refused.

"What happened was unprecedented, unexpected and explosive," said State Department spokesman Arthur Brill, explaining the government's handling of the invasion. "There was an attempt to screen the criminals from the rest of the Cubans, but how do you do that? I dare you to line up 300 Cubans without record books and pick out the three or four criminals. It's very, very difficult."

About half of the throng were released directly to family or friends. The rest—including most of the escoria—were transported to live-in processing centers at Florida's Eglin Air Force Base, and at the Army bases of Fort Chaffee in Arkansas, Fort McCoy in Wisconsin and Fort Indiantown Gap in Pennsylvania.

Pennsylvania.

There they remained until relatives or other volunteers were located to sponsor them. Sponsors had only to register their names and addresses, guarantee lodging, and promise to introduce the newcomer to American society. In the early weeks there were long lists of them. The majority were family members or well-meaning citizens. Others were seeking cheap labor. Still others mistakenly thought they would receive monthly compensation from the government.

A patchwork of federal agencies proved inadequate for any careful selection of sponsors. Immigration officers issued visas, or I-

94 forms, placing the Cubans on parole. They were described as "entrants," and treated as applicants for asylum rather than true refugees. This entitled them to take jobs and receive food stamps. As each entrant left detention, his records went to the appropriate district INS office. Soon they were scattered all over the country.

An underworld of Marielitos took root with amazing speed. The word was passed, and they knew exactly where to go—which streets, which houses—to join their own kind. And in their turn, they sponsored comrades from the detention camps. Established Hispanic criminals hired Marielitos pull robberies. Some wormed their way into the narcotics business as runners and hit men for Colombian bosses. A few hired out to auto-theft rings. Mostly, however, they rar in their own packs. With the proceeds of crime, they armed themselves with handguns, shotguns and M-1 carbines. Firepower was machismo.

American justice was not in the least intimidating to the Marielitos, and this accounted in part for the brazenness of their crimes. They knew they could not be deported, and, as the problem evolved, the INS was devoid of any policy or procedure for dealing with them. They were treated in the same manner as any American citizen charged with a crime—pretrial release or detention, court hearings and, if convicted, probation or imprisonment at local or state institutions. After Cuba, it was an easy road

For homicide departments in Florida's Dade County, preoccupied with the slaughter brought on by the drug wars, the problem with the Marielitos seemed at first to have its own solution. They were so reckless and mentally unhinged that they would wipe each other out.

A partial police listing of Mariel deaths in

Dade County explained the notion:

Rolando Rodriguez, 55, stomped to death and Reynaldo Carbonell, 62, beaten to death by the same Marielito, who felt he was "doing society a favor by getting rid of all the escoria."

Enrique de Juan, 35, shot in the head by another Marielito in an argument over \$10. Armando Arancibia, 21, stabbed to death on the outskirts of Miami's Little Havana.

Jorge Vita, 26, shot to death on a sidewalk in Little Havana. Vita wore an ax in his belt. Juan Valdez, 32, shot by his partner as they tried to rob a store on Okeechobee Road. Hisleah.

This last killing was talked about by police as a typically crazy Marielito crime. Valdez walked in the store with a confederate who pulled his gun and announced a stickup. When both the store clerk and Valdez failed to open the cash register, the confederate went into a tantrum. He reached over the counter and struck the clerk with his gun, which accidentally went off and mortally wounded Valdez.

The Marielitos seemed indeed to be less of a threat to the general community than to one another. But that theory was shattered in Miami the night they shot Claribel Benitez, a truly innocent victim.

#### GOVERNMENT NEGLECT

In the short span of two years a criminal force of rogue men, Castro's escoria, has embedded itself in American society. It is concentrated in Florida, New York, New Jersey and Pennsylvania, but police in those states say it is spreading. Many of the last Cubans held at Fort Chaffee were sent to correctional institutions in Missouri and Kentucky and to halfway houses in Illinois

and Washington State. They are eligible for release. Predictably, they will link up with others, and they will be dangerous.

Police officers and local courts must necessarily continue to bear the brunt of the task of bringing Marielito outlaws to justice, but they deserve and need the help of the federal government.

The State Department should apply every diplomatic pressure to Fidel Castro to receive deportees. Presently, Marielito felons are being returned to U.S. society once they have served sentence.

The Justice Department should assume responsibility for the incarceration of Marielito felons, who are now doing time in city jalls and state prisons. (The Federal Bureau of Prisons took more than 50 of them off Florida's hands in June, but this was a special arrangement and not a change in policy.)

The Department of Justice must also direct one of its agencies to establish a central file of arrest records that can be tapped by all police departments, or, alternatively, develop the METS data bank in Harrisburg to its full potential.

The Dade County Grand Jury has found the "federal policy of benign neglect to be unconscionable." The facts show this conclusion to be completely justified. The federal government let the criminals into America; the government must either get them out or put them where they can do no further harm.

# COMMENDING ALBERT LEE SMITH

# HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. LOTT. Mr. Speaker, I wish to take this opportunity to commend my good friend and colleague, Albert Lee Smith, for his many accomplishments during the 97th Congress. He has been a quality legislator who has served his country and constituents well.

ALBERT LEE SMITH is a man of compassion who lives his values to the fullest and who makes a powerful statement for his beliefs through daily actions. America needs more persons like Albert Lee Smith in policymaking positions.

One of the characteristics that sets him apart is his understanding that it is the impact of politics upon our familles, our freedom, and our economy which is creating our problems. He approaches economic decisions with sensitivity and takes a refreshing, positive approach because he believes we can and should have growth and opportunity.

As a member of the powerful House Budget Committee, Albert Lee Smith is well aware that the course to recovery involves difficult choices that must be made with compassion, but, at the same time, realizes our society has grown used to something-for-nothing expectations. He knows the importance of controlling our budget and

the bureaucracy, and he was instrumental in our successful fight against inflation. And, he has worked consistently and diligently to lower taxes, and to remove bureaucratic control from our lives.

With regard to foreign affairs, Albert Lee Smith approaches policy-making with commonsense. He realizes the stark but unavoidable truth that the Soviet Union has not mellowed and that the goals of communism remain world domination. Albert Lee Smith is a man of peace, but he has acted to repair the sagging state of our defenses for our own best interest, knowing that preparedness is our best defense against blatant aggression.

I am pleased to have served with ALBERT LEE SMITH in the 97th Congress, and I encourage him to continue his involvement in the affairs of our country.

TED HENSHAW

# HON. M. CALDWELL BUTLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. BUTLER. Mr. Speaker, It has been my great privilege to be a part of the American Delegation to a number of meetings of the Interparliamentary Union. I had the opportunity to work closely with Ted Henshaw on several occasions in which he was also a member of our delegation. I enjoyed getting to know him better and to observe the stature he has with his counterparts in the other parliaments of the world.

Ted Henshaw is a very able public servant, and has given most generously of himself in carrying out his duties as Clerk of the House of Representatives. I value his friendship and appreciate his efforts.

I join with my colleagues in wishing him, his wife Barbara, and his family a most pleasant retirement.●

# PAUL FINDLEY

# HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Tuesday, November 30, 1982

Mr. WYLIE. Mr. Speaker, soon after I was elected to Congress, I had occasion to visit with my former minister at North Broadway United Methodist Church, Dr. Lance Webb. He was then Bishop of Illinois and a constituent of Congressman Paul Findley. Bishop Webb said Paul Findley is a good man and suggested I get acquainted with him. We had a friend in common, so I got to know Paul pretty, well. I came to respect his judgment on agriculture matters and knew he would always give me sound advice on any bill

coming from the Agriculture Commit-

I came to know him as a person of deep concern and dedication to his job.

His courage in taking an unpopular stand on Mideast problems no doubt contributed to his defeat. One day I asked Paul why he did it. He said with characteristic frankness, "There has to be debate on the problems of the Mideast, and you can't solve the problem if one of the principals is excluded."

I did not always agree with Paul on his observations from his Foreign Affairs Committee assignment. But I always respected him as an honorable person who sought to do what he believed to be right. The House is losing an exceptional legislator of intelligence and industriousness. Paul has made a lasting, valuable contribution to our country.

It has been a pleasure to serve in Congress with PAUL FINDLEY. Marjorie and I wish for him and his wife Lucille our very best, knowing they will be active in espousing the ideals in which they believe.

## BILL BRODHEAD

## HON. JAMES M. SHANNON

OF MASSACHUSETTES

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 8, 1982

• Mr. SHANNON. Mr. Speaker, I want to join with my colleagues who have already participated in a special order honoring Representative BILL BRODHEAD. It is with great regret and hope that I watch BILL leave the House for he has done much for this Congress, his district, and our country.

Congress, his district, and our country.

He has showed us that integrity and innovation, hard work and a sense of fairness can shape good legislation. He has also brought to our attention the need to overcome some of the disadvantages of serving in the House.

The 17th District of Michigan that BILL has served, as well as the Nation as a whole, has had some tough economic times recently, but he has not hesitated to address the demanding issues. The auto industry has been assisted by the House Auto Task Force that he founded and cochaired, and the trade adjustment assistance program that he helped to obtain funds for compensates and retrains workers in industries hurt by foreign competition. BILL has fought hard to reform our tax system as well, to make it more equitable for all.

Also noteworthy is his concern for those who need his care and expertise the most: the elderly, the poor, the young, and the handicapped. Because of his compassion and diligence there is now more support for the services these people need.

BILL's election to the Democratic Study Group chairmanship is another indication of his outstanding leadership ability and keen understanding of the important legislation before us. He has recognized the need for expanded and improved legislative research and anlysis, made us aware of fresh ideas, and has worked energetically with coalitions to find the best possible solutions to today's difficult problems.

I admire the courage in Bill's decision to step aside, and I appreciate his sharing with us the reasons for this decision. His thoughts are ones we should continue to consider.

I will miss BILL's perceptive mind and wit, and his willingness to get involved. I wish him the very best.●

ANTI-JET LAG DIET FROM AR-GONNE NATIONAL LABORATO-

## HON, HAROLD WASHINGTON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. WASHINGTON, Mr. Speaker, I happened to learn that the Congressional Research Service had received inquiries about an anti-jet lag diet. The diet was developed by a noted biomedical researcher, Dr. Charles F. Ehret of Argonne National Laboratory. Argonne National Laboratory is a multidisciplinary research center with primary focus on nuclear power, basic research, environmental-biomedical studies, and alternate energy sources. The laboratory is operated for the Department of Energy by the University of Chicago. The university is located in my district. I am pleased to share the diet with my colleagues.

The diet grew out of studies of circadian rhythms, natural body cycles controlled by molecular "clocks" found in every cell of the body. Besides aiding travelers, this research has important implications for helping shift workers. Many nuclear power stations are using shift-rotation programs based on this research to help reactor operators adjust quickly to continually changing work shifts.

Anyone traveling across three or more time zones, such as coast-to-coast across the United States, can benefit from the anti-jet lag diet, says Charles Ehret.

Left to its own devices, the body normally needs 1 day to adjust for each time zone crossed. But proper use of the Argonne diet can help the traveler make the change in 1 day.

Thousands of travelers have used this diet to prevent or ease the discomfort and inconvenience of jet lag. The U.S. Army used Dr. Ehret's research to help devise plans for moving troops great distances and having them arrive alert and ready for action.

Many airline travelers are learning to prevent jet lag—or at least speed up their recovery times—by using the Argonne diet plan. Jet lag is a feeling of irritability, insomnia, indigestion, and general disorientation. It occurs when the body's inner clock is out of synchronization with time cues from the environment. The Argonne diet uses some of the same time cues that create jet lag to prevent it.

Time cues include meal times, sunrise and sunset, and daily cycles of rest and activity. These cues help keep the body on schedule and healthy. The Argonne diet uses a combination of time cues to speed the traveler's adjustment to a new schedule.

The diet requires a planned rescheduling of mealtimes, meal contents, and social cues to help reset the body clock. The trick is to prepare for the adjustment a few days ahead of time by carefully watching the amounts and types of food eaten at mealtimes. By the day of arrival, the body's clock has been reset by assuming the schedule of meals and activities appropriate for the new time zone.

For example, traveler begins the anti-jet-lag diet on Thursday, 3 days before a flight. Thursday is a feast day, to be followed by fasting on Friday, feasting on Saturday and fasting on Sunday. The day of the flight is always a fast day.

On feast days, the traveler eats three full meals. Breakfast and lunch are high in protein. Steak and eggs make a good breakfast, followed later by meat and green beans for lunch. Protein helps the body produce chemicals that wake it up and get it going.

Supper is high in carbohydrates. They help the body produce chemicals that bring on sleep. Spaghetti or another pasta is good, but no meatballs—they contain protein.

On fast days, the traveler eats three small meals. They are all low in carbohydrates and calories to help deplete the liver's store of carbohydrates. "We do not fully understand the reasons," say Ehret, "but this seems to speed the shift to a new time zone." Acceptable meals on fast days would contain 700 calories or less and might consist of skimpy salads, thin soups, and half-slices of bread.

Whether feasting or fasting, the traveler drinks coffee, or any other drink containing caffeine, only in the afternoon. This is the one time of day when caffeine seems to have no effect on the body's rhythms.

Sunday evening, the traveler boards the plane about 7 p.m. and begins the first phase of speeding up the body's internal clock to Paris time. He or she drinks several cups of coffee between 9 and 10 p.m., turns off the overhead light and goes to sleep.

About 1:30 a.m. New York time, the traveler wakes up—the coffee consumed before going to sleep may even help do this—and takes the final steps

that reset the body's clock to Paris time.

First, he or she eats a high protein breakfast without coffee—perhaps last night's supper saved until the new breakfast time. Most airlines will gladly agree to this request. The meal helps the body wake up and synchronize itself with the Parisians, who are eating breakfast at about the same time.

Second, having finished breakfast, the traveler stays active to keep the body working on Paris time. The other passengers are asleep, but the traveler is walking the aisles, talking to the flight attendants or working with a briefcase on the pull-down table in front of his or her seat.

Monday afternoon in Paris, the traveler has a high-protein lunch. Steak is a good choice. That evening, he or she eats a high-carbohydrate suppercrepes, for example, but with no high-protein meat filling—and goes to bed early

Tuesday morning, the traveler has little or no jet lag.

On the return trip, the procedure is reversed, with one change. Going from east to west, the traveler wants to turn the body clock back 6 hours so that upon arrival at, say, 10 p.m. New York time, the body's clock is not still set at 4 a.m. Paris time.

The same feast-fast-feast-fast procedure is followed as before, except that plenty of coffee is consumed the morning before the flight and the morning of the flight, but avoided in the afternoon and evening of both days.

After boarding the plane, the traveler again coordinates his or her schedule with that of the destination. The fast is broken with a large, high-protein breakfast at about the same time New Yorkers are eating theirs.

Ehret points out that the diet can be flexible. He says that if you do not have time to alternate feasting and fasting for 3 days, just fast on the day you leave. Follow the rest of the plan accordingly. It may not prevent jet lag entirely, but it will speed up the adjustment.

I hope my colleagues and their staffs who will be traveling for the holidays will benefit from this diet.

I also hope, that when the 98th Congress convenes in January, they will be mindful of the millions of Americans for whom traveling and dieting are not an issue.

#### HENRY REUSS

## HON. CHALMERS P. WYLIE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 7, 1982

• Mr. WYLIE. Mr. Speaker, I feel truly privileged to have served with

HENRY REUSS in the House. He has been a great Member of Congress. HENRY is an extremely talented, highly respected Member of Congress who will be missed.

Henry has a genuine concern and warmth for people. In addition, he is one of the truly intellectual Members of the House. His range of knowledge is extraordinary, and even though you might not always agree with Henry, you know you will learn something if you listen to him.

He is, at the same time, a very hardworking person. With his brilliant, insightful, and energetic mind, he has made a lasting and significant contribution to our democracy.

He has a delightful sense of humor, a masterful command of the English language, and a loyalty to his friends which gains him admiration, respect, and the genuine affection of his many friends.

HENRY is a great credit to his hometown of Milwaukee. By choosing HENRY REUSS to represent them, the people of Milwaukee have helped make a sounder Nation.

In his work on the Banking Committee and the Joint Economic Committee, where I had the privilege to serve with him, Henry earned a reputation for integrity and dedication. He leaves Congress knowing that he has served his Nation with honor and distinction. We have lost an outstanding Member who will, indeed, be missed.

My wife Marjorie joins me in wishing for Henry and his wife Margaret the very best for a bright future and an enjoyable life ahead.

# TRAINING TERRORISTS IN U.N. CAMPS

# HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 16, 1982

• Mr. McDONALD. Mr. Speaker, as a member of the Armed Services Committee of the U.S. Congress, I am increasingly alarmed at the success of Soviet expansion backed by an ever-increasing Soviet military buildup.

For example, the United States has not built a new intercontinental ballistic missile since 1965—13 years ago. The Soviets have built and deployed thousands of missiles with nuclear warheads in a position to dominate Western Europe.

Parallel with its military buildup, the U.S.S.R. is rapidly advancing its "resource war" to place its surrogates in control of governments of countries in Africa where oil and strategic minerals such as chromium, uranium, and the platinum group are located. Without oil and critical minerals from the Mideast and southern Africa, the 16 industrialized countries of the West,

including the United States, will be subject to Soviet "blackmail" and cha-

otic economic disruption.

The United Nations, which costs U.S. taxpayers \$1 billion a year in hard-earned tax dollars, misuses millions of those dollars each year to finance Soviet-sponsored terrorists such as the Palestine Liberation Organization (PLO), the South West Africa People's Organization (SWAPO), and the African National Congress (ANC), which struggle to seize control of strategic areas such as Lebanon, Namibia, and Afghanistan, and impose Marxist dictatorships in furtherance of Soviet expansionism. Congress must act to stop U.N. misuse of American taxpayer money to subsidize terrorism.

I invite attention to the following article from the December 16, 1982, Washington Times which tells an ap-

palling story.

TRAINING TERRORISTS IN U.N. CAMPS

(By Thomas Gulick)

The military use of United Nations refugee camps by the Palestine Liberation Organization, which was revealed during the Israeli occupation of Lebanon, is just the tip of the iceberg. There is now considerable evidence that Soviet-backed guerrillas are also using U.N. camps in southern Africa and Central America for similar purposes. Even more disheartening is the fact that the United States is picking up the tab for 25 percent, and often more, of the operating costs of these training camps.

Recently captured PLO documents show that the Siblin Training Center, a U.N. trade school near Beirut, was used to train

PLO military recruits.

Yet another document intercepted by Israeli forces reveals that the PLO used U.N. International Force in Lebanon intelligence reports to monitor Israeli troop movements. The captured documents were dated May 26, 1981.

A Heritage Foundation report dated April 8, 1982—several months before the Israeli move into Lebanon—quoted Lebanese officials as saying the PLO had "transformed most of the (Lebanese) refugee camps—if not all—into military bastions." The charges were emphatically denied by U.N. officials.

As early as 1976, U.N. Secretary General Kurt Waldheim had been informed in writing that the PLO had installed "heavy weapons" in U.N. refugee camps in Lebanon. Lebanese officials also told Waldheim that the PLO had "even occupied the UNRWA (U.N. Relief Works Agency) offices in the camps." This was confirmed by the Israeli invasion discoveries.

The use of U.N. camps and "schools" in other parts of the world by Marxist terrorists has gone virtually unreported in the

press

For instance, in southern Africa, the Southwest African People's Organization, another Marxist guerrilla organization, is recognized by the U.N. as the "sole and authentic" representative of the Namibian people, even though there are some 45 political parties in that African country. The U.N. and its specialized agencies have allocated some \$40 million to SWAPO for U.N. programs begun between 1977 and 1981 and new programs slated for the 1982-to-1986 period

Among these programs is the SWAPOcontrolled Institute for Namibia, located in Lusaka, Zambia. Between 1977 and 1981, about \$1 million in U.N. funds went annually to finance the institute. In 1982 a handful of U.N. member-nations pledged an additional \$2 million. The United States' pledge of \$500 thousand for 1982 was by far the largest

While the institute is charged by the U.N. with responsibility to train administrators for a future independent Namibia, serve as an information center on Namibia; perform research on Namibia, and aid in the "struggle for freedom of the Namibian people" in practice, it would appear that only SWAPO members are accepted as students at the institute and that the school is used for

SWAPO military training.

Located in Zambia, the Institute for Namibia provides SWAPO with a strategic site for a military training center. With its common border with Angola—the point for which SWAPO launches its terrorist attacks into Namiba—a more suitable spot would be

hard to find.

One might ask why no U.N. members have questioned whether the Institute is being used by SWAPO to train officers and troops for guerrillas warfare in Namibia.

On March 28, 1981, New York Times correspondent Bernard Nossiter reported for Angola that yet another U.N. facility was being commandeered by SWAPO for its terror campaign—the Namibian Health and Education Center in Luanda, Angola. The camp is run by the U.N. High Commissioner for Refugees. Nossiter said SWAPO was using this camp to train students aged 5 to 18 as guerrillas to be returned to Namibia.

The Times newsman also said a nearby U.N. women's camp with a population of 25,000 seems to be SWAPO-dominated.

Further evidence of U.N. support of Marxist terrorism is evident in Botswana, just south of Zambia. Here, the African National Congress, a thoroughly Marxist terror organization aimed at overthrowing the government of South Africa, uses a U.N. refugee camp in Dukwe as a recruiting center for terrorists, according to military sources there.

And within the very borders of South Africa, the tiny country of Lesotho hosts another refugee center run the UNHCR auspices, which also is suspected of being an ANC recruiting center. Refugees recruited there and in Botswana are moved to military and terrorist training centers in Angola, Tanzania, Algeria, Eastern Europe and the U.S.S.R. This was confirmed in recent testimony by former ANC members during hearings before the U.S. Senate Subcommittee on Security and Terrorism.

In the Western Hemisphere, there also is strong evidence that U.N. refugee camps in Central America are being used to train Marxist guerrillas and terrorists.

A UNHCR camp at La Virtud, Honduras has supplied food and medicine to Marxist guerrillas staging raids into El Salvador, according to Heritage Foundation Latin American expert Richard Araujo. In addition, Araujo says, the French medical volunteer group, Medecins Sans Frontieres, which is part of the UNHCR operation in the Honduras refugee camps, is funneling intelligence reports to the Communist-oriented Sandanista army of Nicaragua.

It is high time the United States and its Western Allies demand a full internal investigation of U.N. aid and support for terrorist groups which operate freely in refugee camps in the middle East, southern Africa and latin America.

These investigative teams should include representatives of the United States and the Western nations, which pay the lion's share of the tab for the U.N. refugee program.

In addition, the U.S. Congress, General Accounting Office, and Central Intelligence Agency should conduct their own intensive investigation into all aspects of U.N. support for terrorist and guerrilla groups and subversives of all kinds—including those directed by the Soviet KGB, the U.S.S.R.'s secret police, which considers the U.N.'s New York headquarters its home away from home.

The United States and the West can make a bid dent in U.N. funding of international terrorism and Marxist guerrillas movement by cutting off all U.S. contributions to U.N. organizations backing terrorist and guerrillas cadres until this practice is stopped. U.S. taxpayers can help stop the flow of aid to terrorists simply by refusing to give their money to those at the U.N. who would abuse our trust and the legitimate needs of the world's refugee population.

#### NHTSA

# HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

• Mr. JOHN L. BURTON. Mr. Speaker, as chairman of the House Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have had the opportunity to examine some of the vehicle defect investigations conducted by the National Highway Traffic Safety Administration (NHTSA), including the vehicle defect inquiry into General Motors' Corvair. The subcommittee staff's analysis NHTSA's Corvair materials revealed numerous deficiencies in the design and implementation of the NHTSA investigation, deficiencies Corvair which suggest that NHTSA must modify and improve its investigative procedures so as to better insure that defective automobiles are properly identified, so that they may be promptly recalled and not be allowed to remain on American highways.

During the 18 years since Ralph Nader first exposed the designed in defects of General Motors' (GM) Corvair automobile, much additional evidence has emerged from product liability cases, Government test, GM whistleblowers, former GM executives, and congressional investigations and reports-evidence that further documents and supports Mr. Nader's original thesis that the rear-engine Corvair was a menace to life and limb because of its marked tendency to go out of control and roll over, especially when cornering. This thesis was put forth in his bestselling book, "Unsafe At Any Speed" in which Nader claimed that Corvair accidents were caused by the tendency of the outside rear wheel to tuck under the chassis during turns. GM management concealed these defects from the public, Nader charged, and did not change the defective design until the 1965 model year, even though they were aware of the defects

as early as the late 1950's.

During those same 18 years since the publication of "Unsafe At Any Speed," General Motors has been working steadily and determinedly to shape the Corvair historical record, a record which, when unencumbered by GM roadblocks, reflects most unfavorably upon the social, moral, and legal stature of one of the world's largest manufacturing multinational corporations

and its management.

From a safety point of view, the evidence is clear, overwhelming, and convincing: General Motors manufactured and marketed 1.2 million unsafe Corvairs for the 1960, 1961, 1962, and 1963 model years, knew about the inherent safety defects, yet did nothing to correct them. From the point of view of honesty and integrity, the evidence is also clear, overwhelming, and convincing: General Motors has sought at every turn to conceal and suppress evidence showing that the Corvair was unsafe, and that GM did little to remedy a situation that was causing unnecessary death and injury on the highway. Taken as a whole, the record shows that in manufacturing and marketing the Corvair, GM acted in reckless disregard of human life.

As chairman of the Government Activities and Transportation Subcommittee, I have had a special opportunity to observe the operations of powerful interests seeking to work their wills on the Congress. GM has persisted in its attempt over the years to mold the history of the Corvair, sometimes by bending the facts, sometimes by suppressing the facts, and other

times by creating new facts.

Before reviewing the methods GM and its sympathizers have employed in attempting to wipe the slate clean on the Corvair, for the record, I will briefly outline the evidence on the safety of the Corvair—what GM knew about the Corvair's unsafe characteristics and when GM knew it. No amount of suppression or deception can overcome the weight of the evidence listed below, evidence that constitutes the bedrock of the case against GM and the Corvair:

One, GM's own secret proving ground reports detailing tests dating from 1959-63. These early tests (Proving Ground Reports (PGR) 11106 (June 1959) and 11543 (November 1959)) show that GM was aware of the Corvair's instability before production. They show the Corvair rolling over at speeds as low as 25 mph in simple j-turn—emergency obstacle avoidance—maneuvers.

Two, 1968 Ford Motor Co., test of the Corvair. Ford put the Corvair alongside of some of its own cars and ran them through lane change maneuvers. While none of the Fords had any significant difficulty with the maneuvers, the Corvair would often go out of control with the rear of the car losing traction, causing it to spin.

Three, Maurice Olley patent application. Maurice Olley, GM's preeminent engineer in the field of vehicle handling, filed a patent application in 1956 in which he was highly critical of rear-engine automobiles with swing axles, such as the Corvair.

Four, 1964 first change to new suspension. Corvair's 1960 suspension was chosen primarily for reasons of cost to the manufacturer, service, reliability, quality of ride, isolation of passengers from suspension, harshness and noise. Safety was not a major factor. Then, in 1964, GM changed to a modified rear end suspension, a more fundamental suspension change, known to GM for years, was introduced in the 1965 model year. GM tests made at the time indicated that safety was the

own Corvairs, model years 1960-63:
These tests showed that the dynamic quality of the current production 1963 Corvair was not substantially improved through practical modifications to shock absorber design and configuration \* \* \*.

primary reason for the change. In one

test description, GM implicitly admit-

ted the inherent unsafe nature of its

A 1964 prototype suspension installed in the car made the dynamic stability characteristics acceptable for

several different test conditions.

Five, 1971 GM tire test. This internal GM document states explicitly that the Corvair handling could become "unacceptable under some

driving conditions."
Six, DeLorean Book. In January 1980, J. Patrick Wright published a book based on his conversations with former GM engineer and group vice-president John Z. DeLorean. DeLorean expressed the following views

about the Corvair:

\*\* the Corvair was unsafe as it was originally designed.

In the high-performance Corvair, the car conveyed a false sense of control to the driver when in fact he may have been very close to losing control of the vehicle. The result of these characteristics can be fatal.

These problems with the Corvair were well documented inside GM's Engineering Staff long before the Corvair was ever offered for sale.

The questionable safety of the car caused a massive internal fight among GM's engineers over whether the car should be built with another form of suspension.

These men collectively—Charles Chayne, Von D. Polhemus and others—and individually made vigorous attempts inside GM to keep the Corvair, as designed, out of production or to change the suspension system to make the car safer.

Albert Roller, who worked for me in Pontiac's advanced engineering section, tested the car and pleaded with me not to use it at Pontiac.

Seven, October 1, 1959, Ford Motor Co. presentation to their executive committee. Ford ordered handling tests of a wide range of Ford and other make cars. The Corvair was tested and filmed. The film was shown to Ford's executive committee with the following explanation:

The handling and stability of the Falcon (Ford) are excellent. The Corvair with its rear heavyweight distribution shows marked instability under conditions of severe cornering and in passing. While the driver will not encounter difficulty under most normal driving conditions, there are frequently encountered emergency conditions such as slippery pavement or emergency maneuvering in which the driver cannot maintain control of the vehicle. The Corvair falls considerably short of our (Ford) handling standards.

Eight, testimony of Robert Ben-zinger, General Motors engineer in charge of the Corvair engine. On August 12, 1966, Benzinger gave a deposition in a case involving a man who suffered permanent brain damage as the result of driving long distances in a Corvair with a defectively designed heating system that permitted lethal carbon monoxide gas from engine-in the rear-to mix with the air entering the vehicle passenger compartment through the direct air heater. During the deposition, Benzinger admitted: (1) that any malfunction of the engine which permitted the emission of carbon monoxide would result in carbon monoxide being carried by the heating system into the passenger compartment; (2) GM knew that it was not possible to design with certainty an aluminum engine of the type to be used in the Corvair which would not malfunction and leak carbon monoxide; (3) GM had considered the possible danger of a carbon monoxide leakage from the engine and had therefore upgraded the quality of the engine seals and exhaust manifolds; and (4) GM had considered but had not adopted a shield device to prevent contact between engine cooling air and passenger compartment warming air. The state of the art in other vehicles was such that occupants were not placed at risk of breathing carbon monoxide fumes, as they were in the Corvair.

General Motors effort to whitewash this record first emerged publicly after the publication of Nader's book. In an attempt to intimidate the Corvair's primary critic, GM launched a private investigation of Nader. In January 1966, one of the detectives following Nader was detected in a Senate Office Building on Capitol Hill trailing Nader. When this incident was made public, GM's initial attempt at suppression began to unravel.

James Roche, then president of General Motors, later would go before a Senate committee and tell the assembled Congressmen and media:

To the extent that General Motors bears responsibility, I want to apologize here and now to the members of this subcommittee

and Mr. Nader. I sincerely hope that these apologies will be accepted. Certainly I bear Mr. Nader no ill will.

At these hearings, representatives of General Motors maintained, as they had throughout the controversy, that the Corvair was not an unsafe car, that the Corvair was, in effect, a safe car. As evidence to support these assertions. GM cited two jury verdicts which found that the Corvair's design was not the cause of the crash injuries involved in each case. But the Corvair juries and the Senate subcommittee that heard GM's testimony on March 22, 1966, were not getting the damning information that GM had stashed away in its files. They were not getting the warnings that the company received from its own engineer Maurice Olley, they were not getting GM's preproduction testing reports that detailed the flipping Corvairs on J-turns, nor were they getting all of the infor-mation about the carbon monoxide leakage problem and the safety problems attendant thereto. Subsequent juries in Corvair trials did bring in sizable verdicts against GM, not to mention many sizable settlements with plaintiffs that GM concluded.

In 1971, an investigation was launched by Senator Abraham Ribicoff's Senate Subcommittee on Execu-Reorganization to determine whether GM had misled the subcommittee. The resulting highly controversial Ribicoff report, written by two staff members, found that the subcommittee was not misled by General Motors. But the report came under immediate and justifiable criticism from quarters, including Ralph many Nader's staff which issued an eloquent, lengthy, and piercing rebuttal. The Nader staff report concluded that the Ribicoff report was "marred by faulty methodology, technical incompetence, and inaccurate assertions." "It read like a GM brief," wrote the

Nader report authors.

A close examination of the Ribicoff staff report reveals three problem areas that raise serious doubts about the accuracy of the report's conclusions. First, the staff refused to consider as relevant the most damning evidence against GM and the Corvair-the preproduction GM proving ground reports which detailed how Corvairs flipped over while maneuvering J-turns at moderate speeds. The report discounts these GM proving ground reports, first because they are "not representative of the practical driving environment." The staff here echos former GM president Ed Cole's assertion that the J-turn test are "violent maneuvers designed to overturn" the cars. In fact, most impartial experts agree that a J-turn test determines a car's response in an emergency reaction to a suddenly perceived obstacle in its path—not an uncommon occurrence. While probably no other

American cars could be overturned in such a J-turn test, a 1962 Corvair rolled over twice in a simple 28 mph J-

turn (PG 17103).

Another criticism that the Ribicoff staff had about these early GM proving ground reports was that they did not involve Corvairs identical to production Corvairs. In fact, the differences were insignificant. Modifications to the test cars were all minor changes to items such as shock absorbers and spring rates, modifications that have been characterized by GM engineers as "not significantly affecting the handling or stability of the Corvair."

The importance of these preproduction GM proving ground tests cannot be underestimated. Corporate criminologists consider them incriminating pieces of evidentiary material ranking right up with the "Asbestos Papers" and the "Thalidomide Files." The Ribicoff staff's failure to give substantial weight to these reports severely undermines the staff's primary conclusion that the subcommittee was not misled since "the performance of the 1960-63 Corvair compares favorably in stability and handling to similar contemporary cars."

Second, the Ribicoff staff uncritically accepted the conclusions of the July 1972 NHTSA evaluation of the Corvair, a report that put its stamp of approval on the car. The Ribicoff staff report virtually ignores the conclusions of physicist Dr. Carl Nash's detailed and reasoned critique of the NHTSA study. "A Critique of the NHTSA Defect Investigation of the 1960-63 Corvair Handling Stability,' by Dr. Carl Nash, December 2, 1973.

The Ribicoff staff accepts NHTSA's conclusions about the Corvair despite a gross testing irregularity that should have rendered the primary NHTSA conclusion about the Corvair's stability meaningless. Before NHTSA conducted its tests, the Corvairs were weighted down with 615 extra pounds. This procedure is called heavy loading. There is strong evidence that indicates that heavy loading increases a car's stability. The evidence of heavy loading should have led any reasonable observer to strongly question NHTSA's conclusion that "the handling and stability performance of the 1960-63 Corvair does not result in abnormal potential for loss of control or rollover." The Ribicoff staff's acceptance of this conclusion, coupled with an overriding obsession with secrecy 1, raises important questions of impartial judgment and bias.

Even more damaging to the report's conclusions was the revelation in 1973 that NHTSA engineers had secretly removed the 615 extra pound weight, then retested the Corvair. The Corvair

overturned repeatedly during these tests. The NHTSA engineers withheld this information until after the release of the NHTSA and Senate reports.

Third, at the March 22, 1966 committee hearing, GM cited its litigation record as a definitive sign of the Corvair's safety. Yet the Ribicoff report failed to critically question whether GM withheld crucial documents from plaintiffs attorneys seeking discovery. A close examination of a handful of cases where Corvair victims or Corvair victims' survivors sued GM found that GM attorneys suppressed, distorted, and concealed evidence relevant to these products liability cases. In addition, GM harassed plaintiffs' attorneys through a variety of tactics, including intentionally supplying thousands of irrelevant documents and films, flooding victims attorneys with meaningless motions and objections, and hiring private investigators to probe export witnesses.

GM had a coordinated defense effort for the hundreds of Corvair product liability cases that were brought against it around the country. Indicative of the sophistication of this effort was a GM memorandum dated January 5, 1965 and titled "Hypothetical Cross-Examination of a Member of the Corvair Product Analysis Group." The memo carefully, but unethically, instructs GM witnesses in legal proceedings how to give obscure, evasive, and nonresponsive answers during crossexamination while attempting to ascertain the true nature of the Corvari's unsafe characterisics by injured

General Motors also made it a practice to close off plaintiffs lawyers who gained access to especially damaging information. In the case referred to above, where GM's Benzinger gave damaging information about the Corvair's propensity to leak carbon monoxide, GM rushed in and offered to settle the case for \$125,000, but only if the plaintiffs lawyer would sell GM all his depositions, information from export witnesses, his entire file, and the Corvair car itself. Additionally, the law firm signed a statement pledging not to talk, write or otherwise promulgate facts about the case. GM also demanded that the original complaint be changed from alledging defect" to "manufacturing defect." Had the wording remained "design defect" other victims' attorneys would be able to use the settlement as evidence that GM admitted to a fleet wide defect. "Manufacturing defect" only indicates that something was wrong with that one car.

So while GM settled or blocked a majority of the Corvair cases brought against it, it did so through heavy handed procedural moves and inundative costs individual attorneys found difficult to handle. GM's litigation

<sup>&</sup>lt;sup>1</sup> All Ribicoff documents from GM which include 80 depositions have been sealed and stored at the National Archives until the year 2000.

record indicates only that GM's strategy of narrowing the flow of pertinent information into the courthouse was succeeding.

The Ribicoff staff committee's primary conclusion that a congressional subcommittee was not misled by General Motors cannot be supported by the weight of the evidence. And the critical NHTSA defect inquiry into the Corvair, upon which the Ribicoff staff uncritically relied, was riddled with procedural deficiencies that undermined its conclusions.

First, the engineer responsible for the Corvair test program was previously employed by General Motors for 18 years. Second, a factor that was crucial in the DOT test of the Corvair's performance was the tires. The agency apparently used special tires supplied by GM on the cars tested. The quality of the tires and the amount of inflation could be critical in determining whether the Corvair behaved beyond the driver's control. But the agency

did not test the Corvair with partially worn tires such as would be found under normal driving conditions. In addition, NHTSA withheld a critical GM tire report for 2 years after receipt and then failed to properly alert the public of the findings. Third, the NHTSA Corvair investigation was conducted in a completely ad hoc manner. The NHTSA engineers never formulated a program for what turned out to be a very unscientific investigation that resulted in unscientific conclusions. NHTSA selectively highlighted its preconceived ideas and discounted or ignored materials which didn't support their conclusions. The GM preproduction proving ground tests, for example, were ignored or dismissed as irrelevant.

There is no indication that NHTSA has modified its testing procedures so as to prevent similar deficiencies that might disable future defect investigations. Before launching on a defect inquiry, NHTSA should make public its

proposed plan for study for public comment to insure that any biases and predetermined conclusions are not. written into the early stages of the study. Second, any final report should permit the interested public to review all the raw test data and test procedures of the investigation. This is the proper scientific approach to assure accountability and higher standards. In its Corvair inquiry, NHTSA prohibited examination by the public of the raw data and test procedures, thus fueling suspicion and putting a cloud over the credibility of the report. And the agency should review and more actively oversee its rules governing NHTSA employees who conduct investigations of automobile companies for whom they had worked before they were hired at the agency.

It is hoped that this report will be helpful to NHTSA in improving the credibility and accuracy of any future vehicle design and construction testing inquiries.

# HOUSE OF REPRESENTATIVES—Friday, December 17, 1982

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following praver:

O give thanks to the Lord, for He is good, for His steadfast love endures for ever .- Psalms 136.1.

O Lord, as we look to our world we see so much that is transient and passing and there seems to be no certainty or abiding truth. Yet Your word promises that You are with us in all the moments of life even to the end of the age. We thank You that in all our joys and trials, at times of laughter and times of pain, Your love surrounds us and gives us that peace that the world cannot give. For these and all Your blessings, O Lord, we offer this our prayer. Amen.

# THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the

Journal stands approved.

Mr. OBEY. Mr. Speaker, I wonder if the Members of this House who oppose the congressional pay raise, I wonder if the press will think the Senate position on this issue is in the public interest, I wonder if they know the true implications if the Senate prevails?

Do you know that two Senators have supplemented their official income with over \$80,000 in outside speaking fees, and another one with more than

\$45,000?

Do you really believe the public would be better off if House Members emulate that policy rather than relying on just one master, the public, for its pay? Do you really doubt the old adage: "He who pays the piper calls the tune"?

Do you really have the guts to insist that the House position is the only one that will keep Members working for the public rather than for the private interests who gladly pay speaking fees in return for establishing special relationships with legislative advocates?

For God's sake, think about this issue before public salaries become only secondary income for this body and public interests in turn become only secondary concerns.

# CALL OF THE HOUSE

Mr. LONG of Louisiana. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No 4731

	[Roll No. 473]	
Akaka	Evans (IA)	Lewis
Albosta	Evans (IN)	Livingston
Alexander	Fary	Loeffler
Anderson	Fazio	Long (LA)
Andrews	Fenwick	Lott
Annunzio Anthony	Ferraro Fiedler	Lowery (CA) Lowry (WA)
Ashbrook	Fields	Lujan
Badham	Flippo	Luken
Bafalis	Florio	Lundine
Bailey (MO)	Foglietta	Lungren
Bailey (PA)	Forsythe	Markey
Barnard	Fowler	Marlenee
Beard	Frank	Marriott
Bedell	Frenzel	Martin (IL)
Bennett	Fuqua Geidenson	Martin (NC)
Bereuter Bevill	Gephardt	Martin (NY) Martinez
Bliley	Gibbons	Mattox
Boland	Gilman	Mavroules
Bonior	Ginn	McClory
Bouquard	Glickman	McCollum
Bowen	Gonzalez	McCurdy
Brinkley	Goodling	McEwen
Brodhead	Gore	McGrath
Brooks	Gradison	Mica
Broomfield	Gray	Michel
Brown (CA) Brown (CO)	Green Gregg	Mikulski Miller (OH)
Brown (OH)	Guarini	Mineta
Broyhill	Gunderson	Minish
Burgener	Hall (IN)	Mitchell (NY)
Butler	Hall, Ralph	Molinari
Byron	Hall, Sam	Montgomery
Chappie	Hamilton	Moore
Cheney	Hammerschmidt	
Clinger	Hance	Morrison
Coats	Hansen (ID)	Mottl
Coelho	Hansen (UT) Harkin	Murtha Myers
Collins (IL) Collins (TX)	Hartnett	Napier
Conable	Hatcher	Natcher
Conte	Hawkins	Nelligan
Conyers	Hendon	Nichols
Corcoran	Hightower	Nowak
Coughlin	Hiler	Oakar
Courter	Hillis	Oberstar
Coyne, William	Hopkins	Obey
Craig	Howard	Oxley
Crane, Daniel	Hoyer Huckaby	Panetta
Daniel, Dan Daniel, R. W.	Hughes	Parris Pashayan
Dannemeyer	Hunter	Patman
Daschle	Hutto	Paul
Daub	Hyde	Pease
de la Garza	Jacobs	Pepper
Dellums	Jeffords	Perkins
DeNardis	Jenkins	Petri
Derrick	Jones (NC)	Peyser
Dickinson	Jones (OK)	Pickle
Dicks Dixon	Jones (TN)	Porter
Donnelly	Kastenmeier Kazen	Price Pritchard
Dorgan	Kemp	Quillen
Dornan	Kennelly	Rangel
Dougherty	Kildee	Ratchford
Dowdy	Kindness	Regula
Downey	Kogovsek	Rhodes
Dreier	Kramer	Rinaldo
Duncan	LaFalce	Ritter
Dunn	Lagomarsino	Roberts (KS)
Dwyer	Lantos	Robinson
Eckart Edwards (OK)	Latta	Rodino
Emerson	Leach Leath	Roe Roemer
English	Lee	Rogers
Erdahl	Lent	Rose
Erlenborn	Levitas	Rostenkowski

Roth Roukema Smith (OR) Wampler Washington Snowe Roybal Snyder Watkins Solomon Weaver Russo Spence St Germain Weber (MN) Weber (OH) Sabo Sawyer Schneider Weiss Whitehurst Stangeland Stenholm Whitley Whittaker Schroeder Stokes Stratton Schumer Sensenbrenner Studds Whitten Williams (OH) Shamansky Stump Swift Wirth Sharp Shaw Synar Wolf Shelby Tauke Wolpe Shumway Tauzin Wortley Siljander Taylor Wright Wyden Wylie Simon Thomas Skelton Traxler Vander Jagt Smith (AL) Yates Smith (IA) Vento Yatron Young (FL) Zablocki Smith (NE) Volkmer Smith (NJ) Walker

#### □ 1015

The SPEAKER. On this rollcall, 303 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

#### FARMLAND EXPORT INITIATIVE

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SKELTON. Mr. Speaker, a number of us in Congress have been speaking out for a considerable period of time on the need for the United States to increase our agricultural exports. With the economic crisis on American farms continuing unabated, it is now more necessary than ever to create new markets for our agricultural products and expanding existing ones. That is why, Mr. Speaker, that I want to bring to the attention of the House a resolution adopted by members of a major agricultural cooperative, Farmland Industries, Inc., at their annual meeting in Kansas City eaflier this month. This resolution calls for the President and the Congress to adopt a national policy declaring the expansion of agricultural exports to be of fundamental economic importance to the Nation and that this objective necessitates immediate action and requires the higher national priority. Mr. Speaker, I fully support the goal of Farmland's resolution, and I urge my colleagues to do likewise.

Mr. Speaker, at this point in the RECORD I would like to insert the full text of Farmland's resolution calling for a strong, comprehensive, demandoriented agricultural export policy.

<sup>☐</sup> This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

<sup>•</sup> This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

AGRICULTURAL TRADE—A NATIONAL URGENCY

To express the concern of farmers and ranchers who own the Farmland system of cooperatives that, because of the dependence of American agriculture on international trade, it is a matter of national urgency that the United States adopt a strong, comprehensive, demand-oriented agricultural export policy.

#### RESOLUTION

Whereas, the continued low farm prices erode the economic position of farmers and ranchers and all sectors of the nation's economy which are a part of our agriculture system, and

Whereas, several past actions by the United States Government have damaged our credibility as a reliable supplier of farm exports to international markets, and

Whereas, the competitive position of American agricultural products has been reduced by high interest rates, foreign exchange rates, subsidies, and protectionist trade practices of other countries, and

Whereas, the total United States economy will benefit directly from programs that expand agricultural exports: Now therefore

Resolved, That the President of the United States in conjunction with the House of Representatives and the Senate, by executive order and legislative enactment, adopt a national policy declaring the expansion of agricultural exports to be of fundamental economic importance to the nation and that this objective necessitates immediate action and requires the highest national priority.

#### WILL ROGERS ON LAMEDUCK SESSIONS

(Mr. GORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GORE. Mr. Speaker, we have all been enjoying this lameduck session so much that I was particularly interested to read that a little over 50 years ago, on November 12, 1929, Will Rogers wrote the following:

I see where there's only one more week left of this special session of Congress which the president would give his hightop boots if he had never been shortsighted enough as to have called 'em.

He has one consolation. They have annoyed each other as much as they have him.

#### CONFERENCE COMMITTEE-CRIMINAL JUSTICE SUBCOM-MITTEE

(Mr. CONYERS asked and was given permission to address the House for 1 minute.)

Mr. CONYERS. Mr. Speaker, I regret to report, as a member of the Judiciary Committee and a subcommittee chairman, that my esteemed chairman has, in a conference committee, ordered two lawyers on the staff of the Criminal Justice Subcommittee that I chair to participate in a conference that I disapprove of. Many of us may not even know that the Criminal Code is now in conference between the Senate and the House, and he has or-

dered the aides to follow his instructions rather than my own.

I do not know who else to bring it to. I do not know what the procedures are for resolving this, but I want everyone to know that two lawyers on my subcommittee staff are not representing this chairman in that conference.

#### FIFTY MILLION DOLLARS FOR HOMELESS KEPT IN CONTINU-ING RESOLUTION

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I am pleased to report to the House that the Senate action yesterday maintained the \$50 million that we placed in the continuing resolution for the homeless. So, I hope that all the disagreements going on between the House and the Senate and the administration, that this action demonstrates our ability and interest in responding to a very desperate need in a positive way by virtue of congressional action before the completion of this extended session by inclusion of the \$50 million for the homeless in the continuing resolution.

# B. F. SISK FEDERAL BUILDING

Mr. FARY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5029) to designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building," and ask for its immediate consideration.

The Clerk read the title of the bill. The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. BURGENER. Reserving the right to object, Mr. Speaker, would the chairman be kind enough to respond, does this measure contain the parking lot on Ivy Street?

Mr. FARY. No, sir. Mr. Speaker, H.R. 5029 is a bill to designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building.

Some of our younger colleagues never had the pleasure of knowing B. F. Sisk, who served as the Representative of the 15th Congressional District of California from 1954 until his retirment in 1978. During his 24 years in this body, those of us who enjoyed his friendship recognized his skills as a legislative broker and a relentless protector of his constituents' interests. Naming this building would be an appropriate and fitting gesture on our part for former Congressman Sisk.

I urge its immediate approval. • Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 5029, legislation that would designate the Federal building in Fresno, Calif., as the "B. F. Sisk Federal Building" in honor of Bernie Sisk.

Mr. Speaker, Bernie Sisk was elected to the 84th Congress on November 2, 1954, and reelected to each succeeding Congress until 1978, at which time he announced he would not seek reelection. During his tenure in the House. he mastered the complexities of farm and water legislation. He was instrumental in assuring that his district was not overlooked in a variety of Federal programs, whether it was water and dam projects, passenger train service, or educational and public television programs.

Bernie Sisk served in this body with integrity of purpose and deep devotion to the cause of improving the lives of his constituents and all citizens of our Nation. He was not afraid of hard decisions, and he always carried the heavy responsibilities of his job gracefully and effectively.

I urge my colleagues of the House to support this fitting recognition of a distinguished public servant. In the years which I had the privilege of serving with Congressman Sisk, he was held in high esteem by his colleagues and was widely known for his legislative abilities. Bernie was a fine legislator, and a Congressman of compassion, courage, and patriotism, who provided exemplary service to his constituents, and to the citizens of our Nation for 24

Lurge enactment of H.R. 5029.

- Mr. CLAUSEN. Mr. Speaker, I rise in support of this legislation to name this building in Fresno, Calif., in honor of Bernie Sisk. Bernie served with distinction as a distinguished member of the Rules Committee for many years. He was particularly effective in his extraordinary monitoring of agricultural issues affecting his constituents, especially in forestry mat-
- I had the unique opportunity to serve with Bernie in a truly bipartisan coalition in northern California that played a key role in coordinating California's position on forestry matters. Moreover, I also served with him on a short interim ad hoc committee on professional sports, an assignment I particularly enjoyed. Bernie was a champion of the sports interest and through his hard work, he pulled together a broad cross-section in maintaining the viability of these interests.

For all of these reasons, I think it would be most appropriate that we pass the bill for this dedicated public

Mr. BURGENER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 1130 O Street, Fresno, California 93721, known as the Federal Building, shall hereafter be known and designated as the "B. F. Sisk Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "B. F. Sisk Federal Building".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### PAUL FINDLEY BUILDING

Mr. FARY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 7406) to designate a certain Federal building in Springfield, Ill., the "Paul Findley Building," and ask for its immediate consider-

The Clerk read the title of the bill. The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. STANGELAND. Mr. Speaker, I

reserve the right to object.

Mr. Speaker, I would like to urge my colleagues to support H.R. 7406, legislation designating the Federal building in Springfield, Ill., as the "PAUL FINDLEY Building." This is a fitting tribute to a dedicated Member of Congress who has served his Nation well for over 20 years here in Washington. Moreover, as one who has had the opportunity of working with Paul Fin-DLEY on the Agriculture Committee, I can speak from firsthand experience that his independence and insight when dealing with issues will be sorely missed, even by one such as me who did not always agree with him. As those of us who have worked with PAUL know, this independence is one of his greatest attributes and a trait that we should all strive to develop.

Mr. Speaker, I yield to the gentle-

man from Illinois.

Mr. FARY. Mr. Speaker, H.R. 7406 is a bill to designate the Federal building in Springfield, Ill., as the "PAUL FIND-

LEY Building.

As we all know, Mr. Speaker, our colleague, PAUL FINDLEY, has represented the 29th Congressional District of my home State of Illinois for 22 years. He will be leaving us shortly, and I think this would be a memorable gesture on our part to recognize the accomplish-ments of such a distinguished public servant.

PAUL came to Congress in 1960, bringing with him his experience as a newspaper printer and publisher. He has authored two books: "The Federal Farm Fable" (1968); and more recently, "The Crucible of Congress" (1979),

a book on President Lincoln's service in the House of Representatives, a subject on which he is regarded as a scholar. Over the years, he has blended his efforts on the Foreign Affairs Agriculture Committees become a very effective spokesman for those issues of great importance to Illinois, one of our Nation's largest exporting States. Congressman FINDLEY is currently the ranking minority member of the House Agriculture Committee's Subcommittee on Wheat, Soybeans, and Feed Grains, as well as the ranking minority member of the House Foreign Affairs Subcommittee on Europe and the Middle East.

Paul's career spans a wide range of accomplishments which exhibit a commitment to interests of his constituents as well as a compassionate sensitivity for all peoples throughout the country. As organizer and chairman of three highly successful international soybean fairs in Washington, D.C., he was able to promote sales of soybeans and soybean products to foreign countries with flourishing results. Congressman FINDLEY was an early and strong opponent to the Vietnam war, as well as one of the first U.S. Congressmen to advocate the normalization of diplomatic relations with China. During the 1960's, Mr. FINDLEY led Republicans in support of a series of landmark civil rights bills.

Mr. Speaker, before coming to Congress, I traveled the road from Chicago to Springfield for 20 years as a member of the Illinois General Assembly. Each time, I passed a sign which read: "You Are Entering Paul Findley Country," and I vowed he would be the first person whom I would seek out in Washington. I did and I have enjoyed our friendship ever since.

I urge immediate passage of this leg-

islation.

• Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 7406, a bill to designate the Federal building in Springfield, Ill., as the "Paul Findley Build-

ing.

Mr. Speaker, Paul is well known to all the Members of the House as the Congressman representing the 20th District in Illinois. His service began with his election to the 87th Congress in 1960 and spans 22 years to date. Due to his adroit and conscientious service, he has risen to the senior ranks of his committee assignments on Foreign Affairs and Agriculture.

No Member leaves this body without making an impression and Mr. FIND-LEY is certainly no exception. I would like to bring some of his many accomplishments to the attention of our col-

Delegate to 11th and 12th Annual NATO Parilamentarians Conferences, 1965 and 1966.

Recipient of the highest civilian award by Federal Republic of Germany and the Estes Kefauver Memorial Award for his leadership in NATO

Founder of Youth Jobs Services to help coordinate and find summer jobs for young adults in central Illinois.

Organizer and chairman of Illinois Agricultural Trade Mission to the Soviet Union.

Mr. Speaker, Paul Findley is a person who endeavored to make the world a better place in which we all might live. I believe this House and our country have been the fortunate beneficiaries of his industrious and sustained efforts. Renaming this building would be a small token of our appreciation for his long and dedicated service. I urge its approval.

• Mr. CLAUSEN. Mr. Speaker, I rise in support of H.R. 7406, a bill to designate the Federal Building in Springfield, Ill., as the "Paul Findley Build-As the Representative from a congressional district made up of the district that first elected Abraham Lincoln to the House of Representatives in 1846, PAUL FINDLEY has admirably represented his constituency for over 20 years, many times taking difficult, not widely held positions on important issues facing the House. It is this independence and integrity that has made Paul Findley a truly valuable Member of Congress.

As an honor to Paul's dedicated service over 2 decades to this Nation. I ask my colleagues to join with me in supporting H.R. 7406.

Mr. STANGELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

#### H.R. 7406

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 600 East Monroe in Springfield, Illinois is hereby designated as the "Paul Findley Building". Any reference in any law, regulation, document, record, map or other paper of the United States to such building shall be considered to be a reference to the Paul Findley Build-

SEC. 2. This bill shall take effect on January 3, 1983.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

# TENNYSON GUYER FEDERAL BUILDING

Mr. FARY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 6538) to designate the Federal building in Lima, Ohio, as the "Tennyson Guyer Federal Building,"

and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from

Illinois?

Mr. STANGELAND. Reserving the right to object, Mr. Speaker, I wish to express my support for this bill designating the Federal Building in Lima, Ohio, as the "Tennyson Guyer Federal Building." This is a fitting tribute to Tenny Guyer who served the people of his district in Ohio, as well as the rest of the Nation, with distinction during his 9 years of service in Congress.

It was indeed a great honor and privilege for me to serve with Tennyson Guyer for part of his tenure and I must say that I valued his opinion on many important issues that faced us during that time. For these reasons, I would urge my colleagues to join with

me in supporting H.R. 6538.

Mr. STANGELAND. Mr. Speaker, I yield to the gentleman from Illinois.

Mr. FARY. Mr. Speaker, H.R. 6538 would designate the Federal building in Lima, Ohio, as the "Tennyson

Guyer Federal Building."

Mr. Speaker, Tennyson Guyer, as we all know, was the Representative of the Fourth Congressional District in Ohio, who passed away on April 12 of last year. Prior to his election to Congress in 1972, Mr. Guyer served as the mayor of Celina, Ohio, from 1940-44; State Central Committeeman from 1954-66; and as an Ohio State senator form 1959-72. While here in Congress, he served on the Veterans' and the Foreign Affairs Committee and the Select Committee on Narcotics Abuse and Control. Most recently he served on the House task force on missing persons in Vietnam.

While laboring here in Congress, as he did so well, Tenny evoked much respect and admiration from his House colleagues. He was well known for his love of country, his warm sense of humor and his quick wit. Motivated by his strong religious faith to perform selflessly on behalf of his constituents, Tenny was also an ordained minister of the Church of God of North Amer-

ica.

Naming this building would be a small, but fitting tribute to such a distinguished person. I urge its approval.

Mr. OXLEY. Mr. Speaker, H.R. 6538 will serve as a great tribute to our former colleague and friend Tennyson Guyer, whose untimely passing last year represented a great loss to the Fourth Congressional District and northwest Ohio.

Tenny's achievements during his tenure in office were, of course, many, but among them was the establishment of a Federal building in Lima to better serve the citizens of the fourth district. The building, which consolidated a number of Federal offices, has served the area well, just as Tenny

Guyer served the people of the fourth district.

I can think of no finer honor than to rename this building the "Tennyson Guyer Federal Building", and I urge my colleagues to pass H.R. 6538 in order that Tenny's hard work and dedication to his constituency and his country may be recognized for generations to come.

• Mr. HOWARD. Mr. Speaker, I rise in support of H.R. 6538, a bill to designate the Federal building in Lima, Ohio, as the "Tennyson Guyer Feder-

al Building."

Mr. Speaker, as my colleagues are aware, Tenny, as he was known to his friends, was first elected to Congress in 1972 and was reelected to the House for four consecutive terms. While in Congress, he first served on the Committee on Internal Security and later was a member of the Committee on Foreign Affairs, the Committee on Veterans' Affairs, the Select Committee on Narcotics Abuse and Control and was named to head the task force on MIA/POW's in Southeast Asia.

His untimely death on April 12 saddened all of us who knew and admired Tenny as a great American, a great family man, and a great Christian.

Naming this building is a fitting tribute to such a dedicated person who not only represented the people of the Fourth Congressional District of Ohio, but the people throughout the Nation.

 Mr. CLAUSEN. Mr. Speaker, I would like to join with my colleagues and support H.R. 6538, legislatoin to name the Federal Building in Lima, Ohio, in honor of Tennyson Guyer.

It was my privilege to have known Tennyson Guyer during his nearly 10-years of service in Congress. He was a speical person and friend whose energy and enthusiasm for life were exemplified by his many contributions to his country and the people he served. Moreover, Tennyson Guyer set a code of honesty, decency, credibility and trustworthiness to which we all should aspire. Considering these atributes as well as his strong devotion to his country, it would be my hope that we expeditiously pass H.R. 6538.

Mr. STANGELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.
The Clerk read the bill, as follows:

H.R. 6538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 401 West North Street, Lima, Ohio, 45801, known as the Lima Federal Building, shall hereafter be known and designated as the "Tennyson Guyer Federal Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to the Lima Federal

Building shall be deemed to be a reference to the Tennyson Guyer Federal Building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

# □ 1030

# WALTER E. HOFFMAN U.S. COURTHOUSE

Mr. FARY. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill (H.R. 5027) to designate the building known as the U.S. Post Office and Courthouse in Norfolk, Va., as the "Walter E. Hoffman U.S. Courthouse", and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. STANGELAND. Mr. Speaker, reserving the right to object, I will not object, but I yield under my reservation to the gentleman from Illinois

(Mr. Fary)
Mr. Fary. Mr. Speaker, H.R. 5027 is a bill to designate the Federal Courthouse in Norfolk, Va., as the "Walter E. Hoffman United States Courthouse." This facility is currently shared between the U.S. District Court for the Eastern District of Virginia and the U.S. Post Office. With the impending removal of the Post Office from the building, the courts will remain as the major occupant.

Walter E. Hoffman was appointed a U.S. district judge by President Dwight D. Eisenhower in 1954. His tenure spanned some 20 years until 1974, when Judge Hoffman assumed senior status on the district court, more than any other judge in the history of this district. During this period he also served as chief judge from

1961-73.

Judge Hoffman was born in Jersey City, N.J., and moved to Norfolk with his family after graduation from the Wharton School of Finance and Commerce at the University of Pennsylvania. His law degree was earned from Washington and Lee University and he practiced law for 23 years before being elevated to the bench.

His profile boasts numerous civic, religious, academic and professional activities, far more than most of us can lay claim to. Included among this list is a 20-year membership of the southern football officials association, during which he officiated at 112 major college football games.

Mr. Speaker, as most judges do, Judge Hoffman was confronted with many controversial cases. Throughout his long career, however, he has commanded the admiration and respect of this community and colleagues, not

only for his judicial integrity, but also for his sturdy diligence under a voluminous caseload. No small feat, I might add.

I thank the gentleman from Virginia (Mr. Whitehurst) for introducing this bill and urge its immediate approval.

Mr. WHITEHURST. Mr. Speaker, it was a pleasure and a privilege for me to introduce H.R. 5027, to name the present U.S. Post Office and courthouse in Norfolk the "Walter E. Hoffman United States Courthouse."

Judge Hoffman took the oath of office as a U.S. district judge at Norfolk, Va., on September 3, 1954, and retired on September 2, 1974, taking senior judge status at that time. From October of 1974 until July 18, 1977, he served as director of the Federal Judicial Center here in Washington, stepping down when he reached the statutory retirement age of 70. He was admitted to the Virginia Bar in 1929, and upon his graduation from the Washington and Lee University Law School, he began practicing law in Norfolk in 1931.

In addition, for 20 years he served as member of the Southern Football Officials Association, officiating at 112 major college games. Both as a judge and as a football official, he unfailingly made his calls according to the rules and never on the basis of political expediency. I will not attempt to go into detail regarding his long and distinguished career, but I will insert for my colleagues' interest and information an editorial which appeared in the Norfolk, Va., Ledger-Star on November 30, 1981, shortly after I had introduced my bill, which gives many of the best reasons for honoring this man in this way, and I will conclude my remarks by quoting from a letter from Mr. W. Farley Powers, Jr., clerk of the U.S. District Court for the Eastern District of Virginia, who first suggested that I introduce H.R. 5027:

For over 27 years this man has been the epitome of what justice and the U.S. court system should be. With a superior intellect, integrity beyond question and a compassion for his fellow man as expansive as his girth there is no one person in the entire judicial system for whom the title "Judge" is more observed or fitting.

Thank you, Mr. Speaker. I am most grateful for the favorable consideration of H.R. 5027 by my colleagues.

JUDGE HOFFMAN'S COURTHOUSE SHOULD BEAR HIS NAME

# (By Frank Callahan)

When the Postal Service moves out of the United States Post Office and Courthouse, Second District Rep. G. William Whitehurst wants to give a new name to the building, which occupies a city block at Granby Street and Brambleton Avenue in downtown Norfolk.

Under legislation offered by Mr. Whitehurst, on Nov. 1, 1982, the edifice would become the Walter E. Hoffman Courthouse.

This is a gesture most in Tidewater would applaud since Judge Hoffman, now on senior status, is held in high esteem here. Besides, he has a distinguished record of judicial service, established over a period now stretching toward three decades. But there's more to the Whitehurst proposal than simply honoring an outstanding member of the bench.

Judge Hoffman for many years labored in that building in the fullest sense. In the Fifties, he carried a heavy burden of unpopularity because of his rulings in the early school desegregation cases. One story has it that he couldn't get up a foursome for golf. Another goes that, while sitting among a large crowd at a funeral, he whispered to the man next to him: "If that was 'Beef' Hoffman up there in that casket, this place would be empty." Apocryphal perhaps, but they make the point.

Later, in the Sixties, it was the swift growth of the federal caseload that challenged him. Congress in those days moved more slowly than it moves today to create new judgeships. Trying to keep up with the demand, Judge Hoffman worked seven-day weeks and 12-hour days.

He was alone here in the most populous area of the state. He imported help wherever he could find it. Sometimes Judge John Butzner, now on the federal circuit bench, came down from Richmond to lend a judicial hand. Judge Oren Lewis from Northern Virginia helped, too, when he could. Then there was what observers around the court liked to refer to as the Virginia Beach session. Judge Ted Dalton of the Western District would do his part every summer—and simultaneously take a cottage at the ocean.

Finally in the later Sixties, Congress created not one, but two new judgeships for the Eastern District of Virginia. Incredibly, though, long-overdue help for Judge Hoffman proved elusive still. A sensitive political problem arose when President Johnson found himself considering three candidates—all with important political backing—for two openings. Politics in this case became the art of delay. After some months, a third opening occurred, solving LBJ's political problem, and Judge Hoffman found nimself, for the first time, with two resident colleagues to share the caseload.

But for many years it had been Judge Hoffman on his own—burning midnight and weekend oil. So Mr. Whitehurst has taken on a worthy project indeed. To some degree, though, the gesture is academic. Because, in a unique way, that massive gray stone structure—suggesting a sturdiness characteristic of the judge himself—has been the Walter E. Hoffman Courthouse for years.

Mr. STANGELAND. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.
The Clerk read the bill, as follows:
H.R. 5027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at the intersection of Granby Street and Brambleton Avenue in Norfolk, Virginia, known as the United States Post Office and Courthouse, shall hereafter be known and designated as the "Walter E. Hoffman United States Courthouse". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "Walter E. Hoffman United States Courthouse".

SEC. 2. This Act shall take effect on November 1, 1982.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. FARY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the four bills just passed.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

# DON H. CLAUSEN FISH

HATCHERY

Mr. ROE. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation be discharged from further consideration of the bill, H.R. 7420, to name the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, Calif., project as the Don H. Clausen Fish Hatchery, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to request of the gentleman from New Jersey?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, I shall not object. I am a sponsor of this bill.

Mr. Speaker, I want to express my very great pleasure at being able to sponsor and speak on behalf of this most worthy legislation.

Don Clausen has served the Congress of the United States for 20 years in a most exemplary fashion. He is well known for his leadership in transportation, natural resources, and particularly water resources. His environmental sensitivity, coupled with his desire to help people, has led to many worthwhile projects. He has always taken the lead in assuring that mitigation and environmental enhancement are part of meeting water resources needs.

In this regard he has been a leader in developing and expanding the fish hatchery which is part of the Warm Springs project in California. This hatchery, which produces a myriad of trout, steelhead, and salmon, has brought back the fish population in the Russian River. In fact the number of salmon returning to the hatchery has risen from less than a dozen last year to well over 1,000 this year.

The naming of this fish hatchery after the gentleman from California is but a small token to bestow on a person whose untiring efforts have provided so much to this body and to the Nation. Yet, it is most fitting that

this hatchery be named after Don Clausen because, as the hatchery revitalizes the Russian River fishery, it will be a living reminder of the revitalization that Congressman Clausen brought to so many programs. I urge all my colleagues to join me in supporting this well-deserved legislation.

Mr. ROE. Mr. Speaker, will the gen-

tleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from New Jersey.

Mr. ROE. Mr. Speaker, the Warm Springs Lake project is located about 75 miles north of San Francisco on Dry Creek, a tributary of the Russian River in Sonoma County, Calif. It was authorized by the Flood Control Act of 1962. The project will provide flood control, water supply, and recreation.

The fish hatchery presently under construction at Warm Springs Dam was authorized by section 95 of the Water Resources Development Act of 1974. Its purpose is to compensate for fish losses on the Russian River which may be attributed to the operation of the Coyote Dam component of the

Russian River project.

Congressman CLAUSEN was elected to the 88th Congress in a special election on January 22, 1963. He was reelected to succeeding Congresses through the 97th Congress. During these 20 years he has given his constituents and his Nation outstanding service in the House of Representatives. He serves on the Interior and Insular Affairs Committee and the Committee on Public Works and Transportation. He served as ranking minority member on both committees, most recently on public works. He has been a strong and effective voice in the development and conservation of our Nation's water resources. He has served with distinction on a number of subcommittees of the two committees including Parks and Insular Affairs, Water and Power Resources, Energy and the Environment, and Water Resources. He has been instrumental in the formulation and passage of legislation concerning protection of the environment, of water quality improvement and water resources development

In light of his many contributions to the protection of our natural resources, I am pleased to recommend passage of H.R. 7420 which would name the fish hatchery at Warm Springs Dam in his honor.

• Mr. HOWARD. Mr. Speaker, I rise in support of the bill H.R. 7420 to designate the fish hatchery at the Warm Springs Dam in California as the "Don

H. Clausen Fish Hatchery."

Don Clausen has served with honor and distinction in this body for 20 years. He has been ranking minority member of both the Committee on Interior and Insular Affairs and Public Works and Transportation. I have had the privilege and the pleasure of work-

ing with him as ranking minority member on our Public Works and Transportation Committee for the past 2 years. In that position he has been helpful and cooperative and has played a significant role in the development and passage of legislation before the committee. In the area of water resources development and consideration, he has made significant contributions during his years in Congress. He has played key roles in the formulation of policy and legislation for water pollution control, water resources development, protection and enhancement of fish and wildlife, and parks and recreation. He leaves a record of achievement of which he can be proud, and which few can match.

Mr. Speaker, Don Clausen will be sorely missed by this Congress, by our committee, and by me. It has been my genuine pleasure to have had the opportunity to work with him over the years. I think it is most appropriate that the Warm Springs Fish Hatchery be named in his honor in recognition of his years of involvement in water resources and natural resources issues.

Mr. HAMMERSCHMIDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

#### H.R. 7420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the fish hatchery at the Warm Springs Dam component of the Russian River, Dry Creek, California project, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1173), as modified by section 95 of the Water Resources Development Act of 1974 (88 Stat. 40), shall hereafter be known as the "Don H. Clausen Fish Hatchery". Any law, regulation, map, document, or record of the United States in which such fish hatchery is referred to shall be held and considered to refer to such fish hatchery as the "Don H. Clausen Fish Hatchery". This Act shall take effect on January 4, 1983.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

# GENERAL LEAVE

Mr. ROE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

AMENDING AND EXTENDING TRIBALLY CONTROLLED COM-MUNITY COLLEGE ASSISTANCE ACT OF 1978

Mr. SIMON. Mr. Speaker, I ask unanimous consent for immediate consideration of the Senate bill (S. 2623) to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. ERDAHL. Mr. Speaker, reserving the right to object, I would like to inquire of the gentleman from Illinois, the distinguished chairman of the Subcommittee on Postsecondary Education, what he intends to do in calling up the bill passed by the other body which is similar to H.R. 6485, as reported by the Committee on Education and Labor.

Mr. SIMON. If the gentleman would yield, Mr. Speaker, I would be happy to explain.

Mr. ERDAHL. I am happy to yield to the gentleman from Illinois.

Mr. SIMON. It is my intention to move to strike all after the enacting clause in S. 2623 and substitute therefor an amendment. The amendment is identical to the committee bill (H.R. 6485) in every respect, except it deletes the construction section—section 12—and the endowment section—section 13. This would remove the sections to which my colleagues on the other side of the aisle have expressed concern; and permit us to go to conference before the Congress adjourns.

Mr. ERDAHL. Mr. Speaker, I thank the gentleman from Illinois for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the Senate bill, as follows:

#### S. 2623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The matter preceding title I of the Tribally Controlled Community Coliege Assistance Act of 1978 (92 Stat. 1325) (hereafter in this Act referred to as the "Act") is amended—

(1) by striking out "DEFINITIONS" and inserting in lieu thereof the following:

# "DEFINITIONS

"SEC. 2. (a) For purposes of this Act, the term-:

(2) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior": and

(3) by striking out paragraph (7) and inserting in lieu thereof the following:
"(7) 'Indian student count' means a

number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so en-

rolled, divided by twelve.

(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program.".

SEC. 2. Section 101 of the Act is amended by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physical resources of such institutions".

SEC. 3. (a) Section 102 of the Act is amend-

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof

"shall, subject to appropriations,"; and
(2) by striking out "to defray the expense
of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for academic, educational, and administrative purposes and for the operation and maintenance of the college'

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs

conducted with such funds." SEC. 4. (a) The Act is amended-

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

# "PLANNING GRANTS

"SEC. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or to determine the need and potential for the establishment of such col-

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this

section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants to five applicants under this section of not more than \$15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved.".

(b) The Act is further amended-

(1) by striking out "section 106" in section 105 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 106 (as so redesignated) and inserting in lieu

thereof "section 106"

(3) by striking out "section 110" in section 107 (as so redesignated) and inserting in lieu thereof "section 111";
(4) by striking out "section 106" in section

109 (as so redesignated) and inserting in lieu

thereof "section 107"; (5) by striking out "section 104" in section 109 (as so redesignated) and inserting in lieu

thereof "section 105"; and
(6) by striking out "section 106(a)" in section 110 (as so redesignated) and inserting in lieu thereof "section 107(a)"

SEC. 5. Section 105 of the Act (as redesignated by section 4(a)(1)) is amended-

(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in the first sentence thereof; and

(2) by striking out "to tribally controlled community colleges" in such sentence.

Sec. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY"

(2) by striking out "feasibility" each place it appears in such section and inserting in

lieu thereof "eligibility";

(3) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" in subsection (a) and inserting in lieu thereof "Secretary of Education":

(4) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for the fiscal year succeeding the fiscal year in which such determination is made."; and

(5) by striking out "10 per centum" in subsection (c)(2) and inserting in lieu thereof

"5 per centum"

(b) Section 107(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by striking out "feasibility" in subsection (a) and inserting in lieu thereof "eligibility", and

(2) by striking out "Assistant Secretary of Education of the Department of Health, Education, and Welfare" and inserting in lieu thereof "Secretary of Education"

SEC. 7. Section 108(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

"Sec. 108. (a) Except as provided in section 111, the Secretary shall, subject to appropriations, grant for each academic year to each tribally controlled community college having an application approved by him an amount equal to the product of-

"(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

"(2)(A) \$4,000 for fiscal year 1983,

"(B) \$4,000 for fiscal year 1934,

"(C) \$5,025 for fiscal year 1985, "(D) \$5,415 for fiscal year 1986, and

"(E) \$5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.".

SEC. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the following new subsections:

"(b)(1) The amount of any grant for which tribally controlled community colleges are eligible under section 108 shall not be altered because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208: 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under said Act of November 2, 1921, because of the funds it receives under this Act.

"(c) For the purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart 1 of part A of title IV of such Act."

SEC. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is

amended to read as follows:

#### "APPROPRIATION AUTHORIZATION

"SEC. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, \$3,200,000 for each of the fiscal years 1985, 1986, and 1987.

"(2) There is authorized to be appropriated for carrying out section \$30,000,000 for each of such fiscal years.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out sections 112(b) and 113 for each of such fiscal years.

"(b) For the purpose of affording adequate notice of funding available under this Act, appropriations for grants provided in section 107 of the Act are authorized to be included in an appropriations Act for the fiscal year immediately preceding the academic year for which grants are to be provided. Amounts appropriated for the academic year succeeding the current fiscal year shall become available for obligation on July 1 of the year in which they are appropriated and shall remain available until September 30 of the succeeding fiscal year. In order to effect a transition to the forward funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding academic year."

SEC. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the following:

"(a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year-

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year, or which was an eligible but unfunded applicant during the preceding year, an amount equal to the product of—

"(i) the per capita payment for the preceding fiscal year, and

"(ii) such applicant's Indian student count

for the current fiscal year;

"(B) the Secretary shall next allocate an amount equal to the product described in subparagraph (A) to applicants who do not receive funds under subparagraph (A) in the order in which such applicants have qualified for assistance in accordance with section 107.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

"(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such fiscal year shall be ratably reduced.

"(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated by first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total amounts

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.'

SEC. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

# "REPORT ON FACILITIES

"Sec. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of cur-rently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (70 Stat. 1057; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).". Sec. 12. Section 113 of the Act (as redesig-

nated by section 4(a)(1) of this Act) is amended to read as follows:

#### "CONSTRUCTION OF NEW FACILITIES

"Sec. 113. (a) With respect to any tribally controlled community college for which the report of the Administrator of General Services under section 112(a) of this Act identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

"(b) In order to be eligible for a grant under this section, a tribally controlled community college (1) must be a current recipient of grants under section 105 or 107, and (2) must be accredited by a nationally recognized accrediting agency listed by the Secretary of Education pursuant to the last sentence of section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

"(c)(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled community college shall be required to expend more than \$400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled community college may use funds provided under the Act of November 2, 1921 (25 U.S.C. 13), popularly referred to as the Snyder Act.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled community college which demonstrates that neither such college nor the tribal government with which it is affiliated have sufficent resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college to have a bearing on the availability of resources for compliance with the requirements of paragaph (1) and which may include the educational attainment of tribal members.

"(d) If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section-

"(1) the applicant ceases or fails to be a public or nonprofit institution.

'(2) the facility ceases to be used by the applicant as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, or

"(3) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government. the United States shall be entitled to recover from such applicant (or its successor in title or possession) an amount which bears to the value of the facility at the time the same ratio as the amount of the grant under this section bore to the cost of the facility constructed with the aid of such grant. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.

(e) No construction assisted with funds under this section shall be used for religious worship or a sectarian activity or for a

school or department of divinity.

"(f) For the purposes of this section, the Secretary shall have the authority granted to the Secretary of Education pursuant to section 732(b) of the Higher Education Act of 1965 (20 U.S.C. 1132d-1) with respect to construction under title VII of such Act.

'(g) For the purposes of this section-

"(1) the term 'construction' includes re-construction or renovation (as such terms are defined in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B))); and

"(2) the term 'academic facilities' has the meaning provided such term under section 742(1) of the Higher Education Act of 1965

(20 U.S.C. 1132e-l(1)).'

SEC. 13. The Act is further amended by adding at the end thereof the following new title:

#### "TITLE III-TRIBALLY CONTROLLED COMMUNITY COLLEGE ENDOWMENT PROGRAM

#### "PURPOSE

"Sec. 301. It is the purpose of this title to provide grants for the encouragement of endowment funds for the operation and improvement of tribally controlled community colleges.

#### "ESTABLISHMENT OF PROGRAM; PROGRAM AGREEMENTS

"Sec. 302. (a) From the amount appropriated pursuant to section 306, the Secretary shall establish a program of making endowment grants to tribally controlled community colleges which are current recipients of assistance under section 107 of this Act or under section 3 of the Navajo Community College Act. No such college shall be ineligible for such a grant for a fiscal year by reason of the receipt of such a grant for a preceding fiscal year.

'(b) No grant for the establishment of an endowment fund by a tribally controlled community college shall be made unless such college enters into an agreement with the Secretary which-

"(1) provides for the establishment and maintenance of a trust fund at a federally insured banking or savings institution;

"(2) provides for the deposit in such trust fund of-

"(A) any Federal capital contributions made from funds appropriated under section 306;

"(B) a capital contribution by such college in an amount equal to the amount of each Federal capital contribution; and

"(C) any earnings of the funds so deposit-

"(3) provides that such funds will be deposited in such a manner as to insure the accumulation of interest thereon at a rate not less than that generally available for similar funds deposited at the same banking or savings institution for the same period or periods of time;

"(4) provides that, if at any time such college withdraws any capital contribution made by that college, an equal amount of Federal capital contribution shall be withdrawn and returned to the Secretary for reallocation to other colleges;

"(5) provides that no part of the net earnings of such trust fund will inure to the ben-

efit of any private person; and

"(6) includes such other provisions as may be necessary to protect the financial interest of the United States and promote the purpose of this title and as are agreed to by the Secretary and the college, including a description of recordkeeping procedures for the expenditure of accumulated interest which will allow the Secretary to audit and monitor programs and activities conducted with such interest.

#### "USE OF FUNDS

"Sec. 303. Interest deposited, pursuant to section 302(b)(2)(C), in the trust fund of any tribally controlled community college may be periodically withdrawn and used, at the discretion of such college, to defray any expenses associated with the operation of such college, including expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

# "COMPLIANCE WITH MATCHING REQUIREMENT

"Sec. 304. For the purpose of complying with the contribution requirement of section 302(b)(2)(B), a tribally controlled community college may use funds which are available from any private or tribal source.

### "ALLOCATION OF FUNDS

"Sec. 305. (a) From the amount appropriated pursuant to section 306, the Secretary shall allocate to each tribally controlled community college which is eligible for an endowment grant under this title an amount for a Federal capital contribution equal to the amount which such college demonstrates has been placed within the control of, or irrevocably committed to the use of, the college and is available for deposit as a capital contribution of that college in accordance with section 302(b)(2)(B), except that the maximum amount which may be so allocated to any such college for any fiscal year shall not exceed \$350,000.

"(b) If for any fiscal year the amount appropriated pursuant to section 306 is not sufficient to allocate to each tribally controlled community college an amount equal to the amount demonstrated by such college pursuant to subsection (a), then the amount of the allocation to each such college shall

be ratably reduced.

# "AUTHORIZATION OF APPROPRIATIONS

"Sec. 306. (a) There is authorized to be appropriated \$5,000,000 for each of the fiscal years 1985, 1986, and 1987 to carry out this title.

"(b) Any funds appropriated pursuant to subsection (a) are authorized to remain available until expended.".

SEC. 14. In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled community colleges.

The SPEAKER. The gentleman from Illinois (Mr. Simon) is recognized for 1 hour.

Mr. SIMON. Mr. Speaker, the Tribally Controlled Community College Assistance Act was first enacted in 1978 with appropriations authorized for 3 fiscal years through September 30, 1982. The Omnibus Budget Reconciliation Act of 1981—Public Law 97-35—extended the authorizations through fiscal year 1984. There are several compelling reasons that require reauthorization at this time. These reasons include:

Many of the modifications of existing law are required in order to correct administrative problems which exist now and need attention if the colleges

are to survive and grow;

The construction and renovation provisions are premised on a study by General Services Administration (GSA) of facilities needed and/or available for use by the colleges. Since construction and renovation cannot begin until fiscal year 1985—when the authorization begins—it is most efficient to get the study done now:

BIA currently has plans to close a number of facilities—suitable for use by the colleges—over the next 2 years. It would be far more desirable to assess these facilities now, as they become available, than to let them set

and deteriorate:

The provision for "forward funding" of these grants will permit the tribally controlled colleges to be treated like other postsecondary institutions which receive Higher Education Act funding.

The major thrust of these amendments is clarification of congressional intent and simplification of administrative procedures. The twin objectives are accomplished by simplifying the definition of eligibility and the formula for fund distribution. Current legal requirements regarding full- and parttime students have created problems within the Bureau of Indian Affairs. The proposed amendment will solve these problems, without increasing costs. New systems for providing technical assistance, providing planning grants and assessing institutional eligibility to receive funds also are meant address administrative or fiscal problems. In the years not covered by the Omnibus Budget Reconciliation Act of 1981, provisions are made to raise the maximum per capita payment amount, consistent with the cost of living. To place Indian institutions on an equal fiscal and planning basis with non-Indian institutions-funded under the Higher Education Act of 1965-provision is made for forward funding.

On July 23, 1981, the Committee on Education and Labor Subcommittee on Postsecondary Education held an oversight hearing on the administration of the Tribally Controlled Com-

munity College Assistance Act of 1978—Public Law 95-471. At that time, testimony was received from the Bureau of Indian Affairs and from representatives of the Indian community colleges. Based upon concerns voiced at that hearing, the subcommittee worked with members of the Indian community, the tribally controlled colleges and the administration on the formulation of reauthorization legislation.

On May 4, 1982, a hearing was held on a draft legislative proposal. The measure received support from Indian tribal leaders, Indian organizations and the schools involved. On May 25, 1982, I introduced H.R. 6485 with cosponsorship by 14 Members of the House.

On June 21, 1982, H.R. 6485 was unanimously reported by the subcommittee to the full committee. On July 27, 1982, it was ordered reported by the Committee on Education and Labor.

Since that time, the other body has been engaged in its consideration of this legislation. House action was postponed pending floor action on the Senate bill. Action was completed in the other body yesterday.

My colleagues on both sides of the aisle, should note that the administration has already endorsed S. 2623.

Mr. Speaker, at this point in the RECORD I include a letter from the Assistant Secretary of Interior for Indian Affairs to Senator William Cohen, dated December 3, 1982, as follows:

U.S. DEPARTMENT OF THE INTERIOR, Washington, D.C., December 3, 1982. Hon. William S. Cohen,

Chairman, Select Committee on Indian Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This supplements our reports to your Committee of August 18, 1982, and September 28, 1982 and our June 15, 1982 testimony before the Committee on S. 2623, a bill "To amend and extend the Tribally Controlled Community College Assistance Act of 1978."

We greatly appreciate the work you and your Committee have devoted to this legislation and acknowledge the revisions that have been made since the bill was first introduced. This supplementary report provides our views on the bill with the amendment in the nature of a substitute which we understand your Committee adopted on September 29 when the bill was ordered reported. The substitute amendment meets many of our objections to the bill and its adoption would be a significant improvement to the bill. However, we remain strongly opposed to a provision in section 8.

Although the Committee has apparently attempted to meet our objections to section 8 of the bill as introduced, we do not believe that the proposed new section 109(b) of the Act, included in section 8 of the substitute amendment, adequately meets our objections. We did not have an opportunity to comment on that provision of the substitute amendment prior to your September 29 Committee meeting.

The proposed new section 109(b) would read as follows:

"(b)(1) The amount of any grant for which a tribally controlled community college is eligible under section 108 shall not be reduced by reason of any allocation of funds provided under the Act of November 2, 1921 (25 U.S.C. 13), commonly referred to as the Snyder Act, which is made by the tribe with which such college is affiliated in accordance with priorities established by such tribe in the President's budget preparation process.

"(2) The amount of any funds provided under the Act of November 2, 1921 (25

U.S.C. 13)-

(A) for which any tribe affiliated with a tribally controlled community college is eli-

gible, and

(B) which is allocated to such college by such tribe in accordance with priorities established by such tribe in the President's budget preparation process, shall not be reduced by reason of any grant made to such college under this title."

We believe that the above language may be viewed by some as an attempt to limit the authority of the Secretary or the President to make budget recommendations to the Congress. Such a limit would, of course,

be contrary to the Constitution.

We understand from discussions with your Committee's staff that the intent of the proposed new section 109(b) is to clarify the application to the Bureau of Indian Affairs of the current provision in section 108 (25 U.S.C. 1809) of the Act which reads as follows:

§ 108. Effect on other programs

"Except as specifically provided in this chapter, eligibility for assistance under this chapter shall not, by itself, preclude the eligibility of any tribally controlled college to receive Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education, community colleges, or postsecondary educational institutions."

From the discussions with your staff, we believe that the intended meaning of the proposed section 109(b) would be more

clearly stated as follows:

"(b)(1) The amount of any grant for which tribally controlled community coleges are eligible under section 108 shall not be altered solely because of funds allocated to any such colleges from funds appropriated under the Act of November 2, 1921 (42 Stat. 208: 25 U.S.C. 13).

"(2) No tribally controlled community college shall be denied funds appropriated under said Act of November 2, 1921, solely because of the funds it receives under this

Act."

We urge the Committee's adoption of this language.

In addition, we still have concerns about two other sections of the bill.

We remain opposed to the provisions in section 2 of the substitute amendment. We do not currently provide funds for improvement or expansion of physical facilities of the colleges. When the program was originally conceived, Congress contemplated use of existing community facilities. Building additional facilities appears to be duplicative and unwarranted at a time when Federal expenditures need to be held down. Funds provided through the Bureau are for program support only. We do not support broadening those limits.

We also remain opposed to the provisions in section 4 of the substitute amendment, which provides planning grants to tribes to develop proposals to establish additional

tribally controlled community colleges. We believe this type of analysis and planning is best done at the option of the individual tribes within available resources and as part of their regular developmental processes. In light of the Administration's efforts to decrease Federal spending, we cannot support a request for the additional funds this section would require.

The Office of Management and Budget advises that there is no objection, from the standpoint of th Administration's program,

to the submission of this report. Sincerely,

> KENNETH L. SMITH, Assistant Secretary.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SIMON

Mr. SIMON. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. SIMON: Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. The matter preceding title I of the Tribally Controlled Community College Assistance Act of 1978 (hereafter in this Act referred to as the "Act") is amended—

(1) by inserting after "DEFINITIONS" the following:

"Sec. 2. (a) For purposes of this Act, the

(2) by striking out "and is eligible to receive services from the Secretary of the In-

terior" in paragraph (1);

(3) by inserting before the semicolon at the end of paragraph (5) thereof the following: "and the reference to Secretary in clause (5)(A) of such section shall be deemed to refer to the Secretary of the Interior"; and

(4) by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled community college, determined in a manner consistent with subsection (b) of this section on the basis of the quotient of the sum of the credit hours of all Indian students so enrolled, divided by twelve.

"(b) For the purpose of determining the Indian student count pursuant to paragraph (7) of subsection (a), such number shall be calculated on the basis of the registrations of Indian students as in effect at the conclusion of the third week of each academic term. Credits earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term. Indian students earning credits in any continuing education program of a tribally controlled community college shall be included in determining the sum of all credit hours. For such purposes, credits earned in a continuing education program shall be converted to a credit-hour basis in accordance with the tribally controlled community college's system for providing credit for participation in such program."

SEC. 2. Section 101 of the Act is amended— (1) by inserting "as a fulfillment of a continuing trust responsibility of the Federal Government as it relates to education for Indian students and" after "colleges"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to allow for the improvement and expansion of the physical resources of such institutions". Sec. 3. (a) Section 102 of the Act is amend-

(1) by striking out "is authorized to" in subsection (a) and inserting in lieu thereof "shall, subject to appropriations,"; and

(2) by striking out "to defray the expense of activities related to education programs for Indian students" in subsection (b) and inserting in lieu thereof "to defray, at the determination of the tribally controlled community college, expenditures for the operation and maintenance of the college, including administrative, academic, community, and student services programs, and technical assistance".

(b) Section 106(a) of the Act is amended by inserting after the second sentence the following new sentence: "Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this Act which will allow the Secretary to audit and monitor programs

conducted with such funds.".

SEC. 4. (a) The Act is amended—

(1) by redesignating sections 104 through 114 as sections 105 through 115, respectively; and

(2) by inserting after section 103 the following new section:

#### "PLANNING GRANTS

"Sec. 104. (a) The Secretary shall establish a program in accordance with this section to make grants to tribes and tribal entities to conduct planning activities for the purpose of developing proposals for the establishment of tribally controlled community colleges, or to derermine the need and potential for the establishment of such colleges.

"(b) The Secretary shall establish, by regulation, procedures for the submission and review of applications for grants under this

section.

"(c) From the amount appropriated to carry out this title for any fiscal year (exclusive of sums appropriated for section 105), the Secretary shall reserve (and expend) an amount necessary to make grants fo five applicants under this section of not more than \$15,000 each, or an amount necessary to make grants in that amount to each of the approved applicants, if less than five apply and are approved."

(b) The Act is further amended-

(1) by striking out "section 106" in section 106 (as redesignated by subsection (a)(1)) and inserting in lieu thereof "section 107";

(2) by striking out "section 105" in section 107 (as so redesignated) and inserting in lieu

thereof "section 106"; and
(3) by striking out "section 106(a)" in sec-

tion 111 (as so redesignated) and inserting in lieu thereof "section 107(a)".

Sec. 5. Section 105 of the Act (as redesignated)

nated by section 4(a)(1) is amended—
(1) by inserting "from a tribally controlled community college which is receiving funds under section 108" after "upon request" in

the first sentence of subsection (a); and
(2) by striking out "to tribally controlled community colleges" in such sentence.

SEC. 6. (a) Section 106 of the Act (as redesignated by section 4(a)(1) of this Act) is amended—

(1) by striking out "FEASIBILITY" in the heading of such section and inserting in lieu thereof "ELIGIBILITY":

thereof "ELIGIBILITY".

(2) by striking out "feasibility" each place

it appears in such section and inserting in lieu thereof "eligibility";

(3) by inserting at the end of subsection

(3) by inserting at the end of subsection (b) the following new sentence: "Such a positive determination shall be effective for

the fiscal year succeeding the fiscal year in which such determination is made."; and (4) by striking out "10 per centum" in sub-

section (c)(2) and inserting in lieu thereof "5 per centum"

(b) Section 107(a) of the Act (as redesignated by section 4(a)(1) of this Act) is amended by striking out "feasibility" and inserting in lieu thereof "eligibility". Sec. 7. Section 108(a) of the Act (as redes-

ignated by section 4(a)(1) of this Act) is

amended to read as follows:

'SEC. 108. (a) Except as provided in section 111, the Secretary shall, for each academic year, grant to each tribally controlled community college having an application approved by him an amount equal to the product of-

'(1) the Indian student count at such college during such academic year, as determined by the Secretary in accordance with section 2(a)(7) of this Act; and

(2)(A) \$4,000 for fiscal year 1983, "(B) \$4,000 for fiscal year 1984, "(C) \$5,025 for fiscal year 1985,

"(D) \$5,415 for fiscal year 1986, and "(E) \$5,820 for fiscal year 1987,

except that no grant shall exceed the total cost of the education program provided by such college.

SEC. 8. Section 109 of the Act (as redesignated by section 4(a)(1) of this Act) is amended-

(1) by inserting "(a)" immediately after the section designation; and

(2) by adding at the end thereof the fol-

lowing new subsections:

'(b) The Secretary shall not alter the priorities or budget allocations made by an Indian tribe which operates a tribally controlled community college if such tribe identifies an allocation for that college from appropriations authorized by the Snyder Act (25 U.S.C. 13) or in accordance with the Secretary's annual budget exercises.

for the purposes and 322(a)(2)(A)(i) of the 312(2)(A)(i) Higher Education Act of 1965, any Indian student who receives a student assistance grant from the Bureau of Indian Affairs for postsecondary education shall be deemed to have received such assistance under subpart

1 of part A of title IV of such Act.' SEC. 9. (a) Section 110 of the Act (as redesignated by section 4(a)(1) of this Act) is

amended to read as follows:

# "APPROPRIATION AUTHORIZATION

'Sec. 110. (a)(1) There is authorized to be appropriated, for carrying out section 105, \$3,200,000 for each of the fiscal years 1985, 1986 and 1987

"(2) There is authorized to be appropriated for carrying out section \$30,000,000 for each of such fiscal years.

"(b) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation. In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"(c) Unless otherwise provided in appropriation Acts, funds appropriated pursuant to this section shall remain available until

expended.".

SEC. 10. Section 111 of the Act (as redesignated by section 4(a)(1) of this Act) is amended by redesignating subsection (b) as subsection (c) and by striking out subsection (a) and inserting in lieu thereof the follow-

'SEC. 111. (a)(1) If the sums appropriated for any fiscal year pursuant to section 110(a)(2) for grants under section 107 are not sufficient to pay in full the total amount which approved applicants are eligible to receive under such section for such fiscal year-

(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to the product of (i) the per capita payment for the preceding fiscal year, and (ii) such applicant's Indian

student count for the current fiscal year;
"(B) the Secretary shall next allocate an amount equal to the product described in subparagraphs (A) to applicants who did not receive funds under such section for the preceding fiscal year, in the order in which such applicants have qualified for assistane in accordance with section 106, and no amount shall be allocated to a later qualified applicant until each earlier qualified applicant is allocated an amount equal to such product; and

if additional funds remain after making the allocations required by subparagraphs (A) and (B) the Secretary shall allocate such funds by ratably increasing the amounts of the grant determined under

such subparagraphs.

"(2) For purposes of paragraph (1) of this subsection, the term 'per capita payment' for any fiscal year shall be determined by dividing the amount available for grants to tribally tribally controlled community colleges under section 107 for such fiscal year by the sum of the Indian student counts of such colleges for such fiscal year. The Secretary shall, on the basis of the most satisfactory data available, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this title.

'(b)(1) If the sums appropriated for any fiscal year for grants under section 107 are not sufficient to pay in full the total amount of the grants determined pursuant to subsection (a)(1)(A) the amount which applicants described in such subsection are eligible to receive under section 107 for such

fiscal year shall be ratably reduced. "(2) If any additional funds become available for making payments under section 107 for any fiscal year to which subsection (a) or paragraph (1) of this subsection applies, such additional amounts shall be allocated first increasing grants reduced under paragraph (1) of this subsection on the same basis as they were reduced and by then allocating the remainder in accordance with subsection (a). Sums appropriated in excess of the amount necessary to pay in full the total amounts for which applicants are eligible under section 107 shall be allocated by ratably increasing such total

"(3) References in this subsection and subsection (a) to section 107 shall, with respect to fiscal year 1982, be deemed to refer to section 106 as in effect at the beginning of such fiscal year.'

SEC. 11. Section 112 of the Act (as redesignated by section 4(a)(1) of this Act) is amended to read as follows:

#### "REPORT ON FACILITIES

Sec. 112. (a) The Administrator of General Services shall provide for the conduct of a study of facilities available for use by tribally controlled community colleges. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (including renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than September 30, 1984. Such report shall also include an identification of property (1) on which structurally sound buildings suitable for use as educational facilities are located, and (2) which is available for use by tribally controlled community colleges under section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2)) and under the Act of August 6, 1956 (Public Law 991; 25 U.S.C. 443a).

"(b) The Administrator of General Services, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

"(c) For the purposes of this section, the term 'reconstruction' has the meaning provided in the first sentence of subparagraph (B) of section 742(2) of the Higher Education Act of 1965 (20 U.S.C. 1132e-1(2)(B)).".

SEC. 12. Section 113 of the Act (as redesignated by section 4(a)(1) of this Act) is repealed.

SEC. 13. (a) In promulgating any regulations to implement the amendments made by this Act, the Secretary of the Interior shall consult with tribally controlled com-

munity colleges. (b) Any such regulations and any other regulations promulgated pursuant to the Act shall be subject to section 431 of the General Education Provisions Act, and the requirements of such section applicable to the Secretary of Education shall apply to the Secretary of the Interior with respect to such regulations.

Mr. SIMON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from

Illinois?

There was no objection.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois (Mr. SIMON).

The amendment in the nature of a

substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2623

Mr. SIMON. Mr. Speaker, I ask unanimous consent to insist on the House amendment and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messis. Perkins, Ford of Michigan, Gaydos, Andrews, Simon, Weiss, Kildee, Peyser, Williams of Montana, Eckart, Erlenborn, Coleman, Erdahl, Denardis, Craig, and Bailey of Missouri.

#### GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from

Illinois?

There was no objection.

#### CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 629 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

#### H. RES. 629

Resolved, That upon the adoption of this resolution it shall be in order, section 311(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region, the first reading of the bill shall be dispensed with, and all points of order against section 201 of said bill for failure to comply with the provisions of clause 5, rule XXI, are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except: (1) amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and it shall be in order to consider en bloc the amendments recommended by the Committee on Ways and Means now printed in the bill, and said amendments shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole; (2) an amendment printed in the Congressional Record of December 15, 1982, by, and if offered by, Representative Gephardt of Missouri, which shall not be subject to amendment but shall be debatable for not to exceed thirty minutes, equally divided and controlled by Representative Gephardt and a member opposed threto; (3) an amendment printed in the Congressional Record of December 15, 1982, by, and if offered by, Representative De Lugo of the Virgin Islands, which shall not be subject to amendment but shall be debatable for not to exceed thrity minutes, equally divided and controlled by Representative De Lugo and a Member opposed thereto; and (4) an amendment printed in the Congressional Record of December 15, 1982, by, and if offered by, Representative Hopkins of Kentucky, which shall not be subject to amendment but shall be debatable for not to exceed thirty minutes, equally divided and controlled by Representative Hopkins and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto a final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. Annunzio). The gentleman from South Carolina (Mr. Derrick) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 629 is a modified closed rule providing for the consideration of H.R. 7397, a bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region.

The rule provides for 2 hours of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. In order to expedite consideration the bill shall be considered as read for amendment.

To permit consideration of the bill the rule provides two waivers of points of order. First, the rule waives points of order against the bill for violation of section 311(a) of the Budget Act. Section 311(a) prohibits consideration of any bill, resolution, amendment, or conference report which would provide additional new budget authority or spending authority exceeding the ceiling on spending adopted in the second budget resolution or which would reduce estimated revenues below the revenue floor set in that resolution. The central provision of this bill is a grant of authority to the President to eliminate duties on certain eligible imports to the United States from designated beneficiary countries and independent territories in the Caribbean region. This, and a provision concerning excise taxes on rum from Puerto Rico and the Virgin Islands, will reduce U.S. revenues in fiscal year 1983 by an estimated \$79.3 million. Since the revenue floor adopted in the second budget resolution for fiscal year 1983 has already been breached, even this small reduction in revenues is in violation of section 311(a) and makes a waiver necessary.

Second, the rule waives points of order against section 201 of the bill for failure to comply with clause 5 of House rule XXI, which prohibits appropriations in a legislative bill. This waiver is necessary because this section provides that excise taxes collected on foreign rum brought into the United States shall be transferred to

the treasuries of Puerto Rico and the Virgin Islands. This provision permits direct payments without action by the Appropriations Committee and thus, could be construed as an appropriation.

In order to expedite consideration of this bill in the final days of this session this rule limits amendments to those recommended by the Ways and Means Committee and three others which would change the bill's treatment of specified products imported into the United States. Only the amendments specifically identified by this resolution shall be in order to the bill.

The rule provides that the Ways and Means Committee amendments now printed in the bill shall be considered en bloc. They shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. They shall not be subject to amendment.

The rule also makes in order three amendments printed in the Congres-SIONAL RECORD of December 15, 1982: An amendment by, and if offered by, Mr. Gephardt of Missouri to make tuna ineligible for the duty free treatment provided in the bill; an amendment by, and if offered by, Mr. DE Lugo of the Virgin Islands to limit the quality of rum that can be imported duty-free into the United States; and an amendment by, and if offered by, Mr. HOPKINS of Kentucky to make tobacco and tobacco products ineligible for the duty-free treatment provided in the bill. It my understanding that the Committee on Ways and Means will offer as a committee amendment the amendment that was to be offered by Mr. GEPHARDT.

The rule provides for 30 minutes of debate on each of these three amendments, with the time to be equally divided and controlled by the sponsor of each amendment and a Member opposed to it. These amendments shall not be subject to amendment.

Upon conclusion of consideration of the bill for amendment, one motion to recommit would be in order.

Mr. Speaker, this is necessarily a tightly structured rule, but I believe this rule will allow the House to proceed in an orderly and expeditious manner while providing for ample discussion of the bill and the opportunity for modification of its provisions. I urge adoption of the rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Caribbean Basin Initiative is a good proposition for industry and for relieving unemployment in the United States. It will not be harmful to any degree. It is trade assistance, and let me explain that.

When we assist those countries in the Caribbean and help industries there to produce jobs, it brings those countries up to a level where they are not subject to a Communist takeover. That is the main purpose and goal of the legislation.

Also, it will put people to work and keep them at home, instead of forcing the United States to cope with their il-

legal entry into this country.

In the belief that it helps stimulate the economy of those countries, I think that we would be doing not only America a big favor but the world a big favor as well because the Caribbean Basin is so closely related to this Nation of ours

In the Committee on Rules three amendments were made in order. The tuna industry is subject to suffering unless their amendment is adopted. The rum industry in the Virgin Islands and Puerto Rico also has a problem. An amendment is made in order to address that problem. In the Rules Committee I offered an amendment to protect tobacco and tobacco products because in the Burley Belt and in the tobacco-growing belts we have literally thousands and thousands of small farmers who could conceivably suffer as a result of not protecting that industry.

#### □ 1045

The amendment was made in order by the Rules Committee and will be offered by the gentleman from Kentucky (Mr. Hopkins).

Mr. Speaker, I urge the adoption of the rule and the measure when it is offered on the floor of the House.

Historically I have been against foreign aid. I do not believe this is foreign aid. It is trade assistance to let the Caribbean countries build up their own economy to help us in the long run. I urge adoption of the rule.

Mr. Speaker, I yield 4 minutes to the from California gentleman

LOWERY).

Mr. LOWERY of California. Mr. Speaker, I rise in support of the rule passed by the Rules Committee.

I commend the gentleman from Missouri, the distinguished chairman of the Rules Committee, and the ranking minority member, the gentleman from Tennessee, for the Rules Committee modified closed rule allowing Mr. Hart and myself to offer an amendment to exempt tuna from duty-free provisions of the act. I understand the gentleman from Illinois, the chairman of the Ways and Means Committee will offer it as a committee amendment.

Also, I would like to commend the distinguished chairman of the Ways and Means Committee, the able chairman of the Trade Subcommittee (Mr. GIBBONS), and our ranking member on Ways and Means, the gentleman from New York, for their diligent work on this most important and complex piece of legislation. The Caribbean Basin Initiative (CBI) will strengthen our trade position with the Caribbean Basin countries and will provide new opportunities for these countries to achieve self-sustaining growth.

Clearly, the U.S. economy will benefit from this legislation. An economically healthy and politically stable Caribbean Basin means more opportunities for our own workers and businesses, and I urge my colleagues to support this bill.

Likewise, I strongly urge my colleagues to adopt the Gephardt-Lowery amendment to be offered by the Ways and Means Committee chairman, exempting tuna from the duty-free provisions of H.R. 7397.

Why exempt tuna from the CBI? Because a highly significant amount of the tuna resource base is in the eastern tropical Pacific and the Atlantic Oceans. The Caribbean nations thus are in a most favorable geographic position to establish a thriving industry to replace ours.

This makes the tuna industry and its jobs very vulnerable to the inexpensive construction and operation of competing canneries in these countries, particularly if the processed tuna can be sent to the United States market duty free. The Gephardt-Lowery amendment will prevent this tremendous job displacement from happening.

In short, this amendment is a "Jobs for Americans" amendment.

American tuna industry jobs are located principally in Puerto Rico, Guam, American Samoa, Hawaii, Oregon, Washington, and California. The industry provides 14,000 direct jobs in Puerto Rico and is responsible for a staggering 58 percent of the jobs in American Samoa. Indeed, as the gentleman from Samoa will tell you, tuna processing is that territory's only private industry.

And who suffers from the resulting job loss if tuna is not exempted from the CBI? Low-income minority and women workers in geographic areas already suffering from high unemployment. San Diego's Bumble Bee cannery closure is a classic case: 1,200 workers unemployed-50 percent were women, 80 percent were minority workers, and all were low income.

The intent of the CBI has never been to create jobs in Caribbean nations by the mere expedient of eliminating a corresponding number of American jobs, yet, without this amendment, the CBI would be propos-

ing such an expediency.

Make no mistake, tuna is import sensitive. On many occasions, the International Trade Commission and the Special Trade Representative's Office has determined that processed tuna requires protective tariffs. As recently as May 1981, the USTR denied a generalized system of preferences (GSP) petition for the elimination or reduction of the tariff on processed tuna.

Despite these tariff protections, our tuna industry is already experiencing ruinous competition from foreign tuna producers that are able to undercut domestic processors' prices due to the considerably lower cost of tuna processing in developing nations. In Caribbean Basin countries, the labor costs are significantly below costs in the United States. Also, foreign producers are not subject to the costly environmental, health and safety regulations applicable to domestic processors. Foreign producers also have a substantial shipping cost advantage due to their ability to ship processed tuna to the U.S. mainland in foreign-flag vessels, rather than in the U.S.-flag vessels that must be used for shipments from Puerto Rico, Hawaii, American Samoa, and Guam.

Finally, the transfer of tuna operations to new Caribbean Basin locations is not just talk. Relocation is a real option because the tuna industry is relatively mobile. Let me give the Members of this House an example of how quickly a country can gear up its canning industry for export to the United States. In 1977, the Philippines began exporting processed tuna to the United States and they exported 64,350 pounds for the entire year. For the first 9 months of 1982, the Philippines has exported over 23 million pounds of tuna to the United Statesand this is with a tariff. Can you imagine what will happen in a duty-free environment? Clearly, without an exemption for tuna, the U.S. tuna industry would be history.

In sum, Mr. Speaker, I urge my colleagues to avoid inflicting severe economic damage upon the already troubled economies of Puerto Rico, American Samoa, and other areas of the United States by supporting the amendment being offered by the distinguished chairman of the Ways and Means Committee. Tuna must be exempted from the CBI.

Mr. CORRADA. Mr. Speaker, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I commend the gentleman for his statement and would like to say as Resident Commissioner of Puerto Rico I am very much interested in the tuna amendment. I am very pleased with the efforts made by the gentleman from Missouri (Mr. GEPHARDT) and the gentleman from California (Mr. Lowery) myself and others on behalf of this tuna amend-

I hope the amendment will pass and support also the legislation and thank the gentleman.

REQUEST FOR PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7356, DEPARTMENT OF INTE-RIOR AND RELATED AGENCIES APPROPRIATIONS. 1983

Mr. YATES. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. there objection to the request of the

gentleman from Illinois?

Mr. SHAW. Mr. Speaker, reserving the right to object, may I inquire: Has this been cleared by the minority?

Mr. YATES. Mr. Speaker, will the

gentleman yield?
Mr. SHAW. I yield to the gentleman

from Illinois.

Mr. YATES. The minority was well represented at the conference last night. I am sure the gentleman from Pennsylvania (Mr. McDade), who is the minority chief, would have no objection. Everybody signed, all of the managers signed the conference report.

Mr. SHAW. May I ask the gentle-man to withdraw his request until such time as we can confer with the gentleman from Pennsylvania (Mr.

McDade)?

Mr. YATES. I will be pleased to do that. I hope the gentleman does so

promptly.
Mr. SHAW. I thank the gentleman. Mr. DERRICK. Mr. Speaker, I yield minutes to the gentleman from Michigan (Mr. Bonion).

Mr. BONIOR of Michigan, Mr. Speaker, I want to very much support this bill. It has been a long time since we have had a President that has paid some attention to the Caribbean American region and, despite the fact that I disagree with some of the policies that he is pursuing in this region, I think the fact we have paid attention to the area is a good beginning.

But I became very disappointed and disillusioned when I picked up the paper this morning and I read the President "sharply assails Democratic jobs proposal," and he labels it as pork barrel. He talks about shelters for the homeless as being pork barrel, rehabilitating VA hospitals as being pork barrel, roads and sewer infrastructure reconstruction as being pork barrel.

I am for dealing with the Caribbean and doing the things that are necessary to bring those people into a more friendly, neighborly relationship with us but the President and this administration and my colleagues on this side of the aisle have to understand that there is a depression going on in a large part of our country.

Let me lay out if I can the politics of this bill. I hate to do it openly and in public. These are not the things you do. But let us be very frank about it.

Labor is vehemently opposed to this bill. They are pulling out all the stops on it.

It just seems to me if this President wants this initiative, and I know he wants it very bad, he is going to have to start to compromise on some of the things we on this side of the aisle are concerned about in these very dire economic times. It is a good time to start. He is going to have to start doing it next session when this Congress changes its composition, and I hope that the door is not completely closed with respect to the jobs bill.

Mr. TRAXLER. Mr. Speaker, will

the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Michigan.

Mr. TRAXLER. I appreciate the gentleman yielding. I wish to join in his statement.

I know him very well and I know the concern that he has for the poor, the elderly, and for the disadvantaged in our State. I know he has that same sense for those in other areas in other countries.

I think what is so painful for the two of us is to see a White House and a President who is more willing to do more for those abroad than he is willing to do for our own citizens. That is extremely painful for me as I know it is for the distinguished gentleman in the well.

Mr. GIBBONS. Mr. Speaker, will the

gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Florida.

Mr. GIBBONS. I understand the gentleman's position and I have a great deal of sympathy for his position.

Let me point out this is not entirely the handiwork of the current President of the United States. This program was actually begun under President Carter. He helped to bring the major nations of the Caribbean together to meet in the Bahamas before he left office. He was able to work with Canada, with Mexico, with Venezuela, and Colombia, and he was able to bring those nations together and to start working with Puerto Rico and the Virgin Islands and do all of that preliminary work.

So while the gentleman has made a very good statement about the current President, I want him to know that this is a program that has, as he points out, long been needed.

The current occupant of the White House is not the originator of this program. He merely followed through on

Mr. BONIOR of Michigan. I thank my colleague and I understand and appreciate his comment.

That is what makes it even more painful. I know the concern President Carter had about Central America and the Caribbean Basin, and I worked with the President on the Panama issue and some other issues down there.

What bothers me is if President Carter were here he would see the contradiction, he would not be criticizing as pork barrel 5.4 billion dollars' worth of good jobs or \$1.2 billion the other body will adopt of good jobs, and then asking us to deal with this issue.

Mr. BAILEY of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Pennsylvania.

Mr. BAILEY of Pennsylvania. The gentleman's point is well taken. We sought programs for structural unemployment problems caused by the bill and we were resisted very strongly by the administration. The gentleman makes an excellent point.

Mr. BONIOR of Michican. I yield

back the balance of my time.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 7356, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. YATES. Mr. Speaker, I again ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MAKING IN ORDER TODAY OR ANY DAY THEREAF-TER CONSIDERATION OF CONFERENCE REPORT ON H.R. 7356, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1933

Mr. YATES. Mr. Speaker, I ask unanimous consent that it may be in order at any time today or any day thereafter, to consider the conference report and any amendments in disagreement on the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Illinois?

Mr. SHAW. Mr. Speaker, reserving the right to object, might I inquire of the gentleman: Has this second request been cleared?

Mr. YATES. Will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Illinois.

Mr. YATES. I am sure it has been cleared. I am sure the gentleman from Pennsylvania (Mr. McDade) approves of it, just as he approved of the other.

I would say we are trying to expedite the business of the House so Members may go home. Usually at the end of the session a request of this type is very much in order, and I am sure the gentleman from Pennsylvania (Mr. McDade) if asked, would expedite this.

Mr. SHAW. Mr. Speaker, I would certainly understand that the gentleman is trying to expedite the business of the House, and that leaves some of us quite nervous.

However, I do understand this has been cleared, and I take the gentleman's word for it.

Mr. Speaker, I withdraw my reserva-

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was not objection.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Speaker, I thank

the gentleman for yielding.

I rise in support of this rule and I would like to thank the Rules Committee for giving the House an opportunity to amend this bill to grant relief to America's tuna industry.

Mr. Speaker, America's tuna processors have pulled back basically within that safety zone, that perimeter of duty-free area, and they are in American Samoa, they are in San Diego, about 15 miles north of the Mexican border, in Puerto Rico, and in Hawaii.

I think the industry and the administration now understands that should this duty be lifted, America's tuna industry would probably cross the street, taking with it approximately 50,000

American jobs.

So I would like to tell my colleagues that there are thousands of cannery workers in San Diego as well as in American Samoa, Hawaii, and Puerto Rico who are very grateful for the opportunity the Rules Committee has afforded the tuna industry to present its case.

I yield back the balance of my time. Mr. DERRICK. Mr. Speaker I yield 2 minutes to the gentleman from Georgia (Mr. Jenkins).

#### □ 1100

Mr. JENKINS. Mr. Chairman, I rise in support of the rule. I recognize that this is a rather controversial piece of legislation, but I think that the committee has worked very hard in trying to draft a piece of legislation that will take care of the most sensitive industries and at the same time do something for this part of the world that will be extremely important to this Nation from a national and international standpoint.

There will be offered, however, as indicated by the gentleman from Tennessee, an amendment by the gentleman from the Virgin Islands (Mr. DE LUGO), dealing with the American possessions of the Virgin Islands and dealing directly also with Puerto Rico and

their industry of rum.

I want the Members to listen very carefully when we get into the debate of that issue, because these people, Americans in the Virgin Islands and Puerto Rico, in my opinion, their interest is not being properly looked after unless we adopt the de Lugo amendment. These people in the Virgin Islands, if I might speak to that for a moment, why are they so important to this Nation?

First, of all, they are Americans. Second of all, a little issue that we forget about all the time, the largest oil refinery in the world is located in the Virgin Islands. It supplies most of our jet fuel, most of our heating oil. And to say to the Virgin Islands that they are to be ignored in their very sensitive industry would be an injustice, in my opinion, to that area.

I hope that you will listen to the amendment very carefully that Mr. DE Lugo will offer. I think it is a good amendment. It is an amendment that embraces the very agreement that the Virgin Islands entered into with Mr. Bill Brock, our trade negotiator, on behalf of the administration. And suddenly, when we get into committee, we choose to ignore that agreement that was entered into and play a little bit rough handed with our people in the Virgin Islands. I do not think that is right. I have no interest in it whatsoever other than from that standpoint.

I ask your support of the DE Lugo

amendment.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. I thank the gentleman

from Tennessee for yielding.

Mr. Speaker, the gentleman from Michigan who was in the well a few moments ago made a point with regard to unemployment here in this country. I would like to talk to the Members of the House for just one moment about the problems of unemployment in Florida and the problems that are being caused by illegal immigration into this country.

We know that the vast majority of those coming to our country are economic refugees, people coming from the Caribbean and all over Central and South America, most of them looking for nothing more than a better life. The problems that are related to this flow of illegal immigration into the United States are over-

whelming.

We are going to see debate later this afternoon on an immigration bill. This immigration bill has been brought to this House at a time of great emergency. Yet I think in this lameduck session, with the number of amendments that have been pending, that those who would care to kill this bill will have little trouble in the closing hours of debate in the next few days.

This makes this Caribbean Initiative most important, this Caribbean Basin Initiative. It is most important for this country on two counts: First, we must create a reason for these people to stay at home. They must be able to

make a decent living at home. And, second, we must promote stability in those countries. These countries right now are ripe for picking off by the Communists, and it has happened, and we have seen it creeping through Central America. We have seen it in the Caribbean. We have seen this growing menace, and we have sat back and done absolutely nothing.

This is one of the most critical parts of the world for our well-being, and it is of vital importance that we take this bipartisan first step, first initiative, on doing something to help our neighbors help themselves. And that is exactly what this program does. It will be of great long-term benefit to the United States, not only in protecting ourselves in our defense posture within our own hemisphere, but also protecting the way of life that we would like to protect and not be the economic magnet for illegal immigration from all over this part of the world.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. Bailey) for pur-

poses of debate only.

Mr. BAILEY of Pennsylvania. Mr. Speaker, I do not think that anyone in this Chamber is any more stridently antitotalitarian than I. And if I believe that this bill would do the things that we have told it would do, I would very, very strongly support it. But it will not. The major problem in the Caribbean is the transfer of wealth from that area. You cannot keep it there. Wealth generated in that area generally goes around the world, to banks and to various foreign investments. In fact, a great deal of it ends up in Miami, where everything from purchases on commercial paper to stock investments, et cetera, are made. That is something that is admitted by the administration, it is admitted by Bill Brock, and no member of the committee will contradict that point. This bill will not address that problem. This bill will make it worse in relative terms.

Added to that difficulty is the fact—though I think the rule can be defended on the ground that it at least makes an attempt to try to do something by allowing amendments which would help our insular possessions—but overall it does not sufficiently recognize the needs of Puerto Rico and the Virgin Islands.

Last but not least, this bill's impact on the United States, on the mainland, will be harmful. There will be direct employment losses. We did seek changes from the administration for help with structural unemployment programs to assist in retraining our employees here who will surely suffer and we were denied that opportunity.

Third, there is a passthrough provision, 35 percent. We brought the bill up to the general system of preferences level, but one thing Members

here should know: The import sensitive list of items under the general system of preferences will not be included under CBI and, therefore, with a minimal amount of value added to products, you are going to see a funnel of products and manufactured products into the United States of America that will cause direct job losses. That is something that has not been adequately explored, and the administration has not looked at it properly. Consider that the mouth of the funnel will not be located in the Carribean and it will not be located in the United States.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Michigan.

Mr. TRAXLER. It has been suggested by the proponents of this bill that the standard of living of people in the Central and Caribbean nations are going to be increased.

Mr. BAILEY of Pennsylvania. No. Mr. TRAXLER. And, therefore, they will not illegally immigrate to the State of Florida.

Mr. BAILEY of Pennsylvania. No.

Mr. TRAXLER. Does the gentleman believe that a tenth of a percent increase in the standard of living in those nations, or even 1 percent, is going to prohibit that illegal immigration?

Mr. BAILEY of Pennsylvania. Let me assure the gentleman that we had testimony before the committee, and one case stands out, in particular, concerning a gentleman from Costa Rica, with employment down there, and I asked him what happened with their jobs program and their company over the last 15 or 20 years concerning real income. Real income for those people down there with these 50- or 60- and 75-cent-an-hour jobs declined. His profits did not. That money was not reinvested in the Caribbean. It came back into more safe and secure investments in the United States.

This bill will not solve America's problems down there, and it is not going to solve our problem here at home. There is only one way to structure a sound foreign policy, and that is with some kind of basis here and some relationship to decent domestic policy that will build support in this country for viable alternatives abroad.

One last case in point: Trinidad Tobago—50 percent of the money used to build a wire steel mill in that country, 50 percent was government money. Those products will come into the United States duty free, 300,000 tons of a product vital for construction purposes funneled into this country. That mill had been built under existing law. Those products will now, because the import sensitive item list that I mentioned will not be covered under the CBI come into this country duty free.

Think before you give the President a vote on a well-intentioned piece of legislation that needs to be reworked with an eye to really doing something to encourage reinvestment in that area instead of the flight of wealth abroad that will not go to build an infrastructure or a middle class in the Caribbean. There is no one more concerned with that problem than I.

Mr. DERRICK. Mr. Speaker, I yield 10 minutes to the distinguished majority leader, the gentleman from Texas (Mr. Wright), for purposes of debate only.

Mr. WRIGHT. Mr. Speaker, I rise in support of the rule and of this bill. It is a very important part of our foreign policy initiatives. There are two or three reasons why it is imperative that the House act affirmatively on this legislation.

In the first place, it is in our own national self interest to make it possible for those nations in Central and South America, and particularly those so close to us in the Caribbean Basin, to have viable economic opportunities by which they can continue to be our best customers, as they are today, and indeed become better customers.

From a standpoint of our military security, from a standpoint of our economic future, and from a standpoint of our political future, the countries of Central America and the Caribbean are more vital to the United States than are those in any other part of the world.

That area sits astride the most vital lanes of commerce. Past those countries must come a very substantial part of the petroleum which is the lifeblood of the American economy and of American industry. The area is vital to our security.

We sell more goods to Latin America than we do to any other part of the world. If you would talk about jobs, you must recognize that there are more American jobs involved in export and the production of goods that go into world markets than there are adversely affected by imports.

Latin America is our best customer. We have a very favorable balance of trade with Latin America. We have never had anything but a highly favorable balance of trade. The people in Latin America traditionally have bought many millions of dollars more in goods from the United States than we have bought from them. The only limit to their capacity to be good customers for American-made products is their ability to earn a living, their ability to build strong local economies, so long and repeatedly denied.

When John F. Kennedy announced the Alliance for Progress effort in 1961, it was remarked by historians that what we undertook to help Latin American nations achieve for themselves was infinitely more difficult than what had been undertaken with

the Marshall plan in Europe. In Europe we simply were attempting to help nations rebuild after the destruction of 5 years of war. In Central and South America we undertook to try to give nations the opportunity and the wherewithal to build from the ground up after they have been ravaged by five centuries of cruel history.

Now, change is coming. Make no mistake about it. It is only the shape and direction of that change which are at issue. The status quo is already in tatters. Its threadbare barricades are giving way. We cannot expect and morally should not expect that the people of Latin America will forever live in a subservient condition. Today they know, because of the improvements in communication, that others do not live that way. A man whose little daughter looks to him with eyes that say daddy could move mountains, but with an empty cavity in her hungry little stomach, is a desperate man. You would be, too. He will follow any pied piper who promises him a change for the better if he sees no opportunity for change for the better through the orderly democratic proc-

And so we have a political stake as well as an economic stake in the future of that region so very vital to us.

There is a further reason that is equally impelling, it seems to me, perhaps more so, and is inseparable from our consideration of the economic and political and military stake that we as a nation have in Central America and in the Caribbean. This is their perception of our trustworthiness as a friend. A nation, even as an individual, lives in the community of nations by its word.

One of the saddest things, I think, that has occurred to me in years of travel in countries of Central America was something that once was reported to me by an aged engineer in Panama. He said when he first came to that country early in this century, you could seal a bargain by saying, "La Palabra Inglesa." The English word. Nobody questioned the English word. If we said, "This is our word and we stand by it," that was all that was asked. And now, he told me, "If you say, 'La Palabra Inglesa' to many Latin Americans, they laugh in your face."

The history of our relations with Latin America has been a history mottled by recurrent broken promises and benign neglect, raising hopes that then were dashed.

There is still a residue of strong desire to believe those of us in the United States. In the days of Bolivar and O'Higgins and San Martin, they patterned their people's movements after ours. They wanted to believe us. They wanted to believe that their legitimate social and economic objec-

tives could be achieved without sacrificing political liberties.

In the darkest jungle of the Darien Peninsula, where life still goes on very much in the primitive way that it did when Columbus discovered this new world, our colleague Jim Howard and I one day encountered a native workman who wore on a chain for a talisman around his neck, a Kennedy half dollar. He pointed to it with pride. They believed us when we said we would stand by them and create an Alliance for Progress that would give bootstraps with which they could pull themselves up. Not a handout, but an opportunity. They believed us. We wearied of that idealism. We grew soon tired of being the economic dragon slayer. We became preoccupied with other problems and abandoned the effort prematurely. There followed an understandable wave of disillusionment.

Now President Reagan has promised to the people of Latin America the Caribbean Initiative. They believe him. It does not make any difference, in this case, whether he treats us right or not. I say to my Democratic friends. He is the President of the United States. They do not distinguish and differentiate between Democrats and Republicans down there. They do not have a concept of a separation of powers. It is not any good to tell them, "Oh, the President meant it, but the Congress, you see, is dominated in one House by members of another party.' That explanation does not do any good. It rings hollow in their ears. All they know is that the leader of this Nation, the United States of America, said "they were going to do this for us. and then they did not do it." That is what comes through to them.

And so we have a responsibility here that overrides and transcends any sense of partisanship. We have a responsibility today that transcends our sense of wounded pride at what the President may have said about our efforts to create jobs here in the United States. I pledge to you that I will stay as long and work as hard as any one of you to restore opportunity in the United States and to revitalize American industry and to create the basis for jobs in the private sector here. And I will fight just as long as any of you, so long as there is any opportunity to get a public works jobs bill to rebuild the infrastructure of this country.

But this is not the issue here. It does not make any difference how blind the President may be to those needs; let us not respond by concomitant blindness to the needs that exist in our closest neighbors and our best friends in this ever-shrinking neighborhood of the Western Hemisphere.

about the partisanship of the Presi- utes to close debate.

dent. And he is the most partisan President I have ever served with. That goes back to and includes Mr. Eisenhower. But that does not excuse us. my Democratic friends, for allowing the President of the United States to be publicly embarrassed when he has made a commitment in the name of our country to our closest neighbors.

It is up to us to summon the statesmanship and responsibility to do the thing that is necessary and to demonstrate to the people of the Caribbean and Central America that when the President of the United States speaks for the United States, and makes a commitment for us to them, that he speaks for all of us and that we are not so eaten apart by the corrosive acids of internal political division and partisanship that we are incapable of or unwilling to fulfill and uphold that commitment in good faith.

It is on that basis, my friends, that I plead with you, Democrats and Republicans alike: Let us join ranks today, and say to our friends in Central America and the Caribbean, "We understand at least some of your problems, and we are going to work with you and stay with you until together

we solve those problems."

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CONABLE), after which I yield 2 minutes to the gentleman from Michigan (Mr. BROOMFIELD) to close debate on this side.

Mr. CONABLE. Mr. Speaker, the majority leader has most eloquently expressed the significance and the symbolism of this measure. I commend

him for his vision.

I personally am disappointed in this legislation in that it does not go far enough. We have compromised with every interest that was concerned about the possible domestic effect of the Caribbean Basin Initiative, in order to bring it this far.

But if a large step is appropriate, a small step is not bad. Therefore, I urge

support of the legislation.

I also am personally disappointed in the liberalism of the rule. I believe it makes in order unnecessary amendments that I personally will oppose. But I certainly urge my colleagues to support the rule. An excessively liberal rules should not be opposed because of its liberalism because we can correct for that in rejecting inappropriate amendments which might further weaken the measure.

In short, the legislation itself and the rule should have the support of the Members of this House despite their shortcomings. I urge all my colleagues to join in this significant and symbolic effort so aptly described by

the majority leader.

The SPEAKER pro tempore. The Michigan (Mr. gentleman from I do not care what you may think BROOMFIELD) is recognized for 2 min-

Mr. BROOMFIELD. Mr. Speaker, I would like to pay special tribute to the majority leader for what I consider one of the most outstanding speeches in behalf of our country on a major foreign policy question.

I did not intend to take any time during the consideration of this rule, but I felt it important to point out that this is a matter that concerns all of us. It is not a partisan issue.

Mr. Speaker, as all of you know, America is aggressively promoting improved trade, aid, and investment in the Caribbean area. The Caribbean Basin Initiative is an important first step toward resolving the economic difficulties in the region. President Reagan frequently emphasizes the significance of this major foreign policy package. He has taken a personal interest in working for the successful implementation of this imaginative approach to the region. Support of the President's efforts will also help to assure that vital U.S. interests in this neighboring area are protected.

A grave economic crisis now imperils many of the countries in the Caribbean and Central America. These small countries to our south are vulnerable to developments in the world economy. Recently, their oil and other imports have increased in price while their traditional exports have fallen.

They are unable to earn enough foreign exchange to pay for the imports they need. The result is a rapid rise in unemployment. This regional economic aid package is desperately needed. it may save some of these feeble economies from total collapse. Economic stability for our neighbors to the south is essential to our long-term interests.

Let us not delude ourselves into thinking that the Caribbean region is not important to America's strategic interests and its long-term social and economic well-being. The developing nations of this area are a source of critical natural resources for America; they border vital sea lanes as well as the Panama Canal. Over half of our total imports and exports pass through the Caribbean. In time of war, 50 percent of the supplies for U.S. forces in Europe would transit the area. The economic crisis in these neighboring countries are already creating political vulnerabilities. Moderate leaders in the area are already in jeopardy. New regimes could open military facilities to our enemies.

The nations of the Caribbean and Central America are the second most important source of immigration to the United States. Economic collapse and political instability will inevitably add to this pressure. Efforts to check illegal immigration are costly. It is in our own national interest to resolve the long-standing economic miseries of this region.

I recently received a strong endorsement of this program signed by six former Secretaries of State. The text of their message follows:

We are writing to ask your vote in favor of passage of the Caribbean Basin Initiative, which each of us strongly believes is vital to the long-term interests of the American people.

The fate of the Caribbean Basin is inseparable from our own. Our neighbors of Central America and the Island Caribbean have often received little public attention, but every Administration in the Post-war era has understood that the Caribbean Basin is critical to both our security interests and our long-term social and economic well-being. The Caribbean Basin Initiative was formulated by this Administration, but it reflects the concerns and insights of its predecessors, both Democratic and Republican.

The legislation approved by a 27-6 vote in the House Ways and Means Committee provides opportunities and incentives for more investment, more production and more jobs in the Caribbean area. These opportunities if realized intelligently and energetically by the people of the Basin . . . will stimulate self-sustaining growth to serve as the foundation for political and social progress and stability. The alternative, and the inevitable result of continued political and economic unrest in our immediate neighborhood would be a highly uncertain security situation, a rising flow of immigration, and direct and disruptive human consequences for the United States.

Understandable concerns have been expressed by some about possible effects on U.S. production and employment. We believe the legislation as it emerged from the Committee is balanced with safeguards for our most vulnerable industries. In addition, we are convinced that the long-term impact of the CBI will be positive. A prosperous Caribbean Basin means a better market for our own exports. It means lesser demands on U.S. resources . . . for defense, for economic assistance, and for social expenditures within the U.S. to help the displaced victims of social and economic unrest.

We urge the full Congress to follow the Committee's example and complete passage of the CBI program. To delay will not help our economy or U.S. workers, but it will harm both our friends and our long-term national interests. Please accept our thanks in advance for your personal contribution on this vital issue. Sincerely,

DEAN RUSK.
WILLIAM P. ROGERS.
HENRY A. KISSINGER.
CYRUS VANCE.
EDMUND S. MUSKIE.
ALEXANDER M. HAIG, JT.

H.R. 7397 provides trade opportunities and incentives for more investment, more production, and more jobs in the Caribbean area. The effort provides for 1-day duty-free trade on all products, except textiles, apparels, footwear, and a few other goods. A tax incentive for development purposes has also been granted.

This tax incentive will only be extended to countries which have undertaken exchange of information agreements for tax administration purposes. It is important to note that this bill respects the right of U.S. workers to be protected from injury which could

result from the concessions on trade and tax.

Although the Caribbean initiative was formulated by this administration, it reflects the concerns and insights of its predecessors, both Democratic and Republican. I am convinced that the long-term impact of the program and this resolution will be positive. A prosperous Caribbean Basin means a better market for our own exports. It means lesser demands on U.S. resources for defense, for economic assistance, and for social expenditures within the United States to help the displaced victims of social and economic unrest. I urge the full Congress to follow the committee's example and rapidly complete passage of the CBI program.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. Pickle), for the purposes of debate only.

Mr. PICKLE. Mr. Speaker, the Caribbean Basin Initiative is not and should not be a political matter. It is not a partisan matter. It is a national matter. It is in our national interest that we pass this bill. The eyes of the United States should be looking south, should be looking directly in the Caribbean area, to give help to our neighbors

It is far more important that we do this than almost any trade matter before our Nation today.

I think our Government is committed to help. I hope the Members of this body will give a resounding vote of affirmation for this rule.

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. John L. Burton), for pur-

poses of debate only.

Mr. JOHN L. BURTON. Mr. Speaker, I would support the rule. I do plan on voting against the Caribbean Initiative. The fact that our President gave his commitment to the people of the Caribbean is not something we should take lightly. He also gave a commitment to the people of this country and he has let this commitment go begging.

I agree with my good friend, the gentleman from Pennsylvania (Mr. Bailey), the gentleman from Michigan and others. When we hear of 2 million homeless in this country of ours, this great wealthy country of ours, when we hear of the unemployment that is going into double digits in many States of the Union, when every amendment that will be proposed to this bill will be an amendment to help safeguard some jobs, we know that we should look inward first.

We could do a lot more for the Caribbean Basin if we could do something for the economy of this country.

I wish the President would follow the commitments he made to the American people when he ran for President to do something about unemployment. For the first time in many years, if Ronald Reagan would say to the American people, "Were you better off under Jimmy Carter than under me," nobody ever thought it could be the case, but by God this country was better off under Jimmy Carter.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

# □ 1130

Mr. ROSTENKOWSKI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. Rostenkowski).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole Hoyse on the State of the Union for the consideration of the bill, H.R. 7397, with Mr. BINGHAM in the chair.

The Clerk read the title of the bill. The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois (Mr. Rostenkowski) will be recognized for 1 hour, and the gentleman from New York (Mr. Conable) will be recognized for 1 hour.

The Chair recognizes the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, rare is the time when we come across what might be described in fiscal terms as a bargain—getting something of great value for comparatively little cost. We are so accustomed to dealing with blockbusters like the MX or highways or social security that issues as small as the one I bring before you today too often escape our attention—and are too ofter pushed aside or maimed by one or two special interests.

Such a case, Mr. Speaker, is the Caribbean Basin Initiative—a combination of direct aid and trade incentives designed to reverse the economic slide of many of our traditional hemispheric neighbors. Weighed against the severity of their need, the cost of our assistance is no more than an "asterisk" compared to the normal demands on our budget. But the benefits this plan

buys for such a small sum are enor-

The 28 nations eligible for CBI concessions are characterized by small economies—extremely vulnerable to rapid changes of political sentiment at home, as well as rpaid changes in the trading world on which they so desperately depend. Stunned by the dramatic rise in imported oil prices over the last decade, most of the region has been further set back by the prolonged worldwide recession.

Given their relative smallness and insularity, few of the island economies have the resilience or mobility to take advantage of shifting market opportunities or protect themselves against sharp declines in world demand. Some, like El Salvador and Guatemala, have been weakened by civil strife. Others, notably Jamaica, have been sapped by gross economic miscalculations during former administrations. Still others remain lashed to fluctuations in international demand for one or a few commodities-bauxite, sugar, bananas. coffee. The international price of sugar, for example, has fallen from 44 cents a pound in 1980 to about 6 cents a pound today. Jamaica, the region's major producer of bauxite, has suffered a 50-percent decrease in mining production due to the collapse of the U.S. auto and housing markets.

Another major economic barrier is the overall lack of the infrastructure required for dependable export. Undependable communication, transportation, refrigeration, and utilities often domestic and international market opportunities. Only 10 percent of the bananas cut in Jamaica, for example, arrive at seaports healthy

enough to export.

Unemployment in the Caribbean Basin is dangerously high. The lowest rate is 14 percent-the highest, over 40. These rates are not an aberration, but have persisted for years. The over-whelming majority of the unemployed are between 16 and 25 years old. Increasing numbers of secondary and college graduates are frustrated by a static, if not shrinking, job market. And the number who simply abandon their homes and come to the United States-legally illegaly-grows or monthly.

Combined, these factors-small and fragile economies, a universal recession, inadequate infrastructure, and high unemployment-pose a mounting political threat to a number of modest democracies and raise the spector of critical strategic problems for the

United States.

Last February, President Reagan outlined before the Organization of American States a major new program for economic cooperation with the Caribbean Basin. His plan was introduced a month later by the House majority and minority leaders with several consponsors.

introduced, consisted of: First, expanded one-way, duty-free trade; second, the extension of the current 10-percent investment tax credit to investors in the Caribbean; and third, supplemental U.S. financial assistance.

Congress has recently appropriated \$350 million in direct assistance to the region as part of its supplemental appropriation. Consideration of the investment tax credit was put aside, leaving the trade provisions for committee action.

Last week, the Committee on Ways and Means-by a vote of 27 to 6-approved the President's trade initiative, with some modifications.

Title I of H.R. 7397 includes:

The basic authority for the President to establish one-way, duty-free treatment of all Caribbean Basin imports deemed eligible over a period of 12 years;

The exclusion of oil, textiles, and apparel, and leather goods, including footwear, from CBI treatment;

Limits on duty-free entry of sugar; Imports and emergency relief to safeguard U.S. industries and jobs;

A 35-percent, rule-of-origin requirement to prevent passthrough oper-

Protection for Puerto Rican and Virgin Island rum industries; and

A denial of CBI concessions to Marxist governments.

Title II of this bill contains two tax provisions.

Under present law, taxes from rum are an important source of revenue for Puerto Rico and the Virgin Islands. To eliminate any possible reduction in present revenues because of duty-free entry of Caribbean Basin rum, title II of the bill provides that excise taxes collected on foreign rum imported into the United States are to be transferred to the Treasuries of Puerto Rico and the Virgin Islands.

The present law rules restricting deductions for attending business conventions to conventions held in the United States, Canada, and Mexico is perceived as unfair by our Caribbean neighbors. In addition, they believe that it has adversely affected their convention-oriented service businesses. However, a number of the Caribbean Basin countries have bank secrecy and other tax-haven-type laws which restrict U.S. access to tax information. Under current law, the United States often has difficulty in obtaining information to enforce its tax laws when transactions occur in countries with these restrictive laws.

These agreements will assist in the gathering of information appropriate to administer our tax laws. Accordingly, Title II also provides that expenses of attending certain business conventions in Caribbean Basin beneficiary countries and Bermuda will be deductible as though the convention were

The Caribbean Basin Initiative, as held in the United States, but only if the country enters into an agreement for the exchange of tax information with the United States.

> In addition, in order to qualify for the favorable convention treatment, the beneficiary country must provide reciprocal tax treatment for attendance at conventions or other similar business meetings in the United States.

> The argument that Congress should deny assistance to our traditional neighbors until our own economy is well on the mend, misses the entire thrust of the CBI. The threat to our employment and markets from these 28 countries—whose combined GNP is only \$40 billion annually-is negligible, if it exists at all.

> The Caribbean accounted for only 3.8 percent of all U.S. imports last year. Of this, about 90 percent are not at all affected by the Caribbean Basin Initiative. This leaves only \$1 billion in imports, or about 0.3 percent of total U.S. imports, that will be given dutyfree status under the CBI.

> Our trade advantage, which translates into thousands of U.S. jobs, is approaching \$2 billion. Add to that an expected increase in U.S. jobs as the Caribbean steps up its purchase of U.S. machinery, technology, and raw materials to expand their economies. Many argue that the CBI will create more jobs in the United States than in the Caribbean-certainly in the short run.

> The sentiments of organized labor in the Caribbean is clear. Let me read a telegram from Burns Bonadie, secretary-treasurer of the Caribbean Congress of Labor:

> On behalf of the Caribbean Congress of Labor, I want you to know the Caribbean labor movement strongly endorses the Caribbean Basin Initiative. The charge that the CBI is exploitative of labor is one I specifically wish to refute. On the contrary; the initiative will stimulate development and thereby create jobs that both labor and business want and that our Caribbean societies deperately need.

> In response to specific concerns of U.S. labor and industry, oil, textiles, and leather goods, including footwear, have been excluded from CBI concessions. In further response to concerns over the perceived threat of duty-free Caribbean products, the committee has agreed to exempt all canned tuna.

> The Caribbean Initiative is a small gesture to our neighbors that brings disproportionate gains to the entire hemisphere. The cost of inviting economic growth, political stability, and strategic security is miniscule compared with the consequences of our failure to meet their critical need for our trade.

> I ask all of my colleagues to put aside small special interests and vote for this historic contract.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 7397, the Caribbean Basin Economic Recovery Act. It is a modest piece of legislation that represents part of a combined effort by the United States and other nations in the hemisphere to provide economic assistance to the Caribbean region and thereby to reinforce the democratic governments there. H.R. 7397 also reinforces an already advantageous trading relationship between this country and our natural customers so close to our Southern border.

The strategic and economic importance of the Caribbean Basin to the United States should be readily apparent. Except for our contiguous neighbors to the North and South, the geographic location of the nations of the Caribbean and of Central America places them among our most natural trading partners and potential political allies. Yet, Cuba and nondemocratic elements in other countries seek to spread their influence in the region, and it can be argued that the United States has not done enough to help establish a solid economic foundation in these countries upon which democrat-

ic institutions can be secured.

After frank and detailed discussions with potential beneficiary countries, the United States, Mexico, Canada, Venezuela, and Colombia joined in individual programs to proposing foster the long-range economic development of the Caribbean Basin through trade, investment and financial assistance. the United States has been especially restrained in putting forward its contribution, although it was our country that served as the catalyst for this combined effort. There is no doubt about the fact that expectations were, and are, high in the region with respect to what the United States promised to put forward.

H.R. 7397 is the partial fulfillment of that promise. It is designed to relieve some of the oppressive economic problems these countries face by encouraging private-sector led growth through expanded trade and investment. The central feature of the Caribbean Basin Initiative (CBI) legislation is the offer of a one-way free trade zone in order to provide secure long-term access to the U.S. market of the limited volume of exports produced in the region. The benefits of such an approach, however, are not one-way but will flow back to the

one-way but will flow back to the United States as what I believe to be a sound investment in the region begins to pay off.

The Caribbean Basin is an impor-

tant and growing market for U.S. exports. Our exports to the region have grown from \$4 billion in 1977 to \$6.7 billion in 1981, a 65-percent increase. The United States has a strong trade position in almost every country in the

area, capturing from 25 to 57 percent of the total market. Total volume of trade between the United States and the Caribbean region exceeds \$17 billion, with the United States enjoying a \$2 billion surplus with the area in merchandise trade. As Caribbean countries expand their productive capacities in response to the Caribbean Basin Initiative, demand for U.S. exports can be expected to increase further.

The Caribbean Basin is also an important site for U.S. investment. In 1980, U.S. investment in the region, excluding Netherlands Antilles, reached \$9.7 billion—up 50 percent from the previous 3 years. The U.S. economy is enhanced by these investments as earnings are repatriated and as exports to the U.S. affiliated com-

panies in the region increase.

Some concern has been expressed that the incentives of this bill will encourage plants currently located in the United States to move to the Caribbean. I do not believe the benefits of this bill are in any way extensive enough to trigger such a consequence. Elements in the area economies such as weak infrastructure, unskilled labor, other production uncertanties already discourage investment in the Caribbean and will continue to do so over the

next several years. The CBI concessions, while providing a basis for these countries to help themselves toward market-oriented development, will not immediately overcome deep-rooted structural problems. It is expected that the benefits of this bill will encourage existing operations in the Caribbean to expand. More importantly, it is expected that the CBI incentives will encourage foreign investment-companies already investing outside their home countries-to go to the Caribbean rather than to other developing areas of the world. This is important to us because, as noted earlier, the Caribbean is a prime customer of U.S. exports.

As I have tried to emphasize, the overall effect of the CBI should be positive for the United States both economically and politically. The level of imports from the Caribbean is expected to be small, and our export and investment gains in the region will more than offset any adverse effects. Our current trade with these countries provides nearly 150,000 jobs for American workers here at home. Furthermore, more stable economic conditions in the region will serve to protect U.S. jobs from the influx of disaffected workers arriving on our shores from

Caribbean countries.

H.R. 7397 in no way overturns existing trade laws. Therefore, existing protection from subsidization, dumping or import surges remain in place. The bill provides further safeguards for our market by including strict rules-of-origin requirements, by exempting

sensitive articles such as textiles and footwear, and by establishing emergency procedures for imports of perishable goods.

Mr. Chairman, H.R. 7397 provides a very modest form of assistance to an area where vital U.S. interests are at stake, yet, even small economic gains are important from the point of view of these struggling nations. The legislation is "bare bones" but will be of tremendous value both to the United States and to the Caribbean.

I urge my colleagues to approve H.R. 7397 without further exclusions or modifications.

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To summarize, Mr. Chairman, this measure is of considerable importance to the area and is in no way dangerous to American interests.

The committee has been extremely sensitive, I think too sensitive, to the possibility of the loss of jobs in this country. I want to assure the Members that that sensitivity has characterized our entire deliberations on this matter.

The Caribbean is of great significance to us, and if we do not establish a long-term policy with respect to it, ecouraging its economic development, we will have no choice, in view of its importance to us, but to intrude in ways that are much less satisfactory in the long run in the activities of that area.

We have a choice, in short: We can engage in this kind of development, providing economic opportunity for the area or we must deal with the resulting instability in the area and with the byproducts of that instability, which will be massive numbers of illegal entry boat people seeking a better life or a type of political and military instability that arises from authoritarianism, the only response to grinding poverty, ultimately, if we do not do something to alleviate it.

I certainly hope my collegues will support this measure strongly as in their long-term best interests.

The CHAIRMAN. The gentleman from New York (Mr. CONABLE) has consumed 8 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. Bailey).

Mr. BAIILEY of Pennsylvania. Mr. Chairman, I think we should try to get some things in perspective on this measure before we vote. One of them is whether or not the measure, in and of itself, will be effective in doing that much in the Caribbean area.

Quite frankly, I would recommend to the Members of this body that it will not; it will not improve at all the face of American free enterprise or the face of America at all in the Caribbean Basin. It will not transfer that much usable wealth to either a middle

class that needs to grow in that area, and it will not provide any benefit from an educational point of view for the infrastructure that those people badly need in order to do business in a modern world.

Lastly, I would say to my colleagues, that no one feels as strongly about the need to do something in this area as I, but I strongly feel we need to recognize that the relationship between domestic policy in general, capital investment in the United States, technology exports and imports, research and development, and our need to do things abroad go hand in hand. They cannot be viewed in isolation.

We are going to be back here on this measure in a number of years. We are going to have to respond to its inadequacies, its failures, and its holding out of promise that it cannot and will not fulfill.

I would urge the Members to do the President a favor and have him sit back and look at this measure.

Mr. CORRADA. Mr. Chairman, will the gentleman yield to me?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. I thank the gentleman for yielding.

Mr. Chairman, I would like to state that while I disagree with the gentleman from Pennsylvania in terms of the overall analysis of the legislation, I would like to express my appreciation to him for the efforts made in the Subcommittee on Trade in support of the tuna amendment, which at that time failed.

I hope today, later, when we debate this amendment, it will be passed, but I wanted to tell the gentleman that he carried the battle in the subcommittee and later, along with the gentleman from Missouri (Mr. GEPHARDT) into the full committee and we all went also to the Committee on Rules.

Of course, I want, on behalf of the people of Puerto Rico, to express my appreciation to the gentleman from Pennsylvania (Mr. Bailey) for his excellent support of the tuna amend-

Mr. BAILEY of Pennsylvania. I thank the gentleman.

I would hope we would do the President a favor by making him go back to the drawing boards, look at this legislation, and perhaps learn a little bit of a lesson. The administration should have initially come to this deliberative body, they should have gone to the gentleman from Florida (Mr. GIBBONS) and to the subcommittee, going over this thing initially before they came with a proposal and lay it before us. The President told those people that we are going to pass it. But it should be studied and looked at and some decent legislation written to really solve the problems in the Caribbean Basin should be presented. This is not. the gentleman yield to me?

Mr. BAILEY of Pennsylvania. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I intend to support this legislation, but I have listened carefully to the gentleman's arguments in the Committee on Rules and on the floor. I think it is important that this Congress very closely monitor this piece of legislation to make sure that the legislation does not allow the initiative to deteriorate into a situation in which we have basically constructed a conduit for Japanese goods.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Bailey) has expired.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 7397, as a major component of the President's Caribbean Basin Initiative.

The Caribbean Basin forms our third border with some two dozen small developing nations in Central America and the Caribbean. This area contains important shipping lanes for America's defense and prosperity. With nearly half of U.S. trade and two-thirds of our imported oil transiting through the Gulf of Mexico and the Panama Canal, this region's security is vital to our interests.

This region also has significant economic importance to our Nation, representing over \$30 billion a year in U.S. imports, with some \$31 billion a year in regional exports. This region has attracted some \$13 billion in U.S. direct investments and it should be noted that the Caribbean region has become the main source of immigration to the United States, both legal and illegal.

It is obvious that we do have a vital stake in this important region. But, unfortunately, the Caribbean Basin has been suffering serious economic difficulties due to the escalating cost of imported energy and declining prices for their major exports. Such negative trends in the economic area only increase concern about the region's deeply rooted structural problems and increases pressures of inflation, unemployment, declining growth, balance of payments, and liquidity problems.

In response to these mounting pressures on the political, economic, and social fabric of the region, President Reagan has proposed the Caribbean Basin Initiative. The first portion of this proposal was approved by the Congress earlier this year in approving some \$350 million in assistance. The bill before us represents an important second phase of the proposal, seeking to open up greater trading opportunities for the Caribbean region, allowing

Mr. HUNTER. Mr. Chairman, will those nations to earn their own way out of their problems.

> The Caribbean area has been one of the few developing areas where democracy has flourished. It is in our own political, economic, and security interests to see that this trend continues and that, through our assistance, strong, viable, and democratic friends thrive as our nearest neighbors.

Mr. Chairman, as the ranking minority member of the Subcommittee on Inter-American Affairs of the Committee on Foreign Affairs, I strongly urge my colleagues to join in support of H.R. 7397 and I wish to insert at this point in the Record a portion of a recent letter that I received from President Reagan, dated December 16, 1982, concerning this legislation, wherein the President states:

• • • I wish to reinforce the Ways and Means Committee's strong support for CBI and underscore the importance of the program to our foreign policy interests, to our neighbors in the south, and to me personally.

As you know, the Caribbean Basin as a whole faces severe economic trouble. My recent trip to Latin America convinced me more than ever that the area's problems are, or will inevitably become, our problems as well. I firmly believe that the best way to ensure economic viability, ease immigration concerns and promote stable democratic governments in the Caribbean is to offer the incentives embodied in the legislation. The CBI is one of this Administration's highest foreign policy priorities because it is needed desperately-and because it will work. It represents an approach to development that America believes in-earning one's own way through trade.

The Presidents of Colombia, Costa Rica and Honduras personally emphasized to me the importance of CBI, not only for them but for the region as a whole. Let me stress that the program is a two-way street-not only will it help the Caribbean, but it will also stimulate U.S. trade.

I ask your support for prompt and favorable action on this bill.

RONALD REAGAN.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think it first important to say what this bill does not do. The chairman and the ranking minority member have adequately explained what the bill does.

First of all, this bill does not change any of our fundamental or basic trade laws. Those laws are still kept intact to protect American industry and American jobs from serious injury, from dumping or from subsidies.

This bill strictly prohibits passthrough type operations, the kind that have worried the people of the tobacco industry, the kind that have worried people in other agricultural industries and in other manufacturing industries.

This bill will not change the multifiber arrangement on fabrics. This bill will not give anyone any break on the importation of petroleum. This bill will not do anything to hurt jobs in the United States. In fact, it is my sincere belief and deep belief that it will build jobs in the United States.

As the majority leader pointed out in his excellent remarks, and I have never heard him more persuasive, he pointed out that as the people of the Caribbean are able to purchase more, they will purchase those products mainly from us and that will create jobs, better jobs, in the United States.

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As the majority leader pointed out, these people of the Caribbean now provide a very favorable balance of trade with the United States. By that I mean that the United States sells them far more than they are able to purchase from us. If you visit those small islands and those small countries, those very small countries, you will notice as you go around that most of the goods that are on the shelves, that most of the machinery that is in their small plants, comes from the United States. Their ability to buy more is that they have got to have more foreign exchange, and the only way they can get more foreign exchange is by being able to sell more.

This is not foreign aid. This is an opportunity for these people to lift themselves up. That is all that this bill does. Opponents of it will tell you that it does not do enough, and therefore it should not be approved. Of course, everyone knows that that is a falacious argument. If it is not enough, we ought to do more, but we should not stop what little we are trying to do here. It is little for us, but it is huge for them. When you compare our size and our economy with theirs, frankly, there are no grounds for adequate comparison.

We should adopt this bill. We will monitor its implementation closely, and I think it is a fine step forward.

Mr. CONABLE. Mr. Chairman, yield 5 minutes to the distinguished gentleman from Illinois (Mr. DER-WINSKI), an ornament to this body in

every sense of the word.

Mr. DERWINSKI. Mr. Chairman, as a strong supporter of the Caribbean Basin Initiative, I urge the House to vote overwhelmingly to show how strongly Congress feels about the importance of the Caribbean Basin. This is not a new concept created by the Reagan administration, it has been understood by every administration in the postwar era. The Caribbean Basin is of vital importance to the United States on both security and economic levels.

We have seen in recent years in the Caribbean region that communism seizes on economic and social problems

to spread their negative views. Obviously, it is in our interests to see that our neighbors to the South have healthy and prosperous economies and are free of the Communist threat. Stable, democratic governments in the Caribbean are developing, and we must give them all the encouragement we can.

The Caribbean Basin countries have made it clear to us that they consider access to markets in the United States of prime importance in their economic development. The duty-free treatment provided by this bill would provide that, while at the same time insuring adequate safeguards against imports which would injure U.S. industry. I believe H.R. 7397 strikes a careful balance between encouraging their economic development and protecting our economy.

There are a number of new leaders in the Caribbean Basin who are counting on tangible economic progress to permit progress toward stable and democratic governments. They need the Caribbean Basin Initiative to give them a boost toward both goals. We must not delay in getting this program underway; if we do, the economic situation in the region will only get worse, leading to a less stable political situa-

Our economy will also benefit from this program. We will have better market opportunities and thus, more U.S. jobs will be created. We will be able to increase our exports of capital assets and technology. In addition, there will be less of a demand on our resources; the need of the Caribbean nations for economic and defense assistance from the United States will not be as great, and we will not have as much of a drain on our domestic expenditures for helping refugees who have come to the United States.

The strongest justification for supporting this legislation is that it will help the nations of the Caribbean Basin help themselves. They will be able to achieve self-sustaining growth toward economic and political stability. Thus, the benefits attained will far exceed the costs of this bill.

The Caribbean Basin Initiative has strong bipartisan support not only in the Congress, but among leaders in our country both in and out of Government. This legislation is in our national interest and provides the best possible means of achieving the goals of the United States and the Caribbean Basin nations of political stability and economic prosperity.

Mr. Chairman, I especially wish to compliment the chairman of the Ways and Means Committee, the ranking minority member, and all members who have worked on this legislation for the great statesmanship shown by the Ways and Means Committee in moving this bill.

I would like to remind the Members that this is a thoroughly bipartisan measure. I think it is in our national interest. I would also remind the Members of the telegram that all should have received from every living Secretary of State who served in the postwar period-Dean Rusk, William P. Rogers, Henry A. Kissinger, Cyrus Vance, Edmund S. Muskie, and Alexander M. Haig, Jr. I quote:

The fate of the Caribbean Basin is inseparable from our own. Our neighbors of Central America and the Island Caribbean have often received little public attention-

#### And I emphasize-

But every administration in the postwar era has understood that the Caribbean Basin is critical to both our security interests and our long-term social and economic wellbeing. The Caribbean Basin Initiative was formulated by this administration, but it reflects the concerns and insights of its predecessors, both Democratic and Republican.

Shortly after World War II, about 50 percent of U.S. foreign investment went south of the border, to Latin America. Now, that figure is down to 25 percent. Those nations cannot grow and prosper without a bigger infusion of U.S. investment. This bill helps provide the basis for it. The legislation as endorsed by the Ways and Means Committee has, in effect, been the product of some compromising. This is to be expected. It included textiles and apparel, footwear and other leather goods, and items excluded from dutyfree treatment, it in effect had excluded from the provisions of the bill about 20 percent of the flow of products we might otherwise expect from the Caribbean Basin countries.

So, our own national interests are protected, if one would assume that those industries protected are in our national interest to protect them.

Basically, the thrust here is to give long overdue support for a truly effective national policy that we must have in the area immediately next to our shores; our security interests, economic interests, social interests. We address them directly by this bill. I strongly recommend it.

I think it is a mark of the type of leadership that the Congress must bring to diplomatic and economic affairs. I recognize that there are some concerns and honest differences of opinion, but I commend to the Members the bill from the Ways and Means Committee, and I commend it to the Members as a very fine, practical, statesmanlike effort to help ourselves while helping our neighbors in the Caribbean Basin.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. MICA).

Mr. MICA. Mr. Chairman, I rise in strong support of the Caribbean Basin Initiative. Let me say that it is a pay now or pay later proposition. If Members have been in this Chamber for the last decade, they know that we have been paying, and if they expect to be here in the next decade, they will continue to pay. We must offer some solutions. It is in this Nation's best interests.

We have seen nondemocratic solutions offered in Cuba and in Nicaragua, and we have paid. We have paid in lives and in dollars. In one study in this country, 10,000 who came fleeing political oppression, economic instability-10,000 in Miami-cost this Gov-ernment \$10 million for 1 year in direct and indirect care, so what does it mean? Not just one nation's stability-the entire region. In Nicaragua, since they changed governments, 100,000 Nicaraguans have come to the United States. Many people do not realize the problems from instability in El Salvador, with 50,000 in the last 6 months to the United States. From Guatemala, 50,000 in the last 6 months. From Honduras, 50,000 in the last 6 months. That is political instability-consider economic instability, unemployment. Migration studies project that they will continue to come and increase in numbers unless something is done.

So, it is a pay now or pay later piece of legislation. We can vote for funds for those who come here, or we can vote for military protection when we lose control of our borders, or we can vote for trade and cooperation, or for one more reason: We can vote to do what is right. We either pay now or we pay later, but the price is going up.

The CHAIRMAN pro tempore. (Mr. SHAMANSKY). The time of the gentleman from Florida has expired.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Louisiana (Mr. MOORE), a member of the committee.

Mr. MOORE. Mr. Chairman, I strongly support this bill for a very fundamental reason that I think has pretty much gone undisclosed thus far in this debate. This bill represents to me a very fundamental exercise or experiment or change in the way we handle our foreign policy.

We are changing in this bill from a program of handouts to a program of incentives. I do not mean to demean all foreign aid. Some of it is necessary, but the average American believes today that for a long time we have been trying to buy friends with handouts with little success. We have spent tens of billions of dollars over the years giving countries cash or weapons. We should question the results. Communism is on the rise worldwide, and is now even in this hemisphere. World poverty is still severe, the world economy is weakening, and our need for a strong national defense to defend the free world is growing.

We do not buy friends. The world's poor do not want handouts. They want

jobs, just like the poor in this country

When we stop and look at it, most despotic or totalitarian governments rise because of economic chaos, because there are no jobs, and their people sink into despair and desperation to a loss of freedom.

The Caribbean area is no different. Already we have seen such things take place in Cuba, Nicaragua, perhaps El Salvador, and I fear others. This results in a national security problem for this Nation, waves of illegal immigrants on our borders, and the loss of markets for our own trade goods, thereby hurting our economy. We simply cannot afford, with our own deficit problems, the amount of foreign aid or handouts we are going to have to give to keep these countries going and keep them free. We cannot afford it. We cannot afford the national defense expenditures to defend the free world if they all begin to turn Communist. We just do not have the

Caribbean Basin Initiative nations do not want handouts. They are proud people, and they want economic futures for their people just as we want for our own. Where we have gone wrong over the years is in giving a demeaning handout to a country who looked to us for the secret of our own success. That secret is the engine of our progress-our free market, free enterprise system or free commercial state. That is what they are looking for. They want to emulate the economic strength of this country, not a

handout.

That is precisely what this bill begins to set in motion. It is not giving a handout. It is beginning to give, for the first time, incentives to these countries to begin to develop their own free market economy and strong economy.

When we look at history we find that all through history, my colleagues, the strongest alliances between nations have been built on trade, and from that have become national defense alliances as well. A strong economy is going to keep these Caribbean countries free, make them trading partners of this Nation, and someday even allies. Think of the billions we could have saved and the much better conditions the world could be in if only we had tried something like this years ago.

Opponents of this bill fear that it will cost the United States jobs and they profess a support of foreign aid instead. I think they are wrong. What they are fearing is fear itself, and we had one President caution us against forming a national policy based on fear of fear itself. We do not have to fear free and fair trade. We can and will compete successfully in this strong Nation of ours against anybody who competes fairly. We have laws on

the books that are going to insure that all of these countries are going to have to compete fairly.

But, here is the interesting partwhen their economy grows, they are going to have the money for the first time to buy our goods, and they do not have it now. That will create jobs in this Nation that do not exist now. Furthermore, we will have reductions, I hope and suspect, in our national defense budget as this part of the world becomes stronger economically. We will no longer have to finance handouts out of our own budget, both thereby reducing deficits, and again contributing to a stronger economy in this country.

Protectionism, in this country, coupled with the age-old mistake of big brother handouts is not the solution. Mr. Chairman and my colleagues. The solution is to give incentives to help these countries build their own strong free economies, make them trading partners of ours, equal partners of ours, and thereby true friends forever.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I have been sitting here listening to the gentleman from Louisiana, and my friend and colleague from western New York, Mr. CONABLE, and I just wanted to rise to say how much I appreciate the statements that are being made on behalf of this legislation. I also want to compliment the chairman of the committee, Mr. Rostenkowski, for his able leadership. The gentleman from Louisiana has suggested that the secret of economic growth and prosperity is freedom and incentive.

The CHAIRMAN pro tempore. The time of the gentleman from Louisiana has expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from Louisiana.

Mr. KEMP. The gentleman has also suggested, and I fully concur, that the Caribbean Basin Initiative is more than an economic program. A major part of our foreign policy is to export the ideals and values of democratic capitalism, the American idea. To do this we must be ready to encourage any nations which are willing to adopt democracy and its attendant political and economic freedoms. When those nations are our closest neighbors, the nations with which our interests are most closely intertwined, idealism and philosophy merges with stark reality. The United States simply cannot ignore the totalitarian threat which grows almost on our borders. We must take the initiative to protect our freedoms by expanding our ideals and way of life; we must counter the ideological and political threat of Communist insurgents with the realities of economic, social, religious, and political freedoms.

The Caribbean Basin Initiative is but the first salvo in the new American effort to renew our dedication to the American idea. As President Reagan presented so eloquently before the British Parliament, we must develop these ideas as the cutting edge of our foreign policy. While we will always stand ready to assist the poor and struggling nations with our economic and industrial resources, by far the most important contribution we can make to their economic, political, and social well-being is to provide an ideal toward which they can aspire, just as we aspire to gain the full measure of our promise as a Nation.

The gentleman suggests the secret to economic growth and prosperity is incentive. The same ideas that carved out of this raw continent a very striving and prosperous nation will bring

prosperity to our neighbors.

The economic problems facing the nations which will benefit directly from this legislation are the same as our own: High unemployment, unstable currency, excessive government debt. The solution is likewise the same. None of the nations of our region will solve their problems without sustained economic growth brought about by increased incentives to work, save, and invest and a monetary system which provides sound, stable currencies and stable exchange rates, the Caribbean Basin Initiative program is but a first step toward setting the preconditions for economic growth.

As with our own economic recovery program, the Caribbean Basin Initiative is aimed at expanding the size of the economic pie shared by all Americans. Just as the great American prosperity of the 1950's and 1960's developed hand in hand with the rebirth of the European and Japanese economies, our coming economic recovery will be greater as the economies of all our trading partners prosper.

Expanding trade through a program which depends on the initiative and dedication of entrepreneurs, workers, and investors rather than subsidies and government support can only mean more jobs and higher incomes

for everyone.

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Mr. Chairman, I think the gentleman has made a tremendous contribution to this debate. I appreciate his contribution, and I thank him very much for his leadership. I want to congratulate him for that.

Combined with the emergency foreign exchange assistance already provided and the investment tax incentive package to be ready early in the next Congress, this legislation will make a significant contribution to expanding economic opportunities and building

strong trade relationships throughout the Central American/Caribbean

region.

Mr. MOORE. Mr. Chairman, I thank the gentleman from New York (Mr. Kemp). I say to my colleague that I have heard him expound many, many times on this very point. That is exactly what I see as the fundamental difference in this bill compared to anything that we have been called on to vote upon in the four Congresses in which I have served.

For the first time, as the gentleman said, we are not only exporting the true secret of the materialistic success, happiness, and freedom of the American people—our free market economy—we are also making it possible. We are also setting in place a series of trade incentives that allows them to freely export their products to this country, which makes possible the establishment of a free market economy all throughout the Carribean Basin.

Mr. Chairman, the combination of these two things, I believe, is going to lead to a new day in foreign policy for the United States, one that is a whole lot more successful than what we have seen in the last 30 or 40 years.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. Jenkins).

Mr. JENKINS. Mr. Chairman, I rise

in support of this bill.

I recognize that the President, in speaking for the Nation, has made a firm commitment with this proposed legislation. I think that it is imperative that we as a Nation attempt to do more for people in this hemisphere, in this part of the world, because certainly our strength and our future lies

with these people.

So while there are areas in this bill about which I have concerns, I intend to support it on final passage. I intend to do so enthusiastically because I think it is a good bill. We have looked after some of the most sensitive areas of our own domestic industry. As I indicated earlier during the debate on the rule, I intend to support, if it is offered, the amendment made in order by our colleague, the gentleman from the Virgin Islands (Mr. DE LUGO). I really believe that the committee has made a mistake in not working this matter out for American citizens in the Virgin Islands, because they are American citizens. Let me remind those Members who are about ready to go to lunch that I want them to think about one thing when this amendment comes up.

In the last 15 months, Jamaica has brought into this country 2,700,000 proof gallons of rum that are now stored here, and 600,000 gallons have been withdrawn, leaving over 2,000,000 there. The tariffs have not been paid. I want to tell the Members that this is owned by multinational corporations. I say to my friends that they ought to

think about that when we pass this bill, without the de Lugo amendment that gives some protection for Puerto Rico and the Virgin Islands. I would tell the Members that this could become an embarrassment, and I do not want to see that happen. We can avoid that if we adopt the de Lugo amendment. The de Lugo amendment is a very liberal amendment. It attempts to say to the rest of the countries, "You can increase your importation into the United States by 50 percent a year." It was agreed upon by Mr. Brock earlier. It ought to be made a part of this bill so that we can enthusiastically support it.

I will be honest and say to the Members that I intend to support the bill regardless. I have no interest in the Virgin Islands, but there is a principle involved. Today, when the gentleman from the Virgin Islands (Mr. DE LUGO) offers that amendment, I ask the Members to take the opportunity to look at it and study it. It deserves their full support.

Mr. Chairman, as we try to help the rest of the Caribbean countries, let us not forget Puerto Rico and the Virgin Islands. They are, after all, American citizens, and we owe them that much.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from California (Mr. Lago-MARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong support of H.R. 5900, the Caribbean Basin Initiative, in my opinion one of the most important bills of this 97th Congress.

As my colleagues are well aware, the Congress passed one element of the CBI several months ago, the economic emergency assistance package for the Caribbean nations. But since that was only one element of the administration's overall program for helping revitalize the economics of our Caribbean and Central American neighbors, it is essential that we approve today the remainder of the CBI package. It is important to note that the Ways and Means Committee carefully considered and amended the bill. It was not a hurried consideration.

The crisis in the Caribbean has not changed since the President announced his initiative in February. If anything, the needs are even greater today. Relying just on direct economic assistance will not solve the long-range economic difficulties that region faces. We must provide the combination of trade and investment incentives that will permit the Caribbean and Central American countries to develop and sustain economic growth that mean a real improvement for their peoples.

The urgency of the situation was made clear in the President's visit to Latin America during the first week of December. The residual effect of the Falklands/Malvinas conflict was still apparent, and we need to point to some positive accomplishment toward Latin America and the Caribbean to help improve our relations with this region. The importance of the CBI can be felt in more than just our international relations. It can have a positive domestic effect as well.

Among the arguments I have heard since the CBI was first proposed were those complaining about the amount of money being spent on foreign aid while domestic programs were being cut back or that elements of the CBI which provide for a free trade zone and promote foreign investment might mean a loss of jobs at home. However, as those Members from California and other Southwestern and Southern States know, the flood of immigrants to the United States, both legal and illegal, from Latin America and the Caribbean Basin places a strain on the U.S. economy that is much greater than the programs represented by the CBI. If the Caribbean Basin Initiative is successful, it should save money and jobs for the United States.

Last March, at a meeting in which the United States participated with Canada, Mexico, Venezuela, and Colombia, a joint communique was issued praising the CBI. It said the Caribbean Basin Initiative "could make a significant contribution to the region's development," and the foreign ministers at that meeting expressed their hope that "these measures would be implemented as quickly as possible."

Every single Caribbean and Central American leader with whom I have met has strongly supported CBI. They also emphasized the need to have a comprehensive program for every country in the area.

For my colleagues who do not like foreign aid, here is a hand up, not a hand out approach, trade not foreign aid. For my colleagues who do not like military aid, here is a chance to get ahead of the curve, to promote economic, social, and political stability, to promote democracy, for if we do not, we will be back here considering emergency military aid.

It is vital to the United States national interest and to the interest of our relations with our Caribbean and Central American neighbors that we promptly pass this legislation. I urge my colleagues to resist efforts to restrict the impact of the CBI and to give H.R. 5900 their strong support.

THE WHITE HOUSE, Washington, December 16, 1982.

Hon. Robert J. Lagomarsino, House of Representatives, Washington, D.C.

Dear Bos: The Caribbean Basin Initiative, a bipartisan program that will stimulate both U.S. and Caribbean trade and investment, will likely reach the House floor in the next few days. Before you begin consideration of H.R. 7397, which pertains to the trade and tax provisions of the CBI proposal, I wish to reinforce the Ways and Means

Committee's strong support for CBI and underscore the importance of the program to our foreign policy interests, to our neighbors in the south, and to me personally.

As you know, the Caribbean Basin as a whole faces severe economic trouble. My recent trip to Latin America convinced me more than ever that the area's problems are, or will inevitably become, our problems as well. I firmly believe that the best way to ensure economic viability, ease immigration concerns and promote stable democratic governments in the Caribbean is to offer the incentives embodied in the legislation. The CBI is one of this Administration's highest foreign policy priorities because it is needed desperately—and because it will work. It represents an approach to development that America believes in—earning one's own way through trade.

The Presidents of Colombia, Costa Rica and Honduras personally emphasized to me the importance of CBI, not only for them but for the region as a whole. Let me stress that the program is a two-way street—not only will it help the Caribbean, but it will also stimulate U.S. trade.

I ask your support for prompt and favorable action on this bill.

Sincerely,

RONALD REAGAN.

#### [Mailgram]

CARIBBEAN CENTER, AMERICAN ACTION, Washington, D.C., December 14, 1982. Hon. Robert J. Lagomarsino, House Office Building, Washington, D.C.

DEAR MEMBER OF CONGRESS: We are writing to ask your vote in favor of passage of the Caribbean Basin initiative, which each of us strongly believes is vital to the long-term interests of the American people.

The fate of the Caribbean Basin is inseparable from our own. Our neighbors of Central American and the Island Caribbean have often received little public attention, but every administration in the post-war era has understood that the Caribbean Basin is critical to both our security interests and our long-term social and economic well-being. The Caribbean Basin initative was formulated by this administration, but it reflects the concerns and insights of its predecessors, both Democratic and Republican.

The legislation approved by a 27-6 vote in the House Ways and Means Committee provides opportunities and incentives for more investment, more production, and more jobs in the Caribbean area. These opportunities—if realized intelligently and energetically by the people of the basin—will stimulate self-sustaining growth to serve as the foundation for political and social progress and stability. The alternative, and the inevitable result of continued political and economic unrest in our immediate neighborhood would be a highly uncertain security situation, a rising flow of immigration, and direct and disruptive human consequences for the United States.

Understandable concerns have been expressed by some about possible effects on U.S. production and employment. We believe the legislation as it emerged from the committee is balanced with safeguards for our most vulnerable industries. In addition, we are convinced that the long-term impact of the CBI will be positive. A prosperous Caribbean Basin means a better market for our own exports. It means lesser demands on U.S. resources—for defense, for economic assistance, and for social expenditures

within the U.S. to help the displaced victims of social and economic unrest.

We urge the full Congress to follow the committee's example and complete passage of the CBI program. To delay will not help our economy or U.S. workers, but it will harm both our friends and our long-term national interests.

Please accept our thanks in advance for your personal contribution on this vital issue.

Sincerely,

DEAN RUSK.
WILLIAM P. ROGERS.
HENRY A. KISSINGER.
CYRUS VANCE.
EDMUND S. MUSKIE.
ALEXANDER M. HAIG, Jr.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. Zablocki).

Mr. ZABLOCKI. Mr. Chairman, I rise in strong support of the bill before the House, the Caribbean Basin Eco-

nomic Recovery Act.

I would first like to commend the chairman of the committee, the gentleman from Illinois (Mr. ROSTENKOW-SKI), the gentleman from Florida (Mr. GIBBONS), the ranking minority member of the committee, the gentle-GIBBONS), man from New York (Mr. CONABLE), the gentleman from Minnesota (Mr. FRENZEL), the gentleman from Michigan (Mr. Vander Jagt), and the other members of the Committee on Ways and Means, for moving this important and controversial legislation in such a responsible fashion. They have shaped the trade and tax portions of the President's Caribbean Basin Initiative in a manner which resolves most of the serious domestic concerns, while not substantially altering the basic intent and purpose of the proposal. For that they deserve our commendation and that of the President.

Earlier this year, the Committee on Foreign Affairs held extensive hearings on the entire Caribbean Basin Initiative and reported a slightly revised version of the foreign assistance portions of the package. The Appropriations Committee followed the provisions of that bill in appropriating the funds in a supplemental appropriations bill in September; those funds are now being made available. That assistance is designed to help meet the short-term balance of payments needs which are hamstringing the economies of most of the countries of Central America and the Caribbean. It will tide them over only in the short run. More critical to the medium and longterm development of the region are the provisions, particularly the trade provisions, of H.R. 7397.

Let me call the attention of my colleagues to two critical points. One, the Caribbean Basin area is critical to U.S. foreign policy, economic, and security interests. As the majority leader so eloquently emphasized, those very in-

terests are being placed in jeopardy today by the economic retrenchment and malaise that is engulfing the region. The longer that stagnation continues, the greater will be the threat to the established democratic processes in many countries in the region, the greater will be the retrenchment in U.S. exports to the region, and the large number of illegal immigrants will find their way into the United States.

Second, the Ways and Means Committee has modified this legislation so as to minimize the potential job loss and to maximize the potential job gain, to the extent that, in fact, this legislation should be viewed as a jobscreation program. All of the U.S. products most sensitive to foreign competition have been exempted from the free trade provisions, and the economic activity that will be generated in the region will be directly supplied by U.S. materials and capital equipment-that is, will create U.S. jobs.

I urge the Members to vote in favor of this important legislation so that it can be sent to the Senate and enacted

before the end of the session.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the distinguished ranking minority member of the Committee on Appropriations, the gentleman from Massachusetts (Mr. Conte).

Mr. CONTE. Mr. Chairman, first of all, I want to thank the ranking Republican member of the committee for

yielding me this time.

Mr. Chairman, I rise in support of H.R. 7397, the Caribbean Basin Initiative. There is one question that I am sure has been or will be asked by each Member of this House before their vote is cast on this bill: How can we create a program of foreign assistance-duty free, one way trade-when the United States is in the midst of the most severe economic recession since the Great Depression? Good question.

I had this same concern before I considered the specifics of this proposal. Now, I am convinced that the Caribbean Basin Initiative is in the best

interest of America.

The facts concerning the CBI are

clear and well documented.

First, the CBI is in the national interest of the United States. The economic security of this country depends on a politically stable Caribbean Basin. Nearly one-half of all U.S. trade-including three-quarters of our imported oil-passes through the region. Let us take this opportunity today—to address a growing atmosphere of instability before it is too late, before more drastic measures are required.

Second, the Caribbean Basin Initiative is a trade bill, not an aid bill. In September, the Congress approved a supplemental appropriation for fiscal year 1982 that contained \$350 million of the CBI.

The trade component, probably the most important element of the initiative, simply allows qualifying Caribbean nations duty free access to U.S. markets. Of course, there are certain exceptions to protect U.S. interests. But again, let us consider the documented facts-not the myths about the CBI. The critics argue that the plan will cost American jobs. I understand their concern. I would not be here today supporting such an initiative if the bill detrimentally affected our economy, especially during this recession. However, the reality does not support this concern.

The United States has a \$2 billion trade surplus with the Caribbean

region; and

Imports to the United States from this area amount to only 4 percent of total U.S. imports.

The weak and struggling nations of the Caribbean could hardly damage

the U.S. economy.

Finally, Mr. Chairman, let me make one more observation. Last night we were subject to extensive debate on the immigration reform bill, I do not want to diminish the importance of the legislation, but Members should examine the CBI in terms of immigration. It is a fact; the Caribbean Basin region is the second largest source of illegal immigration to the United States. With better economic conditions, the mass immigration will surely slow down.

The trade bill under consideration today is a well-balanced program. The bill combines a substantial economic stimulus to Caribbean countries with essential and adequate safeguards for American economic interests.

Mr. Chairman, passage of the Caribbean Initiative is a chance for this Congress to make the lameduck session worthwhile. I urge my colleagues to examine the facts, to consider the realities, and to contemplate the consequences of inaction-when the House votes on this bill today.

# □ 1230

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BARNES).

Mr. STUDDS. Mr. Chairman, will

the gentleman yield?

Mr. BARNES. I yield to the gentleman from Massachusetts.

Mr. STUDDS. I thank the gentle-

man for yielding.

Mr. Chairman, this bill strikes me as far more on symbolism than it is on substance, but I think the symbolism is a good one and I ask my colleagues to support it.

Mr. Chairman, it does not seem to me that H.R. 7397, the Caribbean Basin bill, will have a discernible effect on the economy of the United States. If it were not for the symbol-

as part of the economic aid component ism attached to this legislation, and the visibility of the administration's support, I think this would be a routine, almost inconsequential bill.

> I will vote for it because I think it will help relations between the United States and countries of the Caribbean and Central America, and because I believe it may contribute, in a small way, to the economic well-being of nations in which the majority of people

are desperately poor.

I am not a supporter of the Reagan administration's overall policy toward Central America and the Caribbean. The Caribbean Basin Initiative barely begins to address the severe social and economic problems which are the cause of much of the violence and misery in the region today. The President, himself, has claimed great credit for this initiative, while at the same time calling for reductions in U.S. contributions to international financial institutions, including the Inter-American Development Bank. In addition, the President has ordered that the grant money included within the CBI be allocated almost in its entirety to El Salvador, while Costa Rica, the most democratic of Latin American nations, must pay back every penny it will receive.

But the issue today is not President Reagan's policy toward Central America, it is H.R. 7397. The countries of the region want this bill; it will not damage U.S. interests; and I hope in the long run it will serve them.

I support the bill, and I urge my colleagues to do the same.

Mr. BARNES. Mr. Chairman, I think it is fair to say, and I doubt I would be contradicted by anybody in this body, that I have not exactly been a flak for the Reagan administration's Latin American policies in my position as chairman of the Subcommittee on Inter-American Affairs of the House Foreign Affairs Committee.

When I think President Reagan is mistaken, or Secretary Haig or Secretary Shultz are mistaken with respect to their approach to Latin America, I have no hesitancy to speak out and

criticize those policies.

But equally, when I think they are right, when I think they are taking a step that is consistent with the kind of policies many of us on the Democratic side have advocated for years, going back to President Kennedy, President Roosevelt, and others, I am going to stand in the well of this House and advocate voting for that Republican President's initiative. That is exactly what we have today.

We have an initiative from a Republican President that is consistent with exactly what many of us as Democrats have been arguing for years and decades as what we ought to do. Many of us say that military assistance and military programs are not the answer to the U.S. security interests in Latin America.

Now we have an opportunity today to demonstrate that we believe what we have been saying all these years, that we believe that the answer to our security concerns is economic growth, development, and that that ultimately is going to be the key to U.S. security in the region.

I had the opportunity as chairman of the subcommittee earlier this year to have lunch at the home of the outgoing President of El Salvador, Jose Napoleon Duarte, the leader of the Christian Democratic Party in El Salvador, a moderate and friend of the United States, a committed democrat, and I say democrat with a small "d."

He said something to me at that time that I will never forget. It has been echoed in many conversations with other leaders from the region. President Duarte said:

If the people of my country just believed that tomorrow was going to be better than today, that their children were going to have a better life than they have had, then the communists could bring all of the guns they want into my country, but there would not be anybody here to pick them up and use them.

That, it seems to me, is the challenge to the United States. It is the challenge that in a very small way, in a much too small way, really, the Caribbean Basin Initiative is designed to address. It is to give those people hope that tomorrow will in fact be better than today, that their children can have a chance to get a job, that their children are going to have the kinds of opportunities they have been denied.

I urge support for this initiative. Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Wyoming (Mr. Cheney).

Mr. CHENEY. Mr. Chairman, we have before us today legislation that would write into law the centerpiece of the Reagan administration's foreign policy toward our neighbors throughout the Caribbean, and Central America. It is imperative that we take action today to give cohesion, direction, and solid support to America's policies toward our crucial neighbors in this hemisphere.

For far too long, America's policies toward our closest neighbors have been dictated by the crisis of the moment, and have been based on little in the way of the consistent, long-term interests of both our own country and the other nations which share this hemisphere with us.

Since President Reagan took office, however, there has been an increasing attention to the setting of our foreign policy goals regarding the Caribbean, Central and South America. The backbone of President Reagan's program has been to insure that our policies reflect consistent, long-term interests, goals and programs, not simply will-o'-

the-wisp, stopgap reactions to short-term crises.

That is why he has offered his Caribbean Basin Initiative, and why it is so important to all of the Western Hemisphere. Mr. Chairman, the Caribbean Basin Initiative will give a needed boost to the economy of many nations bordering on the Caribbean Sea, without adversely affecting the American economy. Indeed, by improving the economic climate of all of the Western Hemisphere, it will help both American industry and our labor force at a time of economic belt tightening. H.R. 7397 carefully protects sensitive American industries, brings about cooperation on taxes between the United States and affected nations, improves the economic climate of the region, and gives needed support to a host of friendly governments which have emerged in the region. It is good for the people of the Western Hemisphere-the United States includedboth economically and politically. Mr. Chairman, the House Republican Policy Committee, of which I am chairman, has considered the foreign policy and economic proposals encapsulated in H.R. 7397, President Reagan's Caribbean Basin Initiative, and given the package its wholehearted support. The full statement of the House Republican Policy Committee follows:

The House Republican Policy Committee supports President Reagan's Caribbean Basin Initiative (H.R. 7397) and urges passage. This bill will do much to extend political and economic stability to America's neighbors in the vital Caribbean region.

President Reagan's proposal is crucial to American interests. Our nation's economy and security would be threatened by constant confrontation with a collection of hostile nations in that area. Much of this nation's trade currently passes through the Caribbean Basin. Faced with economic strains, the region has become our second largest source of immigration. The nowemerging generation of constructive new leaders in the Basic must be able to show their people tangible economic progress if they are to maintain the momentum toward stable, democratic political systems. The alternative to this fresh wind of responsible leadership in the Caribbean is demagogues of the extreme left or right who are hostile to U.S. interests.

H.R. 7397 will help these nations achieve self-sustaining growth. The House Republican Policy Committee believes that the long-term economic stability arising from the Caribbean Basin Initiative will be immeasurably greater than the immediate cost of the proposal.

The House Republican Policy Committee agrees that the current economic crisis in the Caribbean will not disappear if action on H.R. 7397 is postponed. Delay will simply make the situation worse. In addition, countries of the Caribbean Basin now buy most of their imports from the United States. An economically and politically healthy and stable Caribbean region means a better economy and more opportunities for American workers. For all those reasons, the House Republican Policy Committee therefore supports and urges passage of H.R.

7397, President Reagan's Caribbean Basin Initiative.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. Rangel).

Mr. RANGEL. Mr. Chairman, I rise in support of this initiative.

When the Ways and Means Committee, led by our chairman, went to visit some of the countries, I gathered that he was apprehensive as to whether or not there was substance to some of the programs, whether it would work or whether indeed it would be received. I think he was overwhelmed, as most of the people on the committee were, with the friendliness of the people that we went to visit.

It is remarkable to see how so many people who live so close to these great United States can offer their friendship to us and, unlike so many other nations, ask absolutely nothing in return.

No matter where we went, no matter whom we visited, we saw America was almost a part of their lives.

Certainly those of us that came from the city of New York can hardly go to any neighborhood without finding some part of the Caribbean there because most every family, whether they come from wealth or whether they come from poverty, somehow hope that their kids could become a part of this great American dream that we just take for granted here.

I guess with friends that it is natural to do this, that we have taken them for granted for so long.

Some people have declared that the Caribbean Basin Initiative is merely symbolic and others have said but so what, because for so many islands that are there in the Caribbean they will be unable to take advantage of any of the relaxation of trade because they are just too poor to take advantage of what is in the bill.

Yet the leaders in each and every country had hoped that this Congress would fulfill its symbolic commitment to say that they recognize our friends, that they recognized a need and perhaps if this great country would just say we are concerned, that somehow it would improve the economic conditions so that thay would not have to beg for assistnce but, indeed, they can stand on their own two feet and trade with this country. They are only asking for an opportunity to manufacture and allow this market of ours to be exposed to them.

It is not competitive to anything that our country is involved in. Our economic recession, and certainly a depression for people in my district, is not going to be affected by the symbolism in this bill.

But what a great opportunity for this country not to wait for a whole lot of political problems to cause unrest, not to be so anxious to be concerned about whether or not there is a submarine from the Soviets, not to be concerned because someone visits that small island called Cuba. But merely to be concerned that so many people that have loved this country, that have visited this country, that live in this country, are just asking whether or not friends are willing to help friends.

I am certain that this Congress is willing to do just that.

Mr. VANDER JAGT. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Hunter).

Mr. HUNTER. Mr. Chairman, I rise in support of the bill as amended by the amendments offered by the committee.

The heart of this bill is a duty-free status that is accorded certain goods that are produced or could be produced by those nations which we regard as friends in the Caribbean Basin. The primary purpose of H.R. 7397 is to facilitate the economic expansion of those nations in the Caribbean Basin.

However, when we implement the bill we must not allow that noble purpose, and it is a noble purpose, to lead to a transplantation of American industry to the Caribbean. We must very carefully apply this initiative.

The American tuna industry, for example, is a very highly mobile industry. It does not depend on a complex chain of suppliers. It is not based on permanent facilities that cannot be moved. It is not based on high technology.

To process tuna you need two things basically. You need people and you need tuna.

It is obvious that should this duty be lifted we could expect this employer of some 50,000 Americans to migrate across the street. So because of this unique mobility and the trade sensitivity of the tuna industry, the Ways and Means Committee has seen fit to offer an amendment to exclude tuna.

Let me tell my colleagues: several thousand workers in San Diego's tuna industry, as well as in American Samoa, and Puerto Rico, and Hawaii are greateful for this relief.

Mr. Chairman, I therefore strongly support the bill but I would urge the President and this Congress to review this situation as often as possible to assure that this initiative increases the industrial base of our neighbors and not necessarily that of Japan and Western Europe.

I yield back the balance of my time.
Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 7397, the Caribbean Basin Economic Recovery Act, and I also support certain amendments made in order by the Rules

Committee which will be offered later today.

The Caribbean Basin Initiative taken by President Reagan represents the first comprehensive effort in 20 years on the part of the United States to stimulate economic development in that region. The proposal merits the support of the American people, including the people of Puerto Rico.

From the beginning, Puerto Rico has followed the initiative with interest and concern. The interest springs from an appreciation that Puerto Rico itself is more likely to prosper over the long run if it finds itself in a basin of hopeful prosperity rather than destabilizing poverty. Yet more than economic calculations are at work. Given the common history, heritage and geographic location of the countries of the basin, Puerto Rico's attraction also springs from the emotions of consanguinity.

Puerto Rico has, however, expressed some concerns about the policy. To be successful the CBI must adequately protect, preserve, and develop further the Puerto Rican economy. In the letter transmitting the CBI bill to Congress, President Reagan reaffirmed his administration's commitment to a number of steps designed to take into account the special position of Puerto Rico and the Virgin Islands. I am pleased that certain important safeguards for Puerto Rico's rum industry as well as agricultural products are included in the bill.

To promote joint resource development in the basin, inputs to Caribbean Basin production from plants in Puerto Rico and the Virgin Islands will be considered domestic inputs from Caribbean Basin countries for purposes of the rules of origin when goods are exported to the United States. Industries in Puerto Rico and the Virgin Islands will have access to same safeguard provisions as mainland industries under the Trade Act of 1974. Thus, affected industries including those engaged in agriculture, will be able to petition for relief from serious injury. Finally, to further the agricultural development of the area, a tropical agricultural research will be centered in Mayaguez.

Despite these specific measures to aid Puerto Rico, its population remains concerned about certain issues such as tuna. I urge Congress to amend the legislation to protect the vital American tuna industry in Puerto Rico and elsewhere in the Nation

Whether the CBI can be successful will depend on the kind of partnership the governments of the area decide to forge with private business. A wise partnership will enable the countries in the area to promote fairer business, trade, and labor practices. In contrast, the initiative can only fall if governments encourage activities that exac-

erbate the unfair exploitation of local resources, including labor, and result in the rich becoming richer. The experience of Puerto Rico can offer an example: Its successful experiments others can suitably adapt; its mistakes they can carefully avoid.

I urge you to support certain amendments, particularly the tuna amendment, and subject to the approval of the amendments, I urge you to support the bill.

Mr. VANDER JAGT. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. ROGERS).

Mr. ROGERS. Mr. Chairman, I come to this body today with some mixed feelings about this bill. While my President supports it and I would like to support it, and the fact that the Caribbean nations no doubt need help and need a good dose of the free enterprise system that this bill ostensibly would provide to them, there are some very important areas of the United States, one of which I happen to represent, which could be severely hurt by this bill, I am afraid.

It is that interest that I wish to speak to briefly today.

We have exempted oil from this bill. We have exempted textiles, garments, leather goods, and others. Perhaps later on tuna will be exempted.

Yet we have not exempted a product grown by hundreds of thousands of small, poor farmers in this country that I think would be severely hurt by this amendment. That is tobacco.

# □ 1245

This bill does not exempt tobacco, leaf tobacco, grown from the Caribbean, and perhaps under the provisions of this bill funneled through the Caribbean from places such as Brazil and South Korea, places that do not come within, of course, the Caribbean Basin area.

There are hundreds of thousands of small tobacco farmers in this country who can be severely hurt by this bill, 40,000 of whom grow tobacco in my southern Kentucky district. The first, and foremost, and obvious effect of the bill would be to increase tobacco production and exports from the Caribbean countries, countries which are already major tobacco producers. They already export over 14 million pounds per year into this country, and they already have the capacity to undersell us by \$1 per pound.

So who does this CBI tobacco provision concern? It does not concern the large cigarette manufacturers in this country because certainly cheaper tobacco leaf would benefit those companies. It does not concern the very large corporate growers of tobacco in this country because they can survive against that kind of competition. It does not even concern those in this body who are concerned about the

health aspects of smoking and tobacco. Who it does concern are the hundreds of thousands of those very poor farmers growing tobacco in the 1-acre plots in the Appalachian section of this country and throughout the Midsouth. Who have no other source of income with which to buy the groceries to feed their small children, with which to buy the education for those children, with which to provide the very basic living for those poor families. That is who this bill directly affects in this country.

The second major impact of this bill, perhaps more importantly, the 35-percent local content provision contained in the bill will have an additional adverse effect, it will encourage other foreign tobacco products to be processed in the Caribbean and then shipped to the United States with duty-free treatment. Exports by some of our larger competitors presently would be encouraged. including Mexico, Brazil, South Korea, Italy, and Malawi, with little additional expense for ocean freight to mitigate this possibility. We would be handing these countries, not the Caribbean, a savings of approximately 15 to 17 percent ad valorem duty which is presently charged.

Mr. Chairman, let there be no mistake about whether imports of tobacco are growing. During the years of 1974 to 1978, annual imports of cigarette leaf totaled about 5.4 million pounds. By 1981, this figure had skyrocketed all the way to 14.2 million pounds, a tripling of imports of Caribbean leaf. And the potential for even more increases in tobacco production remains in these Caribbean countries.

And with domestic demand flat, increases in imported tobacco can only mean decreases in the use of domestic leaf

Mr. Chairman, the severe impact of this shift away from domestic toward foreign tobacco would not fall on the large cigarette manufacturers. It would fall strictly on the shoulders of the hundreds of thousands of small growers in 22 States across our country. It would fall especially heavily on the shoulders of the 40,000 small tobacco growers right in my own district.

The average size of a tobacco allotment in my district is about 1.3 acres—these are clearly small farmers. And Mr. Chairman, if my farmers are not able to produce tobacco, there is simply no other crop they can turn to to restore their principle source of income.

Moreover, Mr. Chairman, this policy runs counter to the very concerns our own Department of Agriculture has voiced earlier this year. They stated their concern that there would be surpluses of tobacco on the U.S. market and that to remedy this situation they had to cut back on the tobacco price support level. But, Mr. Chairman, al-

lowing duty-free treatment for tobacco imports will only worsen this glut, with more tobacco coming under loan.

Mr. Chairman, our farmers have had to absorb enough expenses this year. At the same time that they have suffered with crippling interest rates and low commodity prices for their other products, they have had to absorb the costs of weighing and grading tobacco. They have had to absorb the assessments for the no net cost tobacco program. And they will have to absorb the nearly staggering impact of the doubled cigarette taxes. Now, the frightening prospect of millions of pounds-duty free-from the farmers Honduras, Nicaragua—possibly South Korea, Brazil. What programs will be required to support our families when their only cash crop is not

marketable.
Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. Pease).

Mr. PEASE. Mr. Chairman, I rise to express my opposition to this bill. I do not oppose it happily.

As a former member of the Foreign Affairs Committee, I am acutely aware of Central America's desperate need for economic development. Not one of the hundreds of people who have worked directly on this legislation have questioned the Caribbean area's urgent need for such essentials as jobs, food, and political stability. Our differences of opinion have centered around how best the people of the United States can assist the people of the Caribbean, not on whether the goal is an honorable one. Stability in the Caribbean is crucial to American foreign policy interests. If this proposal works-as some say it will-and these countries experience new productivity, then the United States will benefit as well. This bill is also important as a visible demonstration of American commitment to the people of the Caribbean and to their future growth and welfare. Time and time again we have turned our back on this region.

It is possible that the centerpiece of H.R. 7397, the one-way free trade provision, could attract capital investment to these struggling countries and stimulate expansion of existing industries. However, I have serious reservations about whether the 35-percent, value-added language will be sufficient to protect American workers from the passthrough of goods from third party countries through the Caribbean.

My problem is not with the concept of trade concessions to this area nor with specific language in the trade title. Rather, my problem is with the painfully high level of unemployment we are experiencing in the United States and, particularly, in my district in north central Ohio. The unemployment rate in the United States is 10.8 percent, in Ohio it is 14.2 percent, and

in the largest county in my district it is an intolerable 24 percent.

I simply cannot go back to my district, which is suffering cruelly from an erosion of its industrial base and the permanent loss of many jobs, and tell 50,000 jobless people and their families that I supported legislation which might cause further job loss in our country and might encourage American plants to relocate in the Caribbean.

My problem with the Caribbean Basin Economic Recovery Act can be laid at the doorstep of the Reagan administration, which has told people if they are unhappy with having no job they can vote with their feet. This administration has consistently opposed unemployment compensation, jobs programs and job retraining for the unemployed. For example, at a recent Subcommittee on Public Assistance and Unemployment Compensation hearing on proposed legislation extending supplemental unemployment benefits, the administration refused to even appear to present its views. At a hearing this year in the Trade Subcommittee on my bill to create job-retraining opportunities for workers displaced through imports, the administration appeared to record its strong opposition to the proposed program. The administration also refused my request to include job-training benefits in this bill for workers losing their job as a result of import penetration. Further, the administration has signaled its intention to veto the jobs bill written in the House.

The administration simply cannot have it both ways. It is unconscionable to promote a trade and tax concession bill that will make it easier for companies in the Caribbean to compete against American workers and simultaneously to refuse essential job retraining for those workers, to oppose extension of unemployment compensation, and to threaten the veto of new jobcreating legislation.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from Delaware (Mr. Evans).

Mr. EVANS of Delaware. Mr. Chairman, today we consider one of the most essential components of the Caribbean Basin Initiative, the critically important trade provisions of CBI. The economic and national security interests of our own Nation are important to every citizen of the United States, and they are closely bound to the stability and the development of the nations in this area of the world. Aside from humanitarian reasons, this region is absolutely vital to the economic well-being of the United States. Nearly half of all of our trade travels through the Panama Canal or the Gulf of Mexico. Two-thirds of our imported oil, the lifeblood of U.S. industrial production, follows this same route, and over half of the materials determined to be strategic and critical to our own national security and our own economy must pass through this region.

Let me reduce this concept down to one issue very close to home, to one country in our own backyard, to the country of Jamaica. Bauxite from Jamaica is critically important to our Nation's economy because of the need for aluminum. You cannot make aluminum without bauxite, and we are very much dependent upon the large amount of this material we import from Jamaica. Jamaica is also important because of its strategic geographical location. It is also extremely important because Edward Seaga, the Prime Minister of Jamaica, is a good friend of the United States of America. He defeated the Marxist-oriented Michael Manley in October 1980 in a free and fair election. That country was on the brink of chaos, economically as well as politically. He is beginning to bring Jamaica back. We need to reinforce his efforts.

Mr. NELSON. Mr. Chairman, will

the gentleman yield?

Mr. EVANS of Delaware. I yield to

the gentleman from Florida.

Mr. NELSON. Mr. Chairman, I want to point out the personal relationship that the gentleman from Delaware has with the Prime Minister of Jamaica and thank him for his personal efforts to assist Jamaica and the Caribbean in their comeback attempt.

I support this legislation.

The security interests of the United States will be severely challenged in the next decade in the Caribbean

Basin region.

Economically and militarily, the Caribbean Basin is of utmost importance to America. At least 45 percent of all oil imported to the United States traverses those waters and 40 percent of all shipping commerce to the United States uses the shipping lanes of that region.

The Caribbean Basin is a grouping of island nations from Florida to the coast of South America and includes the nations of Central America now in such turmoil. In all, there are 2 dozen.

Castro's Cuba backed by an expansionist Soviet policy, has been exporting revolution and is having some success. A former parliamentary democracy, the tiny island nation of Grenada, now sports Mig-23's on its new 12,000 foot Cuban-built runway. Nicaragua has become a staging area and conduit for the spreading of Cuban and Soviet-supplied arms throughout the region.

Economic siege and class warfare have made this region ripe for revolu-

tion.

The United States, to protect its own vital interests, must respond immediately with an economic program that combines trade, aid, and investment—a program of long-term commitment to

these countries to assist them toward saries and our potential adversaries self-sustaining economic revival. saries and our potential adversaries around the world. Maintaining strong

I believe we are at the 11th hour. Thus I welcomed President Reagan's Caribbean Basin Initiative announced at the Organization of American

States last February 24.

The centerpiece of this program is free trade for Caribbean Basin products exported to the United States, the subject of this legislation considered today. To encourage investment in this region, the Congress has and will enact tax incentives. Technical assistance for exporting, as well as direct aid for economically hard-hit countries is also being provided.

To summarize, the U.S. policy is ex-

pressed by the President:

If we do not act promptly and decisively in defense of freedom, new Cubas will arise from the ruins of today's conflicts. We will face more totalitarian regimes, more regimes tied militarily to the Soviet Union, more regimes exporting subversion, more regimes so incompetent yet so totalitarian that their citizens' only hope becomes that of one day migrating to other American nations as in recent years they have come to the U.S.

Mr. EVANS of Delaware. I thank the gentleman for his thoughtful re-

marks and for his leadership.

The symbolic importance of a democratic form of government succeeding where Marxism has failed is not only important to the Caribbean Basin, it is a positive signal throughout the world. Edward Seaga stands as a bastion of hope and freedom. Freedom, opportunity, and hope, not only in Jamaica but throughout the world. We should also take into consideration the fact that American jobs are at stake because 40 percent of our exports are to the Third World nations, and that is critically important to American jobs because every billion dollars of exports means about 40,000 American jobs, and the dignity and the self-esteem that a job brings.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from California who has been a leader in the Caribbean Basin Initiative.

Mr. LAGOMARSINO. I thank the

gentleman for yielding.

Mr. Chairman, I want to commend the gentleman on his statement, but most especially for his efforts on behalf of Jamaica.

I would agree with the gentleman that what happens in Jamaica is going to determine what happens in the Caribbean, also what happens in Puerto Rico and the Virgin Islands.

Again, I want to commend the gentleman and express publicly my appre-

ciation for his efforts.

Mr. EVANS of Delaware. I thank the gentleman from California.

My colleagues and friends, I can guarantee one thing: All of these factors are being considered by our adveraround the world. Maintaining strong bonds with the Caribbean Basin countries is not only vital to our national security, it is an integral part of our comprehensive program for the revitalization of the American economy. Support for the policies of the Caribbean Basin Initiative is critical to American security, to American jobs and the preservation of those essential freedoms that Americans have cherished for so many generations. I urge your support for this important legislation and your opposition to amendments which are inconsistent with its very purpose.

#### □ 1300

Mr. GIBBONS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. Pickle).

Mr. PICKLE. Mr. Chairman, I rise in support of H.R. 7397. The Caribbean Basin Initiative is a long-overdue effort to develop viable economic relationships with those nations which form our third border, and with whom we are inextricably linked by strategic, economic, and humanitarian interests. Nearly half of all our foreign trade passes through the sealanes of the Caribbean Basin; the countries in the region serve as an important market for U.S. exports. Yet, the basin is cash poor, and it is the second largest source of illegal immigration to the United States. Our interests in this region are manifold, and it is in our best interest to take positive steps to insure the political and economic wellbeing of the region as a whole. We need to pass this positive trade initia-

We have an opportunity today to positively influence the development of the Caribbean Basin countries-to take the lead with other developed countries of this hemisphere in stimulating production in the Caribbean Basin. The provisions included in this bill provide added impetus for these nations to actively pursue their own domestic goals of higher rates of employment, increased purchasing power, and improved standards of living for the inhabitants of the region. We have very little to lose through the passage of this initiative, and so much to gain. It is mandatory that we approve this measure, and we need to set this constructive process in motion now. We should not waste another day in coming to grips with the grave economic problems facing the Western Hemisphere. We should seize this opportunity, Mr. Chairman, to reach southward across the waters and lend our neighbors a helping hand. If we do not act, it will be a chance lost both for good will and for our own best national interest. My friend, the distinguished scholar, Walt W. Rostow-on the occasion of the Banking Congress of Venezuela in Maracaibo, Venezuela, in July 1982—spoke of the harsh economic realities prohibiting growth and development in Latin America and the Caribbean. He spoke of the economic interdependence of the nations of the Western Hemisphere, and of the importance of achieving sustained economic growth as a necessary condition for healthy, viable, modern societies. Dr. Rostow stated:

The domestic policies of the United States should be fashioned with sensitivity not merely to the needs of the American people but also to their impact on other regions. This is not merely a responsibility of good citizenship on this small, highly interdependent planet. It is a matter of U.S. national interest. A weakening of the fabric of economic and social life in developing regions due, in part, to protracted stagflation in the United States, can play back on the strategic interests of the United States in serious ways. To a degree, this has already happened with respect to the Caribbean and Central American countries.

The global recession facing the world is creating special havoc in the economies of the developing nations, and the damage is measurable in four important respects: a reduction in exports flowing from south to north; a reduction in the prices of those exports; increased pressure for protectionist measures in the north. And, finally—something which we are witnessing today—"a conflict between legitimate claims to deal with heightened social problems in the north and legitimate claims for development assistance in the south."

I propose, Mr. Chairman, that we respond to this legitimate call for assistance in the south; that we work with the countries in the Caribbean Basin region in coping with the situation in which we now find ourselves. It will require difficult steps, but it is urgent that the countries of this hemisphere come to a consensus on the longer run agenda which we face together. I urge my colleagues to support this bill.

Mr. CONABLE. Mr. Chairman, I yield 7 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Chairman, I support the bill H.R. 7397, the Caribbean Basin Economic Recovery Act very strongly. This bill has been put forward by President Reagan as a part of his Caribbean Basin Initiative.

It is designed to provide opportunity for our southern neighbors in the Caribbean Basin to begin working their way out of terrible economic difficulties.

The Committee on Ways and Means, and its Subcommittee on Trade, has given very close consideration to this bill. It has had extended hearings and extended markup, and it has found the bill worthy of our support. I believe that the committee recommendation is a good one.

It will provide duty-free treatment for imports from beneficiary countries in that area and give the nations of that area hope for economic recovery.

But the United States too will be a beneficiary of this arrangement. As has been stated here before, the United States, if we exclude oil, has about a \$2 billion trade surplus with the area. If this indeed is helpful in bolstering the economies of those nations, there will be greater U.S. investment which will result in the sale of U.S. goods, particularly basic goods, manufacturered goods. The United States will be the beneficiary of those sales.

Expanded trade with that region can only improve our export position. And so we have a chance here to be both humanitarian and self-interested. We can, in the words of one of our former Members, do well by doing good. It is an extraordinary opportunity which I hope the House will not want to pass up.

In fact, the bill does represent a very small portion of our total trade. And while there is some nervousness among distressed industries in this country, and employees in those distressed industries, it is my considered opinion and the opinion of most of the members of our committee that this bill poses no significant threat for any U.S. industry.

My colleagues should know that before the bill was presented by the President, the most important export that the Caribbean area could send to this country, textiles, was totally eliminated. In the committee we later eliminated footwear, leather goods, handbags, gloves, petroleum products.

Further, there will be a committee amendment today to eliminate tuna. There are existing global quotas on sugar. And so we have placed a large number of restrictions on this bill which we probably would not do other than in times of an extreme recession in our own country.

It has been said that those restrictions make this bill more symbol than substance. I do not think that is so. I think there is still substance that will give hope to the nations of the Caribbean Basin. But, if that is true, then there is no danger to U.S. industry.

In my judgment the danger is slight. The advantage of the Caribbean Basin Initiative far outweigh any dangers that might accrue to U.S. industries or U.S. employees.

In addition to those restrictions and exemptions, the bill provides significantly strict rules of origin, and requires a 35-percent value added provision for goods coming from that area.

The bill also prohibits preferential treatment for products which have undergone only simple combinations, dilutions, or packaging. We believe that that renders unnecessary the tobacco amendment which will be made later on.

In addition, we have taken extraordinary steps to subsidize and protect the Virgin Islands and Puerto Rico for their rum industry. When the rum amendment is proposed, and I hope it will be soundly defeated, my colleagues will come to see that we have lavished largesse on the Virgin Islands and on Puerto Rico. We have taken many measures and double dips and triple dips to protect the people of those areas against any kind of particular injury.

In addition, if anybody believes an industry is hurt, the International Trade Commission has to determine the impact of this duty-free trade when it investigates any allegations of injury. It must provide an annual report on how this works out.

There is an additional special protection for agricultural products which will get fast-track attention and emergency relief if the Secretary of Agriculture, not the ITC or the Trade Representative, determines that imports from the Caribbean are threatening the U.S. market.

Duties can be restored within 21 days.

I just run through this litany of special protection, restrictions, and exemptions to prove that this bill is not a threat to U.S. industry. We have taken, and the administration has taken, every conceivable means to make sure that U.S. industry is going to be protected, and yet, at the same time, leave a little hope, a little opportunity, and a little market access to people who are our neighbors, who are closely placed to us, and who are in economic distress at this time.

This is not going to guarantee recovery for the Caribbean Basin. Nevertheless, it is the very least we can do under the circumstances. We need stable governments; we need the exports in the area; and those facts are just as important to us in putting this package together as are our humanitarian instincts which tell us that we must give some assistance.

Another speaker has said it is a nice shift from cash foreign aid to market access. This country can much greater afford market access than it can cash contributions to these countries.

Mr. Chairman, this bill is a tiny, modest effort to support economic and political institutions in the Caribbean that are terribly important to the national security and the economic wellbeing of our country. It adequately protects U.S. industry. It should be passed by an overwhelming margin. I urge all my colleagues to vote yes on H.R. 7397.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. Anthony).

Mr. ANTHONY. Mr. Chairman, I went with the Committee on Ways and Means to the Caribbean at the re-

quest of the President of the United States so we could see firsthand what the circumstances were, whether or not we could be convinced to support his Caribbean Basin Initiative.

I must admit at the outset that I went as a skeptic of the piece of legislation. But after having spent a hardworking week down there, talking to the various governmental officials, to private industry, and seeing firsthand, I was convinced and I came back as an enthusiastic supporter of this particular piece of legislation.

I became convinced to study in depth as much as I possibly could while I was down there and upon my return as much as I could about the

rum situation.

What I would like to do for the membership is to review the bargaining, because at some point when the run amendment is offered I think it is important for us to have a historical perspective of how we came to where

we are today.

The delegate from the Virgin Islands is genuine in his concern about an indigenous rum industry in the Virgin Islands. As a result, he did ask for the quota and he asked for the trigger. But if you take a look at what the administration did in order to be very sensitive to the needs of the American citizens, both in Puerto Rico and the Virgin Islands—

Mr. CORRADA. Mr. Chairman, will

the gentleman yield?

Mr. ANTHONY. I yield to the gen-

tleman from Puerto Rico.

Mr. CORRADA. The Virgin Islands is not a country. The Virgin Islands is a U.S. possession in the Caribbean.

Mr. ANTHONY. I stand corrected. I thank my friend from Puerto Rico for bringing that to my attention.

The circumstances simply are this.
There was an agreement negotiated without the consent of the other Caribbean countries. It was initialed by somebody in Ambassador Brock's office. These parties having not been present, I do not think can be held to

that agreement.

The full Ways and Means Committee, which rejected the Jenkins amendment at that time, had an opportunity to hear Mr. Brock state that had he known some unknown facts at the time he would have taken a different position and taken a tougher stance. The unknown fact that was developed at that time was the fact that the Virgin Islands does subsidize its rum industry by guaranteeing that industry has to pay no more than 16 cents per gallon for its raw product of molasses. When you take a look at the fact that the rum market is growing extremely fast, in fact since 1974 it has grown at the rate of 126 percent, it is expected to double by 1985, and it is expected to triple by 1990, and then you take a look at the concessions that were made to Puerto Rico and the

Virgin Islands, I would say, based on these two arguments, it would help to defeat the de Lugo amendment should it be offered.

I do have a factsheet I used in the Ways and Means Committee available at the desk. Section 210 increases to the Virgin Islands and Puerto Rico the revenues by transferring to their governments U.S. excise taxes collected on all rum imports. It is estimated over the next 5 years that would be some \$117 million over and above that amount of money that is presently being transferred from our Treasury directly into their treasuries from rum imported into the United States from Puerto Rico and the Virgin Islands.

Mr. CONABLE. Mr. Chairman, I yield 4 minutes to the gentleman from

Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, one of the early casualties of economically tough times is always the outward reach of foreign policy to lend a helping hand to less fortunate developing nations and in the process help our own economy through increased trade. The calls for protectionism and reductions in our foreign assistance programs heard so often lately on the floor of this house reflect this short-sighted mentality.

It is going to take a great deal of courage, then, Mr. Speaker, for the House to come to grips with its responsibility for looking outward, as well as inward, because, indeed, times are tough. But that courage is necessary because President Reagan has made a promise to our neighbors immediately to the south that we will initiate a program to deal with the conditions of poverty and want that plague nations attempting to establish democratic institutions and to throw off the twin yokes of military dictatorships and Communist oppression-obviously fashioned from the same materialthat are either well-worn patterns or new ones, and in either case threaten the yearning of the common man everywhere for freedom and the opportunity for a better life.

The Caribbean Basin Initiative is a modest promise by the United States to open the doors to two-way trade and to help stimulate capital formation and the beginnings of free enterprise, which, alone, holds promise for a brighter economic future for the people of the region. Mr. Speaker, the Communist system is an economic failure and always will be, but where we fail to offer any alternative, it will be sought as a means to economic development. Our responsibility is to reach out and offer the opportunities to succeed. We offer not gifts, but incentives to make economic progress based on freedom of opportunity.

The voices of protectionism for one American industry or another have been heard over and over again in this Chamber. The appeal is obvious and pushes us once again to examine our motivations. If I did not believe that this initiative contained more advantage for our country than any other, I could not support it. Of course we can protect American industries from foreign competition. But we will pay a price for it. In the long term, international competition will work to our advantage, and we will be trade victors and not losers. In the short term, it takes courage to make the investment.

America cannot be seen as reneging on this small promise by our President to make this investment in the Caribbean, to reach out to help our near neighbors and, in the process, to thwart Communist incursions on our very doorstep. A vote in support of the CBI will not only gain credibility for our country, it will ultimately directly benefit American workers and create jobs and will help to carve away the threat nearby to those principles of freedom and opportunity you and I believe in the desire for all the world's peoples.

#### □ 1315

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, I rise in opposition to this legislation.

I have consistently throughout my career in Congress been criticized by my constituents in my district for supporting foreign aid, but I did that only because I recognized that this is one world and we have got to help each other.

I am disturbed by this legislation in several respects. It seems to me that someone said on the floor that one of the prime motivations behind this legislation is to insure that the kinds of governments we want are established in the Caribbean. I am not at all sure that this legislation will do it. We are using the CIA in certain parts of South America to guarantee a particular form of government or overthrow another form of government and now, with this is the economic approach, to try to determine the destiny of a region and I do not think it is going to work.

The other concerns I have are what guarantees do we have that the nations in the Caribbean Basin are going to pay a reasonable living wage to the workers? None whatsoever, no guarantee.

Put it another way, what guarantees do we have that there will not be an exploitation of workers in the Caribbean Basin? Nothing in this legislation addresses that issue.

What guarantees do we have that major American corporations will not establish their own factories, their own industrial plants in those parts of the world? There is nothing in the legislation that prevents that.

used to My city of Baltimore produce shoes for the world. We no longer do that because the giant corporations have moved their factories overseas. My city of Baltimore used to produce shorts and wearing apparel. We no longer do that because giant corporations have removed their factories to overseas and my people are out of work.

I would suggest that during the debate on the domestic content legislation, someone raised the issue of whether or not we should live up to our promises, our treaties, and I suggest that a violation, a suspension under the GATT arrangement is, indeed, not living up to a promise, not living up to a treaty.

For these and many, many other reasons. I think this legislation should be defeated and I think we will regret it 10 years from now or 12 years from

now if we vote for it.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for yielding.

The majority leader spoke most eloquently of the person that he and the gentleman from New Jersey (Mr. Howard) met, who was wearing the Kennedy half dollar as a medallion; but let me talk to you about the tarnished reverse side of that coin.

I lived in the Caribbean for 31/2 years. I taught language in Haiti, traveled through that country. I learned the language of the people, Creole, which helped me to gain an insight into their culture, and I saw the wretched poverty in which the people live in that country. At the time that I lived there, the minimum wage was 75 cents a day and today it is \$3 a day and very few people pay it.

Women are sewing baseballs in Haiti to be sold in the United States, for a wage of \$3 a day—the legal minimum wage-and are probably being paid less

than that amount.

Does anyone realistically think that this legislation is going to raise the standard of living for those wretchedly impoverished people? They do not have adequate roads to move their goods to market. Instead, they get up at 3 o'clock in the morning to walk 10 or 15 miles to market through the mountains, carrying baskets of vegetables or fruit on their head only to have most of what they earn taken away by the government tax collector.

I have seen poverty, abject poverty in Haiti, worse than anything you can imagine in this country. This legislation is not going to cure it, because I will tell you what will happen. An entrepreneur, of American or other nationality will come in there and the director of the government tax authority in Haiti, will exact and take a

payoff, the entrepreneur will build a little plant or, more likely, move into existing wretched cinderblock building and there will be not protection for working conditions, health standards, or safety for workers, on reasonable wage levels, or retirement. They will continue to work in the same wretched proverty. The CBI will provide entry to the United States for goods produced under those abysmal conditions to compete with domestic goods and displace American workers but will do nothing to improve the quality of living in Haita or other countries.

Mr. Chairman, I rise to express again my opposition to H.R. 7397, the Caribbean Basin Initiative legislation.

I speak not only as a Member of the House deeply concerned about the effect of this legislation on our American economy, but also as a Member of Congress who cares about the peoples of the Caribbean.

I do not speak, however, as a doomsayer exaggerating the impact of the unilateral trade preferences provided in this legislation for most of the na-

tions of the Caribbean Basin.

It would be unfortunate if the Congress were to rush this legislation through in the final days of the 97th Congress. Prior to the postelection session, most of my colleagues believed that further consideration of the Caribbean Basin legislation would await the 98th Congress. Unfortunately, this legislation has been brought to the floor rather quickly and under conditions which do not permit adequate debate.

The objective of strengthening the economies of the Caribbean nations is a lofty goal. The goal of the CBI is to raise the standard of living for millions of desperately poor people while also improving their position as trading partners with the United States in opening markets for U.S. exports.

I already mentioned my experience in Haiti, the most desperately poor of poor nations in the region. The average wage there now is \$2.66 a day.

The overwhelming majority of the peoples of the Caribbean nations have been the victims of at best, poor and inefficient governments; at worst, oppressive, unresponsive, plutocratic re-

The United States must be a better neighbor than it has been. That is why I have been deeply opposed to increasing U.S. military aid to the nations of the basin. Rather, I have supported attempts to increase economic development assistance to all the nations of the Caribbean, not just those nations with the greatest commitment to rightwing anticommunism.

While the stated objectives of the Caribbean Basin Initiative are sound,

H.R. 7397 is not.

With domestic unemployment at a 42-year record, I find it extremely un- convention outside of the United

fortunate that the House may be called upon to consider the Caribbean Basin Economic Recovery Act. This legislation creates incentive for U.S. domestic manufacturers to abandon the United States and locate in the nations of the Caribbean with cheap labor markets. This legislation would encourage further the export of jobs to areas where the workers are unprotected by health and safety laws, or by wage and hour standards. It offers official sanction for multinational corporations to take advantage of labor practices and worker oppression which we in the United States have long abjured.

I am particularly disturbed about the provision of this legislation which would allow multinational corporations to export products to the United States tariff free if only 35 percent of the product has originated in the Caribbean Basin. Sixty-five percent could originate anywhere in the world, including the Soviet Union.

This legislation does not mandate minimum labor standards-and I am not talking about standards that we would accept in this country, but standards which must set the Caribbean on a course of economic progress for all of the Caribbean peoples, not the plutocrats and the multinationals.

This legislation will not stimulate a higher standard of living for the Caribbean people. It will not insure increased training and education for

these people.

What it will insure, however, is the loss of American jobs and the reaping of huge profits by fast-buck operators. It is inconceivable to me that this House is considering, let alone may pass, this legislation when, in the few hours remaining to us in the 97th Congress, we should be considering and passing legislation to stimulate employment and economic recovery in the United States. Passage of the CBI would be appropriate if our goal were to throw Americans out of work.

If the House passes this bill, it should not do so under the illusion that it will help the American worker, or that it will relieve the misery of the overwhelming majority of the Caribbean people.

Finally, a tax provision was added to this legislation in full committee which I find absolutely unsupportable. H.R. 7397 amends the Internal Revenue Code to permit deduction of business convention expenses in countries throughout the Caribbean. This provision is a subsidy of winter vacations for new wealthy. It does nothing to encourage diversification of Caribbean countries, but further encourages dependence on tourism.

My very strong feeling is that if American convention goers wish to

States, they should do so without tax- place like Jamaica or Barbados were payer subsidies.

The economic injustice that will be created by this legislation both here and in the Caribbean will haunt us for many years to come. A decade from now we will still be regretting the CBI. I urge defeat of H.R. 7397.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. Downey).

Mr. DOWNEY. Mr. Chairman, serve on the Trade Subcommittee and voted against this legislation when it passed through the subcommittee. I did so primarily because my friends from Labor had done a fairly convincing job at the time of telling me how disastrous this legislation would be to domestic markets here.

I then went on the trip and decided that it was important to do some research on my own. I am quite thoroughly convinced that the impact this legislation will have on American jobs is very, very small, and probably over the next few years will be a positive

development. So. I think it is important for us to carefully scrutinize what the domestic impact of this legislation will have on our country. I happen to think it will

be positive.

I think there is another reason that we need to examine this legislation carefully. The first point that has been made over and over again is that this legislation is not going to cure poverty in Haiti. Nothing we could do would be able to do that, frankly; but the history of our Government's relations with Caribbean and American states has been pretty sorry. We have run the gamut from neglect to sending in the Marines. I mean, the Marines have spent more time in Haiti than a lot of other countries in the world. As recently as 1965 we sent them to the Dominican Republic.

This is a middle ground, in my opinion, and I hope some of my progressive friends will examine it in this way, between sending in arms to El Salvador and to Honduras and doing nothing. This is an attempt to provide these people a small, a very small tool to help themselves. This one-way freetrade zone is not going to take away shirt jobs in America, such as there exist, or shoe jobs. I might add to my friend, the gentleman from Maryland, both textiles and shoes have been

exempt from this legislation.

This is going to create some small, light manufacturing jobs. This is going to provide some of these countries with economies of scale so that they might be able to do some work and provide markets for their goods without hurting American markets.

The gentleman from Florida (Mr. GIBBONS) gave a very eloquent speech when we were there. He went into one of the small factories and saw that

made from American goods. The machines were American.

So I think that we need to examine this in two ways: First, jobs will not be hurt in America; and second, this is a middle ground between gross foreign aid and sending in the Marines and I think it should be viewed in that sense.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from American Samoa (Mr. SUNIA).

Mr. SUNIA. Mr. Chairman, I thank

the gentleman for yielding.

Mr. Chairman, I am sure we have heard enough about tuna over the last couple hours of this debate, all of which is true. I represent the only community in this Nation which depends entirely-and I repeat, entirely-on the canning of tuna.

I commend the chairman and the members of the committee for their understanding of this concern and for agreeing to the exclusion of tuna can-

ning.

I appreciate also the support and the comments of my colleagues on this

particular issue.

With that, I hope this resolution, this legislation, will progress to a successful conclusion. I hope that next year it will be a Pacific initiative that we will be debating in this very Chamber.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. Mr. Chairman, I thank the chairman of the Ways and Means Committee for his generous extension of time on such short notice.

I was distressed when I read the Washington Post this morning which said, "President sharply assails Demo-

cratic jobs proposal."

At a time when the President refuses to come to grips with the highest levels of unemployment in the last 40 years in this country, he now asks us to support legislation which will export jobs from the United States. Such inconsistency is inconceivable.

He will not even support \$1 billion to help Americans in America but he asks us to send \$1.3 billion of our taxpayers dollars to help the people of the Caribbean. I believe that charity

begins at home.

I submit to the members of this committee that in 1 week you will have the opportunity to compile the worst record of dealing with unemployment since the time of the Great Depression. Vote against the jobs bill on Monday; vote against the content bill on Wednesday and vote for the Caribbean Basin Initiative on Friday, and you will have thumbed your nose at 12 million of the unemployed in this country.

Contrary to the information circuevery element of the factories in a lating on this floor, both the President

and the Ways and Means Committee reports clearly state that currently 87 percent of the imports from the Caribbean enter this country duty free. What more do they want?

The adoption of this legislation will export jobs, encourage multinational corporations to locate in the Caribbean where they can take advantage of cheap labor markets where workers are not protected by health and safety and child labor laws, and provide an incentive to other U.S. firms to develop tomorrow's products elsewhere.

This bill is a slap in the face to America's unemployed workers.

Reject the bill. Send it back to that committee which I believe if given more time could do a much more fair job relative to the needs of the unemployed. Give the unemployed some hope. Give the people of this country an opportunity and let us truly deal with the real economic needs of revitalizing our economy.

This lameduck session should be concentrating on solving our problems here at home.

Defeat this bill; 12 million unemployed Americans will thank you for

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. ERDAHL).

Mr. ERDAHL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is an important piece of legislation; one that merits our support. I share the concern expressed and am sensitive to the high unemployment in our country today.

But, voting against this bill is not going to provide jobs in the United States. This bill is a very modest attempt to see that we have some extension of aid and trade to, and with, this most important part of our hemisphere.

In so doing, we not only give thisand again I stress, rather modest assistance and new opportunity to some people in the Caribbean Basin, we also ultimately create new jobs in our own

There is a mood in this country to isolate and insulate ourselves from the rest of the world. This is something we cannot nor should we do.

I think again that this administration, and those of supporting the CBI, are moving in a proper direction for increased stability in this hemisphere.

I hope that in spite of the temptation that some might have to vote against this bill, we will look at the long range picture and support this measure.

I thank the gentleman for yielding.

# □ 1330

The CHAIRMAN. The time of the gentleman has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. I thank the gentleman for yielding this time to me.

Mr. Chairman, as the gentleman from Minnesota (Mr. OBERSTAR), correctly pointed out, Haiti is the pits. Do not worry about those baseballs; they are excluded under this legislation.

Mr. Chairman, we hear about this being the President's Caribbean Basin Initiative, and somehow it gets a possessive sound. Really, this is the Presidents' Caribbean Basin Initiative, Presidents in the plural. A Republican President who many have disagreed with on the jobs bill, who the majority leader spoke so eloquently about this morning, asking us to rise above that kind of partisanship, the President submitted it.

As I pointed out a little earlier, this was actually begun, the details of putting this whole plan together, under President Carter. President Carter and the Canadians and the Venezuelans and the Colombians met at the highest level in the Bahamas and started putting together the outlines of this bill, and much of the work done on it was during the Carter administration.

President Johnson allowed me to go on the first trip I ever made outside of this country as a Member of Congress to go look at the Caribbean. He was deeply interested in it and talked to us earnestly about it at the same time we were handling his own domestic Economic Opportunity Act.

As some of my colleagues may remember, I handled the Economic Opportunity Act for him on the floor here in Congress. But the Vietnam war cut him down on his Economic Opportunity Act, and finally cut him

down politically.

It was President Kennedy in this whole line of Presidents who began this idea in his Alliance for Progress, and he talked eloquently and planned greatly and captured the imagination of Americans in the United States, Americans throughout the Americas on the Alliance for Progress. But unfortunately, an assassin's bullet cut him down and the program failed, failed to ever really get a substantial start.

The area to the south of us is important to us because it is full of human beings, human beings who, "but for the grace of God, there go I." Many live on small islands, in countries in which, because of geography, there is little chance to succeed. They ask not for aid or arms; they ask for opportunity. They ask no great exemptions from our laws.

The CHAIRMAN. The time of the gentleman from Florida (Mr. GIBBONS)

has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. Patterson).

Mr. PATTERSON. I thank the gentleman for yielding the time to me.

 Mr. Chairman, I am in a great quandry about the pending Caribbean Basin Initiative tax and trade provisions. Consistent with my philosophy about international development and the benefits it eventually brings to the American worker through exports of U.S. products and enhanced availability of raw materials we need. I would tend to vote for a measure like this. But when I opened the paper this morning, I saw that the President has taken another intransigent position against jobs for American workers. He has indicated not only that he thinks the House jobs bill is a bad bill-an opinion with which I wholeheartedly disagee), but that even the Senate version, a much narrower and less costly version, is a bad bill and he is going to veto it if it gets to his desk even if it means stopping the Government of the United States of America.

Who does he think he is? I have to believe that if he really wanted this bill-which I was prepared to vote for when I got up this morning-that he would not be so intransigent with this body. I am going to have to seriously reconsider my posi-tion on the CBI, because it is clear that the President will not seriously reconsider his position on the jobs bill. It is clear that the President sees this as a one-way street, that his perception is not that the executive and legislative are coequal branches of Government seeking to compromise for the good of our people. His perception seems to be that the role of this body is do what he commands and nothing but what he commands. I do not know how long I can keep taking tough votes for the administration's proposals-even the good ones-when the President cannot seem to hear what this body is saying about the truly desperate plight of the unemployed people in our country.

Unemployment is at its highest level in over 40 years. Our program is not a "pretext" as the President termed it. It is a jobs program—a program to put dads and moms back to work, back to using their pay envelopes to buy food instead of having to use food stamps, back to feeling like contributors instead of charity cases. If the President is worried about the deficit, he has picked some poor ways of showing it. His budget requests contain larger deficits than those of any other President in history. Unemployed people draw benefits from the Treasury and do not pay taxes-how does he think that increasing the number of unemployed will help balance the budget?

The President's sentiments about improving the economic prospects of the unemployed and underemployed people of the Caribbean nations and of the Central American countries included in the legislation are appreciat-

ed. I just wish that he felt the same way about the people of the United States. The President has taken an irresponsible position on the jobs bill. He has again shown his gross insensitivity to the plight of our own domestic unemployed.

I have received more phone calls from the administration on this bill than I can remember receiving on much more significant matters. The symbolic value of this legislation to the President is obviously very high. And this is very modest legislation, composed more of symbol than substance. The symbolism worries me, too. I fear that this will be unfairly cited as evidence of congressional support for the President's rather peculiar and dangerous worldview. I want to make it clear that passage of this bill should not be seen as support for the President's overall policies in this area. Indeed, the President's policies in Latin America have little support in this body and even less support among the American people. This is not a great bill, but it is the best thing the administration has put forth on Latin America.

Mr. Chairman, the President wants this bill, but opposes job-generating bills for our own people. He cannot continue to have it both ways.

The CHAIRMAN. The time of the gentleman from California (Mr. Pat-TERSON) has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CROCKETT).

Mr. GAYDOS. Mr. Chairman, this bill is meant to purchase peace or buy off a possible hot war. To do this, it encourages escalation of the trade war that is destroying the economy and the industrial base of the United

In fact, it would give the practitioners of trade war-the developers of samurai economics and blitzkrieg economics-a protected and duty-free staging area through which to pump subsidized and dumped goods.

This is the likely result of the oneway trade provision.

I ask the House to examine the proposition with me.

Trinidad and Tobago is a Caribbean nation, a beneficiary of the bill. The Government likes the idea of exporting to pump up the economy, likes the idea of having workers in industrial jobs for political reasons.

So Trinidad and Tobago has a new wire rod mill that expects to export up to 300,000 tons a year.

Under the rules of our free enterprise economics and the principle of comparative advantage and even the laws of nature, there is no reason for a wire rod mill there. There is no more reason for it than there is for a coconut plantation at Pittsburgh. The idea offends all known rules and principles-except those of samurai and blitzkrieg economics.

Yet there is a 300,000-ton mill there. It is there because the Government wants it. And it will remain there even if it loses money, lots of money.

If they sell a lot, they will expand, duty free. Other Caribbean nations will know a good thing and seek similar development. They may even do it in connivance with the trade warriors whose dumped and subsidized goods are now being subjected to the discipline of our trade laws and their international agreements. This bill could make the Caribbean a conduit for such goods.

There is a second possibility too. Further south, Brazil is expanding its Government-owned iron-ore mining operations. It is expanding with a \$70 million loan from the Export Import Bank of the United States.

This loan was granted even though there is a world oversupply, even though Congressman OBERSTAR'S Minnesota ore miners have truly awful unemployment rates.

You see, Brazil—which was named in recent steel subsidy cases-has an admitted policy of exporting as much of everything as it can and taking in as little as possible. They have mastered

this idea of one-way trade.

Nevertheless, this bill invites alliance between Brazil and some Caribbean or Central American neighborencourages an arrangement whereby Brazilian product goes to the Caribbean to get some domestic content so it can come here absolutely duty free.

I cannot begin to guess what range of goods might come in-I do know they will be goods that are made by Americans or that used to be made by

Americans.

Even supporters acknowledge, as the Washington Post did in a recent editorial, that:

Most of the imports due to be so favored are in industries that the Caribbean countries haven't even established yet.

The range of goods will be broad and deep, and they will establish them in the most profitable industries we can afford.

This bill condenses into one generous proposal all the misconceived and failed efforts of the last 40 years; it consolidates all the schemes to pull up the world by the bootstraps of U.S. workers and to purchase temporary peace with their jobs.

It is the kind of thing George Washington had in mind with the warning in his farewell address, the address that is read every year to Congress.

Washington said, "the great rule or conduct for us in regard to foreign nations is, in extending our commercial relations, to have as little political connection as possible."

It puts us in what Washington saw as the position of "being reproached with ingratitude for not giving more.'

This is the kind of generosity that never works, the generosity of which Machiavelli said, "there is nothing that uses itself up faster-as you employ it, you lose the means of employing it. You become either poor or despised \* \* \*"

There is much wrong with this bill.

If it had to do with domestic matters rather than attempting to buy peace, it would amount to the creation of an expensive new entitlement.

It gives these nations virtually the same rights in the commerce of the United States as the Constitution grants to the various States.

Furthermore, it encourages the flow of U.S. capital and jobs to the Caribbe-

The only growth it will create is in the \$44 billion trade deficit; and it may help push the unemployment

rate above 11 percent.

I am sensitive to the condition of the Caribbean nations and to what is happening in Central America. But the past 40 years have shown that peace and stability cannot be purchased with American jobs. And to act now on this bill in this hurried fashion will be only to prove once again that it cannot be done.

To close, I would like to give the House a point of reference by citing a proverb that I have imported from Colombia, a nation of the Caribbean but not a primary beneficiary of the bill.

In Colombia they say, "he who gives all that he has soon teaches himself to

beg."

Mrs. HECKLER. Mr. Chairman, I rise in support of the Caribbean Basin Initiative, and hope that it will receive the overwhelming endorsement of this body.

The district I have had the honor to represent for the past 16 years has had a great deal of experience with imports, and it has not been a good one for the most part. Countless jobs have been lost over the years due to textile and apparel imports, chiefly from countries that supply extremely low wage, low skill labor. Naturally, I was quite wary about the possible effects this bill may have on jobs and businesses in my district and across

the country.

I believe, however, that the Committee on Ways and Means and the Special Trade Representative have crafted a bill that allows the United States to enhance the overall economic climate of our region, while at the same time maintaining safeguards for our own industries. The money invested in the beneficiary countries will not be "hitand-run" payoffs for cheap labor; this bill encourages and will foster the continued and evolving presence of significant capital in the region. That can only serve to benefit this Nation.

I was particularly concerned, however, with the bill's impact on the expanding high technology industry,

that it would lead to erosion of this vital sector of our economy.

That will not happen. The rapid pace of technological advancement in this industry precludes dominance by a low-skilled labor force. There are few jobs in the high tech industry that do not require highly developed skills and abilities, and the percentage of these jobs is diminishing. In addition, the labor costs in the Caribbean region are insufficient to meet the 35-percent requirement, so the job loss will be minimal.

Mr. Chairman, I believe it was Marshall McLuhan who once said that "politics offers yesterday's answers to today's problems." This bill is today's answer to today's problems, and I strongly urge it adoption.

• Mr. APPLEGATE. Mr. Chairman, rather than discussing the CBI, which is, of course, short for Caribbean Basin Initative, we should be talking about an Ohio River Valley basin initiative, or a Pennsylvania basin initiative or how about a much-needed Northeast-Midwest industrial basin initiative; but we are not. Instead the President wants to send \$41/2 billion to the Caribbean area to help this part of the world rebuild and put people there to work. I would like to remind the President that we have 15 million people in the United States that have been put out of work-6 million of which lost their jobs since he was inaugurated just 23 months ago-and that is a record.

I am not advocating the segregation of the United States from the rest of the world, but rather, the creation of a relationship with other nations which is based on fairness and equality. The Caribbean Basin Initiative is, in part, a trade matter as well as an economic program and foreign aid initiative. Because of these overlappings, there are many domestic considerations that must be taken into account as well; and the unemployment factor I mentioned a minute ago is one such consideration.

The President's CBI program is a jobs program for that part of the world; but yet he refuses to accept such a program for American workers. as is evidenced by his opposition to any such program that has recently been proposed and incorporated in the continuing resolution bill. I share the American people's confusion with his reasoning. I believe our resources should be used to put America back to work. Our programs should be aimed at getting our own house in order and taking care of our own ills first. How can a sick doctor attend to an even sicker patient?

Our financial resources are in obvious short supply which is all the more reason why this CBI program is not in our best interest at this time. This raises the question as to why our finances are limited. The President says this is the fault of the Democrats' wild and free spending policies for 40 years that have created inefficient and costly progress. While the President may say this and even believe it, the facts simply do not support such illogi-

cal reasoning.

The President cannot blame the biggest deficits in history on the Democrats. After all, he insisted on the 3year tax cut program and increased spending program that caused and got them. The \$300 billion that these have added to the Federal deficit in 2 years is unbelievable. This 2-year experiment in record deficits has had a most devastating effect on the Nation's economy and has done more to retard growth and send unemployment rates skyrocketing than anything else. And keep in mind that for every 1 percent of unemployment the Federal Government loses nearly \$25 billion in lost revenues and increased benefit payments.

Programs such as the CBI might be more palatable if there were initiatives within the United States that would help our people. Such a program might be one that establishes an equitable and fair trade policy which also instills competition. This is not as difficult to achieve as one might be lead to believe. The White House and far too many in Congress who consider themselves free traders are strangling the unemployed. To hold to this free trade belief is nothing more than philosophical nonsense. This Nation never dealt in free trade. Our doors were open 35 years ago, yet-but no one had producets to compete with American industry then. We had our hands around these foregign nation's throats and gave them what we expected them to buy. But these nations learned, with our expertise and money, and now they are strangling us. We are ignoring the American worker in favor of foreign countries and their workers and this is absurd.

The CBI proposal that we are considering today does not lend itself in any way to resolving our problems at home. In fact, it only exacerbates these problems. This will amount to nothing more than another giveaway and like others, we will never know if the money is properly being spent.

I oppose this bill in the name of fairness to the American worker, his family, and to their desire for prosper-

ity.

• Mr. DIXON. Mr. Chairman, more than most Members, I have been supportive with respect to international development and U.S. foreign assistance programs.

To this end, I have advocated a more equitable distribution of these resources to respond to the tremendous needs of Africa and the Caribbean.

When the Caribbean Basin Initiative was first proposed, it was argued that

economic assistance should more reasonably be shared with the eastern Caribbean, Haiti, and Jamaica, and some changes were made.

With respect to the trade provisions of H.R. 7397, that are today before the House, I recognize that efforts to open our markets to the Caribbean will expand the economic capacity of a region whose largest trading partner is the United States.

It can be argued that these provisions could help to create jobs related to this trade in the United States, as well as boost export earnings for the Caribbean and Central America.

Yet this legislation comes from a President who has shown callous disregard for the problems of poor and minority Americans, or the needs of our communities for expanded employ-

ment and economic growth.

President Reagan has been intransigent about our demands that the Federal Government must act to stimulate productive employment through the public sector. In the face of the highest unemployment since the Depression, he refuses to acknowledge that Government has any role in ending the nightmare of joblessness in black America.

As much as we might want to help the Caribbean region overcome its economic hardships, I simply cannot vote for the President's bill. He has shown no willingness to compromise with Congress, or the American people to put this country back to work.

In light of this, it would be irresponsible for a Representative of those hit hardest by the current economic situation to support a measure which conceivably could worsen our problem of

unemployment.

To our brothers and sisters in the Caribbean, I ask that you understand this vote is not intended to deter your progress. The time is simply not right, and this President does not merit our support.

I would hope that following the resolution of our concerns about domestic economic concerns next session, that we might again look to initiatives to bring economic cooperation and growth between our Nation and those

of the Caribbean region.

• Mrs. SCHNEIDER. Mr. Chairman, I rise in support of H.R. 7397, the Caribbean Basin Initiative Recovery Act. This legislation provides an excellent opportunity for the United States to extend, as a peaceful gesture, a willingness to expand trade relationships with our Caribbean neighbors. For those who depict the initiative as harmful to the economy of America, I ask that they take a closer look. As it stands, the United States enjoys nearly a \$2 billion trade surplus with the Caribbean region, which translates into over 130,000 jobs for Americans. In addition, the Caribbean Basin Initiative will affect only 10 percent of all

Caribbean imports—totaling \$9.9 billion. The remaining 90 percent will be exempt from duty-free treatment under CBI such as is textiles, petroleum, leather or footwear or has received duty-free status under the guaranteed system of preferences (GSP). The Caribbean Basin Initiative, then, is designed, not to supersede American exports, but rather, to assist our allies in gaining economic self-sufficiency.

It is important, however, that in this period of high unemployment, the Caribbean Basin Initiative in no way jeopardizes a single American industry's rate of production. While we seek the opportunity to facilitate the eco-nomic expansion of the Caribbean, we in no way are condoing the exportation of American jobs. For this reason, I am supporting two amendments, both of which are critical to industries here in the United States. The Gephardt amendment, which seeks to exclude the tuna industry from duty-free status, is necessary and has my full support due to the labor-intensive and highly mobile nature of the industry. We must preserve the nearly 50,000 American jobs that are associated with the tuna industry here in the States. I also favor the de Lugo amendment which would establish a duty-free tariff quota on imports of rum. This is also critical to the economic health of our own Nation-in particular, the Virgin Islands and Puerto Rico. We must pay careful attention to our Nation's economic climate, while simultaneously improving the Caribbean's industrial base.

While there are provisions in the bill which provide import relief to domestic industries which have been detrimentally affected by the Caribbean Basin Initiative, I ask that the Ways and Means Trade and Oversight Subcommittee pay close attention to the bill's ramifications on American jobs. Should there be any adverse effects suffered by American industries, they should be carefully documented and rectified by Congress.

I ask, then, that my colleagues join me in support of this important foreign policy initiative in order that we promote the economic development of our 28 neighboring Caribbean nations, while we preserve our own economic vitality.

• Mr. GUNDERSON. Mr. Chairman, later today I will support the Hopkins amendment to H.R. 7397, the Caribbean Basin Initiative, that would add tobacco to the list of products that would be prohibited from entering the United States duty free.

Sales of cigar leaf and filler tobacco grown in my district are off by 25 percent from a year ago while sales of chewing tobacco are off by only 4 percent. Other producers of cigar leaf and filler tobacco across the country are experiencing similar declines in sales. Clearly, manufacturers are substituting cheap imports for our domestic tobacco products. And this not only injures our domestic cigar leaf and filler producing industry, but the effectiveness of our tobacco support program as well since large quantities of domestic tobacco have to be put under loan.

Mr. Chairman, to permit Caribbeangrown tobacco to enter the United States duty free at this time would only exacerbate the current surplus production and depressed price problems facing our tobacco producers.

I, therefore, urge my colleagues to join me in supporting the Hopkins amendment to the Caribbean Basin Initiative.

• Mr. AKAKA. Mr. Chairman, I rise in opposition to the Caribbean Basin Initiative If the intent of this legislation is to promote fair trade between this country and our neighbors in the Caribbean Basin, it fails miserably. We are asked to compete with producers whose labor, land, and raw material costs are much lower than ours. Countries of the Caribbean Basin can certainly produce materials and products at a far lower cost. This competition is blatantly unfair to our own producers—American industries right here in this country.

And, should this bill become law, who will suffer? Certainly not the nations of the Caribbean Basin. American business will suffer. American workers will suffer. And our economy will falter even more. Can we, in all good faith, say that now is the time to place this extra hardship on our workers? Can we, in all good faith, say to American industry that we need to give nations of the Caribbean a competitive edge in trade with our Nation? Can we, in all good faith, sacrifice the interests of our people and our industries on the altar of political expediency? Should the interests of American industry be no more than a bargaining chip in our foreign policy battles?

The answer to each of these questions is no. We cannot, and should not, ask American workers and businesses to shoulder the unfair and weighty burdens that passage of this legislation will impose.

While I share the concerns expressed by the current administration about the economic and political problems of the Caribbean region, I think our President fails to recognize the effect that this program would have upon our ailing farm economy. Farms in America are facing the worst economic crises since the Great Depression. This legislation would result in a substantial loss of jobs in the farm sector, as well as substantial losses for industries that support the farm sector.

The State of Hawaii will be particularly hard hit. Despite efforts to achieve cost savings during its current economic crisis, the sugarcane indus-

try in Hawaii has suffered three consecutive years of losses. In 1981 alone, these losses amounted to \$83 million. Our State is the most efficient sugar-producing State in the United States, and is far more efficient than most producing areas throughout the world. Despite this, we are unable to turn a profit. This is due to the stiff competition from Caribbean producers.

In addition, I must point out that whatever benefits will accrue to the sugar-producing industry in the Caribbean will go to the multinational corporations that own and manage sugar plantations in the region. While these companies turn a profit, many of the peasants-farmers they employ live in near poverty. Nothing in this legislation will improve the well-being of the poor living in the nations affected by this legislation.

Mr. Chairman, recent events that have occurred in my State are an indication of what may possibly happen to other elements of the farm community if this legislation is enacted.

On January 7, 1982, the Puna Sugar Co. announced it was going out of business. Puna employs 500 workers that produce 7 percent of the State's sugar.

On February 20, 1982, Molokai Sugar Co. announced that 8,000 acres were going out of production. This represents another 4 percent of our sugarcane acreage. The effect of these cutbacks will cause major shifts in our agricultural production.

Sugar is by far the largest crop. Over 217,000 acres of sugarcane was harvested in Hawaii last year. Sugar producers that are maintaining their acreage have been forced into cutbacks of another kind. In fact, our largest sugar producer furloughed 25 workers beginning March 15. Alexander Baldwin recently announced a total furlough of 1,500 of its workers. This amounts to over half of the sugar workers in my

The situation of the other important crops our State produces is much the same. Take pineapple for example. Due to foreign competition in the early 1970's, Hawaii's formerly strong position in the world pineapple market was seriously eroded. Hawaii produces the finest pineapple in the world. Despite this advantage, however, we are simply not able to compete with the low-cost labor in other areas of production. As a result, there has been a steady cut back in pineapple operations in Hawaii. Just last month, Del Monte announced the closing of the Molokai pineapple plantation and the Oahu cannery. Today, pineapple acreage is only half of what it was in 1972. Clearly, this is due to a near doubling of pineapple imports over the last 10 years. Low cost foreign competition is to blame.

Other important crops will likewise be affected. Papaya, sweet ginger,

flowers and ornamentals are our important growth areas. This legislation will be a clear signal to countries in the Caribbean region that they can now gear up to flood the market with low-cost production. My colleagues, we cannot allow this to happen.

Finally, I am opposed to H.R. 7397 because of a provision which gives special tax treatment to U.S. conventions held in Caribbean countries. The objective is to encourage the growth of the tourism industry in these countries. I do not dispute that the tourism industry can provide significant economic benefits to Caribbean countries. I want to point out that tourism is also a major industry in the United States. The tourism industry generates 4.3 million jobs, almost 5 percent of American jobs in 1980. According to a recent publication of the U.S. Travel Data Center, the "travel dollar generated 16 cents in tax revenue for Federal, State, and local governments." How much of that travel revenue will be lost to oiur country's Government under the terms of this bill?

In 1980, Americans themselves spent \$157 billion while traveling within the United States, up 11 percent from the previous year. How many travel dollars will be lured away from the U.S. travel business as a result of the Caribbean Basin Initiative?

The biggest growth area within the travel industry is in convention business. Nearly every State in the Union has several destinations which actively pursue lucrative convention business. Municipalities and States have spent millions of dollars in building up their infrastructure to increase the attractiveness of their cities as convention sites. How can we now grant a special tax benefit which will surely attract convention business away from these local sites?

The U.S. tourism industry is already suffering. I cannot in good conscience support a provision that adds another burden to an industry that is struggling, an industry dominated in large part by small business.

I urge my colleagues to consider the questions I have posed and to vote against the Caribbean Basin Initiative.

Mr. PANETTA. Mr. Chairman, all of us here approach our jobs as Congressmen with two salient responsibilities clearly in mind: The responsibility to be statesmen in taking a broad view of the international impact of our policies in terms of this country's interests. And the equally important responsibility to serve the concerns of our constituents; to represent their particular needs and their livelihoods. As elected Representatives to the Congress, we are the only ones who are in the position to do so.

To the extent that the two coincide, that is both national and district interests joining together, the easier the choice. By the same token, to the extent that the two diverge, there are fewer simple solutions, only tough decisions.

It is the latter kind of choice I face on this issue:

I can certainly understand and appreciate the commitment the President has made to the nations of Central America and the Caribbean, and that to turn back on that commitment would hurt our Nation's image.

But I also represent one of the most productive agricultural areas in the world-specializing in fresh fruits and vegetables, flowers, and other perishable agricultural products. It has been out of awareness of the concerns of my constituents that I have during the last 6 years fought reducing duties on specialty crops. We have been successful largely because we made the case that uncontrolled imports would have a significant impact on small specialty crop farmers from not only my district, but all across the Nation. In fact, specialty crop farming is a \$35 billion industry nationwide, involving some 220,000 growers. After accounting for employees in related industries, including trucking, packaging, processing, and restaurants, we are looking at a total employment figure in excess of 2 million workers.

Today we are faced with a bill (H.R. 7397) which would permit duty-free entry of perishable goods into this country. In drafting this legislation, apparent foresight prevailed with the inclusion of emergency relief provisions to safeguard domestic producers in the event that increased imports were determined to be a substantial

cause of serious injury.

What must be understood is that fresh fruits and vegetables are already being imported into this country. Our fruit and vegetable farmers are struggling right now to compete with imports. And it can be expected that many farmers and small businesses will face economic ruin should unlimited quantities of perishable products be allowed to enter the United States duty-free.

Essentially, what we are considering today is a bill that fails to provide realistic safeguards for American producers and applies a double standard by retaining import duties on certain products. These special exemptions include: Textiles and apparel, footwear, petroleum, sugar, beef, and veal. We are told that these areas have been exempted because the incentive of unlimited duty-free access to the U.S. market would likely result in a virtual flood of these particular imports. In addition, we are told that these industries have already been heavily impacted by increased imports and are not likely to survive, faced with dutyfree import competition. Finally, the argument has been made that there is no longer relief for these industries and their workers as was formerly provided by trade adjustment assistance programs or the Economic Development Administration (EDA).

The fact is, all three of the above descriptions apply to the agricultural industry in this country today. What we are left facing is an arbitrary decision at best which will invariably result in further eroding the position of our farmers.

The question comes down to whether the broader interests of the President's foreign policy initiative outweigh the immediate and serious injury to the people of my district at a time of serious economic uncertainty.

This is not the time, in the waning hours of the 97th Congress, to rush to judgment on domestic content legislation, nor the time to rush to judgment on legislation to reform our immigration laws, just as it is not the time to rush to judgment on the Caribbean Basin Initiative. The important issues facing us at this late hour are the continuing resolutions—to provide the continued operation of the Federal Government—and the development of a program to provide desperately needed jobs to this Nation's unemployed.

These are my priorities in the next few hours and they ought to be the Congress' and the Nation's.

I therefore urge my colleagues to join me in opposing this untimely proposal.

• Mr. BIAGGI. Mr. Chairman, I wish to make an observation in connection with the Caribbean Basin Initiative bill presently before us. It concerns a matter which was extensively debated on the floor of the House of Representatives on June 20, 1979, at the time that Congress was considering the Panama Canal Treary implementing legislation. I refer to two outstanding expropriation claims against Panama which date back to 1970 and 1974 respectively. During the June 1979 debates on H.R. 111 we received repeated assurances from the State Department that the expropriation claim of Boston-Panama Co., which goes back to 1970, and that of Citricos de Chiriqui, S.A., which goes back to 1974, would shortly be honored by Panama and there was no need to include an amendment to the treaty legislation which would have required Panama to address a resolution to these claims before receiving treaty payments. I am sorry to state that despite those assurances in 1979 we are now approaching 1983 with the claims still unresolved. It seems appropriate, therefore, that we take this opportunitiy to remind the administration that the benefits to be conferred by H.R. 7397 are not expected to be extended to any Caribbean country which engages in this kind of conduct to the detriment of U.S. citizens. The lan-

guage of section 102 of the bill is aimed at preventing precisely this kind of activity by denying beneficiary country status in situations like the present cases. Frankly, I can think of nothing which more discourages foreign investment in a country than the fear that one's business property may suddenly be seized and that compensation will be given, if at all, only after years of delay. In the two expropriation cases I have referred to, the Government of Panama has regretfully shown hostility to American investors by its indifference to reimbursing the property owners, I am certain the economy of Panama has not gained as a result of this conduct. While we desire that all Caribbean Basin countries share in the benefits designed to be conferred by the CBI, at the same time it would seem highly inappropriate for this administration to be conferring special benefits to a country which is not addressing its obligation to reimburse U.S. citizens for property taken from them.

Mr. CONABLE. Mr. Chairman, I now yield the balance of my time, which I believe to be 6 minutes, to the distinguished gentleman from Michigan (Mr. Vander Jagt).

Mr. VANDER JAGT. Mr. Chairman, I rise in strong support of the legislation before us and to commend the distinguished chairman of the Subcommittee on Trade of the Committee on Ways and Means, the gentleman from Florida (Mr. Gibbons), for very painstakingly developing a bill that is an improvement over the President's proposals that have come to us, in a way that minimizes any potential damage to domestic industry and maximizes economic opportunity for the Caribbean.

I also commend the distinguished chairman of the full Committee on Ways and Means, the gentleman from Illinois, for a beautiful blending of enlightened statesmanship and practical political wisdom in bringing to us a bill of which we can all be proud, providing great oportunity for freedom and for friendship in the Caribbean.

Mr. Chairman, I believe if we, the proponents of the bill, could properly humanize and personalize and individualize the issue, that this bill would pass unanimously in this body. I do not think there is a Member in this body who, receiving a knock on his door and opening the door to find some travelers parched with thirst, asking for a couple of glasses of water, would say, "Do not bother me now; I am too busy with my own problems," and slam the door in their face.

Yet, in an analogous way, that is really the situation that confronts us. Really, what is a pebble to an elephant is a mountain to a group of ants. We are being asked today possibly to sacrifice a pebble of protectionmountain of economic opportunity for the nations of the Caribbean.

We could take 18 of the 26 countries that are involved here, and they would fit altogether within the boundaries of the King Ranch in Texas. Ten of the countries have an annual budget that is less than the budget of the Congress of the United States.

Even if the worst fears of the opponents are realized, and it doubles and triples imports from the Caribbean. the total imports would still constitute only a fraction of 1 percent of the imports into the United States of America.

How can anything so tiny possibly be so important to the United States? Well, as has been stated, nearly half of our imports, more than two-thirds of our imported energy, and more than half of our strategic materials so essential for our industrial production and jobs in the United States pass through the narrow confines of the Caribbean Basin.

The economic help that is delivered is not even the most important thing; most important is the psychological and the symbolic help that will be delivered.

It seems strange in this world where many of the political leaders of the world gain popularity and applause and votes riding on themes of anti-Americanism that most of the leaders in the nations of the Caribbean have recently been elected to office on a platform of friendship with the United States of America.

I ask my colleagues, who are good politicians, to judge for themselves what it would do to the political capital of these leaders in the Caribbean trying to draw their countries away from Cuba and totalitarianism toward the United States and freedom if the headline on the front page of every paper in the Caribbean tomorrow, which rightfully or wrongly would be the case if we were to defeat this legislation, if the headline were, "United States House of Representatives Slams Door in Face of Caribbean Overtures for Friendship."

At the same time we are voting for friendship for the Caribbean we can also vote for more jobs in the United States of America. There is no question that that is the case long term.

Right now we have a \$2 billion surplus with the nations involved in this initiative. In a recent study in Santo Domingo it was discovered there were products from 1,598 U.S. companies on the shelves in the stores in Santo Domingo to be sold to the people there: 350 firms were from New York; 148 firms from Illinois, and on and on and

Obviously, anything that lifts the economy and the purchasing power of the people of the Caribbean is going to

ism, in order to deliver a gigantic increase their purchases in the United States and, therefore, jobs here.

OK, how about the short term, the immediate crisis with which we are all so greatly concerned? If the worst that the opponents fear actually happens and there is a tremendous influx of imports, it is going to take 1 or 2 years to gear up. How do they gear up? By purchasing equipment, machinery, merchandising, technology, marketing skills here in the United States of America. If this passes, and if it has the impact that the opponents fear, that means immediate infusion of purchases and orders and, therefore, jobs in the United States of America.

So I sincerely hope that as this lameduck session waddles into the night that we will be able to vote for this initiative and go home for the holidays confident that we have made the right vote, the right vote for jobs, short term and long term, and we have made a vote that gives to the people of the Caribbean the thing that they are desperately yearning and longing for, a chance for friendship with the United States of America and for a sharing of a tiny portion of that great American dream.

The CHAIRMAN. The time of the entleman from Michigan (Mr. gentleman from VANDER JAGT) has expired.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman has 21/2 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Chairman, I must admit that when the President presented his Caribbean Initiative I was somewhat disturbed at the minimal consultation with members of the Ways and Means Commit-

When I first visited with the President in the White House, with the leadership of the House of Representatives and the Committee on Ways and Means, I became even more skeptical. Given that initial sour note, one would expect that relations would disintegrate.

After several conversations, the President of the United States suggested that I take as many of my committee to the Caribbean to see for ourselves whether or not this initiative was going to be helpful, not only to those little countries but to the United States as well.

I went there as a skeptic. I was pessimistic about chances for the CBI, and I would add that all the colleagues who joined me in that mission were not too enthusiastic either.

After having spent 8 days in 5 countries, after talking with 10 Caribbean leaders at the Carricom Conference, I must say my attitude changed.

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In my opinion, if our economy was not in the condition that it is, this legislation would flow through this house virtually unrecognized. It is time for us to recognize that the Caribbean is our underbelly, and that the Carribean people are our friends. One could almost call them citizens of the United States. This is a time when our hand must reach out, not to give aid to these people—but to extend trade. In every conversation that we had, Carribean leaders, whether in trades, in finances, or in business, said, "Mr. Congressman, Mr. Chairman, we don't want your aid. We want to trade with you."

I think this is an opportunity to help the Carribean and to help ourselves, to bring them to assure they remain strong members of our sphere.

Mr. Chairman, this is historic legislation and it is the first step in the right direction of protecting this coun-

try as well. The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read for amendment under the 5minute rule. No amendments are in order except: First, Amendments recommended by the Committee on Ways and Means, and the amendments now printed in the bill shall be considered en bloc; second, an amendment printed in the Congressional Record of December 15, 1982, by Representative GEPHARDT; third, an amendment printed in the Congressional Record of December 15, 1982, by Representative DE LUGO of the Virgin Islands; and fourth, an amendment printed in the CONGRESSIONAL RECORD of December 15, 1982, by Representative HOPKINS of Kentucky, and said amendments shall not be subject to amendment.

The text of H.R. 7397 is as follows:

## H.R. 7397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SECTION 1. SHORT TITLE.

This Act may be cited as the "Caribbean Basin Economic Recovery Act"

TITLE I-DUTY-FREE TREATMENT SEC. 101. AUTHORITY TO GRANT DUTY-FREE TREATMENT.

The President may proclaim duty-free treatment for all eligible articles from any beneficiary country in accordance with the provisions of this title.

SEC. 102. BENEFICIARY COUNTRY.

(a) (1) For purposes of this title (A) The term "beneficiary country" means any country listed in subsection (b) with respect to which there is in effect a proclamation by the President designating such country as a beneficiary country for purposes of this title. Before the President designates any country as a beneficiary country for purposes of this title, he shall notify the House of Representatives and the Senate of his intention to make such designation, together with the considerations entering into

such decision. (B) The term "TSUS" means the Tariff Schedules of the United States (19 U.S.C. 1202).

(2) If the President has designated any country as a beneficiary country for purposes of this title, he shall not terminate such designation (either by issuing a proclamation for that purpose or by issuing a proclamation which has the effect of terminating such designation) unless, at least sixty days before such termination, he has notified the House of Representatives and the Senate and has notified such country of his intention to terminate such designation. together with the considerations entering into such decision.

(b) In designating countries as "beneficiary countries" under this title, the President shall consider only the following countries and territories or successor political entities:

Anguilla Antigua and Barbuda Bahamas, The Barbados Belize

Costa Rica Cuba Dominica Dominican Republic El Salvador Grenada

Guatemala Guyana

Haiti

Honduras

Jamaica Nicaragua

Panama Saint Lucia Saint Vincent and the Grenadines Surinam Trinidad and Tobago Cayman Islands Montserrat **Netherlands Antilles** Saint Christopher-Nevis Turks and Caicos Islands Virgin Islands. British

In addition, the President shall not designate any country a beneficiary country under this title-

(1) if such country is a Communist country:

(2) if such country

(A) has nationalized, expropriated, or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property so owned, or

(C) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropri-ate, or otherwise seize ownership or control of such property, unless the President determines that-

(i) prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association.

(ii) good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to dis-charge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) a dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and

promptly furnishes a copy of such determi-nation to the Senate and House of Representatives:

(3) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators ap-pointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) if such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce. unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) if a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyrighted owners without their express consent: and

(6) unless there is in effect between the United States and such country a treaty regarding the extradition of United States

Paragraphs (1), (2), and (3) shall not prevent the designation of any country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

(c) In determining whether to designate any country a beneficiary country under this title, the President shall take into account-

(1) an expression by such country of its desire to be so designated;

(2) the economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) the extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such

(4) the degree to which such country follows the accepted rules of international trade provided for under the General Agreement of Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) the degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade:

(6) the degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) the degree to which such country is undertaking self-help measures to promote its own economic development;

(8) the degree to which workers in such country are afforded reasonable workplace conditions and enjoy the right to organize and bargain collectively;

(9) the extent to which such country prohibits its nationals from engaging in the

broadcast of copyrighted material, including films or television material, belonging to United States copyrighted owners without their express consent; and

(10) the extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

(d) General headnote 3(a) of the TSUS relating to products of the insular possessions) is amended by adding at the end thereof the following paragraph:

"(iv) subject to the provisions in section 103 of the Caribbean Basin Economic Recovery Act, articles which are imported from insular possessions of the United States shall receive duty treatment no less favorable than the treatment afforded such articles when they are imported from a beneficiary country under such Act.".

(e) The President shall, after complying with the requirements of subsection (a)(2), withdraw or suspend the designation of any country as a beneficiary country if, after such designation, he determines that as the result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

(a)(1) Unless otherwise excluded from eligibility by this title, the duty-free treatment provided under this title shall apply to any article which is the growth, product, or manufacture of a beneficiary country if—

SEC. 103. ELIGIBLE ARTICLES.

(A) that article is imported directly from a beneficiary country into the customs territory of the United States; and

(B) the sum of (i) the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus (ii) the direct costs of processing operations performed in such beneficiary country or countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

For purposes of determining the percentage referred to in subparagraph (B)(ii), the term "beneficiary country" includes the Commonwealth of Puerto Rico and the United States Virgin Islands. If the cost or value of materials produced in the United States (other than the Commonwealth of Puerto Rico and the United States Virgin Islands) is included with respect to an article to which this paragraph applies, not to exceed 15 percent of the appraised value of the article at the time of entry into the customs territory of the United States that is attributable to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (B)(ii).

(2) The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out this subsection including, not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufac-ture of a beneficiary country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary country; but no article or material of a beneficiary country shall be eligible for such treatment by virtue of having merely undergone-

(A) simple combining or packaging operations, or

(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the

(3) As used in this subsection, the phrase "direct costs of processing operations" in-

cludes, but is not limited to-

(A) all actual labor costs involved in the growth, production, manufacture, or assembly of the specific merchandise, including fringe benefits, on-the-job training and the cost of engineering, supervisory, quality control, and similar personnel; and

(B) dies, molds tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise.

Such phrase does not include costs which are not directly attributable to the mer-chandise concerned or are not costs of manufacturing the product, such as (i) profit, and (ii) general expenses of doing business which are either not allocable to the specific merchandise or are not related to the growth, production, manufacture, or assembly of the merchandise, such as administra-tive salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions or expenses.

(b) The duty-free treatment provided

under this title shall not apply to—

(1) textile and apparel articles which are

subject to textile agreements;

footwear, handbags, luggage, goods, work gloves, and leather wearing apparel not designated at the time of the effective date of this title as eligible articles for the purpose of the Generalized System of Preferences under title V of the Trade Act of 1974: or

(3) petroleum, or any product derived from petroleum, provided for in part 10 of

schedule 4 of the TSUS.

(c)(1) As used in this subsection-

(A) The term "sugar and beef products"

(i) sugars, sirups, and molasses provided for in items 155.20 and 155.30 of the TSUS, and

(ii) articles of beef or veal, however provided for in subpart B of part 2 of schedule

1 of the TSUS.

- (B) The term "Plan" means a Stable Food Production Plan that consists of measures and proposals designed to ensure that the present level of food production in, and the nutritional level of the population of, a ben-eficiary country will not be adversely affected by changes in land use and land ownership that will result if increased production of sugar and beef products is undertaken in response to the duty-free treatment extended under this title to such products. A Plan must specify such facts regarding, and such proposed actions by, a beneficiary country as the President deems necessary for purposes of carrying out this subsection, including but not limited to
- (i) the current levels of food production and nutritional health of the population;

(ii) current levels of production and export of sugar and meat products;(iii) expected increases in production and

export of sugar and products as a result of the duty-free access to the United States market provided under this title;

(iv) measures to be taken to ensure that the expanded production of those products because of such duty-free access will not occur at the expense of staple food production: and

(v) proposals for a system to monitor the impact of such duty-free access on staple food production and land use and land own-

ership patterns.
(2) Duty-free treatment extended under this title to sugar and beef products that are the product of a beneficiary country shall be suspended by the President under this subsection if-

(A) the beneficiary country, within the ninety-day period beginning on the date of its designation as such a country under section 102, does not submit a Plan to the President for evaluation;

(B) on the basis of his evaluation, the President determines that the Plan of a beneficiary country does not meet the criteria set forth in paragraph (1)(B); or

(C) as a result of the monitoring of the operation of the Plan under paragraph (5), the President determines that a beneficiary country is not making a good faith effort to implement its Plan, or that the measures and proposals in the Plan, although being implemented, are not achieving their purposes.

(4) Before the President suspends dutyfree treatment by reason of paragraph (2) (A), (B), or (C) to the sugar and beef products of a beneficiary country, he must offer to enter into consultation with the beneficiary country for purposes of formulating appropriate remedial action which may be taken by that country to avoid such suspension. If the beneficiary country thereafter enters into consultation within a reasonable time and undertakes to formulate remedial action in good faith, the President shall withhold the suspension of duty-free treatment on the condition that the remedial action agreed upon be appropriately implemented by that country

(5) The President shall monitor on a biennial basis the operation of the Plans implemented by beneficiary countries, and shall submit a written report to Congress by March 15 following the close of each bienni-

um, that

(A) specifies the extent to which each Plan, and remedial actions, if any, agreed upon under paragraph (4), have been implemented: and

(B) evaluates the results of such implementation.

(6) The President shall terminate any suspension of duty-free treatment imposed under this subsection if he determines that the beneficiary country has taken appropriate action to remedy the factors on which the suspension was based.

(d) For such period as there is in effect a proclamation issued by the President pursuant to the authority vested in him by section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) to protect a price-support program for sugar beets and sugar cane, the importation and duty-free treatment of sugars, sirups, and molasses classified under items 155.20 and 155.30 of the TSUS shall be gov-

erned in the following manner:

(1)(A) For all beneficiary countries, except those subject to subparagraph (B) and paragraph (2), duty-free treatment shall be provided in the same manner as it is provided pursuant to title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.), at the time of the effective date of this title; except that the President upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the value limitation provided for in section 504(c)(1) of the Trade Act of 1974 on the duty-free treatment afforded to beneficiary countries under this section if he finds that such adjustment will not interfere with the price support program for sugar beets and sugar cane and is appropriate in light of market conditions.

(B) As an alternative to subparagrah (A), the President may, at the request of a beneficiary country not subject to paragraph (2) and upon the recommendation of the Secretary of Agriculture, elect to permit sugar, sirups, and molasses from that country to enter duty-free during a calendar year subject to quantitative limitations to be established by the President on the quantity of sugar, sirups, and molasses entered from that country.

(2) For the following countries whose exports of sugar, sirups, and molasses in 1981 were not eligible for duty-free treatment because of the operation of section 504(c) of the Trade Act of 1974, the quantity of sugar, sirups, and molasses which may enter the customs territory of the United States in any calendar year shall be limited to no more than the quantity specified below:

Metric tons

Dominican Republic	780,000
Guatemala	210,000
Panama	160,000

Such sugar, sirups, and molasses shall be admitted free of duty, except as provided for

in paragraph (3).

- (3) The President, upon the recommendation of the Secretary of Agriculture, may suspend or adjust upward the quantitative limitations imposed under paragraph (1)(A) or (2) if he determines such action will not interfere with the price-support program for sugar beets and sugar cane and is appropriate in light of market conditions. The President, upon the recommendation of the Secretary of Agriculture, may suspend the duty-free treatment for all or part of the quantity of sugar, sirups, and molasses permitted to be entered by paragraphs (1)(B) and (2) if such action is necessary to protect the price-support program for sugar beets and sugar cane.
- (4) Any quantitative limitation imposed on a beneficiary country under paragraph (1)(B) or (2) shall apply only to the extent that such limitation permits a lesser quantity of sugar, sirups, and molasses to enter the customs territory of the United States from that country than the quantity that would be permitted to enter under any other provision of law.
- (e)(1) The President may by proclamation suspend the duty-free treatment provided by this title with respect to any eligible article and may proclaim a duty rate for such article if such action is proclaimed pursuant to section 203 of the Trade Act of 1974 or section 232 of the Trade Expansion Act of 1962. Any proclamation issued pursuant to section 203 of the Trade Act of 1974 that is in effect when duty-free treatment pursuant to section 101 of this title is proclaimed shall remain in effect until modified or terminated.
- (2) In any report by the International Trade Commission to the President under section 201(d)(1) of the Trade Act of 1974 regarding any article for which duty-free treatment has been proclaimed by the President pursuant to this title, the Commission shall state whether and to what extent its findings and recommendations apply to such article when imported from beneficiary countries. With respect to any article which is subject to import relief in effect at the time duty-free treatment is proclaimed pursuant to section 101 of this title, the President may reduce or terminate the application of such import relief to imports from beneficiary countries prior to its otherwise scheduled date pursuant to the criteria and procedures of subsections (h) and (i) of section 203 of the Trade Act of 1974.
- (3) For purposes of subsections (a) and (c) of section 203 of the Trade Act of 1974, the suspension of the duty-free treatment provided by this title shall be treated as an increase in duty.

(4) No proclamation which provides solely for a suspension referred to in paragraph (3) of this subsection with respect to any article shall be made under subsections (a) and (c) of section 203 of the Trade Act of 1974 unless the United States International Trade Commission, in addition to making an affirmative determination with respect to such article under section 201(b) of the Trade Act of 1974, determines in the course of its investigation under section 201(b) that the serious injury (or threat thereof) substantially caused by imports to the domestic industry producing a like or directly competitive article results from the duty-free treatment provided by this title.

(f)(1) If a petition is filed with the International Trade Commission pursuant to the provisions of section 201 of the Trade Act of 1974 regarding a perishable product and alleging injury from imports from beneficiary countries, then the petition may also be filed with the Secretary of Agriculture with a request that emergency relief be granted pursuant to paragraph (3) of this subsection

with respect to such article.

(2) Within fourteen days after the filing of a petition under paragraph (1) of this subsection-

(A) if the Secretary of Agriculture has reason to believe that a perishable product from a beneficiary country is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a perishable product like or directly competitive with the imported product and that emergency action is warranted, he shall advise the President and recommend that the President take emergency action; or

(B) the Secretary of Agriculture shall publish a notice of his determination not to recommend the imposition of emergency

action and so advise the petitioner.

(3) Within seven days after the President receives a recommendation from the Secretary of Agriculture to take emergency action pursuant to paragraph (2) of this subsection, he shall issue a proclamation withdrawing the duty-free treatment provided by this title or publish a notice of his determination not to take emergency action.

(4) The emergency action provided by paragraph (3) of this subsection shall cease

to apply-

(A) upon the proclamation of import relief pursuant to section 202(a)(1) of the Trade Act of 1974,

(B) on the day the President makes a determination pursuant to section 203(b)(2)

not to impose import relief,

(C) in the event of a report of the United States International Trade Commission containing a negative finding, on the day the Commission's report is submitted to the President, or

(D) whenever the President determines that because of changed circumstances such

relief is no longer warranted. (5) For purposes of this subsection, the

erm "perishable product" means—
(A) live plants provided for in subpart A of part 1 of schedule 6 of the TSUS;

(B) fresh or chilled vegetables provided for in items 135.10 through 138.42 of the TSUS:

(C) fresh mushrooms provided for in term

144.10 of the TSUS;

(D) fresh fruit provided for in items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21, and 149.50 of the TSUS;

(E) fresh cut flowers provided for in items 192.17, 192.18, and 192.21 of the TSUS.

(g) No proclamation issued pursuant to this title shall affect fees imposed pursuant to section 22 of the Agricultural Adjustment Act (7 U.S.C. 624).

SEC. 104. MEASURES FOR PUERTO RICO AND UNITED STATES INSULAR POSSES-SIONS.

(a) Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the effective date of this Act, general headnote 3(a) of the TSUS is amended-

(1) by amending clause (i)-

(A) by striking out "50 percent" and inserting in lieu thereof "70 percent", and

(B) by striking out "(or more than 70 percent of their total value with respect to watches and watch movements)" and inserting in lieu thereof "(or more than 50 percent of their total value with respect to petroleum, and products derived from petroleum, provided for in part 10 of schedule 4)";

(2) by amending clause (ii) by striking out '50 percent" and inserting in lieu thereof

"70 percent".

(b) Item 813.31 of the TSUS is amended by striking out "4 liters" and inserting in lieu thereof "5 liters", and by inserting after "United States,", "and not more than 4 liters of which shall have been produced elsewhere than in such insular sions.

(c) If the sum of the amounts of taxes covered into the treasuries of Puerto Rico and or the United States Virgin Islands pursuant to section 7652(c) of the Internal Revenue Code of 1954 is reduced below the amount that would have been covered over if the imported rum had been produced in Puerto Rico or the United States Virgin Islands, then the President shall consider compensation measures and, in this regard, may withdraw the duty-free treatment on rum provided by this title. The President shall submit a report to the Congress on the measures he takes.

(d) Section 1112 of the Trade Agreements Act of 1979 (19 U.S.C. 2582) is repealed.

(e) No action pursuant to this title may affect any tariff duty imposed by the Legislature of Puerto Rico pursuant to section 319 of the Tariff Act of 1930 (19 U.S.C. 1319) on coffee imported into Puerto Rico.

(f) For purposes of chapter 1 of title II of the Trade Act of 1974, the term "industry" shall include producers located in the

United States insular possessions.

(g) Any discharge from a point source in the United States Virgin Islands in existence on the date of the enactment of this subsection which discharge is attributable to the manufacture of rum (as defined in paragraph (2) of section 7652(c) of the Internal Revenue Code of 1954 shall not be subject to the requirements of section 301 (other than toxic pollutant discharges), section 306 or section 403 of the Federal Water Pollution Control Act if-

(1) such discharge occurs at least one thousand five hundred feet into the territorial sea from the line of ordinary low water from that portion of the coast which is in

direct contact with the sea, and

(2) the Governor of the United States Virgin Islands determines that such discharge will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, and the protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities, in and on the water and such modification will not result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistenin the environment, acute toxicity, chronic toxicity (including carcinogenicity, mutagenicity, or teratogenicity), or synergistic propensities.

SEC. 105. ITC REPORTS ON IMPACT OF THIS ACT.

(a) The United States International Trade Commission (hereinafter in this section referred to as the "Commission") shall prepare, and submit to the Congress and to the President, a report regarding the economic impact of this Act on United States industries and consumers during-

(1) the twenty-four month period begin-

ning with January 1983; and

(2) each calendar year occurring thereafter until duty-free treatment under this title is terminated under section 106(b).

For purposes of this section, industries in the Commonwealth of Puerto Rico and the insular possessions of the United States shall be considered to be United States in-

(b)(1) Each report required under subsection (a) shall include, but not be limited to, an assessment by the Commission regard-

(A) the actual effect, during the period covered by the report, of this Act on the United States economy generally as well as on those specific domestic industries which produce articles that are like, or directly competitive with, articles being imported into the United States from beneficiary countries: and

(B) the probable future effect which this Act will have on the United States economy generally, as well as on such domestic industries, before the provisions of this Act termi-

(2) In preparing the assessments required under paragraph (1), the Commission shall, to the extent practicable-

(A) analyze the production, trade, and consumption of United States products affected by this Act, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production; and

(B) describe the nature and extent of any significant change in employment, profit levels, and use of productive facilities, and such other conditions as it deems relevant in the domestic industries concerned, which it believes are attributable to this Act.

(c)(1) Each report required under subsection (a) shall be submitted to the Congress and to the President before the close of the nine-month period beginning on the day after the last day of the period covered by

(2) The Commission shall provide opportunity for the submission by the public, either orally or in writing, or both, of information relating to matters that will be ad-

dressed in the reports.

SEC 106. EFFECTIVE DATE OF TITLE AND TERMINA-TION OF DUTY-FREE TREATMENT.

- (a) Effective Date.—This title shall take effect on the date of the enactment of this Act.
- (b) TERMINATION OF DUTY-FREE TREAT-MENT.-No duty-free treatment extended to

beneficiary countries under this title shall remain in effect after September 30, 1994.

TITLE II-TAX PROVISIONS

SEC. 201. PAYMENT OF EXCISE TAXES COLLECTED ON RUM TO PUERTO RICO AND THE UNITED STATES VIRGIN ISLANDS.

(a) In General.-Section 7652 of the Internal Revenue Code of 1954 (relating to shipments to the United States) is amended by inserting after subsection (b) the following new subsection:

(c) SHIPMENTS OF RUM TO THE UNITED

STATES.

"(1) EXCISE TAXES ON RUM COVERED INTO TREASURIES OF PUERTO RICO AND VIRGIN IS-LANDS.—All taxes collected under section 5001(a)(1) on rum reported into the United States (less the estimated amount necessary for payment of refunds and drawbacks) shall be covered into the treasuries of Puerto Rico and the Virgin Islands.

"(2) SECRETARY PRESCRIBES FORMULA. Secretary shall, from time to time, prescribe by regulation a formula for the division of such tax collections between Puerto Rico and the Virgin Islands and the timing and methods for transferring such tax collec-

tions.

"(3) RUM DEFINED.-For purposes of this subsection, the term 'rum' means any article classified under item 169.13 or 169.14 of the Tariff Schedules of the United States (19 U.S.C. 1201).

"(4) COORDINATION WITH SUBSECTIONS (a) AND (b).-Paragraph (1) shall not apply with respect to any rum subject to tax under sub-

section (a) or (b)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles imported into the United States after December 31, 1982.

SEC. 202. TREATMENT OF CARIBBEAN CONVEN-TIONS, ETC.

(a) GENERAL RULE.—Subsection (h) of section 274 of the Internal Revenue Code of 1954 (relating to attendance at conventions, etc.) is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF CONVENTIONS IN CER-

TAIN CARIBBEAN COUNTRIES .-

"(A) In GENERAL.—For purposes of this subsection, the term 'North American area' includes, with respect to any convention, seminar, or similar meeting, any beneficiary country if there is in effect (as of the time such meeting begins) a bilateral or multilateral agreement between such country and the United States providing for the exchange of information between the United States and such country.

"(B) BENEFICIARY COUNTRY.-For purposes of this paragraph, the term 'beneficiary country' has the meaning given to such term by section 102(a)(1)(A) of the Caribbean Basin Economic Recovery Act; except that such term shall include Bermuda.

(C) AUTHORITY TO CONCLUDE EXCHANGE OF INFORMATION AGREEMENTS.—The Secretary is authorized to negotiate and conclude agreement for the exchange of information with any beneficiary country. An exchange of information agreement shall provide for the exchange of such information (not limited to information concerning nationals or residents of the United States or the beneficiary country) as may be necessary or appropriate to carry out and enforce the tax laws of the United States and the beneficiary country (whether criminal or civil proceedings), including information which may otherwise be subject to nondisclosure provisions of the local law of the beneficiary country such as provisions respecting bank secrecy and bearer shares. The exchange of

information agreement shall be terminable by either country on reasonable notice and shall provide that information received by either country will be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration or oversight of, or in the determination of appeals in respect of, taxes of the United States or the beneficiary country and will be used by such persons or authorities only for such purposes.

"(D) COORDINATION WITH SECTION 6103 .-Any exchange of information agreement negotiated under subparagraph (C) shall be treated as an income tax convention for pur-

poses of section 6103(k)(4).

EFFECTIVE DATE.-The made by subsection (a) shall apply to conventions, seminars, or other meetings beginning after December 31, 1982.

#### COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the committee amendments.

The Clerk read as follows:

Committee amendments: Page 6, strike lines 11 through 13 and insert:

'(6) unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens.'

In section 103(c)(1)(B) of the bill strike out "meat" in clause (ii) and insert "beef' and insert "beef" before "products" in clause (iii).

In section 104(c) of the bill strike out "and" after "Puerto Rico" the first time it appears therein.

In lieu of the text for section 274(h)(5)(A) of the Internal Revenue Code of 1954 (as proposed to be added by section 202(a) of

the bill) insert the following:

"(A) In general.—For purposes of this subsection, the term 'North American area' includes, with respect to any convention, seminar, or similar meeting, any beneficiary country if (as of the time such meeting begins)

'(i) there is in effect a bilateral or multilateral agreement between such country and the United States providing for the change of information between the United

States and such country, and

'(ii) there is not in effect a finding by the Secretary that the tax laws of such country discriminate against conventions held in the United States.'

At the end of paragraph (5) of section 274(h) of the Internal Revenue Code of 1954 (as proposed to be added by section 202(a) of the bill), insert the following:

(E) FINDINGS PUBLISHED IN THE FEDERAL REGISTER.—Any finding by the Secretary under subparagraph (A)(ii) (and any termination thereof) shall be published in the Federal Register."

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from

Illinois? There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, this committee amendment is simply an aggregate of those committee amendments printed in the bill as reported by the Committee on Ways and Means. They reflect changes made

in the bill in the committee

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENTS OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I ask unanimous consent that I may offer amendments making seven clerical changes in the bill as reported by the committee.

The CHAIRMAN. Is there objection to the request of the gentleman from

Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ROSTENKOW-SKI: Page 21, line 3, strike out "1" and insert

Page 21, line 4, strike out "6" and insert

Page 23, line 15, strike out "(2)" and insert "(3)".

Page 23, line 16, insert a closed parenthesis after "1954"

Page 24, lines 5 and 6, strike out "such modification"

Page 27, line 13, strike out "reported" and insert "imported"

Page 28, line 2, strike out "1201" and insert "1202".

Mr. ROSTENKOWSKI (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. Rostenkow-SKI).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. ROSTENKOWSKI

Mr. ROSTENKOWSKI. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from

Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. ROSTENKOW-SKI: Page 11, line 21, strike out "or"

Page 11, between lines 21 and 22, insert the following:

(3) tuna, prepared or preserved in any manner, in airtight containers; or

Page 11, line 22, strike out "(3)"; and insert in lieu thereof "(4)".

Mr. ROSTENKOWSKI. Mr. Chairman, this committee amendment is as the Gephardt-Lowery known amendment. This amendment was approved by the committee yesterday afternoon. It is identical to the amendment that was made in order under the rule to be offered by the gentleman from Missouri (Mr. Gephardt). The amendment of the gentleman from Missouri was discussed at our committee meeting yesterday and approved by the committee.

the gentleman yield?

Mr. ROSTENKOWSKI. I yield to my colleague from New York (Mr.

Mr. CONABLE. Mr. Chairman, there has been some agreement in the committee about this measure. However, there remains objection to it. I am wondering if, in view of the amendments that are to follow, it might be desirable to have a vote on this.

Mr ROSTENKOWSKI. It was not the intention of the gentleman from Illinois to have a roll call on this. However, immediately after this amendment is agreed to I was going to ask for a quorum call.

Mr. CONABLE. Mr. Chairman, I personally believe that the measure would be a stronger measure were this amendment not to be added. However, I do not wish to elaborate or take the time of the House.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield.

Mr. FRENZEL. Mr. Chairman, must say I have the same feeling. It is an unnecessary amendment giving unnecessary protection to an industry which is not threatened in the Caribbean Basin. I will, however, not object

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Mr. Chairman, I thank the chairman for yielding, and wish to commend the chairman for offering this amendment and to tell him that this is appreciated.

Mr. Chairman, many of my col-leagues will be speaking today on behalf of the Gephardt amendment as a result of the impact that free importation of processed tuna will have on the Nation. On behalf of the more than 3 million Americans living in Puerto Rico, 13,000 of whom depend on tuna canning for their livelihood, I would like to spend my time addressing the importance of tuna canning to the island.

Our unemployment rate is, sadly, above 22 percent. We have the misfortune to experience a negative growth rate this year of minus 4 percent.

The tuna canning industry has been in operation on the island for 30 years. It has grown to a point where 40 percent of all U.S. production originates in Puerto Rico. Last year, Americanflag vessels transported 233 million pounds of canned tuna to the mainland. Unlike many industries, tuna processing is labor intensive. The canneries in Puerto Rico employ over 7,000 persons directly, and another 6,000 have jobs which depend on the health of the industry.

Tuna canning is a relatively healthy industry in Puerto Rico at the moment. The Caribbean nations have

Mr. CONABLE. Mr. Chairman, will little current production. But the Caribbean Basin Initiative unless amended, poses severe dangers for the U.S.

tuna canning industry.
First, since labor costs are one of the two key components in the price of a can of tuna, great competitive advantage would be gained by moving to the Caribbean basin where wage rates are lower.

Second, the U.S. producers must meet environmental and health regulations not imposed by these Caribbean nations. While these laws protect the U.S. worker and consumer, they do add costs to production.

Third. American-flag vessels are used in shipping the canned tuna from Puerto Rico to the mainland, a requirement which does not need to be met if tuna is canned elsewhere.

Fourth, tuna canning is a relatively mobile industry, and the canneries can be moved fairly rapidly. Construction time is also relatively short. A new cannery could be constructed from scratch in less than 1 year.

Given all this, it is clear that the Caribbean basin, with its abundant labor, low wage scale, and proximity to the United States, will be an attractive site for the relocation of these plants.

These conditions exist in the Caribbean as I speak, yet the tuna processing industry has not seen fit to transfer its operations out of the United States. The reason can only be the current tuna tariff of 35 percent. If the CBI does not exempt tuna, the canneries will leave; and once one leaves, the law of economic advantage will dictate that all must leave.

So, to my colleagues who argue that current low production in the Caribbean is a reason for duty-free status, I say that current production is not the problem, but the likelihood of great future production is.

To my colleagues who say why should Puerto Rico be concerned about one industry leaving when the CBI gives it revenues from the excise taxes collected on foreign rum sales, I say that the dollar amount we will receive from rum will not match the \$90 million per year the tuna industry contributes to the Puerto Rican economy.

And to my colleagues who say that jobs will be created by the free importation of tuna, I ask where will be the jobs for the 13,000 Americans in Puerto Rico, and the 50,000 nationwide who depend on tuna canning for their livelihood.

I urge you to support the Gephardt amendment.

Mr. LOWERY of California. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from California (Mr. Lowery) who has been very helpful.

Mr. LOWERY of California. Mr.

Chairman, the American tuna industry is in a period of economic dislocation brought on by excessive Federal

regulation. The United States tuna industry is on the precipice of economic ruin due to our own policies. Our tuna fishermen are the best in the world and can compete effectively with fishing interests anywhere in the world on an equal basis. But we cannot compete with foreign subsidized fishing operations or where our tuna industry is held hostage by U.S. regulation. Our industry must meet all city, county, State and Federal regulations in the areas of air pollution, water pollution, health standards, wage standards, marine mammal protection, and tax laws. Foreign fishing interests do not.

Mr. Chairman, I am no protectionist, but during this time of economic dislocation we must provide breathing room for our domestic tuna industry. The Gephardt-Lowery amendment is in the best interests of American consumers and workers. It is also in the best interest of American taxpayers. We stand to lose millions of dollars in revenue with the closing of U.S. canneries and transfer of U.S.-flag vessels to foreign flags.

**DECEMBER 17, 1982.** 

Congressman Daniel Rostenkowski, Chairman, Ways and Means Committee,

House of Representatives, Washington,

DEAR MR. CHAIRMAN: The undersigned conservation and animal protection organizations strongly support the Gephardt-Lowry amendment to the Caribbean Basin Initiative deleting tuna from the duty free provisions of the bill.

We support this amendment, which might at first appearance seem remote to the concerns of environmental groups, because we anticipate that exempting tuna of Caribbean Basin origin from U.S. tarrif requirements will lead to a transfer of both U.S. owned canning facilities to Caribbean nations, and U.S. flag tuna seiners to foreign flags. If this occurred, it could well undo years of strenuous effort by the conservation community to reduce the incidental kill of porpoise during the process of netting yellowfin tuna with purse seines.

From 1972 to 1978, the conservation and animal protection movement undertook a protracted and expensive campaign, in both the courts and the Congress, to force U.S. tuna industry compliance with the Marine Mammal Protection Act, which mandates reduction of incidental porpoise kill in the process of tuna fishing to "levels approaching zero." As a result, the kill of porpoise has been overwhelmingly reduced-from almost half a million in 1972 to approximately 20,000 a year today. After years of acrimony, the effort to reduce this unnecessary kill now enjoys the full cooperation of the U.S. tuna fishing community.

Unfortunately, however, the regulations and procedures which govern "setting on porpoises" to locate schools of yellowfin do not apply to foreign flag tuna seiners. While the Inter-American Tropical Tuna Commission (IATTC) has adopted some marine mammal conservation regulations, the IATTC program remains unenforced. Further, the Commission itself is currently in a state of of limbo-unable to impose conservation regulations for tuna, far less for porMoreover, during the struggle to bring about compliance with the Marine Mammal Protection Act, we were constantly hamstrung by both the existence of U.S.-owned foreign flag of convenience vessels, and by threats of those ships remaining under U.S. flag to "go foreign." Flag of convenience vessels, registered in Panama and other countries, consistently achieved yields twice that of U.S. flag vessels per vessel ton, simply by ignoring the IATTC regulations our vessels were obliged to obey. U.S. vessel owners were understandably reluctant to accept regulations that would increase the large differential advantage enjoyed by foreign flag vessels.

The duty free provision in the Caribbean Basin Initiative, if applied to tuna, promises to hasten the day when most of the tuna eaten in the United States is caught by foreign flag vessels and processed in foreign canneries. The result would be bad for U.S. workers, bad for porpoise and tuna conservation alike, and against the long term in-

terests of the United States.

Thank you for your consideration.

Very truly yours,
GUETA MARIA MEZZETTI.
TOM GARRETT.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, I rise in support of the Gephardt amendment to exempt canned tuna from the duty-free treatment as provided for by H.R. 7397, the Caribbean Basin Economic Recovery Act.

Mr. Chairman, I have been informed that our domestic tuna industry will suffer significant injury if processed tuna is not exempted from the duty-free importation provisions of the Caribbean Basin Economic Recovery Act, commonly referred to as the Caribbean Basin Initiative (CBI). The failure to retain the current tariffs on foreign processed tuna will jeopardize 40,000 to 50,000 jobs nationwide in canneries, fishing vessels, and related support industries.

Despite the current tariff protection, the domestic tuna industry is already experiencing severe competition from foreign tuna producers that are able to undercut domestic processors' prices due to the considerably lower cost of tuna processing in developing nations. In short, this Nation's tuna industry is facing severe economic hardships.

Mr. Chairman, in my district bordering on San Pedro Bay in southern California, there are two major canneries, Star-Kist and Pan-Pacific, employing approximately 6,000 people. I have approximately 1,000 tuna fishermen, and support industries that provide an additional 5,000 jobs. Mr. Chairman, I believe that the passage of the Caribbean Basin Initiative, without the tuna exemption, will place these 12,000 jobs in jeopardy.

I believe this because:

These canneries have already had to take drastic measures to confront their financial crisis. Pan-Pacific was

forced to terminate 500 workers in October 1981. Star-Kist closed for a month earlier this year, and only reopened when management and the unions agreed to a wage freeze. Tuna fishermen have seen a 21-percent cut in their real wages.

Mr. Chairman, the transfer of tuna operations to new Caribbean basin locations is a real possibility because tuna processing is such a highly competitive industry. I have spoken to labor leaders in my district who tell me that competition from Caribbean processing plants would, under the provisions of this bill, force the closure or relocation of local canneries to the Caribbean area.

I am especially fearful that the job loss resulting from the failure to exempt tuna from duty-free treatment would be inflicted primarily on women and minority workers in my district, a district already suffering high unemployment.

In conclusion, Mr. Chairman, I respectfully urge that the House exempt processed tuna from the duty-free importation provisions of the Caribbean Basin Initiative.

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Nebraska is recognized for 5 minutes.

There was no objection.

Mr. BEREUTER. Mr. Chairman, I rise in support of this amendment, and I would like to bring to my colleagues' attention the impact that duty-free tuna from a newly created tuna industry in the Caribbean basin nations (those with Pacific coast settings) would have in one particular part of the United States, American Samoa.

The tuna industry is by far the largest employment sector in American Samoa, and 90 percent of the exports from American Samoa are from the tuna industry. If the canneries on Samoa were to fold, unemployment there would soar to nearly 60 percent—and this on an island where the per capita income is currently only about \$4,000 a year.

Mr. Chairman, I understand that some may feel it is not discrete to speak further on this amendment, but since there is some small opposition to the amendment and since this body needs to know more about American Samoa, I think it is important that we advance the very best reason possible

for the exemption provided by this amendment.

There is probably no Member in the body that pays more attention to Caribbean and Latin American affairs than this Member. Accordingly, I strongly support the Caribbean Basin Initiative. I think however, on this amendment our focus, should be on American Samoa, one of our flag territories. I happen to admit to some per-

sonal conflict on this amendment and further exemptions, for I think that there are already too many exemptions to the Caribbean Basin Initiative as it is. But, as a Member who serves on the Territories Subcommittee of the Interior and Insular Affairs Committee, and as a person who toured the tuna canneries in American Samoa as recently as January, I want the Members to know that without this exemption the whole economy of American Samoa would be absolutely devastated. I understand the exemption is somewhat important to other parts of the world that are under the American flag too, including the San Diego area, but Members should know that 90 percent of the export economy of American Samoa consists of tuna.

In terms used by industrial developers, the tuna industry is "footloose. Certainly, the fleets that use the Pago Pago harbor are exceedingly footloose. So are the canneries because the capital investment in them is very small. Those two canneries, now operating at less than full employment because of existing conditions, are not only vitally important to American Samoa, they are also crucial as a source of employment for the adjacent independent nation of Western Samoa. Not only would this affect the tuna industry and the canning industry in American Samoa, but it would affect a fledgling but now thriving ship repair and refurbishing operation initiated by the Government of American Samoa with help from the Federal Government. That new operation is paying results today but it would fail without the tuna fleet drawn by the canneries. Closing of the canneries would also dash any hopes to establish a Samoan operated tuna fleet with American Samoans involved.

I would have to say one final thing: When it was suggested that there is some substantial impact and I would say that is an understatement—on American Samoa the only response from some policy advisors was, "Well, we can take care of it through the appropriation action in the next Interior Appropriation bill that comes before us."

I have to point out to the Members that the per capita appropriation for American Samoa has already gone down. Why devastate American Samoa and then use more taxpayer funds to partially compensate for that damage. Here is one amendment we should adopt if we do not want to hurt this particular flag territory.

Finally, let me, having looked at the great damage to the culture and heritage of some of our Micronesian Trust Territory islands I feel we must avoid such damage to American Samoa. The family structure is as strong as we find any place in the world, and that is the

major factor explaining why they have survived without suffering from a severe case of the welfare syndrome which today pervades large parts of Micronesia.

So, I think it is extremely important that we not only adapt programs to the needs of American Samoa, and keep them from moving to a total orientation toward the welfare system. We certainly must avoid devastating this most important part of their economy and thus push them to a greater reliance on taxpayer-funded programs.

In short, I urge my colleagues to remember the absolutely disastrous effect that failure to pass this amendment would have on American Samoa.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the distinguished gentleman from California

Mr. PHILLIP BURTON. Mr. Chairman, I would like to commend the gentleman in the well and associate myself with his remarks with respect to American Samoa. As the gentleman stated, the tuna industry provides the overwhelming majority of private sector jobs. Without the adoption of this pending amendment we are either going to guarantee that they are in desperate economic straits or to the extent that they will become much more dependent on welfare than they want to be or that we ought to permit them to be.

The tuna industry provides jobs to our fellow Americans and nationals on American Samoa, and this amendment is imperative if their economy has a chance of succeeding.

Mr. BEREUTER. I thank the gentleman. Along with the distinguished delegate from American Samoa, the gentleman from California who just spoke is certainly the most knowledgeable person in this body on the affairs of American Samoa.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to my very able colleague from California.

Mr. HUNTER. Mr. Chairman, I would like to commend the gentleman and associate myself with his remarks. I particularly like the message he has given that in fact the tuna industry allows our Samoans, and San Diegans, and Puerto Ricans to be proud and work. There is no substitute in social programs that could possibly substitute for the tuna industry in these parts of the country.

Mr. BEREUTER. I thank the gentleman for his remarks. Of course, this has no parochial interest to a landlocked State like my own, but I have seen and visited the tuna boats of our all too small tuna fleet in San Diego Harbor. I thank the gentleman for his comments and I conclude by asking

for the Members strong support for this amendment.

 Mr. GUARINI. Mr. Speaker, I rise in support of the Ways and Means Committee amendments to H.R. 7397, Caribbean Basin Economic Recovery

I would particularly like to thank Chairman Rostenkowski for offering as a committee amendment, an amendment to delete canned tuna from dutyfree consideration in this legislation.

The American tuna industry has been found to be import sensitive by the International Trade Commission. By removing canned tuna from the list of duty-free items, we are helping to preserve the 40,000 to 50,000 jobs that exist in this industry on the U.S. mainland and in our possessions.

In Puerto Rico along, there are 13,000 direct and indirect jobs created by the tuna industry. With the unemployment rate in Puerto Rico around 25 percent, we cannot afford to jeopardize their import-sensitive industry.

The viability of the Puerto Rican tuna canneries is of direct concern to my district. Chicken-of-the-Sea Tuna canned in Puerto Rico comes into Port Elizabeth, N.J., is transported to Port Jersey, and from there it is sent to its destination in the New York/Philadelphia markets.

Mr. Speaker, there is currently over 13 percent unemployment in my district, over 16 percent unemployment in my home city. There are over 200 people employed in my district's tuna transport operation. We cannot afford to jeopardize their jobs and the jobs of thousands of other Americans.

There is one other point I would like to make. Currently, all of the tuna sent from Puerto Rico to the mainland comes on American-flag vessels. If the Caribbean tuna industry was to gain at the expense of the American tuna industry, our already declining fleet would suffer even harder times.

I urge the House to accept this committee amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois (Mr. ROSTENKOW-

The amendments were agreed to.

Mr. ROSTENKOWSKI. Mr. Chairman, I make the point of order that a quorum is not present.

CHAIRMAN. The Evidently quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic

The following members responded to their names:

# [Roll No. 474]

Addabbo Annunzio Bailey (PA) Akaka Applegate Ashbrook Barnard Barnes Albosta Alexander AuCoin Badham Bedell Beilenson Anderson Bailey (MO) Bennett Andrews

Bereuter Gavdos Gejdenson Revill Genhardt. Gibbons Biaggi Bingham Gilman Bliley Gingrich Gonzalez Boner Goodling Gore Gradison Bonker Bouquard Gramm Breaux Gray Green Brodhead Gregg Grisham Brooks Broomfield Guarini Brown (CO) Brown (OH) Hall (IN) Hall, Ralph Broyhill Burton, Phillip Hall, Sam Byron Hamilton Campbell Carman Hance Hansen (IIT) Carney Chappie Harkin Cheney Hartnett Hatcher Clausen Clay Hawkins Clinger Hefner Heftel Coats Coelho Hendon Hertel Collins (IL) Hightower Collins (TX) Conable Hillis Hollenbeck Convers Holt Hopkins Corcoran Coughlin Howard Courter Coyne, James Coyne, William Hubbard Craig Hughes Crane, Daniel Hunter Crane, Philip Hutto Crockett Hyde Daniel, Dan Jacobs Daniel, R. W. Jeffords Dannemeyer Jenkins Daschle Johnston Daub Jones (NC) Jones (OK) Davis de la Garza Jones (TN) Dellums Kastenmeier Derrick Kazen Derwinski Dicks Kennelly Kildee Dingell Kindness Kogovsek Dixon Dorgan Kramer Lagomarsino Dornan Lantos Dowdy Latta Downey Dreier Leach Duncan Leland Dunn Dwyer Lent Levitas Early Lewis Eckart Livingston Edgar Loeffler Edwards (CA) Long (LA) Long (MD) Edwards (OK) Emerson Lowery (CA) English Erdahl Erlenborn Luken Ertel Lundine Evans (IA) Lungren Markey Evans (IN) Marlenee Marriott Fazio Fenwick Martin (IL) Martin (NC) Ferraro Fiedler Martin (NY) Martinez Fields Fish Matsui Flippo Mavroules McClory Ford (MI) McCollum Ford (TN) McCurdy

Forsythe

Fountain

Fowler

Frank

Garcia

McDade

McEwen

McGrath

McHugh

Michel

Mikulski Miller (CA) Miller (OH) Mineta Minish Mitchell (MD) Mitchell (NY) Moakley Molinari Mollohan Montgomery Moore Moorhead Morrison Mottl Murphy Murtha Myers Napier Natcher Hammerschmidt Nelligan Nelson Nichols Nowak O'Brien Oakar Oberstar Obey Oxley Panetta Pashayan Patman Patterson Paul Pepper Perkins Petri Pickle Porter Price Pritchard Pursell Quillen Railsback Rangel Regula Rhodes Rinaldo Ritter Roberts (KS) Robinson Rodino Roe Roemer Rogers Rose Rostenkowski Roth Roukema Roybal Rudd Russo Sabo Schneider Schroeder Schumer Seiberling Sensenbrenner Shamansky Shannon Sharp Shaw Shelby Shumway Siljander Simon Skeen Skelton Smith (AL) Smith (IA) Smith (NE) Smith (NJ) Smith (OR) Snowe Snyder Solomon Spence St Germain Stangeland Staton Stenholm Stratton

Studds Walker Wirth Stump Wampler Wolf Synar Washington Wolpe Watkins Weber (MN) Tauke Wortley Tauzin Wright Taylor Weber (OH) Wyden Wylie Thomas Weiss Traxler White Trible Whitehurst Yatron Udall Whitley Young (AK) Vander Jagt Whittaker Young (FL) Vento Whitten Young (MO) Williams (OH) Volkmer Zablocki Walgren Wilson

The CHAIRMAN. Three hundred forty-seven Members have answered to their names, a quorum is present, and the Committee will resume its business.

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AMENDMENT OFFERED BY MR. DE LUGO

Mr. DE LUGO. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. DE Lugo: On page 17, after line 15, insert a new section 103(e) and change subsequent subsections enumerations accordingly:

(e)(1) For purposes of this subsection, the term "entered" means entered, or withdrawn from warehouse, for consumption within the customs territory of the United

(2) Duty-free treatment provided under this title during any calendar year after 1982 to bulk rum that is the product of a beneficiary country shall terminate for such portion of that year that remains after the quantity of such bulk rum which is entered during that year exceeds whichever of the following quota amounts is greater:

(A)(i) for calendar year 1983, an amount, as determined by the President, equal to 150 percent of the total amount of bulk rum that was the product of that beneficiary country and was entered during either 1980

or 1981, and

(ii) for each subsequent year after calendar year 1983 except as provided in subparagraph 3 of this subsection, an amount, as determined by the President, equal to 120 percent of the maximum amount of duty-free bulk rum allowable the preceding year; or

(B) 10,000 proof gallons.

(3) Unless the President determines, with respect to any calendar year after 1983, that the respective quantities of bulk rum which are the product of Puerto Rico and the United States Virgin Islands and are entered during that calendar year equaled amounts more than the greater of:

(A) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during cal-

endar 1981, or

(B) 90 percent of the quantities of bulk rum produced in Puerto Rico and the Virgin Islands, respectively, and entered during the immediately preceding calendar year.

then the maximum amount of duty-free bulk rum from each beneficiary country allowable under clause (ii) of subparagraph (2)(A) of this subsection during the calendar year immediately following the year for which such determination was made shall be 100 percent of the maximum amount of duty free bulk rum allowable for the year for which such determination was made.

(C) The President may waive the provisions of subparagraphs 3(A) and 3(B) hereof if he determines that the reductions described therein were primarily the result of:

(i)(a) in the case of the Virgin Islands, competition from the bulk rum industry of Puerto Rico:

(i)(b) in the case of Puerto Rico, competition from the bulk rum industry of the United States Virgin Islands;

(ii) criminal acts;

(iii) concerted labor action; or

(iv) an act of God.

Mr. DE LUGO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from the Virgin Islands?

There was no objection.

The CHAIRMAN. Pursuant to the rule, the gentleman from the Virgin Islands (Mr. DE LUGO) will be recongized for 15 minutes, and a Member opposed to the amendment will be recognized for 15 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized.

The Chair recognizes the gentleman from the Virgin Islands (Mr. DE LUGO).

Mr. DE LUGO. Mr. Chairman, I would like to ask that I reserve 2 minutes of my time for closing.

Mr. CORRADA. Mr. Chairman, will

the gentleman yield?

Mr. DE LUGO. I am happy to yield to the Resident Commissioner from

Puerto Rico.

Mr. CORRADA. Mr. Chairman, I am pleased to join my colleague Mr. DE Lugo in offering this rum tariff-rate quota amendment. In its bare essence, it would allow for more rum entering the United States from Caribbean Basin nations duty free than ever before. For the first time, bottled rum-name brands that many people enjoy-will be totally free of tariffs. It shows that Puerto Rico and the Virgin Islands are willing to compromise on a question which, while clearly important to Caribbean Basin nations, is just as significant for the two U.S. domestic areas in the Caribbean.

The amendment has been outlined for you. I will not go over it again, but I would like to take a few moments to explain why it is so vitally needed.

We, in Puerto Rico, are proud of the fact that our rum has the largest share of the U.S. rum market. Our producers have worked hard, spent countless hours and millions of dollars in advertising and promotion to obtain this preeminent position. But the total duty-free importation of rum as put forth in the committee bill poses problems for both the government of Puerto Rico and our rum industry.

As you have heard, Puerto Rico and the Virgin Islands receive from the Federal Government the excise taxes collected on the sale of our rum. For Puerto Rico, this totaled \$250 million last year. These funds became part of our General Treasury and are used for schools, roads, hospitals, economic development projects, public assistance, and a host of other uses. We count on these revenues to form the basis for our annual operating budget.

The CBI recognizes the importance of these revenues, and even assigns to us the revenues collected by the Federal Government on the sale of foreign rum.

Curiously, the CBI therefore protects these revenues but not the industry. The industry could actually leave the island and, under this bill we would still receive rum revenues.

Now, some of you might say, that is a very good deal; income, but no industry. I do not. Despite these protections, the rum industry itself needs the assistance of the compromise amendment offered today by Congressman DE LUGO and myself.

I do not wish to have this phantom source of income. It is wrong, and moreover, should it occur, the funds rebated to Puerto Rico would be a prime target for reducing the Nation's overall budget deficit. We might lose in the end both the industry and the income if this amendment is not adopted.

The rum industry is itself important. It generates on the island \$100 million each year in wages, salaries, material purchases, and services. While the direct jobs are few, the income generated by these companies in Puerto Rico is large.

Those who oppose the amendment argue that in Puerto Rico current tax advantages will keep these firms from leaving. In the case of two of the three rum producers these tax advantages end well before the 12-year limit for the free trade zone is reached. Since the capacity to produce rum in these other nations already exists, the possibility, therefore, exists that the Puerto Rican rum producers could indeed transfer their production out of Puerto Rico at the end of this tax exemption.

Therefore, despite our large share of the rum market in the United States, the CBI does pose real problems for Puerto Rico. We recognize that rum is a source of pride to these Caribbean nations and we wish to accommodate their desires. This amendment does that. It responds both to the wishes of these nations as well as to the legitimate needs of Puerto Rico and the Virgin Islands. It is a balanced amendment, and I urge my colleagues to support it.

Mr. DE LUGO. I thank the gentleman and cosponsor of this amendment.

Mr. Chairman, from the beginning, I have consistently supported President Reagan's intention to address the long-simmering problems of our neighbors in the Caribbean Basin. We in the

U.S. Virgin Islands know firsthand of the economic and political problems of the area for the people in these islands are our closest neighbors. In fact, one-half of my constituents come from these other islands.

I have from the beginning indicated my willingness and the willingness of the people of the U.S. Virgin Islands to assist the administration in achieving the goals set by the President.

Those goals, outlined by the President, were to bolster the economies of the Caribbean and to prevent the spread of political instability. At the same time, the President insisted that the U.S. possessions in the Caribbean were to be "enhanced" and not hurt by his new policies.

Mr. Chairman, the legislation that is before us now eliminates safeguards for our rum industry and completely dilutes our convention tax benefits advantage-two devastating blows to our two major industries. This legislation will certainly not enhance the U.S. possessions, it will only serve to pit us against our brothers and sisters in the Caribbean in a battle for economic survival. It is a no-win situation for the territories, for the Caribbean countries, or even for the United States.

I am not going to go into the technical details of the rum amendment I am offering today. Those details were all spelled out in the letter I sent to every Member of the House this morn-

What is important here is the bottom line: The economic bottom line and the political bottom line.

Economically, my amendment will allow the rum producing countries of the Caribbean to increase their exports of rum to the United States by 1,400 percent, and to enter that rum duty-free with the United States, It also allows the territorial rum industry to survive, to be able to withstand this massive increase in competition in a very price sensitive, bulk rum "pennies count" industry.

Politically, my amendment is based on a compromise that I worked out with the U.S. Trade Ambassador William Brock when he recognized the logic of maintaining these healthy industries in the territories. My amendment goes even beyond that compromise that Ambassador Brock and I agreed to. It gives two key additional concessions in direct response to the request made to me personally by the Ambassadors of Jamaica and Barbados. For them it is a political victory. To my mind, it is also another clearcut indication of the willingness of the U.S. citizens in the territories to help make CBI work. For we want it to work, we live in the Caribbean. We are the United States in the Caribbean.

I recognize all the pressure that the Ways and Means Committee has been

under with this bill. And, I appreciate very much the consideration its members, the chairman of the committee, the gentleman from Illinois, the ranking Republican member, the gentleman from New York, and the chairman of the subcommittee, the gentleman from Florida, has given to the territories in their deliberations.

I am not attempting here to thwart the will of the committee, or to thwart the will of the administration, or to undermine the CBI. I am attempting here to make this legislation a threat to no one, to make this legislation a positive force that will bring stability and strength to all the Caribbean-our neighbors and our U.S. territories.

Mr. ANDERSON. Mr. Chairman. will the gentleman yield?

Mr. DE LUGO. I yield to the gentleman from California.

Mr. ANDERSON. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this equitable and fair amendment offered by our colleague from the Virgin Islands, the Hon. Ron DE Lugo.

As you know, this amendment would simply impose a tariff rate quota on the amount of bulk rum that can enter this country duty free from eligible Caribbean Basin countries.

It is important to note that if this amendment is not adopted it would void the terms of a compromise agreement in this area worked out between our U.S. Trade Representative, Bill Brock, and representatives from the Virgin Islands. In addition to this, the de Lugo amendment includes language requested by the Jamaican and Barbados Ambassadors to liberalize their own rum operations. As we know, these two countries are two of the largest rum producers in the world.

However, I feel that the most compelling argument for us to support the de Lugo amendment is the fact that the Virgin Islands is a U.S. territory. It is because of this position that the Virgin Islands is treated-in terms of our laws—as if it was our 51st State.

Thus, they must comply with our labor laws, environment regulations, and all other statutory requirements. Obviously this puts the Virgin Islands at a severe disadvantage in trying to compete with its Caribbean neighbors. For example, the wage requirements alone place the Virgin Islands at a competitive disadvantage. The average salary, in terms of U.S. dollars, for a worker in the Virgin Islands rum industry is over \$200 per week. In contrast, the salary for a worker in the Jamaican rum industry could be as low as 45 cents per hour-or \$18 per week.

It is readily apparent that if we were to allow the Caribbean Basin Initiative to pass without the de Lugo amendment-which only applies to bulk rum-it could spell disaster to one of the most important industries in our Virgin Islands.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentleman yield?

Mr. DE LUGO. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I applaud the gentleman for his amendment and rise in support of it.

Mr. MYERS. Mr. Chairman, will the gentleman yield?

Mr. DE Lugo. I am happy to yield to the gentleman from Indiana.

Mr. MYERS. I thank my colleague for yielding.

I realize the sensitive nature of this compromise that has been worked out between the administration and the Ways and Means Committee. But the amendment offered by the gentleman I think is an effort that will be a selfhelp, it seems to me, and does the least damage and still helps the purpose of this act.

I rise in support of this amendment. Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. DE LUGO. I yield to the gentleman from Louisiana.remarks.)

Mr. ROEMER. Mr. Chairman, I rise in support of the gentleman's amendment.

Mr. UDALL, Mr. Chairman, will the gentleman yield?

Mr. DE LUGO. I yield to the chairman of the Interior and Insular Affairs Committee, a good friend of the territories.

Mr. UDALL. I congratulate my friend on his amendment. I think this gives the Virgin Islands and Puerto Rico something they are entitled to, a little bit of consideration, and I strongly support the gentleman's amendment.

Mr. DE LUGO. I thank the gentleman and reserve the balance of my time.

The CHAIRMAN. The gentleman has consumed 7 minutes.

The Chair recognizes the gentleman from Illinois (Mr. Rostenkowski).

Mr. ROSTENKOWSKI. Mr. Chairman, I rise to oppose the amendment, and I yield 4 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

The CHAIRMAN. Without objection, the gentleman from Minnesota (Mr. FRENZEL) is recognized.

There was no objection.

Mr. FRENZEL. Mr. Chairman, the previous speaker indicated that the Virgin Islands wanted to assist in the Caribbean Basin Initiative.

Assistance like that will kill the bill. If this amendment is passed I can assure you that it will do more damage to the CBI than anything this body can do today.

He also indicated that his letter spelled out the details of his amendment. It does not. He also indicated that the Ambassador of Jamaica supported his amendment. I received a letter today from that gentleman saying he opposes it.

Rum is a symbol of the Caribbean area. If we restrict shipments of rum under this Caribbean Basin Initiative we are going to be insulting the governments of that area and casting real doubts as to whether this country means what it says about offering market access.

Mr. Chairman, the gentleman from the Virgin Islands also said he had an arrangement with Ambassador Brock. As far as I know, I have not seen any signed statement on that.

The gentleman had no arrangement with our committee which considered his suggestions and rejected them as unnecessary. Our committee heard from the gentleman and the Ambassador, and we accepted the Ambassador's advice.

We have provided in section 104 about six special single, double, triple, and quadruple dips for the Virgin Islands and Puerto Rico. As a matter of fact, right now those countries get \$289 million direct from the Treasury of the United States, without benefit of appropriation, as a result of shipments of rum to the United States.

There are only 94 jobs in the gentleman's Virgin Islands territory. The Virgin Islands are getting \$38 million a year direct from the Treasury as a result of rum excise taxes paid in the United States.

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The Virgin Islands and Puerto Rico have 97 percent of our rum market. The Virgin Islands gets \$38 million direct outpouring of money from the Treasury without appropriation to support those 94 jobs.

I have got a city in my district that has about the population of the Virgin Islands. I would like to build a rum distillery so that my city can get its \$38 million too.

Mr. Chairman, we have lavished affection and dollars on the Virgin Island and on Puerto Rico. What the gentleman asks in his amendment will shatter the Caribbean Basin Initiative, destroy the administration's program, and give needless extra benefits to an area which does not need them or deserve them.

Mr. CONABLE. Mr. Chairman, I yield myself the balance of the 4 minutes yielded to me by Chairman Rostenkowski.

Mr. Chairman, the people of Puerto Rico and the Virgin Islands have a very substantial claim on our attention and on our earnest consideration, and they have received that from the Ways and Means Committee in the formulation of this legislation.

If I could explain to my friends the source of the money that the gentleman from Minnesota referred to, it is a rebate of the excise tax collected on the rum manufactured in these two places. It represents a very substantial benefit to the two American possessions and offers them a unique source of revenue that is not available to others.

This bill, in addition, would rebate the excise tax on rum produced in other countries in the Caribbean area. But the gentleman from the Virgin Islands would like to have, in addition to that, a further benefit. It seems to me that the amendment that he seeks would go beyond the bounds of generosity that have already been stretched considerably by the committee, by imposing, in effect, a quota for the benefit of these two possessions to help them maintain the 97-percent of the American market they now have.

I think we have every reason to want to help Puerto Rico and the Virgin Islands, but I think we have helped them adequately. It seems to me that the purpose of this legislation was not to increase the subsidies available to them as a result of their manufacture of rum, but to permit the Caribbean Basin, where rum is considered a symbolic product, a product of long standing and of historic importance, also to participate in the very fast growing American market.

I would understand the concern of Puerto Rico and the Virgin Islands if the rum industry was in fact in bad trouble. But it is not. The demand for rum in this country is growing very fast at this point, and the purpose of the legislation is to permit the other Caribbean countries to participate in very small part in the expanding market.

Mr. DE LUGO. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia (Mr. Jenkins), a member of the committee.

Mr. JENKINS. Mr. Chairman, I have no parochial interest in this. My only interest is that we look after the possessions, and I think the committee has done an injustice to the Virgin Islands and Puerto Rico, and I want to address that point and tell the Members where this fight is really coming from.

As the gentleman from Minnesota and the gentleman from New York indicated, we are going to rebate to the Virgin Islands and to Puerto Rico their loss in revenue. Are we not generous? They are not even asking for it. It is not they who are seeking it. The United States of America is saying, "Look, we are going to destroy your domestic industry, but we will pay you." Is that not great? We are so generous.

Well, I say to you that the real interest in this fight is the Canadian liquor interest that controls the Jamaican rum industry. And what do they do to U.S. rum from the Virgin Islands? They charge \$1.50 a gallon for every

gallon of rum from the Virgin Islands to come into Canada today. And yet we want the American taxpayer to pick up this difference, to pay the Canadian liquor industry that controls the Jamaican liquor industry.

Now, let me tell you, my friends, in this 3 minutes you had better think for yourselves because these are American citizens of the Virgin Islands that we may hurt. Today there are 2.6 million gallons of Jamaican rum in the warehouses in this Nation. The tariff has not yet been paid. If you pass this bill without the de Lugo amendment, then there is an immediate \$3 million subsidy to the Canadian liquor industry.

Oh, yes, the big players in this are not the little jobs that are going to be created. As the gentleman from Florida indicated, 94 jobs in the Virgin Islands produces over 3 million gallons of rum that comes into this country now. This is not the big issue. The big issue is the big dollars that are involved, far removed from these islands.

I say to the Members that the citizens of the Virgin Islands and of Puerto Rico, our territories, American citizens, deserve your attention. This Representative from the Virgin Islands deserves your vote. He and his family have been there for two centuries. He is no newcomer. I have never been there. I have no personal interest; none whatsoever. But I tell you that this could be an embarrassment for us to undercut our American citizens there in favor of a Canadian company. I urge you to vote for the de Lugo amendment. Do not try to buy him off by telling him, "We are going to compensate you for your loss." The do not ask for it. They simply want to remain in the American marketplace in the trade area. This is an amendment that I urge my colleagues to support. I thank the Members for their attention.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. Anthony).

Mr. ANTHONY. Mr. Chairman, I think there have been some facts laid out here that need to be corrected to a considerable extent.

The Virgin Islands and Puerto Rico, our American citizens, have they been mistreated? We are giving them a turnback of the excise taxes. When the gentleman from Georgia (Mr. Jenkins) said that they did not ask for it, a trade representative before the full committee stated that that was one of the first concessions that the gentleman from the Virgin Islands (Mr. DE Lugo) asked for and did receive before the bill was even put in bill form.

In addition to that, there is an exemption in there from EPA regulations. In a separate piece of legislation there is the ability to manufacture

watches by putting the parts together. That bill has passed the House. A similar provision is in a bill that presently is over in the other body. On the tax side, where these countries in the Caribbean do not get any tax benefits, because we did not see fit to put that in this section this year but may address it next year, you have section 936, that Puerto Rico, and section 934, that the Virgin Islands participate in. Over and above that, scattered throughout our entire Federal Internal Revenue Code, there are several income tax exemptions that are special for Puerto Rico and the Virgin Islands which encourage domestic companies to go into those two areas and to invest. There are no similar provisions that will be going into the countries that will hope to participate in the Caribbean Basin Initiative.

So when you take into consideration all of the things that we have put into our statutes and the things that we are going to put into it if this passes, we can safely say, if it passes, and if the de Lugo amendment goes down, that we have treated those American citizens more than fairly. So do not feel ashamed if you do vote against the de Lugo amendment. We have made adequate concessions.

We have had a growth in the rum market like you have never seen. It has grown since 1966 at a rate of 70 percent every 5 years. All these small countries are asking you to do is to be able to participate without a quota and without a trigger mechanism, to be able to come in and buy just a small part of that increase in the future. We are talking about dollars. Let us put it in some type of perspective; \$100 million to Puerto Rico and the Virgin Islands in 1981. What did all of the Caribbean countries get? Four million dollars. Now, you tell me where these little bitty countries are going to come in and run Bacardi out of business, where they are going to come in and suddenly be a threat to an industry that has a foothold of \$100 million to \$4 million and is expected to grow faster than any other of the distilled spirits.

Let us talk about symbolism. The gentleman from New York (Mr. Con-ABLE) made the point, and it needs to be reemphasized. Rum is symbolic to Puerto Rico, and it is symbolic to the Virgin Islands. I recognize that. I am sensitive to that. But we have taken out everything that these people have an opportunity to participate in. They can go tourism, and they can go rum. If we put quotas and trigger mechanisms on rum, it definitely will have a chilling effect. Why would any investor go in and try to make a long-range commitment to penetrate a growing market if they know that their success will only bump them up against a quota? No reasonable businessman is going to go in. That chilling effect will continue to hold these people down.

What do they need? More than form, they need some substance, and here is the one area that this body can give. We can give them some form, we can give them some substance, and we can still say that we have not hurt Puerto Rico and we have not hurt the Virgin Islands. In fact, we have treated them more than adequately and more than fair. We will make some strong friends down in the Caribbean, and that is exactly what we need to do.
Mr. CORRADA. Mr. Speaker, will

the gentleman yield?

Mr. ANTHONY. I yield to the gentleman from Puerto Rico.

Mr. CORRADA. Is the gentleman aware that the Caribbean Basin countries can increase their current import of rum up to 150 percent and bring them free of tariff, under the de Lugo

amendment, and still this will not trigger the tariff, and that only if the current volume of sales in Puerto Rico and the Virgin Islands are reduced to 90 percent or less would the trigger

mechanism be in place.

Mr. ANTHONY. What is so detrimental about that 90-percent triggerand I hope you will listen to this-the 90-percent trigger does not say "Puerto Rico and the Virgin Islands." It says "Puerto Rico or the Virgin Islands," which means that if the Virgin Islands industry, for a noncompetitive reason, decides to shut down or has to shut down-it can even be for some mechanical failure—then the trigger could go in, and all of the people in the Caribbean Islands who have tried to penetrate the market will suddenly bump the trigger and will have to stop. That makes absolutely no sense to me.

Mr. Chairman, I urge the defeat of

the de Lugo amendment.

Mr. DE LUGO. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. Shannon), a member of the committee.

Mr. SHANNON. I thank the gentle-

man for yielding.
Mr. Chairman, first of all, I want to associate myself with the remarks of our eloquent colleague, the gentleman from Georgia (Mr. JENKINS), whom I think made a compelling case for this amendment.

You know, we hear lots of fights on this floor between different States of the United States over funding formulas, over authorization language. This is not the same sort of fight. This is a fight between American possessions and foreign countries. The argument is not whether or not the money is going to go to Oklahoma or Massachusetts. The argument is whether or not jobs are going to stay in the United States or whether they are going to go abroad.

We talk here and we have heard the opponents of this amendment talk as if the people of the Virgin Islands and Puerto Rico should be grateful to us, appreciative, because we are not hurting them as much as we might have.

Well, that is just not the way we should be acting. This is a close call. If you think there is any merit to the arguments of the gentleman from the Virgin Islands at all, I ask you, resolve this question on behalf of the people of the United States, the citizens of Puerto Rico, the citizens of the Virgin Islands. The CBI is not going to stand or fall on what happens to this amendment. But the lives of many American citizens will be determined by what we do with this amendment.

Mr. DE LUGO. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. Fowler), a member of the

committee

Mr. FOWLER. Mr. Chairman, I also want to associate myself with the remarks of Mr. Shannon, the gentleman from Massachusetts, and my colleague from Georgia.

My friends, I think we all ought to get a little bit upset when the primary argument against this amendment is how generous we are being to American citizens and raise some suspicions that generosity has been exceeded when we are talking about American citizens. The big boys, the textile industry, the shoe leather industry, the tuna industry, possibly the tobacco industry, have exempted themselves from this bill.

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Far beyond any bounds of generosity, the ultimate goal of this bill, the entire CBI bill, is not only to create opportunity, fulfill all sorts of constitutional principles and promises, but also to look down the road so that many people in the Caribbean do not end up on welfare rolls in the continental United States of America.

I urge my colleague to support the de Lugo amendment.

Mr. DE LUGO. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. Russo).

Mr. RUSSO. Mr. Chairman, a lot has been said about whether or not this committee has been fair. I think my two colleagues on the committee have not been totally accurate about how fairly we have dealt with Puerto Rico and the Virgin Islands.

Let us go over the figures. I think it is important to look at the figures.

Right now Puerto Rico and the Virgin Islands have 97 percent of the U.S. market for rum. Out of 27 million gallons that are imported to this country, they have over 25 million gallons coming in. The Caribbean nations import fewer than 1 million gallons.

Now let us look for a moment at how much of the excise tax on rum we are rebating to these two territories. Under present law Puerto Rico and the Virgin Islands are getting over \$280 million in such rebates. In addition, when they came in and talked to the Special Trade Representative, they requested a rebate on the excise tax paid on Caribbean rum. That is an additional \$117 million over a 5-year period.

I think the committee has tried to address the needs of our fellow Americans in the U.S. possessions, we certainly tried to deal with them honestly and fairly. For example, we have given them regulatory relief under the bill for certain effluent discharges from

their rum plant.

The question is whether or not these small countries which import 800,000 gallons are going to have an opportunity to participate in this marketplace. Considering how generous we have been to our fellow Americans in Puerto Rico and the Virgin Islands, what we need to do now is make sure that we give the Caribbean countries an opportunity to get into a marketplace which has grown over 332 percent during the last 20 years and has a growth rate of 70 percent every 5 years.

We want these little countries to have an opportunity to get part of that action. And if we are serious about having something significant, let us make sure we defeat the de Lugo amendment, because we need to be fair and equitable.

Mr. FRENZEL. Mr. Chairman, will

the gentleman yield?

Mr. RUSSO. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

The gentleman has described the industry as growing more than 10 percent a year, the market, and the dominance in that market by the possessions as 97 percent. Can the gentleman see any reason for Puerto Rico or the Virgin Islands to fear those tiny little countries down there bothering them, that would cause them to ask for this extra protection?

Mr. RUSSO. I do not think it will affect them. But the money we are turning over to them is then used to subsidize some of their products. In fact, even if we take the duty off the Caribbean products, their costs are still going to be from 35 to 60 percent higher than the Puerto Rican or Virgin Islands rum producers.

So we are not hurting our possessions whatsoever.

We talk about jobs. Total employment is 94 jobs in the Virgin Islands and 2,000 jobs in Puerto Rico. They are more than protected by the generous sums of money we are rebating to them under this particular legislation.

Mr. FRENZEL. Do we not subsidize the Virgin Islands in this bill by relieving them of clean water requirements, and do we not subsidize Puerto Rico through section 936 tax advantage?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. Russo) has expired.

Mr. DE LUGO. Mr. Chairman, I yield

myself 1 minute.

Mr. Chairman, I would like to point out to the Members a lot has been said about 936. Section 936 does not apply to the Virgin Islands. The gentleman from Illinois makes a good point about the fact that 97 percent of the rum market is presently held by the possessions. The Virgin Islands only has 10 percent of that.

It is the Virgin Islands that is extremely vulnerable to what is being

proposed here.

I would like to also point out that I did not ask for the return of the foreign excise taxes in meetings with USTR. It has also been said there was no signed agreement. I have the signed agreement here signed in my office by the representative of Ambassador Brock, after Ambassador Brock asked me to negotiate with him. It is right here in my hand. Anyone can see it.

I would also like to point out it has been said that the wage rates are similar. Let me point out in the U.S. Virgin Islands, a worker in the rum industry gets \$196.40 a week. In Barbados, the wage rate is \$90 a week. And in the Dominican Republic, it is 65½ cents an

hour to \$1.69.

Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. Phillip Burton), who has been a longtime friend of the territories.

Mr. GARCIA. Mr. Chairman, will

the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Chairman, I rise in support of the amendment.

Mr. PHILLIP BURTON. Mr. Chairman, I try as a general rule not to involve myself in debates on other committees' jurisdiction.

I myself am of the view that the Committee on Ways and Means over the years has been quite sensitive to the needs of the various insular areas.

I know that in this legislation, the committee had a Scylla and Charybdis

problem.

I am in support of the amendment, not only on its independent merits—but also because once again, we see the insular areas of the United States—without any malevolence—paying an improper price for what is deemed by others to be higher national policy interests.

Now, it should come as no surprise that Puerto Rico and the Virgin Islands are subject to our constitutional

arrangements.

The Virgin Islands found themselves under a court decision, some 5 years ago where the courts ruled quite properly, I believe, that the Virgin Islands

had to assume responsibility to educate all the alien children living in the Virgin Islands.

Every time there is a switch in governmental status in the Caribbean, a fair number of people move up north from down island into the U.S. Virgin Islands for all the reasons we might suspect.

And so today the Virgin Islands, without an added dime of Federal educational assistance, has a majority of the children in its schools being the children of non-U.S. citizens.

Now, I stated I thought the Court decision was right. But the people of the Virgin Islands did not ask to be confronted with this great fiscal burden.

Let us protect our insular areas in the process of adopting national policy.

I urge an "aye" vote on the amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield my remaining time to the gentleman from Michigan (Mr. Brodhead.)

The CHAIRMAN. The gentleman from Michigan is recognized for 3 minutes.

Mr. BRODHEAD. Mr. Chairman, I rise in opposition to the amendment. I certainly concur with everything that has been said here to the effect that these are American citizens that we are talking about in these islands and that we have a special obligation to them.

But I think as the gentleman from California, the previous speaker, has conceded, the Ways and Means Committee over the years has been extremely generous. And I think that we have met that obligation, those series of obligations.

Let us understand what we are talking about here. We are just talking about the rum industry and just talking about the Virgin Islands and Puerto Rico. It is important to understand that this is a very, very heavily subsidized industry, subsidized by American taxpayer dollars. It is a very heavily protected industry, protected by American taxpayer dollars. The funds that they use, many of the funds they use for advertising come directly out of the U.S. Treasury. Many of the funds that they use for promotion come out of the U.S. Treasury.

This legislation contains a complete pass-on environmental regulation for the distillery in the Virgin Islands. They are exempt from EPA requirements to the point where they can dump the effluent from their plant directly into the Caribbean.

So if we have an obligation to try to do something for this industry that obligation I submit has been met.

Even with this legislation, because of all the subsidies that we provide, the product of these plants can be sold, will be sold, is being sold in the United States 35 to 50 percent cheaper than the product in the Caribbean.

So we are giving them special advantage, special protection. By the de Lugo amendment they are asking for even more, they are asking for quotas.

I submit they ought to try to compete in the market because they are very heavily subsidized anyway and given these advantages.

This is too much. This will make the virtually legislation meaningless. There is very little these people can do down there. I do not think it is going to cause anybody jobs, because as has been pointed out here we are talking abut a growth industry, we are talking about a very rapidly growing market in the United States for rum. There is plenty to go around. And we are not talking about little mom and pop enterprises either. It is important to recognize that. We are talking about giant multinational corporations that own these distilleries, in many cases not even American based.

So we are not talking about protecting a little native enterprise. We are talking about giving further advantage to a very heavily protected, very heavily subsidized industry. And I think that it goes too far.

I urge in the interests of sound policy, in the interests of having this legislation made any sense at all, that we oppose the de Lugo amendment.

The CHAIRMAN. The question is on the amendment offered by the gentle-man from the Virgin Islands (Mr. DE Lugo).

The question was taken, and the Chairman announced that the noes appeared to have it.

# RECORDED VOTE

Mr. JENKINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were-ayes 171, noes 226, not voting 36, as follows:

### [Roll No. 4751

AYES-171 Addabbo Clay Ferraro Akaka Albosta Coelho Coleman Florio Foglietta Alexander Ford (MI) Ford (TN) Collins (IL) Anderson Convers Crockett Annunzio Fountain Aspin D'Amours Fowler Atkinson Daschle AuCoin Davis Garcia de la Garza Barnard Gejdenson Redell Dellums Gilman DeNardis Bennett Ginn Gonzalez Bevill Dingell Dixon Gore Biaggi Bingham Donnelly Gray Duncan Guarini Boland Hall (IN) Hall (OH) Boner Dwyer Bowen Dyson Hamilton Early Hammerschmidt Eckart Brinkley Hawkins Brooks Emery Burton, John Hefner English Burton, Phillip Heftel Ertel Evans (IN) Chappell Chisholm Hertel Hollenbeck Fazio Holt

Mollohan Howard Murphy Hoyer Myers Huckaby Napier Hughes Neal Jeffords Nichols Jenkins Nowak Jones (NC) Oakar Jones (OK) Oberstar Obey Kastenmeier Ottinger Kazen Kildee Kogovsek Patman Patterson Lagomarsino Penner Peyser Leland Quillen Levitas Rangel Long (LA) Rinaldo Lowry (WA) Rodino Luian Roe Roemer Lundine Markey Rogers Martinez Rose Mavroules Rosenthal McHugh Roth Mikulski Roybal Miller (CA) Sabo Savage Minish Scheuer Moakley Schneider

Andrews

Anthony

Archer

Rafalis

Barnes

Beilenson

Benedict

Bereuter

Bethune

Bliley

Boggs

Bonior

Bonker

Bouquard Brodhead

Broomfield

Brown (CA)

Brown (CO) Brown (OH)

Broyhill

Burgener

Campbell

Carman

Carney

Chappie

Cheney

Clinger

Conable

Corcoran

Coughlin

Coyne, James Coyne, William

Crane, Daniel

Crane, Philip

Daniel, Dan

Daniel, R. W.

Dannemeyer

Derwinski Dickinson

Daub

Dicks

Dorgan

Dornan

Downey

Dreier

Dunn

Dougherty

Courter

Conte

Collins (TX)

Byron

Beard

Applegate

Ashbrook

Bailey (MO) Bailey (PA)

#### NOES-226

Edwards (AL) Edwards (CA Edwards (OK) Emerson Erdahl Erlenborn Evans (DE) Evans (IA) Fenwick Fiedler Fields Fish Fithian Flippo Forsythe Frenzel Frost Gavdos Gephardt Gibbons Gingrich Glickman Gradison Gramm Gregg Grisham Gunderson Hall, Ralph Hall, Sam Hance Hansen (ID) Hansen (UT) Harkin Hartnett Hatcher Heckler Hendon Hightower Hiler Hillis Hubbard Hunter Hutto Hyde Ireland Jacobs Jeffries Jones (TN) Kemp Kennelly Kramer Latta Leach Leath LeBoutillier Lent Lewis Livingston Loeffler Long (MD)

Schroeder Seiberling Shannon Sharp Shelby Simon Skelton Snyder St Germain Stark Stokes Stratton Swift Synar Traxler Udall Vento Volkmer Walgren Wampler Washington Watkins Waxman Weaver Weiss White Whitley Williams (MT) Wright Wyden Young (MO)

Lott Lowery (CA) Luken Lungren Madigan Marriott Martin (IL) Martin (NC) Martin (NY) Matsui Mattox Mazzoli McClory McCloskey McCollum McCurdy McDonald McEwen McGrath McKinney Michel Miller (OH) Mitchell (NY) Molinari Montgomery Moore Moorhead Morrison Mottl Murtha Natcher Nelligan Nelson O'Brien Oxley Panetta Parris Pashayan Paul Perkins Petri Pickle Porter Price Pritchard Railsback Regula Reuss Ritter Roberts (KS) Robinson Rostenkowski Roukema Rudd Russo Sawyer Schumer

Sensenbrenner

Shamansky

Stenholm Whitten Williams (OH) Siliander Studds Wilson Stump Skeen Smith (AL) Tauke Wirth Smith (IA) Wolf Tauzin Smith (NE) Smith (NJ) Wolpe Wortley Taylor Thomas Wylie Yates Smith (OR) Trible Vander Jagt Snowe Walker Weber (MN) Weber (OH) Solarz Yatron Young (FL) Solomon Spence Stangeland Zablocki Whitehurst Staton Whittaker

#### NOT VOTING-36

		7.5
Blanchard	Holland	Ratchford
Bolling	Horton	Rhodes
Deckard	Johnston	Roberts (SD)
Derrick	Kindness	Rousselot
Dymally	Lee	Santini
Evans (GA)	Lehman	Schulze
Fascell	Marks	Shuster
Findley	Marlenee	Smith (PA)
Foley	Mica	Stanton
Fuqua	Mitchell (MD)	Winn
Goldwater	Moffett	Young (AK)
Hagedorn	Rahall	Zeferetti

#### □ 1510

Mr. LUKEN changed his vote from "aye" to "no.

Mr. BRINKLEY and Mr. CLAUSEN changed their votes from "no" "aye.

So the amendment was rejected. The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HOPKINS

Mr. HOPKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Hopkins: Page 11, line 21, strike out "or".

Page 11, line 24, strike out the period and

insert in lieu thereof "; or".

Page 11, after line 24, insert the following

new paragraph:

(4) tobacco and tobacco products provided for in part 13 of schedule 1 of the TSUS.

The CHAIRMAN. Pursuant to the rule, the gentleman from Kentucky (Mr. HOPKINS) will be recognized for 15 minutes in support of his amendment, and a Member opposed to the amendment will be recognized for 15 minutes.

Mr. ROSTENKOWSKI. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman will be recognized.

The Chair recognizes the gentleman from Kentucky (Mr. Hopkins).

Mr. HOPKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment adds to those items that are excluded from duty-free treatment as provided for in section 103(b), all tobacco and tobacco products.

Mr. Chairman, let me take this opportunity to say that I am not opposed to what the President is seeking to do with the Caribbean Basin Initiative concept. I applaud his efforts to economically assist the Caribbean countries. I am concerned, however, that this assistance not be to the detriment of American citizens. As ranking minority member of the Subcommittee on Tobacco and Peanuts, of the Committee on Agriculture, and the Representative from the largest burley tobacco producing congressional district in the country, I am particularly alarmed by the potential for economic harm to America's tobacco producers.

Let me go into a little backgroundto refresh this same legislative body of the lashes already whipped upon the tobacco farmer. As you remember, earlier this year, we passed the No Net Cost Tobacco Program Act. The intention of this bill was that the tobacco program, beginning with the 1982 crop, will operate at no net cost to the American taxpayers, except for administrative expenses. This means that tobacco producers will pay any losses on price support loans. We accepted this-gracefully-and fought to make certain it was fair to all tobacco producers. Since then, a no net cost tobacco fund has been established by each tobacco cooperative to cover any potential losses and producers are required, as a condition of eligibility for price support loans, to contribute. Contribution to this fund is based on the amount of tobacco marketed. This year, burley producers were required to contribute 1 cent per pound, and Flue-cured producers contributed 3 cents per pound. We are in the first year of operation of this law and already, in my opinion, the law has been abused by the USDA. So far, both major kinds of tobacco, burley and Flue-cured, have taken cuts in the increases expected for price supports. The national marketing quota for Flue-cured tobacco for 1983 has been cut by 10 percent-the burley quota, which will be announced by February 1, is being examined now to determine if a cut will be announced. Tobacco producers are left with trying to correct the problems associated with the operation of their price support program-and, in regards to this Caribbean Basin Initiative-they cannot operate efficiently with potential interference from duty-free tobacco.

Imports of tobacco have been increasing steadily in recent years. In 1972, total imports of unmanufactured tobacco for which duties were paid were 229 million pounds. In 1981, that figure had increased to 396.8 million pounds. With the duty-free treatment of tobacco from Caribbean countries as provided for in H.R. 7397, the possibility exists for further increases in

I am distressed by this possibility. If larger quantities of cheaper, imported tobacco begin to enter this country, there is no doubt in my mind that this tobacco will be bought instead of our American-grown tobacco. Let me set up a possible scenario. The marketing quota for any particular year attempts to forecast the amount of tobacco needed for domestic and foreign markets, with a slight carryover. When a

marketing quota is announced by the Government, individual farmers are told how much tobacco they will be allowed to market. Based on this quota, whatever it is for that year, they make plans—credit plans, plans for the purchase of seed, fuel, and fertilizer, plans for labor needs, and so forth. After they harvest, the farmers go to market expecting some fair return on their investments, only to find out that the buyers do not need quite as much tobacco as they planted—either buyers do not want it or they offer a low price for it.

Why has this happened?

I will tell you why-because cheaper tobacco has become available and buyers, who understandably are looking for the best price, are simply purchasing the cheapest tobacco. Then, if that home-grown tobacco is not sold at auction for at least 1 cent more than the established price-support, loan level, it goes into the pool-in other words, under loan. The farmer, as I mentioned earlier, is responsible for any losses that might occur on sale of this loan tobacco. That is where his contribution to the no net cost fund comes in. If that loan tobacco can only be sold at a loss, the farmer's contribution to the no net cost fund increases the next year if the fund is not large enough. Understand-at this point, the imported tobacco is no longer duty free. Who is paying the duty? I will tell you who-the American tobacco farmer, that is who.

Unless my amendment passes, this is exactly what will happen—the tobacco farmer, which already pays for grading services; puts money in a no net cost fund; has had the price support unexpectedly cut; and which is or probably is going to have growing quotas cut.

This tobacco farmer is going to have to bear the brunt of further Government abuses.

I am all too well aware there are very few bleeding hearts for tobacco. But, tobacco has been the guinea pig of all the commodities too long.

Tobacco is the only price-support commodity that is required by law to operate at no net cost—the only one. I think it is unfair to threaten the livelihood of tobacco farmers with the possibility of increased imports—there are plenty of cheap imports in the market-place already. This added threat to their livelihood, on top of the existing financial crisis in the agricultural sector of our economy, is asking too much for our American tobacco farmers. I think it is time to take a little bit better care of the American people first.

I say to my colleagues who, whenever the word tobacco is mentioned, start talking about smoking and health, that this is not a health issue it is an economic issue. Americans will continue to smoke. It is a matter of

whether people will be smoking American tobacco or more foreign tobacco. A vote for this amendment is not a pro-tobacco vote—it is a vote for the "lesser of two evils"—American tobacco or foreign tobacco. People are not going to get healthier by smoking imported tobacco and, as a matter of fact, many of our health safeguards, such as pesticide restrictions, aren't in place in the Caribbean countries.

USDA indicated earlier this year that we needed more burley tobacco—that there was a shortage of burley. The Department confirmed this by raising the marketing quota for this year by 3 percent. The burley farmers responded by raising a record crop in Kentucky. After the crop was ready for market, USDA said they raised too much, now we have a surplus, so they lowered the price support loan. Now, even though we have a surplus of tobacco in our country, we are going to increase the potential for more tobacco to come into the country—by giving certain imports duty-free status.

Too much tobacco drives down the prices. When prices are low, more tobacco goes into the pool—it is eligible for the price supports. When more tobacco goes into the pool, the marketing fee goes up. And in essence—the farmers in my district pay the duty on this duty-free tobacco.

The government is doing such a good job that the people can hardly stand it!

I am informed by the USDA and the Special Trade Representative's office that the impact on American tobacco will be minimal. If this is the case, I say—if so little tobacco is expected to be imported under this legislation—then my amendment will do no harm.

I urge my colleagues to vote for this amendment—for the American farmer. Its passage is vital to the effective operation of the no net cost tobacco program. I ask permission to revise and extend my remarks and I reserve the balance of my time.

# □ 1520

Mr. JONES of North Carolina. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I will be delighted to yield to the former outstanding chairman of the Tobacco Subcommittee, the gentleman from North Carolina (Mr. Jones).

Mr. JONES of North Carolina. Mr. Chairman, I thank the gentleman for yielding. I want to commend him on his amendment and ask the House to give it full consideration. Tobacco is such a vital crop, and involves hundreds of thousands of small farmers throughout 8 or 10 Southern States.

I commend the gentleman from Kentucky and urge support for his amendment.

Mr. HOPKINS. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 5½ minutes to the gentleman from North Carolina (Mr. Rose), the present chairman of the Tobacco Subcommittee and the chairman of the Tobacco Caucus.

Mr. ROSE. Mr. Chairman, I would like to engage the chairman of the Trade Subcommittee in a colloquy regarding the impact of section 103(a) of

the bill on tobacco imports.

It is my understanding that this section prescribes rules of origin to prevent passthrough operations which might otherwise permit unmanufactured tobacco from outside the Caribbean to enter the United States dutyfree. The language of section 103(a) requires that in order to be eligible for duty-free status under this bill an article must either be "wholly the growth, product or manufacture of a beneficiary country" or must be changed into a "new or different article of commerce" in such country. The language prohibits products from being considered new or different merely by having undergone "simple combining" operations.

Tobacco growers in this country are understandably concerned that the Customs Service will rule that imports of unmanufactured tobacco from Brazil or some other country can meet this new or different article test by simply being shipped to the Caribbean, stripped or cut, and then blended with a small amount of indigenous Caribbean tobacco. This would be a clear violation of the spirit of the legislation and would constitute a significant threat to domestic tobacco growers

Can the distinguished chairman of the Trade Subcommittee assure me that the purpose of the language in section 103(a) is to prevent duty-free treatment for tobacco products from a country outside the region which are merely stripped or cut into some other unmanufactured form and blended with indigenous tobacco.

Mr. GIBBONS. Mr. Chairman, will

the gentleman yield?

Mr. ROSE. I yield to the subcommittee chairman.

### □ 1530

Mr. GIBBONS. Mr. Chairman, I can assure the gentleman from North Carolina (Mr. Rose) that he is absolutely correct, and before I go further in this colloquy I want to commend the gentleman for his leadership and for having brought this matter to the subcommittee's attention. As the gentleman knows, we have discussed this matter thoroughly.

I will continue this colloquy further by saying that I want to assure the gentleman in the well that his position is precisely the purpose of section 103(a) of this act. It is the committee's understanding and intention that the prohibitions on mere combining oper-

ations and the requirement that there be a new and different article produced in the Caribbean would prevent any operation which merely changes tobacco from one unmanufactured form to another.

I would point out that on page 12 of the committee report we state the following about section 103(a):

The object of these provisions is to prevent pass-through operations in which the work performed is of little economic benefit to the Caribbean and constitutes avoidance of U.S. duties.

That is exactly the kind of abuse that the gentleman is referring to, the mere changing of leaf tobacco from one form to another by cutting and blending and stripping, I should add, to avoid duties. Our rules set forth in this bill simply will not allow that to work, and our rules set forth in our fundamental law simply will not allow that to work.

I want to assure the gentleman that the committee intends to make its understanding of this strict rule-of-origin requirement very clear to the Secretary of the Treasury and to the Customs Service that he supervises.

Mr. Chairman, I would further like to assure the gentleman that this committee would carry out a very strict

oversight of this matter.

Mr. ROSE. Mr. Chairman, I thank the chairman of the subcommittee. I would like to tell him how much I appreciate his solving what is to me the biggest problem that I have with the tobacco portion of this legislation. It does not solve all the problems that my friend, the gentleman from Kentucky, has, but it satisfies me, Mr. Chairman, and I thank the gentleman for engaging in this colloquy with me.

Mr. ROSTENKOWSKI. Mr. Chairman, if the gentleman will yield, I assume that the gentleman in the well is opposed to the amendment?

Mr. ROSE. Mr. Chairman, I do not support the amendment. That is correct.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I appreciate my colleague's yielding, and I appreciate his having asked the question and having gotten the response which he did from the distinguished gentleman from Florida (Mr. GIBBONS), a member of the Committee on Ways and Means, for whom I have great respect. But the answer which the gentleman gave to the gentleman from North Carolina (Mr. Rose) is not adequate or satisfactory to me.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. Rose) has expired.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman from Kentucky (Mr. HOPKINS) yield to me? Mr. HOPKINS. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. FOUNTAIN).

Mr. FOUNTAIN. Mr. Chairman, if I may continue, the answer that was given is not satisfactory to me for the reason that there is nothing in the proposed law which shows how it could or would be enforced. It happens that we have suspicions that this sort of thing has been going on for some time, and as laudable as the intent of the Committee on Ways and Means is-and we appreciate it, and we appreciate the surveillance which the Members commit themselves to exercisewe have grave concerns that a lot of tobacco will be mixed, and there is no way in the world to tell where and when it is mixed, and brought into competition with American tobacco, which is already suffering consequences almost beyond repair.

Furthermore, Mr. Chairman, I am deeply concerned at the tendency on the part of some tobacco leaders of this country to make unnecessary and damaging concessions at the expense of our tobacco farmers, gradually giving away the important gains our people have worked long and hard to preserve and strengthen for the last 50 years.

Agriculture is, although we often forget it, the very backbone and foundation of all civilization, and our to-bacco farmers have been among the most productive members of the farming community. I, for one, will not stand idly by and see their farms turn to dust.

Mr. Chairman, I would therefore like to associate myself with the remarks of the gentleman from Kentucky (Mr. Hopkins), and I support his amendment wholeheartedly.

Mr. HOPKINS. Mr. Chairman, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 7½ minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield 4 minutes of my time to the gentleman from Pennsylvania (Mr. Nelligan).

Mr. NELLIGAN. Mr. Chairman, I thank the gentleman for yielding to me at this time.

Mr. Chairman, we have heard a lot of talk as to whether this legislation will create U.S. jobs or whether this legislation will take away U.S jobs. I am talking today about saving U.S. jobs and hopefully, creating additional jobs.

If the present import duties on Caribbean cigar tobacco are eliminated under H.R. 7397, jobs will be saved and, hopefully, created. If this amendment passes, jobs will surely be lost.

Therefore, Mr. Chairman, I rise in strong opposition to the proposed amendment.

The amendment being considered would exclude Caribbean tobacco and tobacco products from duty-free entry into the United States. As such, the amendment has obvious protectionist appeal. It would seem that by approving this amendment, we would be saving American jobs for American workers.

However, when one looks behind the surface of this amendment and examines the specific impact of this amendment on the domestic tobacco industry, quite a different story unfolds. The plain fact is that this amendment would eliminate American jobs in the domestic cigar industry. This amendment would not help the American cigar worker. Instead, it would strike another blow against the American cigar industry, an industry which has been in decline for a number of years. In 1964, 9 billion cigars were sold in the United States. Last year, national cigar sales slipped below the 4 billion mark, representing an industry decline of 57 percent over 17 years.

This decline in sales is attributable to a number of factors, including decreased consumer preference for cigars due to rising costs. However, whatever the reason for declining sales, it is clear that the Congress should not take actions which create further problems for the cigar industry.

There is an old adage that you should not kick a man when he is down, but that is exactly what the amendment would do to the American

cigar industry.

Members might wonder why a Member from northeastern Pennsylvania is involved in this debate. Well, I represent a district where nearly 1,500 people depend on cigar manufacturing

for their weekly paychecks.
Incidentally, I would like to advise my good friend and colleague, the gentleman from Tampa and distinguished chairman of the subcommittee, Mr. GIBBONS, in the most good-natured fashion that it is I who represents the largest cigar manufacturing area in America, and it is not he who represents Tampa, the city from which my wife hails.

This year a cigar plant was forced to close in my district, eliminating jobs for about 300 workers. Of the 14,600 tons of tobacco leaf imported from the Caribbean, 40 percent is cigar tobacco. Lowering the cost of importing this cigar tobacco should lower the cost and the price of cigars. In the end, lowering the cost of this tobacco would save American jobs. This is the real issue involved in this amendment, real jobs and real people, and this amendment would do harm to both.

Let us not mistakenly assume that we would be greatly aiding the domestic tobacco growing industry by approving this amendment. Only 6 percent of all imported tobacco leaf comes from the Caribbean region, and, speaking directly to the claimed benefits of this amendment, a June 1982 report by the Foreign Agricultural Service concluded that the proposed CBI would have a minimal impact on U.S. cigarette leaf and U.S. tobacco

As I have stated before time and time again, what this country needs is a good 5-cent cigar, unburdened by excise taxes and unhindered by legislation such as that contained in the pro-

posed amendment.

Mr. Chairman, I call on my colleagues to reject this amendment, to support the American cigar industry, to save American jobs, and create American jobs.

Mr. CONABLE. Mr. Chairman, I thank the gentleman from Pennsylvania (Mr. Nelligan) for his charismatic

contribution.

Mr. Chairman, I yield 11/2 minutes to the gentleman from North Carolina (Mr. MARTIN).

#### □ 1540

Mr. MARTIN of North Carolina. Mr. Chairman, I want to say that I really do not think the amendment before us is needed. We are talking about minimal activity involving unmanufactured tobacco raised on marginal land. I do not think we need to be afraid of a little bit of trade in this instance; Caribbean tobacco is such a small percentage of the large amount of tobacco that we do import as a part of our production here in this country today.

The potential threat is the one which my colleague from North Carolina (Mr. Rose) has raised about whether this could become a chute through which to pour large volumes of tobacco from countries outside of

this region.

I am satisfied that the 35-percent value added rule has proven its effectiveness in preventing this from happening in other areas and can do the same here.

If we exempt every imaginable product, then this important Caribbean Basin Initiative will not involve any risks for anybody, but it will be worthless and insulting to our neighbors.

If we exempt almost every product, then any few remaining duty-free products could have a serious impact

on American producers.

It would be far better in my opinion if we allow a wider range of duty-free trade opportunities for our friends in the Caribbean. Not only does that present them with a better chance for diversifying and stabilizing their economies, but in doing so the impact will be spread softly and broadly and be less burdensome on any other sector of our own economy.

Mr. CONABLE. Mr. Chairman, I reserve the additional 2 minutes yielded me by the chairman of the committee.

Mr. HOPKINS. Mr. Chairman, I yield 2 minutes to the distinguished

gentleman from Virginia (Mr. Dan DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman from Kentucky for yielding and for bringing this matter to the attention of the Mem-

We should not lose sight of the economic impact of tobacco in these days when so much emphasis is being placed upon jobs and a stagnating gross national product.

For instance, in my own congressional district, which has the largest tobacco output in Virginia, tobacco production amounted to \$192,000,000 in 1981. This represented 73 percent of the total State value of \$264,000,000. Obviously, this would be larger for 1982.

In the last agricultural census in 1978, there were 16,400 tobacco farms in Virginia, of which more than half are in my district. Many of these farms are small and the income derived from tobacco represents all or most of the income these people receive.

The Wharton School of Finance of the University of Pennsylvania published a study, based on 1979 figures, which showed that 90,700 jobs in Virginia directly or indirectly related to the growing, processing, marketing, or sale of tobacco products. This represented 5.4 percent of all jobs in Virginia. Business generated by these jobs amounted in that year \$1,200,000,000, or 5.3 percent of all the income in Virginia.

The report showed that tobacco generated \$62,000,000 in Virginia taxes and \$183,000,000 in Federal revenues. Obviously, these figures would be higher today.

The value of tobacco exports is around \$1,800,000,000 annually and this is a considerable factor in our balance of trade. Significantly, we are importing larger quantities of tobacco each year-to the point where, by next year, we will probably become a "net importer" of tobacco, by volume. Yet, 30 years ago, this Nation supplied more than 60 percent of the world tobacco trade.

To those of you who are concerned about the health issue, I would point out that reducing production of tobacco in this country by placing Government restraints on the tobacco economy does not mean less use of tobacco. It simply means that what was once a largely American enterprise is becoming less so each year. Trade by some of the emerging nations is growing rapidly and their promotion programs are aided and abetted by active govern-ment monopolies and subsidy pro-

To emphasize further the scope of the problem, I wish to request permission to include herein with my remarks a message received this morning from Mr. S. T. Moore, president of the Virginia Farm Bureau Federation, Inc. The message follows:

VIRGINIA FARM BUREAU FEDERATION, INC. Richmond, Va., December 16, 1982. Hon. W. C. DANIEL.

House of Representatives.

Washington, D.C.

DEAR CONGRESSMAN DANIEL: The Virginia Farm Bureau is pleased to comment on the Caribbean Basin Economic Recovery Act, H.R. 5900. We understand the government's desire to promote economic revitalization of the Caribbean Basin region. However, the Caribbean Basin Economic Recovery Act presents certain problems of considerable magnitude for U.S. farmers in general and Virginia tobacco farmers in particular unless effective safeguards are incorporated in the legislation to adequately protect the farmers' interests.

In particular, appropriate measures are needed that would provide adequate safe-guards against foreign tobacco imports into the Caribbean Basin countries for semiprocessing that would result in so-called 'scrap" tobacco that could then be imported

into the United States duty free.

This could result in effective elimination of all duties on the bulk of the tobacco imported into the United States by routing most imports of tobacco through Caribbean Basin countries for semi-processing in order to gain duty free entry into the United States. Not only would this be injurious to domestic tobacco producers but it would also deny to the U.S. Treasury the tariff revenue, which is now applicable to tobacco imports.

Resolution of this one issue could be accomplished by extending to all agriculture products and commodities the exclusion from duty free treatment applicable to textiles and apparel articles provided for in Section 103(a)(2)(h).

We appreciate your consideration of our view as the Act is considered.

Sincerely,

S. T. MOORE, Jr. President.

Mr. HOPKINS. Mr. Chairman, I yield 2 minutes to my distinguished colleague, the gentleman from Kentucky (Mr. Rogers).

Mr. ROGERS. Mr. Chairman, I rise in strong support of the amendment offered by my colleague from Kentucky. I would like to make a couple of

points along these lines.

One, for those who say that the Caribbean tobacco is insignificant, I would say to them that in 1981 we imported 14.2 million pounds of tobacco from the Caribbean countries, grown in the Caribbean area, and that is a tripling of the poundage from the Caribbean area over the last few years.

Second, on the so-called funneling effect, the transshipping of tobacco that I think this bill would allow, it would allow South Korea, Brazil, and the other tobacco-growing competitors of this country outside the Caribbean area to transship that tobacco into the Caribbean and thereby into this country under the duty-free treatment.

What we are talking about here is exporting American jobs, not just to the Caribbean but to the tobacco com-

petitors of this country around the world.

We are talking not about harming cigarette manufacturing American companies, nor large corporations that grow tobacco. We are talking about that dirt farmer, hundreds of thousands of them, throughout this country who would be harmed unless this amendment is passed.

I urge our colleagues to support the amendment.

Mr. CONABLE. Mr. Chairman, I now yield 2 minutes to the gentleman from Minnesota (Mr. FRENZEL).

The CHAIRMAN. Without objection, the gentleman from Minnesota (Mr. Frenzel) is recognized.

There was no objection.

Mr. FRENZEL. Mr. Chairman, there are several levels of concern which seem to have brought forth this amendment. One of them has to do with the laws concerning agriculture.

This bill does not pretend to have anything to do with agricultural law. We would prefer to have the Agriculture Committee handle that. However, the amendment adds another exemption to a section which already includes textiles, footwear, leather goods, petroleum, sugar, garments, and the like.

No matter how real our fears are about how our industries are going to be hurt, we cannot keep carving out extra exemptions. We have already added tuna. In my judgment it was questionable. But there is no reason at all to add tobacco.

The distinguished chairman of the Tobacco Subcommittee has indicated already that he sees no problem with

When this matter came up in our committee with respect to mushrooms, we developed a fast track under the 201 relief process to take care of agricultural products.

When the problem of mixing products came up with respect to oranges, we developed the section about which the chairman of the subcommittee, Mr. GIBBONS, and Mr. RHODES had their colloquy.

So I think the committee has successfully protected agricultural products. There is no need for the amendment. I hope the amendment will be rejected so that we can get about the business of passing a most important

Mr. CONABLE. Mr. Chairman, I wish to add my opposition to the amendment that is currently pending. Mr. HOPKINS. Mr. Chairman, how

much time is remaining?

The CHAIRMAN. The gentleman has 1 minute remaining.

Mr. HOPKINS. Mr. Chairman, I yield myself the 1 minute.

Let me if I may, in closing out the debate on this issue, say that I appreciate the views of those opposing this amendment. Although I disagree, I

would fight for their right to oppose me. I remind them that the tobacco farmers of Kentucky and the tobacco farmers of this country are God-fearing, honest, hard-working, taxpaying Americans. They do not want to be bothered with more Government.

They are not used to the pressures of this room and of the wheeling and dealing that goes on in the marble halls of Washington. They just want to be left alone. To continue picking on them the way that this body does I find totally unacceptable.

Mr. GIBBONS. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman has 2 minutes remaining.

Mr. GIBBONS. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me first put an end to a rumor that is going around here. This bill does not restrict the flow of orange juice into the United States or oranges or anything else. If it is grown in the Caribbean, produced in the Caribbean, it comes in dutyfree, no argument about that.

The same thing for tobacco. If it is grown and produced in the Caribbean, it comes in duty-free. But if it comes from anyplace else in the world and is combined with Caribbean tobacco then it does not come in duty-free unless it meets the strictures or the restraints in this bill which the gentleman from North Carolina (Mr. Rose) and I discussed. These strictures and restraints are very, very strong.

So far as I know, no one has ever told me-and I have heard a complaint-no one has ever complained about these rules of origin being violated in the past.

The Customs Service is set up, designed to catch those kinds of things. The Customs Service does a good job on that, even with their limited manpower.

Unfortunately, the way the amendment of the gentleman from Kentucky (Mr. Hopkins) is drawn, it hurts the tobacco industry in Pennsylvania, in Florida, and other places, and I cannot accept it.

The Department of Agriculture says the potential for raising tobacco in the Caribbean is very limited because of the very marginal land and the high population there, and they do not believe from the point of view of agriculturalists that much tobacco will be grown there ever and of much consequence even then.

So I would ask you to oppose this amendment and support the bill.

### □ 1550

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. Hopkins).

The amendment was rejected.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BINGHAM, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee, having had under consideration the bill (H.R. 7397) to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region, pursuant to House Resolution 629, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is or-

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. VENTO. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. 116 Members are present, not a quorum.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were-yeas 260, nays 142, not voting 31, as follows:

# [Roll No. 476]

	YEAS-260
Addabbo	Burgener
Andrews	Butler
Annunzio	Byron
Anthony	Campbell
Archer	Carman
Ashbrook	Carney
Aspin	Chappell
Atkinson	Chappie
Badham	Cheney
Bafalis	Chisholm
Bailey (MO)	Clausen
Barnard	Clinger
Barnes	Coats
Beard	Coleman
Bedell	Collins (TX)
Beilenson	Conable
Benedict	Conte
Bennett	Corcoran
Bereuter	Coughlin
Bethune	Courter
Biaggi	Coyne, James
Bingham	Coyne, William
Bliley	Craig
Boggs	Crane, Daniel
Bonker	Crane, Philip
Bowen	Daniel, Dan
Breaux	Daniel, R. W.
Brinkley	Dannemeyer
Brooks	Daub
Broomfield	de la Garza
Brown (CA)	Deckard
Brown (CO)	Derwinski
Brown (OH)	Dickinson
Broyhill	Dicks

Dorgan Dornan Dougherty Downey Dreier Dwyer Edwards (AL) Edwards (OK) Emerson Emery English Erdahl Erlenborn Evans (DE) Evans (GA) Evans (IA) Fary Fascell Fenwick Fiedler Fields Fish Flippo Forsythe Fowler Frenzel Garcia Gejdenson Gephardt Gibbons Gilman Gingrich Ginn Goodling

Gradison Gramm Lungren Madigan Green Gregg Marriott Grisham Martin (NC) Gunderson Martin (NY) Mazzoli Hamilton McClory Hammerschmidt McCloskey Hance McCollum Hansen (ID) McCurdy Hansen (UT) McDade McDonald Hartnett Hatcher McEwen Heckler McGrath McKinney Hightower Mica Michel Mitchell (NY) Hillis Hollenbeck Molinari Holt Montgomery Moore Hoyer Moorhead Hubbard Huckaby Morrison Hunter Myers Nelligan Hutto Nelson Hyde Ireland O'Brien Jacobs Ottinger Oxley Jeffords Parris Patterson Jenkins Jones (NC) Petri Kazen Pickle Kemp Kennelly Price Kindness Pritchard Kramer Pursell LaFalce Quillen Railsback Lagomarsino Latta Rangel Leach Regula Leath LeBoutillier Ritter Roberts (KS) Lee Lent Robinson Levitas Roe Roemer Lewis Livingston Rose Rosenthal Long (MD) Rostenkowski Lowery (CA) Roukema

Albosta

Bevill

Boland

Boner

Bonior

Clay

Bouquard

Brodhead

Burton, John

Burton, Phil

Coelho Collins (IL)

Conyers Crockett

D'Amours

Daschle

Dellums

Derrick

Dingell

Dowdy

Duncan

Dunn

Dyson Early

Eckart

Edgar

Fazio

Ferraro

Fithian

Edwards (CA

Evans (IN)

Donnelly

Dixon

Davis

Alexander

Anderson

Applegate AuCoin

Bailey (PA)

	MAIS-142	
	Florio	Mavroules
	Foglietta	McHugh
	Ford (MI)	Mikulski
	Ford (TN)	Miller (CA)
	Fountain	Miller (OH)
	Frank	Mineta
	Frost	Minish
	Gaydos	Mitchell (M
	Glickman	Moakley
	Gonzalez	Mottl
	Gore	Murphy
	Gray	Murtha
	Guarini	Napier
1	Hall (IN)	Natcher
lip	Hall (OH)	Neal
178	Hall, Ralph	Nichols
	Harkin	Nowak
	Hawkins	Oakar
	Hefner	Oberstar
	Heftel	Obey
	Hertel	Panetta
	Hopkins	Pashayan
	Howard	Patman
	Hughes	Paul
	Jones (OK)	Pease
	Jones (TN)	Pepper
	Kastenmeier	Perkins
	Kildee	Peyser
	Kogovsek	Rinaldo
	Lantos	Rodino
	Leland	Rogers
	Long (LA)	Roybal
	Lowry (WA)	Savage
	Lundine	Schroeder
	Markey	Schumer
()	Marlenee	Seiberling
	Martin (IL)	Shamansky
	Martinez	Shannon
	Matsui	Sharp
	Mattox	Shelby

Russo Sabo Sawyer Scheuer Schneider Sensenbrenner Shumway Vento Siljander Simon Skeen Smith (AL) Smith (IA) Smith (NE) Smith (NJ) Smith (OR) Snowe Solarz Solomon Spence Stangeland Staton

Studds Stump Synar Tauke Tauzin Taylor Thomas Trible Udall Vander Jagt Wampler Waxman Weber (MN) Weber (OH) White Whitehurst Whittaker Wilson

Wirth Wolf Wortley Wright Wylie Yatron Young (AK) Young (FL) Zablocki

NAVS-142

Stenholm Stratton (D)

Williams (MT) Williams (OH) Skelton Volkmer Snyder Walgren St Germain Walker Wolpe Washington Wyden Stark Stokes Watkins Young (MO) Swift Weaver Traxler Whitley

Whitten

## NOT VOTING-

Blanchard Horton Rousselot Rudd Johnston Bolling DeNardis Lehman Santini Schulze Dymally Luken Marks Shuster Findley Moffett Smith (PA) Mollohan Foley Stanton Fugua Rahall Winn Goldwater Ratchford Zeferetti Hagedorn Rhodes Holland Roberts (SD)

#### □ 1600

The Clerk announced the following pairs:

On this vote:

Mr. Winn for, with Mr. Rahall against. Mr. Horton for, with Mr. Mollohan against.

Messrs. WILLIAMS of Ohio, GUAR-INI, RODINO and MINISH changed their votes from "yea" to "nay."

Mr. EMERY changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### □ 1610

## GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

#### CONFERENCE REPORT ON H.R. IDENTIFICATION 6946, FALSE CRIME CONTROL ACT OF 1982

Mr. HUGHES submitted the following conference report and statement on the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1 and 3.

That the House recede from its disagreement to the amendments of the Senate numbered 5, 6, and 7, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 2 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(6) possesses an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority knowing that such document was stolen or produced without authority:

That the House recede from its disagreement to the amendment of the Senate numbered 4 and agree to the same with an

amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following: the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental, or an international

That the House recede from its disagreement to the amendment of the Senate numbered 8 and agree to the same with an

amendment, as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SEC. 4. (a) Chapter 83 of title 18, United States Code, is amended by adding at the end thereof the following:

"\$ 1738. Mailing private identification documents without a disclaimer

"(a) Whoever, being in the business of furnishing identification documents for valuable consideration, and in the furtherance of that business, uses the mails for the mailing, carriage in the mails, or delivery of, or causes to be transported in interstate or foreign commerce, any identification docu-

"(1) which bears a birth date or age pur-ported to be that of the person named in such identification document; and

"(2) knowing that such document fails to carry diagonally printed clearly and indelibly on both the front and back "NOT A GOVERNMENT DOCUMENT" in capital letters in not less than twelve point type; shall be fined not more than \$1,000, imprisoned not more than one year, or both.

"(b) For purposes of this section the term 'identification document' means a docu-ment which is of a type intended or com-monly accepted for the purpose of identifi-cation of individuals and which is not issued by or under the authority of a govern-

(b) The table of sections at the beginning of chapter 83 of title 18, United States Code, amended by adding at the end thereof the following new item:

"1738. Mailing private identification documents without a disclaimer.".

SEC. 5. Section 3001(a) of title 39, United States Code, is amended by striking out "or 1718" and inserting in lieu thereof ", 1718, or 1783".

PETER W. RODINO, WILLIAM J. HUGES, DAN GLICKMAN, HAL SAWYER, HAMILTON FISH, Jr., THOMAS N. KINDNESS,

HENRY J. HYDE, Managers on the Part of the House.

STROM THURMOND, PAUL LAXALT, ORRIN G. HATCH, AL SIMPSON, GORDON J. HUMPHREY.

JOSEPH R. BIDEN. Jr., DENNIS DECONCINI, HOWELL HEFLIN Managers on the Part of the Senate,

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying confer-

The Senate in effect adopted two amendments. The conference agreement adopts the Senate amendments with amendments. The difference between the conference agreement and the House bill and the Senate amendments to the bill are noted

The first Senate amendment, No. 1368, added two new offenses to the new offenses created by the House bill. There were no equivalent House provisions. The House recedes from its disagreement with the Senate with respect to the first of the two added offenses, which prohibits possession of an identification document that is or appears to be an identification document of the United States which is stolen or produced without authority knowing that such document was stolen or produced without authority. This offense would be a misdemeanor subject to a fine of not more than \$5,000, imprisonment for not more than one year or

With respect to the second of the offenses added by the first Senate amendment, the conference adopts the House position.

The first Senate amendment also included certain technical amendments to the definitions. The conference agreement combines both the Senate and House versions to define the term "identification document" as used in section 1028 of title 18 to mean a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

The conference agreement includes the Senate amendment relating to definition of

the term "State."

The conference agreement accepts the Senate amendment with respect to the exception for investigative, protective, or intelligence activities, to change the term "law enforcement agency of . . . a subdivision of to "law enforcement agency of . . political subdivision of a State."
The second Senate Amendment, No. 1369,

created a new offense relating to identifica-tion documents bearing a false birth date, to be a new section 1738 of title 18 of the United States Code. There was no equiva-

lent House provision.

The problem intended to be addressed by the amendment is the purchase of alcoholic beverages by persons under the minimum age in the various states by utilizing identification cards that are privately manufactured in a design and style that approxi-mates those used by state driver's licenses and personal identification cards.

The Senate amendment would have made it an offense to mail or ship in interstate or foreign commerce an identification document which bears a date of birth by a person in the business of furnishing identification documents for valuable consideration, if that person fails to obtain written verification from a government agency, a physician or hospital of the accuracy of the date of birth. This requirement would have eliminated the utility of private identification documents which are used by many persons who have no official record of their date of birth and are unable to obtain official identification cards for that reason.

The conferees determined that to simply require privately issued identification cards to carry a prominent disclaimer that they are not government documents would adequately protect the public interest.

The conference agreement would make it an offense to mail or ship in interstate or foreign commerce a privately issued identification card that bears a birth date or age if the identification card fails to carry on the front and back of the card the clearly and indelibly printed words "NOT A GOVERN-MENT DOCUMENT" in capital letters in not less than 12 point type.

> PETER W. RODINO. WILLIAM J. HUGHES, DAN GLICKMAN, HAL SAWYER, HAMILTON FISH, JR., THOMAS N. KINDNESS, HENRY J. HYDE, Managers on the Part of the House.

STROM THURMOND. PAUL LAXALT. ORRIN G. HATCH. ALAN SIMPSON. GORDON J. HUMPHREY, JOSEPH R. BIDEN, JR., DENNIS DECONCINI, HOWELL HEFLIN, Managers on the Part of the Senate.

## DISTRICT OF COLUMBIA APPROPRIATIONS, 1983

Mr. DIXON. Mr. Speaker, pursuant to the order of the House of December 13, 1982, I call up the conference report on the bill (H.R. 7144) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1983, and for other purposes and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill. The SPEAKER pro tempore. there objection to the request of the

gentleman from California?

There was no objection. The Clerk read the statement.

(For conference report and statement, see proceedings of the House of December 15, 1982.)

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The California gentleman from (Mr. DIXON) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. Coughlin) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DIXON).

#### GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection. Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, we bring back to the House today the conference report on the 1983 District of Columbia appropriation bill.

First, let me mention to the Members that we went to conference with the other body just 2 days ago and filed the conference report night before last and although we seem to be on a fast track in bringing up this report. I want to assure the Members that this is a responsible bill that should have their support.

### SUMMARY

Overall, Mr. Speaker, a total of \$524.2 million in Federal funds is provided in this conference agreement. We are below last year's appropriation by almost \$33 million; we are below the budget estimates for 1983 by \$55.7 million and we are below the House bill by \$21.3 million.

In District funds, the conference provides agreement a total \$1,998,841,900 in new budget authority. While this amount is \$33.1 million above last year's level and \$22.7 million above the House bill, it is \$8.5 million below the Senate bill and \$7.1 million below the budget estimates for fiscal year 1983.

Let me stress again, Mr. Speakerand this is very important—the conference agreement is \$7.1 million below the President's budget estimates.

#### SPECIAL CRIME INITIATIVE

Now, let me take just a few minutes to summarize our action in some of the other areas of the bill. The bill as agreed to by the conferees provides a one-time Federal payment \$3.146,600 for a special crime initiative. One of the objectives of this initiative is to get repeat offenders off the streets, and most of this amount will go to the Metropolitan Police Department for an automated fingerprint identification system which will cost \$1.8 million, and for portable communication radios, which will cost \$525,000. The balance of \$800,000. Mr. Speaker, will go directly to the Federal Department of Justice to hire 20 additional assistant U.S. attorneys who will be assigned to the District's Superior Court Division. We were told that the caseload is increasing at the rate of 125 per day and that something has to be done to reduce the workload that each assistant U.S. attorney carries.

We have also approved \$285,000 for three hearing commissioners and related staff. This will free up at least two judges for criminal trial duties.

The bill includes \$1.2 million to hire 93 firefighters to restore the four heavy duty rescue squads to full service status by September 30, 1983. These four units are now staffed by the same on-duty crew that mans the engine companies, and if the crew is out on a fire call, there is no one to staff the rescue unit.

### PENSION FUNDS

In this bill, Mr. Speaker, we carry out the terms of the agreement reached by the Mayor and the Retirement Board concerning the fiscal year 1981 shortfall of \$14.3 million in the District's contribution to the pension funds. That agreement was reflected in the legislation which authorized the \$24.4 million increase in the Federal payment. We have included in this bill the first of three successive payments of \$4.75 million as required by the agreement.

## HUMAN SERVICES

For the city's day care program, the conferees have agreed to provide \$13 million; and \$120,000 is included for

the Special Olympic games. The conferees agreement provides a total of \$97.5 million as the District's share of the medicaid and medical charities program.

For St. Elizabeths Hospital, the conference agreement provides \$24.7 million for reimbursement to the Federal Government. This is almost \$2 million above last year's level. In addition we have included language that will allow the hospital to receive medicaid reimbursements.

#### DEFICIT REDUCTION

Mr. Speaker, the conference agreement also provides \$20 million which was proposed by the House as the second installment to reduce the city's accumulated general fund deficit.

#### GENERAL PROVISIONS

The conferees have also agreed to authorize the Mayor, under amendment No. 39, to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Exective Schedule under 5 U.S.C. 5315, and language in the bill provides that this salary may be payable to the City Administrator during fiscal year 1983. We have also included language authorizing the Mayor to set the per diem rate for board members of the Redevelopment Land Agency consistent with his authority to set these rates for members of other boards and commissions of the District government.

A general provision is also included under amendment No. 40 that would remove District employees from the pay cap that applies to Federal em-ployees. The District was directed in the Home Rule legislation to set up its own merit personnel system, which they have had since January 1, 1980. Therefore, Mr. Speaker, the conferees feel that District employees should not be included in the Federal employee pay ceiling.

At this point in the RECORD, Mr. Speaker, I will insert a tabulation summarizing the conference action.

(The table referred to follows:)

# DISTRICT OF COLUMBIA APPROPRIATION BILL, 1983 (H.R. 7144) — CONFERENCE SUMMARY 1

	New budget	Budget estimates of new	New bud	get (obligational) a	uthority		Conference action	prepared with—	
ltem (	New budget (obligational) authority, fiscal year 1982	(obligational) authority, fiscal year 1983	House bill	Senate bill	Conference	Fiscal year 1982	Budget estimates, 1983	House bill	Senate bill
DISTRICT OF COLUMBIA									
FEDERAL FUNDS									
ederal payment to the District of Columbia	336,600,000	361,000,000	336,600,000	361,000,000	361,000,000	+24,400,000		+24,400,000	
Payment in lieu of reimbursement for water and sewer services to Federal facilities	13,500,000	11.800.000	11.800.000	11.800.000	11,800,000	-1.700.000			
Federal contribution to the police officers and fire fighters'.	The second		The second second	UPANICH NO.	0.0000000000000000000000000000000000000	1,100,000			
teachers', and judges' retirement funds	52,070,000	52,070,000	52,070,000	52,070,000 3,142,600	52,070,000 3,142,600	+3,142,600	+3,142,600	+3.142.600	
Loans to the District of Columbia for capital outlay	155,000,000	15,000,000	145,000,000	145,000,000	145,000,000	-10,000,000	-10,000,000	+3,142,000	
(Rescission)				-48,832,500	-48,832,500	-48,832,500	-48,832,500	-48,832,500	
(Limitation on direct loans)	(145,000,000)	(145,000,000)	(145,000,000)			. (-145,000,000)	(-145,000,000)	(-145,000,000)	,
Total, Federal funds to District of Columbia	557,170,000	579,870,000	545,470,000	524,180,100	524,180,100	-32,989,900	-55,689,900	-21,289,900	

DISTRICT OF COLUMBIA APPROPRIATION BILL, 1983 (H.R. 7144) - CONFERENCE SUMMARY 1 - Continued

	New budget	Budget estimates	New budget (obligational) authority		Conference action prepared with—				
ltem	(obligational) authority, fiscal year 1982	of new (obligational) authority, fiscal year 1983	House bill	Senate bill	Conference	Fiscal year 1982	Budget estimates, 1983	House bill	Senate bill
DISTRICT OF COLUMBIA FUNDS	A STATE OF THE STA		EM DEL	ALC LOUGH		Bred to	- Carrier	Y-107 180	
Operating Expenses									
Sovernmental direction and support	(88,216,700) (33,699,900)	(66,866,900) (62,327,200)	(68,312,200) (50,263,400)	(69,439,000) (61,122,000)	(69,545,500) (58,485,400)	(-18,671,200) (+24,785,500)	(+2,678,600) (-3,841,800)	(+1,233,300) (+222,000)	(+106,500 (-2,636,600
ublic safety and justice	/354 207 700\	(405.744.900)	(405.111.600)	(410,175,078)	(409,242,100)	(+54.944.400)	(+3,497,200)	(+4.130.500)	(-932.978
ublic education system  uman support services ransportation services and assistance	(385,690,200) (435,457,500)	(439,155,100) (465,089,800)	(434,171,200) (450,550,800)	(439,042,100) (465,103,800)	(438,724,200) (446,890,500)	(+53,034,000) (+31,433,000)	(-430,900) (+1,800,700)	(+4,553,000) (+16,339,700)	(-317,900 (+1,786,700
ransportation services and assistance	(123,681,600)	(137,227,400) (50,140,500)	(135,712,400) (38,337,000)	(136,712,400) (50,140,500)	(135,712,400)	(+12,030,800) (+6,680,800)	(-1,515,000) (-11,803,500)		(-1,000,000 (-11,803,500
nvironmental services and supply ersonel services epayment of loans and interest	(43,680,600)	(23,694,800)	(17,100,000)	(13,750,822)	(17,364,100)	(-26,316,500)	(-6,330,700)	(+264,100)	+3,613,278
lepayment of loans and interest	(126,060,600)	(142,204,200) (2,896,500)	(142,204,200) (20,000,000)	(142,204,200) (10,000,000)	(142,204,200) (20,000,000)	(+16,143,600) (+10,000,000)	(+17.103.500)		(+10,000,000
Repayment of general fund deficit.  Contingent services fund.  Inergy adjustment	(2,400,000)	(-2,078,500)	(-2,078,500)	(-2,078,500)	(-2,078,500)	(-2.400.000)			
Total, operating expenses, general fund	STREET, STREET	(1,793,268,800)	(1,767,684,300)	(1,795,611,400)	(1,794,426,900)		(+1.158.100)	(+26,742,600)	(-1.184,500
Capital Outlay		***************************************			(11, 2, 1, 11, 11, 11, 11, 11, 11, 11, 11	( )			9 3 3 3 3 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5
Seneral fund	(* 192,973,500)	(83,885,600)	(83,439,500)	(83,885,600)	(83,885,600)	(-109,087,900)		. (+446,100)	
Enterprise Funds	CONTRACT.	- 51170				-K( 18-78-1	THE STATE OF	No.	THE OIL
Vater and sewer enterprise fund: Operating expenses	(106,208,200)	(116.646,000)	(107,195,900)	(114,479,400)	(107,195,900)	/ . 007 7001	/ 0.450.100\		/ 7 202 500
Capital outlay	(* 29,102,600)	(4,575,000)	(4,575,000)	(4,575,000)	(4,575,000)	(+987,700) (-24,527,600)	(-9,450,100)	***************************************	(-7,203,300)
Total, water and sewer enterprise fund	135,310,800	121,221,000	11,770,900	119,054,400	11,770,900	-23,539,900	-9,450,100		-7,283,500
Washington Convention Center enterprise fund	(2,005,300)	(7,574,000)	(7,574,000)	(7,574,000)	(7,574,000)	(+5,568,700)			
Lottery and charitable games enterprise fund	(628,000)		(1,184,500)	(1,184,500)	(1,184,500)	(+556,500)	1,000		
Total, enterprise funds	(137,944,100)	(128,795,000)	(120,529,400)	(127,812,900)	(120,529,400)	(-17,414,700)	(-8,265,600)		(-7,283,500)
Total, District of Columbia funds	(1,965,758,600)	(2,005,949,400)	(1,971,653,200)	(2,007,309,900)	(1,998,841,900)	(+33,083,300)	(-7,107,500)	(+27,188,700)	(-8,468,000
RECAPITULATION			the party	WITH THE PARTY	Mary Page 1	TOTAL BUTTON	100		
Grand total, new budget (obligational) authority	557,170,000	579,870,000	545,470,000	524,180,100	524,180,100	32,989,900	-55,689,900	-21,289900	
Consisting of:	S. Communication	Land to the same of the same o	0.00 00.000	2011 242 142	The state of the s	HI I OVERUNOW		The section of the	W. CPO
Federal funds to the District of Columbia	557,170,000	579,870,000 (145,000,000)	545,470,000 (145,000,000)	524,180,100	524,180,100	-32,989,900 (-145,000,000)	-55,689,900 (-145,000,000)	-21,289,900 (-145,000,000)	
District of Columbia funds.	(1,965,758,600)	(2,005,949,400)	(1,971,653,200)	(2,007,309,900)	(1,998,841,900)		(-7,107,500)	(+27,188,700)	(-8,468,000)
Includes following budget amendments:	2.0	eflects transfer of	\$20 102 600 to 11	he Water and Sew	uner .	3 Appropriated up	der general fund cap	ital auttau	- 19 m 3

| Includes following budget amendments: | H. Doc. 97 - 263 - District of Columbia funds: | S267.000 | Public safety and justice | \$267.000 | Public education system | 4,483,000 | Human support services | 15,230,000 | Personal services | 4,400,000 | Total, budget amendments | 24,400,000 |

Reflects transfer of \$29,102,600 to the Water and Sewer Enterprise Fund. 3 Appropriated under general fund capital outlay.

Mr. Speaker, in the short time I have taken, I have tried to highlight the conference agreement, and the full text of the agreement is printed in yesterday's Congressional Record starting on page H9935, and is available to all Members.

We believe this is a good conference agreement and we urge that it be adopted.

Mr. Speaker, I reserve the balance of my time.

### □ 1620

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. DIXON. I will be glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I have a couple of questions on amendments 39 and 40. In both those instances, are the amendments not saying that we should ignore Federal pay ceilings and go ahead and pay District employees more money than Federal employees in the area who are paying taxes to the D.C. Government would be allowed to make in similar kinds of jobs?

Mr. DIXON. Amendment 39 gives the Mayor the discretion to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for level IV of the Federal Executive Schedule.

Amendment 40 gives the city the authority to set its own pay ceilings for

its employees.

Mr. WALKER. If the gentleman would yield further, does that not do what I am talking about? We have agonized just within the last few days on this House regarding this Federal pay cap and as it affects Members' salaries and affects executive salaries across the board. We have gone through quite a bit of agony. We are probably going to continue to do so in the continuing resolution.

Yet we come in here with a D.C. appropriation bill that says we are going to lift those very pay caps that we have agonized so much about on D.C. employees and, in effect, run into situations where the employees of the District will be making more money than people in similar jobs who are paying taxes as Federal employees are able to make in their jobs because of our pay cap. Is that not the case?

Mr. DIXON. No, it is not the case. Yes, we have agonized.

I do not know and I do not understand why we on the floor of this House are agonizing over the salary that city employees receive. The Home Rule Act passed by this Congress directed the District Government to set up its own merit personnel system. That merit system went into effect on January 1, 1980, and the Federal pay cap should have been removed from District employees at that time. It is also true that there are many employees around this country who make, in any given category, more money than a particular Federal employee. And the converse of that is also true.

The gentleman's point is well taken from his perspective. I do not know that any community around the country is really concerned about what the District of Columbia does with the salary levels of its employees paid from its own revenues especially when the District has its own merit personnel system.

Mr. WALKER. Mr. Speaker, if the gentleman would yield further, I think the problem is that we are paying a part of the bill, and in paying a part of the bill we have felt in the past that because of that Federal contribution, there should be similar kinds of pay scales and pay caps that relate to what cost of the workers in this area are making from that same Federal Treasury, and that is the reason why the Congress has felt in the past that that should be the case.

I tend to think that the Congress probably still believes that, and at the appropriate time, I might say to the gentleman, I intend to offer the motions appropriate to see to it that those pay caps are maintained.

Mr. DIXON. Let me respond to the gentleman, Mr. Speaker, as to the point that we are paying part of the bill. I do not think that is absolutely correct. The budget totals \$1.9 billion. The Federal payment to the District is

\$361 million.

I do not think any of us in this House view that Federal payment as a gift. Only if we view it as a gift could we make the interpretation that we were paying part of the bill. The history of the Federal payment is that it is in lieu of taxes on Federal property in the city. So I do not see under any circumstance where allowing the District to set its own level of compensation for employees is, in fact, paying part of the bill.

Mr. Speaker, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California (Mr. Dixon) has consumed 10 minutes.

Mr. COUGHLIN. Mr. Speaker, I yield myself such time as I may consume and I rise in support of the conference report on the District of Columbia appropriation bill for the fiscal year 1983.

This bill, as the chairman has pointed out, provides a total of

\$1,998,841,900.

This is made up of the District of Columbia's own funds—from taxes and fees—and the full Federal payment of \$361 million.

Included in that figure is a one-time additional Federal payment of \$3,142,600 for a special crime initiative. These funds would be used to buy 210 portable radios and an automated fingerprint identification system, and hire 22 to 30 additional assistant U.S. attorneys to prosecute criminal cases in the District of Columbia Superior Court.

The conference report insists on the House-mandated level of 3,880 police officers, a strength the District has yet to sustain although we have insisted on it for the past 2 years. We tie receipt of the Federal payment to meeting this level and give the District of Columbia until April 15 to achieve it.

On a related matter, the conference report includes \$1,200,000 for startup of Fire Department heavy-duty rescue

squads.

Earlier this year, a compromise was reached on funding the shortfall in retirement funds. We take the first step in making up this deficiency in the conference report before you today.

The House continues to insist on an adequate amount of money earmarked for D.C. debt retirement. The Mayor originally proposed earmarking \$16.5 million, the Council reduced it to \$2.9

million, and we set it at \$20 million. These funds must be used to reduce the cash portion of the deficit. I might add that the city's own plan, released a few years ago, anticipated a debt retirement level of \$30 million this year.

The lottery and charitable games enterprise fund is fully funded so the very successful D.C. lottery may continue. Restriction and requests on the operation of the lottery remain as enacted into permanent law in both last year's D.C. bill and the fiscal year 1983 Continuing Resolution.

General provisions of the conference report lift the pay cap for city employees (by removing D.C. employees from Federal employee pay ceilings), and

for the City Administrator.

Let me once again say what a pleasure it is to work with Subcommittee Chairman Julian Dixon. He has, perhaps, the most difficult job in balancing all of the various interests which come together over District of Columbia appropriations. And he does an excellent job at it.

Mr. Speaker, let me also express my appreciation to Americo "Migo" Miconi and Kenneth Kraft for their excellent staff work in putting this bill

together.

Mr. Chairman, this is a good bill and I urge its adoption by the House and reserve the balance of my time.

Mr. PARRIS. Mr. Speaker, will the

gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Virginia.

Mr. PARRIS. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report.

For the past 2 years, public safety in the Washington metropolitan area has suffered due to the fact that the District of Columbia Fire Department's Rescue Squad units have not been provided sufficient manpower to operate on a full-time basis.

The District's four rescue trucks are manned by the personnel of four fire engine companies. Under this situation, if one of these companies has responded to a fire alarm, there has been no squad available to man their

rescue truck.

Yesterday, however, the District of Columbia appropriations conferees took an action which may remedy this situation by including \$1.2 million for 93 positions on the D.C. rescue squads in their bill. I commend the conferees on this action.

I realize the funding level for the 93 positions was not at the requested amount, however, I would like to remind the District of Columbia government that those of us in Congress who are concerned about the safety of the citizens of the Washington metropolitan area will be monitoring the situation closely to be sure that the D.C. government lives up to its responsibilities in this matter.

I am confident that the additional qualified persons hired to operate the rescue squads will definitely upgrade the quality of safety and security for the Metropolitan Washington area.

Mr. COUGHLIN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. PORTER) a member of the

subcommittee.

Mr. PORTER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report.

I first want to commend the work of my chairman, the gentleman from California, and the ranking minority member, the gentleman from Pennsylvania, along with the other members of the conference committee.

Three points I want to touch on just briefly with regard to the conference

report.

One is that it contains an insistence on behalf of the Senate and the House that \$20 million be placed toward retirement of the accumulated debt of the District of Columbia, something that the conferees all insisted upon, and something that I intend personally to continue to insist upon and to follow carefully in terms of their financing during the remainder of the fiscal year.

#### □ 1630

Second, the conference report continues and makes permanent the language that was included in the report last year that limits the D.C. lottery to areas outside the Federal enclave and outside the historic areas of Georgetown. I consider this a very important limitation on the lottery, and it has not been a part of the permanent language of the law.

Finally, the conference report includes \$1.2 million additional funding to insure that there be hired 93 additional persons to staff four heavy duty rescue squads for the fire department that we believe very strongly are important to the public safety of the District of Columbia.

The conference report also includes a special crime initiative that the chairman of the subcommittee in the other body felt was very important and that we consider to be very important also, to control crime in the District of Columbia which has reached very high proportions. All in all, I think the conference report is a good piece of work, and I commend it to the Members and urge its passage.

Mr. DIXON. M. Speaker, I yield 5 minutes to the gentleman from Cali-

fornia (Mr. DELLUMS).

Mr. DELLUMS. Mr. Speaker, I would like to speak briefly to the objection of my distinguished colleague on the other side of the aisle, the gentleman from Pennsylvania, and point out to the gentleman that the processes in the Home Rule Act that tied the

ceiling, the pay scale of the employees of the District of Columbia to the Federal employees, came into effect by virtue of the fact that the District of Columbia did not have its own personnel procedures.

I would suggest, Mr. Speaker, that by virtue of the fact that the District of Columbia at this very moment does have a clearly established set of personnel procedures now negates any need on the part of the Congress of the United States to continue a cap that would tie the local employees to the Federal pay cap.

I would simply say in conclusion, Mr. Speaker, to my distinguished colleague from Pennsylvania that the local residents raise their own tax revenue in the amount of \$1.9 billion, so when my colleague talks about defending the taxpayers' dollars, I think it is terribly important that that statement be placed in its proper context. I would argue as diligently as I possibly can, Mr. Speaker, let us protect the integrity of the right of the local residents of the District of Columbia to determine their own destiny.

We all represent myriad cities and municipalities across this country. Those cities and municipalities do not have their pay scales tied to the Federal Government. We must free the District of Columbia. They are no longer our colony. They are citizens of the United States. They have a perfect right to determine their own pay scales, and I would suggest that we get out of the business of standing here trying to legislate the business of the District of Columbia. We have many more important and substantive matters with which to deal.

The residents of the District of Columbia have a Mayor, they have a city council, they have an established set of rules and regulations to address the problem of pay scales. I do not think it a matter that we ought to address here.

I would urge my colleagues if this matter is brought to a vote, to vote down the proposition to continue the pay cap. The residents of the District of Columbia have their own personnel procedures allowing them to go forward based upon their needs. That is what the spirit and intent of the Home Rule Act was intended to do. and it would seem to me to continue to perpetuate this colonial mentality is to go backward in time and not to go forward and provide the best opportunity for the residents of the District of Columbia to engage in self-determination in the highest tradition of a democratic form of government in general or the spirit of the Home Rule Act in the

Mr. DIXON. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the aves appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members

The vote was taken by electronic device, and there were-yeas 288, nays 79, not voting 66, as follows:

#### [Roll No. 477]

	YEAS-288	
Addabbo	Dunn	Kemp
Akaka	Dwyer	Kennelly
Alexander	Dyson	Kildee
Anderson	Eckart	Kindness
Andrews	Edgar	Kogovsek
Annunzio	Edwards (AL)	Kramer
Anthony	Edwards (CA)	LaFalce
Applegate	Erdahl	Lantos
Aspin	Erlenborn	Leach
AuCoin	Evans (DE)	Leath
Badham	Evans (IA)	Leland
Barnard	Evans (IN)	Lent
Barnes	Fary	Levitas
Bedell	Fazio	Long (LA)
Beilenson	Ferraro	Long (MD)
Bennett	Fiedler	Lowery (CA)
Bereuter	Fish	Lowry (WA)
Bethune	Fithian	Lundine
Bevill	Flippo	Lungren
Biaggi	Florio	Madigan
Bingham	Foglietta	Markey
Bliley	Ford (MI)	Marriott
Boggs	Ford (TN)	Martin (IL)
Boland	Forsythe	Martin (NY)
Boner	Fountain	Martinez
Bonior	Fowler	Matsui
Bonker	Frank	Mattox
Bowen	Frenzel	Mavroules
Breaux	Frost	Mazzoli
Brinkley	Garcia	McClory
Brooks	Gejdenson	McDade
Broomfield	Gephardt	McHugh
Brown (CA)	Gibbons	McKinney
Brown (OH)	Gilman	Michel
Burgener	Gingrich	Mikulski
Burton, Phillip	Glickman	Miller (CA)
Butler	Gonzalez	Mineta
Carman	Goodling	Minish
Carney	Gore	Mitchell (MD)
Chappell	Gradison	Moakley
Chappie	Green	Molinari
Chisholm	Grisham	Mollohan
Clausen	Guarini	Montgomery
Clinger	Hall (IN)	Moore
Coelho	Hamilton	Morrison
Conable	Hammerschmidt	
Conte	Harkin	Murtha
Conyers	Hatcher	Myers
Corcoran	Hawkins	Natcher
Coughlin	Heckler	Neal
Courter	Heftel	Nelligan
Coyne, James	Hertel	Nelson
Coyne, William	Hightower	Nichols
Crockett	Hillis	Nowak
D'Amours	Holt	O'Brien
Daniel, Dan	Howard	Oakar
Daschle Daschle	Hoyer	Oberstar
de la Garza	Hubbard	Obey
Deckard	Huckaby	Ottinger
Dellums		
	Hughes	Panetta
Derrick	Hunter	Parris
Derwinski	Hutto	Pashayan
Dickinson	Hyde	Patterson
Dingell	Jacobs	Pease
Dixon	Jeffords	Pepper
Donnelly	Jenkins	Perkins
Dorgan	Jones (NC)	Peyser
Dougherty	Jones (TN)	Pickle
Dowdy	Kastenmeier	Porter
Duncan	Vazon	Drice

Pritchard Railsback Rangel Regula Rinaldo Robinson Rodino Roe Roemer Rogers Rose Rosenthal Rostenkowski Roukema Roybal Russo Savage Sawver Schneider Schroeder Schumer Seiberling Shamansky

Walgren Wampler Washington Smith (IA) Watkins Weber (OH) Smith (N.I) White Whitehurst St Germain Whitley Whittaker Stangeland Whitten Williams (MT) Williams (OH) Wilson Wirth Wolf Wolpe Wortley Wright Wyden Wylie Vates Yatron Vander Jagt Young (FL) Young (MO) Zablocki

#### NAYS-79

Sharp

Shaw

Simon

Snowe

Snyder

Solarz

Stark

Stokes

Studds

Swift

Synar

Tauke

Tauzin

Taylor

Thomas

Traxler

Trible

Udall

Vento

Volkmer

Stratton

Albosta	Gunderson	Mottl
Archer	Hall, Ralph	Napier
Ashbrook	Hall, Sam	Patman
Bailey (MO)	Hance	Paul
Benedict	Hansen (ID)	Petri
Bouquard	Hansen (UT)	Quillen
Brown (CO)	Hartnett	Ritter
Broyhill	Hendon	Roth
Campbell	Hiler	Sensenbrenne
Cheney	Hopkins	Shelby
Coats	Jones (OK)	Shumway
Collins (TX)	Lagomarsino	Siljander
Craig	Latta	Skeen
Crane, Philip	LeBoutillier	Skelton
Daniel, R. W.	Livingston	Smith (AL)
Dannemeyer	Loeffler	Smith (NE)
Daub	Lott	Smith (OR)
Dornan	Lujan	Solomon
Dreier	Marlenee	Spence
Edwards (OK)	Martin (NC)	Staton
Emerson	McCollum	Stenholm
Emery	McDonald	Stump
English	McEwen	Walker
Fenwick	McGrath	Weaver
Fields	Mica	Weber (MN)
Gramm	Miller (OH)	Trouci (Idit)
Gregg	Moorhead	
CITCOS	Moornead	

# NOT VOTING-66

Atkinson	Findley	McCurdy
Bafalis	Foley	Mitchell (NY)
Bailey (PA)	Fugua	Moffett
Beard	Gaydos	Oxley
Blanchard	Ginn	Rahall
Bolling	Goldwater	Ratchford
Brodhead	Gray	Rhodes
Burton, John	Hagedorn	Roberts (KS)
Byron	Hall (OH)	Roberts (SD)
Clay	Hefner	Rousselot
Coleman	Holland	Rudd
Collins (IL)	Hollenbeck	Sabo
Crane, Daniel	Horton	Santini
Davis	Ireland	Schulze
DeNardis	Jeffries	Shannon
Dicks	Johnston	Shuster
Downey	Lee	Smith (PA)
Dymally	Lehman	Stanton
Early	Lewis	Waxman
Ertel	Luken	Winn
Evans (GA)	Marks	Young (AK)
Fascell	McCloskey	Zeferetti

# □ 1650

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Johnston against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 3: Page 2, after line 19, insert:

## SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, \$3,142,600: Provided, That \$2,342,600 shall be available to the Metropolitan Police Department: Provided further, That \$800,000 shall be transferred to the Department of Justice for use in the Superior Court Division of the United States Attorney's Office for the District of Columbia.

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 3 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert the following:

#### SPECIAL CRIME INITIATIVE

For a Federal contribution to the District of Columbia to aid in the detection and prevention of crime, \$2,342,600: *Provided*, That this amount shall be available to the Metropolitan Police Department.

For the Department of Justice for use in the Superior Court Division of the U.S. Attorney's Office for the District of Columbia,

\$800,000.

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 2, after line 21, insert:

## (INCLUDING RESCISSION)

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 3, line 3, strike out all after "That" down to and including "\$145,000,000" in line 5 and insert "there is hereby rescinded \$48,832,500 in capital loan authority".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 6, and concur therein.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 7: Page 3, line 12, strike out "\$68,312,200" and insert "\$69,439,000".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following "\$69,545,500".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 17: Page 8, line 17, strike out "\$450,550,800" and insert "\$465,103,800".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 17 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "\$466.890.500".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 10, line 22, strike out "\$17,100,000" and insert "\$13,750.822".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "\$17,364,100".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 18, line 25, strike out "33,109" and insert "33,165".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the number proposed by said amendment, insert the following: "33,268".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 34: Page 18, line 25, strike out "32,052" and insert "32,108".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein with an amendment, as follows: In lieu of the number proposed by said amendment, insert the following: "32,211".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 35: Page 19, line 10, strike out "28,459" and insert "28,515".

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the number proposed by said amendment, insert the following: "28,616".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection. The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 39: Page 23, after line 5. insert:

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor. not to exceed the rate established for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1982 shall be deemed to be the rate of pay payable for that position for September 30, 1982.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945 (D.C. Code 5-803(a)) the board members of the Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by

the Mayor.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of section number 125 named in said amendment, insert the following: "126".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PREFERENTIAL MOTION OFFERED BY MR. WALKER Mr. WALKER. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Walker moves that the House recede from its disagreement with the Senate on Senate amendment No. 39 and concur there-

The SPEAKER pro tempore. The gentleman from California DIXON) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. Coughlin) will be recognized for 30 minutes.

The Chair recognizes the gentleman

from California (Mr. Dixon). Mr. DIXON. Mr. Speaker, I yield myself such time as I may consume.

I have no objection to that and I would agree to it.

Mr. COUGHLIN. Mr. Speaker, I vield such time as he may consume to the gentleman from Pennsylvania (Mr. WALKER)

Mr. WALKER. Mr. Speaker, on the motion I have offered I would hope that the Members would vote "no." am asking for a "no" vote on this motion to recede.

Why? Because to recede and concur with the Senate will allow one employee of the District government to be paid at a rate far higher than even the Members of this body are paid and we are going to set a precedent of breaking the Federal pay cap.

So what I am attempting to do with this is maintain the Federal pay cap as it relates to the City Administrator of

Washington, D.C.

From everything I know, Mr. Rogers is a very capable individual but what we have here is a question of how we are going to go about maintaining the kinds of things that we have struggled about on this floor for some time.

Here within just the last few days we have had quite a struggle on this floor about what to do about pay caps.

I would say to the Members, however, that issue is resolved and it will affect the D.C. employees exactly the same way as we have the Federal employees affected.

would remind Members of this body that the Federal employees in this area live in this city, pay taxes to

the city.

What we would be setting up is a dual framework in which they would be capped and would not be given the same kind of pay scale as the D.C. employees.

### 1700

I think that that is wrong, and I would hope that we would say on this particular motion that we would not recede and thereby, keep on the pay

Mr. COUGHLIN. Let me just say that I concur with the Chairman, who I believe has accepted the gentleman's motion.

Mr. DIXON. Yes, Mr. Speaker, I would be glad to accept the gentleman's motion.

PARLIAMENTARY INQUIRIES

Mr. WALKER. Mr. Speaker, I have parliamentary inquiries.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, the problem, of course, with the gentleman accepting the amendment is the fact that the motion itself then would be the direction the committee wants

I am asking for a "no" vote on this particular motion.

If the gentleman would agree to having the motion not accepted, then I think that-

Mr. DIXON. Mr. Speaker, I have a parliamentary inquiry.

The gentleman from Pennsylvania has offered a preferential motion to recede and concur with the Senate.

The chairman of the committee and the ranking minority Member are agreed to recede and concur, as his preferential motion indicates.

In that case, is it necessary to have a vote on this?

The SPEAKER pro tempore. The preferential motion does have to be voted on.

Mr. DIXON. Then I would ask for

an "aye" vote.
Mr. COUGHLIN. I would also ask for an "aye" vote.

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gen-

tleman from California. Mr. BADHAM. I would like to engage in a colloquy with the gentleman from Pennsylvania who is putting

us through this further agony. I well understand the attitude of my good friend, the gentleman from Pennsylvania (Mr. Walker), on pay caps and pay freezes. I understand, perhaps, that he has an attitude that perhaps if we pay people less we are

going to get better people. I am no great fan of the District of Columbia, but I cannot see how, for the life of me, you can administer that city, which is just in terrible shape, by having a pay cap just because the Congress of the United States is stupid enough to go through that exercise of thinking we can get better people by paying them less. Why should we impose that on the citizens of Washington, D.C., who have enough problems of their own?

Mr. WALKER. If the gentleman will yield, I think the question here is one of whether or not we are going to maintain similar pay scales in the Federal Government.

We have an appropriations bill before us that is putting an awful lot of money into the D.C. government. All I am saying is, let us treat the people of the D.C. government that we are helping to pay exactly how we treat the Federal employees.

The gentleman from California has strong feelings that says we ought to raise the overall pay cap. I would say to the gentleman that D.C. employees

will be affected exactly the same way as others, but we should not create

special classes of employees.

All I am saying in this particular amendment is, let us keep it just like it has been, let us keep the same pay cap on D.C. employees that we have on Federal employees. That is the way we have operated. That is the way I think it should stay. That is the reason why I am asking for a "no" vote on this motion to recede and concur.

Mr. BADHAM. If the gentleman will yield further, that would cause me to suspect that if we were able to vote on pay caps for the executives of United States Steel, Chrysler, and other companies that are having difficulty in this country, the gentleman would offer that as a motion to put a cap on their salaries. I do not think that

would help the economy.

Mr. WALKER. If the gentleman will yield, we do not have appropriation bills for Chrysler. We have got a question here for the D.C. appropriations bill, and that is what I am seeking to change.

Mr. Speaker, I would ask that the

question be divided.

The SPEAKER pro tempore. The Chair will divide the question.

Is there further debate?

Mr. DIXON. Yes, Mr. Speaker.

First of all, this amendment only addresses itself to one particular employee of the District government. That employee is the City Administrator for the District of Columbia. It seems to me that any mayor in any city should be allowed to set the salary of his senior administrator within some bounds. And this amendment has a ceiling since it would authorize the Mayor to set the salary of the City Administrator at a rate not to exceed the maximum statutory rate established for Level IV of the Federal Executive Schedule under 5 U.S.C. 5315. And let me make it clear, Mr. Speaker, that the purpose of this amendment is to make the salary for the City Administrator, as set by the Mayor, payable to the City Administrator.

Mr. Speaker, I would ask for an

"ave" vote.

The SPEAKER pro tempore. The question is, Will the House recede from its disagreement to the amendment of the Senate No. 39.

The question was taken; and the Speaker pro tempore announced that

the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify

absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 122, answered "present" 1, not voting 74, as follows:

[Roll No. 4781

YEAS-236

Akaka

Albosta

Andrews

Annunzio

Applegate

Atkinson

Badham

Barnes

Bedell

Beilenson

Bennett

Bingham

Bevill

Biaggi

Bliley

Boggs

Boland

Boner

Bonker

Breaux

Brooks

Brodhead

Burgener

Campbell

Chappell

Carman

Carney

Coats

Conte

Convers

Coughlin

Crockett

Daschle

Dellums

Derrick

Donnelly

Dougherty

Dixon

Dorgan

Dowdy

Dwyer

Dyson

Eckart

Edgar

Erlenborn

Evans (DE)

Evans (IA)

Evans (IN)

Fazio

Fish

Ferraro

Fithian

Flippo

Foglietta

Ford (MI)

Ford (TN)

Forsythe

Fountain

Anderson

Ashbrook

Barnard

Benedict

Bereuter

Bethune

Bouquard

Brinkley Broomfield

Archer

Early

Duncan

de la Garza

Brown (CA)

Anthony

Fowler O'Brien Frank Oakar Oberstar Frenzel Ottinger Garcia Panetta Gejdenson Gephardt Patterson Gibbons Glickman Pepper Gonzalez Perkins Peyser Pickle Gore Gradison Gray Porter Green Price Gregg Pritchard Guarini Pursell Gunderson Hall (IN) Quillen Railsback Harkin Reuss Hartnett Rodino Hatcher Roe Hawkins Roemer Rostenkowski Heftel Roybal Hightower Russo Hiler Savage Howard Sawyer Scheuer Hoyer Hubbard Schneider Burton, Phillip Huckaby Schumer Hunter Seiberling Shamansky Hyde Shannon Jeffords Shaw Jones (NC) Simon Jones (OK) Skelton Jones (TN) Smith (IA) Kastenmeier Smith (NJ) Kazen Snowe Coyne, James Kemp Solarz Coyne, William Kennelly St Germain Kildee Stangeland Kindness Staton Kogovsek Stokes Stratton Lantos Studds Leland Swift Long (LA) Synar Long (MD) Tauzin Lowery (CA) Lowry (WA) Thomas Traxler Lungren Trible Markey Udall Marriott Vander Jagt Martinez Vento Mattox Volkmer Mayroules Walgren Washington Mazzoli Edwards (AL) Watkins McClory Weber (MN) Edwards (CA) Edwards (OK) McGrath Weber (OH) McHugh McKinney White Whitley Mica Mikulski Williams (MT) Williams (OH) Miller (CA) Mineta Wilson Wirth Minish Wolf Wolpe Mitchell (MD) Moakley Molinari Wortley Mollohan Wright Moore Wyden Wylie Murtha Nelson Young (MO) Zablocki Nowak

NAYS-122

Brown (CO) Brown (OH) Broyhill Bailey (MO) Butler Byron Chappie Clinger Coleman Collins (TX) Conable

Courter Craig Crane, Philip Daniel, Dan Daniel, R. W. Dannemeyer Daub Derwinski Dickinson Dingell

Livingston Loeffler Lott Dunn Roth Emerson Roukema Schroeder Sensenbrenner English Lujan Madigan Fenwick Marlenee Fiedler Sharp Martin (IL) **Fields** Shelby Gaydos Martin (NC) Shumway Gilman Martin (NY) Siliander McCollum Gingrich Skeen Goodling McDonald Smith (AL) Gramm McEwen Smith (NE) Grisham Michel Smith (OR) Miller (OH) Hall, Ralph Snyder Montgomery Hall, Sam Solomon Hamilton Moorhead Spence Hammerschmidt. Morrison Stenholm Hance Mottl Stump Hansen (ID) Murphy Tauke Hopkins Myers Taylor Hughes Napier Jacobs Nelligan Wampler Jenkins Pashayan Weaver Whitehurst. Kramer Patman Lagomarsino Paul Whittaker Latta Petri Whitten Leach Regula Yatron Leath Rinaldo Young (AK) LeBoutillier Ritter Young (FL) Lent Robinson

ANSWERED "PRESENT"-1

Obey

#### NOT VOTING-74

Alexander Fugua McCurdy Ginn AuCoin Bafalis Mitchell (NY) Goldwater Moffett Bailey (PA) Hagedorn Neal Hall (OH) Blanchard Oxlev Bolling Hansen (UT) Rahall Burton, John Hefner Rangel Ratchford Cheney Hendon Chisholm Hillis Rhodes Clausen Holland Roberts (KS) Clav Hollenbeck Roberts (SD) Collins (IL) Holt Rosenthal Crane, Daniel Horton Rousselot Davis Ireland Deckard Jeffries Sabo Santini DeNardis Johnston Dicks Lee Lehman Schulze Downey Shuster Dymally Levitas Smith (PA) Lewis Stanton Emery Stark Luken Ertel Evans (GA) Lundine Waxman Marks Winn Fascell Findley Matsui Zeferetti McCloskey Foley

□ 1720

Mrs. BOUQUARD and Mr. COLE-MAN changed their votes from "yea" to "nay."

Mr. WILLIAMS of Montana and Mrs. HECKLER changed their votes from "nay" to "yea."

So the House receded from its disagreement to the amendment of the Senate numbered 39.

PREFERENTIAL MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. Dixon moves that the House concur in the amendment of the Senate numbered 39 with an amendment, as follows: In lieu of section number 125 named in said amendment, insert the following: "126".

The preferential motion was agreed to.

### LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I have asked for this time to inquire of the distinguished majority leader the program for the balance of this day and possibly tomorrow and beyond.

MR. WRIGHT. Mr. Speaker, will my distinguished friend, the minority leader, yield?

leader, yield?
Mr. MICHEL. I am happy to yield.

Mr. WRIGHT. Upon completion of the matter presently before the House, we expect to take up House Resolution 621, creating the Office of the Bicentennial of the House.

Then there are several unanimousconsent requests. Following those unanimous-consent requests, it would be in order to resolve the House into the Committee of the Whole House on the State of the Union for the further consideration of the immigration bill, conclude tonight the remaining 3 hours of general debate that are provided under that rule adopted in the House.

Let me advise my friend of what he already is aware, and through him advise our colleagues that it appears that the other body will require the remainder of today and late into the evening to complete its action on the concurrent resolution. According to the majority leader of the other body, Senator Baker, it is fully expected that they will conclude that action tonight and then it will take some 4 or 5 hours to get the papers in order.

Therefore, it appears likely that we should not expect to deal with that tonight, but come in at 10 o'clock in the morning and entertain a motion to send the matter to conference, appoint conferees, letting those conferees work throughout the day tomorrow. Nobody knows how long it will take, but it is anticipated that the conferees from the House and the Senate might require the major part of, or all of tomorrow, in order to complete that work.

Once they have reached agreement, all of us know that it requires time to get the papers in order. In this case, surely they must be in impeccable order.

Then that having been done, it would be foolish for the House to stay around possibly until all hours of the night Saturday night or Sunday.

It is hoped that agreements may be reached between friends that friends of ours have in the other body with friends they have in the White House, with a friend they have, in order that what is sent to the White House might be signed. I do not know how likely that is, but we hope.

We would expect maybe to come back in here at 2 o'clock Sunday afternoon and pass the conference committee report; if it is signed by the President, get out and go home. If it should not be—well, I do not even want to entertain other alternatives, because everyone knows that all bets are off.

The expectation would be, and Members need to understand this also, that tomorrow after we had sent the bill to

conference it would be in order to take up the pending business in the House and the pending business, obviously, does include the immigration bill.

Mr. YATES. Mr. Speaker, will the gentleman yield?

Mr MICHEL. I yield to the gentleman.

Mr. YATES. The conferees on the Interior appropriations bill have reached agreement. The staffs are now putting that agreement in order and I had hoped that the majority leader would permit us to bring that bill to the floor tomorrow.

Mr. WRIGHT. Well, we will try to get some unanimous-consent requests that would permit that to be done without the waiting period, that bill obviously would have priority and right of way over any other matter.

Mr. YATES. Mr. Speaker, if the gentleman will yield further, the House has already given the gentleman from Illinois unanimous consent to bring the bill up at any time.

Mr. WRIGHT. Fine. Well, the gentleman will be recognized then whenever he seeks recognition.

Mr. YATES. Tomorrow morning.

Mr. WRIGHT. He will have priority, obviously, over other matters.

Mr. YATES. I did not know what the plans of the distinguished majority leader were with respect to the scheduling of business for tomorrow morning. I did not know whether the only business would have been the appointment of conferees. If, as the gentleman indicates, he proposes to have other business, I am pleased to learn the gentleman will permit me to bring up the Interior appropriations bill.

Mr. WRIGHT. I suppose that probably would have first priority among other things

I have no further explanations to make, other than to yield to such questions as might be asked.

Mr. MICHEL. I think maybe we might want to advise the Members that obviously we would be reading the immigration bill under the 5minute rule if general debate were concluded today and that after those important measures, including the one the gentleman from Illinois (Mr. YATES) talked about, we might find a number of rollcalls on amendments, many of which have been printed in the RECORD, as I understand it, by several Members. It would not be one of those kind of days where Members frankly would want to be absent and miss the kind of prospective rollcalls that might be involved.

Mr. WRIGHT. What the distinguished minority leader refers to tomorrow after we have sent the concurrent resolution to conference, presumably; is that right?

Mr. MICHEL. That is correct.

□ 1730

Mr. WRIGHT. The minority leader is not suggesting that we would entertain amendments tonight; is he? I did not interpret him to be.

Mr. MICHEL. No.

Mr. WRIGHT. It would not be our plan to have amendments tonight.

Mr. MICHEL. Then do I understand that the majority leader will shortly be requesting unanimous consent for recess authority?

Mr. WRIGHT. Yes; I will do that immediately if the minority leader is prepared for me to offer the unanimous-

consent request.

Mr. MICHEL. I think we ought very well to tell the Members that there is an alternative here, and that would be to do what we can tonight and break for the weekend. The only problem with that is, once you are here Monday, you know you are going to be here Wednesday or Thursday.

If you really want to make some long-range plans here, it has been the considered judgment of some of us who have been around here a long time that you just better charge on through and get done what you have to get done while the iron is hot. I think, frankly, it would be to the best interest of the Members of the House to do just that.

Mr. WRIGHT. Does the distinguished minority leader suggest that the program might be that slogan of Dr. Pepper, "10, 2 and 4"? Ten o'clock tomorrow, 2 o'clock on Sunday, and then 4, right down the field?

Mr. RANGEL. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from New

York.
Mr. RANGEL. Mr. Majority Leader, I get the impression we are shooting for voting on the conference report by 2 o'clock on Sunday, and that is what we are shooting for, but between now and then we will take up the appropriations bill the gentleman from Illinois, Mr. Yates, referred to and we will take up the immigration bill, and I get the idea that there will be a lot of filler that would be going on between now and our objective of 2 o'clock on Sunday.

Have our leaders thought about the possibility of just recessing for a while and coming back at a time certain at the call of the Chair, and assume that the conferees will be ready for us to come back and do something, rather than just sit around voting on amendments on the immigration bill?

Mr. WRIGHT. If the gentleman from Illinois does not wish to respond, I suppose he might yield to me in order that I might.

Mr. MICHEL. Oh, yes.

Mr. WRIGHT. The only response I can make to that is that the chairman of the Committee on the Judiciary,

Mr. Rodino, has waited a long time this year to get his bill out. The Attorney General of the United States has requested, personally requested, of the Speaker that the bill be entertained.

I do not know that I have anything

further to say about it.

The SPEAKER pro tempore. The time of the gentleman from Illinois on the 1 minute has expired.

AUTHORIZING THE HOLDING OF A SESSION ON SUNDAY, DE-**CEMBER 19, 1982** 

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that it shall be in order for a session to be held on Sunday next.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, as I hear this schedule, what puzzles me about the Sunday session is the fact that I think most Members want to come back and get things wrapped up if we can on Sunday. However, it seems to me that you are also saying that we may have to sit around here most of Sunday waiting to see what happens at the White House.

You do not want to entertain that possibility, but I think we should entertain the possibility that we may be here long after Sunday anyhow, and we could very well get into the begin-

ning of next week.

I guess part of the question here is whether or not all this business that we are going to be doing is just a lot of make-work projects that are going to keep us around here through a period of time, and when we get all this permission, we are really not going to accomplish anything according to the schedule that we have been given.

Mr. WRIGHT. Mr. Speaker, will the gentleman from Pennsylvania yield?

Mr. WALKER. I would be glad to yield to the distinguished majority leader.

Mr. WRIGHT. I wonder if the gentleman would amend the question so to say "make-work, dead-end as projects"?

Mr. WALKER. I would be very glad to do that because I think the philoso-

phy is about the same.

No, my problem is that I understand that there are literally dozens of amendments to the immigration bill. We are likely to have all of those offered. We are likely not to get finished with the immigration bill much before the 2 o'clock time that the gentleman set for Sunday. That would mean that that bill would never have a chance to go to the conference committee and it appears likely it would need a conference.

Mr. WRIGHT. The gentleman is absolutely correct. When it comes to Sunday and we sign off on the con-

tinuing resolution which, after all, is the necessary business of this session of Congress, then it seems to me we may reasonably assume we do not have any further obligations.

Part of the requests I am in the process of making, if the gentleman will allow the first one to be approved, is the right of the Speaker to declare recesses so that we do not have to be sitting around the Chamber doing dead-end, make-work tasks, as the gen-

tleman would suggest.

Mr. WALKER. I thank the gentleman, but what I am trying to gather, I guess, is whether or not we do have some assurance that if we grant the permission to come in Sunday, that that is in fact going to be when we finish up on early Sunday afternoon.

Is that what the gentleman is telling

us at the present time?
Mr. WRIGHT. Earnestly and devoutly hoped, and most surely and determinedly planned for, yes. That is what we want to do. We want to get out of here.

Mr. WALKER. And we should pray for that on Sunday morning?

Mr. WRIGHT. Yes, that is why we do not come in until 2 o'clock, so you can pray all morning for that.

Mr. CONTE. Mr. Speaker, will the

gentleman yield to me?

Mr. WALKER. I will be glad to yield to the gentleman from Massachusetts. Mr. CONTE. The thing is that we have as of this moment, 170 amendments to the continuing resolution and we are going to be banging our heads off with that other side over there late, at least the appropriations conference committee, late tomorrow night, and it is going to take us hours and hours once we reach an agreement to draft the papers and bring all of

them back here.

So if we do not come back on Sunday, and you slide this thing over to Monday, and you do not come with a bill that the President is going to sign, if we have a veto we will be here until December 24. This is the only shot we have. If the bill is wrong Sunday, if the President wants to veto the bill, then we can clean it up again Monday and get a new continuing res-

So it is essential to come in Sunday. Mr. WRIGHT. Or if the bill is right and the President wants to veto it, the same thing

Mr. CONTE. Then we will not get our pay raise.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from Texas?

Mr. DERWINSKI. Mr. Speaker, reserving the right to object, may I have the attention of the distinguished majority leader?

Mr. WRIGHT. The distinguished gentleman from Illinois has my undi-

vided attention, my rapt attention. I can scarcely think of anything else as I look at the gentleman from Illinois.

Mr. DERWINSKI. I feel it is necessary to ask a question on behalf of the many Members who have the same thought on their minds, but for reasons of prudence must remain silent.

In the leadership circles, when the possibility of meeting at 2 o'clock on Sunday was discussed, did anyone think of a contemporary event that might be going on at the same time in which Members would have some special interest?

Mr. WRIGHT. The modern technology, through its miraculous means of communication, has made it possible for Members to participate somewhat vicariously in those events.

Mr. DERWINSKI. In that case, I have two cousins in town. Could they have your tickets for the game?

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ROYBAL. Mr. Speaker, reserving the right to object, I want to be sure I understand the gentleman's program correctly.

It is my understanding that it is the intention of the majority leader that the debate on the immigration bill, with 31/2 hours left, be continued this evening under the same circumstances that prevailed last night. Is that correct?

WRIGHT. The Mr. gentleman means no votes tonight. Is that it?

Mr. ROYBAL. Yes. No votes tonight. and an empty Chamber. Only 17 Members were present last night, and 4 or 5 people in the gallery. We were debating this bill all to ourselves and there was not a single person participating in the debate who did not know the bill inside out.

Is that the condition under which we are to debate?

Mr. WRIGHT. No, if the gentleman would yield, that is not the intention of the leadership. I suppose sometimes things happen that way and you just have to reconcile yourself to them, but I would remind the gentleman from California that there is an ever-increasing avid fanship throughout this country, particularly on the west coast, through the C-Span broadcast of our proceedings might be in prime time on the west coast.

So, they might have a wider audience that they so richly deserve, particularly the speeches of the gentleman from California.

Mr. ROYBAL. May I thank the gentleman for his generosity, but the truth of the matter is that had I know of the debate being broadcast in the State of California, I am not sure that I would have been proud. There were only 17 Members present all night, all talking to ourselves.

Now, the next question: It is my understanding that should we finish debate tonight, that we will proceed on amendments tomorrow.

Mr. WRIGHT. Yes, I think that is the plan in that it would be pending business once it is reached, but there are other things, of course, that obviously take priority—conference reprots and things of that kind.

Mr. ROYBAL. That I would understand, and I would assume that this bill would be the last one scheduled. Now, I am sure that a Member's rights should be protected, and I am sure the gentleman agrees with that.

Mr. WRIGHT. Yes, sir.

Mr. ROYBAL. I will be a member of the conference, and from what I hear we are going to be busy all day tomorrow and maybe late tomorrow night. I have 107 amendments to this famous bill, and I intend to call a rollcall on every one of them.

Now, my question is this: Will my rights as a Member of this body as a conferee to be protected?

Mr. WRIGHT. The gentleman's rights will be protected by the rules of the House to the extent that they are not inconsistent.

Mr. ROYBAL. My rights then as a Member of this House and as a conferee will be protected, I am the one Member of the House that is carrying more amendments than any other. So, what is the situation with respect to my rights as a Member of this House? Would it mean, then, that my rights will be protected and this bill will not be up for amendments while we are in conference and perhaps not tomorrow, Saturday, or perhaps until Sunday?

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the gentleman.

Mr. MILLER of California. It would seem that we will do our 3 hours of debate tonight on immigration, and if we start the amending process tomorrow after we assign conferees and direct them to go to conference, that those conferees will be unable to work, given the anticipated number of rollcalls that is expected on amendments. I have some 20 amendments. Mr. ROYBAL has his 100, and there are others that are on file, and rollcalls are expected. I think that the conferees will lose a considerable amount of weight running back and forth to the conference room.

I think in fact what we see is along the lines suggested by Mr. RANGEL, that to try to do business tomorrow is directly contrary to getting the continuing resolution finished and before us so that we can vote on it, the President can sign it or veto it, and we can get it done, because if we try to do

business those conferees are simply going to be unable to do it.

I think we ought to come in at 10 o'clock, direct them to go to conference, come back at 2 o'clock on Sunday, if that is necessary, and vote, and hopefully dispatch this business. The amending process we are going to go through on the immigration bill, unless the majority leader can tell me, when would that be assigned to conference? When would we go to conference?

I just think there is a bit of deception with people who are concerned about this bill, whether they want to pass it or want it to fail. There is no hope that this bill would go to conference and be back and it would become the law of the land. If that is so, we should not engage in this charade and disrupt the continuing resolution conference. We cannot have both events at the same time. I think Mr. Roybal is very, very serious about protecting his rights.

Mr. O'NEILL. Mr. Speaker, will the gentleman yield?

Mr. ROYBAL. I yield to the Speak-

Mr. O'NEILL. I understand the problem, and this is not anything unusual. This happens quite often in this body. If the gentleman from California (Mr. ROYBAL) feels that he would rather be on the floor and he is unable to be with the conference committee, then I would say to him, step aside and we will appoint the second man on his committee in order that we may have a man there. But, we must expedite the business. This is a request from the President of the United States. It is a request from the chairman of the committee, who put in countless hours, and the Congress must do its will, do its duty. If it defeats the bill, then it defeats the bill; but just because one man happens to be tied up, remember that he has his choice. This happens so many times along the line when a Member has two or three committees at different places at the same time.

So, I would say that I am not enamored with the bill myself, to be perfectly truthful, but when the Attorney General of the United States comes over and asks, I do not know how many times, and makes the point that it is important legislation for the Nation, I do not think the opposition party should, just because it does not thoroughly agree, or the leader does not thoroughly agree, but his chairman does, I think they should have their day in court. For that reason, I think we should proceed to follow the normal processes of the business of the House. The normal process is, we will come in at 10 o'clock tomorrow morning. We will take up the continuing resolution, appoint the conferees, take up what other business there is, and then get back to the continuation of this legislation.

If at any time a Member feels that under the rules of the House we ought to stop debate, or adjourn, there are motions to achieve this. But as long as the will of this House is to continue, that will prevails; but it is not reflecting the will of the House when one Member or two Members can, because they are opposed to it, block the legislation. The legislation must go forward.

Mr. ROYBAL. Further reserving the right to object, and I was just listening to the distinguished Speaker, and he is right. We cannot be in two places at one time, but I think that we should not schedule an important bill any time that it may conflict with a continuing resolution. This is all that we have to offer this Nation. We have not been able to pass appropriation bills. This is all we have, and it seems to me that this type of scheduling could have been prevented.

Now, after having said that, I feel that I have two places, then, where I must be whenever it is necessary. On the floor I will be able to call a rollcall on every one of those amendments. Now, the Speaker gave me an idea. He said that we can move to adjourn. It might be a good idea to move to adjourn this evening. It is a privileged motion. I still feel than my rights as a Member are not being protected under the circumstances.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I just reserve the right to object simply to say that of course everybody has commitments and everything, but the ideal solution, because everybody knows this bill is going nowhere since we have 200-some amendments, and we will be spinning off our wheels, I think the ideal solution where everybody saves face and everybody comes out all right is, we just not resolve ourselves into the Committee of the Whole for the consideration of the bill. That is the end. Everybody lives up to their commitments.

### □ 1750

Mr. O'NEILL. Well, Mr. Speaker, if the gentleman will yield, the interesting thing is that you can move to strike the enacting clause at the appropriate time. If you strike the enacting clause, then you find out what the real will of the Congress is.

Mr. McCLORY. Mr. Speaker, will the gentleman yield to me?

Mr. O'NEILL. But the crux of the thing is that we cannot postpone legislation because of methods which are designed to prolong the legislation. If we were to do that, the whole system would fail, and we just have to go on until the backbone of the House is broken or the backbone of the individuals who are trying to prevent the completion to the bill is broken.

Mr. McCLORY. Mr. Speaker, will the gentleman yield to me?

Mr. LUJAN. I yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I cannot think of anything more important in this Congress than the immigration bill. As a sponsor of the legislation, I can assure the Members that the administration regards this as extremely important and vital legislation

I cannot help but appreciate the remarks of the gentleman from California (Mr. Roybal) with regard to the scheduling of this bill at this time—a bill with many amendments. The legislation is the subject of intense interest and controversy. I am concerned that our efforts are going to be frustrated and the opportunity for passage of this legislation is going to be lost in this Congress.

I will stay here; I will stay here this evening, I will stay here tomorrow, and I will stay here on Sunday—whatever is needed to try to get this legislation through. But if it does appear that it is not possible to complete action on this legislation and we find that it is indeed just used as a filler to pass the time while the continuing resolution is being considered, I am just wondering whether that is wise action or not.

Mr. O'NEILL. Mr. Speaker, if the gentleman, whoever has the time, will kindly yield, we are not using this as a filler. If the gentleman wants to get with the leadership on this side and if the leaderships both agree with the committee that they want to pull the legislation, the Chair would be willing to pull it. But until they give us an acknowledgment of that type, then we will go along in the regular procedure, because we just cannot accede and acquiesce to the will of those who deliberately try to frustrate legislation. The body just does not work that way, and while I am Speaker, it will not work that way.

Mr. McCLORY. Mr. Speaker, if the gentleman will yield, I think perhaps at the conclusion of our general debate we might know what the prospects are.

Mr. LUJAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESS-ES DURING REMAINDER OF THE 2D SESSION, 97TH CONGRESS, AND MAKING IN ORDER VARI-OUS PROCEDURES FOR CONSIDERATION OF CON-FERENCE REPORTS AND REPORTS FROM COM-MITTEE ON RULES

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that during the remainder of the 2d session, 97th Congress: First, it shall be in order for the Speaker to declare recesses at any time subject to the call of the Chair; second, it shall be in order at any time to consider conference reports and amendments reported from conference in disagreement on the same day reported or any day thereafter, notwithstanding the provisions of clause 2, rule XXVIII, if copies of the statement, together with the text of any such amendment reported from conference in disagreement. Have been available to Members for at least 1 hour before the beginning of such consideration, and subject to the requirement of an announcement of the floor of the House by the Speaker or his designee at least 1 hour before the consideration of any conference report and amendments reported from conference in disagreement (and any said conference report or amendments in disagreement shall be considered as having been read when called up for consideration); and third, it shall be in order to consider reports from the Committee on Rules as provided in clause 4(b), rule XI, except that the provision requiring a two-thirds vote to consider said reports shall be suspended during such period.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Texas?

Mr. MILLER of Ohio. Mr. Speaker, reserving the right to object, some of us have been around for a little while and have been through the very thing we are talking about right now, and we find that the Members are in their offices and they are waiting for the Speaker to call them back to the House. We have found over a period of time that when we have a time certain set, so that once we were in recess and waiting for the call of the Chair, it would be much better because all the Members would know of a set time before a call of the Chair. Members would be free to make their plans and do what is necessary, and it would be necessary only for a few Members to come here to the House floor at that given hour.

Mr. Speaker, would the majority leader consider amending his request to make a time certain available for the Members?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the

gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I surely do agree that ordinarily, under normal circumstances and almost under any circumstance, when a time certain is

reasonable to be determined, it is to the advantage of the Members for the Speaker to notify them when it is expected that we might resume a session. I think the Speaker usually does that. But unless the Speaker has some discretion in the matter, we find ourselves tied down to a time certain when quite possibly we might be able to return earlier and expedite the procedure.

So I really believe that the gentleman should probably agree to this request which allows the Speaker the discretion of declaring recesses at any time subject to the call of the Chair.

I know that the Speaker will, wherever possible, give the Members ample advance notice as to when he expects to call us back. I think he needs that flexibility.

This is the routine motion that has been approved, sometimes by unanimous consent, sometimes brought from the Rules Committee, but it is identical to the powers and rights that have been given the Speaker in the last closing days of every Congress.

Mr. MILLER of Ohio. Continuing with my reservation of objection, Mr. Speaker, I recall times under such conditions as we have right now when Members were in their offices almost all night wondering if the Speaker would be calling for a session of the House, and all I am asking is that we have some indication ahead of time.

Mr. WRIGHT. Yes. Mr. Speaker, I wonder if the gentleman would be satisfied with an arrangement of this kind: That we would agree that the Speaker would give the Members a minimum of 30 minutes notice prior to calling us back in. Would that suffice as a guarantee?

Mr. MILLER of Ohio. We would still be waiting.

Mr. WRIGHT. Mr. Speaker, does the gentleman want to wait for 2 hours if he can come back in in 30 minutes and finish something? Surely the gentleman would not want to maintain that once the Speaker declared a recess we could not come in before 2 hours had lapsed.

Mr. MILLER of Ohio. Mr. Speaker, I believe we could set a time certain and still come back prior to that, giving the Speaker authority to call the membership back at any hour but making sure that we also had a set hour.

All we are trying to do is to not have the Members sit in their offices hour after hour waiting to be called.

Mr. WRIGHT. Mr. Speaker, if the gentleman will yield, I sympathize with what the gentleman says. I, like all other Members, have been subjected to those uncertainties in the closing days of a conference.

I wonder if the gentleman would find this kind of an arrangement agreeable: that the Speaker would give as much advance notice as possible, and in any event, a minimum of 30 minutes advance notice. Would that be satisfactory?

Mr. MILLER of Ohio. Mr. Speaker, would the gentleman settle for 1 hour?

The SPEAKER pro tempore. Is there objection to the request of the

majority leader?

Mr. WALKER. Mr. Speaker, reserving the right to object, it was very difficult to hear when the gentleman was reading all of the provisions of his unanimous-consent request, but I gather that there were a number of things that the Speaker was going to be permitted to do with regard to deciding what legislation would come out, what the Rules Committee would be allowed to report, and what we would be considering on the floor.

That causes me to question whether or not there are specific items the gentleman has in mind that he is going to bring out and whether or not we could not specify what it is we are going to be doing rather than giving these kinds of general, rather wide discre-

tionary power.

## □ 1800

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Texas.

Mr. WRIGHT. I am sorry. Of course it was a long request. Let me summarize it thusly: Three things. These are the standard things that are allowed to a Speaker at the close of Congress.

First the right to declare recesses subject to the call of the Chair. That

is No. 1.

Second, the right to consider conference reports when they are ready without subjecting ourselves to the requirement that they lay over a certain period of time. I think we need that.

Mr. WALKER. If I can reclaim my time just a moment on that one, we do have a 3-day rule on that one. What the gentleman is now saying is that we are going to a 1-hour rule if I heard the gentleman correctly earlier.

Mr. WRIGHT. If the gentleman would yield, surely the gentleman would not want to subject the conference report on the continuing resolu-

tion to a 3-day rule, for example.

Mr. WALKER. The gentleman is trying to be reasonable with the majority leader. But I am concerned that whether or not we have some specific conference report in mind here so that the Members could have some idea as to what they are going to have an hour to ascertain before it comes to the floor.

Can we get a list of bills that would be considered under this provision and be limited to only that list that will be considered during the period of time that this particular motion is in

Mr. WRIGHT. If the gentleman would yield, I do not know of any situ-

ation in which the request has been confined at this stage of the legislative session to certain things.

I can enumerate two or three things I am aware of. There is no specific legislation in mind except, first of all, the continuing resolution.

Mr. WALKER. Obviously.

Mr. WRIGHT. Once that is agreed to I think everyone on the majority and miniority side are amenable to the idea of our adjourning sine die.

Mr. WALKER. Yes. We do not disagree on that.

Mr. WRIGHT. There may be some others.

Mr. MICHEL. Might I ask the gentleman to yield to me?

Mr. WALKER. I yield to the gentleman.

Mr. MICHEL. There is still an outside chance, bear in mind, that when the conferees are meeting on the conference report that the other body will be taking back and considering the highway bill.

Mr. WRIGHT. The gentleman is cor-

Mr. MICHEL. That now has passed the House. They have gone through a great deal of turmoil and very spirited debate in the other body. But if they should come to an agreement, it seems to me again both Houses having worked so long and arduously on that piece of legislation that if a conference report can be fashioned within a few hours that that ought to be done.

Of course, following up closely on what the Speaker was saying earlier on a measure that passed the House by near unanimous vote, and all of the work that had gone on here, there was no filler. I would have to support the Speaker's observation there, that our consideration even of the immigration bill was not filler.

But going back to the point in question, this is pretty much of a routine request from prior years, if I understand.

Would the gentleman be satisfied, frankly, if that request were limited to conference reports on appropriation

I know of no other conference report that is in the wings other than a possible agreement on another appropriation bill. If that is possible of achievement and attainment, we ought to move with that because it takes precedent over CR.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Let me yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

There is one conference report on false identification that we have worked on and it is the culmination of 5 years' work. So that conference committee report is filed, it is ready, and I would hope that you would not con-

fine it just to appropriations and that we could get that one in, too.

Mr. WALKER. Further reserving the right to object, I yield to the majority leader.

Mr. WRIGHT. I am advised that there is the possibility of a conference report before we conclude finally on the continuing resolution on one or more appropriations. There is the possibility of a conference report on one or more matters from Ways and Means. There are several matters from the Ways and Means Committee that are now in conference.

I am advised of the possibility that the distinguished minority leader mentioned a moment ago on the highway legislation.

There is also the possibility that the other body might seek to amend what we did earlier today on the Caribbean Basin legislation and send it back to

It is impossible to predict with absolute accuracy what the other body might in its wisdom do with legislation that has been passed by this body. If we do not get a general permission of this kind, then it would be necessary, obviously, for us to go to the Rules Committee and seek a rule on each one of these and thereby delay proceedings further.

The purpose of this is not to conceal anything but, rather, simply to expedite the business of the House in order that we can adjourn in a timely fash-

Mr. WALKER. Further reserving the right to object, one of the great problems that has arisen in late sessions

Mr. VOLKMER. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Regular order is called for.

Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman objects.

Does the gentleman insist on regular order?

Mr. VOLKMER. Mr. Speaker, I withdraw my request for regular

The SPEAKER pro tempore. The gentleman withdraws his request for regular order.

Is there objection to the unanimous consent request?

Mr. WALKER. Mr. Speaker, reserving the right to object, the point I was attempting to make was that one of the problems we have had is that there have been a number of bills that have gone through Congress in the late hours where Members have very little notice and only found out days later what it was that really passed through the Congress at the end.

That is a problem and I think it is a problem that is perceived by the American people as we get into these late hours

What this gentleman is attempting to assure is that we have some ability for the Members to understand what might be coming before them so we can properly assess what we should be doing in our role as legislators.

I am just asking whether or not we could not develop a list of bills that would be considered under this hurry up process with the understanding that if there is an emergency kind of bill that comes on, that that sort of thing could be negotiated, but so there would be some idea of what we are doing here in the final hours of the session.

I do not think that is an unreasonable request when we are talking about broad discretionary powers and the kinds of powers that do not allow the Members a very good opportunity to look at these bills real close.

We are talking about 1 hour of time. I will be glad to yield to the majority leader.

Mr. WRIGHT. I wonder if the gentleman would be satisfied if we were to stipulate that this unanimous consent request with reference to the privilege of conference committee reports to be heard might apply only to matters presently in conference and/or matters likely to be subject to conference pursuant to actions by this House.

Would that satisfy the gentleman? That would be very helpful I think. Mr. WRIGHT. Let it be so stipulated, then.

Mr. WALKER. The gentleman had a third item on the list as well.

Mr. WRIGHT. The third item is that it shall be in order to consider reports from the Committee on Rules as provided in clause 4B, rule 11, except that the provision requiring a twothirds vote to consider said report shall be suspended during such period.

That is the provision requiring a two-thirds vote in order to take up a report from the Rules Committee without its having been laid over for a stipulated period of time.

Mr. WALKER. I thank the gentle-

Can the gentleman give us an idea of what bills we might be considering taking to the Rules Committee for rules to come to the floor?

Mr. WRIGHT. The continuing resolution might require a rule on a conference report. There might conceivably be a rule required on a conference report which might come pursuant to our action on the highway bill.

I do not know that there will be. There might be.

Mr. WALKER. Those are the two that the gentleman would think that proviso could apply to?

Mr. WRIGHT. Or the Caribbean Basin bill.

gentleman yield?

Mr. WALKER. I yield to the gentleman from Mississippi.

## □ 1810

Mr. LOTT. Mr. Speaker, I would like to ask the distinguished majority leader a question but also to comment. Nuclear waste is one that might require a rule if a compromise agreement could be worked out.

I would ask the gentleman to yield,

just one final question.

Does the gentleman have any idea what would be the hour Saturday afternoon or night that we would stay in session assuming we take up the regular order of business?

Mr. WRIGHT. We follow the will of

the House.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I would be glad to yield to the gentleman from Florida.

Mr. GIBBONS. I thank the gentle-

man for yielding.

Mr. Speaker, I just want to point out that the Senate has been hitting on a number of noncontroversial bills that perhaps 100 Members in this House. individual bills, that they introduced and were passed here unanimously, without any dissenting votes. They have been sitting on them sometimes for a year and a half for no reason other than something that I do not understand.

We have not gone to conference on them. We understand at the last minute the Senate will spring them all loose. We may have to go to conference. But there will not be any great big surprises. I hope there will be no objection to those kinds of bills. They were noncontroversial to begin with. We will do all we can to keep the controversy out of them.

Mr. WALKER. Mr. Speaker, further reserving the right to object, I would simply say the gentleman will not object within the limitations that the majority leader has suggested. If those are the rules under which we are going to operate for the last several hours, I will not object.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from Texas (Mr. WRIGHT)?

Mr. MILLER of Ohio. Reserving the right to object and I will not object, I will only take a few seconds.

We were discussing the time certain when the Speaker would call the body back. We have had the problem. The Speaker has been here under other Speakers when we have been greatly inconvenienced, and the membership stayed here overnight.

I have spoken to the Speaker. He in turn has said that he would do all that he could, inform us the best he can, and his word is good enough for me.

Mr. LOTT. Mr. Speaker, will the So we will not be waiting for hours and hours. So we will leave it in the hands of the Speaker. I appreciate that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. WRIGHT)?

Mr. HUCKABY. Mr. Speaker, reserving the right to object, if I understand now bills that have been passed by both the House and the Senate but yet no conferences have ever been held will not be considered under the gentleman's unanimous-consent request?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. WRIGHT. I thank the gentleman for yielding.

No, I did not make any stipulation to that effect.

Mr. HUCKABY. Would the gentleman elucidate his statement to the gentleman from Pennsylvania (Mr.

WALKER) regarding this. Mr. WRIGHT. I suggested that the unanimous-consent request permitting conference reports to be considered would apply only to those bills presently in conference or those bills likely to go to conference pursuant to action that has been taken or will subsequently be taken in this House.

Mr. HUCKABY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas (Mr. WRIGHT)?

There was no objection. The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 23, after line 5, insert:

SEC. 126. Notwithstanding any other provision of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act, D.C. Law 2-139, enacted pursuant to the District of Columbia Self-Government and Governmental Reorganization Act of 1973 (Public Law 93-198; 87 Stat. 744), shall apply with respect to the compensation of District of Columbia employees: Provided, That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein with an amendment, as follows: In lieu of section number 126 named in said amendment, insert the following: "127".

Mr. DIXON (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, I ask

the question be divided.

Mr. DIXON. Mr. Speaker, I do not want to belabor this issue at this hour. The motion I have offered is basically the same motion that passed this House by a vote of 236 to 122 a short time ago. It applies to all of the employees of the District of Columbia government and would allow the District government to establish its own salary levels under its own merit personnel system which has been in effect since January 1, 1980.

Mr. Speaker, I ask for an "aye" vote. Mr. WALKER. Mr. Speaker, will the

gentleman yield?

Mr. PORTER. I yield to the gentle-

man from Pennsylvania.

Mr. WALKER. Mr. Speaker, I would submit to the membership the question now before us is a far more serious question than just outlined to us by the gentleman a moment ago.

The question before us is whether or not we are going to pull out from underneath the Federal pay cap all of the employees of the District of Co-

lumbia.

What we have done since home rule took place in this city is through the Federal contribution we have assured that the D.C. employees like the rest of the Federal employees are maintained under a pay cap.

What I am attempting to do is to assure that that Federal pay cap stays on the D.C. employees as it has always

been there.

I think that we should not make the D.C. employees into a privileged class in this area. Federal employees pay taxes to this city. They are the ones who help pay D.C. salaries. It seems to me that we should maintain a system that says that the pay cap that applies to Federal employees also applies to D.C. employees and by voting no on the motion to recede, that is what we are doing.

The SPEAKER pro tempore. The question is whether the House shall recede from disagreement to Senate

amendment 40.

The question was taken, and the Speaker pro tempore announced that

the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred nineteen Members are present, a quorum.

Mr. WALKER. Mr. Speaker, that was an interesting count. I thank the Speaker.

Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused. So the motion was agreed to. Mr. WALKER. Mr. Speaker, I might say we are going to have more votes, then, this evening.

The SPEAKER pro tempore. The question is now on concurring in the Senate amendment with an amendment.

The question was taken and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count for a quorum. Two hundred nineteen Members are

present, a quorum.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will advise the gentleman that

he just counted a quorum.

Mr. WALKER. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were refused. So the motion was agreed to.

#### □ 1820

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 41: Page 23, after

line 5, inser

SEC. 127. None of the funds appropriated by this Act may be used to transport any output of the municipal waste system of the District of Columbia for disposal at any public or private landfill located in any State, excepting currently utilized landfills in Maryland and Virginia, until the appropriate State agency has issued the required permits.

## MOTION OFFERED BY MR. DIXON

Mr. DIXON. Mr. Speaker, I offer a motion, and I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection. The motion is as follows:

Mr. Dixon moves that the House recede from its disagreement to the amendment of the Senate numbered 41 and concur therein with an amendment, as follows: In lieu of section number 127 named in said amendment, insert the following: "128".

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and the several motions was laid on the table.

## GENERAL LEAVE

Mr. DIXON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON SMALL BUSI-NESS TO FILE AN INVESTIGA-TIVE REPORT

Mr. MITCHELL of Maryland. Mr. Speaker, I have an earthshaking request after this high-powered discussion about some little silly procedural stuff.

Mr. Speaker, I ask unanimous consent that the Committee on Small Business may have until midnight to file an investigative report with the Clerk of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

Mr. WALKER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. MITCHELL of Maryland. Mr. Speaker, I move that the Committee on Small Business may have until midnight to file an investigative report with the Clerk of the House.

The SPEAKER pro tempore. That is not a proper motion, the Chair would

announce.

Mr. MITCHELL of Maryland. Well, Mr. Speaker, does the gentleman from Pennsylvania want to reconsider?

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. Yes.

Mr. WALKER. Well, the gentleman just referred to the procedures of the House and the rules of the House, which this gentleman was obeying, as being "silly procedures," and so on.

I just want to remind the gentleman

that the rules apply two ways.

Mr. MITCHELL of Maryland. Well, I understand, but let me just tell the gentleman something. If the gentleman thinks I was talking about him and the shoe fits, wear it.

AMENDING RULES OF THE HOUSE OF REPRESENTATIVES TO ESTABLISH AN OFFICE FOR THE BICENTENNIAL OF THE HOUSE OF REPRESENTATIVES

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up a privileged resolution (H. Res. 621) to amend the Rules of the House of Representatives to establish an Office for the Bicentennial of the House of Representatives, and ask for its immediate consideration.

The Clerk read the resolution, as folows:

## H. RES. 621

Resolved, That rule I of the Rules of the House of Representatives is amended by adding a new clause 10 as follows:

"10. (a) There is hereby established in the House of Representatives an office to be known as the Office for the Bicentennial of the House of Representatives. This office will coordinate the planning of the com-memoration of the two-hundredth anniversary of the House of Representatives

"(b) The management, supervision, and administration of the Office shall be under the direction of the Speaker of the House of Representatives and shall be staffed by a professional historian. The Historian shall be appointed by the Speaker of the House of Representatives without regard to political affiliation and solely on the basis of fitness to perform the duties of the position. Any person so appointed shall serve at the pleasure to the Speaker.

"(c) All expenses of such office may be paid from the contingent fund of the House on vouchers solely approved and signed by the Speaker, until otherwise provided by

law or resolution.

"(d) The Office shall cease to exist not later than September 30, 1989, unless otherwise provided by law or resolution.".

The SPEAKER pro tempore (Mr. Brown of California). The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, in 1989 we will commemorate 200 years of the operation

of this great Government.

The Senate has already provided by appropriate resolution for a bicentennial study group to recommend appropriate functions to commemorate the 200th anniversary of the functioning of the U.S. Senate as a part of the legislative department of the Government of the United States. It seems to the Rules Committee, which had original jurisdiction in this matter, only appropriate that the Members of this House at the same time would want to commemorate the 200th anniversary of the functioning of this House of Representatives, the people's body of which we are so proud and of which we proudly are Members.

Mr. Speaker, all this resolution does is to begin to prepare for the commemoration of that 200th anniversary of the beginning of the functioning of the House by allowing the Speaker of the House to employ a historian and possibly an assistant to the historian to function only until September 30 of 1989. This is not a permanent historian for the House. It is only to begin to prepare for the commemoration of the 200th anniversary of the beginning of the functioning of this great House of Representatives. That is all it is.

No money is appropriated. The small amounts that will be conferred as expenses come out of the contingent funds of the House. The whole operation is under the direct control of the Speaker.

Now, the able gentleman from Illinois (Mr. Simon) was part of a working myself such time as I may consume.

group that was set up by the Speaker to engage in this kind of preparation.

Mr. Speaker, I am glad to yield to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank my colleague from Florida.

Mr. Speaker, I simply want to join in this effort. I think it is important for us as a nation if we want to know where we are going to know where we have been; so I think it is important for that reason.

I would add. I think it can actually save money for this body because while we are not talking about a formal historian, the person so designated could advise this body what papers we ought to be saving, how we ought to be storing them and some things that frankly we are not doing right now; so I believe it not only is important historically, I think it could actually save some money for this body.

Mr. PEPPER. Mr. Speaker, I thank the able gentleman.

I yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

I think this is very, very important, that we support the gentleman from Florida (Mr. PEPPER).

Americans sometimes have an appalling lack of sense of history. We do have a very, very fine history, as short as it is. It is very, very important that we celebrate the 200th anniversary of this institution and the Constitution. That is why I think it is important that we plan for this and that is what this legislation does.

I, for one, hope that as good Americans we can support this legislation.

Mr. PEPPER. Mr. Speaker, I thank the gentlewoman.

I yield to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. Mr. Speaker, I want to congratulate the gentleman for the resolution. I think it is very important that the House take note of the pending 200th anniversary

I am glad to know that the Senate has already taken that action. I think we might be left behind in a very important area.

The importance of the Bicentennial of the U.S. Government will become more evident as we move toward that historic day. It is going to take some planning and I congratulate the gentleman for this resolution that will begin the planning on the part of the House.

Mr. PEPPER. Mr. Speaker, I thank the able gentleman very much.

I yield now to the able gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I yield

Mr. Speaker, this is a good resolution. Upon its adoption, and after the Office for the Bicentennial of the House of Representatives is established and it performs its duty, then it will expire in 1989.

The other resolution which was before us in September and which was defeated created the Office of Historian which would have been on a permanent basis, but what is wrong with that? I am proud of this House of Representatives. I think that the Nation should likewise be proud, even though now the image of the House is at a very low ebb.

I think the Office for the Bicentennial of the House of Representatives will come up with a program that will help us reestablish the great image that this body deserves and I am for the resolution. I would urge my colleagues to vote for it without any hesitation.

Funds for it will come from the contingency fund. No additional funds will be required, so I cannot conceive of any opposition.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. LATTA), who handled the rule on the previous Office of the Historian, and I am glad that he is looking at me with a smile on his face. I hope he has been converted.

Mr. LATTA. Mr. Speaker, I may say to my good friend, back in September, to be exact on September 24, 1982, this House acted very wisely on a very similar matter and voted 180 to 132 not to spend taxpayers' money in this manner.

What are we talking about?

Mr. PEPPER. Mr. Speaker, will the gentleman yield for a question?

Mr. LATTA. I will be happy to yield to my good friend, the gentleman from Florida.

Mr. PEPPER. I thank my distinguished colleague for yielding.

My distinguished colleague on the Committee on Rules, and my friend, I point out there was a difference between this resolution and the one that was defeated by the House. That resolution provided for a permanent historian. This is only a temporary historian.

Mr. LATTA. Mr. Speaker, we understand there is not anything more permanent around this House than something temporary.

Let me say I think this is quite a devious way to get around the action of the House on September 24, 1982.

Now, what are we talking about? We are talking about something that does not take place until 1989. This is 1982. Now we are going to establish an office here to go forward with something that is going to happen in 1989?

I am amazed to hear on the floor that this is not going to cost anything. Now that is ridiculous on its face. How in the name of sense do you think that money gets into the contingency fund of the House? Does the House manufacture it? Does it find it in the aisles? Does it find it on the street? It takes it from the same taxpayers' pockets that it was going to take it from on September 24 had the House not acted wisely and said we do not need to make those expenditures now for 1989.

We heard the foolish argument that the Senate, the other body, has been doing this. Well, now, they do some foolish things. Does that mean that the House has to do some foolish

things?

The Senate established the so-called historian to do the same type work back in 1975. The House has lived without this type of an office, gotten by all these years, and saved the tax-payers some money. We have had the use of the Library of Congress, the Archives, yes, and even the Architect of the Capitol to do the same thing that they want this office to do now.

As a matter of fact, over in the Senate they had to come up with a historian, believe it or not, another one. As I stand here before you now, this individual is drawing \$46,655 per year. From whom? The pockets of the

taxpayers of this Nation.

We have lived without it. We have not been dipping into the taxpayers' pockets since 1975 to the tune of \$46,000 for such an office. What has he been doing? Have you read anything about what he has been doing? We did not know he existed until this matter first came up. Lo and behold he had to have an assistant to do what we did not know he was doing. I wonder if the Senate knows what this illustrious gentleman or woman happens to be doing for \$34,414 a year?

The SPEAKER pro tempore. The time of the gentleman from Ohio (Mr.

LATTA) has expired.

Mr. QUILLEN. Mr. Speaker, I will be glad to yield a couple of additional minutes to the gentleman. Let me give him the report.

Mr. LATTA. I have read the report. Let me say I might need more than 2 additional minutes, but I will take the

They even have a photo historian over in the Senate, and he or she, whichever it might be, is drawing \$33,490 a year.

They have an assistant historian, \$18,940.

They have a secretary, and my, we have a lot of secretaries running around this place and we could probably loan them a few from some of these offices, especially on the staff; \$18,016. A research assistant, \$15,000, for a total sum out of the taxpayers of \$151,515 for what they are doing. I do not know and many people do not even know they exist. They have an

office staff, they have everything

wrapped up into an office that nobody

knows what they have been doing since 1975.

They have used the lame excuse on this side that we have to expend the taxpayers' money in a similar manner in order to pass this type of legislation for something that is supposed to take place when: 1989—1989?

The House spoke plain and clear on this issue on September 24 when they wrote it on the record, 132 yeas, and 180 nays, to save the taxpayers this

expense.

Let me say this idea of going into the contingency fund of the House leaves an open door. It is open ended. They can drive in there and rake out as much as they could possibly get. They could create not only these offices, but many, many more. Let me remind my friend that the taxpayers put that money into the contingency fund of the House, and we should not permit this to take place.

We can do without it. Let us do the same thing we did on September 24 and vote down this scheme to take more money from the taxpayers of

this Nation.

#### □ 1840

Mr. QUILLEN. Mr. Speaker, prior to yielding, I would like to say that the resolution that we had up in September was to create a permanent Historian of the House. This resolution is different. Also, what the Senate has done is not really comparable with the Bicentennial Office of the House of Representatives. I think that the costs of the House office will be much, much less. There is a deadline on which the House office expires.

I know my good friend from Ohio (Mr. Latta) is very sincere and most persuasive. But I hope that the membership will consider that the image of this House is now at a low ebb. We have an opportunity on our 200th anniversary to project an image that will have a lasting positive effect. We can emphasize that this democracy of ours is the longest continuous democracy in

the history of the world.

Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Con-

ABLE).

Mr. CONABLE. Mr. Speaker, I regret that I was not here when this proposal was brought up before in slightly different form. I would have liked to have spoken in support of it. I say to the gentleman from Ohio, who has been heaping the idea of a historian of this body high with scorn and contumely, and calling it an ill-advised expenditure of money, I hope that some historian will take some interest in this institution at some point in the history of this country. Professional historians have had very little interest in Congress. Were it not for some historical analysis of this body, one could say that we have done nothing but agitate the air and use up, if I may say, an undue amount of newsprint in the Congressional Record. If you feel that the Congressional Record constitutes a sufficient analysis of our work here, then you expect more of posterity than I do.

Someone should do some institutionanalysis. We have many pilot projects and experiments which are appropriate to Government, whether they be in the field of health or economics or any other area. When we vote money for such pilot project, it is always regrettable if somebody does no analysis at the end of the experiment to see if it has been effective in trying to achieve the ends of Government that were sought to be achieved. It would be regrettable if this great experiment in democracy were not to have somebody organize the records of this House in some way that history could easily use it, because unless we have that type of analysis finally, indeed what we are doing is agitating the air.

I acknowledge that any amount of spending of money is regrettable at a time like this, but it does seem to me that history has its place, and indeed if the gentleman from Ohio wishes to live in history himself I would hope that he would not let his deathless words die away on the empty air without some record being made of them other than in the aforementioned compilation of newsprint, in which I am afraid they may otherwise remain buried forever in obscurity.

I hope this House will take seriously the opportunity for the appointment of an historian, at least a temporary historian, at a time when we should be going back and viewing this institution in an historical perspective as we prepare for the bicentennial of our role as an element of constitutional government. I know that the gentleman reveres the Constitution. I know that he has some respect for the Founding Fathers.

The SPEAKER pro tempore. The time of the gentleman from New York has expired.

Mr. QUILLEN. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York.

Mr. LATTA. Will my beloved friend yield?

Mr. CONABLE. I will yield to my beloved friend.

Mr. LATTA. Are we supposed to come forward with a historian now to tell about the history of the Constitution?

Mr. CONABLE. I would hope a historian would organize the multitudinous records of this institution in such a way that we can see if this experiment in democracy indeed lives up to the promise it had in those bright days when our Founding Fathers were not afraid to take a few risks in behalf of democracy.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield.

Mr. McCLORY. Mr. Speaker, this is not the bicentennial of the Constitution the gentleman is talking about. That is project 187. I happen to be on the Advisory Committee of Project 187. It seems to me that that observance ought to have a higher priority. That event is occurring first. We should have in place at the present time a commission to prepare for the appropriate celebration of the bicentennial of the Constitution, which I feel should receive greater attention than the bicentennial of the Declaration of Independence which was so highly successful.

Mr. CONABLE. I do not disagree with what the gentleman is saying, but I will say that this constitutional institution, the House of Representatives, deserves some historical analysis

on its own.

Mr. McCLORY. I do not disagree with the gentleman, but I think by deciding now that we are going to establish a method for the bicentennial of the Congress, which occurs in 1989, while we neglect the establishment of a commission to celebrate the bicentennial of our Constitution in 1987, we are putting the cart before the horse.

Mr. CONABLE. Well, I think we need both the cart and the horse, if

the gentleman will forgive me.

I would like to call to the attention of all the Members the report No. 97-967, because in there is set forth in some detail the work that is being carried forward by the Senate Historian's Office. That might suggest the possibility of our seeking some historical parity with the Senate.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the able gentleman from Il-

linois (Mr. SIMON).

Mr. SIMON. Mr. Speaker, I thank the gentleman from Florida. This kind of illustrates one of the old instances—and I see one of my friends with whom I served in the Illinois Legislature—we would have a bill up costing billions of dollars, and it would breeze through, but we would have a bill up to raise the fishing license by 50 cents, and we would have endless debate.

Now, we have a bill that says, for this country of 220 million people, let us have one historian for the House for this event coming up, and we end

up taking all kinds of time here. There are three reasons, I think, why we ought to move ahead. One is, that person appointed as his or her Senate counterpart can remind us of what we stand for. You know, you can argue, you can use arguments of my good friend from Ohio against spending money to buy a flag. There is little utilitarian value, but the flag tells us what we stand for as a nation and what we have stood for, and I want that historian to do that.

We need the analysis that our colleague from New York has talked about.

No. 3, the point is that we can end up saving money because we need the records of this House organized and they are not organized. We have some of the most valuable space in this Nation here in the three office buildings and in this Capitol Building, and believe it or not, it is chaos as far as how we are organizing the papers.

#### □ 1850

We ought to be utilizing our space much more effectively, and if we hire a historian who is worth anything, that historian is going to save us a great deal of money.

great deal of money.

Mr. LATTA. Mr. Speaker, will the

gentleman yield?

Mr. SIMON. I yield to my friend, the

gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I am pleased that the gentleman yielded to me, and I am glad to know that we have such a weak piece of legislation here that the gentleman from New York (Mr. Conable) had to wrap the Constitution around it and now the gentleman from Illinois is wrapping the flag around it to try to bury it.

I think this thing ought to stand or fall on its own merits. The gentleman does not need to do that if this is such a good piece of legislation. Since the gentleman served on the Budget Committee so ably, I am sure that he always wanted to save some money, whether it was \$300 billion or \$400 billion or \$500 billion, or whether it was \$300 million, or whether it was \$300 million, or \$400,000.

Mr. Speaker, I ask the question, if we do not need something, why do we

have to have it?

Mr. SIMON. Mr. Speaker, if the gentleman's conception were correct that we do not need it, then he would be correct. Unfortunately, that is not the case.

Mr. PEPPER. Mr. Speaker, I yield 3 minutes to the able gentlewoman from

Louisiana (Mrs. Boggs).

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding this time to me, and I rise in support of the legislation.

Of course, I rise in support of any legislation that would enhance the history and the image of this great institution, the House of Representatives. But I would like to be a little practical, if I may, Mr. Speaker, because I had the opportunity and the honor of being the chairman of the Joint Senate-House Committee on Bicentennial Arrangements for the Congress in the bicentennial year of the Declaration of Independence.

I would like to remind the Members of this House that, unlike the celebrations coming up, the celebration of 200 years of the Constitution and then 2 years later that of the formation of the Congress, the formation of the Continental Congress in 1774 preceded the Declaration of Independence year by 2 years.

We in this House had the good fortune of having the Woodrow Wilson Center suggest to the Speaker that we conduct a celebration of the 200th aniversary of the Continental Congress. That celebration allowed us as the Congress to enjoy a 2-year lead on our participation in the bicentennial celebration of the Declaration of Independence. It was a very, very important lead that we needed for the proper kind of participation in the national celebration of the bicentennial of the Declaration of Independence.

Also, Mr. Speaker, serving on the joint committee were those Members of the House and those Members of the Senate who were involved in the leadership of the American Revolutionary Bicentennial Administration. Our liaison with the administration board was extremely valuable to our own participation and through us, to the participation of other Americans in our congressional bicentennial celebration of the Declaration of Independence.

I think it is most important and it is entirely practical that we set up an office now with an historian at its head under the direction of the Speaker of the House so that it can prepare not only for the 1989 celebration of the 200th anniversary of the Congress but also so that it can be helpful in preparation for the celebration of the bicentennial of the Constitution. One will help the other, and without an historian and the office of an historian to put us on a very fine, solid track to enable us to assemble the materials and to bring forth the proper documents at the proper time, we will not be able to participate in the fashion that will honor this House and the memory of the contributions of its Members.

The SPEAKER pro tempore. The time of the gentlewoman from Louisiana (Mrs. Boggs) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. Frenzel).

Mr. FRENZEL. Mr. Speaker, the House very wisely defeated this bill some time back, and the House would do itself, and the taxpayers, and its own traditions a great favor if it would do so again.

The prime reason that has been suggested that we hire this person is that the other body has one. We are behind. Just think of that. The Senate has something that we do not have.

It is true that they probably require extra help to study abnormal psychology. If they need one, bless them, let them have one. But that is no reason we should reproduce their sins over here at the expense of the taxpayer.

some little bit of good in relieving unemployment among historians. It would pick up one, two, three, four, or five, because as the Members will note. the bill is open-ended. There is no restriction on how many people the Speaker can put in this office.

We are also told that this person is going to do some analysis, that he is going to organize some records, that he is going to build our image, and that he is going to explain the flag to

somebody.

My guess is that most Members have hired flacks on their staffs, and if the flacks cannot build their image, I doubt that an historian can.

If the flag has not been well enough explained by now, I doubt that our new historian can explain it to us.

We have been told that this does not cost anything. On the contrary, the office is to be financed out of the contingency fund. I will bet that a lot of the Members do not know where the contingency fund gets its extra money. It comes from you. When you do not spend all of your expense allowances here, you put out your press release and say you have returned \$40,000, or some other amount, to the Treasury because of your great frugality. Too bad-the money does not go into the Treasury. It goes into the contingency fund and the Speaker dribbles it around wherever he wants. A new rug, a new chandelier, or an office for the historian. It is an open-ended account one which you have no control and no vote, but it is our taxpayers' money.

This version of the bill is slightly different from the one we confronted before. The difference is that it terminates in 1989 on the 200th anniversa-

But if anybody believes that this office is going to be terminated and will not be permanent, I suggest that that person stand at the foot of his fireplace with a big stocking a week from tonight, because he is going to see Santa Claus.

This resolution is one of the silliest notions that has ever been presented around here. The world is full of historians studying the U.S. Congress and the House of Representatives. I doubt that one can find a campus of a good university in this country that does not have a half-dozen. The Library of Congress is full of them. We could retain them on a temporary basis.

The Capitol Historical Society, I will bet, would be delighted to organize this kind of research and effort.

If Members think we have to authorize the Speaker to hire somebody or several somebodies, then they are being profligate with the money of the taxpayers. The resolution is, I guess, probably what we should expect at this point in the session. I really do not know what will come next. Probably a couple of dozen more unani-

I myself believe that this might do mous-consent requests from the Interior Committee or perhaps another Christmass tree tax bill.

Let us tell the Members of this House, Mr. Speaker, that if they vote for this, they will only prove that Barnum was dead right.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Illi-

nois (Mr. Hype).

Mr. HYDE. Mr. Speaker, I feel both guilty and presumptuous following the strident remarks of my dear friend, the gentleman from Minnesota (Mr. FRENZEL) with whom I seldom disagree. But in this situation I am more in accord with the gentleman from New York who thought this a worth-

while undertaking.

My own analysis is simply that 200 years of the longest sitting democratic institution in recorded history deserves some very special treatment. This Congress is rich with experience, with anecdotes, with records, with personalities, with achievements, with failures, with wars, with peace. It seems to me that someone whose sole occupation and vocation would be directed toward managing, supervising, and administering the records of the long history of this body into some coherent form, would provide a very useful thing for future historians and, as the gentleman from New York (Mr. CONABLE) so well said, let us know whether this experiment which dare not fail has lived up to the high expectations of the Founding Fathers.

## □ 1900

If you want to cut spending around this place there are many other places to look. We could cut down on some of the subcommittees around here. There are too many of them.

But it seems to me an historian to be paid for out of the Speaker's contingency funds concerning the most unique anniversary in domocratic history, the 200th anniversary of Congress is worthwhile.

Mr. LATTA. Mr. Speaker, will the

gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. LATTA. Only one question. Why do we need him 7 years before

the event takes place?

Mr. HYDE. Next year is 1983 and I am not sure when the appointment will be made. But it may not be made early in the year.

But I do not know how long it will take to go through the records. I know in searching for my friend's speeches it would take me 5 years to find each

Mr. QUILLEN. Mr. Speaker, let me inform the gentleman from Florida (Mr. Pepper) I have two more requests for time.

Mr. PEPPER. I would like to yield 6 minutes to the gentleman from Indiana (Mr. FITHIAN).

Mr. FITHIAN. I thank the gentleman for yielding.

It is with a bit of deja vu that I speak to this. I have practiced as a historian for 14 years at the universities and I never had a practical, pragmatic answer to students who argue the case, or parents who argue the case, when it was a required subject that there was any practical, pragmatic use for history.

It has also been said by other antiintellectuals of their day that a democracy had to be affluent, indeed, in order to afford the luxury of a historian. I suspect my good friend from Minnesota would subscribe to that.

But there is an argument that pertains as much, it seems to me, to institutions as it does to individuals, for it has been said by others more famous than any of us that a people will not know where they are going unless they know where they have been.

Over the 8 years that I have been here, some days and some nights, as we did here about an hour ago, I wondered whether there was any real perspective within, let alone without, this body of knowing where we had been or have known or have appreciated the fact that this, the people's House, is the greatest of all institutions of all times in a democracy.

I suspect that the claim that 7 years is too long stems from a rather substantial misunderstanding of either the historical process or of the multitude of the records which must be organized and processed here. I guess an argument could be made among those who know anything about history that 7 years for that kind of a job is too little but then it is too late to get more than 7 years to get the job done.

I would argue very vigorously that indeed if anybody in this land needs some analysis and some focus that it is this body. I would submit although this is a total distraction from your purpose here, Mr. Chairman, that we in our time in this decade have seen more erosion of process, of the protection of Members of this House, the protection of their constituencies in this decade than in the preceding 200 years, for as we see the erosion and the destruction of the budget process and the destruction of the appropriations process, and the amalgamation of all of this into something called a continuing resolution, surely the thoughtful people of this House must be aware of what is going on.

If this then is even remotely true it does cause and is sufficient need to pause and step back from the day to day operations. I doubt that anyone here is going to have time to do this. But I would certainly argue that somebody ought to look at this institution.

I know there is some money involved but please, this is the people's House. This is the greatest institution of the land.

I might say that prior to joining this institution I know, as you knew if you had studied your history, that it is always held in low esteem because of the nature of the beast. I think it is high time that this body remedy that and that we be proud to be a part of it and not only do that but be proud to see the history of it written.

Mr. EMERSON. Mr. Speaker, will

the gentleman yield?

Mr. FITHIAN. I yield to the gentle-

man from Missouri.

Mr. EMERSON. I would like to inquire of the gentleman if he maintains that this one historian is going to give us all of the analysis we need that will restore the public image of this body.

Mr. FITHIAN. No responsible Member of the House, let alone a responsible member of my profession, would ever argue that case.

Mrs. FENWICK. Mr. Speaker, will

the gentleman yield?

Mr. FITHIAN. I am happy to yield to the gentlewoman from New Jersey. Mrs. FENWICK. I think that we need to restore the dignity of this House and the way to do that is for the people to understand better what wonderful people work here, the conduct of the people, the Members of this House. That is what is going to restore the image of the House in the minds of the people, and if they could

just understand what wonderful people they are here.

But I would like to make a practical suggestion. I think we could have gotten the same thing at almost no expense to the taxpayers because I can see that this is not going to end, it is going to go on year after year after year. Because there is one in the other body we feel we have to have one here.

We cannot keep on spending the

people's money like this.

Mr. FITHIAN. May I reclaim my

Perhaps I should not have implied at all that what you need is a flak or a

press secretary for the Congress.

I think the gentleman from New York (Mr. CONABLE ) made the best argument, and that is, what you need is some perspective. Surely if you take 15 minutes and look how we are trying to preserve our past by establishing records in this corner and that corner and underneath the stairwell and somewhere in the attic, and then believe that somehow or other some future energetic historian is going to be able to track his way through that maze, that is pretty presumptuous. I just want to say that the gentleman from Illinois (Mr. Simon) is correct. I personally think this is a terribly impor-tant bill, Mr. Chairman, and I congratulate the gentleman for bringing it to the floor.

I am just utterly amazed that we can spend \$1 billion on something in 15

minutes of ill-conceived time around here about something that is relatively small, but I think very significant and can consume so much time.

I yield back the balance of my time. Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from New

York (Mr. GARCIA).

Mr. GARCIA. I would like to support this rule. I think it is important that we understand that everyone here is so different. We come from so many parts of the land, we are parts of different ethnic groups, different racial groups. I think that that is probably where our greatest strength comes from.

Not to be able to share that, not to be able to give that to the rest of the world, as well as to our own children, I think is being very small minded.

I would like to add something, and say most of you in this Chamber may not even realize that the dome that sits over the rotunda, that stands today as a symbol of freedom, was built in the State of New York. Not only that, it was built in my congressional district, the south Bronx, which is probably one of the poorest congressional districts in the country.

I guess the point I am trying to make is that there is so much history, and we waste so much money on other things like bombs and bullets, that it seems to me, that our priorities some-

times get twisted.

## □ 1910

Mr. EMERSON. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. I yield to the gentle-

man from Missouri.

Mr. EMERSON. I thank the gentle-

man for yielding.

I have listened to this debate with great interest. Frankly, I am confused. First of all, I do not know whether we are talking about hiring a historian or a PR man or a psychiatrist. But I think it is ridiculous to suggest that this one person that we are going to hire is going to give the world something that the Library of Congress, the Archives of the United States, and countless colleges and universities cannot otherwise give us.

I just do not think one person could be up to that monumental task.

Mr. GARCIA. I am sure if the gentleman who has just asked me to yield would just let me respond for a quick second, my answer to the gentleman is I do not know either. But I do know that with a historian there at least is the possibility of making this building and what we represent much clearer to the American public.

Mr. EMERSON. The Capitol Historical Society has been doing a monu-

mental job for years.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Speaker, I feel that the fact that we are debating this

extremely important subject at this time in this lameduck session is a sad reflection on this body. It is most unfortunate that the procedures of this body are such that we would undertake a measure that is regarded as a great event in our history and that we should undertake to debate it during a period when Members are anxious to conclude this session and to reach important decisions on longstanding work of the Congress.

I think there is a substantial confusion here as to what this bicentennial is that we are called upon to celebrate. In the committee report itself it suggests that 1989 is the bicentennial of the Constitution, and I know that the bicentennial is going to center around September 19, 1987, which is the 200th anniversary of the adoption of the Constitution in Philadelphia.

The Project 87, which is already underway by many private groups, including the American Political Science Association and others, are undertaking a comprehensive study looking toward that day. And this is confusing, it seems to me, that we would undertake a second Bicentennial Commission at this time to take precedence over the bicentennial of our Constitution.

I would commend the gentlewoman from Louisiana (Mrs. Boggs) who was the cochairman of the successful Bicentennial in 1976, a wonderful celebration which was felt and heard throughout the country because there was broad participation at the grassroots.

But we are not talking about participation at the grassroots in our zeal to enhance the reputation of this body.

We are talking about a professional historian. I am wondering how objective this historian can be when he is employed by the Speaker and subject to the orders of the Speaker and paid for out of the contingent fund of the Speaker. Is he going to be the one who is going to enhance the reputation and the stature of the Members of the House? Well, I would not want to look to him to do it. I would much prefer to have an objective historian from the outside who could do this.

It is mentioned in the report that we are going to have someone who is going to collate the information as to where the artifacts and the papers of all the Members who have gone before are located. That is a job that can and should be done. But that is not necessarily done by a historian, a professional historian. I would regard such an individual as an archivist.

It seems to me if we are going to debate this subject, if we are going to reach a sound conclusion with regard to recording the events of historic interest insofar as this body is concerned, we should do it in a delibera-

tive way, during a regular session, not during a lameduck session.

I hope this measure will not be passed at this time.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. GINGRICH), to close debate.

But prior to that, let me say how important this resolution is.

I have heard that the Library of Congress can perform the same function and they are capable. But that is not their job.

For instance, in 1801 the second Congressman from Tennessee was a young man by the name of Claiborne. I went to the Library of Congress to ask for his speeches on the House floor. "Sorry, we don't have them," they said.

But that young man was sworn in as a Member of the House of Representatives in 1801. He was 22 years old. He had to plead his own case on the floor of the House, and no words are recorded as to what he said. But he spoke for  $3\frac{1}{2}$  hours.

The membership of the House voted to seat him. And he cast the deciding vote for Thomas Jefferson for President of the Unites States when that election was thrown into the House of Representatives because of a lack of a majority in the electoral vote.

Now, let me tell my colleagues, the establishment of this office is important, because 200 years from now things that need to be recorded will be long forgotten unless we act.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGRICH) is recognized for 4½ minutes.

Mr. PEPPER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. Gingrich).

The SPEAKER pro tempore. The gentleman from Georgia is recognized for 6½ minutes.

Mr. GINGRICH. Mr. Speaker, let me talk a little bit about the debate we have had on this because I think it is a very sad thing.

In the time I have served in this House, I have listened to the self contempt and the self flagellation we engage in for this institution and for ourselves. I listened to how we wonder why no one is up in the gallery, and we wonder why no one back home knows what we are doing and we wonder why the White House dominates the legislative branch.

I have listened to the way in which we play fun and games with institutional questions because we do not understand them, we have no idea what a professional historian is like, no idea what it takes to plan a bicentennial for a great nation. We really cannot grasp the notion of organizing knowledge or affecting public television over a period of 6 years, or affecting educational institutions or helping textbook publishers plan.

We have no idea of the enormous difference between the millions we dedicate every year to the White House libraries across this land, which then shapes for a generation the way in which people learn.

So that it is easy for a historian or political scientist to go to the LBJ Library, but it is terribly hard to understand the Congress of Johnson and Rayburn. It is easy to go to the new Jimmy Carter Monument, but it is hard to understand why the White House believes the way it does. And then we wonder why no one back home appreciates us.

I thought the know-nothing party had disappeared a century ago and that I listened to it earlier in this debate.

Some people have no appreciation of the power of ideas, of the difficulty of organizing learning, of the problems of creating for an entire nation a bicentennial

Well, you can come in and laugh and joke tonight. Members can vote against this resolution. Members can save less than the cost of one junket. And the Members can go home and beat their breasts for ignorance and tell people how they stopped the development of knowledge.

If my colleagues think the organization of ideas, the organization of our history as an institution is irrelevant, if my colleagues think the people's House deserves less than the White House mess or the limousine cost for the State Department, if my colleagues think it does not matter to young historians and political scientists are going to learn early in their career it is pointless to study the institution of the House because you cannot find the papers, you cannot get the documents and you might as well go down to the White House because that is where the action is, that is what you can write about easily. If my colleagues want to come in and vote for self contempt and for ignorance, they have a chance. Walk in and vote 'no.

But it takes 6 years in a free country for 230 million people to organize themselves to celebrate the most important single event for human freedom in our times—the founding of a legislative body which has protected us from tyranny for 200 years, the creation of an institution which for 50 years has been overshadowed by the White House. And if you want to vote for another half century of Presidential domination, you have a small chance to do so today. Just kill this resolution.

I authored this resolution because I am not any less cheap—maybe a little bit less cheap than one of the gentleman who spoke, but certainly not than the others

I did not offer this resolution because I am a professional historian, be-

cause I am not. I have never published in history and I probably never shall. But I did offer this resolution because I believe in the power of ideas. I offered this resolution because I believe passionately in the importance of the people's house as the only long-term bulwark we have against tyranny.

And unless we can get that belief back into our people through the teachers, the classrooms, the public television, unless we can find a way to reorganize the organization of ideas to make it easy to study this building, then frankly, I think we are slowly and inevitably drifting toward what will some day be a Presidential dictatorship. And that is a tragedy which it may take thousands of years to recover from.

It is a small thing, a small vote. All I beg of my colleagues is bury yourself contempt for a few minutes, bury your distain for this institution, invoke less than the cost of 1 week at the LBJ Library, less than the cost of one junket, less than the cost of the White House mess, less than the cost of the State Department limousines, because you are not even increasing the aggregate budget.

## □ 1920

You are simply giving the Speaker the discretion to use extra money that he will have back from your various offices to do a little thing to help America celebrate the creation of a free legislative body.

Mr. PEPPER. Mr. Speaker, the story is told that during the terrible days of the Civil War, the construction of this Capitol was underway and there were those who appealed to Abraham Lincoln to save the money being spent on the construction of this noble edifice, to those appeals Abraham Lincoln replied:

In the construction and in the completion of this noble edifice, we propose to show the world this Nation will endure.

All we are talking about is the record of this paragon of democracy. When this Nation was begun 200 years ago, it was a straggling little group of 13 colonies stretched along the Atlantic seaboard. Today it extends 3,000 miles across the most fertile terrain in the world, 1,500 miles north and south.

The power of this Nation has never been equaled in history. The empires of Rome and of Alexander were pygmies compared to the might of America.

Right on this floor have arisen the votes, the instructions and the policy guideline that have made America the symbol of freedom and democracy for all the people of the world. Is that a stroy not worth telling?

We have undergone the turmoil of Civil War, the tragedy of internal division. We have been the victims of the

Moorhead

Luian

Lungren

Marlenee

McClory

McCollum

McDonald

McGrath

Mica

Michel

Myers

Nelligan

Florio

sinister attack of some of the most powerful nations on the face of the Earth. We have prevented tyrannical powers from usurping the control of Europe and perhaps a large part of the world. It was America that came to the side of the valorous Britains and turned the dastardly Hitler back to defeat, as we did another Germam imperialist in an earlier day.

Every big decision that has been characteristic of America arose from this floor. Sitting within my reach and range are the most powerful group of men and women gathered together on the face of the Earth.

Is what they have done to perpetuate democracy a story worth recording and telling?

All we are asking is one historian, aided perhaps by one assistant, under the supervision of our Speaker to go to the Library of Congress to research the historical material available. You know, the data in the Library of Congress just does not spring like Minerva from the brow of Jove into the hands of him who wants it. You have to find it. The same holds true with the National Archives. It is the records that you find in the Archives. Somebody has to put the material together.

What we are talking about is someone with experience and authority to accumulate the data, to compile the records, to search out the salient parts of our great history most worthy of remembrance and make them available to the Bicentennial Commission that we may authorize later to take and assimilate and prepare the program for the bicentennial celebration.

I am sure this House will not wish to decline to be a part of a celebration to commemorate the greatness of 200 years of this Nation's history lived in this, the Peoples' House.

So this is a small request that we are making to extol so glorious a record as we have compiled in this House.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution

The previous question was ordered. The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore, announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were-yeas 230, nays 97, not voting 106, as follows:

> [Roll No. 479] YEAS-230

Addabbo Albosta Alexander Akaka Andrews

Anderson

Foglietta Anthony Ford (MI) Applegate Forsythe AuCoin Fountain Bailey (PA) Fowler Barnard Frost Garcia Bedell Gejdenson Benedict Gephardt Gibbons Rerenter Bethune Gilman Bevill Gingrich Bingham Ginn Bliley Glickman Boggs Gonzalez Roland Gore Boner Grav Bonker Green Bouquard Guarini Hall (IN) Bowen Breaux Hall (OH) Hamilton Brooks Hance Hansen (UT) Brown (CA) Harkin Brown (OH) Broyhill Hatcher Burton, Phillip Hawkins Hightower Byron Campbell Howard Chappell Hoyer Chisholm Huckaby Clausen Hughes Clay Clinger Hutto Coelho Hyde Coleman Jenkins Jones (NC) Conable Conte Jones (OK) Conyers Jones (TN) Coyne, William Daniel, Dan Kastenmeier Kazen Daschle Kemp Davis Kennelly de la Garza Kildee Dellums Leach Leath LeBoutillier DeNardis Derrick Dicks Leland Dingell Levitas Dixon Livingston Donnelly Long (LA) Lott Lowry (WA) Lundine Dougherty Downey Madigan Marriott Duncan Dwyer Dyson Martinez Matsui Eckart Mavroules Edgar Mazzoli Edwards (AL) Edwards (CA) McCloskey McCurdy Edwards (OK) McDade English McEwen McHugh Erlenborn Evans (IA) Mikulski Evans (IN) Miller (CA) Farv Mineta Minish Ferraro Mitchell (MD) Fiedler Moakley Fish Molinari Mollohan Flippo Montgomery

## NAYS-97

Archer

Badham

Bennett

Burgener

Butler

Carman

Carney

Chappie

Cheney

Collins (TX)

Crane, Daniel

Corcoran

Coughlin

Courter

Craig

Bailey (MO)

Brown (CO)

Daniel, R. W. Dannemeyer Daub Derwinski Dreier Dunn Early Emerson Emery Erdahl Fenwick Fields Frenzel Goodling Gradison Gramm Gregg Gunderson

Hall, Ralph Hall, Sam Hammerschmidt Hansen (ID) Hartnett Hopkins Hubbard Jacobs Jeffords Kindness Kogovsek Kramer Lagomarsino Latta Lewis Loeffler Lowery (CA)

Young (FL)

Zablocki

Young (MO)

Morrison Murtha Natcher Neal Nowak O'Brien Oakar Oberstar Obey Ottinger Panetta Patman Patterson Pepper Perkins Peyser Pickle Pritchard Quillen Rahall Railsback Rangel Regula Robinson Rodino Roemer Rostenkowski Roukema Roybal Russo Sabo Sawyer Scheuer Schneider Schumer Seiberling Shamansky Shannon Simon Skelton Smith (IA Smith (NJ) Solarz Spence St Germain Stenholm Swift. Tauke Udall Vander Jagt Vento Volkmer Walker Wampler Watkins Weaver White Whitehurst Whitley Williams (MT) Wilson Wolf Wolpe Wright Wyden Wylie Young (AK)

Parris Pashayan Paul Martin (IL) Petri Martin (NC) Porter Martin (NY) Rinaldo Ritter Roberts (KS) Rogers Sensenhrenner Shaw Shumway Miller (OH) Siljander Skeen Smith (NE)

Smith (OR) Snowe Snyder Solomon Stangeland Staton Stratton Stump Taylor Thomas Weber (MN) Weber (OH) Whittaker

#### NOT VOTING-106

Ashbrook Heftel Roberts (SD) Aspin Hendon Roe Bafalis Hertel Rose Beard Hillis Rosenthal Beilenson Holland Roth Biaggi Hollenbeck Rousselot Blanchard Holt Rudd Bolling Horton Santini Bonior Savage Ireland Brodhead **Jeffries** Schroeder Broomfield Burton, John Johnston Schulze LaFalce Sharp Collins (IL) Lantos Shelby Coyne, James Lee Shuster Crane, Philip Lehman Smith (AL) Crockett Lent Smith (PA) Long (MD) D'Amours Stanton Stark Deckard Luken Dickinson Markey Stokes Dorgan Marks Synar Dymally Mattox Tauzin McKinney Mitchell (NY) Ertel Traxler Evans (DE) Trible Evans (GA) Moffett Walgren Moore Washington Findley Mottl Waxman Foley Murphy Whitten Ford (TN) Napier Williams (OH) Frank Nelson Winn Fuqua Nichols Wirth Gaydos Oxlev Wortley Goldwater Price Yates Pursell Grisham Yatron Hagedorn Ratchford Zeferetti Heckler Reuss

## □ 1940

DANNEMEYER and LOWERY of California changed their votes from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## PEACE CORPS ACT AMENDMENT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2611) to amend the Peace Corps Act, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. GILMAN. I reserve the right to object, Mr. Speaker, in order to give the distinguished chairman an opportunity to explain the bill.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentle-

man for yielding.

Mr. Speaker, this bill has been passed in the other body. The bill amends the Peace Corps Act to permit the Peace Corps to increase readjustment allowances for volunteer leaders. The Congress last year approved an increase for volunteer leaders, and this provision is needed to allow similar treatment for volunteer leaders. The executive branch has no objection to this legislation. It will require no additional funds because the additional costs can be absorbed within the Peace Corps budget. This is merely rectifying an inequity.

ing an inequity.

Mr. GILMAN. Mr. Speaker, I thank
the gentleman from Wisconsin for his
explanation, and I withdraw my reser-

vation of objection.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Wisconsin?

Mr. WALKER. Reserving the right to object, Mr. Speaker, the gentleman makes mention that this can be covered under the expenses of the Peace Corps. Was it provided for in the authorization? Does this bill we are now taking up consist of being an authorization of new duties or new spending within the Peace Corps?

Mr. ZABLOCKI. Will the gentleman

yield?

Mr. WALKER. I yield to the gentleman.

Mr. ZABLOCKI. I thank the gentleman for yielding. As I stated earlier the action that the House took when it passed H.R. 6370 last year was to eliminate the ceiling on readjustment allowances to voluntary leaders. At the time the Peace Corps indicated that this removal could be accommodated within its budget. It will be paid for from within the funds already available.

Mr. WALKER. Further reserving the right to object, is this money that

was included in the budget?

Mr. ZABLOCKI. It is included in the budget. The legislation was requested by the executive branch.

Mr. WALKER. The Budget Office has approved this, is that what the gentleman is telling me?

Mr. ZABLOCKI. There was no ob-

jection.

Mr. WALKER. I thank the gentleman. Further reserving the right to object, Mr. Speaker, I am going to continue to ask a lot of questions about a lot of these bills coming up here. We found out earlier this evening that at times the Chair—not the gentleman in the chair at the moment-the Chair can engage in short counts and a number of other things to kind of roll things through here. I do not think we want any more of that, and I am going to ask questions about these types of bills to make certain we do not roll a lot of things through here that are budget breakers.

I would suggest to Members who have that type of thing that they will not be agreed to without questioning.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield further?

Mr. WALKER. I will be glad to.

Mr. ZABLOCKI. His President has agreed to this legislation—our President.

Mr. WALKER. I thank the gentleman for that, and if it is within the budget, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

#### S. 2611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6 of the Peace Corps Act is amended by striking out "not to exceed" in the first proviso and by inserting in lieu thereof "not less than".

(b) This amendment shall be effective as of December 29, 1981.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROVIDING FOR DISTRIBUTION WITHIN UNITED STATES OF USIA FILM "DUMAS MALONE: A JOURNEY WITH MR. JEFFERSON"

MR. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the Senate bill (S. 3073) to provide for the distribution within the United States of the U.S. Information Agency film entitled "Dumas Malone: A Journey With Mr. Jefferson," and ask for its immediate consideration in the House.

## □ 1950

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the gentleman from Wisconsin?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I take this time in order to give the distinguished chairman of the Committee on Foreign Affairs an opportunity to explain the bill.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, S. 3073 is a bill, which would provide for the distribution within the United States of a film made by the U.S. Information Agency in which Mr. Dumas Malone, a historian at the University of Virginia discusses the life and times of President Jefferson.

As you know, pursuant to the U.S. Information and Educational Exchange Act of 1948, no publication of the USIA can be released within the United States unless legislation to that effect is enacted. This is a routine procedure and does not cost the Government any money, since provision in the legislation is made for reimbursement of any costs incurred by the Agency.

The U.S. Information Agency advises us that they have no objection to

the film being released.

I urge the adoption of the bill.

Mr. GILMAN. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, did I understand the gentleman to say that there is absolutely no money involved in this bill, and that this is simply an action that will cost the Government nothing?

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, let me say that

the gentleman is correct.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

## S. 3073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Dumas Malone: A Journey with Mr. Jefferson", and

(2) the Administrator shall reimburse the Director for any expenses of the Agency in making that master copy available, shall secure any licenses or other rights required for distribution of that film within the United States, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to

the applicable appropriation of the United States Information Agency.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. ZABLOCKI. Mr Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SPECIAL COMMITTEE ON ADVISORY OPINIONS FROM THE WORLD COURT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 86) to establish a Special Committee on Advisory Opinions From the World Court, and ask for its immediate consideration in the House.

The Clerk read the title of the con-

current resolution.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Wisconsin?

Mr. LEACH of Iowa. Mr. Speaker, reserving the right to object, I do so only to ask the gentleman from Wisconsin (Mr. Zablocki) if he would explain this resolution.

Mr. ZABLOCKI. Mr. Speaker, will

the gentleman yield?

Mr. LEACH of Iowa. I am pleased to yield to the gentleman from Wiscon-

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, House Concurrent Resolution 86, as amended, was introduced by our distinguished colleague, the Honorable Jonathan B. Bingham. The resolution expresses the sense of Congress that the United States should explore the possibility of expanding the advisory opinion of the International Court of Justice.

The resolution was referred to the Subcommittee on Human Rights and International Organizations, chaired by our distinguished colleague, the Honorable Don Bonker. The subcommittee held hearings and reported the resolution favorably. The Committee on Foreign Affairs considered the resolution on December 14. During discussion of it, Congressman Bonker offered a substitute amendment to the resolved clause which would call on the President to consider the feasibility of pursuing, through our delegation to the United Nations, an expanded advisory opinion of the ICJ. The amendment was adopted by voice vote

and the resolution was then favorably reported.

Mr. Speaker, over the years, the U.S. Government has studied ways to strengthen mechanisms for peaceful settlement of international disputes. This resolution would help accomplish this. I urge its adoption.

Mr. BONKER. Mr. Speaker, will the

gentleman yield?

Mr. LEACH of Iowa. I am delighted to yield to the gentleman from Wash-

ington.

Mr. BONKER. Mr. Speaker, House Concurrent Resolution 86, introduced by our distinguished colleague, Mr. BINGHAM, expresses the sense of the Congress that the United States should take the initiative to expand the advisory opinion jurisdiction of International Court of Justice through the creation of a special U.N. committee which would seek advisory opinions from the ICJ, upon request by designated national courts.

On December 14, 1982, the Foreign Affairs Committee adopted House Concurrent Resolution 86 with an amendment which I will offer at the appropriate time. The amendment retains the resolution's objective of seeking to expand the ICJ's advisory opinion jurisdiction, but provides the executive branch the flexibility it seeks in exploring ways to increase use of the Court. The amendment's two essential features are:

First, it expresses the sense of the Congress that increased utilization of the ICJ should be encouraged; and

Second, it urges the President to consider the feasibility of pursuing, through the United Nations, such an expanded advisory opinion jurisdiction for the ICJ.

Unlike House Concurrent Resolution 86, the amendment does not direct the U.S. Ambassador to the United Nations to introduce a resolution in the United Nations that would establish a special U.N. committee on advisory opinions. It simply urges the President to consider the feasibility of pursuing this concept. The amendment, which Mr. Bingham supports, represents a reasonable balance between the goals of House Concurrent Resolution 86 and the concerns that the executive branch and others raised during the Subcommittee on Human Rights and International Organizations' consideration of the resolution. I would only add that the American Bar Association supports this proposal.

Mr. Speaker, House Concurrent Resolution 86 would serve a useful purpose in placing the Congress on record in favor of greater use of the ICJ. It would benefit our judicial system and promote the orderly development of international law. I would like to commend my colleague, Mr. BINGHAM, for taking this important initiative, and would urge the House to adopt House

Concurrent Resolution 86.

BACKGROUND

Since its establishment in 1945, the International Court of Justice has been the subject of numerous congressional hearings. Most recently, the House Foreign Affairs Subcommittee on Human Rights and International Organizations in 1979 and 1981 explored ways to strengthen and to increase utilization of the ICJ. House Concurrent Resolution 86 would contribute to strengthening and increasing utilization of the Court through an expansion of the ICJ advisory opinion jurisdiction to include questions of international law referred by designated national courts.

The Department of State has generally been supportive of efforts to enhance the use of the Court. A 1976 study by the Legal Adviser's Office of the State Department observed that:

The Department of State . . . favors expanding the jurisdictional capacity of the Court . . . by introducing an element of flexibility through a procedure which may be denominated as the preliminary opinion procedure.

The study also noted:

In the view of the Department of State, the most desirable step which the United States could take at this juncture in this sphere . . . is officially to announce in an appropriate forum that it favors, in principle, amendment of the Statute of the International Court of Justice and the United Nations Charter to incorporate an advisory 'preliminary opinion" recourse from national appellate courts to the ICJ on issues of international law.

During the past 2 years, the American Bar Association's International Law Section examined ways to expand the ICJ's advisory opinion jurisdiction. The international law section reported in January 1982 that expanding the Court's advisory opinion jurisdiction would not necessarily entail amendment of the U.N. Charter and ICJ Statute, as suggested in the 1976 State Department study. Rather, the international law section believes that this could be accomplished through the establishment of a special U.N. committee to request advisory opinions on behalf of duly authorized national courts, as envisioned in House Concurrent Resolution 86. This would require the U.N. General Assembly to adopt a resolution creating a special committee. The special committee would review requests from national courts and refer them to the Court on behalf of the General Assembly.

Following its 2-year study, the international law section in January of this year unanimously endorsed the concept of expanding the ICJ's advisory opinion jurisdiction. The study found

that-

based on the extensive review it has made of this proposal, the Section of International Law is convinced that the concept is both valuable and viable. In particular, it believes that the proposal, if implemented, could be expected to promote a central purpose of

the ICJ of unifying the interpretation and application of international law . . . the proposal would promote the objective of having international law assume an even greater role in the ordering of public affairs and would indicate the willingness of the U.S. to assume a leading role in accomplishing this objective . .

The January 1982 meeting of the American Bar Association's House of Delegates adopted, upon recommendation of the international law section, the following resolution:

The American Bar Association urges approval by the United States of expansion of the advisory opinion jurisdiction of the International Court of Justice to include questions of international law referred by national courts.

As envisioned in the international law section's report, the expansion of the ICJ's advisory opinion jurisdiction would:

First, be limited to issues relating to bilateral and multilateral treaties;

Second, require a Federal statute to determine which Federal courts would be authorized to refer an international law question to the ICJ for an advisory opinion, with State legislatures having the option of adopting the procedure for use by their courts;

Third, provide for acceptance of referrals for advisory opinions only with the agreement of all parties to the liti-

gation:

Fourth, minimize the litigants' time and expense in seeking advisory opinions by encouraging the Court to use special chambers or panels of judges that would sit in the country from which the request originated;

Fifth, require a U.S. court to inform the Departments of State and Justice of a contemplated referral to the ICJ so that they would have the opportunity to make a submission to the U.S. court prior to the referral being made. The Departments of State and Justice would, of course, retain the discretion to present amicus curiae submissions to the ICJ on behalf of the United States when a case is referred; and

Sixth, be accomplished through the creation of a special U.N. committee to seek ICJ advisory opinions upon request by designated national courts. The special committee would be modeled after the U.N. Committee on Applications for Review of Administrative Tribunal Judgments, created by the U.N. General Assembly in 1955 to review and to request ICJ advisory opinions on behalf of the U.N. Administrative Tribunal (which handles disputes between the U.N. and members of its staff). The ICJ and the U.S. Government have recognized the authority and utility of that special committee.

## COMMITTEE ACTION

House Concurrent Resolution 86 was introduced on March 4, 1981, and was referred to the Committee on Foreign Affairs. The committee referred the resolution to the Subcommittee on

Human Rights and International Organizations. The committee requested and received reports on House Concurrent Resolution 86 from the Departments of State and Justice.

The Subcommittee on Human and International Organizations held a hearing on House Concurrent Resolution 86 on September 24, 1981. Testifying at the hearing were Representative BINGHAM and witnesses from the Department of State and the American Bar Association's International Law Section. The subcommittee met in open session on December 1, 1982, to consider House Concurrent Resolution 86. The subcommittee by voice vote agreed to an amendment to the resolution and then agreed to report the resolution, as amended, to the full Foreign Affairs Committee. The Foreign Affairs Committee, meeting in open session on December 14, 1982, considered House Concurrent Resolution 86. By voice vote the committee agreed to the subcommittee's amendment and then adopted the resolution, as amended.

At its September 1981 hearing, the subcommittee examined the domestic and international legal and foreign policy implications of an expansion of the ICJ's advisory opinion jurisdiction and its potential for promoting the development of international law. While there was strong support for increasing use of the Court, concerns were raised about the feasibility of pursuing the creation of a special U.N. committee, as directed in House Concurrent Resolution 86. In order to accommodate the views expressed at the hearing, the subcommittee chairman and ranking minority member prepared an amendment to House Concurrent Resolution 86. The purpose of the amendment is:

First, to express the sense of the Congress that increased utilization of the ICJ should be encouraged; and

Second, to urge the President to consider the feasibility of pursuing, through the United Nations, such an expanded advisory opinion jurisdiction for the International Court of Justice.

The amendment would have the President take into account the 1976 study by the Legal Adviser's Office of the Department of State, "Widening Access to the International Court of Justice," and would have the President explore the appropriateness of the establishment of a special committee, under U.N. auspices, authorized to seek ICJ advisory opinions on questions of international law, upon request by a national court. The amendment would also change the title of the resolution to conform with the substantive changes it contains.

The amendment reflects the central objective of House Concurrent Resolution 86 and provides the executive branch the flexibility it seeks in exploring ways to increase use of the

Court, including the expansion of the ICJ's advisory opinion jurisdiction through the creation of a special U.N. committee. The amendment represents a reasonable balance between the goals of the original resolution and the views the executive branch and others have conveyed to the subcommittee.

#### BUDGETARY CONSIDERATIONS

The Office of Management and Budget advised the committee that from the standpoint of the administration's program, there is no objection to the resolution.

Mr. LEACH of Iowa. Mr. Speaker, I rise in support of House Concurrent Resolution 86, as amended by the House Foreign Affairs Committee, and want to take this opportunity to commend the gentleman from New York (Mr. BINGHAM) not only for his leadership on this resolution, but also for his untiring efforts in this body to promote the rule of law in the international community.

I would like to express, at the outset, my support for this resolution and for the institution of the International Court itself. The World Court represents one of the most important alternatives today to the use of armed force in resolving international disputes. Increased utilization of the Court is in our national interest and perhaps, without undue exaggeration, in the interest of global survival. But I think it important to note for the record that giving the Court a greater role in issuing advisory opinions is not an unmixed blessing. It is not at all clear that broadening access to the ICJ by national courts will significantly enhance the stature and authority of the Court.

There is no doubt that the ICJ has been greatly underutilized over the past few decades. One hears about the opinions of judges of the World Court about as frequently as one hears the calls of whooping cranes. The chief contributing factor to the problem of underutilization, however, has not been a lack of access by Western judi-cial systems to the ICJ for advisory opinions on the subtleties of international law. Rather, the Court has been greatly underutilized because the nations of the world refuse to take their differences to it. That is at the heart of the problem and it is not being addressed in any fundamental sense in the approach advocated in this resolution.

What is being addressed—the possibility that the ICJ will be mandated to allow the national courts of the United States and the rest of the world community to have access to advisory opinions—carries significant legal and political risks for the Court and for our country. The ICJ's advisory opinions, after all, are not legally binding. National courts may on occasion reject them. In that event, various judicial systems could be in conflict and the Court's authority potentially undermined through disregard for its judgment. On the other hand, if a case originated, for instance, in a U.S. court, and that court later rejected the advisory opinion, there would be no guarantee that other nations would not choose to recognize the interpretation of the law which the U.S. court found unacceptable.

One thus has to confront the potential political consequences for U.S. foreign policy which may arise as a result of advisory opinions issued by the World Court, regardless of whether

U.S. courts accept them.

More consequentially, it is not at all unlikely that critics of American foreign policy could politicize the U.S. judicial system by bringing court cases for the primary purpose of seeking an advisory opinion contrary to Government policy. The right to seek advisory opinions could thus prove in some circumstances to be an invitation to political mischiefmaking.

It must also be assumed that if American national courts have access to the ICJ for advisory opinions, the national courts of other nations, with less responsible reputations, like those of the Soviet Union or Libya, would likewise have access to the ICJ. One can easily envision further opportunity for mischiefmaking at the international level in such cases and the ICJ becoming overburdened with frequent requests for advisory opinions on politically sensitive questions of international law, such as the Law of the Sea or the rights of OPEC. Suits brought not in an attempt to resolve disputes, but rather to embarrass one country or another could further undermine the ICJ's credibility and usefulness. The Court might soon find itself in the unfortunate position of being overutilized, overpoliticized, and in a weaker position in the event an international dispute is brought to its jurisdiction on a more traditional basis.

There are many other unanswered questions concerning the proposal. For example:

First. What procedures would be established for referring requests from national courts to the ICJ?

Second. Would such procedures require amendment of the ICJ statute or

the U.N. Charter? Third. Will requests for ICJ advisory opinions expedite or further delay proceedings before U.S. courts?

Fourth. Will such requests result in higher legal costs for litigants?

Fifth. What criteria will be established in determining which courts will have access to the ICJ and for what types of cases?

Sixth. What role should the State and Justice Departments play in this process?

Seventh. Will private parties, for the first time, have direct access to the ICJ if they are authorized to argue their cases before the World Court before it issues an advisory opinion?

Mr. Speaker, while I want to reiterate my support for the resolution before us, I do believe the proposal deserves greater scrutiny with the clear understanding that institutional safeguards may well need to be established to insure that a potentially good idea does not in effect subvert the position of the Court.

In addition, it is hard not to note that one important way of moving immediately to strengthen the Court would be for the United States to withdraw the so-called Connally reservation whereby the United States has asserted the right to refuse to recognize the ICJ's jurisdiction in any case brought against the United States in ICJ by asserting that the issue lies within our own domestic jurisdiction.

Again, Mr. Speaker, I commend the gentleman from New York for his vision in the area of international law and international institutions and want also to recognize the efforts of the chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, and the chairman of the subcommittee, Mr. BONKER, for their efforts in bringing this question before the House.

I urge my colleagues to give it their support.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, the gentleman from Wisconsin (Mr. Zablocki) tell us how much this will cost?

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, the resolution does not authorize any funding. As far as this gentleman knows, it will not result in any additional expenditures.

Mr. WALKER. Mr. Speaker, further reserving the right to object, how are we going to form a new commission without it costing any money?

I would be pleased to yield to the gentleman for a reply.

Mr. ZABLOCKI. Mr. Speaker, I

thank the gentleman for yielding.

The U.S. delegation to the United Nations, with petitions from other nations, has made a request for the United Nations to study the possibility of increasing utilization of the International Court of Justice through an expansion of the Court's advisory opinion jurisdiction to include questions of international law referred to designated courts. To the best of my knowledge it would be within the budget of the United Nations.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, is that at the present time part of the

authorized activities of that delegation?

Mr. ZABLOCKI. To the best of my knowledge.

Mr. WALKER. And it is included in the budget for that purpose?

Mr. ZABLOCKI. Yes.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

#### H. CON. RES. 86

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that the President should-

(1) direct the permanent representative of the United States to propose to the United Nations General Assembly the adoption of a resolution which establishes a special committee authorized-

(A) to seek an advisory opinion of the International Court of Justice, upon request by a national court or tribunal which is duly authorized by national legislation to make such a request, regarding any question of international law of which such court or tribunal has jurisdiction; and

(B) to establish procedures providing adequate opportunities for the presentation to the International Court of Justice the views of each party to the case before the court or tribunal requesting such advisory opinion; and

(2) after the establishment of the special committee, propose legislation to the Congress which-

(A) authorizes Federal courts to request such advisory opinions; and

(B) establishes procedures whereby any Federal court may submit such requests to the special committee; and

(C) defines the scope of acceptance by the United States of the expanded jurisdiction of the International Court of Justice.

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Strike out all after the resolving clause and insert in lieu thereof the following:

That (a) the Congress finds that increased utilization of the International Court of Justice should be encouraged and that one means of increasing utilization of the Court would be to expand its advisory opinion jurisdiction to include questions of international law referred by national courts.

(b) Therefore, the President is urged to consider the feasibility of pursuing, through the United Nations, such an expanded advisory opinion jurisdiction for the International Court of Justice. In such consideration, the President-

(1) should take into account the Department of State study, prepared in 1976 by the Office of the Legal Adviser, entitled "Widening Access to the International Court of Justice", which endorsed the idea of providing a procedure through which national appellate courts could, before rendering judgment in a case, have recourse to the International Court of Justice for an advisory "preliminary opinion" on issues of inter-

national law: and

(2) should explore the appropriateness of the establishment of a special committee, under United Nations auspices, authorized to seek an advisory opinion of the International Court of Justice, upon request by a national court or tribunal which is duly authorized by national legislation to make such a request, regarding any question of international law of which such court or tribunal has jurisdiction.

Amend the title of the resolution to read as follows: "Concurrent Resolution supporting an expansion of the advisory opinion jurisdiction of the International Court of Justice.".

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record, and that the amendment be adopted unanimously. It is noncontroversial.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, are we going to get the amendment explained to us?

Mr. ZABLOCKI. Mr. Speaker, I am sorry, but I did not hear the gentle-

man from Pennsylvania.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. WALKER) reserves the right to object to the amendment offered by the gentleman from Wisconsin.

Mr. WALKER. Mr. Speaker, I do so since the gentleman is asking that it not be read. Are we going to have this amendment explained to us?

Mr. ZABLOCKI. Yes.

Mr. WALKER. I would be pleased to yield to the gentleman so he can explain what it is we are doing.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield to the gentleman from Washington (Mr. Bonker) for an explanation?

Mr. WALKER. I am glad to yield to the gentleman from Washington.

Mr. BONKER. Mr. Speaker, the amendment is in response to concerns expressed by the administration and one of the minority members of the committee, so in effect, the amendment waters down the original resolution. The original draft provided that the Congress direct a permanent representative of the United States to propose to the U.N. General Assembly the adoption of the resolution.

What the amendment provides is that we urge the President to consider the feasibility of pursuing this matter. This, I think, meets with the earlier objections of the administration, and it was adopted by the full committee.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Washington (Mr. BONKER) and I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. Without objection, the amendment in the nature of a substitute offered by the gentleman from Wisconsin (Mr. Zablocki) is agreed to

There was no objection.

The SPEAKER pro tempore. The question is on the concurrent resolution, as amended.

The concurrent resolution, as amended, was agreed to.

AMENDMENT TO THE TITLE OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment to the title offered by Mr. Za-BLOCKI: Amend the title so as to read:

Concurrent resolution supporting an expansion of the advisory opinion jurisdiction of the International Court of Justice.

The title amendment was agreed to. A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I offer unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

EXPRESSING THE SENSE OF CONGRESS CONCERNING AMERICANS MISSING AND UNACCOUNTED FOR IN SOUTHEAST ASIA

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of Senate concurrent resolution (S. Con. Res. 131) to express the sense of Congress concerning Americans missing and unaccounted for in Southeast Asia.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do this in order to give the distinguished committee chairman the opportunity to explain the resolution.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I am pleased to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, this concurrent resolution concerns the continuing efforts to account for Americans that remain missing in Southeast Asia. It draws particular attention to the recent activity respecting those still missing in Laos.

This resolution gives important and helpful acknowledgment that new and promising activity has occurred respecting American servicemen still missing in Laos. In September this year, a delegation from the National

League of Families of American Prisoners and Missing in Southeast Asia traveled to Laos and Vietnam. They held particularly encouraging sessions with Lao officials who also facilitated their visit to crash sites and other areas that might offer clues regarding the fates of missing Americans. Some have regarded this helpfulness on the part of the Lao Government as a breakthrough. It is certainly the kind of humanitarian effort on their part that should be encouraged to produce further efforts.

The resolution before us should encourage such further humanitarian efforts by the Lao to locate and return the Americans who remain missing and unaccounted for in Southeast Asia.

The concurrent resolution adopted by the Senate contains amendments that make it now substantively identical to House Concurrent Resolution 425 that was amended and unanimously adopted by the Foreign Affairs Committee this week. Therefore, in essence the Senate resolution conforms to that introduced by our colleague from Pennsylvania (Mr. FOGLIETTA). Our colleague from Pennsylvania deserves particular credit for taking leadership on this effort that can help for create opportunities further progress on an important humanitarian issue.

I urge the immediate adoption of the concurrent resolution before us.

Mr. GILMAN. Mr. Speaker, I rise in support of this sense of the Congress resolution concerning Americans still listed as missing and unaccounted for in Laos. This resolution, offered by the gentleman from Pennsylvania (Mr. Foglietta) is an important first step as the Congress attempts to deal with the possible changes in the relationship between our Nation and Laos.

This resolution reaffirms the congressional support necessary for a resolution of the MIA problem, particularly concerning the Americans missing in Laos. I have contended that our Nation has not concentrated enough effort on resolving the Laotian aspect of the MIA problem, and that Laos presents us with a whole new set of circumstances which must be addressed and must be dealt with. While Vietnam has not fully cooperated in the location and repatriation of remains to our Nation, the Laotian Government seems willing at this point to help, but may be unable to provide us with the kind of inormation and assistance we need. Without our help, the MIA issue might be buried over in

This resolution resulted from the dedicated gentleman's belief that the recent trip taken by MIA and POW families to Southeast Asia shed some new light on this painful issue. I concur with the gentleman that the

families, in their humanitarian actions, opened up some doors while in Southeast Asia. Surely we are still far from resolving the issue completely, but we are working slowly but surely toward the day when we will be satisfied with an accounting, and with the efforts that both our Nation, and the nations in Asia have made for the families of our missing servicemen.

This resolution recognizes that the responsibility for making this issue a viable and successful issue lies not only with our Government but the other governments involved. I am pleased that the resolution calls upon our President to move quickly and expeditiously so that we can get the truth from Laos and let our MIA's go.

Accordingly, I urge my colleagues to adopt this legislation particularly at this holiday time when the families of our MIA's and prisoners of war wait for their loved ones to come home.

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Mr. SOLARZ. Mr. Speaker, will the

gentleman yield?

Mr. GILMAN. Reserving the right to object, I yield to the gentleman from New York (Mr. Solarz).

Mr. SOLARZ. I thank the gentle-

man for yielding.

I would just like to pay tribute to the gentleman from Pennsylvania (Mr. FOGLIETTA) who introduced this resolution in the House and who was very persuasive in persuading the Foreign Affairs Committee to report it out unanimously to the full House.

There are almost 2,500 American servicemen who are still missing and unaccounted for in Indochina. I do not know whether any of them are still living, although there is some evidence

to suggest that they are.

But I do know that we cannot close the book on our involvement in Indochina unless and until we can determine the final state of these men.

In September, as the chairman indicated, a delegation from the National League of Families, which is the preminent national organization devoted to a final accounting of American servicemen who are missing and unaccounted for in Indochina, went to Laos. For the first time in the last decade the Lao Government indicated a real willingness to cooperate with us. It was their very strong feeling that the adoption of this resolution might encourage the Lao to cooperate even more in the future.

So, Mr. Speaker, I urge my colleagues to support this resolution which reaffirms the determination of this Congress to continue in its efforts to determine the fate of the 2,500 American servicemen who are still missing and unaccounted for in Indo-

china.

Mr. GILMAN. I thank the gentle-

man for his remarks.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California, the distinguished chairman of our Task Force on the Missing in Action, Mr. DORNAN.

Mr. DORNAN of California. Mr. Speaker, after working on this issue for 17 years I plead with the membership to give this a unanimous vote and, please, a recorded vote, to send this message loud and clear to the Laos delegation at the United Nations.

Mr. GILMAN. Mr. Chairman, further reserving the right to object, I thank the distinguished chairman for his explanation of the measure.

Mr. Speaker, I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, I would like to ask a question of the gentleman from Wisconsin.

Mr. FOGLIETTA. Mr. Speaker, will

the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from Pennsylvania (Mr.

FOGLIETTA)

Mr. FOGLIETTA. Mr. Speaker, it is almost 10 years since American troops came home from the war in Southeast Asia. And yet, nearly 2,500 Americans did not come home. At first, we called them missing in action. Now, after all this time, the official phrase is "missing and unaccounted for." The Defense Department uses that phrase because it does not give us any false hopes about whether these missing Americans are still alive.

But the official wording is not what is important. What is important is that almost 2,500 Americans never came home, and we do not really know where they are. What is important is that, for the most part, the governments of the Southeast Asian nations have not been cooperative in locating and returning these missing Americans. Recent actions by the Government of Laos, however, have indicated a change in at least that country's position.

Last September, a delegation of Americans from the National League of Families of American Prisoners and Missing in Southeast Asia was received by the Lao Government. These Americans were taken to the site of an American military plane crash, and allowed to search the area for any identifying information among the debris. Similarly, they searched caves in the mountains of Laos in which it is believed that American servicemen were held prisoner.

Mr. Speaker, since that visit by the National League of Families in September, talks have continued between the Government of Laos and representatives of our Government. I think it is fair to say that these discussions

Mr. GILMAN. Mr. Speaker, further have been positive and somewhat serving the right to object, I yield to fruitful.

As a response to the indicated willingness to cooperate on the part of the Lao, I introduced House Concurrent Resolution 425. This resolution is, I believe, noncontroversial. I also believe that it will make a positive contribution to the cooperation between our two Governments because I am told that the Lao are very pleased to see that we have noticed their actions.

Senator Hayakawa introduced an identical resolution in the Senate which was passed by that body late yesterday. Our resolution reaffirms congressional commitment to locating and returning the 2,500 missing Americans, 558 of whom are presumed to be located in Laos. It expressed our appreciation to the Lao for their willingness to cooperate, and expresses support for the actions that the President has taken in this area. The resolution also calls upon both governments to move quickly to cooperate in this humanitarian effort.

This resolution is an appropriate response to the actions of the Lao Government and is, as I pointed out, identical to the resolution which I introduced which was reported out of the House Foreign Affairs Committee. I thank the members of the Foreign Affairs Committee, most especially the distinguished chairman, the gentleman from Wisconsin, and the distinguished subcommittee chairman, the gentleman from New York, for the expeditious and favorable consideration that my resolution received, and I urge my colleagues' support of this resolution.

Thank you.

Mr. WALKER. Reserving the right to object, I assume from the nature of the resolution that there is no money involved in this resolution. Is that cor-

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I can certainly assume the gentleman from Pennsylvania that there is no money involved.

Mr. WALKER. I thank the gentleman from Wisconsin, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

## S. CON. RES. 131

Whereas locating Americans missing and unaccounted for in Southeast Asia and their return to the United States is, and should be, of primary concern to the Government of the United States and all humane nations and peoples;

Whereas there are currently two thousand four hundred and ninety-three Americans missing and unaccounted for in South-

east Asia, five hundred and fifty-eight of whom are presumed to be located in Laos;

Whereas the Government of Laos has recently indicated, by its reception of a visit-ing delegation of Americans from the National League of Families of American Prisoners and Missing in Southeast Asia, that the Government of Laos would assist in the humanitarian effort to locate and return Americans missing and unaccounted for in Laos: and

Whereas the United States Government is encouraged by this recent indication of cooperation on the part of the Government of Laos: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring). That the Con-

(1) reaffirms its commitment to locating Americans missing and unaccounted for in Southeast Asia and returning them to the Unites States;

(2) expresses its appreciation to the Government of Laos for its expressed wilingness to cooperate in locating and returning those Americans:

(3) supports the President's actions to locate and return Americans missing and unaccounted for in Southeast Asia; and

(4) urges both governments to move, with all dispatch, to cooperate in this humanitarian effort.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

So the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate concurrent resolution just concurred in.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CONDEMNING ALL FORMS OF RELIGIOUS PERSECUTION AND DISCRIMINATION AS VIOLA-TION OF HUMAN RIGHTS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from the further consideration of the House concurrent resolution (H. Con. Res. 434) condemning all forms of religious persecution and discrimination as a violation of human rights and ask for its immediate consideration in the

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. there objection to the request of the gentleman from Wisconsin?

Mr. LEACH of Iowa. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I rise in support of House Concurrent Resolution 434, condemning religious persecution and calling on the President to take cer-

tain actions to help combat it worldwide.

I want to commend the chairman of the subcommittee, Mr. Bonker, for his hard work in organizing a lengthy series of hearings on the subject of religious persecution and discrimination which have resulted in the proposed resolution before us. His efforts have made a significant contribution to the advancement of this area of human rights, both here and abroad.

The preamble, as the Members will observe, lays out the background of international and national law in the area of religious liberty, pointing out that such freedom extends not only to the freedom of thought, belief, and conscience, but also to the freedom to manifest those beliefs in worship, observance, practice, and teaching. It is important to note as well that these rights cannot be viewed in isolation, but are, in a very practical way, interwoven with so many other civil and political human rights such as the freedom of speech and freedom of as-

During our hearings on the subject of religious persecution, we heard from many witnesses regarding the particular circumstances of a religious group in a particular country. There were very clear-cut examples of religious persecution, such as, for example, the execution, torture, and imprisonment of Baha'is in Iran; the harsh treatment of Jews, Pentecostals, and members of other faiths in the Soviet Union; and the absolute prohibition against religion in North Korea. There were also examples where members of religious faiths, in the daily living of their religious commitment in various societies in Asia and Latin America, were harshly treated by government authorities who preceived an implicit threat in the efforts of these religious persons to serve the needs of their fellowmen.

Because of the continued problems of religious persecution and discrimination around the world, the adoption by the United Nation last year of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief presents a new challenge to the members of the United Nations to take more seriously this special manifestation of the violation

of basic human rights.

The resolution before us today does several things. First, in language similar to that presented to the subcommittee during our hearings by our distinguished colleague from Illinois, Mr. PORTER, the resolution condemns religious persecution and discrimination by governments. It also condemns such actions by other institutions, groups or individuals, consistent with the language contained in article 1 of the U.N. Declaration on this subject. It is important to point out here that the U.N. Declaration not only holds governments responsible for their own policies toward religious liberty but also holds them responsible for taking action to prevent presecution by other parties in their countries.

The resolution also calls on the President to attempt to organize and implement programs of national and international action to deal with this special human rights problem.

In particular, the Congress calls on the President to press for the creation of a new working group on the elimination of religious persecution and discrimination at the U.N. Human Rights Commission. There already exists at the U.N. Human Rights Commission a working group on disappearances after which this proposal is modeled. Last week in testimony before our subcommittee, the U.S. Representative to the last two sessions of the U.N. Human Rights Commission, Michael Novak, called the existing working group on disappearances a "real jewel of United Nations efforts." He further indicated to us that the United States "would certainly respond positively to the attempt to establish a working group on religious persecution" although the financing of any such new initiative would have to be dealt with somehow.

The resolution also calls on the President to encourage the United Nations, regional organizations-such as the OAS, for example-and other individual governments to join us in condemning religious persecution and discrimination and to adopt measures to eliminate it.

Finally, the resolution expresses the sense of the Congress that the President should give high priority to reviewing U.S. policy toward international treaties which seek to protect against persecution and discrimination on the basis of religion. As the Members will note, the resolution does not require the President to support those treaties—it simply, but in strong terms, calls on him to give high priority to reviewing those treaties. Among those pending before the Senate, and on which the Senate Foreign Relations Committee has asked the administration to comment, are the Genocide Convention and the International Convention on Civil and Political Rights.

The refusal of the United States, to date, to ratify the Genocide Convention is no minor blot on the otherwise fairly exemplary human rights record of the United States. Drafted under strong U.S. leadership, this convention has been supported by Republican and Democratic administrations since the close of World War II. It seeks to outlaw the extermination of religious, ethnic, or other groups as a result of the experience of the Nazi Holocaust. Airplane hijacking, which the interna-tional community has agreed should be an international crime, pales by comparison. That the United States today should remain a nonparty to the Genocide Convention is a matter on the conscience of many human-rightsconscious Americans. It is my hope that the administration will press forward rigorously with its review of this treaty and will submit its recommendations to the Senate in the very near future.

I would also like to point out that the International Covenant on Civil and Political Rights provides for the right of religious belief and practice in articles 18 and 27. The United States has not yet ratified this major human rights treaty either. As in the case of the Genocide Treaty, ratification of this convention would go a long way toward strengthening the effectiveness and enforcement of international human rights law which in many cases is clearly consistent with our own Bill of Rights.

Again, I would urge the administration to give a high priority to reviewing U.S. policy on this important human rights treaty and to submit its recommendations to the Senate in the

very near future. I am convinced that the President is in a unique position, as he is in the arms control area as well, to achieve Senate advise and consent for ratification of these human rights treaties in a way no other recent administration has been able.

Mr. Speaker, I again want to express my appreciation of the efforts of the gentleman from Washington (Mr. BONKER) and to urge my colleagues to give this resolution their unanimous

Mr. Speaker, I would request an explanation from the chairman and the ranking member of the subcommittee of jurisdiction.

Mr. BONKER. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the

gentleman from Washington.

Mr. BONKER. Mr. Speaker, House Concurrent Resolution 434 is a comprehensive resolution condemning all forms of religious persecution and discrimination as a violation of human rights. The resolution passed the Foreign Affairs Committee on December 14.

I want to thank JIM LEACH, the ranking minority member of the Subcommittee on Human Rights and International Organizations, which I chair, for his support and cooperation in putting together House Concurrent Resolution 434.

This resolution is the result of nine hearings over the past year on the subject of religious persecutions as a violation of human rights. The resolution cites numerous references to the fundamental right of religious freedom in international and national laws. It calls upon the President and

other official representatives of the United States to work for the establishment of a working group on the elimination of all forms of religious persecution and discrimination at the 39th session of the U.N. Commission on Human Rights.

From all available evidence presented to the subcommittee there can be no doubt that the free exercise of religion is limited in most parts of the world. Discrimination, imprisonment, torture, and death are often the price that are paid for one's religious belief.

The subcommittee has heard dozens of expert witnesses on the problem of religious persecution around the world. They gave detailed testimony as to the fact that this persecution is not limited to any particular political system or region of the world. It occurs daily and people are made to suffer because their convictions are antithetical to government authorities.

In Iran, the Baha'i community has been singled out for extermination by the Islamic authorities solely because of its faith. Since the inception of the Baha'i faith 138 years ago in Iran, followers have been exposed to constant repression with all too frequent outbreaks of violence and bloodshed. In the early days, over 20,000 Baha'is were killed. In postrevolutionary Iran, more than a hundred Baha'is have been murdered for no other reason than teaching or practicing their religion. Fourteen members of its administrative body have disappeared. Eight members of the Baha'i National Assembly have been executed as have been six members of the local governing board of Tehran.

Baha'i shrines and cemeteries have been desecrated, administrative centers have been seized, and savings confiscated. The barbaric attacks on these gentle people continue. It appears there is a systematic effort underway to eliminate the Baha'i religion from

Iran.

In Egypt, the head of the Coptic Christians is under house arrest and some of his followers have been jailed. Their religion is suppressed by Egyptian authorities and believers are harassed and discriminated against.

In Ethiopia, the Falasha Jews are relentlessly persecuted, fired from their jobs and often denied public services.

In South Africa, anti-Apartheid religious believers, both black and white, are harassed, jailed, or banned.

In the Philippines, the Muslim minority is subjected to government repression and the Catholic clergy is intimidated and jailed.

In Taiwan, South Korea, China, Tibet, and other countries, the Presbyterians and other Christians suffer harsh treatment because of their beliefs.

In the U.S.S.R. and other East European countries, both Christians and Jews are harshly persecuted because their beliefs are contrary to the teachings of Karl Marx. Most of them are denied the right to immigrate to countries where their freedom of worship would be assured. Seven Pentecostals today languish in the basement of the U.S. Embassy in Moscow facing death or imprisonment should they dare leave the compound.

In Albania and North Korea, officially atheistic states, religion of any

kind is outlawed.

In many countries of Latin America, Jews, Catholic priests, nuns, and lay leaders, as well as those who work with Protestant mission groups, are tortured, jailed, or assassinated for their witness on behalf of the poor, the silenced and the suffering. Even being a Catholic in a Catholic country provides no immunity. The tragic assassination of Archbishop Romero in El Salvador and the murders of many priests and nuns throughout the region illustrates the problem all too vividly.

The list goes on. The sad truth is that few countries of the world enjoy the religious freedom that is so treasured in the United States, a freedom that is rooted deeply in the history and traditions of our country and sanctified by the Bill of Rights.

One thing is certain, religious persecution will never be checked unless someone takes the time to monitor and expose what is going on and governments are held accountable.

It is unlikely that the United States can end religious persecution but we can make the issue an integral part of our foreign policy. If America is to remain faithful to her past and the values inherent in those documents which formed this great democracy, then we must stand for religious freedom and human rights in the many countries that still abuse their citizens. Religious freedom is synonymous with the protection and promotion of human rights.

Mr. ZABLOCKI. Mr. Speaker, House Concurrent Resolution 434, condemns all forms of religious discrimination as a violation of human rights. This resolution was introduced by our colleague from the State of Washington, the Honorable Don Bonke, who chairs the Subcommittee on Human Rights and International Organizations. The subcommittee has held a series of hearings on religious persecution and discrimination during the 97th Congress. Those hearings have revealed the extent to which this internationally recognized human right has been and is being violated in various parts of the world. The committee considered the resolution on December 14, supported the aim of the resolution, but decided to delete certain preambular paragraphs. The resolution before you, House Concurrent Resolution 434 expresses those changes which the committee approved.

The resolution expresses the sense of the Congress that the President organize and implement programs of national and international action to be taken with respect to governments that engage in religious persecution. It further calls on the President and other official U.S. representatives to raise at every appropriate opportunity the issue of religious intolerance when it occurs.

Mr. Speaker, this resolution is fully in accord with the sense of international human rights law on the subject and the goals of our American society. I urge the adoption of the resolution.

Mr. LEACH of Iowa. Mr. Speaker, further reserving the right to object, I do so simply to congratulate the gentleman from Illinois (Mr. PORTER), who worked very hard in pushing this resolution.

Mr. Speaker, I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from Wisconsin?
Mr. PORTER. Mr. Speaker, I re-

serve the right to object.

Mr. Speaker, I rise today in support of House Concurrent Resolution 434 offered by the distinguished chairman of the House Foreign Affairs Subcommittee on Human Rights, Mr. Bonker. This legislation deserves the support of all the Members of this House as a bipartisan, nonideological but invaluable piece of legislation. I commend the chairman and the distinguished ranking member of the subcommittee, Mr. LEACH, for their efforts on behalf of this resolution, which is the culmination of months of hearings focusing on the incidence of religious persecution throughout the world. I would also like to thank them both once again for giving me the opportunity to testify on and participate in the creation of this most urgently needed expression of the sense of the Congress.

The focus of my testimony last February was the ongoing persecution of Baha'is in Iran, Jews in Poland, and Jews and Pentecostals in the Soviet Unfortunately, little changed for these people since then. The reign of terror continues in Iran. Jews in Poland remain officially sanctioned scapegoats in the domestic news media, serving as a diversion from the ongoing struggle for democracy there. And in the Soviet Union, sadly, conditions have only changed for the worse.

Jewish emmigration has reached an alltime low, with only 168 departures in October, compared with a high of more than 4,000 a month in 1979. Experts estimate that 500,000 to 2.5 million Soviet Jews want to leave their native land. The tragic experiences of two individuals there, Anatoly Shcharansky and Joseph Begun, provide evi-

dence more compelling than statistics of the vicious turn for the worse of official Soviet policies on religious free-

Shcharansky's strike continues in isolation but not in obscurity at the notorious Chistopol prison. This protest of his treatment as a Soviet prisoner of conscience unjustly incarcerated and denied his mail and visits by his family in prison, has captured worldwide attention to barbarous Soviet anti-Semitism.

When I was in the Soviet Union 3 months ago to help give hope to those repeated denied the right to emigrate from that repressive society, I visited Leonid Shcharansky, Anatoly's brother, and their mother, Ida Milgrom. They were completely cut off from contact with Anatoly and at the time did not know anything of his physical condition, or, indeed, whether he was alive or dead. Their courage and determination in the face of this unhumanity was simply incredible.

Joseph Unfortunately, treatment has received less publicity but has equally ominous implications for efforts at the revival of Hebrew language and Jewish culture in the Soviet Union. Despite his two terms of exile in Siberia for a total of 5 years, Begun began teaching Hebrew and became one of the leading protagonists in the struggle for Jewish Renaissance in the U.S.S.R. His arrest on November 7, 1982, under the charge of anti-Soviet agitation and propaganda carries an unusually harsh term of 7 years in prison and 5 years in exile. The implications of this one case alone should serve as reason enough to support this resolution. Unfortunately, there are many more examples of the prevalence of religious persecution throughout the world, many of which this resolution takes particular note.

I must, unhappily, further report that just 2 days ago, Felix Kochubievsky was sentenced to 2½ years of hard labor in Siberia. Kochubievsky was charged with "defaming the Soviet state," but the true motivation behind his conviction in this trumpedup charge was that he had become one of the most prominent teachers of Hebrew in Novosibirsk in central Russia.

This resolution will present the world with an important restatement of the American peoples' belief in and protection of religious freedom in our own country, and our continuing efforts to prevent persecution and discrimination wherever it exists. It will communicate to the administration the sense of Congress that the issue of religious persecution and bigotry as a policy or practice of national governments ought to be raised at every opportunity. And finally this resolution will make explicit to the Members of the 98th Congress the need to determine a clear, firm, and workable policy to foster religious freedom throughout the world.

Although this measure may be viewed as uncontroversial in our own country, its passage is of great importance to millions of people throughout the world who long for religious freedom, the most fundamental of all human rights. We cannot afford to be silent on this issue, to find ourselves once again on the wrong side of the international struggle to capture the immagination of the common man, for the outcome of this contest will ultimately decide the fate of our own rights to live in freedom and dignity.

Mr. Speaker, I withdraw my reserva-

tion of objection.

Mr. SPEAKER pro tempore. Is there objection to the request of the gentle-

man from Wisconsin?

Mr. WALKER. Mr. Speaker, reserving the right to object, once again I assume from the nature of the resolution that we do not have any money involved in this one either; is that correct?

Mr. ZABLOCKI. Will the gentleman vield?

Mr. WALKER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman, and I can assure the gentleman from Pennsylvania that there is no money involved.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my res-

ervation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the concurrent resolution, as follows:

## H. CON. RES. 434

Whereas the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Final Act of the Conference on Security and Co-operation in Europe (the "Helsinki Final Act") proclaim the principles of nondiscrimination and equality before the law and the right to freedom of thought, conscience, religion, and belief;

Whereas the United Nations General Assembly on November 25, 1981, adopted the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief which proclaims the universal right to freedom of thought, conscience, and religion, including the right to manifest religion and belief in worship, observance, practice, and teaching;

Whereas freedom of religion and belief does not exist in isolation but can only be freely exercised in conjunction with other

rights;

Whereas the disregard and infringement of human rights and fundamental freedoms, in particular the right to freedom of thought, conscience, religion, and belief have brought, directly or indirectly, wars and great suffering to mankind;

Whereas all member states of the United Nations have pledged themselves to take joint and separate action in cooperation with the United Nations to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion;

Whereas the freedom of religion and belief is treasured and deeply rooted in the history and tradition of our own country and sanctified by the Bill of Rights;

Whereas the constitutions of most nations of the world specifically provide for the freedom of religion and belief and extend to the citizens of those nations the right to worship freely and the right not to be persecuted or discriminated against on the basis of religion or belief; and

Whereas testimony before the Congress has established that there is continuing manifestation of all forms of religious persecution and discrimination in different parts of the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress, in accordance with our Nation's history and traditions of opposition to religious persecution and discrimination, as well as in full respect for international law and custom, condemns and opposes religious persecution and discrimination wherever practiced, encouraged or tolerated by national governments. The Congress also condemns persecution and discrimination by any institution, group of persons, or person on grounds of religion or other beliefs.

Sec. 2. Accordingly, it is the sense of the Congress that the President should attempt to organize and implement programs of national and international action to be taken with respect to governments engaged in religious persecution and discrimination. In particular, the President and other official representatives of the United States

(1) should work for the establishment at the thirty-ninth session of the United Nations Commission on Human Rights of a working group on the Elimination of All Forms of Religious Persecution and Discrimination;

(2) should at every opportunity raise the issue of violations of freedom of religion and belief at any appropriate international forum: and

(3) should encourage the United Nations, regional organizations, and individual gov-

(A) to condemn all forms of religious persecution and discrimination whenever and wherever they occur; and

In addition, it is the sense of the Congress that the President should give high priority to reviewing United States policy toward international treaties which seek to protect against persecution and discrimination on the basis of religion.

concurrent resolution was The agreed to.

A motion to reconsider was laid on the table.

#### EXPRESSING SUPPORT OF CON-GRESS FOR REPUBLIC COSTA RICA

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from the further consideration of the House concurrent resolution (H. Con. Res. 423) expressing the full support of the Congress for the Republic of Costa Rica and its democratic institutions as that country responds to the current economic crisis, and for Costa Rica's efforts to contribute to the peaceful resolution of conflicts in Central America, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. there objection to the request of the gentleman from Wisconsin?

Mr. GILMAN. Mr. Speaker, I reserve

the right to object.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 423, to express the full support of the Congress for the Republic of Costa Rica and its democratic institutions.

In a part of the world where extremism of the right and left have historically manipulated the will of people, Costa Rica with its strong democratic traditions stands out as a shining light. As perhaps nowhere else on Earth the people of Costa Rica long ago decided that democracy was the best provider and protector for their nation.

Their dedication to the needs of their people, including the economic, social, and individual liberties that has produced one of the most equitable and stable nations in the hemisphere, As President Luis Alberto Monge stated during his visit to Washington earlier this year, "in order to defend democracy, the best tool we have in this increasing struggle is an unceasing struggle against proverty, a struggle in favor of social justice, a struggle for economic growth."

Unfortunately, Costa Rica is not immune to the problems of their neighbors and the world community in general. The high cost of energy imports and reduced prices for their exports have brought serious economic difficulties at the very time that the terrorism and Marxist subversion of the region have begun to penetrate their tranquillity.

In his address to President Reagan, President Monge stated that Costa Rica "has always been a sincere ally of this great power called the United States of America, because we have always identified with the ideals and the conceptions of freedom of justice and for the good of all of the peoples throughout the Earth." He further stated that this alliance is more important today then ever in light of the "harsh realities of our present economic and social crisis and a true information as to the fact that there is indeed, as massive offensive on the part of totalitarian Marxism-Leninism in the areas of Central America and the Caribbean."

On that same occasion, President Reagan, in indicating his personal pledge of support for Costa Rica's economic recovery efforts, "Costa Rica is an old and valued friend of the United States. Its dramatic tradition has made that country a natural partner of the United States in the Caribbean and in fact the whole hemisphere.'

The resolution before us, House Concurrent Resolution 423, recognizes these achievements and challenges. It further expresses the Congress full support to Costa Rica and its democratic institutions as they address their current economic crisis. Furthermore, it expresses support for their efforts in seeking a peaceful resolution of the conflicts in Central America.

As the ranking minority member of the subcommittee on Inter-American Affairs, I urge my colleagues to join with me in support of House Concurrent Resolution 423 as an indication of our continued moral and material support for the people and nation of Costa Rica and the democratic values they represent.

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, House Concurrent Resolution 423 expresses the full support of the Congress for the Republic of Costa Rica in overcoming its current economic crisis.

Costa Rica is one of the longest standing democracies and closest U.S. friends in Central America. Its tradition of democratic institutions is a glowing example to the rest of the region, as has been the history of relations between Costa Rica and the United States.

Costa Rica is currently grappling with the most serious economic problems to face any of the countries of the Caribbean Basin region. In September, the Congress provided the funding for the President's Caribbean Basin Initiative. Earlier today, the House passed the trade portion of that package. We hope that these and other efforts, together with the action and economic policies of the Costa Rican Government, will bring that country out of the current economic malaise.

Useful to this process is a message to the people of Costa Rica that the people of the United States extend their moral support and stand ready to assist them in their efforts. That is the purpose of this resolution, and I urge its support.

Mr. BARNES. Mr. Speaker, will the gentleman yield?

Mr. GILMAN. I yield to the gentleman from Maryland.

Mr. BARNES. Mr. Speaker, this is by far the least controversial resolution that I have ever introduced and therefore it is a pleasure to bring it to the floor. I know that I can count on the support of all of my colleagues and that this resolution will be adopted expeditiously.

The Congress has gone on record in support of Costa Rica on many different occasions. Just last August by approving the emergency economic assistance for Costa Rica contained in the Caribbean Basin Initiative we all expressed our trust and hopes that the Costa Rican Government, with our help, will be able to maintain its democratic tradition.

The purpose of the legislation before us is to provide the Congress with another vehicle for the expression of our support. This support is more necessary now than before because Costa Rica is currently facing serious economic difficulties and is threatened by the radicalization of sides that is taking place throughout Central America.

With a foreign debt of \$4 billion Costa Rica needs the support of all friendly nations. The United States through the Caribbean Basin Initiative is now providing \$70 million in addition to our regular aid program. But they also need our symbolic support and that is the purpose of the legislation I have introduced.

We should all keep in mind that the Costa Ricans themselves decided in 1948 that the country did not have a need for an army and for the past 34 years they have lived in peace with neighboring countries. But since the Central American region is now threatened by the radicalization of forces on the right and the left, Costa Rica's democratic tradition might be in jeopardy.

The Costa Ricans have recognized this and are now willing to play a more active role in promoting peaceful solutions to regional problems. A few months ago the Costa Rican Government sought to establish a line of communication between the Government of El Salvador and leaders of the Salvadoran opposition. More recently the Costa Ricans have hosted a series of meetings of leaders from the region to discuss the prospect for democracy in the region.

Costa Rica is the one country in Central America that I know all of my colleagues support and admire. I trust that you will all join me today in expressing our support for that country by voting in favor of the bill before us.

I would also like to submit for the RECORD a statement on democracy made by President Monge last month and a few comments on his remarks. My comments and the statement follow.

Mr. Speaker, last month the President of Costa Rica, Luis Alberto Monge, was the guest speaker at a conference on free elections in Washington, D.C. I would like to include for the Record his statement on the concept of democracy and Costa Rica's democratic tradition.

President Monge argues, and I fully agree with him, that: "Democracy has no universal formulas with which to confront the economic and social problems of any given society." This is something that we should all keep in mind when we discuss the outlook for

democracy in other countries. It is wrong and counterproductive to expect other countries to duplicate what we believe to be the ideal democratic system. As President Monge clearly advocates:

These formulas are worked out with an awareness of the history of each nation and, above all, must be based on knowledge of the historical and geographic context in which such formulas will be applied.

With respect to U.S. support for democratic forces, President Monge cautions:

In order for the solidarity and support to be effective, it must be remembered that various nations of the area have been fighting for decades against political and social oppression. They have had complete political and moral justification for this battle. Not only do they have a right to institutions that guarantee political freedom, but they must also assure themselves, simultaneously, of economic, social and cultural rights.

I trust that the administration will heed this advice that is coming from the one country in Central America that can talk about democracy based on experience.

Finally, President Monge also calls for the support of Congress for the Caribbean Basin Initiative and I would ask my colleagues to keep Mr. Monge's words in mind when the time comes to cast our votes on the CBI.

The statement follows:

SOLIDARITY IN DEFENSE OF DEMOCRACY
(By Luis Alberto Monge, President of Costa
Rica)

I have the honor of speaking to you on behalf of a people who have participated directly and actively in building their own democratic institutional system. Throughout history the people have not missed a single opportunity to reiterate their willingness to fight for material and spiritual wellbeing within a framework of liberty, the rule of law, and peace.

Costa Rica, a small, sparsely populated nation, is proud of the manner in which its citizens have adopted a dynamic concept of democracy. They do not conceive of democracy as a set of rigid structures, but as a revolutionary process designed to respond to the problems of changing conditions.

We are not going to be so arrogant as to believe that our democracy is perfect. We recognize its defects and errors with humility. But it is precisely the democratic mechanisms that permit adjustments and corrections. Democratic idealism and mystique permit the constant search for perfection. Note that I have said the search for perfection. I will never say that we have achieved perfection.

Anyone who believes that perfection in democracy has been achieved, has moved away from democracy and slipped unconsciously toward the illusory dogmas and orthodoxies of totalitarian ideologies. We always seek perfection, but we prepare our spirit for the impossibility of achieving it.

When we speak of our democracy, with its virtues and defects, when we point out some of the stages in our people's search for a democratic institutional system, it is not our intent to recommend that other peoples follow precisely the same route. We do not ask them to imitate our methods or suggest

that they model their institutions on our own.

Democracy has no universal formulas with which to confront the economic and social problems of any given society. These formulas are worked out with an awareness of the history of each nation and, above all, must be based on knowledge of the historical and geographical context in which such formulas will be applied.

For this reason one does not imitate, copy, or transplant in a democracy. In a democracy people create with authenticity, with originality. This is its essential difference from totalitarian philosophies such as Nazism, fascism, and communism, which expand by requiring that experiences, methods, and institutions be imitated, copied, and transplanted.

Nor is democracy imposed by force, it advances only with the conviction and support of the people. Over the past 60 years we have had painful proof of how totalitarian ideas and schemes take hold and progress by force, brutality, and terror. This is another marked difference between democracy and totalitarianism.

Democracy today neither accepts nor bows to economic, political, or other dogmas. Democracy advances and grows strong through debate, adjustment, and agreement on how to approach and resolve problems.

Costa Rica has successfully refused two false and pessimistic theories. According to one of them, democracy is a system suited only to the rich countries. Costa Rica is a poor country and it has been able to maintain an institutional democracy that receives high marks in the fields of health and education.

According to the other theory, democracy does not thrive in the tropics. We live in the tropics; we are men of the tropics; and we have been able to defend our democracy against two types of despotism—the oligarchic military despotism that for decades has oppressed our brothers of Central America and the Caribbean and the despotism represented by the Marxist-Leninist forces now mounting an aggressive expansionist offensive in our region.

This expansionist offensive of communism has caught Costa Rica by surprise and provoked the most severe economic and social crisis of its history. Our liberty and our peace are threatened as never before.

In the past, although we were the object of the hostility of oligarchic, militaristic cliques which misgoverned neighboring countries, no Costa Rican political party dared ally itself with these regressive cliques. Today things have changed for the worse. Parties and unions of Communist persuasion act within the country as a "fifth column." They coordinate with their fellow travellers of the Third International; they attack and try to destabilize the constitutional government elected by the majority of the people; they boycott the efforts of the people and the government to reactivate production and surmount the crisis. In the midst of crisis, the fight against totalitarian communism is indeed more difficult.

For this reason we are urgently seeking the entire support and effective assistance of the democratic nations. We require economic and financial backing to reactivate our economy, promote production and export programs, strengthen the cooperative movement, curb inflation, contain the general economic deterioration, combat unemployment, correct dangerous social imbal-

ances, and eliminate explosive pockets of ex-

We need economic and financial support. We are not requesting military assistance. Peculiar to our history and rare in today's world is the fact that we are a democracy that unilaterally opted for disarmament and constitutionally outlawed the army as a permanent institution. But Costa Rica can still confront totalitarian ideologies successfully within a democratic framework using mechanisms that result in periodic, free, peaceful, and honest elections. Each time the people elect their governors, they vote overwhelmingly for the parties that continue to believe in liberty and democracy. The elections of February 7 of this year, by virtue of which I assumed the responsibilities of governing, took place in the midst of the deep economic and social crisis that we are experiencing. The people confirmed with their votes their willingness to live under democracy, and they confirmed their faith in democracy as a means of resolving the problems of production and waging a successful war against poverty and misery.

In Costa Rica the stable system that guarantees the people free and honest elections is the irreplaceable foundation of democracy. But it has also been a guaranty of peace. Violence, war, and guerrillas find support when the people are denied elections or when the results of elections are changed or are not respected. Violence, war, and guerrillas lose their support when the people enjoy free elections and when their vote is

respected.

The principle of free and honest elections is so vital to the existence of democracy that at the meeting of the Foreign Ministers of Central America and the Caribbean, held on October 4 in San Jose, Costa Rica, on my Government's initiative, it was agreed to create an electoral development

and advisory organization. This organization will offer those governments that request it the technical assistance needed to establish, reform, and modernize their electoral systems. In addition to comparative studies, this technical organization will offer training programs for administrators of electoral processes. When requested by interested governments, its experts will conduct studies of the rules of law governing electoral procedures, the organization of electoral bodies, and the proper dissemination of electoral information, and it will make recommendations for improving

the operation of the electoral system. The Government of Costa Rica is working on the implementation of this resolution. Talks have already begun with the Inter-American Institute of Human rights, whose headquarters is in Costa Rica, in order that the electoral advisory organization may start operating soon as a specialized branch of the Institute. I hope that other countries that did not attend the San Jose Foreign Ministers' meeting will join this initiative.

There is no freedom without suffrage. And suffrage is also the means of realizing

the self-determination of peoples. And, returning to the solidarity and support of the United States and other democracies of the world, it should be made clear that in the crisis that afflicts Central America and the Caribbean, military and security factors are indeed present. But it would be an error not to be aware of the political, economic, and social factors which are at the root of the crisis. In order for the solidarity and support to be effective, it must be remembered that various nations of the area have been fighting for decades aginst

political and social oppression. They have had complete political and moral justificaton for this battle. Not only do they have a right to institutions that guarantee political freedom, but they must also assure themselves, simultaneously, of economic, social and cultural rights.

The definition of democracy by President Lincoln has dramatic force today in Central America, the Caribbean, and all Latin America. How brilliant and visionary was Abraham Lincoln in his masterful definition of the concept of democracy! "Government of the people, by the people and for the people!" Costa Rica, very fortunately, has achieved "government of the people and by the people" and now is seeking to achieve government for the people."

For this reason we advocate economic and financial support not only for Costa Rica but also for all those countries that desire 'government of the people and by the people" and are prepared to fight for "gov-ernment for the people."

Other sister nations have spent years of sacrifice and bloodshed in search of "government of the people and by the people." At present they are having to struggle to achieve a "government for the people." These heroic peoples, who are painfully working their way to freedom, find themselves fighting the same forces that have oppressed them throught the centuries. At the same time, they are trying to prevent their independence from being usurped by despotic communism. We must not deny our love and support to these sister nations.

We rejoiced in the announcement President Reagan's Caribbean Basin Initiative. May we again give recognition to the political courage, generosity, and vision shown by the President of the United States in proposing and defending this plan.

We are sorry that the Caribbean Basin Initiative has not yet gained complete approval. We know that the members of the United States Congress, as the representatives of a freedom-loving people, will not deny their support to the people of Central American and the Caribbean, who are trying to win their freedom in some places and to protect it in others. As president of a freedom-loving country whose people love the people of the United States, I urge these lawmakers to approve the Caribbean Basin Initiative. Such approval would be a tribute to the ideals of democracy and the principle of solidarity among the peoples of the Americas

We hail the initiative taken by this Conference. It is necessary to define and strengthen the areas of agreement—in thought and in action-of the men, the people, and the leaders who prefer freedom and democracy.

We have always needed to direct our efforts toward that objective. Our defeats in the struggle for democracy and the gains made by the enemies of freedom are due largely to our inability to identify the areas of agreement among us beyond the boundaries of party affiliations and social classes, beyond national borders, despite the historical and territorial differences between nations, despite our different legal and constitutional systems, and despite our philosophical and economic disagreements.

This serious inability on our part to define and strengthen our areas of agreement en-ables the strategists of the totalitarian groups of the left and the right to keep us divided. It paralyzes our spirit of solidarity and prevents coordination of our actions to defend our ideals.

The agents of despotism and totalitarianism have repeatedly ensnared us by narrowing our perception of our areas of agreement and broadening that of our areas of disagreement. By inciting class war within nations they bring about labor-management confrontations. Such confrontations make it difficult to reach the area of agreement which is the commitment to the freedom so avidly sought by the rich and the poor. Freedom, to be real, must be shared by all the people. It cannot be class privilege. These agents of despotism and totalitarianism present our legal, constitutional, and economic differences as insoluble problems. We forget at times that, in a democracy, our historical commitment is strongest when it flows from a consensus that has grown out of very diverse philosophies and concepts. The Nazi-Fascist movement imposed itself and subjugated people by force and terror. Now, Marxism-Leninism in intermittent strategic expansionist moves, is also invading and dominating countries by force and terror. In some areas of the world, such as Latin America and the Caribbean, Marxists-Leninists pretend to be the standard bearers of the people's struggle for economic and political liberation.

We know that the fate of people who are "liberated" by communism is very sad indeed. Marxist-Leninist parties and agents are submissive and disciplined toward the centers of power they serve, but they mount international compaigns to insult, victimize, and discredit those of us who believe in democracy and consider it a system infinitely better than communism because we are seeking areas of agreement with powerful democratic nations in our struggle for free-

It is not a matter of approving errors in the foreign policy of these powerful nations. but of bringing to bear more effectively in support of democracy the great force that these people, who wish to maintain their democratic programs, represent. Aggressive communist propaganda against this democratic strategy to strengthen moral and spiritual support for freedom has confused, intimidated and even frightened many leaders. We must resist this blackmail because submitting to it divides us and prevents us from successfully defending the democratic cause. We are not seeking military alliances with the large countries of the democratic world; we are not offering support to invade or dominate a neighboring country; we are not remaining silent in the face of the political and eonomic oppression that others are suffering under despots of varying ideologies; we are not supporting colonial or imperialistic policies; we are-plainly simply-gathering the positive resources that are available to help people who are suffering oppression or who are threatened with totalitarian oppression. In the case of little Costa Rica, we are seeking all the sup-port necessary to carry out the mandate of the people, which is also plain and simple: that we preserve their freedom and peace. Through conviction and through democratic obedience to my people, with love for Costa Rica and with dignity, we will continue to seek support among democratic nations-the powerful as well as the others-in order to encourage productivity and justice. to overcome poverty and to preserve peace and freedom. Communism will not succeed in intimidating us or in confusing us; it will not stop us or make us turn back on this path that we have taken.

If the powerful nations of the democratic world support us, our struggle will be less difficult, but with help or without it, our historical commitment is to defend, at whatever sacrifice, freedom, peace and democra-

cy. We will honor this commitment. Secretary of State Shultz, Distinguished Delegates, Ladies and Gentlemen, this is simply a review of the democratic experience and ideals of a small and poor nation that does not have an army.

I cannot offer military power or economic

power in the sacred struggle for liberty. But I do offer, proudly, my people's abid-ing love for freedom and their courage in preferring death to the loss of liberty.

Mr. GILMAN. Mr. Speaker, I thank the gentlemen for their explanations and I withdraw my reservation of objection.

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The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. Za-BLOCKI)?

Mr. WALKER. Mr. Speaker, reserving the right to object, I understand there is no money and the chairman has made that quite clear. But the language in here, is it committing us to some spending in the future to help resolve those economic problems in any way?

Mr. ZABLOCKI. Mr. Speaker, will

the gentleman yield?

Mr. WALKER. I yield to the gentle-

man from Wisconsin.
Mr. ZABLOCKI. Mr. Speaker, the language in the concurrent resolution does not commit us to any expenditures in the future. It is merely giving moral support, commending the people of Costa Rica for their efforts

in their continuing democracies.

Mr. WALKER. I suppose we can afford to commend. I thank the chair-

Mr. Speaker, I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from Wisconsin (Mr. Za-BLOCKI)?

There was no objection.

The Clerk read the concurrent resolution, as follows:

## H. CON. RES. 423

Whereas the Republic of Costa Rica has the most successful record of continuous democratic and constitutional government in Central America;

Whereas the Republic of Costa Rica has had a long and distinguished record of respect for human rights and commitment to

social justice;

Whereas the Republic of Costa Rica has voluntarily and unilaterally renounced the maintenance of a military establishment and has based its foreign policy on respect of its neighbors and of international law and on cooperative regional development;

Whereas the current international recession and internal economic difficulties have plunged the Republic of Costa Rica into the most serious economic challenge ever faced

by its democratic institutions;

Whereas the current economic situation has spawned terrorist incidents that threaten Costa Rican society and its democratic system; and

Whereas the Government of Costa Rica is actively promoting peaceful solutions to regional problems, as exemplied by its establishment of a line of communication be-tween the Government of El Salvador and leaders of the Salvadoran opposition, and this sets a significant precedent for resolving conflicts throughout Central America: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress expresses its full support for the Republic of Costa Rica and its democratic institutions as that country responds to the current economic crisis, and for Costa Rica's efforts to contribute to the peaceful resolution of conflicts in Central America.

The concurrent resolution agreed to.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 423 just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AUTHORIZING APPROPRIATIONS CONSERVATION PRO-FOR GRAMS ON MILITARY RESER-VATIONS AND PUBLIC LANDS, 1982, 1983, 1984

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1952), authorizing appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1982, 1983, and 1984, and for other purposes, with Senate amendments to the House amendment to the Senate amendment, and concur in the Senate amendments to the House amendment to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendment to the Senate amendment, as follows:

Page 1, line 8, of the House engrossed amendment, after "Service" insert "or the National Marine Fisheries Service".

Page 1, line 9, of the House engrossed amendment, after "Interior" insert "or the Secretary of Commerce".

Page 2, after line 20, of the House en-

grossed amendment, insert:

Sec. 8. Section 4(a) of the Coastal Barrier Resources Act (Public Law 97-348) is amended by inserting "(but excluding maps T02 and T03)" immediately after "A01 through T12" and by inserting "and the maps designated T02A and T03A, dated De-cember 8, 1982" immediately after "and dated September 30, 1982".

Mr. JONES of North Carolina (during the reading). Mr. Speaker, I ask unanimous consent that the

Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. SHUMWAY. Mr. Speaker, reserving the right to object, I would like to yield to the distinguished chairman to explain to the House what this bill does.

Mr. JONES of North Carolina. Mr. Speaker, the House and Senate have previously reached agreement on most parts of this bill, including reauthorization of the Sikes Act for 3 years, extension of time for the Fish and Wildlife Service to complete a study on the financing of nongame fish and wildlife programs, and clarification of authority of the Fish and Wildlife Service to carry out certain procedures as part of the sting-type undercover investigations of violations of wildlife protection laws.

This House has considered H.R. 1952 twice during this Congress. On September 21, 1981 we first passed the bill under suspension of the rules. On September 30, 1982, the House agreed to several Senate amendments and agreed to Senate amendment No. 4 and with an amendment.

The basic purpose of H.R. 1952, as amended, is to reauthorize the Sikes Act for 3 years. The Sikes Act authorizes the Departments of Defense, Agriculture, and Interior to carry out conservation and public outdoor recreation programs on military reservations and other public lands. The bill as amended continues existing levels of authorizations: \$1.5 million annually to the Defense Department and \$3 million annually to the Interior Department under title I; and \$10 million annually for Interior and \$12 million annually for the Agriculture Depart-ment under title II. The House passed "such sums as necessary." The Senate added these specific figures. The House concurred with these authorizations on September 30.

The bill also amends section 12 of the Fish and Wildlife Conservation Act of 1980 to extend until December 31, 1984 the completion date for the Fish and Wildlife Service's study of ways to finance a nongame fish and wildlife conservation program other than through general appropriations.

The bill also clarifies the authority of the Fish and Wildlife Service to carry out certain procedures as part of sting-type undercover investigations of violations of wildlife protection laws.

There still remains a single Senate amendment in which I seek House concurrence.

The amendment alters two of the maps designating components of the underdeveloped coastal barrier system as included in Public Law 97-348, the Coastal Barriers Resources Act.

When the House, on October 2, 1982, considered the conference report to S. 1018, the Coastal Barrier Resources Act, the gentleman from Texas, Mr. Brooks engaged in a floor colloquy with the gentleman from Louisiana, Mr. Breaux. Mr. Brooks expressed his concern that certain areas in Texas affected by the bill were in fact developed according to the Interior Department's criteria and that their inclusion in the bill was an error.

As a result, the Merchant Marine and Fisheries Committee sent two staff members to look at the areas on site. They reported that the areas are developed and that corrective action is

appropriate.

The Senate amendment substitutes revised maps, High Island Unit TO2A and Bolivar Peninsular TO3A, both dated December 8, 1982, for inclusion in the coastal barriers resources system. It is a good and appropriate amendment. I know of no controversy and urge the House to concur in it.

Mr. SHUMWAY. Mr. Speaker, I appreciate the explanation by the chair-

man.

• Mr. BREAUX. Mr. Speaker, H.R. 1952, which would reauthorize the Sikes Act, was originally passed by the House of Representatives on September 21, 1981. As passed by the House, it reauthorized such sums as may be necessary to carry out conservation programs on military reservations and other public lands during fiscal years 1983, 1984, and 1985. It also amended the act to encourage the relevant departments to expand their efforts to protect wildlife and to make the lands involved available to the public for hunting, fishing, and other outdoor recreational experiences and clarified certain ambiguities in the act.

The Sikes Act has been in effect since 1960. It authorizes the Secretary of Defense to carry out programs of fish and wildlife conservation and rehabilitation on military reservations in accordance with cooperative plans agreed to by the Secretary of Defense, the Secretary of the Interior, and the appropriate State agency. It also directs the Secretaries of the Interior and Agriculture, in cooperation with State agencies, to plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of fish and wildlife on Bureau of Land Management and Forest Service lands and on lands under the jurisdiction of the Department of Energy and the National Aeronautics and Space Adminis-

tration.

On June 9, 1982, the Senate passed the legislation with a series of amendments. In these amendments, the Senate specified Sikes Act authorization levels for the various agencies to facilitate congressional oversight. They also authorized the Fish and Wildlife Service to use existing funds to undertake a study of nongame wildlife. Finally, they attached an amendment that extended the authorization for the striped bass study under the Anadromous Fish Conservation Act. On September 30, 1982, the House

accepted the Senate provisions on the Sikes Act authorization levels and the nongame study, but rejected the amendment relating to the striped bass study because it was contained in legislation previously passed by the House. We also included an amendment to clarify the authority of the Fish and Wildlife Service to carry out "sting" type undercover operations to apprehend large-scale, commercial violators of wildlife laws. Recent operations of this nature have revealed a multimillion-dollar illegal trade in wildlife products run by hardened criminals who are often involved in other illegal activities. This amendment clarifies fish and wildlife authority for: First, agents to deposit advance funds in commercial banks or other financial institutions without disclosing their identity; second, use of proceeds of undercover operations to offset necessary and reasonable expenses incurred in such operation; and third, reimbursement to current appropriations of money expended to purchase evidence which is later recovered.

This amendment in no way affects congressional control, through the appropriations process, of the amount allotted each year to undercover operations and funds recovered from such operations will continue to come back into the Treasury. It simply clarifies the authority for existing procedures which assist the agents of the Fish and Wildlife Service in carrying out these difficult and dangerous, but highly successful undercover activities.

Mr. Speaker, the Senate has just returned this legislation to us for the second time with two amendments. The first amendment would simply include the Department of Commerce enforcement agents in the provision of the bill that applies to undercover wildlife enforcement activities. National Marine Fisheries Service agents share jurisdiction of many important wildlife statutes with Fish and Wildlife Service and need the same clarification of authority to carry out their

sting operations.

The second amendment relates to a colloquy that I had on the floor of the House with Congressman Jack Brooks when the Coastal Barrier Resources Act was passed at the end of the regular session. Mr. Brooks requested that we examine an area in Texas to see if it was properly classified as an "undeveloped barrier island" and thus ineligible for Federal funds. Pursuant to this colloquy, the Committee on Merchant Marine and Fisheries sent two staff members to the area. They discovered that parts of two areas were indeed incorrectly designated. The

Senate amendment makes changes in the Barrier Island maps to correct this error.

Mr. Speaker, as you can see there is nothing earthshaking here. This bill has become a vehicle for several housekeeping amendments to allow the Federal agencies over which our committee has jurisdiction to operate more effectively. I urge my colleagues to support it.

I withdraw my reservation of objec-

tion.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. WALKER. Mr. Speaker, reserving the right to object, on this authorization, is the authorized money within this particular bill within the budget?

Mr. JONES of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from North Carolina.

Mr. JONES of North Carolina. I thank the gentleman for yielding.

This is authorization only. There is no money in the budget to my knowledge for this particular purpose.

Mr. WALKER. So that the money that we are authorizing here would be over and above the budget; is that correct?

Mr. JONES of North Carolina. I would say to the gentleman that according to counsel, what money has been spent under this has come under other authorities which is within the budget. In other words, for example, the military has been authorized from time to time through Executive order or otherwise to spend some money in conservation practices on military bases. This carries no appropriation whatsoever.

Mr. WALKER. Further reserving the right to object, there is no budget add on, no appropriations add on involved in this authorization?

Mr. JONES of North Carolina. I can answer to both questions, definitely

"No."

Mr. WALKER. With regard to the coastal barriers, the gentleman from Delaware (Mr. Evans) I think, was one of the people who was interested in that particular legislation. I do not see him on the floor right now.

Have these changes been cleared with the gentleman from Delaware (Mr. Evans)?

Mr. JONES of North Carolina. We have cleared this with the gentleman from Delaware (Mr. Evans), and he has no objection.

Mr. WALKER. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina (Mr. JONES)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1952.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR USE AND DISTRIBUTION OF FUNDS TO BLACKFEET, GROS VENTRE TRIBES OF INDIANS AND ASSINIBOINE TRIBE OF FORT BELKNAP INDIAN COMMUNITY

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1986) to provide for the use and distribution of funds awarded the Blackfeet and Gros Ventre Tribes of Indians and the Assiniboine Tribe of the Fort Belknap Indian Community, and others, in dockets numbered 250-A and 279-C by the U.S. Court of Claims, and for other purposes, with a Senate amendment to the House amendments thereto, and concur in the Senate amendment to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendments, as follows:

Page 8, strike out lines 3 to 11, of the House engrossed amendment, and insert:

(i) Persons whose applications for membership on the roll have been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within 45 days after the date of certification by the Secretary of their eligibility to share in funds under this subsection

(ii) Persons whose applications for membership on the roll have not been duly approved by the Papago Tribal Council on the date of enactment of this Act shall be paid the sum of \$1,000 within ninety days after their membership has been approved by the Papago Tribal Council and their eligibility to share in funds under this subsection has been certified by the Secretary.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendments be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BEREUTER. Reserving the right to object, Mr. Speaker, I do so

only to ask for an explanation from the distinguished chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman

Mr. Speaker, S. 1968 authorizes the distribution of certain funds awarded by the Court of Claims to the Blackfeet, Gros Ventre, and Assineboine Indian Tribes of Montana. These funds have already been appropriated, but must await this legislation before they can be distributed to the tribes and their members.

The House passed this bill on December 6, 1982, with certain amendments. One amendment added a new section authorizing the distribution of funds awarded to the Papago Tribe in Arizona. After House passage, the Interior Department noted certain minor defects in the Papago language and ask the Senate Committee to further amend the bill.

It is those amendments which are back to the House for concurrence. This legislation, including the Pagago amendments, is supported by all concerned, including the administration.

Mr. BEREUTER. I thank the chairman for his explanation. It matches the explanation that we have on this side of the aisle. I support it, and the minority supports this.

Mr. Speaker, I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona (Mr. Udall.)?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PROVIDING FOR USE AND DISTRIBUTION OF CLALLAM JUDGMENT FUNDS

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from the further consideration of the Senate bill (S. 1340), to provide for the use and distribution of Clallam judgment funds in docket

numbered 134 before the Indian Claims Commission, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BEREUTER. Mr. Speaker, reserving the right to object, I do so only to ask the chairman to explain this to the full body.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Mr. Speaker, S. 1340 is a bill to provide for the use and distribution of some \$385,000 in funds awarded to the Clallam Tribe of Indians of Washington by the Indian Claims Commission. The Commission issued its final order in 1976 and funds to cover the award were appropriated in 1977. This bill makes it possible for the actual distribution of the award to proceed.

The bill was introduced in the Senate by Senators Gorton and Jackson and although there was no companion bill in the House, the members from the State of Washington's delegation with an interest in the matter are supportive of the bill.

The bill as passed by the Senate is supported by the administration with a minor amendment which is mostly technical in nature. The bill was referred to the committee during this "lameduck" session and as a result, the committee could not find the time to report the bill out. However, the bill is noncontroversial, it already passed the Senate and it is supported by the three Indian bands which constitute the Clallam Tribe. Therefore I urge passage of the bill S. 1340 as amended by the Senate.

Mr. BEREUTER. I thank the chairman for his explanation. I would reiterate the entire Washington State delegation does support this legislation. The administration supports it. The funds have already been appropriated by the Congress.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. WALKER. Mr. Speaker, reserving the right to object, I did not hear the gentleman mention in this case that the money was available within appropriated funds to pay for this. I would be glad to yield to the gentleman.

Mr. UDALL. In my statement, and I thought I made it clear, the funds had been appropriated. There is no further Federal cost. They have been held for

the tribe since 1977. This will permit the distribution of the funds.

Mr. WALKER. So there is no budget add-on or no appropriation?

Mr. UDALL. They are held in trust for the tribe.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman for Arizona (Mr. UDALL)?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the funds appropriated by the Act of May 4, 1977 (91 Stat. 61), in satisfaction of a judgment awarded in favor of the Clallam Tribe of Indians of the State of Washington in Indian Claims Commission docket numbered 134, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be divided by the Secretary of the Interior (hereinafter referred to as the "Secretary"), and in shares of one-third to each, as agreed to by the adoption of tribal resolutions cited in sections 2, 3, and 4 of this Act, among the Port Gamble Indian Community, the Lower Elwha Tribal Community, and the Jamestown Band of Clallam Indians.

SEC. 2. The share of the funds apportioned to the Port Gamble Indian Community under the first section of this Act shall be used as provided in tribal resolution numbered 79-A1, dated January 9, 1979, requiring that 80 per centum of such share be used in revenue supplement fund for community projects and the balance in an in-

vestment program.

SEC. 3. The share of the funds apportioned to the Lower Elwha Tribal Community under the first section of this Act shall be used as provided by tribal resolution numbered 8B-78, dated August 27, 1978, requiring that up to 80 per centum of such share be used in a land acquisition program that includes the payment of an outstanding loan on land purchased by the community and the balance in economic development projects for the benefit of all tribal members.

SEC. 4. The share of the funds apportioned to the Jamestown Band of Clallam Indians under the first section of this Act shall be used as provided by resolution numbered 78-1, dated October 1, 1978, requiring that up to 50 per centum of such share be used in a land acquisition program and the balance in a business development program.

SEC. 5. (a) The shares of funds apportioned under the first section of this Act shall be advanced to the respective groups within 60 days of this Act: Provided, That in the case of the Jamestown Band, a formal organization has been approved by the Secretary. At the time the funds are advanced, the Secretary shall account to the respective groups for all investments made and income received since May 4, 1977.

(b) Except as otherwise provided in this section, funds held and administered by the respective groups which are the subject of this Act, and income derived therefrom shall be treated in the same fashion as if held in trust by the Secretary of the Interior. Provided, That such funds may be invested or expended by the respective groups in accordance with their plans without re-

quirement of prior approval by the Secretary.

(c) Upon advancement of the funds to the respective groups the Secretary shall have no further trust responsibility for the investment, supervision, administration or expenditure or expenditure of such funds, and the United States shall be exempt from any liability for such investment, supervision, administration or expenditure of such funds.

SEC. 6. None of the funds distributed under this Act shall be subject to Federal or State income taxes or be considered as income or resources in determining eligibility for or the amount of assistance under the Social Security Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 1340, just passed.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Arizona? There was no objection.

## MODIFYING JUDICIAL DISTRICTS OF WEST VIRGINIA

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3105) to modify the judicial districts of West Virginia, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. BUTLER. Mr. Speaker, reserving the right to object, and I will not object, I will yield to the gentleman from Wisconsin so he will explain the legislation to us.

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Mr. KASTENMEIER. Mr. Speaker, if the gentleman from Virginia, a member of the committee, will yield, I will be very pleased to do that.

Mr. Speaker, the bill is sponsored by the Senator from West Virginia, Mr. ROBERT C. BYRD. It is technical. It is not controversial. The bill cleared the Senate unanimously. The bill, incidentally, in this body has been cleared with the minority. It has the support of the entire West Virginia congressional delegation and all the judges involved.

Very simply, Mr. Speaker, if the gentleman will yield further, it has two purposes. The bill transfers two counties from the southern to the northern district of West Virginia, and three counties—we are talking about judicaial districts—from the southern to

the northern district of West Virginia. Conforming changes are also made in the statutory designation for places of holding court.

I might further add, the changes made by the bill are done at no cost to the taxpayer. The bill, in fact, eliminates a temporary or "swing" judgeship and evens up the assignment of judges between the two districts.

Mr. BUTLER. Will the gentleman identify the chief sponsor of the legis-

lation in the Senate?

Mr. KASTENMEIER. Yes. The chief sponsor of the legislation is Senator Byrd of West Virginia in the other body.

Mr. BUTLER. Mr. Speaker, I guess I will not object. I withdraw my reserva-

tion of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. DINGELL. Mr. Speaker, I re-

serve the right to object.

Mr. Speaker, I would like to know a little more about this bill. Can the gentleman who is managing the bill tell us more about it?

Mr. KASTENMEIER. Will the gentleman from Michigan under his reser-

vation yield?

Mr. DINGELL. I am glad to yield to the gentleman.

Mr. KASTENMEIER. There is not very much further to explain about the bill. Talking about two judicial districts in West Virginia, it transfers two counties from the southern district to the northern district and three counties from the northern district to the southern district.

Mr. DINGELL. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

## AMENDING SECTION 1304(e) OF TITLE 5, UNITED STATES CODE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3103) to amend section 1304(e) of title 5, United States Code, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. COURTER. Mr. Speaker, reserving the right to object, and I shall not object, this is noncontroversial, administration-supported legislation which passed the Senate December 15 and Chairman Ford has agreed to this bill.

The legislation would authorize the President's Commission on Executive Exchange to collect participation fees from private sector firms whose executives participate in the program and to credit such fees to the Office of Per-

sonnel Management revolving fund. These fees are used for educational programs in which private sector executives participate.

Since creation of the Commission in 1969 by an Executive order by President Johnson, the fees have been deposited with the Treasury Department. The Treasury Department recently determined that the deposit fund at the Department could not be used as a source of providing earmarked expenditures on behalf of the Commission.

The pending legislation will be effective for 1 year. That will allow the education program to be continued and give the Post Office and Civil Service Committee the opportunity to review the entire exchange program

The executive exchange program is an excellent program which afford top executives from private industry to participate in the day-to-day operations of the Federal Government.

I urge my colleagues to support this legislation.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. FORD) if he wants to make a further explanation.

Mr. FORD of Michigan. Mr. Speaker, this legislation would authorize the President's Commission on Executive Exchange to collect participation fees from private sector firms whose executives are in the exchange program and credit such fees to the Office of Personnel Management revolving fund. These fees then would be used primarily for educational programs in which the private sector executives participate. In the absence of this legislation, the educational programs would be severely curtailed, according to a Commission representative.

The Commission was established in 1969 by an Executive order issued by President Johnson. The purpose of the Commission is to promote communication and understanding between business and Government. Under the exchange program, executives from the private sector and the Federal Government are placed in the opposite sector for a year's work experience.

The Executive order required the development of an education program for the participating executives. fund the educational activities of the private sector participants, the Commission has collected fees from private sector firms and deposited them in a special fund in the Department of the Treasury. Recently, however, Treasury Department questioned the legal authority for using the special fund for educational expenses of exchange program participants—thus the need for this legislation.

The proposed legislation is effective for only 1 year. This will allow the education program to be continued and give the Congress the opportunity change program next year.

Mr. Speaker, I thank the gentleman for yielding and for explaining the bill very well.

I ask for its immediate consideration.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. FORD)?

Mr. WALKER. Mr. Speaker, reserving the right to object, I see that we are making available money for the costs for printing without regard to section 501 and title 44, United States Code.

What is it that we are waiving there? I would be glad to yield to the gen-

Mr. FORD of Michigan. Mr. Speaker, I am doing this, believe me, at the request of the White House and the Office of Management and Budget. It might surprise the gentleman that I do things for them on occasion.

They assured me it will not cost a penny.

If the gentleman wants to object to it, it will not bother me a bit.

Mr. WALKER. I thank the gentleman for his generosity. He has always been of a generous nature.

All I am trying to do is figure out what we are doing, whether it is the administration's work or whose.

Mr. FORD of Michigan. If the gentleman will yield, the gentleman from New Jersey (Mr. Courter) knows more about it than I do.

Mr. WALKER. I am happy to yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Speaker, thank the gentleman for yielding.

This is a request of the administration. No additional cost is involved. I understand that participating corporations would rather have this done by the Office of Personnel Management under, of course, the Post Office and Civil Service Committee, because they have greater work and expertise with statistics.

Mr. WALKER. Mr. Speaker, does anybody know what title it is or what it is that this part of the United States Code is that we are waiving?

Mr. COURTER. Mr. Speaker, if the gentleman will yield to me, I do not think we are waiving any part of the

WALKER. It says without regard to section 501 of title 44. That is a waiver. I am wondering what law it is that we are waiving.

Mr. COURTER. I cannot satisfy the gentleman's inquiry and, of course, he is free to object if he so chooses.

WALKER. Mr. Speaker, Mr.

The SPEAKER pro tempore. Objection is heard.

to thoroughly review the entire ex- DESIGNATING 1983 AS THE TRI-ANNIVERSARY CENTENNIAL YEAR OF GERMAN SETTLE-MENT IN AMERICA

> Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate Joint Resolution (S. J. Res. 260) to designate the period commencing January 1, 1983, and ending December 31, 1983, as the "Tricentennial Anniversary Year of German Settlement in America," and ask for its immediate consideration in the House.

> The Clerk read the title of the Senate joint resolution.

> The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

> Mr. COURTER. Mr. Speaker, reserving the right to object, it is my understanding that the census that was just completed indicated that there are more Americans of German ancestry than any other ancestry, about onequarter of the country.

> I understand it is a piece of legislation that the administration would like very much to see passed.

> Mr. Speaker, I am happy to yield to the gentleman from Michigan, the distinguished chairman of our committee, for further explanation.

> Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman. We are using actually the resolution, which should by all means be passed, as a vehicle, and the reason it must be done before the end of this session is that the President has a commitment to appoint a Presidential commission to meet with the German counterparts and plan for next year's joint events between the Germans and the Americans to celebrate 300 years of Germans living in the State of Pennsylvania-not really 300 years in Pennsylvania, but that is where they started in this country.

> I am sure that there is no cost involved and that no one would like to stop this, because the President did make a commitment earlier this year to the Chancellor and somehow somebody lost track of it here. If we do not do it before the end of the year, the Germans have a commission and nobody to meet with, so I would appreciate if we could immediately do it.

> We will amend the commemorative resolution as soon as it is passed by adding a 40-member commission, consisting of ten members appointed by the President pro tempore of the Senate, 10 appointed by the Speaker of the House, 19 appointed by the President, and 1 by the Chief Justice of the Supreme Court, who will serve without compensation.

> The burden of administration for this commission will be borne by the USIA, whatever it is called now, and

they in turn will be reimbursed by contributions by the trust funds developed for the German-American tericentennial celebration.

Senate Joint Resolution 260, which passed the Senate October 1, would designate calendar year 1983 as the "centennial Anniversary Year of German Settlement in America."

It was almost 300 years ago, on October 6, 1683, that the first German immigrants, a group of 13 Mennonite families, arrived at Philadelphia. These immigrants went on to found Germantown, now a part of the city of Philadelphia. Since that original group, more than 7 million German immigrants have entered the United States and have contributed to the growth and success of our great coun-

Today there are more than 60 million Americans of German decent-a number about equal to the total population of the Federal Republic. According to a 1979 Census Bureau study, more Americans claim German ancestry than any other nationality.

Throughout the next year there will be a number of activities and observances to celebrate the centennial culminating in a celebration in Philadelphia next October. To coordinate these activities and to provide support to make these observances more effective and broadly visible, I will offer an amendment, at the request of the administration, to establish a temporary commission. The activities of the commission will be funded by private donations-there will be no cost to the Government. The commission will consist of not more than 40 public and private citizens appointed by the President. Ten members shall be appointed based on the recommendation of the Speaker, and 10 based on the recommendations of the President pro tempore.

Mr. COURTER. Mr. Speaker, according to a 1979 Census Bureau Study, more Americans claim German ancestry than any other nationality. The 1980 census shows that about onefourth of our population is of German descent. Thus it is fitting that communities in all regions of the U.S. plan to commemorate the tricentennial of German immigration. Since that first group of Germans in 1683 over 7 million immigrants have entered the United States from Germany. They and their German-American descendents have contributed immeasurably to the growth and success of the United States.

I urge my colleagues to support this resolution.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. This sounds like this resolution is a model of frugality, just like the 300 years of German settle-

ment in this country have shown the Germans to be.

Mr. COURTER. I thought that the gentleman would like to have an opportunity to say that.

Mr. WALKER. I certainly agree with the gentleman and I thank him for yielding.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan (Mr. FORD)?

There was no objection. The Clerk read the Senate joint res-

## olution, as follows:

Whereas October 6, 1983, is the three hundredth anniversary of German settle-ment in America at Philadelphia, Pennsyl-

S.J. RES. 260

Whereas such date marks the beginning of the immeasurable human, economic, political, social, and cultural contributions to this country by millions of German immigrants over the past three centuries; Whereas today the United States of Amer-

ica and the Federal Republic of Germany continue their close friendship based on the common values of democracy, guaranteed individual liberties, tolerance of personal differences, and opposition to totalitarianism; and

Whereas it is fitting that this historic event be commemorated in such a manner as to celebrate German-American friendship and to focus on the democratic values that bind us together: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing January 1, 1983, and ending December 31, 1983, is hereby designated as the "Tricentennial Anniversary Year of German Settlement in America", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the year with appropriate ceremonies and activities.

SEC. 2. As a concrete demonstration of our commitment to the enduring United States-German relationship, and as an act of celebration to inaugurate the Tricentennial Year, we express our strong support for the President's Youth Exchange Initiative, and especially the concept of a United States-German teenage exchange sponsored by the Members of the United States Congress and the West German Bundestag, and emphasizing home stays with families.

AMENDMENT OFFERED BY MR. FORD OF MICHIGAN Mr. FORD of Michigan. Mr. Chair-

man, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. FORD of Michigan: Immediately after section 2, add the

following new section:

SEC. 3, (a) There is hereby established a Commission to be known as the Presidential Commission for the German-American Tricentennial (hereinafter referred to as the "Commission") to plan, encourage, develop, and coordinate the commemoration of the German-American Tricentennial. In preparing its plans and carrying out its program, the Commission shall give due consideration to any related plans and programs developed by State, local, private, and foreign

(b) The Commission shall be composed of not more than 40 members, appointed by

the President, 10 of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and 10 of whom shall be appointed upon the recommendation of the President pro tempore of the Senate, in consultation with the majority leader and minority leader of the Senate. One member shall be the Chief Justice of the United States or his designee. The members shall be from the public and private sectors and the President shall designate a member from the private sector as Chairman. The members of the Commission shall receive no compensation for their services as such but may be allowed necessary travel expenses, as authorized by law, to carry out Commission activities.

(c) The Commission is authorized to encourage the participation of, and receive donations of money, property and personal services from, public and private organizations and individuals to assist the Commission in carrying out its responsibilities. The Director of the United States Information Agency is authorized to provide administrative services and staff support to the Commission, as necessary, for which reimbursement shall be made from funds of the Commission under section 686 of title 31, United States Code, in such amounts as may be agreed upon by the Chairman of the Commission and the Director. The heads of other Executive agencies and departments are also authorized and requested to cooperate with and assist the Commission in fulfilling its responsibilities.

(d) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable and to appoint such advisory committees as it deems necessary. The Commission may also procure temporary and intermittent services as authorized by section 3109(b) of title 5, United States Code. The Commission shall have authority to make contracts and grants as necessary and appropriate to carry out its program.

(e) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) All expenditures of the Commission shall be made from donated funds.

(g) A report of the Commission's activities shall be made to Congress no later than January 31, 1984, upon which date the Commission shall terminate.

## □ 2030

Mr. FORD of Michigan (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr.

The amendment was agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. there objection to the request of the gentleman from Michigan?

There was no objection.

## TECHNICAL AMENDMENTS EDUCATION CONSOLIDAT CONSOLIDATION AND IMPROVEMENT ACT OF

Mr. PERKINS. Mr. Speaker, I call up the bill (H.R. 7336) to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981, and ask for its immediate consideration in the House.

The Clerk read the title of the bill. The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Kentucky?

Mr. GOODLING. Mr. Speaker, reserving the right to object, I do so in order to give the chairman an oppor-

tunity to explain this bill.

Mr. PERKINS. Mr. Speaker, the Committee on Education and Labor has asked to bring before the House at this late date a bill which will clarify the responsibilities of local school districts in two of the largest Federal education programs. This clarification is necessary to eliminate present confusion at the local level and the possibility of later well-meaning but misdirected Federal audits.

The reason we are bringing this bill to the floor so late in the year is that we could not legislate earlier due to a dispute between the Congress and the executive branch over our unanimous veto of certain education regulations for these programs. It was only after the Department of Education revised those regulations on November 19 that we could safely move ahead on making technical corrections to the affected laws without prejudicing the position of Congress in a possible lawsuit over the constitutionality of the legislative veto.

Mr. Speaker, H.R. 7336 was adopted unanimously by the Committee on Education and Labor. It amends chapter 1 (the former title I) compensatory education program and and chapter 2-the education block grant-program which were created last year by the enactment of the Omnibus Reconciliation Act.

In brief, the bill-

Repeals a provision which could have led to compensatory education funds being so dispersed as to be ineffective:

Relieves the smallest school districts of strict school targeting provisions in the compensatory education program Pennsylvania.

and of biennial audits in the block grant program;

Restores to school districts the discretion they enjoyed under the title I program regarding schoolwide projects, noninstructional duties of personnel, and designating all areas as eligible when there is at least 25-percent poverty;

Clarifies the limited audit and fiscal role of the States in certifying local school districts' applications for block grant funds; and

Clarifies the submission dates and timelines for the congressional review of

Mr. Speaker, in the rush to legislate last year some confusion was created over the rules which apply in these two major Federal programs. This bill seeks to clarify these rules so that local school districts are not judged delinquent in later audits due to any confusion we ourselves may have created.

Mr. Speaker, I urge the adoption of the legislation. And I commend the ranking Republican on the Subcommittee on Elementary, Secondary and Vocational Education, Mr. Goodling, for having taken the leadership in drafting this legislation and in persevering to achieve its enactment.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would like to say that the reason we were prevented from bringing this package any earlier was, first of all, the lateness with which the regulations came from the Department, and then, of course, they got caught up in that legislative veto fight.

There is so much ambiguity in the education community regarding the implementation of this new act that we asked the staff on both sides of the aisle to work with all those out in the education community and also with the Senate, and we have a bipartisan agreement and, in fact, I would like to emphasize that the Senate is prepared to adopt this package of amendments without the need for a conference committee meeting, simply because we worked it out with the educational community and on a bipartisan effort, and with the Senate.

Mr. PERKINS. And one of the greatest reasons that we should adopt the amendments is to relieve the local school districts of any responsibility, when it is the fault of the Congress, as to the audits.

The gentleman raised this question and he has corrected that situation.

Mr. Speaker, I think the gentleman from Pennsylvania is to be complimented for his work on these clarifying amendments. I do not know of any objection to them.

Mr. GOODLING. Mr. Speaker, further reserving the right to object, I would yield to my colleague from

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, is there any money involved in this situation?

Mr. GOODLING. No. As a matter of fact, the thing it will probably do is to save school districts an awful lot of money because I can see an awful lot of litigation if we do not clear up the ambiguity.

Mr. WALKER. Could we once and for all in these technical amendments get the phone number of the young lady at the Library of Congress that the majority leader was so worried

Mr. GOODLING. That was not in our part.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the bill as follows:

#### H.R. 7336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### STATE PROGRAM DESIGN

SECTION 1. Section 555(b) of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35) (hereafter in this Act referred to as "the Act") is amended to read as follows:

"(b) PROGRAM DESIGN.-State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children in accordance with section 554(a)(2) and the other applicable requirements of this chapter.".

## APPLICATIONS

SEC. 2. (a) Section 556(b) of the Act is amended by inserting "or" at the end of paragraph (1)(A) and by striking out "or" at the end of paragraph (1)(B) and by striking out paragraph (1)(C).

(b) Section 556 of the Act is amended by adding at the end thereof the following:

"(c) Exemption From Targeting.-The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than 1,500 children."

#### AREAS FOR SERVICES TO PRIVATE SCHOOL CHILDREN

SEC. 3. Section 557(a) of the Act is amended by inserting "(1)," immediately after "556(b)".

#### APPLICATION OF NONSUPPLANTING RULE TO STATES

SEC. 4. Section 558(b) of the Act is amend-

(1) by inserting "State educational agency in operating its State level programs or before "local educational agency" in the first sentence; and

(2) by striking out "a local educational agency shall not be required" in the second sentence and inserting in lieu thereof ther a State educational agency nor a local educational agency shall be required".

## **EXCLUSIONS OF SPECIAL PROGRAM FUNDS**

SEC. 5. Section 558(d) of the Act is amended by strking out "if such programs are consistent with the purposes of this chapter.' and inserting in lieu thereof "Including-

"(1) compensatory education for educationally deprived children (similar to programs assisted under this chapter), and

"(2) for the purpose of determining compliance with the requirements of subsection

"(A) bilingual education for children of

limited English proficiency,
"(B) special education for handicapped children or children with specific learning disabilities, and

(C) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965.".

#### FLEXIBILITY TO CONTINUE TITLE I-TYPE EXPENDITURES

SEC. 6. Section 558 of the act is amended by adding at the end thereof the following new subsection:

"(f) LOCAL EDUCATION AGENCY DISCRE-TION.-A local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows:

"(1) Funds received under this chapter may be used for educationally deprived children who are in school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school at-

tendance area of such agency.
"(2) If an eligible school attendance area or eligible school was so designated in accordance with section 556(b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a fiscal year even though it does not qualify in accordance

with section 556(b)(1)(A).

"(3) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low-income fami-lies may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance or schools under this paragraph.

'(4) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of

such year.

(5) In the case of any eligible school in which not less than seventy-five per centum of the children attending are from lowincome families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

"(6) School personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or ten per centum of the total time, whichever

## PHASEOUT AND TRANSITION EXPENSES

SEC. 7. Section 562(c) of the Act is amended by adding at the end thereof the follow-Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 561(a) and in promoting an orderly transition to operations under this chapter."

#### STATE ALLOTMENTS

SEC. 8. The first sentence of section 563(a) is amended by striking out "not to exceed".

#### AUDIT REQUIREMENT OF SMALL LEA'S

SEC. 9. Section 564(a) of the Act is amended by inserting after paragraph (7) the fol-lowing new sentence: "Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average \$5,000 each year under this chapter shall be audited at least once each five years.".

#### REQUIREMENT FOR STATE APPROVAL OF LEA APPLICATIONS

10. Section 566(a) of the Act is amended by striking out everything preceding paragraph (1) and inserting in lieu thereof the following:

"SEC. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been approved. The State educational agency shall approve any such application if such application-".

## SCHOOL LEVEL PROGRAMS

SEC. 11. Section 573(a) of the Act is amended by striking out "chapter" in the first sentence and inserting in lieu thereof "subchapter".

## STATE RULEMAKING

SEC. 12. Section 591 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this Act shall be deemed to authorize or prohibit a State educational agency from adopting rules, regulations, procedures, guidelines, criteria, or other requirements applicable to programs and projects assisted under this Act if they do not conflict with the provisions of this Act or with other applicable Federal law. The imposition of any State rule, policy, or data collection form relating to the administration and operation of programs funded by this Act (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement."

## WITHHOLDING OF PAYMENTS

SEC. 13. Section 592(a) of the Act is amended by striking out "on the record" in the first sentence.

## JUDICIAL REVIEW

SEC. 14. Section 593(b) of the Act is amended by inserting "and a local educa-tional agency" after "A State educational

#### APPLICATION OF GEPA

SEC. 15. Section 596 of the Act is amended to read as follows:

#### "APPLICATION OF OTHER LAWS

"SEC. 596. (a) Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this subtitle.

"(b) To the extent of any inconsistency therein, the following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with respect to the programs authorized by this subtitle:

'(1) Section 408(a)(1) of the General Education Provisions Act is superseded by sec-

tion 591(a) of this subtitle.

"(2) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle.

"(3) Section 430 of such Act is superseded by section 556(a) and 564(b) of this subtitle. "(4) Section 431A of such Act is superseded by section 558(a) of this subtitle.

"(5) Section 453 of such Act is superseded

by section 592 of this subtitle.

"(6) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments.

(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this subtitle.".

#### CORRECTION OF TITLE I ESEA REFERENCES

SEC. 16. (a) Title I of the Elementary and Secondary Education Act of 1965 is amend-

(1) in section 142(a)-

(A) by striking out "subpart 3 of part A, other than sections 122, 123, and 126(d) thereof" in paragraph (3) and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981"; and

(B) by striking out "parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a))" in paragraph (4) and inserting in lieu thereof "parents and teachers of children participating in such programs and projects;"; and

(2) in sections 147 and 152(a), by striking out "subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 126(e) thereand inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsections (b) and (c)) of the Education Consolidation and Improvement Act of 1981".

(b) The amendments made by subsection (a) shall apply only with respect to funds made available under the Education Consolidation and Improvement Act of 1981.

## CONFORMING AMENDMENTS

SEC. 17. (a) Section 565(a) of the Act is amended by striking out "nonpublic" and inserting in lieu thereof "private"

(b) Section 566(a)(2) of the Act is amended by striking out "private, nonprofit" and inserting in lieu thereof "private'

(c) Section 586(a)(1) of the Act is amended by striking out "nonprofit".

## EFFECTIVE DATE

SEC. 18. With respect to the period beginning July 1, 1982, and ending June 30, 1983, no recipient of funds under the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of such Act if such funds are expended either in accordance with such Act as in effect prior to the date of enactment of this Act or in accordance with such Act as amended by this Act.

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that the bill be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky.?

There is no objection.

COMMITTEE AMENDMENT IN THE NATURE OF A SUBSTITUTE

The SPEAKER pro tempore. The Clerk will report the committee amendment in the nature of a substitute.

The Clerk read as follows:

Committee amendment in the nature of a substitute; strike out all after the enacting clause and insert:

#### H.R. 7336

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

#### STATE PROGRAM DESIGN

SECTION 1. Section 555(b) of the Education Consolidation and Improvement Act of 1981 (Public Law 97-35) (hereafter in this Act referred to as "the Act")— is amended to read as follows:

as follows:

"(b) Program Design.—State agency programs shall be designed to serve migratory children of migratory agricultural workers or of migratory fishermen, handicapped children, and neglected and delinquent children (as described in subparts 1, 2, and 3, respectively, of part B of title I of the Elementary and Secondary Education Act of 1965) in accordance with section 554(a)(2) and the other applicable requirements of this chapter. The Secretary shall continue to use the definition of 'currently migratory child' which was in effect on June 30, 1982, in regulations prescribed under subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965."

## APPLICATIONS

SEC. 2. (a) Section 556(b) of the Act is amended by inserting "or" at the end of paragraph (1)(A) and by striking out "or" at the end of paragraph (1)(B) and by striking out paragraph (1)(C).

(b) Section 556 of the Act is amended by adding at the end thereof the following:

"(c) EXEMPTION FROM TARGETING.—The requirements of subsection (b)(1) shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this subsection shall not be construed to exempt such an agency from the requirement to serve those children who have the greatest need for special assistance."

## FLEXIBILITY TO CONTINUE TITLE I-TYPE EXPENDITURES

SEC. 3. Section 556 of the Act is further amended by adding at the end thereof the

following new subsection:

"(d) Local Educational Agency Discretion.—Notwithstanding subsection (b)(1) of this section, as local educational agency shall have discretion to make educational decisions which are consistent with achieving the purposes of this chapter as set forth in this subsection, as follows: "(1) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area for any fiscal year if, in each school attendance area in which projects assisted under this title were carried out in the preceding fiscal year, the aggregate amount expended in the current fiscal year under this subtitle and under a State program (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965) equals or exceeds the amount expended from those sources in that area in such preceding fiscal year.

"(2) A local educational agency may, with the approval of the State educational agency, designate as eligible (and serve) school attendance areas with substantially higher numbers or percentages of educa-tionally deprived children before school attendance areas with higher concentrations of children from low-income families, but this provision shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of compensatory education services to educationally deprived children from low-income families in project areas served by the local educational agency.

"(3) Funds received under this chapter may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(4) If an eligible school attendance area or eligible school was so designated in accordance with section 556(b)(1)(A) in either of two preceding fiscal years, it may continue to be so designated for a single additional fiscal year even though it does not qualify in accordance with section 556(b)(1)(A).

"(5) With approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions of children from low income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this chapter, but (A) the number of children attending private elementary and secondary schools who receive services under this chapter shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and sec-ondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this chapter shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(6) A child who, in any previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this title for the current year.

"(7) Educationally deprived children who begin participation in a program or project assisted under this chapter who, in the same school year, are transferred to a school attendance area or a school not receiving

funds under this chapter, may continue to participate in a program or project funded under this chapter for the remainder of such year.

"(8) The Secretary shall issue regulations permitting local educational agencies to skip educationally deprived children in greatest need of assistance in providing services under this subtitle if such children are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this subtitle.

"(9) In the case of any school serving an attendance area that is eligible to receive services under this chapter and in which not less than 75 percent of the children are from low-income families, funds received under this chapter may be used for a project designed to upgrade the entire educational program in that school in the same manner and only to the same extent as permitted under section 133(b) of the Elementary and Secondary Education Act of 1965 (but without regard to paragraph (4) of such section).

"(10) Public school personnel paid entirely by funds made available under this chapter may be assigned limited, rotating, supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. Such duties may not exceed the same proportion of total time as is the case with similarly situated personnel at the same school site, or 10 percent of the total time, whichever is less."

## AREAS FOR SERVICES TO PRIVATE SCHOOL CHILDREN

SEC. 4. Section 557(a) of the Act is amended by inserting "(1)," immediately after "556(b)".

## APPLICATION OF NON-SUPPLANTING RULE TO STATES

SEC. 5. Section 558(b) of the Act is amend-

(1) by inserting "State educational agency or other State agency in operating its State level programs or a" before "local educational agency" in the first sentence; and

(2) by striking out "a local educational agency shall not be required" in the second sentence and inserting in lieu thereof "no State educational agency, other State agency, or local educational agency shall be required".

## EXCLUSIONS OF SPECIAL PROGRAM FUNDS

SEC. 6. Section 558(d) of the Act is amended—

(1) by striking out "if such programs are consistent with the purposes of this chapter" and inserting in lieu thereof "including compensatory education for educationally deprived children (which meets the requirements of section 131(c) of the Elementary and Secondary Education Act of 1965)"; and

(2) by addding at the end therof the following new sentence:

"For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

"(1) bilingual education for children of

limited English proficiency,
"(2) special education for handicapped
children or children with specific learning
disabilities, and

"(3) certain State phase-in programs as described in section 131(d) of the Elementary and Secondary Education Act of 1965.".

#### OVERLAP IN COUNTY BOUNDARIES

SEC. 7. Section 558(e) of the Act is amended by striking out "In any State" and inserting in lieu thereof "Notwithstanding section 111(a)(3)(C) of the Elementary and Secondary Education Act of 1965, in any State".

#### PHASE-OUT AND TRANSITION EXPENSES

SEC. 8. Section 562(c) of the Act is amended by adding at the end thereof the following: "Until September 30, 1983, such funds may also be used to assist in phasing out programs described in section 561(a) and in promoting an orderly transition to operations under this chapter."

#### STATE ALLOTMENTS

Sec. 9. The first sentence of section 563(a) is amended by striking out "not to exceed".

#### AUDIT REQUIREMENT OF SMALL LEA'S

SEC. 10. Section 564(a) of the Act is amended by inserting after paragraph (7) the following new sentence: "Notwithstanding section 1745 of this Act, local educational agencies receiving less than an average \$5,000 each year under this chapter shall be audited at least once each five years."

# REQUIREMENT FOR STATE CERTIFICATION OF LEA APPLICATIONS

SEC. 11. Section 566(a) of the Act is amended by striking out everything preceding paragraph (1) and inserting in lieu thereof the following:

"Sec. 566. (a) A local educational agency may receive its allocation of funds under this chapter for any year for which its application to the State educational agency has been certified to meet the requirements of this subsection. The State educational agency shall certify any such application if such application—".

#### SCHOOL LEVEL PROGRAMS

SEC. 12. Section 573(a) of the Act is amended by striking out "chapter" in the first sentence and inserting in lieu thereof "subchapter".

## STATE RULEMAKING

SEC. 13. Section 591 of the Act is amended by adding at the end thereof the following new subsection:

"(d) Nothing in this subtitle shall be interpreted (1) to authorize State regulations, issued pursuant to procedures as established by State law, applicable to local educational agency programs or projects funded under this subtitle, except as related to State audit and financial responsibilities, or (2) to encourage, preempt, or prohibit regulations issued pursuant to State law which are not in conflict with the provisions of this subtitle. The imposition of any State rule or policy relating to the administration and operation of programs funded by this subtitle (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement."

## WITHHOLDING OF PAYMENTS

SEC. 14. Section 592(a) of the Act is amended—

(1) by striking out "on the record" in the first sentence; and

(2) by adding at the end thereof the following new sentence: "A transcript or recording shall be made of any hearing conducted under this subsection and shall be available for inspection by any person."

## JUDICIAL REVIEW

SEC. 15. Section 593(b) of the Act is amended by inserting "and a local educational agency" after "a State educational agency".

## APPLICATION OF GEPA

Sec. 16. (a) Section 596 of the Act is amended to read as follows:

### "APPLICATION OF OTHER LAWS

"Sec. 596. (a) Except as otherwise specifically provided by this section, the general Education Provisions Act shall apply to the programs authorized by this subtitle.

"(b) The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this subtitle with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 591(a) of this subtitle.

"(2) Section 426(a) of such Act is superseded by section 591(b) of this subtitle.

"(3) Section 427 of such Act is superseded by section 556(b)(3) of this subtitle.

"(4) Section 430 of such Act is superseded by section 556(a) and 564(b) of this subtitle. "(5) Section 431A of such Act is superseded by section 558(a) of this subtitle.

"(6) Section 453 of such Act is superseded by section 592 of this subtitle.

"(7) Section 455 of such Act is superseded by section 593 of this subtitle with respect to judicial review of withholding of payments.

"(c) Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the program authorized by this subtitle and shall not be construed to authorize the Secretary to require any reports of take any actions not specifically authorized by this subtitle.".

"(b) Section 431(b)(1) of the General Education Provisions Act is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, any such regulation published as a final regulation shall be considered as a recommendation to the Congress and shall have not force or effect until after the conclusion of the period or periods specified in subsection (d)."

(c) Section 431(d) of the General Education Provisions Act is amended—

(1) by striking out "such transmission" in the second sentence of paragraph (1) and inserting in lieu thereof "such publication";

(2) by inserting "except as provided in paragraph (4) and" after "without interruption" in the first sentence of paragraph (2);

(3) by inserting "(subject to paragraph (3))" after "end of such adjournment" each place it appears in the second and fourth sentences of paragraph (2); and

(4) by adding at the end thereof the following new paragraphs:

"(3) In the case of an adjournment sine die at the end of any Congress, only those days on which each House of the Congress is in session following the convening of the succeeding Congress shall be counted in computing the ten- and twenty-day periods (after the end of such adjournment) under paragraph (2).

"(4) For the purpose of computing any period of ten, twenty, or forty-five days under this subsection (other than in the case described in paragraph (3)), Saturdays and Sundays shall be excluded."

(d) Section 406A of the General Education Provisions Act as added by the Education Amendments of 1974 (relating to responsibility of States to furnish information) is renealed CONFORMING AND TECHNICAL AMENDMENTS TO TITLE I ESEA

SEC. 17. (a) Title I of the Elementary and Secondary Education Act of 1965 is amended—

(1) in section 111(d)(2), by inserting "as a fulfillment of a continuing trust responsibility of the Federal Government as it relates to education for Indian students" immediately before the period at the end of the first sentence;

(2) in section 142(a)-

(A) by striking out "subpart 3 of part A, other than sections 122, 123, and 126(d) thereof" in paragraph (3) and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981"; and

(B) by striking out "parent advisory councils established in accordance with regulations of the Commissioner (consistent with the requirements of section 125(a))" in paragraph (4) and inserting in lieu thereof "parents and teachers of children participating in such programs and projects"; and

(3) in sections 147 and 152(a), by striking out "subpart 3 of part A, other than sections 122, 123, 125, 126(d), and 126(e) thereof" and inserting in lieu thereof "section 556 (other than subsection (b)(1)) and section 558 (other than subsection (c)) of the Education Consolidation and Improvement Act of 1981".

(b) The amendments made by subsections (a) (2) and (3) shall apply only with respect to funds for use under the Education Consolidation and Improvement Act of 1981.

#### CONFORMING AMENDMENT

SEC. 18. Section 565(a) of the Act is amended by striking out "nonpublic" and inserting in lieu thereof "private, nonprofit".

## IMPACT AID

SEC. 19. Section 505(a)(1) of the Omnibus Education Reconciliation Act of 1981 is amended by striking out "section 2" the second place it appears and inserting in lieu thereof "section 7".

## EFFECTIVE DATE

SEC. 20. (a) Except as provided in subsection (b), the amendments made by this Act to the Education Consolidation and Improvement Act of 1981 and title I of the Elementary and Secondary Education Act of 1965 shall be effective July 1, 1983.

(b) With respect to the period beginning July 1, 1982, and ending June 30, 1983, no recipient of funds under the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of such Act if such funds are expended either in accordance with such Act as in effect prior to the date of enactment of this Act or in accordance with such Act as amended by this Act.

Mr. PERKINS (during the reading). Mr. Speaker, I ask unamimous consent that the committee amendment in the nature of a substitute be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST TO CONSIDER HOUSE AMENDMENT TO SENATE AMENDMENT TO H.R. 5536, FEASIBILITY STUDIES OF WATER RESOURCE DEVELOPMENT IN CENTRAL PLATTE VALLEY, NEBR.

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5536) to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr., with a Senate amendment thereto, and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

In lieu of the Senate amendment insert: Strike out all after the enacting clause and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Colville Indian Reservation, Chief Joseph Dam project, located in northeastern Washington.

(2) Gibson Dam powerplant, located on the Sun River in Lewis and Clark Counties, Montana.

(3) Imperial Irrigation District canal lining, located in Imperial Irrigation District, Imperial County in southern California.

(4) New Melones conveyance system study, Central Valley project, Stanislaus River division, located in Tuolumne, Calaveras, Stanislaus, San Joaquin, and Merced Counties, California.

(5) Pilot Butte powerplant, Riverton unit, located in Fremont County, Wyoming.

(6) Prairie Bend unit, located in the Platte River Basin, located in Buffalo and Hall Counties, Nebraska. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane.

(7) Siletz River Basin project, located in Lincoln and Polk Counties, Oregon.

(8) Spring Canyon pumped-storage project, located in Mohave County, Arizona.

(9) Tongue River Dam, located in Big Horn and Rosebud Counties, Montana.

(10) Water conservation and efficient use program, All-American canal relocation project, located in Imperial County, Califor-

(11) Upper Klamath offstream storage study, Klamath project, located in Klamath County, Oregon.

(12) South Dakota water deliveries study, Pick-Sloan Missouri Basin program, located in Brown and Spink Counties, South Dakota.

(13) Central South Dakota water studies, Pick-Sloan Missouri Basin program, located in Sully, Hughes, Hyde, Hand, Beadle, and Faulk Counties, South Dakota.

(14) Blue Holes Reservoir, located in Fremont County and the Wind River Indian Reservation, Wyoming.

(15) Muddy Creek Basin hydrologic, surge relief, and erosion control study, near Great Falls, Montana.

SEC. 2. Before funds are expended for any of the feasibility studies authorized herein, the State in which the proposed project which is the subject of such feasibility study, or some other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the cost shall be a reasonable share, as determined by the Secretary of the Interior and may be partly or wholly in the form of services directly related to the conduct of the study.

SEC. 3. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to complete protection of the Fisherman's Wharf area of San Francisco, California, substantially in accordance with the report of the Chief of Engineers dated February 3, 1978, as supplemented on June 7, 1979. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LUJAN. Mr. Speaker, reserving the right to object, I do so simply to ask the gentleman from California if there is any expenditure of funds involved in these studies? I know the question is going to be asked. I know the answer, but I should ask it.

Mr. PHILLIP BURTON. These items are all within the legislative budget and, therefore, the costs, if any, are de minimis.

Mr. LUJAN. Mr. Speaker, I with-draw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. VENTO. Mr. Speaker, reserving the right to object, can the gentleman tell me if these feasibility studies include the amendment language agreed to with regard to the cost-sharing with regard to the State participation?

Mr. PHILLIP BURTON. The answer is ves.

Mr. VENTO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WALKER. Mr. Speaker, reserving the right to object, can the gentleman tell me what the level is of local cost-sharing that is in that amendment?

Mr. PHILLIP BURTON. The feasibility study, I am led to believe by the staff, is the administration cost-sharing guidelines.

Mr. WALKER. Well, can the gentleman tell me what the level of that cost-sharing is if we are establishing a local cost-sharing project? Can we know what the level is?

Mr. PHILLIP BURTON. My distinguished colleague from New Mexico (Mr. Lujan ) can respond to that.

Mr. LUJAN. Will the gentleman vield to me?

Mr. WALKER. I yield to the gentleman from New Mexico.

Mr. LUJAN. I would say to the gentleman there are administration guidelines for these sorts of projects. It is about 25 percent.

Mr. WALKER. Twenty-five percent? Mr. LUJAN. Around there.

Mr. VENTO. If the gentleman will yield further, this is another precedent-breaking in the sense that we have feasibility studies with cost sharing. The actual cost of the feasibility study, while not great, there is provision here for the Secretary of the Interior to negotiate cost sharing on the States and local governments that participate.

This is an agreement that I worked out with the gentleman from Texas (Mr. KAZEN).

Mr. WALKER. Further reserving the right to object, I might ask the gentleman, because I know this is a subject that I know he has been interested in, is this figure of 25 percent approximately what you are saying?

Mr. VENTO. There is no set figure in here. While the relative cost of the feasibility studies is not as great as some of the water projects themselves, we feel the Secretary of the Interior will negotiate a fair and reasonable price with regard to the feasibility studies.

I know the Brass case is particularly important. When we passed it through this body it did not have a cost-sharing figure. A specific percentage is not in this, if that is your question.

Mr. WALKER. Yes.

Mr. VENTO. But I think from my view, I think this is an improvement over the general way that we do it and that is why I have agreed to go along with it and that is why I hope the gentleman will, too.

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Mr. WALKER. I thank the gentleman. Further reserving the right to object, is that the entire substance of the House amendment, that we are putting the cost-sharing provision in?

Mr. VENTO. I do not know. I know that is part of the provision. That is the key part I was interested in.

Mr. LUJAN. When it first went to the House we had one project. The administration had requested some others, so the administration added them, and this cost-sharing provision.

Mr. WALKER. The House amendment we are referring to, as I understand it, we are only talking about one project?

Mr. LUJAN. We were talking about one, and the administration asked for a total of 14. I believe it was. So, those

other 13 were put on it on the Senate side. So, we are adding 13 projects as requested by the administration, and the cost-sharing provision.

Mr. WALKER. Well, that adds quite a bit of money here. Can we get some idea as to what these 13 projects are

that we are adding?

Mr. LUJAN. We had \$1.6 million for the Nebraska project, and 14 others were \$9.4 million. But, the gentleman misunderstood. It is all done within their budget for these kinds of projects, and that is already authorized. they are already, assuming the appropriation passes, and they will have the money.

Mr. WALKER. The entire amount of money for the 14 projects is covered

in the budget, agreed to by the OMB?
Mr. LUJAN. Yes, it is in the budget.
Mr. WALKER. Could we get some idea, does somebody have a list of these other projects?

Mr. LUJAN. Yes. Does the gentleman want me to go through the whole thing?

Mr. WALKER. I would, please.

Mr. LUJAN-

(1) Colville Indian Reservation, Chief Joseph Dam project, located in northeastern Washington.

(2) Gibson Dam powerplant, located on the Sun River in Lewis and Clark Counties,

Montana.

- (3) Imperial Irrigation District canal lining, located in Imperial Irrigation District, Imperial County in southern California.
- (4) Melones conveyance study, Central Valley project, Stanislaus River division, located in Tuolumne, Calaveras, Stanislaus, San Joaquin, and Merced Counties, California.

(5) Pilot Butte powerplant, Riverton unit,

located in Fremont County, Wyoming.

(6) Prairie Bend unit, located in the Platte River Basin, located in Buffalo and Hall Counties, Nebraska.

(7) Siletz River Basin project, located in Lincoln and Polk Counties, Oregon.

- (8) Spring Canyon pumped-storage project, located in Mohave County, Arizona. (9) Tongue River Dam, located in Big Horn and Rosebud Counties, Montana.
- (10) Water conservation and efficient use program, All-American canal relocation project, located in Imperial County, Califor-

(11) Upper Klamath offstream storage study, Klamath project, located in Klamath

County, Oregon.

(12) South Dakota water deliveries study, Pick-Sloan Missouri Basin program, located in Brown and Spink Counties, South Dakota.

(13) Central South Dakota water studies, Pick-Sloan Missouri Basin program, located in Sully, Hughes, Hyde, Hand, Beadle, and Faulk Counties, South Dakota.

(14) Blue Holes Reservoir, located in Fre-mont County and the Wind River Indian

Reservation, Wyoming.

Mr. WALKER. I thank the gentleman, and these are all feasibility studies?

Mr. LUJAN. These are all feasibility studies.

Mr. WALKER. All the money the Federal Government has to put up

will be included in the continuing resolution?

Mr. LUJAN. Yes. Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the

gentleman from California?

Mr. FITHIAN. Mr. Speaker, reserving the right to object, so many times at the end of a Congress we get down to the very last moment and we have requests such as this, a number of projects with or without hearings. We inevitably end up a little later on finding that either environmental or other objections are there for these projects, and the argument comes that, "We have already committed money to the study," and we find ourselves increasingly bogged down in projects such as

It is therefore as much to the process as to the individual project that I object. I reluctantly do object.

The SPEAKER pro tempore. Objec-

tion is heard.

REQUEST TO CONSIDER H.R. 6820. HANDICAPPED INDIVID-UALS SERVICES AND TRAINING

Mr. PERKINS. Mr. Speaker, I call up the bill (H.R. 6820) to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Health Sports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the bill. The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Kentucky?

Mr. ERDAHL. Mr. Speaker, reserving the right to object, I do so only to enable the chairman of the committee, who had been so cooperative in supporting me on the bill that I have introduced and which has been before us since last July, and in helping steer this through the subcommittee and the committee, I reserve the right to object so that he may make a brief explanation of the bill.

First of all, I yield to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I rise in support of H.R. 6820, the Handicapped Individuals Services and Training Act, and would like to emphasize the importance of title IV, captioned media and related services for deaf and other handicapped individuals.

First, however, I would like to thank Chairman Perkins and Chairman MURPHY for their leadership and support for this measure, and would especially like to commend the bill's sponsor, Congressmen ERDAHL, for his hard work and persistence in advancing this much needed legislation.

Title IV of H.R. 6820 establishes an independent, permanent authorization for captioned film services for the deaf. The captioned films for the deaf program was established in 1958, and is currently authorized under the Education of the Handicapped Act. This important program has provided for the production and adaptation of media materials, demonstration of innovative uses of such media for improving special education and related services; training on the use of new or particularly effective delivery systems; and the establishment and maintenance of a distribution system for improving special education for handicapped children.

Over the years, the captioned film program has proven to be invaluable in the education of deaf and hearingimpaired individuals, and in facilitating their integration into the mainstream of American life. Educational and cultural information that most of us take for granted would simply not be available to deaf individuals if it were not for the existence of the captioned film program.

However, two problems have threatened the continuation and stability of the captioned film program. First, as a result of the Omnibus Reconcilation Act of 1981, the captioned film program is no longer permanently authorized, and will expire on September 30, 1983, unless extended. Second, funding was \$1 million lower than in previous years in fiscal year 1981 and fiscal year 1982, despite the continuing demand and need for such services. Clearly, both of these developments threaten to undermine captioned film services for the deaf.

The rationale for title IV is that the captioned film program is not discretionary; rather, it is a fundamental service which contributes to the independence of disabled persons, and which consequently deserves more predictable Federal support and more careful consideration in the appropriations process. Let me also point out that title IV does not increase the current authorization level, or make any major administrative changes.

Testimony in support of title IV pointed out that educational achievement by deaf persons is greatly enhanced by captioned films, which are used extensively and effectively. Although the program has been in existence for more than 20 years, less than 3 percent of the educational films available to the general public are captioned. The need for the program continues to be very great. Furthermore. this type of service is particularly appropriate for Federal support since it would be difficult and costly for the States to attempt to duplicate it.

For these reasons, I would urge my colleagues to support and vote for the

passage of H.R. 6820.

Mr. ERDAHL. Mr. Speaker, I yield to the gentleman from Illinois (Mr.

SIMON).

Mr. SIMON. Mr. Speaker, I commend my colleague from Minnesota. The portion of the bill as originally introduced that designated certain institutions, it is my understanding that has been removed, is that correct?

Mr. ERDAHL. In response to the gentleman's question, yes, that was the main objection that came out of the committee, that people were concerned about that, and some of these institutions were out of the competitive field. That was removed in the committee, and now they must submit to competition.

Mr. SIMON. I thank the gentleman. Mr. ERDAHL. Mr. Speaker, I yield to the gentleman from Kentucky (Mr.

PERKINS).

Mr. PERKINS. Mr. Speaker, we are considering the Handicapped Individuals Services and Training Act, H.R. 6820. This bill provides for the operation of the Helen Keller National Center for Deaf-Blind Youth and Adults; the Vinland National Center for Health Sports and Physical Fitness for Handicapped Individuals; regional postsecondary programs for the deaf and other handicapped individuals; and for the distribution of captioned media and other adapted materials to handicapped individuals.

This bill is the product of the efforts of many Members of Congress, but I would particularly like to acknowledge the diligent leadership of Congressman Austin Murphy, chairman of the Subcommittee on Select Education and ranking minority member, Congressman ARLEN ERDAHL, whose consistent and tireless work has contribut-

ed greatly to this legislation.

I would like to briefly touch on the highlights of H.R. 6820. Title I of the bill would establish an independent, permanent authorization for the Helen Keller National Center for Deaf-Blind Individuals with a funding level of \$3.5 million in fiscal year 1984 and such sums thereafter. The current authorization for this center expires on September 30, 1983.

Title II of the bill establishes a 5year authorization for the Vinland National Center for Physical Fitness and Health Sports for the Handicapped. For construction, the bill authorizes \$2 million in fiscal year 1984 and \$1 million in fiscal year 1985 with a requirement for matching funds from non-Federal sources. For the center's operations, the bill authorizes \$2.3 million over 5 years starting in fiscal year 1984 (\$650,000 in fiscal year 1984 and 1985; \$400,000 in fiscal year 1986; and \$300,000 in fiscal year 1987 and fiscal year 1988). The bill also requires non-Federal funding in each year during the 5 years: 10 percent in fiscal year 1984; 25 percent in fiscal year 1985; 33 percent in fiscal year 1986; 50 percent in fiscal year 1987; and 75 percent in fiscal year 1988.

Title III of the bill establishes a 5year independent authorization for regional postsecondary programs for the deaf and other handicapped individuals with a funding level of \$4 million in each of the 5 years starting in fiscal year 1984. Eighty percent of the funds are to be spent on four programs for deaf which are through a competitive process. The current authorization for regional postsecondary programs is due to expire on September 30, 1983.

Title IV of the bill establishes an independent, permanent authorization for the distribution of captioned media and other adapted materials to handicapped individuals with a funding level of \$17.5 million in fiscal year 1984 and such sums thereafter. The current authorization for this program is due to expire on September 30, 1983.

Authorization levels for all programs under this bill would be \$27.65 million in fiscal year 1984; \$27.95 million in fiscal year 1985; \$26.60 million in fiscal year 1986; and \$26.40 million in fiscal year 1987. Of these amounts, only \$5 million for the Vinland National Center is a new authorization.

Mr. Speaker, I believe that this is a good and much needed piece of legislation. It received overwhelming support in the Committee on Education and Labor. It is important that it be considered without further delay. I therefore urge my colleagues to vote overwhelmingly today in favor of this bill.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. ERDAHL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman yielding. I just want to commend the gentleman from Minnesota and say that he has really been a stellar performer in terms of his work with the Vinland National Center in Minnesota. We are going to miss his service with respect to the Vinland Center. He has been a leader in our delegation, and we appreciate his effects in terms of picking up on this initiative. I hope that we can do half the job that he has done in terms of putting this on the right track.

I looked over the bill. I thank the chairman and the members of the committee, especially, of course, our departing Member from Minnesota for his efforts and for his part in the Vinland National Center.

Mr. ERDAHL. I thank the gentle-

Mr. Speaker, it is with a sense of personal pride that I speak in support of H.R. 6820, the Handicapped Individuals Services and Training Act of 1982. Having introduced the bill in July 1982 I welcome this opportunity for my colleagues to consider the merits of this legislation. I hope you will react to H.R. 6820, as did the members of the Committee on Education and Labor did-they ordered it reported out 28 to 2 on December 1, 1982.

My most distinguished colleague and friend, Chairman Perkins of Kentucky, has outlined the contents of H.R. 6820 for you. Now I would like to describe briefly the rationale for the

Quite simply H.R. 6820 will contribute to the employability, integration, and independence of America's 35 million handicapped citizens. First, the Helen Keller National Center Deaf-Blind Youth and Adults has since 1969 been the sole national resource for preparing deaf-blind individuals for independence and employment. However, the authorization for the Helen Keller National Center is due to expire on September 30, 1983. Furthermore, as part of the Rehabilitation Act it is considered-during budget and appropriation delibera-tions—as part of a general category called special services projects. Helen Keller is not a special service project which like other Federal grants and contracts may warrant termination or recompetition for new awards every few years. Helen Keller is a one-of-akind institution. States and local governments have neither the capacity nor the moneys to provide the services that are available at the Helen Keller National Center. There is widespread agreement that the center is doing a commendable job. H.R. 6820 would allow a permanent authorization for the Helen Keller National Center and would provide it with its own line item in the budget like Gallaudet College, the National Technical Institute for the Deaf, and the American Printing House for the Blind. The authorization of an appropriation—\$3.5 million for fiscal year 1984 is the level set for fiscal year 1983 in the Reconciliation Act of 1981.

Second, H.R. 6820 provides a onetime, 5-year authorization for the Vin-National Center for Health Sports and Physical Fitness for Handicapped Individuals. Vinland is not a recreation facility for handicapped individuals. It is, however, a facility where handicapped individuals and able-bodied persons learn basic principles of wellness and how to participate and train others in sports which have been adapted for handicapped persons.

Last year in 18 States and 37 cities as well as on its own campus, Vinland offered workshops for over 3,700 persons in health sports and physical fitness. I believe Vinland brings a new, complementary dimension to the field of vocational rehabilitation. For example, over the last 10 years America has developed a vibrant preoccupation with maintenance—good nutrition, exercise, self-improvement both physically and mentally. Yet the American with a disability often does not have access to or know how to benefit from this phenomenon. Vinland can provide the link and transition so that handicapped Americans can also become more personally responsible for their own well being.

As the chairman pointed out, Vinland must meet escalating matching requirements in order to obtain funds which are appropriated over the 5year period. I believe this is a unique funding concept very appropriate for this time of limited resources. That is, Vinland, as a potential recipient of Federal funds must demonstrate that it has financial commitments from non-Federal sources, and that such commitments must increase relative to the Federal contribution over the 5year period. I have seen the experiences offered by Vinland lead to greater independence and self-confidence for handicapped individuals, as well as lead to fuller integration into home, work environments, and community. I hope you will join me in investing in some very special human capital. Funding for Vinland will yield innumerable benefits to individuals and society

Third, H.R. 6820 would authorize for 5 years the regional postsecondary programs-programs that provide post-high school opportunities America's handicapped youth. Currently the regional postsecondary programs are authorized under the Education of the Handicapped Act. Eighty percent of the appropriated funds are awarded to four postsecondary institutions which serve the deaf-the Seattle Community College, Delgado College of New Orleans, the California State University at Northridge, and the St. Paul Technical Vocational Institute. The remaining 20 percent of the appropriated funds are awarded to postsecondary institutions that serve students with disabilities other than deafness. The authorization for this program originally sponsored by my predecessor, now Governor of Minnesota, Mr. Quie, will expire on September 30, 1983. Mr. Quie recognized the unique nature of deafness-that for young deaf people it is a language deficit rather than a hearing deficit which inhibits their readiness for and success in more postsecondary institutions. Institutions like the St. Paul Technical-Vocational Institute trains deaf students in the same classes with their hearing counterparts, yet provides that margin of difference-individualized interpreters, tutors, and notetakers-to compensate for the language deficit. Yet a deaf student who completes a program at St. Paul Technical-Vocational Institute is equally qualified and as likely to be hired as the student who can here.

As I indicated, H.R. 6820 would reauthorize this effective, noncontroversial Federal program for 5 years. Eighty percent of the appropriations would continue to go to four postsecondary programs that serve deaf students. Awards would be given to institutions which demonstrate through grants or contract proposals that they have the capacity to provide students with services comparable to those now available. The authorization of appropriations for these regional postsecondary programs would be \$4 million for each year from fiscal year 1984 through fiscal year 1988. The \$4 million level is the one set in the Omnibus Reconciliation Act of 1981 for fiscal year 1983.

Fourth, H.R. 6820 would establish a permanent authorization for a federally funded loan service for captioned media and other adapted materials for handicapped persons. This service was originally established in 1958, and is now authorized under the Education of the Handicapped Act, but will terminate on September 30, 1983, unless reauthorized. H.R. 6820 gives us an opportunity to insure that this vital service continues and that handicapped persons have access to education-related material in a form that they can use. If handicapped individuals are appropriately accommodated through the continuation of this service they can more fully learn about their environment and make a greater contribution to society.

In conclusion, H.R. 6820 represents an effort to insure the continuation of some established, proven Federal programs—Helen Keller National Center, regional postsecondary programs, and the distribution of captioned media—and to authorize another—the Vinland National Center for Health Sports and Physical Fitness for Handicapped Individuals. To me, this is a special bill and a special time; I hope you will join me in voting for H.R. 6820.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield?

Mr. ERDAHL. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Speaker, I appreciate the gentleman yielding to me. I also want to compliment him on his fine work while he has been in the House. I have thoroughly enjoyed working with him while he has been here

But, I am also pleased with his efforts and with the efforts of his staff in preserving the integrity of the regional postsecondary education program for the handicapped, authorized under title III of this legislation.

Provisions under title III allocate 80 percent of the funds to be directed to four regional postsecondary education

institutions for deaf students. While I am concerned that the committee has not specified what institutions should receive these funds and that some members of the committee feel open competition should be the process that is followed in awarding these funds, I would like to ask the gentleman from Minnesota for some clarification on this matter.

Is it the intention of the committee and this legislation under any new competition for these funds, that these funds should go to institutions which can provide comparable services and training to the deaf and handicapped as those provided by the four institutions presently funded under section 625 of the education amendments?

Mr. ERDAHL. Yes. Mr. Speaker, it is our intention that the new grants and contracts awarded through competition should be just to institutions which have demonstrated the capacity to provide deaf students with services and training comparable to those now available at Delgado College in New Orleans, the St. Paul Vocational Technical Institute, the Seattle Community College, and the California State University at North Ridge.

Mr. LIVINGSTON. I appreciate the gentleman's clarification, and I note that it is possible that by opening up this program to competition we may be jeopardizing the quality of service to our deaf handicapped.

#### □ 2050

Furthermore, a grant process that has no continuity of service would surely be a detriment to our deaf handicapped in obtaining educational services that have led, under present programs, to the development of productive citizens in our society who are not dependent on government largess. Nevertheless, I am grateful to the gentleman from Minnesota (Mr. Erdahl) and to the chairman as well for this clarification of the possible dangers to these comparable services.

While I am not totally satisfied with the provisions of title III, it is indeed a compromise, and we must move forward with this authorization. I thank the gentleman for his efforts and assistance and I urge that this Chamber support this legislation.

Mr. Speaker, I thank the gentleman from Louisiana (Mr. Livingston).

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. ERDAHL. Yes, of course, I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, will the gentleman tell me whether the funding that is authorized here is included within the budget and whether or not it has the funding appropriated for it?

Mr. ERDAHL. Mr. Speaker, if the gentleman will yield, my understanding is that of the four titles of the bill.

three of them, frankly, with the exception of the program in which I have been most involved and that some people have talked about, the Vinland Center, are already authorized under the budget. There is nothing requested as far as an appropriation is concerned.

The part for the Vinland Center, which is a concept dedicated to health sports, training, another recreational facility to enable people to live independently, hopefully, to be spread throughout the country, was originally funded by the Norwegian Government, a later appropriation and funding came from this Congress, and the State of Minnesota participated. On this part of it there is \$2.6 million in new authorization provided for in this

Mr. WALKER. This is new authorization? This would be over and above the budget? There is no item in the budget for this?

Mr. ERDAHL. Mr. Speaker, I think the gentleman would be correct in

that assumption.

Mr. WALKER. And there is no ap-

propriation; is that correct?

Mr. ERDAHL. There is no appropriation. This is an authorization for starting. It is a rather unique program in that down the road it requires a matching of private funds until eventually they would take over the entire cost of the operation.

Mr. WALKER. Mr. Speaker, I know of the gentleman's long and hard work in the Congress, and I know of his dedication to this kind of project, and therefore, I am very reluctant to

However, Mr. Speaker, I do have to object.

The SPEAKER pro tempore. Objection is heard.

• Mr. GILMAN. Mr. Speaker, I rise to express my support for H.R. 6820 and especially for the provision which would establish an independent, permanent authorization for the Helen Keller National Center for Deaf-Blind Youth and Adults. The Helen Keller National Center (HKNC) is located in Sands Point, N.Y., and was established in 1967 by a unanimous act of Cogress as a comprehensive rehabilitation, research, and training facility for blind and deaf youths and adults. It is operated by the Industrial Home for the Blind, and its main purpose is to help the deaf-blind individual develop a greater sense of personal dignity and a conviction to face the future through improved self-sufficiency with the greatest degree of independence possible.

The Helen Keller National Center was constructed with Federal funds and under the statutory authority of section 313 of the Rehabilitation Act of 1973, which recognizes HKNC as a natural resource. The center has received Federal funding for construction and operation for a number of years. Currently HKNC is combined with a number of rehabilitation service projects under title III of the Rehabilitation Act, which makes every year an uncertainty in terms of planning and commitment due to funding cuts imposed on this category of services and competition for funds among all the projects involved. H.R. 6820 would provide statutory authority for the center independent of the Rehabilitation Act, which would provide a separate appropriation line item for the center and would allow it to attain a certain degree of stability necessary for development of long-range programs for research, training, and service delivery.

The Helen Keller National Center requires the protection and endorsement of a separate appropriation line item. The center is the only one of its kind in the Nation, focusing on providing intensive, specialized services to that special segment of our population struggling with one of the most severe of all disabilities-deaf blindness. Because this special population is small in number compared with other disability populations-40,000 approximately in the United States at this time-and because of the severity of the disability, it is easy for these handicapped people to be lost in the competitive campaigns mounted for Federal funding. Training and working with the deaf-blind population is extremely expensive and complex. It requires highly individualized treatment and expertise. The high cost of and highly complex nature of services makes State and local funding and sponsorship of this program remote.

Directly, through it primary facility, and, indirectly, through its nine national service regional offices, HKNC provides testing, rehabilitation, and job training to hundreds of young people and adults each year. I have had the privilege of meeting some of these young people who have come to Washington to communicate their support for this center that has brought them new hope for a fulfilling life and the chance for developing their talents. Recently, the Rehabilitation Services Administration of the Department of Education announced that it was sending all of its 10 regional Commissioners to spend a week observing the services of the Helen Keller National Center in February 1983. This implicit recognition of the great job HKNC is doing should be expressly recognized by us today in permanently authorizing this center and its work, and the honor it brings to the amazing woman for whom it is named.

H.R. 6820 is of critical importance to the center's ability to continue its national role as the leader in bringing sight to the hearts and sound to the souls of Americans. During the mid1960's, the nationwide rubella epidemic resulted in the birth of at least 6,000 deaf-blind babies. A vote for this bill is a vote of commitment to these young people and our determination that they get the individualized, technical assistance so expertly provide by the Helen Keller National Center. Transforming a world of darkness and silence into one full of hope and possibilities requires agonizing hours of individualized attention. I urge my collegues to support H.R. 6820 and its commitment to the triumph of the human spirit in a free, responsible society.

#### REQUEST TO CONSIDER HOUSE JOINT RESOLUTION WOMEN'S HISTORY WEEK

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Joint Resolution (H.J. Res. 460) designating the week beginning March 6, 1983, as "Women's History Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the

gentleman from New York? Mr. COURTER. Mr. Speaker, reserving the right to object, I do not intend to object, but I would like an explanation, if possible, from the gentleman from New York of this legislation.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, one of the problems we have had is that American women of every race, class, and ethnic background have played a major role in founding this Nation. and yet their achievements have largely gone unrecognized. It seems to me, that women play a very significant social role in all aspects of our Nation's life. They also constitute a sig-nificant portion of our present labor force today, both in the house and outside the home. Despite these contributions, American women have been consistently overlooked and undervalued as contributers to the history of this Nation.

Mr. COURTER. Mr. Speaker, I thank the gentleman for his explana-

Mrs. BOGGS. Mr. Speaker, will the gentleman vield?

Mr. COURTER. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like very much to thank the subcommittee chairman and the whole committee for bringing forth this piece of legislation. I would like especially to commend our col-

league, the gentlewoman from Marvland (Ms. MIKULSKI), for bringing it to the attention of the committee, and I would hope that the unanimous-consent request would be granted.

Mr. BADHAM. Mr. Speaker, will the

gentleman yield?

Mr. COURTER. I yield to the gentleman from California.

Mr. BADHAM. Mr. Speaker, I would like to inquire under the gentleman's reservation, when was this resolution introduced?

Mr. COURTER. Mr. Speaker, I am not sure. Under my reservation, I will have to yield to the gentleman from

New York (Mr. Garcia) for an answer. Mr. GARCIA. Mr. Speaker, I thank the gentleman for yielding.

The resolution was introduced on

April 20, 1982.

Mr. BADHAM, May I inquire, Mr. Speaker, under the gentleman's reservation, why is it that this resolution comes to the floor of the House of Representatives at 5 minutes to nine on December 17?

Mr. GARCIA. For the same reason, I suppose, that at this particular hour in closing sessions of legislative bodies throughout the country these things happen.

Mr. BADHAM. Mr. Speaker, if the gentleman would continue to yield, I

would like to inquire further.

We had a proposal earlier this evening to create an historian for the House, and I wonder if the women in history and in the Congress would be covered by this establishment of an historian for the House of Representa-

Mr. GARCIA. I would hope that they would. If in fact they have played a role, they should be recorded and

given due credit, absolutely.

Mr. BADHAM. Mr. Speaker, I personally think, if the gentleman will yield under his reservation, for which I thank the gentleman, it would be an insult to the women of this country who have contributed so much to have at this hour a resolution jammed through. So it would be my intention, when the gentleman yields back, to enter a reservation of objection and to object.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from New York?

Mr. BADHAM. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

### PUBLIC EMPLOYEES' APPRECIATION DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 619) designating January 17, 1983, as Public Employees' Appreciation Day, and ask for its immediate consideration in the

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. KAZEN. Mr. Speaker, reserving the right to object, I do this in order to inquire about the procedure for the

rest of this evening.

It was this gentleman's understanding that there would be a motion made to go into the Committee of the Whole to finish 31/2 hours of debate on the immigration bill. That was the impression that I was laboring under.

Now, if this has been changed, I would hope that the House would know about it, and if it has not, we would certainly like to put those Members on notice that from now on there is going to be a lot more talking and a lot more reserving of rights to object. I take this reservation in order to make

this parliamentary inquiry.
The SPEAKER pro tempore. The Chair knows of no change in the schedule beyond that announcement of the majority leader, and that was that there would be various unanimous-consent requests entertained prior to resolving into the Committee of the Whole House to consider the

Mr. KAZEN. Further reserving the right to object, Mr. Speaker, it would seem to me that if this House is going to vote to go into the Committee of the Whole after all of these unanimous-consent requests are out of the way-and I understand that there are about eight more-if that happens, then these Members who will be well served by having their legislation passed will then go home and leave those who are only interested in immigration, which would be probably a handful. That, I would say, is very unfair to the legislation itself and to

the country as a whole.
Mr. LUJAN. Mr. Speaker, will the

gentleman yield?

Mr. KAZEN. Under my reservation, Mr. Speaker, I yield to the gentleman

from New Mexico.

Mr. LUJAN. Mr. Speaker, I would inform the gentleman that it would not be prudent for any of the Members to leave because it is my understanding that there will be a vote on resolving into the Committee of the Whole to hear the immigration bill this evening.

Mr. KAZEN. Yes, I understand that. And further, that if that motion fails, that would be the end of it and we could go home. So I hope we can get to it pretty quickly.

Mr. COURTER. Mr. Speaker, will

the gentleman yield?

Mr. KAZEN. I yield to the gentleman from New Jersey under my reservation.

Mr. COURTER. Mr. Speaker. I thank the gentleman for yielding.

If the gentleman would be so kind as to yield to the gentleman from New York (Mr. GARCIA) I would like to propound a question to the gentleman from New York.

It is my understanding that there are not eight but possibly three or more unanimous-consent requests remaining. All three or four requests could probably be completed within a few minutes.

Mr. KAZEN. Yes, but that is this committe only. There are others, as I understand it.

Mr. GARCIA. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from New York.

Mr. GARCIA. Mr. Speaker, we have all had a great deal of patience this evening, there is no question about it, but I think it is safe for me to say that after this point, after I finish with the three or four remaining resolutions that I have pending here, which should go very quickly, the good Lord willing, there is only one request to be made by the gentleman from Califor-

nia (Mr. Patterson). Mr. KAZEN. I understand there are two more.

Mr. GARCIA. All right, two more.

Mr. KAZEN. So I say to the gentleman, that there are six.

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Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. there objection to the request of the gentleman from New York?

Mr. HOYER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I would like to take this opportunity to thank the gentleman from New York for his leadership in bringing this resolution to the floor. House Joint Resolution 619 requests the President to designate this January 17 as "Public Employees Appreciation Day."

Mr. Speaker, our local, State, and Federal Governments are experiencing some very tight budgetary restraints. It is a difficult time for Government employees who have not been able to secure salaries that meet inflation. And it is a difficult time for public employees who are becoming increasing threatened by furloughs and reduc-tions in force due to budgetary cutbacks. It is very appropos that in the midst of this holiday season we pause to pay tribute to these dedicated and often-forgotten employees.

This resolution also commemorates the enactment of the Pendleton Act 100 years ago. When Congress enacted the Pendleton Act, it inaugurated a new concept in government-the concept that our taxpayers' dollars should be managed by professionals instead of political cronies. These employees protect our shores, maintain our roads, explore space, and help cure disease. The frustration of the American public is often undeservedly passed onto these public employees. It is time now to reflect on the accomplishments of these individuals over the past 100 years and pay them the tribute to which they are entitled. I again thank the gentleman from New York for giving us this opportunity and urge my colleagues to support this worthy resolution.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THE 150TH ANNIVERSARY OF FOUNDING OF GREENE COUNTY, MO.

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the joint resolution (H.J. Res. 630) to commemorate the one hundred and fiftieth anniversary of the founding of Greene County, Mo., and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, I reserve the right to object.

Mr. TAYLOR. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Missouri.

Mr. TAYLOR. Mr. Speaker, I want to take this opportunity to commend the gentleman from New York (Mr. Garcia) for bringing this measure to the floor and I rise in support of House Joint Resolution 630 which commemorates the 150th anniversary of the founding of Greene County, Mo.

As the principal sponsor of this resolution and the Representative in Congress honored to represent Green County in these Halls, I am hopeful that my colleagues will join me in approving this resolution today.

This January 2 will be the 150th anniversary of the formal creation of Greene County by the Missouri State Legislature in 1983. At that time, Greene County was made up of what is now 15 individual counties; 15 out of the 17 that I represent here in Congress. It had its beginnings with two brothers, J. P. and Madison Campbell,

who left their homes in central Tennessee in 1829 to look for suitable homes in the West. They arrived at what was to become known throughout southwest Missouri as Fulbright Spring. There they cut their names into the sides of trees to mark their claim and returned to Tennessee for their families.

They returned to southwest Missouri and on March 4, 1830 set up their homestead camp just a short distance from what is today the public square in Springfield, Mo., the largest city in my congressional district and the third largest city in the State of Missouri. Of some interest to my colleagues may be the fact that the first election in the county was the one to elect a U.S. Congressman. It was held on August 5, 1833, but it lasted for 3 days because of the difficulty in getting the so-called back settlement vote recorded

This county, named for the Revolutionary War hero, Gen. Nathanael Greene, as you can tell, has had a historic role to play in the State of Missouri and the Nation and I would urge that my colleagues here today join me in honoring those hearty individuals who founded and still live in this great county on this, their 150th anniversary.

ry.
Mr. Speaker, I withdraw my reservations.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

#### H.J. RES. 630

Whereas 1983 marks the sesquicentennial anniversary of the founding of Greene County, Missouri;

Whereas Greene County, named for the distinguished Revolutionary War hero, General Nathanael Greene, has enjoyed a long and distinguished history, and has contributed many of its sons and daughters to hold high public office and otherwise serve the State of Missouri and our Nation:

Whereas in 1833 Greene County included all of southwest Missouri and remains today the cultural and economic hub of that part of Missouri; and

Whereas Greene County is the third most populous county on the State of Missouri and continues to grow and prosper: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation commemorating January 3, 1983, as the one hundred and fiftieth anniversary of the founding of Greene County, Missouri, and to transmit an enrolled copy of such proclamation to the Governor of the State of Missouri, and the presiding judge of Greene County, Springfield, Missouri.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table. TRANSFER OF RESPONSIBILITY FOR QUARTERLY FINANCIAL REPORT FROM FEDERAL TRADE COMMISSION TO SEC-RETARY OF COMMERCE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the bill (H.R. 7410) to amend title 13, United States Code, to transfer responsibility for the quarterly financial report from the Federal Trade Commission to the Secretary of Commerce, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I do not intend to object, but rise in support of this legislation. H.R. 7410 provides for the Quarterly Financial Report—QFR—to be transferred from the Federal Trade Commission to the Commerce Department. The administration of the QFR will be assumed by the Bureau of the Census. The administration determined that the QFR would be better administered by the Bureau of the Census—the primary statistical agency in our country rather than being administered by the FTC which is an investigatory and rulemaking body.

This bill deals solely with the transfer of authority for a single statistical activity and does not impair or strip the FTC of any existing authority.

It is of essence that we act now. The QFR provides very current aggregate statistics on the financial earnings of U.S. corporations and is used to make quarterly and annual estimates of the gross national product. The next QFR is scheduled to be taken later this month. The bill, H.R. 7410, which is supported by the administration is also enthusiastically supported by the Chamber of Commerce, National Association of Manufacturers, National Federation of Business, and the National Small Business Association.

I urge my colleagues to support this legislation.

Mr. Speaker, I withdraw my reservation.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I was going to ask the gentleman to yield for an explanation of this. It looks like this is something more substantive than some of the things we have been doing here for the last few minutes.

As one of the gentlemen said, I do not believe this is going to bring the Communists to their knees but this one looks like it has some substance and I would like an explanation.

COURTER. Mr. Speaker. think the gentleman from Pennsylvania will like this one. It has to do only with the transfer of authority of a single statistical activity from the Federal Trade Commission to the Commerce Department.

This administration feels that that particular statistical activity, that is, compiling the quarterly financial reports, would be better under the auspices of the Bureau of the Census

rather than the FTC.

It has the wholehearted support of the Chamber of Commerce, the administration, the National Association of Manufacturers, the National Federation of Businesses, the National Small Business Administration.

I think my explanation is clear enough. It has to do with the transfer of only that statistical piece of information from one agency to another and we know of no group or organization that has any objection whatsoever.

There is no cost involved.

Mr. WALKER. I cannot guarrel with

all of that high-powered help.

Mr. GARCIA. Mr. Speaker, H.R. 7410 involves a simple transfer of authority for the administration of the Quarterly Financial Report-QFRfrom the Federal Trade Commission-FTC-to the Secretary of Commerce, the day-to-day administration of the QFR will be delegated to and assumed by the Bureau of the Census. Enactment of this bill will insure the uninterrupted flow of financial statistics on the Nation's businesses.

Mr. Speaker, due to the press of time, hearings were not held on the bill and the Committee on Post Office and Civil Service did not meet and formally report H.R. 7410. In view of this, I think it imperative to provide my colleagues with a detailed background statement on the bill to establish the legislative history and to clarify congressional intent with respect to the

Bill's specific provisions.

At the outset, let me say that the bill is the product of several weeks of careful negotiations between the Subcommittee on Census and Population, which I chair, and representatives from the Departments of Commerce and Treasury; the Internal Revenue Service; the Bureau of the Census and the Federal Trade Commission. All parties support this legislation.

Briefly, let me describe how we reached the point at which we are today, and then proceed to a more detailed explanation of the bill's provi-

Last March, in testimony before the Subcommittee on Census and Population, the Director of the Bureau of the Census apprised members of the administration's decision to transfer the QFR program from the FTC to the

Commerce Department. Despite this information to facilitate its statistical early notice, it was not until late September that the administration came forward with a bill Representative COURTER and I subsequently introduced H.R. 7297 by request on October 1. Shortly thereafter, we discovered that the legislation contained several substantive errors requiring correction in order to achieve the bill's stated obiectves.

Shortly before the lame duck session convened, staff met with administration representatives to redraft the legislation. The revisions are embodied in H.R. 7410 which 10 of my colleagues on both sides of the aisle from the Post Office and Civil Service Committee and I introduced on December 13.

Mr. Speaker, as stated above, the bill provides for the transfer of the QFR from the FTC to the Commerce Department.

Since 1947, the QFR has been performed by the FTC. It provides very current aggregate statistics on the financial earnings of U.S. corporations and is used to make quarterly and annual estimates of the gross national product. In short, it is an important statistical indicator.

The administration has wisely determined that the QFR would be better administered by the Bureau of the Census-the Nation's primary statistical agency-than by the FTC which is an investigatory and rulemaking body.

Let me reassure colleagues, who may be friends or foes of the FTC, that this bill deals solely with the transfer of authority for a single statistical activity. It does not impair or otherwise strip the FTC of any other existing authority or function.

Let me now be more specific about the bill's provisions.

Section 1 of H.R. 7410 directs the Secretary of Commerce to conduct a QFR program in a manner that conforms with the program presently administered by the FTC. The Secretary may in his discretion, however, modify or revise the QFR when changed circumstances warrant.

The term "changed circumstances" is defined broadly to include improvements in procedures, methodology or questionnaire design; technological advancements; or corporate restructuring. In essence, the Secretary is authorized to make whatever modifications as are required on the basis of any reasonable internal or external changes effecting the QFR.

In addition, section 1 explicitly defines the QFR to be administered by the Census Bureau as a "related statistical activity" for the purposes of section 6103(j)(i) of the Internal Revenue Code. This will permit the Census Bureau to receive tax return information to administer the QFR. As my colleagues know, existing law already authorizes Census to access tax return work.

Thus, the bill does not expand current law. On the contrary, it merely clarifies that section of the IRS Code which authorizes the Census Bureau to access tax return information. The Bureau of the Census will be subject to the conditions and penalties imposed under existing law as well as all applicable rules and regulations issued by the Secretary of the Treasury governing the use of this tax data.

Section 2 of the legislation transfers all authority and functions of the FTC for the QFR to the Secretary of Commerce. Within 90 days of enactment, all personnel, property and records held by FTC prior to the effective date of this legislation and which were employed, held or used by the FTC to administer the QFR must be transferred to the Commerce Secretary. IRS data in the possession of the FTC prior to the effective date of this act which are subsequently turned over the Census Bureau, will be subject to all pertinent civil and criminal penalty provisions of the IRS Code. For the purposes of this section, the transfer of return information from FTC to Commerce shall be considered a direct transfer from IRS to Census. This section of the bill will afford the maximum protection and confidentiality for the transferred documents. FTC, Commerce, and Census employees shall be subject to severe criminal and civil penalties for the unsanctioned release of such data.

Mr. Speaker, section 3 of the bill requires the Secretary of Commerce to publish in the Federal Register, within 180 days of enactment, a statement of the Census Bureau's policy and practices with respect to the use of temporary employees by the Bureau under section 23(c) of title 13, United States Code. This section recognizes the need for outside personnel to assist the Bureau to do its job. It is not only a necessary practice but one that should be encouraged. Regretfully, Bureau has administered the law unevenly. Accordingly, this section will require the Bureau to reevaluate and revise its internal policy and practices regarding all temporary employees listed under 23(c) of title 13. Moreover, the Bureau will have to better define the functions temporary employees may serve, and the type of "assist-ance" they may provide. This covers everything from the conceptual planning stages through the testing, administration, and evaluation phases of a survey or census. It also includes audits and investigations performed by the General Accounting Office; public and private contractors; and work performed by private or public organizations and instrumentalities. This revision of the Bureau's internal guidelines will not disturb the Secretary's discretionary authority to utilize temporary employees. This will be preserved intact, nor will this notice be

subject to public comment.

The notice required by this section will also delineate the penalties imposed by section 9 of title 13, United States Code, for the wrongful disclosure of confidential data by a temporary employee.

Frankly, I had hoped to achieve more on this matter but was willing to yield to publication of a notice instead of the formal rulemaking procedures in order to pass the bill. However, I want to put the Bureau on notice that publication of internal guidelines do not represent a long-term solution. The Record must be clear on this point. I intend to pursue this matter and insist that the Bureau takes maximum advantage of the professional and technical expertise existing outside the Bureau, in local and State governments and elsewhere.

The Census Bureau supports this

provision in its entirety.

Finally, section 4 of the bill limits the Secretary's authority to conduct the QFR to 7 years. It also requires a report to Congress within 2 years of enactment.

Mr. Speaker, I believe this is a good bill. Certainly it is clearer and more tightly drafted than the earlier version and will provide for the orderly transfer of the QFR to census. Ancillary issues such as continued FTC access to IRS data are left for other committees to decide at a later date.

Time now is of the essence. The next QFR is scheduled to be taken later

this month.

The Census Bureau needs this bill in order for the mandatory compliance provisions of title 13, United States Code to apply.

I urge my colleagues to support this bill so that the Senate can complete action before sine die adjournment.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 7410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 3 of title 13. United States Code, is amended-

(1) by redesignating subchapter III as sub-

chapter IV; and

(2) by inserting after subchapter II the

# "SUBCHAPTER III—QUARTERLY FINANCIAL STATISTICS

"§ 91. Collection and publication

"(a) The Secretary shall collect and publish quarterly financial statistics of business operations, organization, practices, management, and relations to other businesses, including data on sales, expenses, profits, assets, liabilities, stockholders' equity, and related accounts generally used by business-

es in income statements, balance sheets, and other measures of financial condition.

"(b) Except to the extent determined otherwise by the Secretary on the basis of changed circumstances, the nature of statistics collected and published under this section, and the manner of the collection and publication of such statistics, shall conform to the quarterly financial reporting program carried out by the Federal Trade Commission before the effective date of this section under section 6(b) of the Federal Trade Commission Act.

(c) For purposes of section 6103(j)(1) of the Internal Revenue Code of 1954, the conducting of the quarterly financial report program under this section shall be considered as the conducting of a related statisti-

cal activity authorized by law.

(b) The table of contents of chapter 3 of title 13, United States Code, is amended by striking out "III" in the item relating to subchapter III, and inserting "IV" in lieu thereof, and by inserting after the item relating to subchapter II the following:

#### "SUBCHAPTER III-QUARTERLY FINANCIAL STATISTICS

"91. Collection and publication.".

SEC. 2. (a) There are transferred to the Secretary of Commerce, for administration under section 91 of title 13, United States Code, all functions relating to the quarterly financial report program which was carried out by the Federal Trade Commission before the effective date of this Act pursuant to the authority of section 6(b) of the Federal Trade Commission Act (15 U.S.C. 46(b)).

(b) All personnel, property, and records of the Federal Trade Commission which the Director of the Office of Management and Budget determines, after consultation with the Secretary of Commerce and the Chairman of the Federal Trade Commission, to be employed, held, or used in connection with any function relating to the quarterly financial report program shall be transferred to the Department of Commerce. For purposes of sections 6103, 7213, and 7431, and other provisions of the Internal Revenue Code of 1954, return information (as defined in section 6103(b) of such Code) which is transferred under this subsection shall be treated as if it were furnished to the Bureau of the Census under section 6103(j)(1) of such Code solely for administering the quarterly financial report program under section 91 of title 13, United States Code. Such transfer shall be carried out not later than 90 days after the effective date of this Act.

SEC. 3. Not later than 180 days after the effective date of this Act, the Secretary of Commerce shall publish in the Federal Register a statement of the policy and practices of the Bureau of the Census relating to the administration of section 23(c) of title 13, United States Code. Such statement shall

include a description of-

(1) the policy of the Secretary for the use of all individuals as temporary staff pursuant to such section 23(c) to assist the Bureau of the Census in performing work authorized under such title 13;

(2) the functions for which the Secretary, in his discretion, may appoint temporary staff to assist the Bureau in performing work authorized under such title 13;

(3) the practice applicable to the appointment of such temporary staff in performing

such work:

(4) the requirements and penalties under such title applicable to temporary staff performing such work, together with safeguards to ensure that such temporary staff will observe the limitations imposed in section 9 of such title.

SEC. 4. (a) This Act shall take effect on the date of the enactment of this Act.

(b) This Act, including the amendments made by this Act, shall cease to have effect 7 years after such effective date.

(c) Not later than 2 years after such effective date, the Secretary of Commerce shall submit a report to the Congress regarding the administration of the program transferred by this Act. Such report shall describe-

(1) the estimated respondent burden, including any changes in the estimate re-spondent burden after the transfer of such programs:

(2) the application made by various public and private organizations of the information published under such program; and

(3) technical or administration problems encountered in carrying out such program.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

#### AMERICAN INDIAN DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further considertion of the joint resolution (H.J. Res. 459) authorizing the President to proclaim May 3, 1982, as "American Indian Day," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Speaker, I reserve the right to object.

• Ms. FIEDLER. Mr. Speaker, I am pleased today to bring before the House, House Joint Resolution 459, a bill which will proclaim May 13, 1983, as American Indian Day-the first such recognition ever given by the Congress to the original Americans.

Throughout the history of the New World, the Indian community has played an integral part. I would like to present some of these historical highlights to the Members today as shared with me by members of my local American Indian community:

1492: It has been estimated that when Columbus first met the Indians, there were about 900,000 to 1,000,000 in what was to become the United States of America.

1605: Tisquantum, better known as "Squanto," and four other Indians were taken by Captain George Waymouth to England to provide information about the "New World"

'New World.

1605: English settlers in Jamestown Colony were the recipients of much help from the Indians. Led by "Powhattan," the Indians gave the early settlers corn and showed them how to plant tobacco. This Chief's desire for peace, when combined with the wisdom and tact of Captain John Smith, helped insure and implement that worthy aim in a New World.

1620: "Squanto" was known as the good Samaritan. He made an early display of unselfish conduct in his relations with the settlers. The New England Bay Colony at Plymouth would have suffered, starved, and died out had it not been for the generosity of that great leader and his people. He is considered to be the reason that the Colony survived that terrible first winter in the New World. Historians can't seem to find a reason for his assistance, because he had been inhumanly treated by earlier English explorers, captured and sold as a slave. He subsequently escaped and on his return to his village found that the whole tribe had been the victims of small pox. After being so helpful at Plymouth, "Squanto" died about

two years later from the "fever."
1621: "Massasoit," Chief of the powerful Wampanoag Tribe, was owed much by the colonists. The domain of this Great Chief included what is now Massachusetts and Rhode Island. Massasoit's real name was "Wasamegin", which translated means "Yellow Feather." Without the help of this powerful Chieftain, who entered into a treaty of peace with the white men and bequeathed large amounts of land to them, the Colonists would have perished. It was he who taught the white men how to plant and cook. It was he who had his people share their food and lore of living with the

whites.

1751: (Iroquois Nation) Benjamin Franklin, writing about his proposed Albany plan of Union for the American Colonists, paid a high tribute to the Iroquois Confederation's development of their Confederated Government System. In his March 20th letter to Mr. Parker he wrote: "It would be a very strange thing if six nations of ignorant savages should be capable of forming a scheme for such a union, and be able to execute it in such a manner, as that it appears indissoluble; and yet that a like union should be impracticable for ten or a dozen English Colonies, to whom it is more necessary and must be more advantageous, and who cannot be supposed to want an equal understanding of their interest.

1778: George Washington wrote on March 13 from Valley Forge to the Commissioners of Indian Affairs. "I am empowered to employ a body of four hundred Indians, if they can be procured upon proper terms. I think they may be made of excellent use, as scouts and light troops, mixed with our own

parties.'

During the terrible winter at Valley Forge, Dr. Waldo, a surgeon, wrote: "I was called to relieve a soldier thought to be dying. He expired before I reached the hut. He was an Indian, an excellent soldier, and had fought for the very people who disin-

herited his forefathers.' 1800: "Joseph Brandt," whose Indian name was "Thayandanega" of the Mohawk Tribe, was educated in English Mission

Schools and commissioned a Colonel in the British Army. He was a principle leader, holding the Six Nations loyal in their allegiance with England during the Revolutionary War. He is credited with having translated the Bible into the Mohawk language

before he died in November, 1807.
1900: "Charles Carter," a Choctaw, was one of the early members of the United States House of Representatives, and served in the State of Oklahoma from 1907-1927.

1908: Louis Tewanima, a Hopi Indian from Arizona, competed in the Olympic Games held in London and finished 9th in the 26 mile distance affair. In the next Olympics, he finished second to the famed "Flying Finn," Kannes Kilchmainen. He was a triple medal winner in both the 1908 and 1912 Olympics in which we competed in both 5,000 and 10,000 meters, as well as the Marathon race. He was the first athlete to be elected to the Arizona Sports Hall of Fame, way before the Indians were given citizenship or the right to vote in a national elec-

1912: Jim Thorpe, of the Sauk and Fox Tribe, represented the United States in the Olympic games in which he won the decath-lon. The Carlisle Institute graduate has often been referred to as the world's great-

est athlete.

1913: The Federal Government issued the famous "Buffalo Head" Indian nickel designed by James Earl Fraser. This was an idealized composite portrait of thirteen Indian Chiefs, including "John Big Tree" of the Iroquois, "Iron Tail" of the Sioux, and "Two Moons" of the Cheyenne.

1916: May 13 was set aside as Indian Day and was sponsored by the Society of American Indians. The purpose was to recognize and honor the American Indian and to im-

prove his conditions.

1917: Indians' love for their country, despite their not being subject to the draft law, was shown when more than 8,000 Indians served in World War I. Of that number some 6,000 were volunteers.

1918-1924: This was later to be a serious factor in the decision of Congress to pass the Indian Citizenship Act of 1924, even though Indians fought and died for this, their beloved homeland, long before World

1941-1945: During the events of World War II more than 25,000 Indian men and women were enrolled in the military services. They served on all fronts in the conflict during which they were honored by re-ceiving 71 Air Medals, 51 Silver Stars, 47 Bronze Stars, 34 Distinguished Flying Crosses and two Congressional Medals of Honor.

Their most famed exploit was that of Navajo Marines, who used their language as a battlefield code which the enemy failed to break. In all, about 70,000 American Indian men and women left reservations for the first time to enter military service.

1963: Annie Dodge Wauneka, a Navajo, was awarded the Medal of Freedom award by President John F. Kennedy, a few days before his assassination. This award is the highest peace-time honor, and is given to persons who have made outstanding contributions to the national interest or security, to world peace, or who have otherwise made substantial contributions in public or private endeavors.

Of course, Mr. Speaker, there have been many more incidents during our history when those who lived on this land long before any European explorer reached our shores have distinguished themselves. So, I believe it is most proper that the House of Representatives set aside a day-May 13, 1983-to honor the first Americans. And I am happy to have been able to author this measure and would like to thank the chairman of the committee and the entire committee for allowing this measure to come to the floor.

Mr. COURTER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 459

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating May 13, 1982, as "American Indian Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VACATING PROCEEDINGS ON HOUSE JOINT RESOLUTION 459, AMERICAN INDIAN DAY

The SPEAKER pro tempore. Without objection, the proceedings relating to House Joint Resolution 459 had, earlier today, been vacated.

There was no objection.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Garcia: on page 2, line 11, after the word "designating" strike "May 13, 1982," and insert in lieu thereof "May 13, 1983."

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time. was read the third time, and passed.

TITLE AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment to the title.

The SPEAKER pro tempore. The Clerk will report the title amendment.

The Clerk read as follows:

Title amendment offered by Mr. Garcia: amend the title to read "Authorizing the President to Proclaim May 13, 1983, as 'American Indian Day.'

GENERAL LEAVE

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the various bills and resolutions just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. OAKAR. Mr. Speaker, I reserve the right to object.

I shall not object, but I want to call attention to something that frankly I have been watching the proceedings by my chairman. I was somewhat appalled. I mean I found it very difficult to believe that anyone in this House would object to a resolution concerning "Women's History Week."

You may think it is funny.

Mr. BADHAM. Will the gentlewoman yield?

I want to read the resolution if I may, or part of it. This is by my friend, the gentlewoman from Maryland (Ms. MIKULSKI).

Whereas American woman of every race, class, and ethnic background helped found the Nation in countless recorded and unrecorded ways as servants, slaves, nurses,

Mr. FRENZEL. Mr. Speaker, regular order.

Mr. BADHAM, Mr. Speaker, regular order.

The SPEAKER pro tempore. The gentlewoman will suspend.

Regular order has been called for. Mr. BADHAM. Mr. Speaker, I object.

The SPEAKER pro tempore. Is there objection to the title amendment on the resolution already approved?

Ms. OAKAR. Mr. Speaker, reserving the right to object, if they want regular order then they can call for it. I want to finish my statement.

The SPEAKER pro tempore. Regular order has been called for and the gentlewoman is not in order in bringing up the matter involving a prior resolution when we are considering a title amendment to this resolution.

Hearing no objection, the title amendment is agreed to.

There was no objection.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER S. 2398, AFRICAN DEVELOPMENT FUND DEVELOPMENT ACT AMEND-MENTS

Mr. PATTERSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2398) to provide for increased participation by the United States in the African Development Fund and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

#### □ 2110

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PAT-TERSON)?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I will not object, I take this reservation in order that the gentleman from California may explain the bill.

Mr. PATTERSON. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from California.

Mr. PATTERSON. I thank the gentleman for yielding.

I would indicate to the gentleman and my colleagues here on the floor at this late hour, that this bill was passed by our subcommittee unanimously, 10

Ms. OAKAR. No. I want to finish my to 0. It was passed overwhelmingly by a voice vote in the full Committee on Banking, Finance and Urban Affairs.

The same bill we are now considering has also been passed by the Senate. President Reagan has sent a letter to all Members of the House, has written to the Speaker and minority leader in support of the legislation.

The legislation itself would provide for up to \$50 million a year for 3 years for United States participation in the African Development Fund. The United States has participated in the African Development Fund since 1973. It is important that we continue our membership, both to our national security and to the African countries that are members.

This is a major priority of President Reagan. This is the first multilateral development negotiation completed by this President. We have been asked by the Secretary of State and the Secretary of Treasury to adopt the legislation.

We also have a rule from the Rules Committee. The only hurdle we have is simply the one of time on the floor.

would ask my colleagues that might be concerned about the money spent. I would tell them two things. One, the money is in the President's budget. No. 2, that any conditions or any problems one might have with the adoption, this is the authorizing legislation and the appropriating legislation can follow this.

But if we do not adopt this tonight, we in effect will postpone 1 year's legislative work by the House and the Senate.

It is extremely important that we send the right signals to our friends in Africa, and to our foes as well.

It is, I believe, also a commendation to members of our subcommittee who will not be returning, Members on the other side of the aisle, and one Member on this side of the aisle, the gentleman from Ohio (Mr. STANTON), who is unable to be with us this evening, a strong supporter of this legislation and this bill. He said that he would be here if at all possible for him to be here.

Also supporting the bill is the ranking minority member, the gentleman from Delaware (Mr. Evans), who was a great help in seeing this legislation through.

Mr. WYLIE. Further reserving the right to object, I would like to add my support to this legislation. As the gentleman from California has said, this is the first of the negotiated multilateral development banks, contributions to the replenishment fund by the new administration, the African Develop-ment Fund. And by contributing this modest amount to the poorest nations of the world, we are able to leverage substantial additional resources from other donors in this.

I think the United States has a growing stake in the Third World and

in the developing countries of Africa in particular.

This is a reduction in the amount of the replenishment fund which we have contributed in the past from 16.5 percent to 14.6 percent. I think that we have a strategic reason for supporting this legislation tonight. Much of the aid goes to Egypt, Somalia, the Sudan, and Kenya, nations which have natural resources which we need.

So, Mr. Speaker, I would urge support of this bill.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. Further reserving the right to object, I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I am heartily in support of this. It is modeled very much as the Inter-American Fund is where the grants were \$3,000, \$8,000, \$10,000. Every little thing is done in the villages to which they are most appropriate. It is a splendid idea.

I served on the committee. We studied this. We heard testimony on it. I do hope that it will be overwhelmingly

Mr. WYLIE. I thank the gentlewoman for her contribution.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. I thank the gentleman for yielding.

Mr. Speaker, I think I can speak for all of the Republican members of the Foreign Operations Subcommittee and the Appropriations Committee. We are very familiar with this organization, support it wholeheartedly and hope there will be no objection.

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

I want to commend my chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs. I cannot think of a better way to assist countries than through these development banks. They are very often misunderstood by this Congress, and they are very often not supported. This is the kind of assistance that we should be giving. And I am very, very proud to associate myself with the previous speakers.

Mr. WYLIE. I thank the gentlewom-

Mr. Speaker, further reserving the right to object, I would reiterate this is the first of the multilateral development bank replenishment funds that has been negotiated by the administration. I think it is a good bill. I ask the House to support the bill.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. PAT-TERSON)?

Mr. BROWN of Colorado. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. PATTERSON. Mr. Speaker, would the gentleman be so kind as to reserve an objection?

Mr. BROWN of Colorado, Reserving the right to object, Mr. Speaker, I would be happy to comply with the request of the gentleman from California.

Mr. PATTERSON. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from California.

Mr. PATTERSON. I thank the gen-

tleman for yielding.

Mr. Speaker, we had this go-round once before. It does only take one Member to object. Therefore, the gentleman holds in his power, in his hands, a very great power tonight. I respect the gentleman for that. I know that sometimes one simply cannot, for one reason or another, do anything other than but object.

But I tell the gentleman this is not spending any money at this time. There will have to be another bill in the next Congress to appropriate the funds. This is the authorizing legislation. If we do not pass it in the 97th Congress, is it unlikely we will not it

for 6 months. The gentleman's President and mine has strongly urged the adoption of it. We will be sending entirely the wrong signals. I plead with the gentleman from the bottom of my heart as an American, as a Democrat, and the gentleman as a Republican, please do not object.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Speaker, I want to associate myself with the plea of the gentleman from California and just indicate that we ought to divide the process up, which is highly objectionable. The process of bringing up these important issues in the waning moments of an exhausting Congress is really wrong. And I concede that. But over and above that, there is the substance of these resolutions, some of which, not all-some of which are very important. And this is one that our President wants, the administration wants, that has enormous foreign policy implications-whether or not we are going to play a role in Africa, one of the most important areas of the world, where we have enormous interests in the people over there, in the politics over

there in the economy over there in access to raw materials, in creating markets.

The foreign policy implications of this say that we, the United States, are turning our back on an enormously important part of the world.

I join my colleague in objecting to this process. It is pitiful. But the overweaning, the overarching importance of the substance of this would compel me to plead with the gentleman also to subordinate his natural instinct in which I share to object to the process and to yield to the importance of the substance of this authorizing legislation.

Mr. BROWN of Colorado, I thank the gentleman for his remarks. I might say to the gentleman from California, as well as my other colleagues who have pointed out the very fine benefits that can flow from this, that I do see it as something that will lead to significant expenditures. That at least in my mind I have to weigh against that the almost overwhelming crushing burden of what I consider to be almost a \$200 billion deficit that our country faces.

The prospect of our not being able to meet social security checks that may be paid out, assistance to our elderly, lunches to our schoolchildren, it seems to me to place the priority of the African Development Bank above the urgent needs of the poor of our country is a mistake, and I do object.
Mr. HYDE. Would the gentleman let

us impose for 30 more seconds on his good nature and just reserve for a moment and yield to me for just one more try?

Mr. BROWN of Colorado. I am not sure my nature would be described as good. But I appreciate the gentleman's comment. I reserve the right to object

and I yield to my colleague. Mr. HYDE. Mr. Speaker, when it comes to jobs, when it comes to the industry in this country, which the gentleman well mentioned, there are so elements-chrome, bauxite. cobalt. titanium, minerals that we need, that we do not have, but we get from Africa, to keep our jobs, to keep our factories going, to keep us producing aircraft, which is the one thing we still produce best of all, the light weight steel, we need the minerals of Africa. We need Africa really more than they need us.

Now, when the gentleman talks about money, we are talking \$50 million. They drop that on the floor at the Bureau of Printing and Engraving in a year.

The implications are so important. May I make this plea to the gentle-

This is just authorization. It is not appropriation. When we get to the appropriation, I would hope that the gentleman would sit down, and we will get a chart and find out whether we

get more back than we are giving. And if we do not, I will join the gentleman in objecting to the appropriation.

Mr. WYLIE. Mr. Speaker, will the gentleman yield on that point?

Mr. BROWN of Colorado, I am glad to yield.

Mr. WYLIE. This item is already in the budget, may I respectfully say to the gentleman from Illinois, and has already been included in the continuing appropriation bill which has passed this House. The money has already been made available, may I say, and what we are doing here tonight is authorizing the use of that money which is already there.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman to me?

Mr. BROWN of Colorado. I am glad to yield to my colleague, the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding.

I think my colleagues know that probably nobody in this House has been more outspoken than I have been in trying to cut down on our participation in multilateral lenging institutions.

I think there are lots of places where we need to make changes in our support of international lending institutions.

I can say to the gentleman that I support this institution, this fund, wholeheartedly. Other people on the subcommittee, the Foreign Appropriations Subcommittee, like the gentleman from New York, Jack KEMP, who have also been critical of some of the aspects of our foreign policy, strongly feel that we need this fund. It does us much good. It helps our foreign policy tremendously by being in it. It helps us in terms of pursuing our security interests in foreign policy.

I know how the gentleman feels, but I would hope that the gentleman will withdraw his reservation.

Mr. PATTERSON. Mr. Speaker, would the gentleman yield just one more time?

Mr. BROWN of Colorado. I am glad to yield to my colleague.

Mr. PATTERSON. Mr. Speaker, for every \$1 spent in this fund, the United States receives back \$1.10; and yet I am as concerned about jobs as the gentleman is, but that is the statistical fact, that we actually get back more to this country in terms of dollars, not to mention what my good colleagues on that side of the aisle have also indicated in terms of national security and strategic metals.

There will be another time to vote on this.

I would say on my behalf, I tried to get this to the floor. I really did. I know we have the votes for it and I am sorry it has to be this way; but we were unable to get it scheduled. We got bumped once when we were scheduled on the floor.

We have not held back. I have pressed to try to bring this to the floor and I assure the gentleman I will continue to do that.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield just briefly to me under his reservation?

Mr. BROWN of Colorado. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I serve on the Banking, Finance and Urban Affairs Committee. When I got on that committee, we had made a commitment under the Nixon administration to participate in the African Development Bank, not the fund, and for 10 years we never lived up to that commitment. That was when relationships became awfully strained between the African nations and our country.

Fortunately, that was turned around and America has participated in the bank and has done very well and the

relationships have changed.

It just seems to me that in this time of such delicate international relations, if we would in any way give any signal to the African Development Fund, not the bank, that we were no longer interested or that we wanted to play around in terms of other considerations, when we deal with such a piddling sum, one-third of what is in the Asian Development Bank, it would just seem to me to be a terribly dangerous thing to do and I join with my colleagues in pleading with the gentleman not to object to this.

I thank the gentleman for yielding

to me under his reservation.
Mr. WYLIE. Mr. Speaker, will the gentleman yield just one more time? I hope that we have persuaded the gentleman by this point that he should not object.

Mr. BROWN of Colorado. Mr. Speaker, further reserving the right to object, I yield to the gentleman from

Ohio.

Mr. WYLIE. The gentleman made the point a little while ago that we should not increase the deficit in the budget, that we should pass laws which would reduce the deficit and by adding to the deficit in this manner. that we are taking away from other

worthwhile programs.

Does it help the gentleman at all if I suggest to the gentleman that this will not add to the deficit which has already been appropriated or already in the budget; that the money has already been appropriated for this purpose and what we are really doing is authorizing the use of money that has already been appropriated.

Mr. BROWN of Colorado. Would it be fair to say that if we do not pass this tonight, that we have an opportu-

nity of saving that \$50 million?

Mr. WYLIE. Well, let me say that eventually we will pass this bill, I say to the gentleman from Colorado. I would say that if it is not done tonight, that it will be done.

It is not a matter of saving the \$50 million, as has been explained earlier. I think we are making money for our Government by passing this bill and authorizing the use of this money which has already been appropriated and I want to make that distinction. It is not the fact that we are first authorizing and then later on we have to come back and appropriate the money which would add to the deficit. It has already been appropriated. It is included in the budget.

Mr. BROWN of Colorado. Mr. Speaker, let me just summarize very quickly. I find the comments of my colleagues very eloquent and very per-

suasive in many ways.

I think the dilemma that our country finds itself in at this time is that we have many good causes. This certainly is one good cause among many; but we as a country have been unwilling and unable to say no to those good causes. Much of the cause, certainly not all, but much of the cause of the dilemma we now face is our inability to say no to those good causes, to set priorities.

I must say to this body for me personally, the needs of our poor in this country come far higher than the cause that we have discussed tonight.

Mr. Speaker, while this is a good cause, I do object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO CONSIDER HOUSE JOINT RESOLUTION 460, DESIG-NATING WEEK BEGINNING MARCH 6, 1983, AS "WOMEN'S HISTORY WEEK"

Mr. BADHAM. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 460) designating the week beginning March 6, 1983, as "Women's History Week," and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California BADHAM)?

Mr. CAMPBELL. Mr. Speaker, I reserve the right to object.

Mr. GARCIA. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. The gentleman form South Carolina (Mr. CAMPBELL) reserves the right to object.

Mr. CAMPBELL. Mr. Speaker, I reserve the right to object to this piece of legislation, which I happen to think is most meritorious.

I reserve the right, however, to enter into a colloquy with the gentleman from California as to the motivation behind his earlier objection.

I yield to the gentleman from Cali-

Mr. BADHAM. Mr. Speaker, I thank the gentleman and my good friend for vielding.

I previously objected to the bringing up of this resolution at this time, not because of the content of the resolution but because of the mechanics by which we have been bringing up pieces of legislation that have been sitting around this House for month upon month.

I sought this one not in any attitude of discrimination, but I picked this one because it was one that was typical, having been introduced some months ago in front of this body.

We have had now in these hours some resolutions on National Garden Week, Women's History Week, Bicentennial Air and Space Flight, and American Indian Day, which was a year off as it started out; Tricenten-nial Anniversary of German Settlement in America, something of which I am very sensitive, and so forth; but, Mr. Speaker, and I thank the gentleman for yielding on his reservation, I think that it is time that the attention of this body be called to what it is that we are doing here. We are serving no purpose here this evening. This is not even, if the gentleman will continue to yield, this is not even filler. This is nonsense and when we start to ask to have an historian or a PR agent for the House of Representatives.

To make this sow's ear into a silk purse, I think it is time to object.

I have no particular preference whatsoever. I happen to be very fond of women in history, women in general, and I would certainly not do anything to object to the furtherence of the cause of women in our country.

## □ 2130

But I think, ladies and gentlemen of this body, that it is time that we recognized the fact that we are here and we should not be here. We should have concluded the business of this House months ago and we should have concluded the business of this so that we can get on to the business of the United States of America and not be messing around.

Mr. CAMPBELL. Mr. Speaker, further reserving the right to object, and I shall not object, and I do not want to belabor this because I know the hour is late. I do not think we ought to have any more discussion.

I think this is a good piece of legislation. I look for it to pass.

I would say this: It would be my intention to object to any other unanimous-consent requests.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. BADHAM)?

Mr. GARCIA. Mr. Speaker, reserving the right to object, as the chairman of the subcommittee which is responsible for commemorative resolutions, I believe we have tried to be very fair to both sides of the aisle. Members from both sides come to our committee and ask us if we would be kind enough to help them with commemorative legislation for their district, and we try to accommodate them.

However, I am going to object because this bill was previously objected to by the gentleman from California. The prerogative of this chair and this committee belongs to the Committee on Post Office and Civil Service, and until such time as we go through the proper channels, I will object to this legislation.

The SPEAKER pro tempore. Objection is heard.

FEDERAL CHARTER FOR FORMER MEMBERS OF CON-GRESS

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 7423) to recognize the organization known as Former Members of Congress, and ask for its immediate consideration.

The Clerk read the title of the bill. The SPEAKER pro tempore. Is there objection to the request of the

gentleman from Texas?

Mr. MOORHEAD. Mr. Speaker, reserving the right to object, H.R. 7423 confers a charter on a club known as the Former Members of Congress. It costs the Government nothing and has already passed the House of Representatives earlier in the year.

Every person who once served in the U.S. Congress is eligible for membership. In view of the work of this organization in civic, patriotic, and charitable endeavors, the honorary recognition we give them through this Federal charter is deserving.

Mr. SAM B. HALL, JR. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. I yield to the gen-

tleman from Texas.

Mr. SAM B. HALL, JR. Mr. Speaker, this bill is identical to H.R. 4755, a bill which passed the House on October 26, 1981, on suspension. This is not a controversial bill. It was passed by the Senate with a nongermane amendment on December 13, 1982. The House has passed legislation which disposed of the Senate amendment, so we have no reason to believe that the Senate will have any problem with this bill.

This bill grants a Federal charter to the organization known as the Former Members of Congress, an organization open to all former Members. It is a national, nonprofit, educational, civic, historical, and research organization which has been chartered in the District of Columbia since 1970. It is a great organization, worthy of recognition.

This bill comports with the standard language the Judiciary Committee has developed for Federal charters. It contains the standard proscriptions and rigid reporting requirements.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. MOORHEAD. Further reserving the right to object, I yield to the gentleman from Illinois.

Mr. Speaker, as a member of the graduating class of 1982, I can speak with more than passing interest about an organization known as the Former Members of Congress. It gives an opportunity for every former Member, from both sides of the aisle, to continue public service. This nonprofit, educational, civic, historical, and research corporation is chartered in the District of Columbia. The assets of this corporation consist solely of human capital in terms of wisdom, experience, and judgment. While in the past those who left office went their separate ways, only to have their valuable experience lost to history. With the Former Members organization this resource is captured, protected, and advanced.

From an institutional standpoint the U.S. Congress is viewed with increasing cynicism. Allegations run high about self-interest before public interest, chaos over cooperation, and expedience over careful consideration. It would seem that in reading the daily newspapers that divisiveness, hostility, and suspicion rule our actions. If for no other reason then, I support the Former Members of Congress because of its efforts to promote an understanding of the U.S. Congress as a supremely human institution. Office seekers by their very nature like people and want to help in solving their problems. Former Members draw attention to congressional successes and help to correct it shortcomings.

In its crusade to uplift the institutional status of the U.S. Congress the former Members have focused on the youth of America in the schools and universities so that students can meet and talk with their former leaders face to face. In the long run the endeavors of the former Members will help restore the dignity and respect of the congress as the foremost institution of American Government

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield to me on his reservation?

Mr. MOORHEAD. Mr. Speaker, further reserving the right to object, I

yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I, of course, have no intention of objecting to the offering of the bill of my friend, the gentleman from Texas.

This is a good bill, but I just take this moment to suggest to the Members of the House and those watching on television that I apologize that we are so late in the night and we have still not reached the time when we will resolve ourselves into the Committee of the Whole House for the consideration of the immigration bill.

I appreciate the fact that this is late. I also appreciate the fact that our bill is a very important bill. I would ask their indulgence. I can assure them that those of us who control the time in the general debate will be yielding back great bulks of it so there will not be much time taken during the remainder of the debate.

I do understand that there is perhaps a decision to make a motion on going into the Committee of the Whole, a recorded vote on going into the Committee. However, I would hope the Members, our colleagues, would give your Committee on the Judiciary a chance to complete its general debate and then come back tomorrow for the 5-minute rule.

Mr. MOORHEAD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 7423

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### CHARTER

SECTION 1. Former Members of Congress, organized and incorporated under the Non-profit Corporation Act of the District of Columbia, is hereby recognized as such and is granted a charter.

#### POWERS

SEC. 2. Former Members of Congress (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

### OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include the promotion of the cause of good government at the national level by improving the public understanding of the United States Congress as an institution and strengthening its support by the public. The corporation shall function as an educational, patriotic, civic, historical, and research organization as authorized by the laws of the State or States wherein it is incorporated.

#### SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

#### MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

#### BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

#### OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the States or States wherein it is incorporated.

#### RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or

pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

### LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

#### BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

#### AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(59) Former Members of Congress.".

#### ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

#### RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

#### DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

#### TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

#### TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the bill may be considered as read and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON H.R. 6946, FALSE IDENTIFICATION CRIME CONTROL ACT OF 1982

Mr. HUGHES. Mr. Speaker, I call up the conference report on the bill (H.R. 6946) to amend title 18 of the United States Code to provide penalties for certain false identification related crimes, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the bill.
The SPEAKER pro tempore. In

there objection to the request of the gentleman from New Jersey?

Mr. HYDE. Mr. Speaker, reserving the right to object, and I certainly will not object because this is very important legislation, but I yield to the chairman of the subcommittee, the gentleman from New Jersey (Mr. Hughes) for an explanation.

Mr. HUGHES. I thank the gentle-

man for yielding.

Mr. Speaker, H.R. 6946, the False Identification Crime Control Act of 1982 (H. Rept. 97-802) passed the House on September 14. On October 1, The Senate passed the bill with several amendments to add additional offenses and to make technical corrections.

The conference report represents the culmination of many years of labor on this issue. In 1974 the Federal Advisory Committee on False Identification began to examine the full extent of this problem. Their report in 1976 found that false identification is a major factor facilitating drug smuggling, illegal immigration, flight from justice, frauds against government and business and the movement of terrorists. The estimated burden of losses was then estimated to be \$16 billion per year.

This bill takes several important steps toward stemming this problem. Primarily, the bill makes it a Federal offense to counterfeit or to transfer counterfeit or stolen identification documents that have been issued by Federal, State, and local government. The counterfeiting of official driver's licenses and birth certificates would be a Federal offense and plugs a loophole not covered by the various States.

The conference report differs from the House bill by providing that the possession of stolen or false identification documents that have been or appear to have been issued by the United States would be an offense if the possessor knows that the document was stolen or counterfeit.

The conference report also includes a provision that will have a salutary effect on the problem of drunken driving and underage drinking. The conference report would make it a misdemeanor for a person in the business of selling private identification documents to send through the mail or in interstate commerce, an ID that carries a birth date that does not bear a clearly imprinted disclaimer that it is "not a government document." This will make it much easier for sellers of alcoholic beverages to avoid being fooled by unfamiliar, unofficial identification.

I want to congratulate our colleague Henry Hyde who has diligently and capably worked on this issue for many years. He has sponsored legislation in three Congresses and testified before the Subcommittee on Crime and the Senate Judiciary Committee to urge enactment of this legislation.

Mr. Speaker, I also want to congratulate the ranking minority

member of our subcommittee, the gentleman from Michigan, Hal Sawyer, who also worked tirelessly on this bill, as well as the ranking minority member of the full Committee on the Judiciary, the gentleman from Illinois, Bob McClory, and our colleague, the gentleman from New Jersey, Peter Rodino, for his work on the legislation.

Mr. HYDE. Mr. Speaker, further reserving the right to object, I rise in strong support of the conference report on H.R. 6946, the False Identification Crime Control Act of 1982. This bill represents the culmination of the efforts of myself and others who have been concerned about the staggering numbers of false identification cards which are sold and used for illegal purposes. I want to commend the gentlemen from New Jersey (Mr. Hughes), the chairman of the subcommittee, and the ranking Republican, the gen-tleman from Michigan (Mr. Sawyer) for their devotion to this project. As a result of our combined efforts, this important legislation has at long last seen the light of day.

As my colleagues are aware, this legislation had its inception with a Justice Department report issued 6 years ago. The Federal Advisory Committee on False Identification, after a thorough investigation, documented a flood of false identification documents used in this country to facilitate criminal activities of all sorts, including terrorism, organized crime, and illegal immigration. The committee outlined the classic "paper trip" whereby a certified copy of the birth certificate of a deceased person is used as a "breeder document" to acquire a driver's license, social security card, and other documents, thus providing the evidence to support the creation of a new identity.

Since the FACFI Report was issued, the problems it identified have worsened in light of the increased number of illegal aliens, international terrorists and drug-smuggling rings in recent years, Federal authorities have discovered that false indentification is a common device used by currency counterfeiters and firearms smugglers. Furthermore, it enables young people to circumvent the laws establishing minimum drinking ages. The consequences have been devastating in terms of young lives lost at the hands of drunk drivers.

H.R. 6946 addresses the clear Federal interest in this area by making it an offense to produce false identification documents, transfer such documents, to possess them under certain circumstances such as with an intent to use them unlawfully or to defraud the United States. The punishment for the production or transfer of the most useful documents, such as Federal ID's and State driver's licenses are subtantial in the hopes that they will deter

those who seek to profit from this scandalous business. I believe that this legislation will have a substantial adverse impact on the proliferation of false identification documents in this country and, as a result, it will make it more difficult for underage drinkers, terrorists, and drug traffickers to violate the law.

Mr. Speaker, as the primary proponent of false identification legislation during the last three Congresses, I want to express my sincere appreciation to several people who have been instrumental in bringing this legislation to the floor today. Of course, as I have mentioned, the chairman and ranking Republican on the subcommittee have provided great leadership and direction on this issue. The subcommittee staff, including Hayden Gregory, Eric Sterling, and Deborah Owen, have worked long and hard on this matter as well. Fran Westner of my office has been tireless in her efforts over the last 6 years to generate support for this much needed bill. Special thanks are due Francis Knight, former director of the Passport Division, who first brought the need for this legislation to my attention over 5 years ago.

Mr. Speaker, again I urge my colleagues to vote in favor of this important conference report.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the statement.

(For conference report and statement see prior proceedings of the House today.)

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.
A motion to reconsider was laid on the table.

### GENERAL LEAVE

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 2140

#### IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. MAZZOLI. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes.

The SPEAKER pro temp. The question is on the motion offered by the gentleman from Kentucky (Mr. Maz-

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 148, nays 113, not voting 172, as follows:

## [Roll No. 480]

### YEAS-148

Akaka Gaydos Minish Mitchell (MD) Gejdenson Gibbons Albosta Alexander Moorhead Andrews Gilman Murtha Gingrich Natcher Anthony Barnard Glickman Nowak Oberstar Barnes Gore Obey Panetta Bedell Gregg Guarini Bennett Gunderson Hall, Ralph Parris Bereuter Bevill Pease Hall, Sam Pepper Boggs Perkins Boner Hamilton Brinkley Harkin Petri Butler Howard Hoyer Porter Rahall Carney Cheney Hubbard Rangel Regula Hughes Clinger Conable Hutto Rinaldo Hyde Rodino Conte Corcoran Jeffords Roemer Roukema Jenkins Coughlin Coyne, William Crane, Daniel Jones (OK) Sabo Sawyer Kastenmeier Daniel, R. W. Kennelly Scheuer Kildee Schumer Daschle Daub Kindness Shamansky Lagomarsino Derwinski Sharp Latta Shaw Dingell Simon Levitas Lewis Livingston Smith (IA) Donnelly Dougherty Snowe Lott Snyder Dowdy Lowery (CA) Downey Solarz Stratton Lowry (WA) Dreier Dwyer Lungren Studds Tauke Dyson Eckart. Martin (IL) Vento Edwards (AL) Mavroules Volkmer Edwards (CA) Mazzoli Wampler McClory Watkins Erlenborn Fary Fenwick McCollum White McCurdy Whitley McEwen Wilson Wolpe McGrath Flippo Foglietta McHugh Wyden Wylie Ford (MI) Mica Michel Zablocki Miller (CA) Frenzel Miller (OH) Frost

### NAYS-113

Anderson Archer

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Badham Bailey (MO) Benedict Bliley Bouquard Bowen Brooks Brown (CA) Brown (CO) Broyhill Burton, Phillip Byron Campbell Chappell Clay Coelho Coleman Conyers Courter Craig Daniel, Dan Dannemeyer de la Garza Dellums Dickinson Dixon Dornan Duncan Edgar Edwards (OK) Emerson English Erdahl Evans (IA) Evans (IN) Fazio

Fiedler Molinari Fithian Mollohan Ford (TN) Montgomery Fountain Morrison Garcia Murphy Ginn Gonzalez Nelligan Goodling Oakar Gramm Patman Gray Patterson Hall (IN) Paul Hammerschmidt Quillen Hance Roberts (KS) Hansen (ID) Robinson Hansen (UT) Hartnett Roth Roybal Hatcher Sensenbrenner Shelby Heckler Hightower Shumway Siljander Hopkins Huckaby Skeen Smith (NE) Hunter Jones (TN) Smith (NJ) Smith (OR) Kazen Kogovsek Solomon Kramer Spence St Germain LeBoutillier Staton Stenholm Loeffler Stump Lujan Taylor Marlenee Thomas Walker Marriott Weber (OH) Wolf Martin (NY)

Young (MO)

McDonald NOT VOTING-172 Addabbo Green Railsback Annunzio Grisham Ratchford Applegate Hagedorn Reuss Ashbrook Hall (OH) Rhodes Ritter Atkinson Hawkins Roberts (SD) Hefner Bafalis Bailey (PA) Heftel Roe Beard Hendon Rogers Beilenson Hertel Rose Rosenthal Rostenkowski Hiler Hillis Bethune Biaggi Bingham Holland Rousselot Rudd Blanchard Hollenbeck Boland Holt Russo Santini Horton Bolling Bonior Ireland Schneider Bonker Jacobs Jeffries Schroeder Breaux Brodhead Johnston Schulze Jones (NC) Broomfield Seiberling Brown (OH) Kemp Shannon Burgener Shuster Burton John Lantos Skelton Smith (AL) Leach Carman Chappie Chisholm Lee Smith (PA) Lehman Stangeland Clausen Lent Stanton Long (LA) Coats Stark Collins (IL) Long (MD) Stokes Swift Collins (TX) Luken Coyne, James Crane, Philip Lundine Synar Markey Tauzin Crockett Marks Traxler Martin (NC) Trible D'Amours Mattox McCloskey Udall Deckard Vander Jagt DeNardis McDade Walgren Washington Derrick McKinney Waxman Dorgan Dunn Mineta Weaver Mitchell (NY) Weber (MN) Dymally Early Moakley Weiss Whitehurst Moffett Emery Moore Mottl Ertel Whittaker Evans (DE) Whitten Evans (GA) Napier Williams (MT) Williams (OH) Fascell Neal Nelson Winn Wirth Fields Nichols Findley O'Brien Wortley Wright Florio Ottinger Yates Oxley Foley Pashayan Forsythe Yatron Young (AK) Peyser Frank Fuqua Pickle Young (FL) Gephardt Zeferetti Price Pritchard Gradison Pursell

Martinez

Matsui

2150

Messrs. ALBOSTA, FORD of Michigan, MICHEL, WILSON, MADIGAN, RANGEL. ANDREWS, DREIER, RALPH M. HALL, ECKART, McCUR-DY, LAGOMARSINO, MAVROULES, McGRATH, and VOLKMER changed their votes from "nay" to "yea."

So the motion was agreed to. The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill, H.R. 7357, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

#### □ 2200

The CHAIRMAN. When the Committee of the Whole rose on Thursday, December 16, 1982, the gentleman from New Jersey (Mr. Rodino) had 30 minutes of general debate remaining, the gentleman from New York (Mr. Fish) had 34 minutes of general debate remaining, the gentleman from California (Mr. MILLER) had 30 minutes of general debate remaining; the gentleman from Illinois (Mr. ERLEN-BORN) 1had 30 minutes of general debate remaining; the gentleman from Texas (Mr. DE LA GARZA) had 30 minutes of general debate remaining, and the gentleman from Virginia (Mr. WAMPLER) had 30 minutes of general debate remaining.

The Chair recognizes the gentleman

from New Jersey.

Mr. RODINO. Mr. chairman, I yield 6 minutes to the gentleman from Kentucky Mr. Mazzoli) chairman of the subcommittee.

Mr. MAZZOLI. Mr Chairman, thank the Members very much for their attendance and attention. We began the first half of this debate last night and we will continue and complete our debate tonight.

Those of you who were here or who watched know that last night's debate was an interesting one in which we got into the substance of our bill and also into the background of it, the reason it is here today.

The substance of our bill we will tald about tonight both in direct statement and in answering questions. But let me

talk about the background.

The reason that we are here tonight and the reason that I really thank all of you for your indulgence and patience after is because we have a tremendous problem. It is not just a U.S. problem. It is not just a hemispheric problem. This is a worldwide problem.

As Father Theadore M. Hesburgh, who chaired the Select Commission on Immigration Reform, whose report provides the undergirding for the bill before us tonight, has said, one of the great problems in the entire world is

the migration of people: The movement, the comings, the goings, the ebbs and the flows of human beings.

To deal with that question of migration and movement in a sensitive, humane, decent, and moral way is a very great challenge.

I cannot say that in every single component part our bill measures up to that standard of perfection that we want from the Judiciary Committee and we want in the House of Representatives. But I can stand before you, my colleagues in the House of Representatives, and say that this bill, though it has its imperfections, many of which we hope to work with and improve in the course of this markup beginning tomorrow, is the least imperfect bill that I believe, and our colleagues on the Judiciary Committee believe, could be produced.

It is the product of years of work. The gentleman from New Jersey, our distinguished full committee chairman, has been and is, of course, the renowned expert in the field of immigration, and his record in this field goes back for decades.

We have, starting with the administration of President Nixon right through the administration of President Reagan, support from the White House in behalf of immigration reform.

But what really triggered where we are tonight and the Simpson-Mazzoli immigration bill is the work done by the Commission headed by Father Hesburgh.

That Commission made many recommendations which we will about tonight. But essentially it was the product of two full years of work. It was the product of hearings around the country. It was upon that report issued in the spring of 1981 that we began our work.

Our bill before you is a balance, it is a compromise. It does say that you have to have employer sanctions in order to curtail the flow of undocumated people by eliminating the jobs. It does say that you have a responsibility to legalize many of the people who are here, who have taken these jobs.

It does say that you need to change the adjudication process so that those people who are seeking asylum and refuge can have their cases adjudicated more fairly.

It does say that you have to have a package which includes temporary workers in order to supply the flow of workers for jobs Americans do not want or cannot do.

In short, it is a component package, a multifold bill. It is a bill which is the joint product of the committee I am proud to chair with great help from people like my friend from New York, Mr. Fish, my friend from California, Mr. LUNGREN, my friend from Florida,

Mr. McCollum, my friend from Massachusetts, Mr. Frank, my friend from Texas, Mr. Hall, my friend from Michigan, Judge Crockett. These individuals have worked long and hard on that bill and I would expect only that the House give it its careful attention.

I would fully expect that many amendments will be offered and that some will be adopted. I hope most will

be rejected.

What survives that process, that scrutiny, is the bill that the House ought to then send to the other body, which has already passed earlier this year a version of the Immigration Reform Act.

I hope that at some point, despite the lateness of the hour, that we might be able to merge the two bills and send back for ratification to the two bodies a bill which is a good, solid, sensitive bill.

I think we have that opportunity. That is why I thank all of you for your kind indulgence and for your patience and for being here at this late hour.

Mr. CONYERS. Mr. Chairman, will

the gentleman yield?

Mr. MAZZOLI. I am delighted to yield to the gentleman from Michigan. Mr. CONYERS. I have one question,

sir. It was raised last night.

Is there something about this legislation that it can only be brought up after 10 o'clock for debate on the

Mr. MAZZOLI. I would say to the gentleman that I asked the same question of the leadership. This is a very

important bill.

I can only say that the gentleman from Kentucky begged and pleaded and did everything in his power to urge the leadership to bring the bill up, not just earlier today or earlier yesterday, but last week or the week before in an effort to give this House the most abundant amount of time left in the lameduck session.

Mr. CONYERS. Will it come up at

10 o'clock tommorrow night?

Mr. MAZZOLI. The gentleman from Kentucky has been thwarted in his efforts. So the gentleman from Kentucky is forced to take this time slot, despite the fact that it is a very difficult time for him and the gentleman.

Mr. CONYERS. What time tomor-

row will it come up?

Mr. MAZZOLI. The gentleman from Kentucky is informed that, according to the schedule of the House, that the bill will be taken up in the daylight hours tomorrow.

Mr. CONYERS. I thank the gentle-

Mr. MARTIN of New York. Chairman, will the gentleman yield?

Mr. MAZZOLI. I yield to the gentleman from New York.

Mr. MARTIN of New York. I appreciate the gentleman yielding to me.

I voted in the negative on going into Committee and it is certainly no disrespect for the gentleman or for his legislation.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Mazzoli) has expired.

Mr. FISH. Mr. Chairman, I yield the gentleman from Kentucky (Mr. Mazzoll) 1 additional minute.

### □ 2210

Mr. MARTIN of New York. Mr. Chairman, wili the gentleman yield?

Mr. MAZZOLI. I yield to the gentle-

man from New York.

Mr. MARTIN of New York. Quite to the contrary I want to salute the gentleman from Kentucky for his work. I know it must be frustrating to find as hard as the gentleman has worked on this bill, and his colleagues, to find it can only be debated this hour of the night.

The way the gentleman conducted himself, and the gentleman's tenacity, is not only a credit to the gentleman and Kentucky, but to the University of Notre Dame. And whether anyone votes for or against this piece of legislation, I would certainly hope that the gentleman pays the proper attention to this legislation.

It is only fitting, as hard as the gentleman has worked on this. I salute

the gentleman for it.

Mr. MAZZOLI. I thank the gentle-

man from New York.

The gentleman from Kentucky has worked hard. But so have many other people. If this bill is to succeed or fail, it is not because this gentleman has worked hard, or because others have done so. It is because it is a good bill. If it is not a good bill it should not survive. If it is, it should survive.

In my heart I think it is a good bill,

and it ought to survive.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. PORTER).

Mr. PORTER. Mr. Chairman, I rise

in support of the bill.

Mr. Chairman, the statue presented to our country in 1886 as a belated bicentennial anniversary gift from the people of France has been the symbol of our country for close to 100 years. The words penned by Emma Lazarus and carved into that statue have set the tone for what was our young and developing Nation. Those same words have made it both difficult and necessary to discuss the legislation before us today, H.R. 6514, the Immigration Reform and Control Act of 1982.

The idealism represented by our Statue of Liberty makes it exceedingly difficult to admit that the time has arrived when we can no longer afford to be the golden door to whomever wishes to share in the liberty and comparative wealth with which America has been blessed. The better part of the first 200 years of our Nation's history was marked by a vast frontier, virtually unlimited resources, and the

promise of new found opportunity. Today, the frontier is no more. We are dependent on importing the vast majority of our essential raw materials, and those coming here illegally are, more often than not, subjected to unconscionable exploitation. We have become increasingly calloused toward the problems of modern day society its crime, pollution, overcrowding and poverty, not to mention others. The fact is, however, that these are very real problems that have arisen-and remain unresolved-in a nation that currently supports a population of just over 232 million. It is frightening to imagine the United States in 2030, without decisive action now, with a projected population of more than 300 million people. Today's problems would undoubtedly pale in compari-

We have been fortunate in the past to be able to expand and develop according to our will. The quality of our Nation's future and the preservation of the principles on which it was founded, however, now rest on our ability to plan for the long range.

The legislation before us today, which represents the first complete revision of U.S. immigration law in 30 years, is a product of years of work on this growing problem. Its most important provision is based on the conclusion that economics are in large part the key to our country's attraction and that adequate enforcement of immigration laws cannot possibly be achieved without greatly reducing the temptation to illegal emigration presented by employment in the United States. The provision would make unlawful the knowing hiring of illegal aliens and provide a system that enables employers to verify that job applicants are American citizens or illegal aliens—legally employable or not.

Although I acknowledge the necessity of contructing a system which would enable employers to distinguish between legal and illegal individuals, I am terribly concerned that whatever system is implemented not infringe on the individual freedom that we hold so dear. The issuance of a "national identification card" is not only anathema to our country's tradition, but reminscent of regimes that we have seen fit to denounce and even go to war against over the years. In this vein, I was relieved to note the House Judiciary Committee's addition to the subsection requiring the President to consider several options for the establishment of a secur verification system which "provides that this subsection not be construed as authorizing the issuance or use of a national identity card." I would caution the administration to absolute adherence to this principle.

Another provision over which I have grave concern is that which would extend amnesty to illegal aliens. I have carefully considered the inherent practicality cited behind this provision: To use the Immigration and Naturalization Service's limited enforcement resources effectively, allow employers to continue to hire lawfully from this pool of labor, and eliminate the formation of an illegal subclass throughout our society. In the meantime, however, I have become all the more convinced that legalization of those who are in this country in definance of our laws would be the worst thing we could ever do. The precedent it would set would not only be irreversible, but it might well serve to undermine the very goals this legislation seeks to achieve. Nor is it without weight to consider the huge burden millions of illegals coming out of the closet would place on our social institutions. There are very few who would not agree that the reform of our country's immigration system is necessary and long overdue. It is time that we realistically chart the direction which will balance those principles we hold so tenaciously with the new and challenging realities that lie with our Nation's future.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. McCollum), a member of the Subcommittee

on Immigration.

Mr. McCOLLUM. After the national defense and the economy, there is no more important issue facing our Nation today then gaining control of our borders and immigration reform, which is embodied in the debate over this legislation.

I find it to be tragic that we have waited this late in this session to bring up this bill at all so we could have this

debate.

Before commencing upon a discussion of my views on the bill, after having served for nearly 2 years on this subcommittee, I want to personally extend my commendations to the chairman, the gentleman from Kentucky, to the ranking member, the gentleman from New York, and to the chairman of the full Judiciary Committee, the gentleman from New York, as well as the other members of the subcommittee who have labored for hours, toiled in the vineyard, to prepare for a moment which apparently is going to be very difficult to achieve if at all here in the 11th hour of this session.

But I do believe that despite the fact that many peope are home tonight or celebrating at Christmas parties somewhere, perhaps not listening to this debate, as they should, we need to have an airing of the issues before us. We need to remind each other and we need to bring to the American public's attention some of the basic facts about the problem at hand and the gravity of it.

What we are talking about is the very quality of life of the American people. What we are talking about is the quality of life that we are going to have in this Nation in the future for our children and our grandchildren and for those to come, and whether or not that quality of life made for us by our ancestores is carried forth by this generation to the next, so that we can have this great quality of life for the immigrants who do come here and for their relatives that they bring here to become new citizens.

Now, with that said let us think about the precise nature of the prob-

lem

First of all, there has been said to be in excess of 12 million, perhaps—nobody knows the figure—illegal aliens in this country today. That alone is not the sole question. The problem is seen more clearly when we consider the fact that for about the last 3 years or so we have had about half of our population growth from immigration, either legal or illegal, and about half that or a quarter of the total growth of this country's population from illegal immigration.

We cannot absorb and assimilate that type of numbers of people coming

across our borders.

In addition to that fact, in some of the major hospitals in this country every year there are born thousands of children to illegal alien mothers who are not even counted in those figures because they are citizens upon the day they are born here in this country.

The kinds of problems that are faced in not only my home State of Florida, but in many of your States, is a problem that simply cannot be ignored and

brushed aside.

Traditionally we have said let us continue to work on the problem of increasing the border patrol, working with a country such as Mexico from which the problem has come. And I encourage doing all of that.

We have increased in this past year the number of border patrolmen and

the allocations and resources.

But I have been to the borders. I have been there as a member of this Subcommittee on Immigration. I am aware not only of the problems of my own State, with its water borders and boundaries, with the difficulties of managing them, but I have been in the State of California, to the border at Chula Vista, with the members of the subcommittee, and watched looked and seen that it is absolutely impossible for us ever to expect to control the immigration flow illegally into this country across our land and water borders if we are going to solely rely on the Coast Guard vessels and the border patrolemen.

We have got to have another solution. And that other solution is the heart and guts of this Immigration

Reform Act.

That portion of the bill which deals with employers' sanctions is an absolutely essential ingredient to our ever being able to gain control of illegal immigration and to preserve and have some hope of having the quality of life for future generations that we have been so blessed to share.

When we talk about employers' sanctions, we are talking about making it illegal to knowingly hire an illegal alien. What is embodied in that is not discrimination against those so concerned about it. It is in fact an opportunity for the first time to say to those who would come over here for a job because they have a poor economic condition in their country that we are not going to give them that magnet or that opportunity for that job.

I submit to my colleagues and to those of the American public listening and watching tonight that this is absolutely the only way we have any hope of gaining control.

I have no desire to snuff out the torch at the end of the Statue of Libety. I think we need to always have an orderly flow of immigration in this country. It is what has made our Nation great, where our forefathers by and large came from, with the exception of our great traditions of the American Indian, and we have an obligation to future generations to have that same orderly flow. But we must gain control of the runaway problem of illegal immigration.

The second major feature of this bill that is terribly important is a complement to that. If we are going to snuff out the opportunities to employ illegal immigrants for those who are employers in this country of what are today literally thousands and millions of illegal immigrants that are working in the fields and in the plants of our country, those employers who have come to depend upon the availability of this labor, while at the same time doing what this bill does, which is to provide a better opportunity for American citizens to gain employment, we are going to have to give them a hope for relief in those unusual circumstances that do arise when there are no reasonably available employees who are American citizens to do in a timely fashion the harvest of the crops and the taking of the chores at hand. And that is why the liberalization of the H-2 program embodied in the committee bill from the Judiciary Committee is so important to be maintained, to allow an orderly flow of temporary workers into this country when that is indeed required to harvest the crops and to do the work at hand. And this bill provides that.

The third very critical feature of this bill, in order to have an orderly immigration program, rests in the changes in the adjudication part of the legislation.

We in Florida particularly have experienced an extraordinary where we have had our courts clogged and we have seen the failure of the current programs inside of the Immigration and Nationality Act to deal with processing those who seek political asylum and to handle the problems of exclusion and deportation.

This bill sets up a procedure to expe-

dite that process.

While I do not fully agree with the final manner in every detail and have offered legislation and amendments to further what I believe will be a speed up of the process, it is a vast improvement over what we have today and it is a portion of the bill that I wholeheartedly support and I think is critical for us to do the other aspect that we do not treat in slowing down the flow into this country, and that is to get people who come here illegally and wrongfully claim the right to stay back out of the country again while still giving them due process.

Now, the bill does have some deficiencies. I think the bill is gravely deficient in two respects. They do not deter me from supporting it. I think what is in it is overwhelmingly important and regardless of the outcome of any of the amendments dealing with the areas I am going to mention now, I wholeheartedly support this bill.

One of the areas is the area of amnesty or legalization as it is technically called. I do not think that we should have that. I do not think that this country, as great a nation as we are, can afford to legalize the vast majority of what may be as many as 12 million illegal aliens for any number of rea-

First of all, I think it is a slap in the face to those thousands, if not millions, who stood in line in countries around the world, waiting their turn to become legal immigrants to America. They have in fact been denied that time after time because of the numbers and the caps and the regulations.

And yet in this bill we would say to them those who broke the law and came here illegally, we are going to forgive.

### □ 2220

But that is not the worst part of this; that is just something that we should not be doing ethically and morally

What is really bad about amnesty is that while we cut off the magnet on the one hand of those who would come here to seek a job, with the employer sanctions; on the other hand, we come forward with an even greater magnet saying to those who are out there, "If you really want to come to the United States illegally, come on over here; come on over here and in a couple years you are going to be granted amnesty. You are going to be

grandfathered in. You are going to have an opportunity to become a citizen through the same processes as though you had waited in line all those years. You don't have to wait

any more."

I can imagine what some of those people in line are thinking right now while we debate this bill. Some of them have not thought very much about it. They have come on over after they realized that we were serious about amnesty and saw what the other body did on the subject.

In addition to the magnet effect that I believe would draw thousands, yes millions, across our borders if we pass the amnesty that is in this bill, I also believe it would be an enormous burden to the American taxpayer in many, many ways, because of the welfare that many of these folks would go on and the dollars required to be expended on additional school and additional hospital costs, additional costs for police.

We have seen it in Florida in a very capsulized form in a short period of time with those who were there from the Cuban and Haitian immigration.

We fortunately have in this bill provisions so that no individual State will bear the brunt of those costs, but the American taxpayers certainly will as a

I would urge those, if the opportunity arises, to support an amendment that I fully intend to offer here, as I did in the subcommittee and in the full committee, to strike legalization from this bill. The horrors that have been expounded about rounding up folks and sending them back across the borders, if legalization does not occur, I submit are grossly exaggerated. They will not happen. What will happen is with employer sanctions in place, we will have an orderly attrition and a leaving of this country by many of those who are here already because they will not be able to get a job. They will not be able to keep the jobs that they, in fact, have when the seasonal employment ends and they move on.

The last or second deficiency in this bill is not what is in it, but what is not in it. There is not a provision in this bill providing a full cap on immigration. We have today some very fine provisions of the law dealing with family reunification, and I really do not beg to argue that question; but what concerns me in large measure is the fact that we do not have a true overall cap on those who are close family members and we have a lot of folks coming in in numbers that really the public is not fully aware of legally; but more importantly, we do not have provisions to take into account what are known as seed immigrants. We do not have a provision in our law today that actually in reality and in practice can account for those who would give special skills, for those who would be

investors in this country and in this Nation of ours, who have in the past and under the law technically, normally, have a right in certain numbers to come here and to become citizens and to be productive and to lend to the great amalgum of this country. We do not have in practice that happening because the numbers available for immigration are being absorbed by the brothers and sisters in the family reunification portion of the Immigration Act.

I submit that whatever we do in the future about changing the laws of legal immigration, we need to consider giving an opportunity once again for us to have those seed immigrants that have been a foundation of America, regardless of the fact that some of them do not have the relative, the blood relative, already in this Nation.

Now, that legislation will not be in this bill and I will not bring it up as an amendment and I doubt seriously that it will be considered, but it needs to be considered in the future. It has been in the Senate bill. It was in the original bill out of the subcommittee.

In conclusion of my primary remarks, I would like to say that I am disappointed that we did, in fact, wait so long. I am not disappointed at all in the leadership of our committee chairmen. I have already indicated how much I am proud of them and of the work they put in; but I am disappointed in the games that have been played, in the fact that many Members tonight were disgusted. On the vote on going into committee they voted not against the immigration bill. not against the cause that we are here for, but against the staying around in what appears to them to be a futile gesture to try to get a bill up that is so important and to debate it at the 11th hour at night. I do not like doing any of that either; but I do believe that we need the opportunity to air this. It is such an important issue.

I know that there have been games played and I know they may be played next year if this bill is not passed.

I urge not only my leaders of the committees and of my party and the opposing party who dealt so long and so hard with it to bring this bill back again early and strongly in the next session if it does not succeed in this weekend and in the closing days; but I certainly urge the leadership at the higher levels of both our great parties, for the sake of our Nation, to give a full and fair and complete hearing on the floor of this House, with every Member's opportunity to speak and to be heard on amendments on this great legislation in the next term should we not be able to conclude our business during this term.

It is so important. I cannot overstress it. We can talk about crime and jobs and employment and everything

else that we have debated. I know they are important and I do not deny that for a minute; but I really was grievously concerned when I noticed that the hand was ticking down and we were taking up bills such as the Domestic Content bill as a protest demonstration, I suppose in large measure to the problems at hand; but which I think most of us realize could go no place in this session. Many said this could not go; but we never put this one up early enough to give it a chance to even remotely stand a chance to be voted on for final passage. I could name several other pieces in this lameduck session that should not have been ahead of this bill. I pray again that we will take it up and we will consider it next session, if it does not pass this time. Mr. LELAND. Mr. Chairman, will

the gentleman yield?

Mr. McCOLLUM. I yield to the gen-

tleman from Texas.

LELAND. Mr. Chairman, thank the gentleman from Florida for yielding, and I must say that the gentleman has stated his case very eloquently.

I am really concerned, however, about the premise that the gentleman has established, particularly the concern the gentleman has about legalization under the amnesty part of the bill.

The gentleman has suggested that he is going to offer an amendment that will strike the legalization.

Let me ask the gentleman, if I can, has the gentleman searched his family tree and found that his direct lineage from the people who came over if, in fact, they did in his heritage, had any real legal authority when they came for the first time in this country?

I am concerned about the fact that the gentleman alluded to the inscription on the Statue of Liberty about bringing the huddled masses and the people who had many problems from wherever it is they came to this country to find refuge. Many of the people who have come here have come here under extreme duress because, in fact, particularly when we consider places like Haiti and other places, Mexico for that matter, but let us consider Haiti when Baby Doc Duvalier was ravaging his own people and this country continues to enhance and prop up the Government of Haiti when we know that the Tonton Macoutes and the other legal authorities in Haiti brutalize and murder and incarcerate people and violate the human rights of those people all the time; so those people get on shanty boats and they come across the water. They come here and they are looking for refuge. They come here under the threat of being treated like illegal aliens and we look at the squalor that they have to live in in Florida and they come to Texas and they go all over the country, to New Jersey and places like that.

Mr. McCOLLUM. Well, if I may reclaim my time to respond to the gentleman, I have great empathy with the plight and the condition of many of those in the Caribbean and other places around the world who do live in poverty and whose economies we, by passing today the Caribbean Basin Initiative, are making an effort to improve in order to have a better world, in order to protect ourselves and to give them an opportunity; but we cannot have the quality of life that we want to have for our children and grandchildren if we bring all the people who are impoverished into our country and let them drag ys down to their level of poverty. We cannot do that.

All I am saying to the gentleman is that we have got to discourage that. We need to do like the Caribbean Initiative is doing to help to improve

those people.

Mr. LELAND. But we are not just talking about poverty, though. We accepted with open arms the Cambodian boat people, the Vietnamese and people like that. We said that we want to legalize them; but when the Haitians came over and when other people, when the Mexicans come over for that matter, living under the kind of conditions that they live under and realizing that there is some promise, some hope for them and their families in this country, and yet the gentleman is saying now that we want to continue for them to be allowed to be illegal so that we can further prosecute them and send them back across the border. Mr. McCOLLUM. If the gentleman

will let me reclaim my time, I will say to the gentleman that I have certainly empathy for the Cambodians and

others.

The refugee assistance program is entirely different from this. The law is not being debated here tonight, but the law is very clear on what political asylum is.

Mr. LELAND. What about the Haitians?

Mr. McCOLLUM. The Haitians do not qualify generally for political asylum.

Mr. LELAND. For what reason, for reasons of political consideration?

Mr. McCOLLUM. Because under the laws of our land and at the present time you have to be in fear of persecution when you go back and time and

time again, they are not in fear.
Mr. LELAND. Oh, my God, the gentleman does not think the Haitians are in fear of political persecution from the Tonton Macoutes?

Mr. McCOLLUM. I will reclaim my

Mr. MAZZOLI. Mr Speaker, will the gentleman yield to me?

Mr. McCOLLUM. Yes, I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, the gentleman from Texas raises an interesting point and I think it is well to note at this time that in our bill, the bill before the House, is a new section on how the question of asylum is established legally. Under the current law, that question largely is settled by the Immigration Service.

Under the bill before the House tonight, there is a separate procedure, separately specially trained administrative law judges outside the Immigration Service; another separate Board of Review and then a right of judicial review of that decision.

#### 2230

So there is a legalization section here for those who are here who do not seek asylum, and we have a separate section dealing with the question of asylum and refuge which, while the gentleman from Florida has a slightly different formulation, he and I do agree that our bill, or even his formulation, would be vastly better than the current situation.

Mr. LELAND. Mr. Chairman, if the gentleman would yield further, the gentleman from Florida says he wants to strike that.

Mr. MAZZOLI. That is a different section.

The gentleman from Texas would note that the legalization deals only with people here illegally but who do not seek asylum. The bill does have a section for those like the Haitians, Salvadorans, people coming from Guatemala who are seeking asylum. That decision is now handled in one way and our bill would handle it in a separate and much more fair way.

Mr. McCOLLUM. Mr. Speaker, I would like to reclaim my time.

I certainly want to be fair. I have been fair. I thank the gentleman from Kentucky for his comments with respect to the question of political asylum. We do have the procedures in the bill.

One last point on the question of legalization: The fact of the matter is that this bill moves up what is known as a registry date, so as a practical matter, the Attorney General has the opportunity to grant, in effect, amnesty to anyone who was here before January 1, 1973. It is really only the magnet effect of the last 10 years that concerns me so terribly and I think that that is, in fact, wrong for us to grant and that is the primary reason for striking the legalization or amnesty provision.

I thank the gentleman for the opportunity, and I yield back the balance of my time.

The CHAIRMAN. The gentleman from Florida has consumed 20 minutes.

The Chair now recognizes the gentleman from Mission, Tex. (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appear here tonight in a dual capacity, as chairman of the Agriculture Committee to bring to the membership the concern which has been expressed to us individually and collectively throughout the United States in the agricultural sector, both farmworkers and producers or farmers.

I also would like at the end to speak as an individual Member representing the 15th District of Texas, part of which lies on the border with Mexico, and where my family came to some 250 or more years ago.

Mr. Chairman, first let me say that the concerns which I bring to the membership will in no way diminish my admiration and respect for the distinguished chairman of the committee or the distinguished chairman of the subcommittee or the respective minority members, nor for the enormous work done by the Commission, which was the initial work that eventually brought us to where we are today.

I regret also that some of the concerns which I bring, you might ask, "Why bring them now?" Well, the fact is that in the process, in the legislative process, the concerns became apparent or were brought to our attention after the legislation was formulated. This is the only opportunity, besides individually speaking with Members, that we would have to, on the record, voice those concerns.

Let me say first, and this is very difficult to understand, that in the agricultural sector there is tremendous opposition which I have personally discovered from farmworkers as to what this legislation could do to them in several areas of concern.

The same opposition appears perhaps for different reasons from farmers or producers, but in this case both objecting sometimes to the same specific provision.

For example, let me state that the question on sanctions is of great concern among many of the people that I had an opportunity to visit with from California to Texas to New York, across our Nation. One comes from the people who are producers, from the farmers, some of whom to this day claim that there is discriminatory, at times enforcement of the law by the law enforcement agencies.

I have not delved personally into all those complaints, but by listening to the people on the border from California to Texas there is a great concern that many times there is highhanded handling either of the illegal alien or of the farmer or the owner of the farm or ranch. They then feel that with a sanctions law such as this, it will be easier and more prejudicial to them when they, in fact, have not infringed any law.

I would be really sacrificing my integrity to my oath of office if I were to say that you should not prosecute those that are guilty under the law. That is not what I am saying, but that when there is a rampant or widespread coverage in an area or in a specific factory or in a specific part of the city, legal and illegal aliens are all brought in and the managers or the owners of these establishments have great concern.

Then on the other side there is great concern that you may be establishing something that would, in fact and in law, make citizens of a second-class nature because I know that it is very easy for some Members, and I know that many would support the proposition, that, well, it is very simple, let us have a national ID card. This is personally abhorrent to me and I think it would be contrary to the Constitution and to the concepts and precepts on which this Nation was founded that we should revert, as some totalitarian nations do, where you cannot move from one street to another unless you have an identification card.

So I hear great concern and objection to being forced to have to identify yourself as a legal citizen. I know some say, "Well, you have to have a driver's license. That is a privilege. You have to have social security. That is a privilege which you have." But when you have to identify yourself in-country, not as you are leaving or as you are coming, then I think this is an insult.

Also, there is great concern which, if my colleagues will bear with me, I share very, very seriously that in our area of the country, or perhaps from New York into the South and into California, if the employer is concerned that he might be brought into a court of justice or that criminal sanctions or civil sanctions would be brought against him, he is going to be very careful. My concern is that if you start at Oregon, Washington, California, through to the Mexican coast to the South and then into the Northeast, anyone who looks like me is going to have to identify himself every time he asks for a job.

This is an imposition which I think our Constitution would classify as an imposition on the individual liberty of a person or of a citizen. I share with them this concern because they sometimes have trouble pronouncing myname in the realms of Capitol Hill. Can you imagine if I showed up in Alabama looking for a job, or in west Texas, or Kentucky someplace?

This is the concern that I bring to you, my dear friends, who handled this legislation.

Second, in this area also there is great concern that there are areas where you have infringement of the law unintentionally.

□ 2240

We have throughout the border those who have what they call a border-crossing permit by which they can come across the border without having a visa or passport, but they are not supposed to work. They can only come for 48 hours or 72 hours. Many of these are women who are retained as houseworkers by many people on the border, and I am concerned that if they would be covered under the sanctions, it would be catastrophic. On the border, you would have many dear housewives who had no other intention but to get some help for their households, who would have to be doing the same thing and asking, "Do you have papers? Can you identify yourself?"

The housewife with three or four children that might need to go to work, for example, you are imposing a duty on her above and beyond the norm that you would on any ordinary citizen, and you are imposing on her a responsibility for enforcement of the law that should belong to an enforcement agency.

Also, I would like to mention the fact that great concern has been mentioned to me in relation to amnesty, and this is a paradox because people who themselves have come as aliens and legalized their status tell me that they do not feel we should legalize someone who came infringing the law, someone who came, unlike they did, waiting in line, getting the papers, paying the lawyer. It is very difficult to come into this country legally. That is why, as I tell the gentleman from Florida, that is why we have so many illegals, that someone who wishes to come to this country has to wait months and years to unite himself with his family. They have to get all kinds of requirements, that they served in the Army, that they did not serve in the Army, back to the village where they lives, the chief of police, a multiplicity of documents which cost hundreds of dollars at times for people who cannot afford them, to come to this country. So, you are making it more difficult for those people who want to come legally, and yet you are giving those that came illegally the ability to legalize themselves.

I think, and this is just a personal theory on my part, that because it is the easiest thing to do—not because it is the right thing or the proper thing, but the easiest to do.

You will hear, "What are we going to do with them? We can't get them all together. We can't ship them back to wherever they came from. Let's just legalize them and start from here."

That would be fine if the process by which others who come legally were simplified. I am not one of those who feel that we have reached the point where we can have no more people come from other parts of the world. We have terrible problems in this country now. The farm sector has terrible problems, but we still are the greatest country in the world. We still are able to produce. We have economic problems because it is a world situation as far as economics is concerned, but saying that we should put a cap on the number of people from other countries, eventually you might not have other DE LA GARZA'S Or COELHO'S serving in this Chamber with such illustrious company if we were to shut it down, and let no more come in.

Can you imagine, had they done that 250 years ago, you would not have been listening to me tonight. That is part of the concern, that out there someplace there are some who can contribute yet to this great Nation of ours. Out there in some little country or some little village is yet someone who could come and make a valiant contribution in many fields to this great country of ours, and for us to change the direction and to say, "No, you can't come, we don't want you to drag us down into your poverty level," "Ain't nobody poor because he wants to," if we use the vernacular.

This I am concerned about. Another area of concern, and here I now revert to the personal, on the border from Tijuana to Brownsville-and I have an amendment posted that will address this issue—on the border from Tijuana Brownsville we did not have it before, but now the first thing you see as you are coming into the country, or the last thing you see as you are going out, is this serpentine wire that can cut your hand if you touch it. It is this huge fence with barbed wire. It looks like the Berlin Wall. It really looks like the Berlin Wall if you look at it as you are going out or coming in.

So, I asked one of the bridge owners,

"Why do you do it?"

He said, "Because we are forced to do it." There is a section in the law which says that any person with a vessel who harbors or brings in any alien is guilty and the Customs who supervise, or Immigration, I do not know which handles the operation of the border bridges, say that these bridges are like vessels, and that if an alien comes illegally over the bridge or under the bridge or around the bridge, the bridge owner is liable criminally and civilly, and they are forced then to have this ugly looking barbed wire and serpentine wire which is the first thing you see on the border, and I abhor and detest it.

If we could handle it in this legislation or maybe through some appropriation process, that would be good, but it is something, Mr. Chairman, that should be addressed because I have gone around the world saying how we do not have the Army between us and Mexico; how we do not have guns aimed across the river, and yet

you see that barbed wire like the one I saw in Berlin between East and West. I think that issue should be addressed.

Now, let me revert to the personal before I conclude. I live in an area that was once the New World when the Spaniards first discovered this hemisphere. It was New Spain. So, my family was Spanish, living in New Spain. Then, following the concept developed here in Philadelphia, in Virginia, and in Jamestown, the great cry for independence and the ringing of the bell declaring this part of the then hemisphere independent from Great Britain, not too long after that the same cry was heard, and oddity of all oddities, they also rang a bell in the little village called Dolores Hidalgo detheir independence Spain. So, then my family became Mexican, because that part of the country, almost everything west of the Mississippi and through the Southwest, was then a part of Mexico. So, without any movement on our part, history changed it and we became Mexicans. Later, Texas declared its independence from Mexico, and we became Texans. We still had not moved.

Later, the United States had a conflict as to where the boundary would be, the Nueces or the Rio Grande River. Had it been the Nueces, I would probably be making this talk in the Congress of Mexico.

#### □ 2250

But when they set the Rio Grande as the boundary, then we became genuine citizens of the United States of America, of which we are proud and whose traditions we follow, and whose Founding Fathers we claim as our Founding Fathers. But we were not a part of the initial process of independence in Philadelphia. The areas of Texas, Arizona, New Mexico, Colorado, and California were a part of the independence process of Father Hidalgo and Dolores Hidalgo after Washington and Jefferson.

Having mentioned this, I then feel that, for families like mine, history or fate said if you are south of the river you are Mexican, and if you are north of the river you are genuine U.S. citizens, American citizens, and families

could go and come.

But now there are those in our area who say that we should have no infringement, that if you are a member of one family, that river should not mean anything; they should have the privilege to come and go. And there are many who espouse the proposition that there should be no immigration process at all, that if you can prove that you live in the area and fate made the river a juridical boundary, that should not apply to you. Many who cross that river still feel that way.

Now, there is also concern—and I have seen it in my area in letters to

the editor—that maybe we should not allow anyone to cross, that maybe we should put the Army out there or put the Marines out there or someone from one border to the other to keep everyone out. But we are integrated to such an extent economically and familywise that when Mexico now, for example, is suffering tremendous economic upheaval—and they have tremendous problems—since Mexico is such an integral part of not only our area, but of the United States, their security and their economic stability is an integral part of ours.

Members may ask, why do you bring all of this out in this immigration reform law that we discuss? Because it impacts on the economic stability that we have. It impacts on the economic on both sides of the river. It impacts also on the schools.

The Supreme Court of the United States now says that we have to educate children regardless of whether their parents are here legally or not, and this impacts tremendously on us and is an economic burden. This bill has some relief for that.

So let me say that I have found as chairman of the committee and individually—and I say this with all sincerity and respect for my colleagues on this committee and the Commission—I have found no one who has told me to go and vote for that good bill that they have on immigration. Rather, all of the concern has been from the employer or from the employee. And on the asylum question, as the distinguished chairman of the subcommittee mentioned, there is great concern in my area because through there come many of the people from Central America

Some unfortunates who were coming from El Salvador, for example, got lost in the desert, and many died. Recently in my area some were being brought in illegally and something happened to the truck. The truckdrivers ran off, and some Salvadoran children died inside, suffocated inside the truck. This is all because the legal process is not working and this legislation does not really alleviate this situation.

We do not have enough people in the consulates. We do not have people in the visa sections. I do not know whether this bill addresses that or whether it will have to be handled in some other place. But this is something we should be addressing.

First, how do we address the issue of those who would want to come in legally? I have no concern about land. We have land. I know that we have unemployment now and I know we have tremendous economic problems, but that is for other reasons, not because of the people who come, although I must also say that there are some concerned farm workers who feel that some aliens legal, or otherwise,

infringe in the areas where they might get employment. So I bring that con-

cern to the Members also.

From my personal viewpoint and from my perusal of all the letters and telegrams that have been sent and from my personal inspections on behalf of the committee, I say that I do not feel that I can personally support this legislation. I would hope that, rather than doing what we are doing tonight in the last days of the session, we would have the foresight to see that there is tremendous dissatisfaction out in the population.

Some even have the temerity, if I might say so, to tell me that the committee acted almost as in a vacuum here in Washington, Although I know the committee had hearings in several areas, the legislation was written perhaps in a sterile atmosphere, too clean to satisfy the intent of the law or the requisite of what my distinguished colleagues felt the law should encompass. That is not the best way to legislate, Legislation should not be sterile and should not be perfect in every detail.

I would think we would have to have more field hearings and more input from people outside, so it can be addressed again, because very respectfully, I say the end result of the commission and the end result of this committee is not acceptable to anyone to whom I spoke.

MR. MAZZOLI. Mr. Chairman, will

the gentleman yield?

Mr. DE LA GARZA. I will be happy to yield to the chairman of the subcommittee.

Mr. MAZZOLI. Mr. Chairman, I appreciate the gentleman yielding for a

few moments.

The gentleman has made a wonderfully eloquent statement. The only part I would deal with is the part about this bill being written in a vacuum. It was not. It may not be a vacuum. It was not it may not be a vacuum way certainly has every right to object to it and oppose it. But it was written by this subcommittee after many, many days and hours of hearings

We traveled to Florida, some of the Members went to Haiti, some went to Texas, and some went to California. We had people basically from all the States in the Union come into Washington to testify. If my recollection is correct, we had 300 witnesses over a period of time.

So I say to the gentleman that like in anything else, we had to curtail some of the hearings, but essentially it was not written in a vacuum.

Mr. DE LA GARZA. Mr. Chairman, the gentleman may well be correct. What I said to the gentleman—and the gentleman may recall my words—was that some people even have the temerity to tell me that they felt it was written in a vacuum. I am not telling the gentleman that I acccuse him

or the committee of that. I am relaying the message that some people gave. This is the perception that some people had, and at some point in time the perception of the people in law is more important than the letter of the law

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I have listened carefully to the gentleman's statement and I think it may have been the most powerful one that has been made during this debate.

But I would like to observe that going to the southern borders of our country and watching people wade through the water or visiting an INS office does not constitute any meaningful experience. It takes the writing of this legislation out of the vacuum that some people talk about.

Last night there were members of this committee who were very anxiously supporting this bill who said, "I went to the border and I looked and I saw, and I came back and now I know what I am doing." They ignored the testimony of some of the Hispanic leaders here as if they had not even spoken. I could not believe it.

They were asserting that by serving on a committee and taking a couple of trips, maybe a lot of trips, somehow going to that Mexican border gave them some insight to write this legislation. I happen to be one of the members who believe that that does not give them one ounce of insight more than anybody else.

Mr. Chairman, I thank the gentle-

man for yielding.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for his contribution and I thank the Members for their courtesy tonight. Let me close, Mr. Chairman, by saying that there are many areas I did not cover for lack of time, and I would consider it prudent and certainly responsible to address this issue next year.

The CHAIRMAN. The Chair now

recognizes the gentleman from Illinois

(Mr. Erlenborn).

Mr. ERLENBORN. Mr. Chairman, I yield 3 minutes to the gentleman from

Pennsylvania (Mr. Goodling).

Mr. GOODLING. Mr. Chairman, I thank the ranking minority member of our committee for yielding me this time. I take this time just to indicate that in our committee, in full committee, I introduced an amendment which I think is a needed amendment because it deals with this whole business of refugee education.

If you remember, prior to 1980 we handled each group of refugees who came in a different manner and with no specific rhyme nor reason. Local communities and local education agencies had no say in whether they were going to receive any help from the

Federal Government, and then we wrote this act in 1980.

□ 2300

What I have tried to do with my amendment is merely conform the education part of this bill with that act that was written in 1980.

Basically, just to refresh your memory, in that act local education agencies can receive anywhere between \$400 and \$1,100 per pupil. It depends on how heavily impacted they are. It depends on how long those refugee youngsters or those legal aliens have been in that specific area. So you could receive as much as \$1,100.

I think we definitely should do the very same thing in this piece of legislation that we do in all other refugee

education.

We also, of course, handle the adult education program. So we have \$300 set aside for anyone 16 years and older who comes into this country in the adult education program.

So basically, as I said, what I have tried to do with this amendment, which was accepted unanimously in our committee, is to conform the educational part of this bill with what we

already have written.

As I indicated, for the first time in 1980 a uniform approach was taken so that every school district, every local municipality knows exactly what they can expect from the Federal Government and they do not have to wait and they do not have to bargain. They know they are going to get help and assistance in order to educate these youngsters.

When we get to the amending process I will offer that amendment and I hope that it will be accepted by the

committee.

I yield back the balance of my time. The CHAIRMAN. The Chair now recognizes the gentleman from Idaho (Mr. Hansen).

Mr. HANSEN of Idaho. Mr. Chairman, I yield myself such time as I may

Mr. Chairman, the Immigration Reform and Control Act of 1982 (H.R. 7357) as proposed to us here is a very controversial bill that is opposed by many individuals for a variety of reasons. The agricultural community has followed closely the developments that have led to the consideration of this immigration reform legislation because there are special problems involving the hiring of foreign workers to grow and harvest certain crops that must be considered. Now it must be pointed out that the current H-2 program is not workable as presently provided by the general authority in the act as administered by the Secretary of Labor.

As a result, both the Senate bill as passed and the House version as reported by the Judiciary Subcommittee

on Immigration, Refugees, and International Law have commendably sought to establish a workable, temporary foreign worker program for agriculture. Unfortunately, however, this has not been accomplished. The full Judiciary Committee made major changes to the subcommittee version and then this section was further amended by the House Committee on Education and Labor which argicultural interests cannot accept.

Trying to meet grower needs, the agriculture industry has sought to diminish the role of the Labor Department and give the Department of Agriculture a voice in the admission of temporary workers. As might be expected, organized labor, operating from its unfamiliar urban base, has attempted to limit this program, presumably to protect the American worker, but with

counterproductive results.

It has to be boldly stated-there is no way that most Americans will perform the labor required to adequately handle irrigation needs and harvest the potatoes, fruits, and vegetables produced in this country. Most of these harvesting tasks require that the produce be hand-picked and sorted at a specific time. It is labor intensive and requires a substantial number of workers who in many cases must be mobile as they follow the harvest to different geographical areas. Again, it is an established fact that there are very few Americans available who want to accept this type of employment which requires in effect a manual labor expertise that mechanized-oriented Americans do not wish to undertake, even when the pay is the same.

The political compromises effected so far are to the detriment of American agricultural interests. Changes that would warrant support by agriculture could be accomplished in one of two ways-acceptance of various amendments to be offered, which stand little chance under current circumstances, or rejection of this bill and going back to the drawing board. It would be much wiser to come back next year under less strained legislative conditions with a bill that adequately recognizes a valid need for temporary foreign workers so as to be acceptable to the great majority of those seriously affected by economic changes.

Any provisions which seek restrictions on the H-2 program that make it more difficult for employers to receive certification as a precondition for hiring foreign workers when they cannot find qualified U.S. workers are unacceptable because of the time factors involved in perishable commodities.

The establishment of an 8-month limitation in any calendar year for most purposes does not meet the needs of many agricultural employers, espe-

cially in the South and West, where growing periods include winter months. Besides forcing growers to change workers in mid-season it will add additional costs. It would appear to be better to have the maximum period under certain circumstances be expanded to 11 months so that workers could be transferred between crops.

The Secretary of Agriculture, because of his expertise in major area of concern, should be regularly consulted on the H-2 program, thus having a key role along with the Secretary of Labor. But so far any such reference to the Secretary of Agriculture has been denied with pressure from urban

labor groups calling the shots.

Another problem presented by suggested amendments is that they would enact into law the regulations that the Department of Labor currently has in effect to operate the H-2 program. This would in effect lock in present regulations regardless of unforeseen situations that might develop under a sweeping new law in any given year. Of course the Congressional amending process could be followed, but we all know how difficult and time-consuming it is to accomplish needed changes under emergency circumstances. Severe damage can be done to people while they wait in frustration.

I could recite many other instances of problems with this legislation, but basically it is just unworkable. The agricultural industry stands to be severely harmed by many of the provisions of this bill and major proposed amendments and if proper restructuring cannot be accomplished, we should refuse to act in haste on this pressurepacked lameduck session and hold our decisions for better circumstances next

In addition, Mr. Chairman, on a broader basis I must also point out that the Immigration Reform and Control Act of 1982 fails to effect any real control on the alarming swarm of aliens invading America's borders. Instead, it will legalize and expand the shocking abuse of Immigration and Naturalization Service (INS) agents against the human and civil rights of both aliens and Americans alike.

I have recent legally documented instances where INS agents, acting beyond the law have demonstrated scandalous contempt for human life, not excluding even murder-and the victims of this abuse have been both illegal aliens and American small businessmen. Perhaps the saddest commentary on this is that even in the face of judicial rebuke, INS spokesmen have announced their intent to continue such activities. This alleged reform legislation will strengthen their ability to do just that.

This bill accomplishes its dubious purpose by attacking the free exercise of previously inviolate rights. The INS is given yet more authority to harass employers; violate the most elemental rights of human beings; and continue their now notorious methods of entrapment, brutality, and even murder. The bill's solution seems aimed at creating criminals and abusing rights rather than limiting illegal entry.

This bill entrusts to the INS still more opportunities to hound employers. Only last year, INS conducted an operation against, not illegal aliens, but against the farmers of my area. The INS itself brought illegal aliens into the United States and under cattle-like circumstances, transported those aliens to Idaho and attempted to sell them to Idaho farmers.

In the course of that operation, the INS violated the law by smuggling in illegals. They charged those illegals a fee to bring them across, then turned some of the illegals in for bounty fees for their "coyotes" sending them back to Mexico. The rest they ultimately brought to Idaho in an entrapment op-

During the litigation which resulted from this activity, a Federal judge dis-

missed the action against the farmers

with the following statement:

eration.

. (A)s a lawyer and as a judge, I must say that I am offended deeply by the idea of getting a hint that someone might employ an illegal alien, going down into the foreign country, making arrangements for those people to come into the United States and this just offends my sense of what the government should be doing.

He characterized the incident as the worst case of legal entrapment he had ever encountered.

After that trial, the INS regional officer stated that the Service intended to continue doing the same thing as a regular course of action. But we shouldn't be shocked at this. Only a few years earlier, an INS agent shot an unarmed 19-year-old local farm worker in the back of the head, killing him. By the time of the hearing, all of the illegals who were witnesses to the act had been sent back out of the country by the INS and the shooter was set free. I have county prosecutors who would testify to this effect.

A few years ago, when I started to bring the abuses of the Internal Revenue Service agents to light, I was met with disbelief. My colleagues would not believe that our agents, officers of the law whom we set upon the people, could abuse their authority. Yet it is now common knowledge that I was right and that these agents are responsible for a tax rebellion among the people which no one seems to know how to solve.

The response of the Congress has been to pass yet more repressive legislation. And now under the guise of stemming illegal immigration, which all of us want, many leaders of this House are prepared to again choose to use repression against the people of

our country. Are we perhaps slipping into a way of thinking more suited to a different form of government than this Republic? Are our people wrong to ask why we are at pains to treat thugs and career criminals with solicitude, only to turn on the honest and hard-working person and use the Government to crush him?

Whenever it is offered, I urge the defeat of any measure whose main feature is more brutal attacks on the people of the country. We can control immigration, if we want to, without brutalizing human beings and without making employers a whole new criminal class

H.R. 7357 should be defeated and redrafted under better circumstances in

the new Congress. The CHAIRMAN. The gentleman from Idaho (Mr. Hansen) has consumed 6 minutes.

The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. I would like to thank my colleague from California (Mr. MILLER).

I want to thank the chairmen of the full committee, of the subcommittee, and the ranking minority members who have worked very hard on this bill. The one interesting and exciting part of this immigration bill is that finally this Congress is talking about immigration. I think that is healthy, because it is the only way we are ever going to get down to the business of putting together a program that is going to be fair to everybody.

But I also have a personal experience to relate, similar to my colleague from Texas, KIKA DE LA GARZA.

What very few people know about me is that both my sons' grandfather came across the border from Brownsville, Tex. He lived in this country for close to 40 years before he passed away in 1977. For those 40 years he constantly looked over his shoulder making certain that nobody was following him, making certain that there was no INS close by.

Let me just say it is one hell of a way to live.

#### □ 2310

That is why I think we have no choice in the 98th Congress but to work together for a program to bring amnesty to all, all, undocumented persons who are presently residing in this country, not a two-tiered program but a one-tier program—to really let them all be absolutely free as you and I are.

I have also had the opportunity of visiting at least half a dozen camps where aliens were being held.

I remember I spent a full day at San Isidro, just across the border from Tijuana. I went to the pens, and I had an

opportunity to talk to some of these people. I was at the border when busloads of aliens came in from Los Angles, there was a guard asking them certain questions and every now and then he would pick one out, and that person would be from El Salvador, or from Nicaragua, or some place else in South America, and they were called, OTM's which meant other than Mexi-

I also went into the foothills of San Clemente, myself and Father Siedra. from San Diego. I walked up into those mountains. And I looked at these poor people, young men, sleep-ing on mattresses that were sopping wet, with pieces of canvas over their heads, and I said, my God, how could they possibly live this way. The fire where they were cooking their food, with all the flies-you and I would never partake in that. But there they were hiding, waiting to get an additional couple of hundred dollars so that they could make the run from San Clemente into Los Angeles, because if you known that part of California, that goes from San Diego to Los Angeles, you know that on one side is an ocean, and on one side is the Federal camp called Camp Pendleton. And the only way you can get through that stretch is either in the trunk or in the back seat of a car. Yet still, in order to do it, you had to raise money to get someone to help you.

Why are all the minorities opposed to this bill? That to me is very, very revealing.

We are afraid of this bill because of its potential impact on our communities. We are afraid of the consequences of what has been considered a socalled delicately balanced bill. We will

be the ones who are going to bear the burden of those consequences.

But I will be frank to tell my colleagues, we will not lie down, and we are not going to accept discrimination. As far as I am concerned, discrimination will never happen again to us.

My sister, who is a minister, once offered a prayer to this body. Let me tell you what she said that day, and what she has said on many occasions.

The one thing that I think that every group has always wanted for themselves is not to walk any taller than anybody else or to walk in front of anybody else. I think all we really want is that we have the opportunity

to walk along side.

I believe that is what the minorities in this country are looking for today. That is what those persons who are coming from Haiti and coming in from the various Caribbean nations want. They are not looking to take anything over. These are people who are trying their best to make a living, to raise a family, to enjoy what everyone in this room has had the opportunity to enjoy. As the chairman of the Population Subcommittee, I have held a

hearing, and I would say to both my colleagues, the ranking minority member, my colleague from New York (Mr. Fish), and to the gentleman from Kentucky (Mr. Mazzoli), that while I do not have legislative jurisdiction over immigration policy, I have held hearing on this issue. That subcom-mittee held three extensive days of hearings on this issue.

The last hearing we held was just last week. And I questioned, Representative SHIRLEY CHISHOLM on the question of why editorial boards from such prominent papers as the New York Times, the Washington Post, and the Los Angeles Times have all been in favor of this legislation.

Let me just respond, and with the gentlewoman's permission, although she is not here, I believe her answer shed some clear light on the entire subject of discrimination. And I am going to quote her. I hope she does not mind.

It is always rather difficult for those persons who sit in judgment with respect to the lives of other people and make their assessments and evaluations by virtue of the media to truly comprehend what is happening to people of color. They have not had the opportunity to live the lives, to have those experiences of people of color.

Whether we are black, whether we are brown, or whether we are yellow. And again quoting her, "And it is always amusing how the editorial writers can come up with their conclusions." That is why she said she could not support this bill.

Now, let me tell my colleagues another reason why I am opposed to this bill.

I want to talk about employers' sanctions.

My colleague from Florida has his problems with the question of amnesty. There are other people who have their problems with other sections of the bill. But let me speak now to my colleague in Florida about sanctions.

The fact is that if you and I-and I would like to think I am as smart and as intelligent as you are—went to a prospective employer, if this bill becomes a reality, and I spoke with an accent, as my dad did and as my mother did, and you and I, with equal talent, an employer would say, why should he take a chance and hire Bob GARCIA when he can hire you. It seems to me that this is what we are really talking about here.

We are setting up a system in which a prospective employer is both judge and jury. That is a heck of a responsibility to place on somebody who just wants to hire somebody.

I then have the right, if he should not hire me, to go out and say he is discriminating. You have the right to go out and say that I may be an illegal alien. And then what happens to this poor employer. He is stuck in the middle. He does not know whether to

go this way, or whether to go the other way. That is the basic problem with the whole program of sanctions.

Mr. McCOLLUM. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. I would be delighted to yield to the gentleman; I think the gentleman is entitled to respond.

Mr. McCOLLUM. I think that gets to the heart of what I believe is mispreceived by the minority groups and those imposed to the employers' sanctions in this bill.

The CHAIRMAN. The time of the gentleman from New York (Mr. Garcia) has expired.

Mr. FISH. Mr. Chairman, could I yield 2 minutes to the gentleman from New York?

The CHAIRMAN. The gentleman from New York is recognized for 2 minutes.

Mr. GARCIA. Mr. Chairman, I yield to the gentleman from Florida (Mr. Mc1Collum).

Mr. McCOLLUM. If I might, I think the heart of the problem is that there is a failure to recognize the protections in this bill that are built in the employer sanction area for the employer, so that the reason to discriminate, which the gentleman fears, should not be there.

We have in essence made the employer immune if the documents that are listed in the bill are presented to him; he cannot be found guilty, or convicted, or prosecuted, regardless of any other factor, and, consequently, I really find that the issue to me—at least trying to be objective about this—is somewhat of a bogus issue.

I respect the fear that comes from those who undoubtedly, and I have not had the experience, would have that concern. But I do believe we have gone overboard to make sure that the prospective employee is not going to face the problems of discrimination which the gentleman fears.

Mr. GARCIA. If I can reclaim the time that was so generously offered to me by the gentleman from New York—and I do not want to preach—but unless you have lived as a person of color, it is pretty damned hard to understand it. And for those of us who have been down that road, where people have refused to hire us just because of our surnames, or the way we looked, it has not been pleasant. I am glad that the gentleman has never experienced that.

But many of us have. And I would say to the gentleman, I would prefer not to have experienced it. But in having experienced it, I have not become hard or bitter because of it. I think I am a better person, because I can understand things that sometimes the gentleman may not be able to understand.

It is just so difficult. And it gets so emotional—the whole aspect of wheth-

er in fact you are eligible for a job or you are not.

Mr. McCOLLUM. If the gentleman will yield further, I respect that emotion, I respect that experience. But what I am saying to the gentleman is that trying to remove myself from the emotion which I hope he tries to do in his case, too, I find in this bill no real discriminatory aspect from the employer. There is no reason for the employer to discriminate, although I respect the gentleman's emotion and that emotion undoubtedly and naturally clouds his objectivity on this issue.

Mr. GARCIA. I would like to include a written statement for the Record:

In light of last night's debate, I feel compelled to raise an important point. There are some supporters of this bill—certainly not all—who act as if they are giving America's minorities a gift with certain of the provisions in the bill. I detect, at times, a certain self-righteous, condescending attitude. I do not consider any provisions that have a positive effect on my community or any other minority community in this Nation a gift. I consider it a right.

Why are so many minorities opposed to this bill? Because we are afraid of what it might do to our communities. We are afraid of the consequences of this "delicately balanced" bill. We will be the ones to bear the burden of those consequences. We will not, however, lie down and accept discrimination. That will never occur again in the history of this Nation.

My sister, who is a minister, has a prayer she often uses. She says of our community that we don't want to walk ahead of you, but we don't want to walk behind you. We just want to walk beside you.

On the subject of discrimination, at a hearing held by my subcommittee last week, on immigration, I asked my distinguished colleague from the great State of New York, Congresswoman Shirley Chisholm, a question on how she responded to the Editorials, in many newspapers, supporting H.R. 7357. I believe her answer sheds some very clear light on the whole subject of discrimination. I would like to quote my distinguished colleague: "it is always rather difficult for those persons who sit in judgment with respect to the lives of other people, and make their assessments and evaluations by virtue of the media, to truly comprehend what is happening to people of color. They have not had the opportunity to live the lives and have the kind of experiences (of people of color), and it is always amusing to me how these editorial writers can really come up with their conclusions."

That is why I cannot support H.R. 7357, because it may prove to be discriminatory to people of color.

Another reason that I oppose this bill is because it has the dual effect of watering down the legalization program, and at the same time, creating a new bracero program, disguised as an expanded H-2 program.

Editorials in some of this Nation's finest newspapers have called this bill a carefully crafted and delicately balanced piece of legislation. That's simply not true. While its intention may be to balance off interests, it does not.

There is no amnesty program in this bill. In fact, the bill's supporters are quick to add that the bill has a limited legalizataion pro-

gram. There is no complete amnesty—that is the problem.

It, instead, has a two tiered legalization process that would put newly legalized persons in a state of limbo for at least three years, and perhaps six. This process is not only unfair, it is unworkable.

Like so much else with this bill, numbers, and time periods are thrown around as if they had no real impact on the individuals they will potentially effect. Keeping persons apart from their full rights as legal residents for a minimum of three years and a maximum of six years, is the same as keeping these individuals apart from the law for that same period of time.

We already have an expansive underclass; we don't need a law that will extend that class even further. That's against the principles on which our country is based.

What we need is an amnesty program that would be retroactive from the time of enactment of the bill. This would have the positive effect of wiping the slate clean, and giving those individuals who have been contributing members of society—but who have lived in fear because they did not have proper documentation—to come out in the open and participate in the mainstream of society.

Aside from the general principle behind opposing this half-way legalization program, it will also prove to be a bureaucratic and administrative nightmare.

Even if voluntary agencies help with the process, there is no way the INS can be expected to effectively handle the amount of paperwork that this two-staged system would create.

Can you imagine the amount of documentation that will have to be sorted out if this program is implemented? It's a staggering thought.

Of course, there will be even more problems for the INS in making sure that only certain newly documented persons get certain benefits for a specified period of time.

We are asking INS to assume a responsibility that is of epic proportions, and we are doing it at a time when we are also asking that organization do a more effective job at monitoring our borders.

So much for a delicately balanced bill. I don't think the U.S. is willing to round up all undocumented persons in this country and send them home. I would also like to think that very few, if any of us, would support such a mean-spirited notion. Since that is the case, a total amnesty program is the best solution. Further, the money saved by eliminating all the red tape and bureaucratic hassle, could be used to help INS control the borders.

The H-2 program is an excuse to bring guest workers to this country who will only be used for their labor and then they will be shipped back to their homes. This program could potentially bring in hundreds of thousands of temporary workers, at a time when there are thousands of our own farm workers looking for employment.

The H-2 program contained in the original bill is bad for American workers. Further, I find it ironic that some supporters of this bill have said that it will provide jobs for many Americans, by ridding this country of undocumented persons. Yet on the other hand, this bill contains a program which brings in a steady supply of temporary workers to take jobs away from American farm workers. It makes no sense.

What does make sense, is either an elimination of the H-2 program or severe restrictions on the present program. I believe my

colleague from California, Mr. Miller, is introducing amendments to this effect.

During the last week of April of this year, the administration initated "operation jobs." This program was designed to remove undocumented workers from so-called better paying jobs across the country. It was responsible for apprhending 5,440 of these workers.

The program was a failure. It was a failure because the so-called better jobs being taken by undocumented persons turned out to be less than acceptable to many of the Americans who took them.

In the December 5 Wall Street Journal, there was an article on "operation jobs" and many of its failures. These failures are perhaps best summed up by a man who took a job vacated by an apprehended undocumented person. He said that, "it was was too much work for too little pay. We were like dogs out there. I ain't never been in prison, but it felt that way."

This article uncovers the lie that Americans are being pushed out of jobs now being held by undocumented persons. It also helps to eliminate the often held belief that those individuals are a drain on society. They are not; they are productive contributors to our economy and society at large.

As I have said repeatedly, this country was built by immigrants. Their enthusiasm and faith in the American system is far from draining, it's heartening.

I am not advocating a lax immigration policy, but I do support a just and realistic policy that does not scapegoat immigrants.

Many of my colleagues have spoken against the bill because it is being considered at such a late date. I agree, this is not the time to debate the question of immigration policy. This issue will be with us when we return in January.

As chairman of the Census and Population Subcommittee, I held three days of hearings on the question of immigration, I heard a host of witnesses talk about this problem and the potential impact it might have on may of America's minorities.

I also testified before the other body, the Senate, on the question of immigration. I am not a newcomer to this issue. I did not jump on the bandwagon recently.

I oppose H.R. 7357 because it does not do what it sets out to do, that is, create an effective, just immigration policy. There are nearly 300 amendments to be considered at a time when many of us are anxious to finish up business and start fresh in the new year, with a new congress.

I have a statement prepared by the League of United Latin American Citizens on employer sanctions and discrimination that I would like to submit as part of my testimony.

I also have a letter that I would like to read presented to me by Mr. Bert Corona, of the National Coalition of Latin American Trade Unionist, last week at my subcommittee's hearing. I hope this letter will give my colleagues some indication of the amount of grass roots opposition there is to this bill:

**DECEMBER 10, 1982.** 

Hon. ROBERT GARCIA.

Chairman, Subcommittee on Census and Population, Post Office and Civil Service Committee, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN GARCIA: On behalf of over 100 Hispanic organizations which com-pose the National Immigration Coalition in Southern California and the approximately 10,000 Catholics of many nationalities, citizens, and permanent residents who have signed these 10,000 letters directed to House Speaker O'Neill, Majority Leader Jim Wright and Committee Chairmen Peter Rodino and Richard Bolling asking for a postponement of consideration of the Simpson-Mazzoli Immigration Reform Act of 1982 (H.R. 7357), I respectfully request your presenting these letters to the leadership of the House of Representatives who are to decide whether this bill should receive final House action.

It is important that you understand our support for immigration reform, but reform which can solve many of the problems attendant to our present immigration policies and practices, but in our humble and considered judgement this bill does not solve any of these problems. Instead, it creates new and more difficult problems and exacerbates the existing ones. Our country's do-mestic as well as its foreign policies can hardly afford the kinds of problems H.R. 7357 heightens.

We appreciate and are grateful for your assistance in bringing these concerned citizens' letters to the attention of the House leadership and to the Congress as a whole. Respectfully yours,

BERT CORONA Coordinator, National Immigration Coalition.

LEAGUE OF United Latin American Citizens, December 15, 1982.

To: House staff.

From: LULAC, Arnoldo S. Torres, national executive director.

Subject: Employer sanctions and employment discrimination.

#### I. EMPLOYER SANCTIONS AND EMPLOYMENT DISCRIMINATION

The employer sanctions provisions, Title I of the proposed Immigration Reform and Control Act of 1982 (H.R. 7357), threatens to erect additional barriers to equal employment opportunities for Hispanic. Illegal immigration in this country has long been perceived by Americans as an Hispanic phe-nomena. "Operation Jobs," conducted by the Immigration and Naturalization Service in April illustrates this point. Illegal Canadian and European immigrants survived "Operation Jobs" virtually unscathed, while Hispanics, and persons of color bore its wrath. The institution of employer sanctions, for the hiring of undocumented workers, promises to have the same result. Hispanics will be most notably suspected of illegal status.

As presently proposed the Immigration Reform and Control Act contains no statutory language which effectively counters the threat of increased employment discrimination, toward Hispanics, which it engenders. It simply contains report language which is not designed to prevent employment discrimination but simply report it after the fact. Further, the bill provides, in part A Section 274 (a) (1) (b), that "it is unlawful to hire for employment in the United States an individual without . . . " verifying States an individual without . . ." verifying that the individual is eligible for employment, as by being a citizen or legal resident. The bill, however, does not provide for any system of monitoring to ensure that all individuals, not just Hispanics are requested the requisite documentation before employ-ment. Even assuming that figures on the occurrence of employment discrimination, or unequal treatment, become available, the absence of an institutionalized monitoring system would logically render those figures unreliable. In the interim, three years will

elapse during which time Hispanics may be denied equal employment opportunities.

The potential for increased employment discrimination toward Hispanics which the bill engenders is of particular significance today, in the wake of the deprioritization of civil rights enforcement in this country. What follows is a brief exposition on the state of equal opportunity law enforcement in this nation. The conclusion to be gleaned from the following analysis is that no guarantee of prompt redress exists for those Hispanics who, as a consequence of the advent of employer sanctions, are wrongfully refused employment, or otherwise denied equal employment opportunity.

#### A. THE STATE OF EEO LAW ENFORCEMENT

The Commission on Civil Rights in its June 1982 report noted that funding and staffing cuts in the EEOC have resulted in a retardation of the EEOC's progress toward providing complainants with prompt relief, addressing class and systematic discrimination problems and eliminating inconsistent equal employment requirements.

As the table below shows, EEOC's systematic spending power is \$6 million (5 percent) lower than in FY 80.

### EEOC BUDGET TOTALS AND TOTALS IN CONSTANT DOLLARS: 1980-83 (PROPOSED)

[In thousands of dollars]

Fiscal year	Appropriation <sup>1</sup> (annualized)	In 1980 constant dollars	
1980	\$124,562 137,875 140,389 2139,889 144,937	\$124,562 126,028 119,041 118,617 114,536	

<sup>1</sup> Figures represent what EEOC could spend during a whole fiscal year under each spending ceiling.
<sup>2</sup> This figure does not include a \$4.2 million supplemental appropriation EEOC expects during the fourth quarter of fiscal year 1982 because this appropriation has not been enacted. Mary Stringer, supervisory budget analyst, EEOC, telephone interview, Mar. 11, 1982.

As a result of spending cuts the EEOC in FY 81 cut back the number of planned class complaint investigation of broad patterns and practices of discrimination by 13 percent, and expects to keep at this lower level in FY 83.

According to the Commission's report, the EEOC plans further cutbacks in services, such as labor force data processing. Such cutbacks would restrict the EEOC's plans to include in its targets other "employers," such as unions and apprenticeship committees that have had many discrimination charges filed against them.

Because of budgetary constraints, the EEOC in FY 83 expects to approve 14 percent fewer new suits than it approved in FY 81, even though a rising complaint load indicates a greater need for litigation. The agency may also have to reduce the number of suits it actually files in FY 83.

As the table below from the Commission's June 1982 report shows, EEOC's staff resources have been declining steadily. The agency has lost 461 authorized positions since FY 80 and is currently below its authorized level. Clerical and field office attorney positions have been affected most heavily, slowing down the production of documents and work on legal cases. The EEOC plans further cutbacks in FY 83, for expert witnesses and other support services for cases in litigation.

EEOC FULL-TIME PERMANENT STAFF POSITIONS 1980–83 (Proposed)

Fiscal year	Authorized	Actual
1980	3,777 3,468 3,468 3,316 3,278	3,433 3,416 (1)

<sup>1</sup> EEOC failed to provide requested data on actual staffing levels. See Edward Morgan, Director, Office of Congressional Affairs, EEOC, letter to John Hope II, Acting Staff Director, U.S. Commission on Civil Rights, May 7, 1982.

As a consequence of staff shortages the EEOC in FY 81 estimated it would take 6½ months to resolve all Title VIII complaints on hand. With yet fewer staff on hand, its present FY 82 estimate is a month longer, and its FY 83 estimate is still another month longer.

Staff shortages have led the EEOC to assume a progressively more passive enforcement role. Lack of sufficient funding and staffing has diminished the agencies ability to conduct federal civil rights compliance reviews. Staff allocations have led to an emphasis on inefficient individual complaint investigation activities, albeit at the reduced level shown.

The resulting cutbacks in the EEOC's activities targeted at systemic discrimination, inevitably places the burden of initiating enforcement action on the victims of discrimination, persons often lacking the requisite resources of familiarization with the law or with the requirements of program operations. The rights of victims who do not know how to file complaints or fear reprisal for doing so, have been left unprotected.

#### CONCLUSION

The employer sanctions provisions presently contained within the proposed Immigration Reform and Control Act of 1982, will only further exacerbate the existing problems the current budget reductions are creating for disadvantaged and ostracized American citizens and legal residents. The consequence of the present legislation will be to erect additional barriers for people outside the American mainstream.

It should be noted that while the present budgetary cutbacks have limited the EEOC's capacity to initiate suits, the number of national origin complaints filed with the agency have been on the increase. (See following table)

### COMPLAINTS FILED WITH THE EEOC

Annual reports	Total charges	National origin charges	Percent of total
1966	6,133	143	2.3
1973	77,242	12,377	16
1976	103,067	10,622	10.3
1979	79,084	7,913	10
1980	90,325	8,568	9.5
1981	94,460	9,235	9.89

Hispanic complainants comprise an overwhelming majority of the total percentage of national origin charges filed. The inability of the EEOC to adequately effectuate its mandate will have its most direct consequence on the Hispanic community, the group being now asked to bear the employment risks associated with H.R. 7357.

Mr. RODINO. Mr. Chairman, may I inquire as to the amount of time remaining.

The CHAIRMAN. The Chair would advise the gentleman that the gentleman from New Jersey has 23 minutes

remaining; the gentleman from New York has 12 minutes remaining; the gentleman from California (Mr. MILLER) has 20 minutes remaining; the gentleman from Illinois (Mr. ERLENBORN) has 27 minutes remaining; the gentleman from Texas (Mr. DE LAGARZA) has 2 minutes remaining; the gentleman from Idaho (Mr. Hansen) has 24 minutes remaining.

Mr. DE LA GARZA. Mr. Chairman, I

Mr. DE LA GARZA. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. COELHO).

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Mr. COELHO. Mr. Chairman, I first want to compliment my colleague, the gentleman from Kentucky (Mr. Mazzoll) for the work that he has done on this bill.

In general, this is a good piece of legislation; however, it does cause a great deal of trouble for a great number of

people.

I do not think the bill has addressed all the problems. I think that those of us who represent perishable crop areas have some severe problems in regards to how do we get our crops picked, when are they picked, and who is going to pick them? People are concerned about getting their fresh fruits and their vegetables and they do not recognize the extensive problems this bill create.

I testified before the subcommittee, pointed out the problems, and I still do not think the legislation in any way addresses it.

My major concern, however, is the concern dealing with discrimination that we are going to see on the bill because of the employer sanctions.

I disagree with the comments made by the gentleman from Florida, with all due respect. The fact is that it not only exists with employers and it will exist to a greater extent, it does exist today in regard to people with the Border Patrol and the Immigration Service. It happens all the time in our State of California. It happens all the time in my particular area. I can give you example after example where it happens. It is much easier to discriminate against someone who has dark hair, dark eyes, and dark skin. It is easy to identify those people and it is easy to assume immediately that those people are illegal and everybody else is legal. I do not think it is fair.

I happen to come from a family that is of Portugese ancestry. My grandparents all came from the Azores Islands.

I will also acknowledge—I will not say which ones, but some of my grand-parents were illegal when they came here. I know what it means to go through this and I know what our family went through; but I think it is unfair for some of those who have not been through it, those who do not sense the emotion, to realize and understand what my good friend, the

gentleman from New York was talking about.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. HANSEN of Idaho. Mr. Chairman, I yield 2 additional minutes to the gentleman from California.

Mr. COELHO. The emotions and the concern that the gentleman from New York was talking about, it is genuine, it is something that the people that we represent express all the time.

It is interesting to me that on a bill like this, that every Democrat in the State of California in our delegation, except one, opposes this bill; that is liberal to conservative, moderate, from all different factions of our State, all oppose this bill. In the 18 years I have been around here, I have not known that to exist.

We are not only opposing it, we are fighting it.

Some of you may think, as I have heard some people in the leadership accuse us of dilatory tactics and everything else, which I resent, it is because we strongly believe in what we are fighting for. That is why we are opposed. We are representing our constituents and if some of you had the type of constituency that we do and represent the views of our people, you would do the same thing we are doing.

We have problems and we would only ask this House and its leadership to recognize those problems and to address them.

I know that some of you come from the eastern part of this country and some of you may come from the southeastern part of this country. Certain isolated areas maybe do not understand the problems that we have in Texas and the problems that we have in California; but if you lived in our area and if you recognized the problems of our people, I think you, too, would not support this bill. I think you, too, would send it back to committee and ask the committee to do a more extensive review and see if they cannot come up with a better piece of legislation.

I am not being critical of my colleague, the gentleman from Kentucky, or my Senate colleague from Wyoming, I think they have done great work, but it is just not the vehicle. It is something that needs to be defeated and I intend to work very hard to defeat it if it is going to try to come through.

Immigration to this country has played a vital role in our Nation's growth and cultural development. Throughout our history, newcomers have strengthened and revitalized our country. My family, like the families of many in this chamber today, came here only a few short years ago. My grandparents, poor by any standard, emigrated from the Azores to build a

better life for themselves and their children, and I certainly would not want to deny that opportunity to others in the future.

We need not, indeed should not, abandon our historic policy of providing refuge to the poor and oppressed from around the globe, but at the same time we must come to grips with the new realities that face us and fashion an immigration policy that deals with the problems of today, not those of yesterday. Frontier America is gone, replaced by an America with an unemployment rate of nearly 11 percent, with dramatically higher unemployment in many industries and appallingly high unemployment among youth who are minority-group members. Our increasingly scare resources, our own economic problems, and our own social fabric demand a rational immigration policy.

The United States, for all of its generosity, simply cannot continue to accept all of the people who wish to come here. According to demographers, the world' population in the next 11 years will increase by 1 billion. We must face facts, whether we like them or not. The greatest threat to civilization aside from nuclear war is

the population explosion.

How far do we want to thin out our already thinned out resources and services available to the millions of American citizens who are poor and who are certainly keenly aware of and apprehensive about the masses of people abroad just waiting to immigrate here? To those masses, the United States can offer food, supplies, and leadership in the future, but it surpasses even our power to offer a physical home to all of the poor and homeless. We will continue to do what we can, where we can, as we have always done, but we must balance our generosity with the needs of our own society. We can help no one if our land, resources, and environment are drained and our social system is in ruins. We must stop illegal immigration, and bring legal immigration, including refugee admissions, under control.

The bill before us is far from perfect, as its sponsors acknowledge, but it is basically a good bill, and I support its basic thrust-to impose some rational, orderly control over immigration. While enforcement at our land and sea borders is important as a preventive measure, it is only partially effective. The economic incentive to illegal immigration-employment-must be removed and the only way to do this effectively and fairly is through employer sanctions and a fraud-proof enrollment and verification system that applies to all employers, those who recruit or refer for employment, and to all job applicants. I recognize that there are those who argue that employer sanctions would only increase discrimination against minorities, and certainly there is reason for Hispanics and others to fear that employers, faced with the prospect of stiff penalties for hiring illegal aliens, would simply refuse to hire anyone who looked or spoke "foreign." That is why I concluded years ago that a simple but secure system of identification was the key to a workable program, as it would protect employers and those who refer or recruit people for employment, as well as members of minority groups legally in this country. As a matter of fact, because I believe so strongly that a national identifier is a prerequisite for any effective program of employer sanctions, I intend to offer an amendment to require implementation of such a program in 2 years instead of 3.

I also feel it is unreasonable and unfair to place the burden totally on employers, and will, therefore, offer amendments to extend the requirement for checking identification to all those who employ, or refer or recruit for employment, including those with

three or fewer employees.

With respect to legal immigration, I will support efforts to reinstate an annual ceiling, to include refugees and asylees. That ceiling must be consistent with our own national interest, with consideration of, but not controlled by, worldwide pressures to immigrate here. Our own needs should determine our immigration policies and admission numbers. There should be no loopholes in the ceiling, but there should be sufficient flexibility to respond to emergency situations. Only with this kind of strong, firm congressional action can the President stand up to other nations and require them to share the burdens of controlling refugee and immigrant flows. I do not agree with those who argue that by putting immigrants and refugees under one ceiling, the humanitarian and human rights values for which we stand as a nation would be seriously questioned. We are a generous and humanitarian people and we have never failed to respond to true crises and emergencies abroad. Should such a crisis occur in the future, I have no doubt that the American people would open their arms and their hearts as they have done in the past and, if necessary, compel Congress to respond with special legislation.

Like so many people who have studied our illegal immigration problem, I find myself frustrated by the legalization or "amnesty" issue. To the exent that a program rewards lawbrakers while penalizing those who have obeyed the law, I consider it unfair. On the other hand, I feel that it would be unrealistic as well as inhumane to round up vast numbers of people whose presence in this country has been tacitly condoned over the years by lax enforcement of our laws. A humane solution to this difficult prob-

lem is needed, but in our humanity for the unfortunate illegal immigrant, we must not overly burden the American people. By definition amnesty involves a "forgiveness" of those who have broken the law. We certainly have the capacity to forgive but it is not unlimited, and I believe we can fashion a just and fair amnesty program which would neither cause resentment on the part of those who have chosen to obey the law nor encourage further illegal immigration. Various legalization options are expected to be considered by this body, and I intend to offer one designed to delay implementation of the program until after the President has certified to Congress that the Immigration Reform and Control Act has been effective in controlling illegal immigration.

Finally, I feel that a key element to any program of immigration reform is an effective temporary foreign worker program to meet seasonal/temporary labor demands, particulary in the field of agriculture, when American workers cannot be found.

My district is located in the heart of the San Joaquin Valley of California, the most productive agricultural area of the world. Some 250 commodities are grown in that area, and although we are moving to mechanization in many crops, hand labor is still essential for the growing and harvesting of the majority of those commodities. For many crops, machine labor may never be able to replace human labor. Today that hand labor, or human labor, during peak harvest periods, is provided almost exclusively by illegal aliens. I do not like it, nor do the farmers particularly like it. But it is a fact of life which must be recognized and dealt with.

For a variety of reasons, not the least of which was the massive importation of Mexican workers under the Bracero program, it has become increasingly difficult to find American workers to do farm labor. If we completely sever the supply of foreign workers, without providing for some type of viable, legal alternative, I fear the economy of California, indeed the economy of the entire Southwest, would be placed in grave jeopardy, and consumers throughout the Nation would face skyrocketing prices, if not severe shortages of those commodities which they have come to take for granted.

I am, therefore, offering a number of amendments to the H-2 provisions of the bill designed to streamline the certification process and make the program more adaptable to the needs of the California specialty crop industry. These improvements are needed so that farmers, whose sole concern is to get that crop picked when it is ripe, can be assured that they will be able

to legally employ a foreign worker when no American worker is available.

Although I am offering these perfecting amendments, I remain concerned about the ability of the H-2 program to properly meet the needs of American farmers and at the same time provide a healthy competitive environment for the farmworker.

Immigration reform is a priority issue for this Nation. I have long been a strong advocate of such reform. However, I am concerned that in our haste to adjourn we may find ourselves strapped with a law which will be no better than the current one in controlling immigration, and which will only exacerbate the existing unfair and highly selective enforce-

ment policies.

After years of turning away from the reality that the United States has lost control of much of its borders, my colleagues on the Judiciary Committee are to be commended for their earnest efforts to remedy the situation. Rather than tackle this problem on a "piece-meal" basis, the bill constitutes a comprehensive program addressing many of the ailing facets of existing law. In general, I support this integrated approach to dealing with the problem of illegal immigration in this country—a program of dealing with those individuals already residing illegally in this country with a program for admittance of workers on a temporary basis in those industries with historic difficulties in attracting domestic workers.

There is a wide divergence of opinion of the number and distribution of undocumented aliens residing in the United States. Likewise, there are differences among those who speculate regarding how many such aliens will seek to legalize their status should such a mechanism be available. I have struggled with the question of granting amnesty to those undocumented aliens residing within U.S. borders. I question whether our social service programs will be able to bear the potential additional burden this process may cause-and question the role the Federal Government should play in aiding the States with this. I am concerned it rewards those who have broken the law, to the detriment of those who continue to wait outside our borders. After much conjecture, I have come to the conclusion it is both inhuman and impractical to require deportation of all undocumented aliens, many of whom have become established community members. I wish to stress at this point, however, that the granting of amnesty in no way will alleviate other stresses on our immigration system-particularly as they emanate from our neighbors to the south and the push-pull economic factors. In this vein, it is my opinion that a key element to the success or failure of the overall approach to immigration policy will be the implementation of a program to admit alien workers to the United States on a temporary basis.

According to Leonel Castillo, former Commissioner of the U.S. Immigration and Naturalization Service:

The U.S. is experiencing the world's largest temporary worker program—larger even than the guest worker programs of Switzerland, France, Holland, and Germany. Only ours is unregulated \* \* (resulting) in the Immigration Service having to arrest over an million persons annually \* \* \* whose crime is that they want to work in this country.

Economic factors will continue to propel immigrants to the United States. Any program for dealing with immigration must take into consideration the tremendous drawing power of the United States.

The Select Commission on Immigration and Refugee Policy pointed out that all studies indicate that undocumented/illegal aliens are attracted to this country by U.S. employment opportunities. Most come from countries that have high rates of under-employment and unemployment. As was pointed out by Carey McWilliams, in the book "North From Mexico":

The issue has always turned on the choice between planned migration and unplanned immigration, for it is extremely debatable whether, under any circumstances, Mexican workers can be kept from crossing the border. Given the attraction of industrial employment in the United States and the ease with which the border can be crossed, Mexicans will continue to follow the old familiar paths which lead north from Mexico.

An immigration policy which fails to acknowledge this reality is doomed to failure

At the same time, one must be cognizant of the fact that a supplemental temporary work force will continue to be needed in several industries; for example, those segments of agriculture which are particularly labor-intensive, such as the deciduous fruit industry.

Consider, for example, the swelling demand for labor in the cherry industry, where labor requirements rise from a level of 4.5 man-hours per acre in the month of March to a peak of 316 man-hours per acre during the harvest period of May to June. This meteoric rise in the demand for labor is followed by a correspondingly dramatic drop in demand, as only about 2 man-hours per acre are required in the month of July.

Studies indicate that local communities are simply unable to supply the needed labor. Employers involved in the raisin industry, as an example, have been involved in a formalized program of cooperation with the employment development department, in an attempt to document the capability of that agency to deal with the intense demand for labor for the short, intense harvest period of that commodity. Less than 10 percent of the demand for labor was filled by EDD.

This problem is intensified by the diversity of crops grown in areas such as California, where over 200 commodities are commercially produced.

Because of the perishability of agricultural commodities and the whims of nature, agricultural employers do not have the option of hiring smaller crews of workers over a longer period-harvest time demands immediate attention to avoid crop loss. Because many domestic workers are unwilling or unable to accept employment for such short periods of time, a supplemental temporary work force. including some undocumented workers, has often filled the gap. There is strong reason to believe this trend will continue. An adequate work force must be available, and I strongly endorse the need to develop a flexible, responsive program to meet this need. I am offering a number of amendments to the Immigration Reform and Control Act-particularly to the temporary worker provisions in an attempt to design a program to meet the needs for labor in handling highly perishable commodities, which produce at highly variable production levels. It is difficult for such industries to accurately project the total number of workers which will be needed in advance of the season. Weather, of course, dictates demand for labor; weather patterns in some seasons bring on maturity of large volumes of fruit at once, and in other seasons may unpredictably delay ripening in some varieties. Marketing conditions may dictate that some varieties may need to be picked as quickly as possible, while some may not be picked at all for lack of consumer demand. Thus, timeliness of certifications by the Department of Labor become critical to the functioning of the temporary worker program.

There are those who would restrict the total number of workers who could participate in a temporary worker program. While I am totally opposed to displacing domestic workers with aliens-particularly in a time of high unemployment such as we are facing today in our Nation-I am convinced that there are some occupations that will always call for a supplemental work force. While some would contend that job attractiveness is directly a function of wages, I would call the attention of my colleagues to a situation in California strawberry fields this past year, in which U.S. workers left the fields shortly after their arrival, although the wages they were being paid were over double the minimum wage. Overly restrictive provisions such as unrealistic caps on eligible foreign workers will encourage continued circumvention of the law when domestic workers simply are not willing to take such stoop work-regardless of the pay.

While I have offered a number of amendments to the so-called H-2 provisions of this bill, I continue to be troubled by the fact that we do not appear to have learned much from the bracero experience. All will acknowledge the inequities and abuses in that system-frankly I fear that in many ways, the H-2 system is quite similar to the bracero program. Workers will continue to be strapped to one employer. If the employee does not like his American working situation, he has basically one option-return to his home country. At the same time, employers have no incentive for offering workers any additional benefits over the base program established by the Department. This form of indentured servitude is clearly not in the best interest of workers, nor does it provide a healthy, competitive environment for employers. I am somewhat intrigued with the so-called guest worker concept which would allow a set number of workers in the United States, with employment authorized in a specified industry such as agriculture. They would be free to work for any employer in that industry-attracted by the level of wages and benefits offered by a given employer. There are a number of ramifications of such a proposal which I believe merit further thought and investigation-thought and investigation which simply would not be possible in these waning days of the session. Like my colleagues, I think that immigration reform has been a long time coming—too long in many aspects. However, I do not believe the Congress should now move in an 11th hour attempt to push through legislation which is clearly in need of further refinement.

I am committed to seeking revision of our ineffectual immigration laws—but I am committed to making changes that will result in a workable program, developed with understanding of economic and cultural factors at work on this issue.

Mr. HANSEN of Idaho. Mr. Chairman, I yield such time as he may consume to the gentleman from Washing-

ton (Mr. Morrison).

Mr. MORRISON. Mr. Chairman, there is no question in my mind that new immigration policy is necessary. The hours of meetings and hearings I have attended convince me that something must be done because our borders are out of control, but I question that the bill before us provides enforceable or fair answers.

Not enforceable, because I doubt that employer sanctions will work. I understand that a General Accounting Office report questions the workability of employer sanctions as evidenced by a review of results in the 19 countries where such laws are in force.

The bill is not fair, because it will result in discrimination. And it's not fair to impose an additional maze of

redtape on employers because Government agencies have failed to halt the flow of illegal immigrants. It also forces an unworkable temporary workers program onto a number of comparitively small farm operations which have specialty, short-term harvests.

Other speakers have expressed the concerns of the Hispanic community. On behalf of thousands of my constituents, I echo these sentiments. Perhaps the best use of my time, and yours, in this debate would be to concentrate on the areas in which I have many years of experience.

I refer to my 25 years as a farmer in central Washington State. The crops grown there are diversified, but include many that are very labor intensive. Add the dimension of highly perishable products, with short. weather-dependent harvests, and you have a most difficult situation. The gamble in this type of farming is reflected in the fact that the average fruit grower in Washington State has fewer than 100 acres. The risk is so great that major corporations and conglomerates have refused to invest.

These same growers, mostly operating on small family farms, ask for no Federal support or subsidy. They also ask not to be made the enforcer of immigration policy. The specialty harvests to which I refer have always depended on temporary, short-term labor. Since the State of Washington is far removed from the normal migrant worker stream, agricultural wages in the Northwest are the highest, or among the highest, in the Nation. For several decades, citizens from the great States of Oklahoma and Arkansas joined local workers in harvesting these crops. Now many of these former migrants own their own farms in the Northwest.

In recent years, Hispanic workers have increasingly filled this need for short-term specialty harvests. They have left field work and row crops, which have become mechanized, and filled the need created by the growth of the asparagus, cherry, pear, apple, grape, and hops industries. These Hispanic workers come from Texas and California, attracted by piece rates that reward their aggressive work habits. There is no argument that, since the termination of the bracero program, this migrant stream has been joined by an unknown percentage of illegal immigrants.

By specialty harvests, I mean a matter of a few days of work, somewhat unpredictable because of weather. The professional migrant and aggressive local worker work for a number of employers and have a pattern they have followed for years. You don't hear about them because they arrange for their own housing and transportation and they earn very good wages.

My description of these farm operations brings me to this point. Employers will have difficulty positively identifying a large crew of workers arriving before daylight in the field. An inflexible temporary worker program will leave many crops unharvested, meaning thousands of lost jobs for those local citizens working in the packing, processing, storage, and transportation industries. Prices to consumers will go up, and our balance of trades will suffer further erosion. The farmers I represent are in financial difficulty now, and this legislation could be devastating. They have trouble understanding, because today, under Washington State law, they cannot legally ask the questions necessary to determine a worker's legality, and tomorrow, under this bill, they could be in jail for hiring someone they couldn't identify.

When I read the current requirements of H-2, I have to seriously question whether or not the authors of these regulations have ever visited the Pacific Northwest to observe how unique the needs of our labor-intensive specialty agriculture is. Workers must be able to move freely over large geographical areas to meet the needs of many growers as the harvest season progresses.

The H-2 program now in place has been bogged down with redtape and subject to uneconomic requirements to the point that it is unworkable for a large short-term labor need. Although my preference would be for a temporary guestworker program, I have drafted several amendments to improve the legislation to make it acceptable to those farmers who hire workers for the short duration of 20 days or less.

My amendments are simple. The first would mandate that the State employment service be responsible for the legality of the workers it refers. A worker would receive some sort of verification from the agency he could bring to the prospective employer to prove that the State service had checked out his legal papers and relieve the farmer of additional paperwork when the worker arrived.

My second amendment also is designed to alleviate burdensome paperwork from the farmer. As I stated earlier, there are nearly continuous harvests occurring throughout the Pacific Northwest and many farmers grow several different corps. Some of the workers pick cherries for one farmer, go to another in the area and pick peaches and return to the original farm in the fall to pick apples. I believe that it is totally unnecessary for that farmer to have to redocument the legality of the same worker each and every time he returns for employment. My amendment would eliminate the requirements for filling out paperwork under certain restrictive conditions depending on the legal status of that in-

There is very little housing available on the west coast that would satisfy the rigid requirements of certified H-2 dwellings. It would be a prohibitive proposition for individual farmers to construct housing on their property for a short harvest which can be as little as several days in duration. Farmworkers in the Northwest are extremely family oriented. Many workers now live with other family members and I am proposing an amendment to allow this practice. I want to give the employer and the employee the option to substitute payment of a reasonable allowance in lieu of the actual furnishing of housing accommodations and meal preparation facilities. I only wish that all Members would have the opportunity to witness how easily this could be accomplished and how readily it would be accepted by the farmworkers in some areas of the country. I do not view these changes as the answer to the agricultural labor problem, but I do see them as a way to improve upon the disastrous impact this bill would have on the economy of the Northwest. Passage of this bill in a form which does not provide for an adequate labor supply will not only cripple the fruit industry but hurt related industries such as the timber industry which supplies the packing cartons, the rail and trucking industries, and the various ports which handle export cargo.

In conclusion, I join Members of Congress in agreeing that we need a new immigration policy, and commend the Judiciary Committee and its subcommittee members for their efforts. For my district their answers fit neither the Hispanic community nor the employers. By amendment, I trust the iegislative process can consider the special regional needs of the North-

west.

### □ 2330

The CHAIRMAN. The gentleman from Washington (Mr. Morrison) has consumed 8 minutes.

The Chair now recognizes the gentleman from New Jersey (Mr. Rodino). Mr. RODINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have listened to tonight's debate and I know that many of the Members are genuinely sincere about their concerns, and I want to express again what I expressed last night, my deep concern about the victimization of the so-called undocumented worker.

I would like to also point out that

over 34 years ago when I first came to the Congress I was aware of the inequities in our immigration laws. The then McCarran-Walters Act, discriminated against people because of their place of birth.

I point with some pride to the efforts that I made in finally helping those who championed the cause of justice and equity and fairness in our immigration laws by bringing about the elimination of the national origins quota system.

However, notwithstanding the fact that we improved the system back then in 1965, we found, nonetheless, that there were certain areas of our immigration laws which really were

not working.

I proposed a longtime back that because of the closeness of the country of Mexico, because it is allied with us and has been allied with us for a great period of time that we provide special immigration benefits for these countries. I attempted to increase the quotas from Canada and Mexico because of our special relationship with those countries.

This did not come to pass. Because many of these people could not come here legally, they come illegally across our borders to find job opportunities, so they could provide for themselves and their families. These are the socalled undocumented workers who continue to be exploited by unscrupulous employers who take advantage of

their illegal status.

The numbers grew and grew. As chairman of the Subcommittee on Immigration, back in the 92d Congress, I conducted a series of hearings across the country and around the border. As a result of these many, many hearings with many, many witnesses, I recognized the difficult plight of the undocumented alien

We found then that according to the best estimates, guesstimates if you will, that there may have been some 1 or 2 million so-called illegals in the country at that time, working under conditions that certainly I would find intolerable. They were forced to live in a shadow society, not coming out into the open because they were afraid that their employers would turn them over to INS if they were to complain about their working conditions.

It was because of this that I involved myself in this problem. I must say that while I may not be of the same heritage as my friends who have spoken, nonetheless it was with this deep, sincere, genuine feeling that we conceived a policy and a program that would impose a penalty upon the employer who was taking advantage of this inhumane situation. It was then that the idea of fair employer sanctions program was adopted.

I believe that the bill that we have now before us is fair to the employer who is well intentioned, who does not intend to discriminate. All he needs to do is request documents, existing documents-not just of those who are of a different color, but of all those who

are hired. This certainly does not intend discrimination, and of course it may be that that very employer whom we now are talking about is going to use that as a cloak, as a screen, to say, "Don't impose these penalties on me because then I may be compelled not to hire a person who may not speak the language or who is of a different color."

Are we going to provide this employer with the opportunity to hide behind this hyprocritical argument? That is what we are doing. I am saving that any employer who is well-intentioned, who wants to pay a fair, decent wage, will comply with the requirements of this legislation. It is only when he knowingly hires an undocumented alien that he will then be called to the bar of justice. If he has acted in good faith and shows that he has examined identity documents-a simple passport, a driver's license, a social security card-he has no problem. Why do we impose burdens on the employer? Because unless we do something we are going to continue to give the employer the ability to hide behind that cloak and abuse these poor people who come here looking for opportunities. They are going to live in a subculture. Their children will not be able to say, "My father and my mother who are here with me are permanent resi-dents," as this legislation would provide for many such aliens.

I have stated unequivocally that without legalization I would not support this measure. I am a realist. I understand that we do have maybe 10 million undocumented workers, and I believe that it is important that we recognize too that unless we take action we are going to have a greater force, odious alternatives, such as an investigative force, going out to round up these people and then to deport them.

I ask my friends, do we want to continue to allow employers to take advantage of those who have come here seeking a better lot in life. Do we not want to give them an opportunity to come forward and be legalized?

I was for a more generous legalization provision, one that would bring it up to 1982. Unfortunately, my proposal did not prevail in the committee, but I believe it is important so that these people may come out in the light of day and be able to proudly present themselves as participating members of our society. In a period of time they would become citizens of this country if they so desire. I believe that this is what this legislation is all about.

When the administration came to me some 2 years ago, I stated to them unequivocally, "If you are seeking employer sanctions you will not be able to get them unless there is a legalization provision."

I do not want to take any more time except to read a letter from the Attorney General which is, I think, important. This letter from the Attorney General to me, dated December 9.

OFFICE OF THE ATTORNEY GENERAL, Washington, D.C. December 9, 1982. Hon. PETER W. RODINO, Jr.,

Chairman, House Judiciary Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to you on the eve of the House consideration of H.R. 7357, the Immigration Reform and Control Act of 1982, to underscore the Administration's unwavering support for its passage in the closing days of this session. Few matters before the Congress are of equal importance. Few laws could contribute as much to our nation's future prosperi-

ty and security.

I am writing to you also to express my deep concern regarding certain amendments which may be offered in the course of House consideration of the bill. As I have stated on other occasions, I believe it would be unfortunate were the Congress to undertake at this time significant change of our laws governing the legal admission of immigrants and refugees. The most pressing issues facing us do not concern legal immigration, but accelerating illegal migration and mass asylum. I firmly believe that Congress should concentrate in the few days remaining in this session on these latter problems, which your bill so thoughtfully addresses. For this reason, I strongly urge that consideration of changes in the legal immi-

gration system be deferred for another day. The Administration also would oppose efforts to eliminate the legalization provisions of the bill. These provisions deal realistically and humanely with the sad fact that more than three million persons entered this country illegally in a time when our immigration laws went unenforced. With the passage of this law, that time of neglect will end. But as a practical matter, we could not now search out and deport all these people, even if we chose to do so. Nor can this great nation long tolerate the existence of a hidden foreign people within our borders, living apart from American laws. The legalization provision of the bill promises an end to this situation. To take it from the bill would undo the essential balance so carefully maintained until now. I recommend that this not be done.

I want to express again my gratitude for your years of work and leadership on behalf of these reforms, and our readiness to do all we can to assist you as the House takes up this important legislation.

Sincerely,
WILLIAM FRENCH SMITH, Attorney General.

Mr. Chairman, the hour is late, and I believe it is later than we think about having to deal with this problem. If we do not take action, the problem is going to fester and grow. Undocumented aliens will continue to come. We do not want them to be made scapegoats because they are being looked at, as, pointed out, as those who are taking jobs from others who are legally here. They will not be able to come forward and take advantage of legalization. They will continue to live as part of a subculture, a society that unfortunately that will never be free. I believe they are entitled to be given the opportunity to be made permanent residents.

Mr. KAZEN. Mr. Chairman, will the distinguished chairman yield?

Mr. RODINO. I yield to my friend.

Mr. KAZEN. Mr. Chairman, let me commend the gentleman for the work he has done in this field throughout the years that he has been a Member of this body. I have no higher respect for anyone else in this field than I do for the gentleman from New Jersey.

I recall some of the bills that he has brought to the floor. We have debated them. I have part of the debate on his bill on March 3, 1973, 10 years ago. We debated this very same thing that we have heard here tonight, employer sanctions. As the gentleman might recall, his bill passed the House. On several occasions we debated it.

At that time, as the gentleman will recall, I was one of the few voices that were raised on that particular issue. As the years have passed, the gentleman will witness the amount of testimony now on that one particular provision.

#### □ 2350

But let me ask the gentleman one question. I do not want to take up his

Mr. RODINO. Yes, because I promised to yield to the gentleman from Texas, a member of the committee.

Mr. KAZEN. I understand. This is why I have been fighting against bringing this bill up at this time, at 10 minutes to 12 o'clock, and I have no time of my own. But I want to get things straight on legalization which the gentleman has just testified to.

What is the provision that is made? We are going to legalize aliens who have been here since when?

Mr. RODINO. 1977.

Mr. KAZEN. What happens to those who have been here?

Mr. RODINO. Those who have been here before 1977?

Mr. KAZEN. Yes.

Mr. RODINO. Those who were here before that date, of course, will be given permanent resident status.

Mr. KAZEN. That is what I want to know. Is that provision in the law?

Mr. RODINO. As a matter of fact, it is two-tiered because those who were here before 1977 will be eligible for permanent residence status. Those who have come in between 1977 and 1980 would be temporary residents and would have to wait a 3-year period before becoming permanent residents.

Mr. KAZEN. In other words, what the gentleman is doing is legalizing everyone who was here illegally up until 1980; is that correct?

Mr. RODINO. Yes.

Mr. KAZEN. All right.

Mr. RODINO. It is a two-tiered process. There is a waiting period for those who came in between 1977 and 1980.

Mr. KAZEN. All right. I can understand that.

Now, how do we intend to keep future illegal aliens out of this country?

RODINO. By the employer sanctions, hopefully. I do not know of any other way, very frankly. My hope is that the employer sanctions will be enforced properly, and I believe the machinery is going to be there to effectively implement them, as the Attorney General has stated in a recent letter to me. We hope that the administration will do what we believe is necessary in order to control our border and impliment this program. Beyond that, I cannot say.

Mr. KAZEN. All right.

Mr. Chairman, I have the report out of the committee on H.R. 6514, but I understand that the bill that is under consideration is H.R. 7397, which was just introduced here recently, last

Mr. RODINO. It is the same bill with two technical changes. It is a new bill number, however.

Mr. KAZEN. All right.

Under the provisions of that bill, and according to what I have in this report, the President is given the authority to reform this system in order to make it more secure.

Mr. RODINO. To find a more secure system, but not with any national identifier, because that is explicity

prohibitied.

Mr. KAZEN. Mr. Chairman, let me read this to the gentleman and see how he interprets it. This says that nothing shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards.

Mr. RODINO. That is right.

Mr. KAZEN. But further down it says that if the system requires individuals to present a card or other document designed specifically for use for this purpose, the purpose of hiring, then that card must be carried on one's person at all times.

Now, is that not a national identification card?

Mr. RODINO. Where does the gentleman read that?

Mr. KAZEN. I am reading it from the bottom of page 3 of the report.

Now, in one section it shall not be, and in another you say they shall issue cards.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. And you say they must be carried on one's person at all times.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield, I think the gentleman from Texas is misreading the language. If the gentleman would bear with us.

Mr. KAZEN. Yes, certainly.

Mr. MAZZOLI. Under the terms of the bill, any material which would have to be carried or any material

which would have to be presented at the time of employment-let me read this if I may

Mr. KAZEN. Read section (c), with

the parentheses.

Mr. MAZZOLI. Let me just read from page 8 of the bill which, of course, is before the House tonight.

If the system requires individuals to present a card or other documents designed specifically for use for this purpose-

Which is to get benefits under this bill-

at the time of hiring . . . then such documents may not be required to be presented for any purpose other than under this sec-

That is to gain benefits under the bill, not to be carried upon one's person. So actually the bill says you may not be required to carry it.

Mr. KAZEN. But that is changed from the way the language is printed

in the report.

Mr. MAZZOLI. No. If it is, I appreciate the gentleman's pointing out a typographical error.

Mr. KAZEN. It says, to be carried on

one's person.

Mr. MAZZOLI. If the gentleman

would look at the bill-

Mr. KAZEN. But I say then, there is a discrepancy between the bill and the report.

Mr. MAZZOLI. No, there is no dis-

crepancy in the bill.
Mr. KAZEN. There is a discrepancy between the bill and what is printed.
The CHAIRMAN. The Chair would

like to point out to the gentleman from New Jersey (Mr. Rodino) that he has 3 minutes remaining.

Mr. RODINO. I yield my remaining 3 minutes to the gentleman from

Texas (Mr. Sam B. Hall, JR).

Mr. SAM B. HALL, JR. Mr. Chairman, I would like to make two observations that appear in the report of the Select Commission on Immigration. The final report stated that increased enforcement capability should be an integral part of recommendations to curb the flow of immigration.

In the report of the committee at the bottom of page 6, it says it is the sense of Congress that an essential element of the program of immigration and reform established by this act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service, and that the increase in the level of the border patrol must be done to achieve an effective level of control of illegal immigration.

Let me point this out. We have been talking in the last 2 days about the people who are in this country. I would like to state that I have asked my staff to check with the immigration people, the Immigration and Naturalization Service to come up with some information, and I think it should be made a part of this RECORD.

One is that the length of the area between the Mexican border and the United States of America consists of 1.933 miles. The Canadian coastline is 3,000 or say 3,900 miles. We talk about an increase in border patrol.

The number of border patrol officers in the United States on duty as of the end of October 1982 was 2,600. The number authorized by Congress was 2.800. We are 214 short because there

were insufficient funds to pay and equip that many people.

Now, one might ask, how many people do we have on line watch? There are 774 officers engaged in line watch, which means efforts directly on the border. That is a ratio of one man for every 12 miles. The ratio of one to every 12 miles is arrived at by stating that 40 percent of the agents service and productive hours is directed on line watch. That is on the border

After we take into consideration shift sizes, weekends, sick leave, and so forth, we have only 155 officers on line duty at any given time between Mexico and the United States of America. Now, 155 divided into 1,933 miles of border gives us 12.47 miles per officer. Now, these agents are concentrated at high density crossing areas, for example Chula Vista, Calif., where we visited, which has a ratio of 4.5 men for every 1 mile.

The CHAIRMAN. The time of the gentleman from Texas (Mr. SAM B.

HALL, JR.) has expired.

Mr. SAM B. HALL, JR. Mr. Chairman, I would like to have an additional 2 minutes.

Mr. MAZZOLI. Mr. Chairman, we will yield 2 minutes of our time to the gentleman from Texas (Mr. Sam B.

The CHAIRMAN. The Chair would like to advise the gentleman from Kentucky that all of his time has ex-

Mr. HANSON of Idaho. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Chairman, the Arizona desert has a ratio of approximately \* \* \* for every 40

Now, the immigration people tell us that the manpower required in the cost of improving the line watch-I am talking about people on the border itself-by two-thirds would call for 1,700 new employees at a cost of \$74 million, say \$75 million, to bring in 1,700 people plus equipment.

What is the equipment that they use? Walking patrols, squad cars, helicopters, electronic sensors buried in the ground, infrared night scopes, horses, which is the most cost effective, trail bikes, and airplanes.

They state to us that if they have more people—and this was brought up last night very effectively and it was brought up again tonight-what are we going to do in the future. We are not going to do anything but continue what we have now. If we do not have enough people patrolling the borders of the United States of America.

#### □ 2400

I have some problems with this bill. One of the big problems is that we have not properly faced up to patrolling the borders between Mexico and the United States. We cannot do that without the help of the Government of Mexico.

It makes no difference how much talk we can do here tonight. Unless the Mexican Government has been brought into focus on this entire problem we are going to be found wanting when this bill gets up to final passage.

Mr. CONYERS. Mr. Chairman, will the gentleman yield for a question?

Mr. SAM B. HALL, JR. I yield to the gentleman

Mr. CONYERS. Does this bill add one single patrolman or security officer to the shorelines?

Mr. SAM B. HALL, JR. As far as I can determine, it does not add any. It makes a statement that we must do that but it makes no requirement that it will be done.

Mr. CONYERS. I thank the gentle-

The CHAIRMAN. Before recognizing the gentleman from California (Mr. MILLER) the Chair would like to state that the gentleman from New York (Mr. Fish) has 12 minutes remaining; the gentleman from California (Mr. MILLER) has 20 minutes remaining; the gentleman from Illinois (Mr. ERLENBORN) has 27 minutes remaining; and the gentleman from Idaho, Mr. Hansen, has 12 minutes remaining.

The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I yield 5 minutes to the gentleman from New York, Mr. SCHEUER.

Mr. WEISS. Mr. Chairman, will the gentleman yield to me?

Mr. SCHEUER. I am happy to yield to my distinguished colleague from New York.

Mr. WEISS. Mr. Chairman, I rise to express my support of the Education and Labor Committee amendments to H.R. 7357, the Immigration Reform and Control Act of 1982. Key provisions of the Simpson-Mazzoli overhaul of immigration policy hinge on the implementation of provisions to protect both American and temporary alien workers, and I am deeply concerned that in all cases these provisions are made fair, reasonable, and just. Although you would probably find very few members of this Congress and very few Americans who do not believe that our immigration policy is in need of change, it would be a grave mistake to permit pressure for rapid reform to interfere with the rights of the people who will be affected.

I want to commend, at this time, the distinguished chairman of my committee, the gentleman from Kentucky (Mr. Perkins), for his determined effort to insure that the education and Labor Committee had an opportunity to review and recommend changes in those provisions which fall under its judisdiction. I also want to commend the gentleman from California, (Mr. Miller), the chairman of the Labor Standards Subcommittee, for his work in offering a reasonable substitute for section 211 of H.R. 7357, pertaining to the temporary guestworker H-2 program.

The changes set out by our committee stregthen the H-2 program proposal found in the bill and passed by the Senate. Under current law this program is relatively small and is designed to help employers meet shorterm labor needs. Labor Department regulations set out over the history of the program have protected domestic workers from adverse effects of temporary alien workers. Regulations under current law also offer fundamental labor protections for temporary agricultual alien workers, ensuring a fair wage and reasonable working conditions.

The program has operated smoothly, efficiently, and effectively, meeting employers' needs and protecting American and alien workers. Nearly 100 percent of applications filed for temporary workers have been granted, with the program maintaining a steady size of between 17,000 and 20,000 during the past decade.

Yet the rewrite of the H-2 program expands the program perhaps as 25 times. With more than 12 million Americans out of work, it would be unfair to bring perhaps as many as 400,000 temporary alien workers to this country. Further, the weakening of requirements that employers first determine that American workers are not available to meet their needs would result in dislocation of still more American workers.

The bill's provisions for the H-2 program are unworkable and, more important, unenforceable. Indeed, Labor Department officials have testified that enforcement under current law is barely manageable. It would be a disservice to both American and temporary alien workers to put in place a program that cannot be properly managed nor can it be enforced.

The amendments to be offered by our distinguished chairman and by the gentleman from California would vastly improve the bill. American workers would be given reasonable protection by these amendments, and temporary aliens would be assured of sufficient labor protections. I urge support for these amendments.

Mr. SCHEUER. Mr. Chairman, I would like to take this opportunity to express my appreciation to the members of the Judiciary Committee, Chairman Rodino and Chairman Mazzoli of the Subcommittee on Immigration, Refugees, and International Law, for the outstanding job they have done in bringing this bill before the House.

Last Friday I placed in the RECORD two recent news articles from the New York Times which I think underscore one of the most serious problem areas in the legislation—our open borders.

One article dealt with the increasingly common phenomenon of 9 months pregnant women from Mexico, walking across the border in time to deliver their children on U.S. soil, so that they will be U.S. citizens.

The other dealt with a specific case of refugees from the impoverished Asian nation of Bangladesh who are also increasingly finding their way into our country in order to escape the terrible grinding poverty in their own part of the world.

They came from Bangladesh to East Berlin, whence they took the subway to West Berlin, flew to the Bahamas and made the last leg of their Odyssey by boat to the Florida coast.

In each instance, the specific cases are poignant examples of the larger problem of how our unsecured borders form part of the irresistible pull process that attracts illegal immigration like a veritable magnet.

To pass this legislation without first establishing full control over our borders will be a shot heard around the world, a signal that the rush to America is on.

Let us set aside for the moment the "pull" factors—the attractions of America—specifically the jobs magnet—to illegal immigrants.

They are well-known and need little amplification here today.

The real problems are the factors which push refugees out of their own countries.

Those problems are primarily explosive population increases in the Third World and the corresponding inability of Third World countries to provide adequate jobs for the millions of unemployed and underemployed who are already straining their economies.

In Latin America, despite some progress toward reducing the rate of population increase, the population increase in absolute terms is now projected to rise from its present level of 360 million to 845 million by the year 2025.

Throughout Latin America, the total labor force, both employed and unemployed, will increase from 100 million at present to more than 314 million by 2025.

For Mexico and Central America, the labor pool will double in size from 26 million today to 53 million in just

Mr. SCHEUER. Mr. Chairman, I 18 years, in the year 2000, and will ould like to take this opportunity to reach more than 93 million by the express my appreciation to the mem-

From now to the end of this century, roughly 1.2 million jobs need to be created annually in Mexico and Central America just to keep even with today's staggering rate of 50 percent unemployment and underemployment in Mexico.

Compare this with the 2 million jobs created annually in the United States during the 1970's and the fact that Mexico and Central America's economies are a mere 6 to 8 percent the size of the American economy, and the full scope of the problem begins to emerge.

Our hemispheric neighbors to the south face an impossible task.

Even though they are making admirable progress toward bringing birth rates under control, the children already born will increase the labor pool exponentially—far beyond the present capabilities of their economies to create jobs.

This in turn creates the irresistible push factors leading to illegal immigration.

Latin America will need to increase its job creation by 10 times its present rate.

In an atmosphere such as this, a blanket declaration of amnesty without our gaining full control over our borders will be an irresistible invitation to massive shift in migration unparalleled in world history.

My amendment seeks to avoid this snowballing avalanche of illegal immigrants pouring across our borders in search of jobs—legal or illegal—by deferring any amnesty until after we have secured and controlled our borders.

Failure to address the border security problem will make a mockery of any immigration policy, no matter how carefully we may craft our intentions

I urge your support of my amendment.

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this has been, in my judgment, an extremely moving debate, subdued and compelling. I guess the lucky people in the District of Columbia this evening are those who are sitting at home and receiving these full proceedings live on their television sets.

Mr. Chairman, earlier I expressed regret that this important matter had been given the lowest priority in a day and in a week marked by trivial matters and wasted time on measures which the other body is not going to consider.

My feeling, as the evening went on, has turned to anger that because of this outrageous scheduling our colleagues have been denied the benefit and the impact of this evening's debate.

I further regret that the gentleman from New York, my friend, Mr. Garcia, and the gentleman from Texas, Mr. De La Garza, had not shared their deeply felt feelings with those of us on the committee before.

We picked up this concept of employer sanctions from the Select Commission headed by Father Hesburgh. The vote was 14 to 2. Voting were such people as Father Ted, Senator Kennedy, Chairman Rodino, our former colleague Elizabeth Holtzman, and four members of the Carter Cabinet, Pat Harris, Ben Civiletti, and Secretaries Marshall and Muskie.

I would like to think that in this bill we have addressed the issues of discrimination related to employer sanctions. There are four separate provisions in the bill that go to this point, one that particularly addresses the concerns expressed last night and again tonight that an employer will fear taking a chance on a particular job applicant.

I refer my colleagues to proposed section 274(A)(a)(3) on page 4 of the bill.

Mr. Chairman, my comments on this issue and on the suggested alternative to employer sanctions—enforcing labor laws—will follow.

Mr. Chairman, central to the opposition expressed to employer sanctions is the fear that ethnic minorities will be subject to invidious discrimination. Four separate provisions of H.R. 7357 address this issue. The concern has been expressed in this Chamber that employers will not employ members of minority groups for fear of violating the prohibition against hiring unauthorized aliens. This is a real concern and your committee addressed it. What will overcome this possible fear? We have taken steps to provide clear protection to employers who follow certain simple verification procedures. On the other hand, failure to do so subjects the employers to possible fines. After verifying employment eligibility, which he fails to do at his peril, an employer can hire an applicant without risk. He has to follow the process or he is in violation of the law. I hope this explanation will allay the fears of my colleagues.

I am confident that we strengthened the protections against discrimination in the course of our full Judiciary Committee markup. One important provision inserted by the committee directs the Civil Rights Commission to monitor the enforcement of employer sanctions, In addition, the bill directs the Attorney General, the Secretary of Labor, and the Chairman of the Equal Employment Opportunity Commission to review and investigate complaints of discrimination. Another provision requires the President to consult with Congress every 6 months

concerning the implementation of employer sanctions—including possible discrimination in employment.

The very extensive monitoring and reporting mechanisms are an expression of the importance the Judiciary Committee attaches to guarding against discrimination. We are confident that existing civil rights legislation, State and Federal, will provide an important measure of protection in many cases of discrimination based on national origin. Congressional oversight, moreover, will help assure the statute is properly enforced.

Enhanced enforcement of labor standards laws will not stop large numbers of illegal aliens from entering the United States. This is true for the

following reasons:

First, only 9.6 percent of interior apprehensions by INS in fiscal year 1982 involved aliens paid less than the minimum wage. Even when fiscal year 1982 border patrol apprehensions are added, only 11 percent of employed illegal aliens were receiving less than the minimum wage. This data clearly indicates that employers are hiring illegal aliens because of their availability and perhaps also their reluctance to press for higher wages. Although the wages of many illegal aliens may be depressed, the critical point is that their wages are within legal limits. For this reason, enhanced enforcement of wage laws will not solve the problem although it may help to a limited extent.

Second, enforcement of labor standards laws does not reply on a massive Federal presence but on the willingness of workers to file grievances. Illegal aliens generally are unwilling to file the complaint which trigger enforcement efforts. The Congress is not likely to appropriate the large sums of money that would be required to have a massive Federal presence. Such a presence, in any event, would be inconsistent with the kind of country most of us want.

## □ 2410

I ask my colleagues, because I will not take any more of their time tonight, to give these insertions in the Record the same attention that I have given to the expressions of concern that have been very meaningful to me this evening.

Mr. HANSEN of Idaho. Mr. Chair-

man, I yield myself 2 minutes.

Mr. Chairman, sometimes it takes humor or an analogy to make a point. During the height of the crisis in human rights and civil rights in my district, we had a local supermarket that printed a subject that I thought was rather interesting. It says under the title, "Illegal Alien Bananas":

Botanists have confirmed to Swensen's Markets that it is technically possible to grow bananas in some parts of the United States, but domestic bananas never work as

well as the ones from south of the border, so foreign bananas have been arriving in ever increasing quantities and this week the Bananas Border Patrol offered to sell Swensen's a large quantity of green bananas. Well, Swensen's are no dummies (don't say anything!) and they became very suspicious why the Bananas Border Patrol, which is supposed to be watching the border (you know, keeping out illegal bananas) is selling bananas in Southern Idaho, Sure enough, the Bananas Border Patrol was just trying to cause trouble by selling illegal bananas. The whole thing gets pretty tricky because the people who use bananas can't taste the difference between legal bananas and illegal bananas. Swensen's think it's high time the Bananas Border Patrol went back to the border where they belong or else start doing some productive work-like moving irrigation pipe.

#### TT'S NO JOKE

All spoofing aside, this crazy border patrol is not funny—it's scary! Have you noticed that when the Border Patrol shoots somebody in the back of the head the Border Patrol quickly hurtles the witnesses back to Mexico, but when the Border Patrol thinks someone else has done something wrong they keep their illegal witnesses around as long as they want. That kind of double standard was supposed to go out when the Constitution came in. Who are these guys? Who do they answer to? Who will protect us from the Border Patrol?

Mr. Chairman, it is very interesting, in a court case, that here is one of those agents saying, "My position now is as a criminal investigator assigned as an antismuggling agent for the border patrol in the Aho, Ariz., area."

And then on page 6 it says he is talking about the fact that he is helping bring the aliens across. He is supposed to be in the antismuggling detail. He says, "As late as it was we went ahead and sorted out those aliens in Mexico."

Mr. Chairman, I think there is a travesty, when you think just how different it would be if American citizens were carted by Mexican border authorities 1,000 miles into Mexico to be traded like cattle. I think that there is something which needs to be done before we start strengthening the laws and giving more power to the border patrol.

This is extremely dangerous legislation which would grant mass amnesty to illegal aliens while making criminals of Americans for nothing more than trying to run the family farm.

Mr. Chairman, I yield 9 minutes to the gentleman from California (Mr. ROYBAL).

Mr. ROYBAL. Mr. Chairman, I take this time to compliment the gentleman from New Jersey for the excellent job that he has done throughout the years. I want him to know, and also want the gentleman from Kentucky to know that I hold them both in high regard.

I also want to make it clear that what has gone on during this debate

and during the time that we have been discussing this bill is nothing personal.

I want my colleagues to be sure that whatever has happened today is not a dilatory tactic as previously alleged.

What does exist at this time is simply a difference of opinion. I realize that just a little while ago, during this debate, there were Members of your own committee that disagreed with the bill. I am also aware of the fact that when a motion was made to recommit, that that motion failed by only two votes—13 to 15, clearly indicating that there were at least 13 members of that committee that disagreed with the contents of this bill.

So what we are talking about, then, is a disagreement as to the intent of the legislation.

I happen to believe that this bill is discriminatory and violates the civil rights of millions of individuals who will be affected the moment that this bill is signed. That it will also affect millions of individuals in generations to come.

I think that enough can be found in this bill to justify this concern. I also believe that this bill should not have been taken up in a lameduck session. This is too important a piece of legislation for that.

But then when it was taken up, we had to start debate last night, for an example, at 7:30, and 10 o'clock this evening—the last item to be considered only after not too important pieces of legislation were taken up by this House.

You will probably remember that the vote taken this evening to go into the Committee of the Whole House was 148 to 113. But there are only 20 or less Members of the House listening to this debate. The reason, Mr. Chairman, that I was seeking a more appropriate time, one that would be more beneficial, during the day perhaps, was that I wanted the Members of this House to be fully informed with regard to the various provisions of this bill

I hope that the time does not come when a vote is taken on this bill and Members voting without really knowing what the situation really is.

During the debate, we heard many individuals here pour out their hearts, telling the few Members present just what it means or how it feels to come from the same atmosphere as that of the people who will be affected by this legislation. I know how it feels because I grew up there.

A statement was made and was made correctly that unless you live through it, you really do not know what the situation really is. I believe that while the members of this committee have done their very best that they can with all their kindness and good intentions, that they have not really addressed themselves to the gut feelings

of those individuals who will be affected by this legislation.

We have tried to do our best to tell the Members about it, to inform the Members, to let the Members know what they are doing with this piece of legislation—that this legislation in its present form is not going to be beneficial to these individuals, but instead result in discrimination. But no one seems to really listen, and if they do, they do not seem to understand.

A discussion earlier clearly indicated to me that those who advocated sanctions did not really believe that it would result in discrimination itself, and the truth of the matter is that it will

I think that this bill should be amended. I heard very distinctly and with great compassion the remarks that were made by Chairman Rodino, and I want the Members to know that I agree with him. I agree with his sentiments. I know that he wants to do the right thing. But I happen to disagree, Mr. Chairman, with the method that is being used to accomplish that objective.

I do not think that legalization on a two-tier method is proper.

The first tier are those that came in before 1977. The second tier are those who can be legalized as coming in between 1977 and 1980, these are men and women who, after receiving legalization, will have to want for 6 years before they can receive any of the benefits for which they are taxed.

For an example, they will not be able to receive aid to families with dependent children. They of course will not be able to receive food stamps and other benefits such as medicare and medicaid. And it is in doubt even at this moment whether or not they can receive moneys that they have put into a fund for unemployment compensation. For 3 to 6 years these people will pay all the taxes the same as all citizens and legal residents, but not be entitled to equal treatment with regard to benefits.

When I am told that there is no discrimination in this bill, I can only say to my colleagues that there definitely is—that the only thing they have to do is read the bill with understanding and compassion and they will conclude, as many already have, that this bill in its present form is in fact discriminatory.

#### □ 2420

I am concerned also about the fact that our counterpart committee in the other body has altered current policy favoring family reunification by eliminating present preferences for brothers and sisters and spouses and children, making it almost impossible for an otherwise legal alien to be united with his family.

Now, what rationale and what attitude of mind prompted this action? The worst part about all of this is that Senator Kennedy proposed to restore the present system and proposed three amendments and each one of those amendments failed. The first one failed by a vote of 30 to 70. The other, 37 to 63, and one failed by a margin of 41 to 59.

Nevertheless, it clearly indicated that the Senate was in favor of separating families. Fortunately, the committee in the House did not agree with the Senate and I am confident that they will correct the situation when they go into conference.

With regard to a program of legalization, I agree with the committee but only in part.

H.R. 7357 provides for the legalization of certain undocumented workers who have been here prior to January 1, 1980. Much has been said about the legalization provisions. Opponents argue that a legalization program would reward lawbreakers and that the cost would be enormous.

I disagree. A generous and comprehensive legalization program is an essential component of any immigration reform legislation. The cost to society of perpetuating an underclass of exploited citizens is incalculable. It is in the best interests of this country to bring this large underclass of persons into the mainstream of our society and under the protection of our laws. A legalization program is the only realistic, humane approach to eradicating the exploitation of people living in our midst. Unfortunately, H.R. 7357, as reported out by the House Committee on the Judiciary, does not come close to addressing this pressing problem. The legalization provisions are restrictive, capricious, unnecessarily complicated, and vague thereby decreasing the possibility that few of those who qualify will come forward.

The 1980 proposed cutoff date will leave many undocumented workers without any means of legalizing their status. What does this country intend to do with all those individuals who do not qualify for legalization? Under the employer sanction provisions these people will still be eligible to work so long as they do not change employment.

The potential for exploitation and discrimination is great. Moreover during committee debate, statements were made that mass deportations and increased use of project job type enforcement were not contemplated. What then does this country intend to do with the possible millions of individuals who are excluded by the January 1, 1980, cutoff date. The Select Commission unanimously recommended legalizations as a means of remedying this problem. I urge my colleagues to take that further step and embrace comprehensive legalization more program that is simple, humane, broad-reaching and workable. I also believe that the legalization provisions contained in H.R. 7357 are punative. Denial of benefits to those who qualify for the legalization program is unwarranted and contrary to our tradition of equity and equality. These people contribute to the tax base which finances all these programs and should therefore be entitled to benefits. Concerns have been raised that once legalized all these people will quit working and become public charges. These concerns are unfounded. Moreover, my reimbursement amendment provides that should State and local governments incur costs above and beyond the norm, reimbursement would be received.

TAX CONTRIBUTIONS OF ALIENS

Statistics have been freely used by those who are opposed to a legalization program and want to kill it by attaching enormous costs. The most that can be said of these statistics is that they are estimates based on untested assumptions that only give half the story. When estimating the cost of legalization, revenue generated by these people must be taken into account. Furthermore, the costs associated with the removal of untold numbers must be kept in mind. This has not been the case. In order to obtain a clear understanding of cost issue, I have surveyed the present available literature on the subject and summarize for my colleagues the findings. (Cornelius, Chavez Castro, Mexican Immigrants and Southern California, "A Summary of Current Knowledge— Center for U.S.-Mexican Studies," UCSD, 8/1982.)

Most studies show that most Mexican migrants—legal and illegal—pay taxes consistent with their earnings and make a substantial contribution to the finances of public services. The majority of undocumented aliens have social security, Federal and State income tax withdrawn from their salaries. Many undocumented aliens do not file annual income tax returns thereby foregoing Federal income tax

refunds.

Available data show that undocumented aliens make relatively little use of public assistance programswelfare food stamps, et cetera. Health care is the most widely used public service. When using health care services, most undocumented aliens pay cash for out-patient services and avoid in-patient needs in order to avoid large debts. Studies show that the largest portion of taxes goes to the Federal Government-60 percent. Therefore a strong case can be made for some types of Federal reimbursement to local and State governments heavily impacted by the undocumented alien population.

Is the undocumented alien population a drain on our tax supported social services? The answer is clearly

no. According to the Select Commission all the partial subsamples of illegal migrants indicate that illegal migrants pay taxes consistent with their earning levels. Data on social service usage from these studies as well as fragmentary administrative records show no large amount of utilization of taxpayers financed services. This finding has been well substantiated in California.

The Orange County Task Force (1978) found that 88 percent of illegal immigrants had social security taxes withheld regularly from their wages, and 70 percent had Federal and State income taxes withheld.

Among the long-term undocumented Mexicans interviewed by Cornelius in 10 California and Illinois cities in 1978, 9 out of 10 had regular payroll deductions for social and Federal and State income taxes.

In a study of the garment and restaurant industries in Los Angeles, 92 percent of the undocumented garment workers and 87 percent of the undocumented restaurant workers reported taxes being deducted from their wages (Maram, 1980: 56,113).

In the study of Mexican immigrants in San Diego County it found that virtually every immigrant household—legal as well as illegal—has at least one wage earner who has taxes regularly withheld from his or her pay.

The gain to the Federal and State governments are substantial because a majority of undocumented taxpayers do not file income tax returns.

One researcher found that only 21 percent of his Mexican migrant interviewees filed Federal and State income tax returns (Mines, 1981: 147).

Only slightly more than one-third of the undocumented garment and restaurant workers interviewed by Maram in Los Angeles had filed tax returns (Maram, 1980:60).

Moreover, undocumented Mexicans like everyone else, pay sales, excise taxes as well as some form of property taxes. In addition, most employers of undocumented migrants also contribute to the State and Federal governments on behalf of their employees.

A study completed in 1975 by the Los Angeles County Administrative Office estimated that undocumented aliens paid—directly or indirectly—about \$38 million per year in the Los Angeles County property taxes, plus \$134 million in additional Federal, State and local taxes (Los Angeles Times, July 19, 1977:18; July 21, 1977:24).

In 1978, the Los Angeles County chief administrative officer estimated the total annual tax contributions of illegal immigrants in Los Angeles County at \$120 million (Hearings on Undocumented Aliens, 1978:60).

In April 1982 the chief administrative officer of Los Angeles County estimated that undocumented immigrants

in the county pay a total of \$2,535,300,000 in taxes to Federal, State, local and county governments each year. Of this total, an estimated \$1,480,000,000-58 percent-is paid to Federal Government: \$830,000,000-33 percent-goes to the State government; \$130,000,000-5 percity governments; \$95,300,000-4 percent-to the county government (chief administrative officer, 1982:2). These estimates of tax revenues are based, in turn on the CAO's estimate of 1.1 million undocumented aliens in Los Angeles County in 1982. If a lower estimate of the size of the undocumented population were used, estimates of tax revenues would be reduced accordingly.

Taking into account the revenue received from the undocumented migrant, the cost of providing services to them is difficult to assess. However, studies conducted indicate that undocumented aliens do not use public assistance programs.

In the area of health care, the cost to local governments appears to be somewhat inflated.

In 1976 it was estimated that the total contribution made through taxes paid by undocumented immigrants in the State of California toward health care programs ranged from \$169 million to \$247 million. The next cost of providing health services to the State's undocumented population, after subtracting their contributions to the financing of health services was \$59 million.

Aside from Health care, most available data show very low rates of utilization of public income transfer programs such as food stamps, AFDC and unemployment insurance.

A comprehensive study of welfare assistance in Los Angeles County found that the total cost of aiding illegal aliens in the county during 1976 represented only about 0.2 percent of the county's total welfare (AFDC) budget. Even when the U.S.-born children of undocumented migrant parents are included in the total of persons receiving welfare aid in Los Angeles County in that year, the cost was still only about 1.5 percent of the AFDC budget (Hearing on Undocumented Aliens, 1978: 56).

In fiscal year 1978-79, the San Diego County Department of Public Welfare spent an estimated \$52,000 in AFDC payments for a total of 99 undocumented persons, representing only 0.1 percent of the total county population of AFDC beneficiaries (Community Research Associates, 1980).

A more comprehensive screening of welfare, Medic-Cal, and food stamp recipients in San Diego County during 1977-78 yielded a total of 317 undocumented recipients, out of a total caseload of 285,006—again, less than 0.1 percent (unpublished data provided by

V. Villalpando, San Diego County Department of Public Welfare, Sept. 15, 1978)

The most recent screening of welfare assistance cases in San Diego found 156 undocumented immigrants drawing welfare benefits or seeking them (San Diego Union, Feb. 3, 1982, p. B1). These cases represented 0.4 percent of San Diego County's total welfare caseload of about 40,000.

In one study done in Los Angeles, 7 percent of the undocumented Mexicans interviewed between 1972 and 1975 reported that they were receiving welfare, and another 5 percent said they had received welfare payments in the past (Van Arsdal, et al., 1979).

Although the overwhelming majority of undocumented aliens do not utilize income transfer programs, many fear that legalization will change the present pattern of nonutilization. Those fears are unfounded and exaggerated.

The rate of welfare—aid to families with dependent children—utilization among legal residents or naturalized-citizen Mexican mothers in Los Angeles was found to be virtually identical to that of undocumented Mexican mothers: Only 2 percent of each group received income from AFDC in 1979 (Heer, 1981; table 8).

A recent analysis of the potential impacts of an amnesty program completed by San Diego County's Office of Management and Budget concluded that such a program would not significantly change the demand for most county-provided services, and that the fiscal impacts of a legalization program upon San Diego County would be minimal (county of San Diego, 1981)

A recent study of 1,414 undocumented Mexicans in Los Angeles found that 98 percent were prepared to pay for the medical services they received (Baca and Bryan, 1980: 57).

Illegal and legal immigrants besides fearing detection and deportation by INS, also have other compelling reasons for paying all debts owed to governmental agencies. The U.S. Immigration and Naturalization Service requires all applicants for permanent residence to be clear of debt to any public agency. Moreover, the public charge exclusion provision continues to apply until the permanent legal resident becomes a U.S. citizen.

A detailed study of unpaid medical costs incurred by illegal immigrants at San Diego's University Hospital—which serves as San Diego's county hospital—found that during a 4-month period in 1976, treatment costing a total of \$111,959 was provided by the hospital to 200 persons whom hospital staff identified as illegal aliens. By August 1976 when the report was completed, 37 percent of these bills had been paid by the illegal immigrants; another 38 percent were subsidized

through the hospital's clinic allowance; and the remaining 25 percent were still unpaid, but not necessarily uncollectable over a longer period. The rate of nonpayment found in these cases was the same as that for legal immigrant hospital users (Health Research Services and Analysis, 1978).

A recent Federal Government study concluded that "illegal migrants have payment records about as good as citizens and that, while data collection was weak, an upper bound on the fraction of total county health care costs in Los Angeles attributable to unreimbursed bills of illegal migrants was 5 percent, far below that claimed by Los Angeles County" (Select Commission, 1980: 2).

Recent studies confirm the long-held belief that most—50 percent—of undocumented alien migrants work for employers of 20 or fewer employees, about 65 percent work for employees. The pattern is clear—small business is now the primary employer of the undocumented alien migrant. As compared with the total U.S. population where less than 9 percent is employed by employers having fewer than 50 employees, more than two-thirds of Mexican migrants—legal and illegal—are now employed by small employers.

Most of these jobs pay about minimum wage. Yet, because these jobs are manual, unskilled, or semiskilled, low social status, and low paying, U.S.-born workers are unwilling to take them.

Many argue that undocumented alien migrants displace U.S. workers and are thereby harming domestic workers. The problem with this contention is that one cannot compare. In the past, most of these jobs have been held by Mexican workers, legal and illegal. There are no studies that show a direct competition, where an employer has denied jobs to U.S. citizens in order to hire a Mexican. In fact, Project Jobs, recently conducted with much public fanfare by INS, clearly demonstrated that domestic workers who were hired to replace the deported undocumented worker, did not stay on the job. This pattern has also been found with companies that had been raided by INS in Chicago and other parts of the United States. What is emerging from the various studies is that wage scale is not the prevailing influence in determining whether a domestic worker will take and retain a job. Factors such as long-term job security, upward mobility, social status, and the nature of the responsibilitythe job boring, repetitive, and dirty-prevent U.S. workers from taking these jobs. Moreover, some jobs have become stigmatized and associated as Mexican thereby making them unattractive to U.S. domestic workers.

Studies that have attempted to assess the labor market effect of the

Mexican undocumented alien population have concluded the following:

First, Mexican undocumented aliens hold unskilled and semiskilled jobs. In California the Mexican undocumented alien worker can be found in every sector of the region's economy from the traditional dishwater—cook to baker, electronics, and carpenter.

Second, certain industries are heavily, if not totally dependent on Mexican undocumented aliens; that is, agricultural, horticulture, construction, cleanup, garment, restaurant, and convalescent homes.

Third, most undocumented alien workers are urban and reliance of the U.S. economy is heavier on selling in urban areas.

From the above cited facts it is clear that the undocumented worker is an industrious, productive individual. They are here holding jobs, seeking a better life. It would be impractical and inhumane not to permit them to legalize their status.

I also believe that the legalization provisions are unnecessarily complicated and vague. Establishing two cutoff dates for most undocumented workers will only lead to confusion, added costs to the Government, and would diminish the effectivenesss of the program. If the objective of the legalization program is to eliminate an underclass of people who are presently in the United States, then there is no justification for creating a temporary legal resident alien class. There are enough classes for people within immigration law already. Those individuals who came here between January 2, 1977. and January 1, 1980, are as industrious and productive as those who came prior to January 1, 1977. Moreover, the creation of this uncertain temporary status prolongs the time that an individual must wait before qualifying for citizenship. On the one hand we claim that immigrants do not assimilate fast enough into the mainstream of our society, yet, by adopting the temporary status, we create unnecessary barriers. The present 5-year residency requirement for citizenship has proven quite adequate. It is counterproductive to prolong this period. In addition, we are creating an added bureaucratic layer to the process. Those who qualify for temporary residence status must return to INS after 3 years and once again be reprocessed. INS is presently on the verge of collapsing. It is well known that this beleaguered agency cannot handle more responsibility. Yet, this is what we are doing by creating a two-tier legalization process. If we truly want to wipe the slate clean, we must adopt a legalization program that is comprehensive, uncomplicated, and gives sufficient resources to those agencies who will administer the program to insure

Finally, as someone who represents a district that will be heavily affected by the passage of the legislation, I ask my colleagues to be realistic when approaching the immigration issue. Legalization must be seen as the only realistic, humane approach to eradicating the exploitation of a large underclass living within our borders. These people are industrious, hardworking, honest, and only seek to better their lives and provide for a brighter, better future for their children. There are no clear villains. Past failure to enforce our immigration laws, historical patterns of migration, political instability in the sending countries, and our underlying economic dependence these workers have contributed to the present situation. If we are serious about enacting comprehensive immigration reform, then we must also accept the consequences of past failure. Legalization of untold millions of undocumented migrants living within our borders is the only viable alterna-

Mr. Speaker, an analysis of civil rights deficiencies in H.R. 7357, the Immigration Reform and Control Act shows that all three of the major provisions of H.R. 7357 either discriminate, or have the potential for causing discrimination, against those who are in the minority in this country.

EMPLOYER SANCTIONS (SECTION 101(a))

Section 101 of H.R. 7357 establishes civil and criminal penalties for any employer or entity which knowingly hires, recruits, or refers for employment of an alien not authorized to work in the United States. As a consequence of these penalties law-abiding employers may find it easier not to hire foreign-looking job applicants so as to avoid the close Government scrutiny associated with sanctions enforcement. Biased employers may use a fear of sanctions as a convenient excuse to mask discrimination intent.

H-2 TEMPORARY WORKERS (SECTION 211)

The bill codifies existing regulations governing the admission of temporary foreign workers—known as H-2 workers—into the United States. This provision could result in the entry of as many as one-half million H-2 workers who would be largely outside the protections of American civil rights and fair labor standards law. It would also discriminate against American workers by forcing them, during a period of record unemployment, to compete with foreign labor.

LEGALIZATION (SECTION 301)

H.R. 7357 gives the Attorney General the discretion to adjust the status of undocumented aliens who have been here since 1980. Those who entered prior to 1977 would secure permanent resident status. Those who entered between 1977 and 1980 would be given temporary resident status. This legalization plan is discriminatory in a number of respects:

First, aliens granted temporary residence will have de jure second-class status comparable in American history to the treatment of slaves and Indians. Temporary resident aliens will not enjoy the privilege of bringing their families here to join them, as is the normal practice when we admit new immigrants. Moreover, they will be expected to demonstrate a knowledge of English in order to adjust to permanent residence. This also is discriminatory, since no other candidates for permanent residence are expected under our laws to prove their knowledge of the English language.

Second, all newly legalized aliens—whether they be in temporary or permanent status—will be prohibited for between 3 to 6 years from receiving many of the public benefits for which they will be paying taxes.

Of these three major provisions of H.R. 7357 which pose serious civil rights problems, only "employer sanctions" are admitted by the sponsors of the bill to have the potential for discrimination. However, attempts to safeguard against such discrimination have been weak at best.

First, the Judiciary Committee has included a provision in H.R. 7357 which requires employers to inspect the I.D. of all of their new hires in order to establish their eligibility to work in the United States. Advocates of this I.D. verification system claim that it will reduce the potential for discrimination by:

First, giving employers a simple way to determine the I.D. of their employees other than by judging them on the basis of appearance: and

Second, requiring that employers in-

spect the I.D. of all new hires. The problem with this concept is that the I.D. verification system may itself be discriminatorily applied. Some employers, for example, who realize that the Immigration Service will be hard pressed to enforce the I.D. verification requirements, are simply going to request the I.D. of those who "look" foreign. Additionally, H.R. 7357 as reported requires I.D. verification only for new hires, not for applicants. Consequently, the bill provides no means for assuring that unscrupulous employers would not turn minorities away without being discovered, nor will there be

crimination is occurring.

Recognizing the discriminatory effects of the sanctions, the committee has accepted an amendment to the bill which establishes an interagency task force to monitor and investigate complaints of discrimination. A major drawback to this task force, however, is that it cannot prevent discrimination. It is, at best, an ex post factoremedy with no guarantee of effectiveness. As was stated in the Civil Rights

any paperwork on record by which to

determine whether this type of dis-

Commission report on immigration entitled, "The Tarnished Golden Door":

After-the-fact remedies are rarely adequate to compensate American citizens and legal residents for the discrimination that prevents them from the full enjoyment of and participation in our democratic society.

The bill is also vague as to the task force's authority to decide the merits of complaints and to seek to resolve them. Further, there is no time limit for insuring that complaints are expeditiously handled. Consequently, complaint backlogs could develop which would inhibit the task force's ability to assist those who have been discriminated against.

Finally, the sponsors of H.R. 7357 have made it quite clear that they believe title VII of the Civil Rights Act is sufficient in itself to protect against discrimination resulting from the sanctions. They have failed, however, to take the following into consideration:

First. Title VII, which prohibits discrimination on the basis of race and national origin, is, like the task force, an ex post facto remedy.

Second. Title VII does not apply to employers of fewer than 15 employees, which leaves a substantial group of people outside the scope of coverage.

Third. The Equal Employment Opportunity Commission, which administers title VII, had a backlog of 20,000 cases at last count. This backlog results in a sometimes lengthy delay in the investigation and resolution of a discrimination complaint, to the detriment of the aggrieved party.

Fourth. Discrimination based on alienage was ruled by the Supreme Court in the case of Espinoza against Farah Manufacturing not to be unlawful under title VII. Thus, many of the victims of discrimination arising from sanctions, especially lawful resident aliens, would not even have a cause of action under existing law.

In light of these factors, the socalled safeguards which the proponents of H.R. 7357 believe will minimize discrimination are simply illusory.

The CHAIRMAN. The time of the gentleman from California (Mr. Roybal) has expired.

The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. Leland).

Mr. LELAND. Mr. Chairman, I rise to express my serious and vehement opposition to H.R. 7357, the Immigration Reform and Control Act of 1982. I have had the opportunity to examine extensively this legislation, and to assess its impact as immigration reform, and have concluded that it is unfortunately a shortsighted approach. I believe this approach will not succeed, and that it will result in

the exacerbation of many serious problems confronting Hispanics, Haitians, and other immigrant groups.

A major question which leads me to regard this legislation as ultimately ineffective and not meriting House approval in its present form, is that there are no provisions which address the major "push factors," such as devastating economic conditions, which lead to immigration. It is absolutely imperative that legislation reforming immigration policy take into account the ever-growing political and economic instability of developing nations.

This bill only addresses immigration once people are within our borders. a logical approach would take into account the origins of push factors in sending countries. It is difficult to believe that internal enforcement policies such as employer sanctions will have any effective impact whatsoever.

Our immigration policies must be integrated with our foreign policy-for clearly they are interrelated. From one standpoint, our foreign policy contributes to our immigration problem. I do not think there can be any doubt that our policies toward Haiti, El Salvador, or Guatemala, have stimulated major migrations of those populations to our country. In Washington, D.C., there are upward of 50,000 Salvadorans alone. Conversely, our immigration policy has a grave effect on other nations. I would like to bring to the attention of my colleagues a letter dated December 17, from the Mexican Senate to the House of Representatives. The letter conveys a resolution unanimously passed in the Mexican Senate on December 8. The resolution "expresses the alarm and concern for the repercussions which will impact both countries if the Simpson-Mazzoli legislation is passed." The letter goes on to say that "this transcendent matter should not be considered from a unilateral perspective, but rather should be treated from a bilateral and even multilateral perspective. . ." Last, our Mexican colleagues ask that the matter be turned over to the Mexican Senate's Foreign Relations Committee for detailed analysis, so that it can be subsequently treated at the next Inter-Parliamentarian Conference.

My colleagues, it is clear that passage of this legislation will have serious adverse impact on Mexico, and on our relations with Mexico. I cannot help wondering why the matter was never taken up by our Foreign Affairs Committee.

Given these considerations, I do not think we should go ahead with the approval of this bill. There is still much in this bill which needs to be studied and refined. The prevalent attitude in this body seems to be that because the legislation has come this far, and because something urgently needs to be done, that we should approve the bill. This attitude is wrong, and can only

breed poor and inadequate public policy. This attitude is more concerned with convenience and expedience, than with thoroughness and effectiveness. If we approve this bill, we will have to come back in a couple of years, again asking for a band-aid approach.

I do not think we can afford such a shortsighted policy that will result in more dangerous problems to us and to our neighbors. I urge my colleagues to oppose this bill.

Before I present my detailed views of this legislation, I would like to provide my colleagues with a historical perspective which clearly reflects how the U.S. Government has over the last 80 years stimulated, encouraged, and implemented policy calling for the importation of Mexican labor for agricultural purposes. This history does provide a view that underscores the role this country has taken in encouraging undocumented flows when it was eco-

nomically advantageous.

Since 1917, this country has operated a temporary guest-worker program of one type or another. In fact, this country instituted that first such program as a result of conflicts between immigration restrictionists against Mexicans employers. The U.S. Department of Labor resolved this conflict by utilizing the ninth proviso of the Immigration Act of 1917 which gives the Secretary of Labor discretion to admit the temporary importation of Mexican contract laborers. It is ironic that such a program would be enacted after such a period of antiimmigration, however, it does reflect the insatiable demands by U.S. employers for cheap labor. Prior to 1917, this demand had been met by other immigrant groups and was not to be hindered by such sentiments. This insatiable appetite was satisfactorily fed by the initiation of the first bracero program which allowed the Secretary of Labor to exempt Mexicans from the head tax required of each immigrant and the ban on any immigrants over age 16 who could not read. These workers were primarily to be employed in agricultural labor. Accompanying this program were rules and regulations designed to protect the worker, however, they were never effectively enforced. The program was justified as being a national defense policy and should have terminated after World War I terminated. However, the program continued until 1922 and was only terminated then because employers could no longer justify it as a national defense policy. During its existence, 76,862 Mexicans were recorded as entering the country while only 34,922 were recorded as returning to Mexico.

Again, during World War II, employers, primarily in the agricultural industry of the Southwest, had lobbied to establish another bracero program to deal with so-called labor shortages due to the war. Despite the fact that

the Mexican Government opposed such a program-hiring of Mexican citizens by foreign nations is prohibited by article 123 of the Mexican Constitution of 1917-despite the flourishing of the Mexican economy during the 1940's, despite the fears many Mexicans held due to the repatriation movement, was negotiated in August of 1942. The program was to terminate in 1947, however, employers appeared to benefit from it so much, and the Federal Government worked the other way, that the program was continued informally and without regulation until 1951. At this time, the program was once again formally enacted by Congress but finally terminated by the United States on December 31, 1964. This program was accompanied by numerous protections but once again there was a failure to enforce these protections. Throughout this time, and after final termination we find that illegal immigration began to grow with many of these workers, once being exposed to the economic opportunities of this country, choosing to remain illegally.

I provided this brief historical overview to underscore the fact that the primary reason for temporary workers has always been the cheap labor they provide to primarily southwest agricultural employers, and not for the purposes to quell illegal flows. If anything, the history proves that such a program has fostered and increased the growth of undocumented workers in the United States. Also, it demonstrates that while the Mexicans were and continue to be desirable as laborers, but not as settlers, this country will do anything to secure their employment in the United States without effectively protecting their rights as workers and human beings. This is not meant to be a dramatic statement but rather one of fact, for during this history, the Dillingham Commission Report of 1911 described Mexicans as being undesireable as settlers because of their Indian-like characteristics, their low level of skill, the view that they were and are illiterate; but if you wanted Mexicans to work for cheap wages, the door appeared to be wide open formally or informally, and you did not have to worry about their rights.

Recognizing this history, we now examine the present factors which create a tremendous push from foreign countries to the United States. I feel very strongly that considering the historical role we have played in encouraging undocumented flow, that we not commit a grave error in not fully acknowledging the major reasons why people are continually migrating to this country.

#### INTERNATIONAL ISSUES

A major issue which lead me to regard this legislation as ineffective and not meriting House final approval is that there are no provisions which address major "push factors" in foreign countries such as devastating economic conditions. It is absolutely imperative that legislation reforming immigration policy be able to address the ever-growing political and economic instabilities of underdeveloped and developing countries. However, the bill addresses illegal immigration once people are at our borders or shore, or after they have entered the country. A more logical approach would be to have legislation which deals with the origins of the push factors in sending countries. Recognizing that conditions in Third World countries are worsening daily and that this trend increases migration pressures to the United States, it is extremely difficult to believe that internal enforcement policies such as employers sanctions will have any effective impact whatsoever.

Our immigration policies must be integrated with foreign policy consideration for they are interrelated. Clearly, our foreign policy in Haiti and El Salvador stimulated major migration of Haitians and Salvadorans to this country. We do not advocate a massive foreign assistance program but rather a policy which stresses cooperation and participation in managing such complex issues as illegal immigration. Without positive bilateral involvement in addressing major population movements, we are dangerously limiting our immigration policy to domestic efforts which are incapable of providing any relief. Thus, there must be a joining of domestic and foreign policy measures which establish a short- and long-term mechanism for addressing migration pressures. We would draft legislation during the 98th Congress which properly reflects and incorporates such

In view of the gravity of the political and economic conditions plaguing foreign countries and the resulting migration to the United States, we regard support for this legislation as need to have some action taken regardless of its effectiveness. The rationale appears to be that because the legislation has come this far and because something needs to be done to improve the situation, the bill should be supported. This attitude breeds poor and inadequate public policy, it is more concerned with convenience than with thoroughness and effectiveness. Should this legislation pass, in view of circumstances we have presented, we will have approved legislation which will require Congress to come back in a couple of years, again asking for a band-aid approach. We cannot afford such a shortsighted policy that will surely result in greater dangers and problems for this country and others

I would like to bring to the attention of my colleagues two articles which appeared in the New York Times indicating serious concern on the part of the Mexican people and Government regarding the possible passage of this legislation. The articles clearly reflect a strong opposition to this legislation and the feeling that its passage would create very serious problems not only for the country of Mexico, but for United States-Mexico relations. In addition, I would like to read an article which summarizes a resolution approved by the Mexican Senate indicating its vehement denunciation of the Simpson-Mazzoli legislation.

In view of all that I have presented indicating the magnitude and complexity of this issue, we are now asked to consider legislation whose primary provision to address the issue of illegal immigration is to propose the creation of an employer sanctions program. It appears that support for H.R. 7357 is based on the employer sanctions program which would penalize employers who hire undocumented individuals. However, after having studied these programs in 19 foreign countries, the General Accounting Office (GAO) reported that they were ineffective in stopping the hiring of undocumented workers. Also there was no substantive analysis presented to Congress indicating that sanctions would be effective in controlling the flow of undocumented workers. In addition, Congress has yet to specifically discuss the cost of implementing this program, and whether this program would be cost

Serious concerns about the significance and impact of this legislation were raised during debate in the House Judiciary Committee and culminated in a narrow defeat—two vote defeat—of a motion to recommit the bill to subcommittee. Success of the motion would have effectively killed this legislation.

Therefore, I find it extremely difficult to even consider passing this legislation when clearly the rights of Hispanic-Americans, of Haitians, and other immigrant groups stand to be further eroded under this legislation. I would urge my colleagues to oppose any further consideration of this extremely negative legislation.

(Translation of the exact text of Mexican Senate resolution urging deferral of Simpson-Mazzoli, as originally passed Dec. 8 and formally issued Dec. 13.)

DECEMBER 17, 1982.

Mr. THOMAS O'NEILL,

Speaker, U.S. House of Representatives, Washington, D.C.

Dear Mr. Speaker: In compliance with the agreement taken by the assembly of the Chamber of Senators in their session of December 8, 1982, we are making available to you a copy of the approved text, in which this Senate of the Republic of Mexico expresses its concern for the repercussions against Mexican migrant workers in the United States of North America caused by passage of the Simpson-Mazzoli legislation.

1. That the Chamber (Senate) expresses as a resolution our alarm and concern for the repercussions which will impact both countries if the Simpson-Mazzoli legislation is passed, since this transcendent matter should not be considered from a unilateral perspective, but rather should be treated from a bilateral and even multilateral perspective, taking into account the far-reaching migratory phenomenon of undocumented persons between our two countries.

2. That the recommendations of the Parliamentarians of the Western Hemisphere Conference on Population and Development held in Brazil November 5, 1982 be implemented. Those recommendations were approved by several U.S. Senators, and designed to discourage laws such as this (Simpson-Mazzoli), which directly and openly threaten the labor and human rights of migrant workers in the United States, and which create a repressive precedent of global repercussions.

3. That this matter be turned over to the Foreign Relations Committee of the (Mexican) Senate for detailed analysis, and that it be included as part of the memos to be treated at the next reunion of the Mexico/U.S. inter-parliamentarian conference.

4. That the Latin American Congress, the World Congress, and the Group of Parliamentarians for a New World Order be notified so that they may direct their concerns to the U.S. Congress and include the matter in their work agendas.

5. That the proper Mexican authorities be notified of this proposition so that the necessary mechanisms be implemented in order to inform the nation, the U.S. Senators and Representatives, and, if possible, the American public of the concerns, intent, and actions of the (Mexican) Senate in regard to this grave matter that negatively affects our good neighbor relations.

We urge you, Mr. Speaker, to note our concerns and convey to the members of the honorable House of Representatives the transcribed text, and express our sentiments and our hope of understanding by the U.S. Congress.

Floor session of the Honorable Chamber of Senators, Mexico D.F., December 13, 1982.

Signed:

ANTONIO RIVA PALACIO,

President.

SILVIA HERNANDEZ DE GALINDO, Secretary.

RAFAEL CERVANTES ACUNA,

Secretary.

MEXICO WANTS INDEPENDENCE BUT NEEDS U.S.

## (By Alan Riding)

Mexico City.—When they met in San Diego last month, President Reagan casually recalled that Mexico's incoming President, Miguel de la Madrid Hurtado, has studied for a time at Harvard. Suddenly, his guest looked embarrassed. Personal identification with the United States is something no Mexican official wants publicized.

Despite this faux pas, the meeting was a success. Mr. Reagan went on to stress that "our friendship is founded on respect and dignity" and that the United States would stand by Mexico at a time of economic crisis. Mr. de la Madrid in turn made it clear that top priority would be given to relations with the United States after he succeeds President José López Portillo on Wednesday.

But the heartburn caused by the mere mention of Mr. de la Madrid's years at Harvard was a pointed reminder of Mexico's nationalist sensitivity on all issues involving the United States-a sensitivity rooted in history but particularly strong now that Mexican economic dependence United States is at its height. on the

Despite all expressions to the contrary, relations between the neighboring countries seem likely to be disturbed by frequent misunderstandings during Mr. de la Madrid's six-year presidency. The catalyst for clashes may be anything from trade or migration issues to Central America policy, yet none will be as important as the psychological gap that still divides the two countries.

Nothing perhaps divides them more than history, which Americans may not remember but which Mexicans rarely forget. Awareness of the United State's seizure of half of Mexico's territory in 1847, its interventions during the chaos of the 1910-1917 Revolution and its enormous economic and political influence since then help to explain Mexican nationalism today.

But Mexican attitudes toward the United States are more complicated than that. Nationalism is mixed with admiration for American democracy, honesty and efficiency, to create an emotional ambivalence. Mexico's response to its current economic crisis is largely a function of these contra-dictory feelings. Mexicans correctly assumed that they could turn first to Washington for emergency credit, yet the immediately suspected its motives for helping them. To demonstrate that dependence does not mean submission, nationalism may now demand that an even more contrary foreign policy be pursued.

#### COOPERATION SOUGHT

Mexican analysts, therefore, dismiss speculation that the country's financial crisis will force Mr. de la Madrid to succumb to American pressure to abandon Mr. López Portillo's policies on the Caribbean Basin. All evidence points to continued Mexican friendship toward Cuba and Nicaragua and sympathy for Salvadoran opposition groups. President Reagan's visit to Central America this week may provide Mr. de la Madrid's first opportunity to reiterate his predecessor's call for negotiated settlements. On a similar note in the United States last week, 300 religious leaders, including 22 Roman Catholic bishops. denounced Washington's policy in Central America.

Because of Mexico's economic crisis, however, bilateral problems are likely to dominate relations with Washington. While Mr. de la Madrid told President Reagan last month that "we are not waiting to be saved from abroad," he is clearly looking for significant American cooperation. Already the United States has provided Mexico with almost \$3 billion in credit, including \$1 billion in advance payment for Mexican oil exports. American officials have also encouraged the International Monetary Fund to reach quick agreement with Mexico on a \$3.92 billion credit and have quietly pressured American banks to renegotiate this country's \$80 billion foreign debts.

Yet even this help proved controversial in Mexico, with loud complaints that Mexico had sold 40 million barrels of oil to the United States Strategic Reserve at a discount and had agreed to consult Washington on its future economic policies. The fact that, in recent months, Mexico has become the United States principal oil supplier was somehow seen as further cause for alarm.

The most immediate peril to good neighborliness, however, may be the Simpson-Mazzoli immigration bill coming up for Congressional consideration. The bill would authorize stiff penalties against employers of illegal aliens, thus eliminating job opportunities for hundreds of thousands of undocumented Mexicans in the United States. The return of these migrants to Mexico in the middle of an economic crisis could stir political tensions at homes as well as resentment against the United States.

The growing interdependence between the two countries is also shown by their business relations. Mexico's rising oil exports and huge imports of machinery and manufactured goods from the United States brought trade to \$26 billion last year and made Mexico the United States' third-largest trading partner after the European Economic Community and Canada. But this year's financial crisis forced Mexico to slash imports and impose exchange controls. American savers "lost" a good part of \$12 billion in local dollar deposits that were forcibly converted to pesos. And commerce virtually collapsed in American border cities when the cost of a dollar increased fivefold for Mexicans in less than 10 months.

Trade, then, will furnish a crucial test of relations. Mexico sees increased exports as one way of rebuilding its economy and repaying its debt, but protectionist pressures are growing in the United States. month, Mr. de la Madrid asked for Washington's help, pointedly reminding it that "to

buy, we must be able to sell."

# [From the New York Times, Nov. 21, 1982] MEXICANS OPPOSE U.S. ENTRY CURBS (By Robert Pear)

WASHINGTON, Nov. 20 .- Business and political leaders in Mexico have told the United States that passage of a comprehensive immigration bill now pending in Congress would seriously harm relations between the two countries and "foster political unrest" if it was effectively enforced.

In a dispatch to Washington, the United States Ambassador to Mexico, John Gavin, said it was the unanimous opinion of Mexican leaders interviewed by the embassy that the consequences of the legislation would be "highly unfavorable for the U.S. economy and for U.S. Mexican relations.

Illegal aliens sent back to Mexico and would-be migrants unable to cross the border "would foster political unrest with potentially explosive consequences, businessmen here told us," Mr. Gavin reported.

With the Mexican economy in distress, the peso in turmoil and a new President set to take office on Dec. 1, Mr. Gavin said, many Mexicans believe this would be a particularly inauspicious time for the United States to tighten its immigration law.

#### BILL AWAITS HOUSE ACTION

The bill, sponsored by Senator Alan K. Simpson, Republican of Wyoming, and Representative Romano L. Mazzoli, a Kentucky Democrat, has passed the Senate and is awaiting possible-House floor action in the special session of Congress that starts Nov.

Supporters of the bill, seizing on concern over unemployment, say it would open one million to two million jobs for American citizens. The heart of the bill is a system of fines and prison terms for employers who knowingly hire illegal aliens. The bill would also offer legal status to several million illegal aliens who entered the United States before 1980.

"Probably between one and two million Mexicans would be forced to return to Mexico at the one moment" in its history when "Mexico is least capable of generating additional employment," Mr. Gavin wrote.

The ambassador's 17-page report drew on conversations with Mexican officials, businessmen economists journalists and academics, including "scholars affiliated with the Government."

The State Department's chief spokesman on immigration, Assistant Secretary Diego C. Asencio, said in an interview Friday that 'we've been talking to the Mexicans, we've been listening to them and we have attempted to take their concerns into account as much as we could." The Reagan Administration has strongly supported the bill, saying it would permit the United States to reestablish control of its borders.

#### PATROLS WOULD BE INCREASED

The bill declares the sense of Congress that there should be a carefully controlled 'increase in border patrol and other enforcement activities of the Immigration and Naturalization Service." But from Mexico, Mr. Gavin reported that "effective enforcement of this measure is seen to require authoritarian measures amounting to a militarization of the border zone.'

If there is a substantial reduction in money sent home by Mexican workers in the United States, Mr. Gavin said, the standard of living in some agricultural regions of Mexico could "plummet to below-

subsistence levels."

"At the national level," he said, "Lower remittance incomes would deplete the Bank of Mexico's dollar reserves and aggravate mounting debt payment difficulties." further depressing the value of the peso, he said, "these developments would fuel inflation, which in 1982 has risen to the highest levels" in 50 years.

Some Mexicans contend that the "eco-nomic dislocations" would be "more damaging to the United States than to Mexico. Mr. Gavin said. According to this view, border zone employers, already suffering sizable market losses due to this summer's devaluations, would be dealt the additional blow of losing their principal source of lowwage labor."

## "SECOND-CLASS CITIZENSHIP" SEEN

Mr. Simpson and Mr. Mazzoli say that by granting amnesty to illegal aliens, they would eliminate an illegal subclass of people who have been exploited by American employers. But Mr. Gavin said this proposal was seen as ratifying "second-class citizen-ship for Mexicans," because they would have to pay taxes in the United States while being ineligible for most social welfare benefits.

United States officials said that Mr. Gavin's description of Mexican attitudes was invaluable because, as the ambassador said, the official Mexican policy on illegal

migration has been a "policy of silence."

Mexicans "see the migration problem as deeply embedded in the structure of an international labor market that unites the two countries," Mr. Gavin said. "These economic forces, characterized as a 'push' from Mexico and a much stronger 'pull' from the United States, defy legal attempts to modify

Thus, he said, "Mexicans are deeply pessimistic that Simpson-Mazzoli can be enforced." They "commonly assume that the U.S. economy's demand for foreign labor is ineradicable, even in a recession; and many maintain a Marxist world-view leading them to believe business interests dominate Congress, and thus would never allow Congress to pass or enforce stiff employer sanctions."

The CHAIRMAN. The Chair now recognizes the gentleman from Idaho (Mr. Hansen).

Mr. HANSEN. Mr. Chairman, I yield to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. Kazen).

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. KAZEN) is recognized for 2 minutes.

There was no objection.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the hour is late. Five hours, it turns out, was not enough to

debate this type of a bill.

This is the position that I have taken on this bill, not questioning so much what is in it, because so many of our colleagues do not know what is in it; the fact that we would not get an opportunity to really debate this bill. Here at 12:30 o'clock in the morning I get 2 minutes to talk about this very important bill, this bill that is going to the immigration policy of the United States for years to come; but let me say to my colleagues, the gentleman from New Jersey and the gentleman from Kentucky, that I appreciate the work that they have put into this effort. My only concern is that there are not enough of us here to actually do the job that needs to be

Oh, I know that the members of the Judiciary Committee are thoroughly familiar with it, but the rest of us who are not on the committee, are not.

Now, this bill, make no mistake about it, at this stage of the game, this bill is going to pass, regardless of those of us who are against it. There are only 15 Members of the House taking part in this debate tonight, yet this bill is going to become the law, because this bill is going back to the Senate. We will substitute this bill for the Senate bill that is at the desk. It will go to the Senate. The Senate will take what we give them. It never will get to conference and it will become the law of the land.

## □ 2430

Now that is the way that this very important piece of legislation is going to be on the books, unless we stand up tomorrow and see to it that the amendments that are on the desk are fully discussed, that this bill may be amended and actually made something that is the product of the entire House.

The CHAIRMAN. The time of the gentleman has expired.

The Chair now recognizes the gentleman from Idaho, Mr. Hansen.

Mr. HANSEN of Idaho. Mr. Chairman, I reserve my 1 minute.

The CHAIRMAN. The gentleman from Idaho reserves his minute.

The Chair now recognizes the gentleman from California, Mr. MILLER.

Mr. MILLER of California. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Patterson).

Mr. PATTERSON. Mr. Chairman, I know the hour is late. We have been in session almost 16 hours and I have been on the floor most of that time. We are now down to debate on perhaps one of the greatest bills in terms of its impact on the American people that we have had in the 97th Congress

in these last few hours.

Because I think the system and the way we are handling it is not a correct. one. I voted against going into Committee to have this debate, and I worried about doing that because I know that was not a popular vote, to vote against going into Committee. But when I heard the gentleman from California (Mr. ROYBAL) in his eloquent statement here, and I look around this room at midnight when he made it, and I know that less than 20 Members will have seen and heard his statement, and many other very worthy statements, I am glad that I voted the way I did, and I am sorry for this House that we have had the arguments and general debate at such a late hour. To be expeditious is one thing in minor matters, but to be expeditious in a major, sweeping bill of this sort. I am frankly somewhat embarrassed.

Mr. Chairman, the efforts of this Congress to bring about a comprehensive and balanced immigration reform should be congratulated. After more than 10 years of analysis, testimony, and negotiation, our Senate colleagues have forwarded a bill for House consideration. And, all five House Committees of jurisdiction have passed along a bill—with reasonable modification—for debate today.

yet in this moment of glory, as we finally bring immigration reform to the floor, I cannot help but wonder. In this 11th hour of the 97th Congress, why are we faced with one of the most controversial pieces of legislation in

our time?

The Simpson-Mazzoli Immigration Reform Act, should it achieve final passage, will long remain a testament of our actions today. The last reform of its magnitude was adopted over 30 years ago. This is a thought-provoking notion, because, each and every one of us here today—lameduck Member or reelected colleague—will be accountable for a national policy which will endure long into the 21st century.

The ramifications of this legislation will set the stage for employment practices in every business across our country. It will establish a national identification system which each and every one of us will be required to

honor whenever we seek employment in the United States. It will systematically, we hope, provide temporary workers where domestic laborers cannot be found.

Through legalization procedures, this bill will dramatically alter the composition of our society and encourage longtime illegal residents of the United States to come forward and enjoy the benefits of our system of justice.

Like most of my House and Senate colleagues, I recognize the great need for comprehensive immigration policy. I understand the great plans and strategies for closing the back door of illegal entry and opening the front door to legal immigration to the United States. I understand the necessity for weaving a tight-knit fabric which includes certification for eligibility to work in the United States, penalty for abuse, and appeal processes for those mistakenly accused of disregard for the law. I believe we must have a legalization program which brings longtime U.S. residents out of the shadows of illegality, ultimately removing the underclass in our society which has existed far too long.

I respect the efforts of my colleagues, particularly on the House Judiciary Committee and the Education and Labor Committee and Agriculture Committee, who have sought to tackle the very difficult problems of immigration reform. The cooperation of the House leadership should be equally applauded for allowing a liberal rule for debate so that, in these final hours, the voices of our pluralistic citizenry may be heard.

In the end, however, I have grave reservations about our consideration of this landmark proposal at the end of a long and weary 97th Congress. The events of this 97th Congress have been unsettling enough. Time and time again, we have found ourselves locked in debate over the Federal budget and how we might, with our most limited resources, confront the problems of our domestic economy. As we take on the revision of the Immigration and Nationality Act, we must not do so in haste. We must not permit ourselves to succumb to fatigue and ignore the consequences of our actions today. Should we amend and adopt H.R. 7357, we must do so with full knowledge and with full responsibility.

So far, it seems the only sure fact is the necessity for immigration reform. We all know our decades-old Federal laws are not working. Although they appear restrictive on paper, and give the illusion of a solid structure, the back door remains open. Under the Texas proviso, employers can and do hire illegal aliens. The economic and political conditions of our neighbors encourage exodus, and our inadequate border controls provide aliens an as-

sured passageway to jobs in the United States. For those seeking legal immigrant status in the United States, frustration often results. INS delays and backlogs never get better; and illegal entry, for many, becomes more appealing

With our current system, there are countless problems. But, the solutions will not come easily and without careful consideration by each Member casting his vote today. To pass this legislation, we must effectively develop a consensus of opinion in this House of Representatives. At this point in time, I do not believe we have such a consensus.

Over 297 amendments have been filed for debate on H.R. 7357. Not a section has been left untouched. If we in the House of Representatives are at odds over so many provisions, what does this mean? I would like to suggest that our disenchantment with this legislation mirrors the position of our constituencies. Our people, our business leaders, labor organizations, civil rights spokespersons, State and local government authorities, and minority groups all have something to say about this Immigration Reform Act. Allow me to cite just a few examples of those from whom I have heard, those who have taken time to write, call and meet with me to talk about

this bill.

First, my country board of supervisors, mayors of cities in my congressional district, and about 1,000 just plain residents or ordinary people have written me in opposition to this bill.

Second, the AFL-CIO labor organization has announced its support for Simpson-Mazzoli contingent upon adoption of the education and labor amendments relating to the H-2 program. They are dissatisfied with efforts to reduce the scope of the legalization program and acknowledge that no new jobs for Americans will be created by striking legalization.

Third, the U.S. Chamber of Commerce is opposed to sanctions against employers and employment verification procedures which are confusing, burdensome, and expensive. In essence, the chamber views legislation which places enforcement in the hands of employers totally unacceptable.

Fourth, the U.S. Catholic Conference opposes Federal legislation which imposes employer sanctions without a generous legalization program. The conference has apprehensions about discrimination in employment as a result of the title I provisions. It objects to the two-tiered approach to legalization and limited Federal assistance to aliens achieving legal satus.

Fifth, the Citizens' Committee for Immigration Reform is comprised of such notable participants as Benjamin Civiletti, Lane Kirkland, Cyrus Vance,

Douglas Fraser, Elliott Richardson, and Gerald Ford. The committee opposes any efforts to modify the current family reunification, system of preferences and inclusion of refugees in the annual immigration ceiling. The committee emphasizes the best legalization program would be the broadest, permitting all undocumented persons to become permanent residents upon coming forward with proper documentation, and with all the rights and benefits of permanent resident aliens. Given further study, the committee supports the Judiciary Committee's temporary worker program, without expansion of provisions by the Education and Labor Committee.

Sixth, the National Conference of State Legislatures is concerned about local and State government reimbursement provisions in section 303 of the bill and contends that any effort to provide reimbursement through a block grant will fall short of the unanticipated costs of the legalization program

Seventh, the Associated General Contractors of America charges that enforcement of immigration law is up to the Government and that the bill, as currently drafted, increases the potential for civil rights litigation.

Eighth, the League of United Latin American Citizens (LULAC) warns that employer sanctions will be ineffective in preventing the employment of undocumented workers and the flow of illegals will continue. LULAC suggests that Congress view our immigration policies with a broader perspective which incorporates foreign policy considerations. Accordingly, the United States must nurture positive relations with developing countries and seek ways to relieve internal population pressures and employment disparities which encourage exodus.

With unequivocal opposition or with major recommended changes, the following national organizations have expressed great concern about this bill:

The American Civil Liberties Union, the American Farm Bureau, the U.S. Committee for Refugees, the Western Range Association, the National Council of the Churches of Christ, the Jewish Community Relations Advisory Council, the Inter-American Council on Manpower and Development, Inc., the Organization of Chinese Americans, Inc., the American Committee on Italian Migration, the Mexican American Legal Defense and Educational Fund (MALDEF), the Federation of Indian Associations, and the International Longshoremen's Warehousemen's Union.

The list is exhaustless and clearly demonstrates the lack of consensus among national groups on the bill before us today. At the local level, other advocates for immigration reform emerge and voice distinct concerns.

Like other Members of Congress, I am concerned most about how legislation will affect the district I have been elected to represent. Southern California, and Orange County in particular, have been quite vocal on the subject of immigration reform. There are many reasons for this.

The first and most obvious reason is that the people of southern California have participated actively in our Nation's refugee resettlement program. Orange County alone has resettled and absorbed some 70,000 refugees since 1980. In recent years, State and local governments have pleaded for Federal assistance in proportion to their contribution in this national mission. Each and every step of the way, Federal financial assistance has been abated and delayed. Discrepancies in the administration's commitment to reimbursement leaves Orange and Los Angeles Counties, at best, cautious about a Federal immigration policy which will include a massive legalization program without guarantees for appropriate financial support.

The number of illegals expected to come forward for legalization in Los Angeles County is over 1 million; in Orange County, as many as 80,000 could seek legal status if Simpson-Mazzoli is adopted. The resources for implementing the legalization program must be adequate to make it work, and reimbursement to State and local governments must be insured. Floor amendments to dilute this provision and efforts to use it as a bargaining chip in conference must be prevented.

People in my district are interested in immigration reform, because they do not want to see a repeat of "Operation Jobs." The unannounced storming of businesses and agricultural farms, corralling of workers and loss of productivity associated with INS enforcement tactics have been severely criticized by all involved.

Workers and employers both recognize the importance of an illegal immigration control mechanism that works and does not include barbaric enforcement tactics.

In these few moments, I have only touched on some of the issues at stake during our debate of the Simpson-Mazzoli Immigration Reform Act. I know there are many among us who have been active in drafting this legislation, and I am thankful for their efforts. However, as it stands, the only consensus of opinion is that immigration control is needed. There is little consensus over the means to achieve it.

Unless we can rid this bill of its great controversy, amend it to meet the interests of the parties it will affect, we cannot go home satisfied that we have conclusively and quite necessarily resolved the immigration

issue. Many of us here today are not content with our lameduck consideration of this bill, and I firmly believe that we should place this issue on the agenda for the 98th Congress.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. Fish).

The gentleman from New York has 10 minutes remaining.

Mr. FISH. Mr. Chairman, I yield the balance of my time to the gentleman from California (Mr. Lungren), a member of the committee.

Mr. LUNGREN. I thank the gentleman for yielding this time to me.

Mr. Chairman, in talking about various aspects of the bill, it seems to me at times the focus is lost on the reason behind the bill. The reason behind that bill is a very important one, and that is the fact that the United States has lost control of its borders. It is a fact that I do not think can be disputed. It is a fact very evident in my part of the country, and, in fact, it is something that is becoming more and more evident throughout the country.

In 1977, 1978, 1979, 1980, and 1981, the INS has apprehended at least 1 million persons. This compares to an apprehension of 110,000 people in total per year just 15 years ago. So that is what is confronting us. That is the major impetus behind a large-scale, comprehensive immigration reform package.

As a result, that forces us to look at some things that we might not otherwise look at. We talk about the push factor, we talk about the problems that exist in Central and South America. They exist; I readily accept that. I supported the CBI in part because of that. The fact of the matter is, that is under the jurisdiction of the Committee on Foreign Affairs. We do not have that under our jurisdiction here.

But nonetheless, I do not think anyone can suggest that whatever we do in the near future in Central and South America is going to stem the flow of illegal immigration into this country from those parts of the world. Of course we know we have illegal immigration from other parts of the world as well, so tht requires us to do something.

Many people have suggested over the last 2 evenings bolstering the border patrol, having additional personnel. Those of us on the subcommittee support that. We have had an addition of 300 positions in the last 2 years. I would like more. We have the INS efficiency bill which passed this House in the last 6 months. That is going to give new impetus to the INS in terms of its service responsibilities as well as to its enforcement responsibilities.

That is still not enough; I agree with that. But nonetheless, much more needs to be done. We have to have a

comprehensive reform of the entire port neighborhood sweeps? I am not immigration package. just talking about neighborhood

One of the really major aspects of this bill that makes it a good bill, in my judgment, is one of the things that makes it so difficult to pass; that is, its comprehensiveness. But it is our feeling after looking at it for several years, it is the feeling of the Presidential Commission that was started under a Democratic President, continued under a Republican President, has the support of Cabinet officers from a Democratic administration, had the support and efforts of people from this House and from the Senate, that the comprehensive nature of the response was absolutely necessary if we were going to have an effective response.

Some have said that just because you have been on the border does not mean you know all the answers. I am not suggesting I know all the answers, or any particular individual here knows all the answers. The suggestion that we can study this some more and somehow that will give us a better bill flies in the face of the fact that this has been studied for the last 17 years intensely.

#### □ 2440

We have had a Presidential commission. We all know what Congress usually does when it is up against a problem that it does not want to deal with. It creates a Presidential commission and hopes that commission will not report until after the next Presidential election. That is what happened. But here this Presidential commission did a good job of coming to a consensus. They had people from labor; they had people from management; they had people from academia; they had people from the political field here in the House and in the Senate, and people from the Cabinet. They began at different positions, and they came to a consensus. The members of this immigration subcommittee came to this with different positions. I came to the House 4 years ago adamantly opposed to any type of legalization because I felt that those people who had broken the law ought not to be able to gain something by virtue of the fact that they broke the law.

Over 4 years I have come to realize that we have somewhere between 3 and 12 million people—as someone said very gently, quoting the Attorney General, at least 3 million. That is like saying that the deficit is going to be \$2 billion. I think it is closer to 12 million. We ought to admit that openly. We ought to recognize the size of the dilemma that confronts us and deal with it.

I ask other Members, are we going to support in this House the type of action that would be necessary to rid our country of 12 million who are here illegally? Are Members going to support neighborhood sweeps? I am not just talking about neighborhood sweeps in those areas where we would find the illegal persons as they reside there. I am talking about sweeps in the neighborhoods where they are employed. Let us be honest, a lot of people are employed in neighborhoods that are not in the poor areas. They are working there—housewives, doctors, lawyers, professionals, nonprofessionals in some ways have abetted the illegality here by hiring those people who are here illegally. We ought not to fool ourselves.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I will be happy to vield.

Mr. EDWARDS of California. It occurred to me when the gentleman was speaking of studies that have been made year after year, 17 years, and I have been here 20 years-yes, there have been studies over and over again, and we have passed bills in the Judiciary Committee on several occasions, but it is always the same bill. That is the problem, and here they come up again. The Commission came up again with the same employer sanctions, and now we have employer sanctions, a concept that has never worked, has never worked in one country, one State, and I believe 11 States have it. That is the problem, and I thank the gentleman for getting to the core of it by explaining to me what has been going on all these years.

Mr. LUNGREN. In response to the gentleman, let me just say that this is not the same bill. We have had bills that were totally comprised of employer sanctions. This bill has employer sanctions; this bill has legalization; this bill has any number of things that, taken together, create a comprehensive approach. I would not support employer sanctions by themselves. I would not support employer sanctions without a workable H-2 program, because that would fly in the face of the reality that exists today, which is that a number of our industries have come to rely on foreign labor. Whether we like it or not, that happens to be the case. We cannot wean them from that immediately.

I would not support legalization by itself, but as part of the total package it makes eminent sense. The gentleman is correct when he says that we have had employer sanctions before, but the gentleman is absolutely incorrect to suggest that this is the same bill that has ever reached this position on the floor of the House of Representatives, and certainly no bill such as this has passed the Senate by any margin, much less the 80-to-19 margin this got in this Senate, before in the last 17 years. This is entirely different.

The gentleman talks about employer sanctions, and in fact we did have a

study done as to why employer sanctions have not worked. The major conclusion that came out of that study was that employer sanctions did not work because they were never enforced. It has never been tried, so to suggest something which was never enforced proves if enforced it would not work does really not make a great deal of sense. We have not tried it before.

The point is that there is the push factor from those other countries, but there is also the pull factor, the magnetizing factor of job opportunities here, and unless we deal with that we are not going to in any reasonable way stem illegal immigration into this country.

I am not going to stand here and say we are going to cut it all off, because I do not think that is possible. If you look at the record, you will see that from at least 1880 we have had a flow of labor across our border into the United States. It is going to be either legal or illegal depending on whether we have a law. We had a bracero program. I do not want to return to that bracero program, but the fact is that when we discontinued the bracero program the people were just funneled into the illegal system. We have a de facto guest worker program of the worst type right now because the people have no protection under the law because they are afraid to say who they are for fear of going back to the country from whence they came. That is one of the serious problems we have.

All I am suggesting is that we try and deal with the realities that exist today on the de facto guest worker program along a border that is being assaulted in a sense on a daily basis, and we really have to confront that question at some time or another.

If we do not confront it today, as late as it may be, and I admit it is late-if we had done it, and I have been asking that we have this before us for weeks and months; those of us on the subcommittee that have been fighting for this have not been the ones saying, "Don't bring this up," and I appreciate that some believe that this is brought up at the last minute unfairly. I do not think it is unfair. I also think that you must realize that it makes it more difficult to pass the bill when you are right up against it. It is much easier to have Members vote no than yes on a bill of this importance.

The concern I have is this—the sincere concern I have is this: This is a problem that is not going to go away. This Congress is going to have to address it.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. ERLENBORN. Mr. Chairman, I yield 5 minutes to the gentleman from California.

Mr. LUNGREN. The concern I have, Mr. Chairman, is this: If we do not deal with this now I think we are getting ourselves to the position, as sincerely and as enthusiastically as Senator Simpson has indicated he is going to bring this bill right back on the Senate side, I think it is foolish for us to suggest that it is going to be easy to bring this bill or anything like it up close to a Presidential election year. I think it probably means we are not going to deal with this seriously for another 4 or 5 years.

I am afraid that if the problem continues and is exacerbated from the condition we find ourselves in today, we will be tempted to pass a bill 5 years hence that will be draconian in its sweep and draconian in its detail. Those who are worried about the way we are dealing with those who are here illegally now, will be embarrassed by the way this House will march to the tune of public opinion at that time. I think that is something that we have to think about very seriously.

We need a legalization program. We also very seriously need an employer sanction program. If we do not deal with the employer sanction aspect of it, we are not going to deal with illegal immigration itself. As much as we want to avoid that, we have got to confront it

That being the case, this subcommittee has attempted as best it can to make sure that discrimination not be promulgated as a result of anything we do. That is why we said that the documents have to be requested of anybody who is a prospective employee. That gets us to the problem with other people who do not want to be bothered by it, but if we are going to be fair to the minority we have to say that it has to apply to all. Otherwise it would be easy for an employer to discriminate.

Certainly, there is a problem that will exist with those who want to discriminate, but I ask you, is not the possibility of discriminating against a member of a minority group, particularly Hispanic, greater today when someone is here illegally and they work for an employer, and they are afraid of complaining about their working conditions; afraid of complaining about their rate of pay; afraid of complaining about the manner in which they are housed if housing is part of the recompense for their work?

#### □ 2450

As soon as they start to complain that employer might call the INS and ask them to come and make a sweep.

Let me mention one last thing. There was an article that appeared in the Los Angeles Times just a couple of months ago by a fellow named Evan Maxwell who followed this in the Los Angeles Times for 2 solid years. He now works for the Orange County

Bureau. He talked about two illegal aliens, undocumented workers, that he interviewed in northern California. They were people who were there to do agricultural work. They informed him that they got combat pay—that is the way they referred to it—because they worked closer to the road when they picked the crop, and that was because they had a greater risk of being picked up by the INS the closer they were to the road that the INS might drive their vehicles on.

These two individuals fervently hope that this bill or something like it to the extent that they knew about it would pass because they did not like continuing to live under the darkness of illegality which cloaks their very being from the moment they wake up until they go to bed at night. I think we have to seriously address that.

One of the reasons I think we have so much opposition to this bill from so many different areas is because it is easy to attack it. It is attacked on legalization for its not being generous enough on legalization, and on the other side by those who throw the gauntlet down and say that we should not have any legalization. It is attacked by the agricultural producers who say we have not given them enough easy access to a temporary worker force, and from the unions, who say we make it too easy.

Mr. Chairman, we cannot reach a perfect solution for all the concerns. I think the best we can ask for is a compromise in a comprehensive effort toward immigration reform. So I would hope that our colleagues would not easily throw this work aside, recognizing that in very difficult circumstances it is going to be very difficult to get any bill at all passed.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I would be happy to yield to the gentleman from Kentucky.

The CHAIRMAN. The Chair will inform the gentleman from California (Mr. Lungren) that his time has expired.

Mr. MAZZOLI. Mr. Chairman, I just wanted to thank the gentleman.

The CHAIRMAN. The Chair would like to state that the gentleman from California (Mr. MILLER) has 5 minutes remaining, the gentleman from Illinois (Mr. ERLENBORN) has 20 minutes remaining, and the gentleman from Idaho (Mr. HANSEN) has 1 minute remaining.

The Chair now recognizes the gentleman from Illinois (Mr. ERLENBORN).
Mr. ERLENBORN Mr. Chairman I

Mr. ERLENBORN. Mr. Chairman, I have no further requests for time.

Mr. CHAIRMAN. Does the gentleman from Illinois (Mr. ERLENBORN) yield back the balance of his time?

Mr. ERLENBORN. I yield back the balance of my time, Mr. Chairman.

Mr. MAZZOLI. Mr. Chairman, may I ask, would one of the gentleman yield me 1 minute?

Mr. HANSEN of Idaho. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I appreciate the gentleman's yielding me

Mr. Chairman, I just wanted to end my comments tonight by thanking my colleagues for the excellent debate we have had. It is unfortunate, as has been said by many of us, that we had to go on at this late hour, but for those brave few who have hung on, it has been elucidating debate, and for those who will perhaps read or hear about it, it will be helpful.

I will take a moment, as I did last evening, to talk about the excellent work of the Chairman of the Committee of the Whole House on the State of the Union, my colleague, the gentleman from Kentucky (Mr. Natcher). Any Member who can preside, as the gentleman has done tonight, under these circumstances, is a person who understands very carefully the work of the House. I would just like to take this opportunity to thank my friend for the excellent work he does in the

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Mazzoli) has expired.

The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Speaker, I rise to speak in favor of the Committee on Education and Labor's amendment which provides a substitute for section 211 of the Immigration Reform and Control Act of 1982. Section 211 amends, significantly, the H-2 worker program. That program provides that individuals, nonimmigrant aliens, may come to this country on a temporary basis to perform certain labor and services for which there are insufficient unemployed Americans. The program has been, in the past, limited in nature-never going beyond 70,000 individuals in a single year-even at its height. In recent years, the program has been reduced to a level of about 30,000 H-2 workers, of which approximately 20,000 have been agricultural laborers.

In order for the House to more clearly understand these issues, and why the Committee on Education and Labor obtained referral of this bill, I would like to take a few minutes of this debate to discuss the history and the development of the H-2 program.

The H-2 program arose out of the bracero program of World War II. When the labor market got tight during the war, with hundreds of thousands of young Americans entering the service, the agricultural grow-

ers pressured the Government to enter into an agreement with Mexico, a wartime emergency measure, in order to provide a continuing source of inexpensive labor. That agreement, which was signed in 1942, established the pattern governing the employment of nonimmigrant, temporary agricultural labor which persists today.

Male workers were admitted, generally without their families:

They were admitted temporarily;

The work was hard and unattractive; There were some, generally minimal, governmental controls on wages and working conditions; and

If the aliens displeased their employers, they could be deported.

But unlike other special wartime programs, the bracero program persisted after the war. It persisted, especially with respect to crops which were unattractive to local workers. And as long as the bracero program persisted, employers were under little compulsion to improve working conditions or

While the use of bracero labor declined after World War II, the program did not end, and its use picked up again in the late 1940's. By 1959. more than 430,000 braceros were being used in this Nation. The braceros represented a docile, easy exploited, low paid work force. In 1962, bracero wages, after Government intervention to establish a wage floor, were between 60 cents and \$1 an hour. And the debate swirled around the bracero program, the same debate that swirls around the H-2 program today-the effect of the employment of so many nonimmigrant aliens on the hiring of American workers.

By 1961, the program was in trouble in the Congress. As a so-called wartime emergency measure, it had to be reauthorized every 2 years. Reauthorization, in the face of growing public outrage, was becoming increasingly difficult, and finally, in 1964, the bracero program was terminated.

The H-2 program, already in law in 1964, became the only vehicle for the introduction of nonimmigrant alien agricultural labor in the country. But, the H-2 program was subject to much closer Government scrutiny, and much more careful Government supervision. For these reasons, unlike the bracero program, the H-2 program was able to be kept within reasonable bounds, and was able to remain, in a general sense, a program for the importation of nonimmigrant alien labor only to perform jobs for which there truly were insufficient domestic workers.

And it is concern about what the Immigration Reform and Control Act of 1982 might do the use of nonimmigrant, alien, temporary agricultural workers, that is the basis for this debate this evening.

The Education and Labor Committee requested jurisdiction over this bill for several important reasons—the most important of which was the historical jurisdiction of the Committee on Education and Labor. Under rule X, clause 1(g) of the rules of the House, the Committee on Education and Labor has jurisdiction over:

First, measures relating to education and labor generally; second, labor standards; third, regulation or prevention of importation of foreign laborers under contract; and fourth, wages and hours of labor.

The H-2 worker program is in fact a program for the regulation or prevention of the importation of foreign labor under contract. Unfortunately, the Judiciary Committee failed by its bill to either regulate or prevent the influx of nonimmigrant aliens which will displace American workers. This is an especially important concern at a time of record high unemployment among American workers-the highest unemployment since the Great Depression. Throughout the entire history of the bracero program, unemployment was never as high as it is at this moment in our Nation's history.

The bill as reported by Committee on the Judiciary failed to provide the necessary protections for domestic and foreign workers employed under this program. The record of the abuses, well known to this committee, committed against agricultural workers in this country alone form a basis for this committee's assertion of jurisdiction over this portion of the bill and the committee's action detailed below. The committee has received correspondence from the AFL-CIO which states that without the guarantees which are provided by the committee's amendments to this section the purposes of the Immigration Reform and Control Act of 1982 would be undermined. In fact the federations' support for H.R. 6514 is contingent on the inclusion of this committee's amendments to this section on the House floor. This committee's changes to the program, offered in committee by Mr. MILLER of California and including an addition offered by Mr. Corrada, are incorporated into a single amendment (the sixth reported by this committee) as substitute for the entire section.

The thrust of the Education and Labor Committee's substitute for section 211 of H.R. 6514 is to protect domestic workers against displacement by foreign nonimmigrant alien workers and to provide both H-2 workers and the domestic workers with the protection of sufficient labor standards. To reach these two goals, the committee's substitute has three objectives: to return the program to its current form (by placing into the bill many of the foundations of the current regulatory structure); to insure that the program is not extended beyond the Department of Labor's

ability to enforce the law, either by bypassing the Department of Labor or by the Attorney General approving petitions for more workers than the Department of Labor can adequately enforce; and to remove the economic incentive to hire H-2 foreign workers.

The Education and Labor substitute section 211 makes 22 changes to the version of section 211 adopted by the Committee on the Judiciary. In order for the Members to fully understand these changes, I will briefly discuss these.

Under the Judiciary Committee version, the Department of Labor in the person of the Secretary, is given the authority to freely define the bounds of what will be considered to be agriculture. Since the potential expansion of the program is planned in the area of agriculture, the definition of the term will in large part determine the number of aliens that are to be brought in under the program. The Education and Labor substitute removes that discretion, and instead defines agricultural services as they are currently defined under the Fair Labor Standards Act and the Internal Revenue Code. It is our view that these definitions are well known to all involved, and have served for years. The Committee on Education and Labor saw no justification for the expansion of the program by definition.

Further, the Education and Labor substitute reinserts the existing statutory basis for the H-2 program-that temporary workers may be brought into this country if "unemployed persons capable of performing such service of labor cannot be found in the country." In order to insure that the H-2 program remains a program that is utilized only when an actual need for alien workers can be established and to assure that the influx of temporary aliens does not displace American workers, the Department of Labor and the Attorney General must, under the Education and Labor amendment, consider the effect of the importation of temporary workers on the overall

employment rate.

Under the current program, the average length of stay of an agricultural H-2 worker is approximately 6 months. The Judiciary Committee failed to address the question of the length of stay of these temporary workers, and instead opted to allow regulations to determine the length of stay. My substitute conforms the bill to the Senate language by limiting the stay of these workers to 8 months. A stay of any longer takes on the appearance of permanence-something the program was never intended to permit. We do recognize that longer stays may be necessary in certain industries, and for that reason, the substitute provides that if the Secretary of Labor has historically permitted certifications in an industry to be for longer periods of time, the Secretary may continue to do so.

My substitute makes a series of changes to the Judiciary Committee bill in order to insure that the program and the standards under which the H-2 program would work be maintained in a manner consistent with the current program. Under the current program, the Attorney General has in a sense delegated the responsibility for the program to the Secretary of Labor. Pursuant to that delegation, the Secretary has developed and issued extensive regulations which attempt to uphold the thrust of the program-that the influx of workers under the program will not adversely affect the wages and working conditions of the American worker. The Simpson-Mazzoli bill, as originally introduced, placed about half of those current regulations into the bill. Those regulations which were placed into the bill dealt primarily with the labor certification procedure.

This procedure concerns the method by which the employer who desires alien workers and the Government which must protect American workers from displacement—go about their duties. These regulations detail the time period in which the employer must file his or her application, the length of time that must be spent searching for American workers, and the procedures under which that the aliens and the domestic workers will

not be abused.

The authors of the Simpson-Mazzolli bill failed, however, to place into the bill, the second, and very important portion of these regulationsthose dealing with labor standards. These standards, which have been developed over a period of 20 years, are designed to establish minimum levels of benefits which the employer must provide to the alien and the domestic worker. The current regulations insure that the workers are provided with: Housing, without charge; workers' compensation, or similar protection; tools, supplies, and equipment, without charge; transportation, provided without charge; a guarantee that they will be employed for at least threequarters of the contract period; that maintain employer accurate records; and that the employer must pay at least the adverse wage rate.

As introduced, then, the Simpson-Mazzolli bill carried forward the current certification regulations, and dropped the existing labor standards regulations by the wayside—these latter to be amended and replaced by a coalition of the Attorney General, the Department of Labor, and the Department of Agriculture.

But, as the bill made its way through the Committee on the Judiciary, the certification regulations were amended in a number of respects—all of which, if enacted into law, would

make it easier for the employer to turn away domestic workers in favor of H-2 workers. My substitute returns the language concerning the certification process to that of the current regulations. The current regulations—about which all parties are aware, and under which, in 1980 and 1981, provided for the approval of 98 percent of all requests for certification by agricultural employers.

In this area, my amendment-

Requires that the domestic workers be qualified and available to perform the labor or service. Under the language of the Judiciary Committee bill, the domestic worker would have to meet additional tests, not currently required—of being willing and able. Tests for which there are no current definitions.

My amendment reestablishes the 80-day application filing requirement (which currently applies) together with a 60-day recruitment period. The Judiciary Committee bill would reduce the application period to 50 days, and has no recruitment period. What the Judiciary Committee has done goes against the trend of the current program—and cannot help but encourage the use of more and more H-2 workers, as agricultural employers merely give lip service to the need to look first for American workers.

My amendment requires that the employer must have a Department of Labor certification before he or she brings in the H-2 workers. The Judiciary Committee version says only that the employer must apply for the certification, that it need not be granted.

My amendment requires that the employer accept domestic workers until one-half the contract period has run. This is the current regulation, and yet, the Judiciary Committee would permit the employer to turn down a qualified American worker as soon as the H-2 worker has gotten off the slow boat from his native country, and departed for these shores.

In addition, my substitute provides an additional, and important safeguard which is absolutely essential if we are to adequately protect domestic workers and curb unnecessary growth of the H-2 program. My substitute requires that the Secretary of Labor can issue certifications for no more agricultural workers than have issued historically, in the past, unless the Secretary can certify to the Congress that the Department of Labor has the resources available (that is, both funds and personnel) to adequately enforce the labor standards and the provisions governing the employment of H-2 workers.

Mr. Chairman, these changes which the Committee on Education and Labor has made to the Judiciary Committee's version of section 211 do not constitute new and startling imposi-

tions on the H-2 worker program. They are intended largely to insure that the H-2 program continues to operate the way it has operated in the past. The provisions of the Education and Labor amendment dealing with the certification and the importation of H-2 workers are largely those which exist in current law and regulations. The Labor standards which the Education and Labor amendment provides are not made up on the spur of the moment-they largely exist under current regulation. They are the procedures and the standards which have governed this program for years in the past, and they will not come as any surprise to the industries which has used H-2 workers in the past.

But these changes are essential, Mr. Chairman, if we are to protect the H-2 workers, and if we are to protect native American workers. Without them, the H-2 program will assuredly grow—grow beyond the bounds of the current program—grow beyond the bounds of any reasonable expectation. It will grow into a new bracero program. And while 12 or 14 million Americans are unemployed, and while hundreds of thousands of Americans workers roam the Nation, looking for work, any work—the growing H-2 program will only make their misery

greater.

The Judiciary Committee version of section 211 will only result in the wild expansion of the H-2 worker program-hundreds of thousands of nonimmigrant aliens entering the country to take jobs which unemployed Americans would surely take, if given half a chance. The Education and Labor version of section 211 insures that this will not happen. It provides the safeguards which insure that the jobs are at least offered to American workers under reasonable terms. And if there are no American workers who will take those jobs, then it permits the efficient and effective certification of H-2 workers.

• Mr. NELSON. Mr. Chairman, the immigration reform bill that we are debating today is legislation that is long overdue. We in Florida well know the problems of a lack of immigration policy. We have limped along without a decisive immigration policy for 30 years. The U.S. immigration law is on the verge of being out of control and action must be taken immediately. The Senate has passed its version of Simpson-Mazzoli, it is up to the House to respond by tackling this bill headon.

I support this important initiative. Like all of you, I have reservations about particular parts of the bill. However, we cannot afford to wait longer to make this bill all things to all people. Our expanding frontier is gone—American is no longer expanding its borders with the ability to allow an endless flow of immigrants. We

must close our borders and we must regulate the flow of aliens into the United States with integrity.

There are many parts of the bill which are widely supported. I support penalties for employers who knowingly hire illegal aliens; user fees for services provided by the Immigration and Naturalization Service; streamlining the asylum process so that once a fair determination is made it cannot be endlessly appealed; not allowing foreign students or visitors who abuse their terms of entry to remain in the Unites States; and insuring that temporary foreign workers be hired only if there are no American workers available.

As many of my colleagues, I have reservations about the limited amnesty provision—granting temporary or permanent residence to those aliens who have been here 3 to 6 years. This question of amnesty is the hottest issue in this bill.

Limited amnesty is not the popular course. But to make the law work—which has not worked for 30 years—it is a practical necessity to provide an incentive for aliens to come forth from hiding to register with the authorities. Otherwise, they will continue to hide, continue to cross a most porous border at will, continue to lie to employers, and some employers will continue to wink at the law.

Today, we do not have the choice of whether we want this immigration reform bill or some other alternative. We have no other legislative alternative. The status quo is not acceptable. I urge the adoption of this important legislation.

• Mr. OXLEY. Mr. Chairman, I rise in support of the Immigration Reform and Control Act. In this time of recession and high unemployment in our Nation it is especially important to re-examine our laws regarding both legal and illegal immigration.

I strongly support the bill's employer sanction provisions. Far too many Americans who could and should be working are not because some unscrupulous employers find that illegal aliens come more cheaply. Persons in this country illegally are unlikely to demand the minimum wage or report poor working conditions for fear of being reported to immigration authorities. The bill does not place an unreasonable burden on employers to determine the status of potential workers. Its focus is to hold accountable those employers who know they are hiring illegal aliens, and are thereby knowingly displacing qualified law-abiding persons from the work force.

I would also support an amendment to place a comprehensive, flexible ceiling on legal immigration in order to achieve better control over the large numbers of persons coming over our borders to reside permanently. The original version of this bill contained such a cap, but it was removed by the Committee on Judiciary. The amendment would not apply to refugees who, as always, would be provided access to our shores without regard to numbers.

The bill we are today considering represents the most thorough revision of our Nation's immigration laws in 30 years. It is designed to restore needed control over our borders while preserving America's tradition of accepting foreigners within realistic limits. I urge adoption of a ceiling in this latter regard and I urge a "yes" vote on final passage.

 Mr. FRENZEL. Mr. Chairman, during these last minutes of the session we are considering an immigration bill, H.R. 7357, which deserves a better and careful consideration by all Members.

Decades have slipped by since this body has passed a comprehensive immigration bill. As far as immigration policy goes we are still in the 1950's. Consequently, we have an existing immigration policy that does not address the immigration dilemmas of our day and age. It does not take a lot of study to realize that many of our policies are antiquated and therefore not suited to todays' complexities.

Our country desperately needs to get a handle on legal and illegal immigration. Reform is a must. I generally favor most provisions in this bill and feel that they are a step in the right direction. Although we are taking leaps into the unknown with new provisions, such as employer sanctions, I believe it is worth the attempt. The present situation is so bad that things certainly could not get worse.

An amnesty provision, however, is not the answer to our immigration problems. It is a leap I will not take. Millions of people around the world clamor for the honor of becoming a U.S. citizen. U.S. citizenship is one of the most sought-after prizes in the world. Yet if we agree to the amnesty provision, we hand, on a silver platter, the coveted prize of citizenship to some 3 to 12 million lawbreakers.

I simply cannot give a reward to those who have knowingly broken our laws while others go through the endless paperwork, withstand the interminable screenings, and patiently wait—often years—to enter our country legally. Giving the prize of citizenship to law breakers is an affront to the patient law abiders.

Furthermore, the potential costs and eventual entrance of illegals' families and relatives to our country as a result of amnesty are factors not to be overlooked. Although we may not be confronted with the consequences of legalization tomorrow, problems such as these will crop up soon enough and stare us in the face. Worse, new waves of illegals will be attracted to the United States in the hope of future

amnesties. Unlike some laws which can be retracted, massive amnesty is irreversible.

I commend members of the Judiciary Committee for their years of hard work on immigration reform. I feel that this bill has many points of merit. Although I do oppose amnesty and will vote to have it stricken from the bill, I do expect to vote for the bill thereafter, and I urge its passage.

thereafter, and I urge its passage.

Mr. DANNEMEYER. Mr. Chairman, in the consideration of H.R. 7357, the Immigration Reform and Control Act of 1982, we debate our history as a nation of nations, as a refuge or as an expedient, as a land of opportunity or place of opportunism. I have deep concerns about H.R. 7357. The bill does not have a guest worker program. The H-2 labor program requires further streamlining. There is no limitation on legal immigration and no cap on refugee admissions. The employer sanctions provision invites massive documentation fraud. The amnesty program appears to be uncontrollable. but necessary to an employer sanctions provision. While the bill authorizes some \$100 million from fiscal year 1983 through fiscal year 1987. CBO estimates required budget authority at nearly \$4.5 billion. Finally, the bill does not address the warrantless invasion of America's farmlands by the Immigration Service. In that respect, the bill lacks an amendment jointly offered by Mr. EDWARDS of California and myself to require consent or a warrant before entering so-calling open fields.

This bill is perfectible. I wonder, however, whether the 11th hour of the legislative season is the appropriate time to consider policies that will greatly influence our economic and social course for decades. While the 11th hour may not be the time to hastily consider such important legislation, it was 2:30 in the morning when my district staff had to go to the Immigration Service in Los Angeles to process a constituent request. An elderly constituent had an immigration problem that required her personal appearance. It was incredible that when my staff arrived at the INS building in Los Angeles at 2:30 in the morning, there were already 13 people in line. This small example demonstrats the size of the problem and the need.

The need is great. The question is whether this bill is the appropriate remedy.

One hundred years ago, Congress first enacted a law regulating immigration. This act, referred to as the first general immigration law, provided for a system of control of immigration through the States under the general supervision of the Secretary of the Treasury. Subsequent Congresses faced the same issues we do today: Large numbers of aliens were being

landed every year in violation of the 1882 act; contract-labor law was being evaded; immigration through neighboring countries was a problem. A joint House-Senate panel in 1889 found that the chief cause of the large number of illegally landed immigrants was the divided authority provided for the execution of the Immigration Act. Thereafter, the dual State-Federal administration of immigration matters ended.

I ask if we are not again making the mistake of the 1882 legislature, of dividing the authority for enforcement of immigration laws between the employers in the several States and the Federal branch? Does not this legislation pass the buck to employers and to the border States for securing the border and regulating the flow of illegal labor in the absence of a guest worker program, in the absence of an improved H-2 migrant labor program, in the absence of adequate resources for the Border Patrol, in the absence of fair search and seizure policies, in the threat to withdraw adequate resources for the States to cope with an amnesty program?

How should we regain control of our borders and reform our immigration policies? According to a recent report by the University of California, Berkeley, a full one-fourth of the Nation's legal resident aliens live in California. If illegal immigrants and special refugees could be counted accurately, the report estimates that aliens might comprise over three-quarters of the State's current growth from migration and nearly one-half of its estimated population growth from all sources.

This bill needs guest worker program, needs an improved H-2 program, and needs a search and seizure policy in open fields so as to be brought in line with the fourth amendment. The issue of documentation fraud must be confronted in the employer sanctions program. There must be a limitation on admission of legal immigrants and refugees. Without these changes, this bill will not amount to reform or control. If we want to avoid the regulation of our people within this Nation, then we must confront the issue of regulation of population pressures from without our Nation.

• Mr. HANCE. Mr. Chairman, I rise to discuss my serious opposition to H.R. 7357 and the employer sanctions provisions contained therein. While I must agree that the concept of making it illegal to hire undocumented workers has some merit in addressing illegal immigration, I must clearly state that this program, as outlined in the bill, will result in serious discriminatory problems for Hispanics in my State and congressional district. In addition, this legislation would create a tremendous and unreasonable burden on employers in border States like Texas,

and would essentially make these employers an extension of the Border Patrol. Mr. Speaker, Hispanic unemployment is presently 15.7 percent nationwide. I cannot support any legislation which would only increase the levels of unemployment and employment discrimination of Hispanics.

One of the obvious effects of the system proposed in H.R. 7357 is that it will increase discrimination against minorities with distinguishing characteristics such as accents and skin color. Rather than risk a penalty for employing an unauthorized worker, many employers will find it easier to hire a person they feel is safe: A person who does not sound or appear foreign. The potential for this type of discrimination has led many Hispanic and civil rights organizations to oppose employer sanctions.

Under H.R. 7357, employers of four or more workers are required to examine the documents of all workers they hire. On the surface this documentation requirement seems to eliminate the discriminatory aspects of employer sanctions by requiring employers to go through the same hiring process for all workers employed. Upon closer analysis, however, significant likelihood of discrimination against minorities remains. First, because employers of three or fewer employees are exempt from the broad documentation requirement, those employers are free to scrutinize only foreign-looking employees. Second, employers not presently discriminating against minority job applicants may nonetheless refuse to hire minority workers for fear an error in recordkeeping may subject the employer to future liability. Moreover, employers may opt not to hire "foreign-looking" workers for that the creation of a "foreign looking" work force would be an attractive target for disruptive raids by the INS. Third, employers who presently discriminate against minorities may continue their illegal practices by claiming that their rejection of a minority job applicant was based on the fear that the applicant's documents were forged, that the documents did not match the applicant's physical characteristics, or that the applicant may soon beome an unauthorized worker who would later have to be fired.

Minority job applicants who may be denied jobs for discriminatory reasons may seek relief under existing civil rights laws, such as title VII. However, because title VII applies only to employers of 15 or more employees, those applicants who suffer discrimination as a result of the employer sanctions law but who applied for jobs with employers of less than 15 workers, will have no effective remedy avilable to them.

Employers who happen to live in border States such as California, Arizona, Texas, and in other States such as Florida would find the bill targeted toward them because of their geographic location. These employers would be the ones to bear the greatest burden of this legislation. Enforcing this bill would put these employers at a competitive disadvantage with employers in other regions in the United States because the employers in these border States would have to spend extra money to scrutinize the employee's documents, to hire legal counsel if they are charged with a violation and ultimately to pay fines if they are not successful in their defense. Furthermore, it pushes fairminded employers to become law enforcement agents and causes them to be apprehensive about hiring Hispanics so as to avoid interruption of their workplace by the INS.

Mr. Chairman, I am aware of the General Accounting Office (GAO) study of 20 foreign countries with employer sanctions which concluded that these sanctions were ineffective in stopping the hiring of undocumented workers. In addition, there has been no substantive analysis presented to Congress indicating that sanctions would be effective in controlling the flow of undocumented aliens into the United States. Finally, Congress has yet to discuss the actual cost of implementing this program, the personnel necessary for enforcement and whether this program would be cost effective.

Mr. Chairman, I urge the defeat of

this legislation.

• Mr. FORD of Michigan. Mr. Chairman, there are many interesting statistics that describe the huge number of jobless individuals who live in the State I represent. When you stop to realize that Michigan now has more unemployed workers than the number of residents in the District of Columbia and in each of eight States-Alaska, Delaware, Montana, Nevada, North Dakota, South Dakota, Vermont, and Wyoming-then maybe it will become clearer why I cannot support the administration's Caribbean Basin initiative. It seems to me that this is a proposal which only exacerbates this already deplorable domestic and economic situation.

I am in support of a strong economic aid initiative that could help the Caribbean region meet its massive problems and develop itself domestically. However, neither the workers in the Caribbean nor the workers in the United States want programs that cost one another jobs and lead to more unemployment. Yet, this is the probable

outcome if we pass H.R. 5900.

The workers in the 15th Congressional District of Michigan and throughout America have been hard hit by the corrosive effects of imports and recession. In my estimation, this CBI proposal does not do anything to improve it. This legislation should be

returned to the Ways and Means Committee. This simply is not the time to pass a measure that exports American

The CHAIRMAN. All time for general debate has expired.

The Chair recognizes the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. MAZZOLI), having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 7357) to revise and reform the Immigration and Nationality Act, and for other purposes, had come to no resolution thereon.

# COMMUNICATION FROM THE HONORABLE TONY COELHO

The SPEAKER pro tempore laid before the House the following communition from the Honorable Tony COELHO, Member of Congress:

HOUSE OF REPRESENTATIVES, Washington, D.C., December 15, 1982. Hon. Thomas P. O'Neill, Jr., Speaker, House of Representatives, the Capitol, Washington, D.C.

DEAR MR. SPEAKER: In compliance with Rule 50 of the House Rules, I wish to hereby notify you that my office is in receipt of a subpoena for my testimony in United States of America v. David Heersink and also United States of America v. David Fothergill.

Sincerely.

TONY COELHO, Member of Congress.

#### COMMUNICATION FROM CHAIRMAN OF THE COMMIT-TEE ON AGRICULTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Agriculture:

U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON AGRICULTURE, Washington, D.C., December 10, 1982. Hon. THOMAS P. O'NEILL, JR.,

Speaker, House of Representatives,

Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered and approved the work plans transmitted to you by Executive Communication and referred to this Committee. The work plans approved are:

Watershed	State	Executive communication
Hoyle Creek	Oklahoma	4698, 97th Congress. 5114, 97th Congress.

Enclosed are Committee Resolutions with respect thereto. With best regards,

Sincerely.

E (KIKA) DE LA GARZA, Chairman. REQUEST FOR CONSIDERATION HOUSE AMENDMENT OF SENATE AMENDMENT TO H.R. 5536. AUTHORIZING SECRE-TARY OF THE INTERIOR TO ENGAGE IN FEASIBILITY STUDY OF WATER RESOURCES DEVELOPMENT IN NEBRASKA

The SPEAKER pro tempore. For what purpose does the gentleman from California (Mr. Burton) rise?

Mr. PHILLIP BURTON. Mr. Speaker, I rise for the purpose of making a unanimous-consent request which has been cleared from the other side, and the unanimous-consent request is as follows:

The SPEAKER pro tempore. The Chair would direct a question to the gentleman from California and state that at this late hour, at 5 minutes to 1 o'clock in the morning, the Chair was unaware that any further substantive business would come up before the House. The Chair was only aware of the business which has just been concluded, which is the general debate on the Immigration Reform and Control Act. The Chair was unaware of this matter and has not had a chance to consult with leadership on whether or not this matter would fit within the array of legislation which should come up, and the Chair would ask the gentleman the question-

Mr. PHILLIP BURTON. Mr. Speaker, I can hardly quarrel with the fact that our junior Member from Kentucky was unaware of this, but the Chair and the Parliamentarian have been aware of this at the desk for some 31/2 hours while we have been listening to the gentleman's bill.

The SPEAKER pro tempore. The Chair would ask the gentleman, has the gentleman had an opportunity to check with the leadership of the House?

Mr. PHILLIP BURTON. Mr. Speaker, how does one describe "leadership"? With whom?

The SPEAKER pro tempore. With respect to the bringing of this legislation at this time.

Mr. PHILLIP BURTON. Mr. Speaker, I am unaware of any Member in our leadership who is opposed to this. am aware of about a 20th of the Members of the House who are for this proposal.

The SPEAKER pro tempore. The Chair understands. The Chair would suggest that, because of the membership of House having left the House thinking the only matter before it would be the Immigration Reform and Control Act under general debate, is at a disadvantage in being unable to be aware of the gentleman's motion.

Mr. PHILLIP BURTON. Mr. Speaker, it is not a motion. It is a unanimous-consent request and I would urge regular order to see if there is objection to the request.

The SPEAKER pro tempore. The Chair would ask the gentleman's indulgence. Given the nature of the circumstance, the Chair would ask if the gentleman would kindly withhold his motion

Mr. PHILLIP BURTON. There is no motion before the House. The request is a unanimous-consent request. That

takes a Member to object.

The SPEAKER pro tempore. The Chair would again request of the gentleman if he would be so kind as to withdraw his unanimous-consent request, given the unusual nature of the circumstance.

Mr. PHILLIP BURTON, Mr. Speaker, that is the third time the temporary Speaker has imposed that request on the gentleman from California. The gentleman from California would observe that under regular order it takes one of the membership, not the presiding temporary Speaker, to interpose an objection.

The SPEAKER pro tempore. The Chair might say that the gentleman from Kentucky who has assumed the chair is entitled to some chance to ask

the question.

Mr. PHILLIP BURTON. I appreciate the Chair's observation. That is why I want to proceed with my unani-

mous-consent request.

The SPEAKER pro tempore. Again the Chair would say to the gentleman with respect that the membership of the House had left the House with assurances from the leadership on both sides.

Mr. PHILLIP BURTON. Mr. Speaker, does the gentleman want a quorum call to establish that?

The gentleman from California is prepared to ask for that, too.

The SPEAKER pro tempore. The Chair is suggesting that the gentleman might under the circumstances, given the peculiar nature and the hour, which is 1 o'clock, would under the circumstances withhold his unanimous-consent request until the Chair has had an opportunity to check with the leadership.

Mr. PHILLIP BURTON. The gentleman from California understands for the fourth time the suggestion from the gentleman from Kentucky.

The SPEAKER pro tempore. The Chair, if the gentleman would refrain. It is the Chair.

Mr. PHILLIP BURTON. The Speak-

The SPEAKER pro tempore. That is right.

Mr. PHILLIP BURTON. And therefore I continue my unanimous-consent request and at the end of that time I will demand regular orders, the request being I ask unanimous consent to take from the Speaker's table the bill (H.R. 5536), an act to authorize the Secretary of the Interior to engage in a feasibility study of water resource development and for other purposes in the Central Platte Valley, Nebr., with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill. The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Colville Indian Reservation, Chief Joseph Dam project, located in northeast-

ern Washington

(2) Gibson Dam powerplant, located on the Sun River in Lewis and Clark Counties, Montana. (3) Imperial Irrigation District canal

lining, located in Imperial Irrigation District, Imperial County in southern California.

(4) New Melones conveyance system study, Central Valley project, Stanislaus River division, located in Tuolumne, Calaveras, Stanislaus, San Joaquin, and Merced Counties, California.

(5) Pilot Butte powerplant, Riverton unit,

located in Fremont County, Wyoming.
(6) Prarie Bend unit, located in the Platte River Basin, located in Buffalo and Hall Counties, Nebraska.

(7) Siletz River Basin project, located in Lincoln and Polk Counties, Oregon.

pumped-storage (8) Spring Canyon

project, located in Mohave County, Arizona.

(9) Tongue River Dam, located in Big Horn and Rosebud Counties, Montana.

(10) Water conservation and efficient use program, All-American canal relocation project, located in Imperial County, Califor-

(11) Upper Klamath offstream storage study, Klamath project, located in Klamath County, Oregon.

(12) South Dakota water deliveries study, Pick-Sloan Missouri Basin program, located in Brown and Spink Counties, South Dakota

(13) Central South Dakota water studies, Pick-Sloan Missouri Basin program, located in Sully, Hughes, Hyde, Hand, Beadle, and Faulk Counties, South Dakota.

(14) Blue Holes Reservoir, located in Fremont County and the Wind River Indian Reservation, Wyoming.

(15) Muddy Creek Basin hydrologic, surge relief, and erosion control study, near Great Falls, Montana,

The Clerk read the House amendment to the Senate amendment as fol-

In lieu of the Senate amendment insert: Strike out all after the enacting clause and insert:

That the Secretary of the Interior is hereby authorized to engage in feasibility studies of the following proposals:

(1) Colville Indian Reservation, Chief Joseph Dam project, located in northeastern Washington.

(2) Gibson Dam powerplant, located on the Sun River in Lewis and Clark Counties, Montana.

(3) Imperial Irrigation District canal lining, located in Imperial Irrigation District, Imperial County in southern California.

(4) New Melones conveyance system study, Central Valley project, Stanislaus

River division, located in Tuolumne, Calaveras, Stanislaus, San Joaquin, and Merced Counties, California.

(5) Pilot Butte powerplant, Riverton unit, located in Fremont County, Wyoming.

(6) Prairie Bend unit, located in the Platte River Basin, located in Buffalo and Hall Counties, Nebraska. Such feasibility study shall include a detailed report on any effects the proposed project may have on wildlife habitat, including habitat of the sandhill crane and the endangered whooping crane.

(7) Siletz River Basin project, located in Lincoln and Polk Counties, Oregon.

(8) Spring Canyon pumped-storage project, located in Mohave County, Arizona.

(9) Tongue River Dam, located in Big Horn and Rosebud Counties, Montana,

(10) Water conservation and efficient use program. All-American canal relocation project, located in Imperial County, California.

(11) Upper Klamath offstream storage study, Klamath project, located in Klamath County, Oregon.

(12) South Dakota water deliveries study. Pick-Sloan Missouri Basin program, located in Brown and Spink Counties, South Dakota.

(13) Central South Dakota water studies, Pick-Sloan Missouri Basin program, located in Sully, Hughes, Hyde, Hand, Beadle, and Faulk Counties, South Dakota.

(14) Blue Holes Reservoir, located in Fremont County and the Wind River Indian Reservation, Wyoming.

(15) Muddy Creek Basin Hydrologic, surge relief, and erosion control study, near Great Falls. Montana.

Sec. 2. Before funds are expended for any of the feasibility studies authorized herein. the State in which the proposed project which is the subject of such feasibility study, or some other non-Federal entity, shall agree to participate in the study and to share in the cost of the study. The non-Federal share of the cost shall be a reasonable share, as determined by the Secretary of the Interior and may be partly or wholly in the form of services directly related to the conduct of the study.

SEC. 3. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to complete protection of the Fisherman's Wharf area of San Francisco, California, substantially in accordance with the report of the Chief of Engineers dated February 3, 1978, as supplemented on June 7, 1979. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendment to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. there objection to the request of the gentleman from California?

Mr. WALKER. Reserving the right to object, first of all I would like to inquire of the gentleman whether or not this is precisely the same language that was brought before the House earlier this evening which, as I recall, did sustain an objection at that point? This gentleman reserved the right at that point and did not object, but Chamber, as I recall, who did object.

Are we talking about the precisely same language?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. PHILLIP BURTON. The gentleman is correct.

Mr. WALKER. Given that circumstance, is there any assurance that the people who did have concerns about this were informed that this business would come before the House and, therefore, that their rights would be protected?

Mr. PHILLIP BURTON. There was no member affected by the amendment that objected. I cannot give the gentleman from Pennsylvania the assurance that those who did not have an immediate constituency or district

interested be informed.

Mr. WALKER. Further reserving the right to object, the problem that this gentleman has at this point, and it is not personal, the gentleman did check with me and I did indicate that as I had no objection earlier this evening I have no specific objections now, but I am told on our side that we have no member of the committee that is concerned with this matter available in the Chamber at this point to make a decision on this.

Mr. PHILLIP BURTON. The members on your side, on the Interior Committee, I affirm unambiguously are for the gentleman from California's request. They favor the bill, be it the Member from California, (Mr. CLAUsen) be it the ranking member after him on the Committee on Interior or Insular Affairs, the gentleman from New Mexico (Mr. Lujan) or be it the gentleman from Nebraska (Mr. BEREU-

TER).

Mr. WALKER. Further reserving the right to object, this gentleman from Pennsylvania is in a very, very tough position, too, because our leadership is not here and we have no one here from the committee.

I have no reason to doubt whatsoever what the gentleman from California tells me with regard to the members of that committee, but I am not in a position to know whether or not they would agree to this request at this hour without other business being conducted.

Is there any chance that the motion could be withheld to the first thing in the morning so that we would have a chance to get these kinds of clearances? Is there any chance we could make that kind of an accommodation?

Mr. PHILLIP BURTON. If the gentleman from Pennsylvania insists on this reservation, then evidently I must

yield to that position.

I also respect the gentleman from Pennsylvania's concern about orderly process. As for me, I have been waiting

was a gentleman in the for some 3 hours to deal with this request and that has been at some inconvenience to this Member. So I will try to perceive the gentleman's concern and will yield to it.

Mr. WALKER. Further reserving the right to object, as I say, as I indicated earlier, I have no objection. But

I do see some problem for me.

I am likely to have some Members raising questions with me tomorrow because the reason why this gentleman is in the Chamber at this hour-I would prefer to be back in my apartment getting some much-needed restbut one of the reasons I am here is simply to protect that kind of a right on behalf of our Members.

So if that will accommodate the gentleman, and he would withdraw his request right now. I think we could get all of this clearance by the first thing

in the morning.

Mr. PHILLIP BURTON. On the other hand, I could offer the gentleman the assurance that if this is passed tonight the Chair, the Speaker does not have to make any motion to reconsider laid on the table and therefore it could be in order tomorrow to redress this grievance, if there be one.

The SPEAKER pro tempore. I understand, if the Chair could advise the gentleman, that would change the gentleman's request from a unanimous-consent request to a motion.

I believe that the Chair might be able to help the two gentlemen who are trying to struggle to find a solution by suggesting that the Chair could guarantee that the gentleman would be the first order of business tomorrow when the House does convene. I could give that assurance and would communicate that to the Speaker of the House of Representatives.

If that would be satisfactory to the gentleman from California and the gentleman from Pennyslvania, then it would give us time to check with our

respective leadership.

Mr. WALKER. Further reserving the right to object, I would say the gentleman from Pennsylvania is in some way here trying to be helpful to the Chair since I have no minority Members on this side with whom to consult with on this request.

I certainly think that that suggestion would be acceptable to this gentleman if the gentleman from Califor-

nia would agree to that.

The SPEAKER pro tempore. Does the gentleman from California find that satisfactory under these difficult circumstances?

Mr. PHILLIP BURTON. Once again the gentleman from California finds, as is not to unique in my parliamentary experience, the minority side has a lot more judgment than the punitive majority side and I will yield, not because of the Chair's request, but because of our distinguished gentleman from Pennsylvania's suggestion.

So I would ask this be put over until the first order of business tomorrow.

The SPEAKER pro tempore. thank the gentleman.

Mr. WALKER. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to House Resolution 632, agreed to on December 16, 1982, the Speaker did on December 17, 1982, make certifica-tion to the U.S. district attorney for the District of Columbia as required by House Resolution 632, of the failure and refusal of Ann M. Gorsuch, as Administrator, U.S. Environmental Protection Agency, to furnish certain documents to the Committee on Public Works and Transportation.

# GENERAL LEAVE

Mr. WALKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from Texas, (Mr. ARCHER).

The SPEAKER pro tempore. there objection to the request of the gentleman from Pennsylvania?

There was no objection.

#### □ 0110

# A TRIBUTE TO JIM COLLINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ARCHER) is recognized for 60 minutes.

 Mr. ARCHER, Mr. Speaker, I would like to take this opportunity to salute my good friend, JIM COLLINS, for his 14 years of distinguished service to the residents of the Third District of Texas in the U.S. House of Representatives.

When I scheduled this special order honoring Jim, I thought it would be highly appropriate to salute him on his last day in the Congress. However, since the Members of the other body don't seem to be cooperating in this effort, it looks as though Jim will just have to stick it out a few more days. Knowing how much he has enjoyed his 14 years here, I don't think he will mind putting up with us all a little while longer.

JIM COLLINS is more than just a colleague to me-I count him as a very great friend, and I will always be grateful to him for his counsel and support during the years I have been privileged to serve with him. He cares passionately about our country, and treasures the traditional values upon which our great Nation was founded. These values have guided his work in this body, and JIM has never been afraid to voice and vote his convetions—even in the face of great adversity.

American taxpayers have had great reason to be grateful for Jim's service here. He has been one of their staunchest champions in the Congress, and has always fought to protect the rights and freedom many of us have come to take for granted. Jim is a man of honor and great integrity, and I will miss his presence among us very much

I would like to close by saying that the fine new Representative for the Third District of Texas, Steve Bartlett, will have some mighty tall Texas size boots to fill. Jim, my friend, it has been an honor and a pleasure to serve with you.

• Mr. RODINO. Mr. Speaker, I want to take this opportunity to honor a dedicated public servant and distinguished Member of this House who will not be returning next year. Ever since James Collins first came to Congress in 1969, he has dignified this House by his concern for people and his dedication to principle.

I have often found myself on the opposite side of issues from my friend from Texas, but I have never doubted the sincerity of his convictions or his sensitivity toward the people of his district. A man of integrity and wit, JAMES COLLINS has been a conscientious statesman for his State and his

country.

I am grateful for his friendship and I wish him all the best in the future. Mr. BROOKS, Mr. Speaker, I know the people of Texas' Third Congressional District in Dallas are proud of the record Congressman Jim Collins has established since entering Congress in 1968. During his 14 years as a Member of the U.S. House of Representatives, the people of Dallas have always known they have a friend here in Washington with whom they could work on many projects of vital importance to the city of Dallas and the State of Texas. He has been a hardworking, capable member of the Texas legislative delegation and he demonstrated time and again a spirit of independence and determination to pursue goals important to his constituency and to his party.

While we have not always agreed on every issue confronting our country, those of us who value his independent perspective will miss the reasoned arguments that he has brought to our deliberations as a legislative body.

We will miss his presence when the 98th Congress convenes in January and I want to wish Jim Collins and his lovely wife, Dee, the very best that the future has to offer.

• Mr. LEATH of Texas. Mr. Speaker, a few years ago, the dean of our Texas

delegation, Jack Brooks, was quoted as saying something like this: If a bill was up to reinvent the wheel, Jim Collins would vote "no." Jim has been so unafraid to voice opposition, even when opposition was not the politically safe move to make, I am surprised he did not rise in opposition to this special order in his honor. But, he did not, so he is just going to have to sit there and listen to us sing his praises.

If we were allowed to sing in the Chamber of the House, quite a few of us would raise our voices and serenade Jim with good Texas music. But we cannot sing here. Instead, I will go by the rules and just take a moment to thank Jim for his many kindnesses and courtesies and especially for the excellent representation he has given the fine people in the Third District.

We all know that JIM COLLINS has never avoided a disagreement and is totally committed to speaking his mind. And we have learned from him that, in the long run, this is best. JIM is always accessible, open to discussion, and available to share his time and thoughts. The Third District has been the beneficiary of caring, attentive representation, and the Congress has also profited by the association. We will all miss JIM COLLINS and he has our best wishes for happiness and success as he returns to private life. Serving with Jim has been a pleasure. His friendship has been a blessing.

• Mr. SAM B. HALL, JR. Mr. Speaker. Jim Collins has achieved much in life, and even by Texas standards, he is a huge success. But one of his great accomplishments is one that he had nothing to do with; it was his birth in Hallsville, Tex. Not only is Hallsville my ancestral home, but it is located in the First Congressional District of Texas. So whether JIM likes it or not, I still consider him a constituent. Now that he has decided to return to Texas he is entitled to contact his Congressman on the critical issues of our times. Knowing JIM COLLINS as we all do, I have no doubt that he will be just as active in this regard as he has been on the House floor for the past 14 years.

It is hard to imagine this body without JIM COLLINS, and it is going to take some getting used to when we return in January. He has been my friend for a long time, and for the past 6½ years here in the House we have established a rapport and mutual respect of the most endearing and last-

ing quality imaginable.

On our concern for America we have no differences. Regardless of how one views Jim Collins' philosophy of government, there is absolutely no doubt about his sincere and abiding love of country. His devotion to freedom goes back to his roots in east Texas. It was nurtured in his strong work ethic and success as a businessman. It was proven in his outstanding combat record from the day he stepped ashore

during the Normandy invasion to the cessation of hostilities in Germany. It has been demonstrated over and over in his stands—often lonely stands—in this body.

JIM COLLINS never shirks from duty. I think that Gen. Robert E. Lee had men in mind like JIM COLLINS when he responded to a question about the most important word in the English language. General Lee is said to have replied: "The most sublime word in the language is duty." JIM served as an engineer in World War II, and his sense of honor and duty aptly fit that description of the engineers that "when the going gets rough, the rough get going."

JIM COLLINS often fights the lonely battle. Many times he has taken this floor to fight big Government and challenge an ever-growing bureaucracy when others were not willing to do so, because the issue at hand had momentary political appeal. He does not relish being in a minority status on so many issues, but as Henry Clay once said, "I would rather be right than be President." JIM COLLINS fights for principle, and if the fight runs contrary to a popular view, or even the general view of his own party, he puts on the gloves.

This fall JIM COLLINS went forth to do battle, as he has so often in the past, against overwhelming odds and lost. He ran a tough, hard campaign against a popular encumbant. But here again, JIM COLLINS showed the courage of his convictions. It was not his time. Like the Man of LaMancha, it was an impossible dream.

This Congress will always need people of the independent, forthright character of Jim Collins. He is no conformist. He speaks his mind as men spoke their mind in Philadelphia over 200 years ago, and in the process gave us a nation. Some call him a gadfly. They called Patrick Henry a gadfly, too. We owe our destiny, our success as a Nation to such gadflies, and thank goodness for them.

To Jim, his lovely wife Dee, and their children, I can only say that it has been the greatest honor for me to have served with Jim Collins. Texas and the Nation is a better place for his having served here for the past 14 years. I welcome our continued friendship, and, Jim, east Texas welcomes you anytime.

• Mr. BROWN of Ohio. Mr. Speaker, on Wednesday, the Fossil and Synthetic Fuels Subcommittee held hearings on the crisis so many Americans are facing this winter as they try to pay their gas bills.

It occurred to me that it is both ironic and unfortunate that one of our colleagues who has spoken so consistently and strongly against the regulation that brought about this crisis, who has for the past 14 years, fought

against Government intrusion in the marketplace, will not be returning in January.

There can be no doubting that the gentleman from Texas will be sorely missed.

JIM COLLINS came to Congress in 1968 saying that this country has more government than it wants, more regulation than it needs and higher taxes than it can afford to pay.

He has applied that understanding to the legislative battles of the past 14 years, always making a powerful case and winning a reputation for trying to get the Federal Government off the backs of the American people.

He has applied his direct, commonsense approach to the work of the Energy and Commerce Committee, and on more than a few occasions has exposed Federal boondoggles for what they were.

JIM COLLINS never understood how putting price controls on domestic crude oil and hiring thousands of bureaucrats to allocate it could solve our energy supply problems.

JIM COLLINS never understood how putting bizarre price controls on natural gas could increase supply or give consumers a fair price or reliable availability.

JIM COLLINS never comprehended how hiring 20,000 people and setting up a new Energy Department would achieve energy independence for this country.

JIM COLLINS never fathomed how Federal programs would cause the American people to conserve energy more efficiently than a freely functioning marketplace.

And, you know, Mr. Speaker, Jim Collins was right.

If everyone had listened, we would be a lot better off today.

JIM never spared the Congress the wrath of his crusade for reform. He fought to reduce the number of staff members on the Hill and the ever-increasing size of legislative appropriations. He made the simple but compelling argument that the more experts Congress hires and the more legislating it does, the worse the country's difficulties become.

JIM COLLIN'S mission as a Member of this body has been to fight big Government and proclaim the virtues of the market. He has warned us of the danger that big Government poses to entrepreneurship, innovation, and development.

We would do well to remember his efforts, surely, but, more importantly, we would do well to heed his message.

 Mr. RINALDO. Mr. Speaker, I am pleased to join my colleagues in paying tribute to Representative JAMES COLLINS. Few Members of the House have demonstrated more the dedication to principle and the interest in legislation of the gentleman from Texas.

JIM COLLINS' philosophy is eloquently stated in an inscription posted on his office door: "No man's life, liberty or property are safe while the legislature is in session." His mission today as when he first came to Washington 14 years ago-is the danger posed by big Government to the spirit of business and innovation which produces our Nation's wealth. How gratified he must have been when President Reagan triumphed on this message in 1980. Throughout my colleague's term of service, he has vigorously fought against the evils of big Government, both in the executive branch and in Congress.

Working with JIM COLLINS on the Commerce Committee the past 8 years, I have grown to appreciate his warmth, friendliness, eagerness, and commitment. I have seen him serve with gusto, optimism and boundless wit and humor. On more than a few occasions I had the pleasure of seeing JIM COLLINS leave a bureaucrat stunned with the simple and direct question. "Just what is it you do?"

He has contributed constructively to the welfare of the Nation. He is a cherished friend whose smiling coutenance will be missed in this Chamber. On his departure, I express my gratitude to JIM COLLINS for the service he has rendered to his country and for his kind friendship.

• Mr. LOEFFLER. Mr. Speaker, on behalf of the 21st Congressional District—and especially on behalf of Kathy, Lance, and Cullen—I salute our good friend and colleague, JIM COLLINS, as he prepares to embark on new endeavors and new adventures.

For the metropolitan Dallas area, for the State of Texas, and for our Nation, your service, Jim, has been exemplary.

From a personal standpoint, your advice and counsel to me over the course of many years has been invaluable and I cherish our long association.

It is a privilege for me to have stood shoulder to shoulder with you in behalf of the principles in which we both believe so strongly. We shall do our best to continue, following the course which you have set.

Godspeed, Jim, and do keep in

• Mr. STENHOLM, Mr. Speaker, it is a pleasure to join with my colleagues in honoring a longtime Member of this distinguished body, Congressman JIM COLLINS of the Third District of Texas.

During his service in the House, Congressman Collins has come to represent a conservative viewpoint that was often admired by some of us on the opposite side of the aisle.

We have worked together on some issues and in opposition on others, but

my respect for Congressman Collins has nothing to do with party labels. His work on the Energy and Commerce Committee has greatly benefited not only his constituency in the Third District, but all of Texas and his presence here will be missed by the Texas delegation.

• Mr. MOORHEAD. Mr. Speaker, first of all I would like to thank the gentleman from Texas (Mr. Archer) for calling this special order so Members of the House can pay tribute to another outstanding Texan, Representative Jim Collins.

I have served with JIM COLLINS on the Committee on Energy and Commerce for 10 years. During that time I have come to like and appreciate him very much. He has been a steady and constant friend. He is a man of talent and integrity. He has been an esteemed and effective Member of the House since 1968.

During his distinguished career in the House of Representatives, he has made numerous contributions to our Nation, to our political system, and to his constituents.

He will be missed by his constituents and all his friends in the House, of which I am gratefully one. As JIM COLLINS moves on to other endeavors, I wish him every success and happiness.

• Mr. LENT. Mr. Speaker, I rise today to pay tribute to my good friend and esteemed colleague, Jim Collins who, unfortunately, will be leaving the Congress at the end of this session. I have had the great privilege of working with Jim in my 12 years in the House of Representatives and recognize that his contributions to this body have been of great significance to the Third District of Texas he has so capably represented for 16 years, to the great State of Texas and to our great Nation.

JIM was elected to the House of Representatives in 1968 after serving as President of the Fidelity Union Life Insurance Co. His vast business experience has been an inestimable benefit to his legislative work in the Congress which has earned him great respect from our Republican and Democratic colleagues on the House Energy and Commerce Committee.

As the ranking minority member of the Subcommittee on Telecommunications, Consumer Protection, and Finance and a member of the Committee's two energy-related subcommittees covering coal, oil, gas, energy conservation, and power, JIM has made great contributions to legislation in these fields. My colleagues and I will sorely miss his legislative abilities and wise counsel on the committee.

JIM's 16 years of diligent congressional and community service have been recognized and honored by those he has worked with over the years.

JIM has received Southern Methodist University's Distinguished Alumni Award, the National Federation of Businessmen's Man of the Year Award, and the National Associated Businessmen's Watchdog of the Treas-

Mr. Speaker, I have barely touched upon Jim's achievements and accomplishments during his 16 years of service to the Congress. Those of us who know Jim realize that his record in the Congress has been outstanding. Personally, Jim has been a good friend, a true gentleman, and a person of great integrity. Like all of us in the Congress, I regret his departure greatly. He will be truly missed.

# GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

#### A TRIBUTE TO RICHARD WHITE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Brooks) is recognized for 60 minutes.

• Mr. BROOKS. Mr. Speaker, I am delighted to have this opportunity to express my deepest respect for an outstanding Member of this body who is leaving us at the end of this session. Those of us who have served with him in the House of Representatives since 1965 will miss his contributions to the legislative process. As dean of the Texas delegation, I can tell you that our State's congressional team will miss his hard work, determination, and commitment to the people of our State and country.

RICHARD WHITE has been a colleague and friend of longstanding. We both served in the Pacific with the U.S. Marine Corps during World War II. Following the war we attended the University of Texas Law School, graduating in the class of 1949. Thus, I know RICHARD WHITE as a man of enormous intelligence, ability, and energy. His patient, tireless, and constructive work on behalf of his constituents in Congress has repeatedly demonstrated the depth and seriousness of his commitment to the best interests of our country.

To those of us who have served with him in the House of Representatives,

RICHARD WHITE is one of the hardest working men on Capitol Hill. He has been a dynamic force for progress and a creative legislative leader. The people of Texas 16th Congressional District, including El Paso and several

west Texas counties, have been very

fortunate to have a man of RICHARD WHITE'S character and understanding to represent them in the U.S. House of Representatives. I know that all of us here today appreciate RICHARD WHITE'S record of service and we all want to wish him the very best that life has to offer during the years to come. He has been a good friend and a skillful and valued colleague. We will miss him in the 98th Congress.

• Mr. ZABLOCKI. Mr. Speaker, I am pleased to join my colleagues in honoring the distinguished service to this body which has been performed over the past 17 years by the gentleman

from Texas (Mr. WHITE).

The gentleman has not only served as a senior member of the Armed Services Committee and chairman of its Subcommittee on Investigations, but he has also taken an active interest in foreign policy legislation when it was brought to the House floor. His contribution to House debates on a number of important issues has been a positive and forceful one, and as chairman of the Committee on Foreign Affairs, I have welcomed and appreciated his input.

As a native Texan, born in El Paso and educated at the University of Texas in Austin, Congressman White has retained a special interest in Latin American affairs and has served in the past as a valued member of the U.S. delegation to the annual interparliamentary conferences with Mexico.

The gentleman has, in fact, served his country in many different ways: as a marine during World War II, as an attorney, as a State legislator and county Democratic chairman, and finally as a Member of Congress.

I have no doubt that he will continue to participate actively in public affairs in the years ahead, and I extend to him and all members of his family my personal best wishes and congratulations for his considerable and valuable legislative accomplishments.

• Mr. SAM B. HALL, JR. Mr. Speaker, my dear friend and fellow Texan, DICK WHITE, has ably represented the 16th District of Texas for 12 years, and he is going to be sorely missed by his constituency and his colleagues in the Congress.

When DICK WHITE initially came to the House, he campaigned hard on the theme of constituent service, and his success in this regard should be a model for all incoming freshmen Members. DICK WHITE knows west Texas, and the people of west Texas know him to be an effective and hardworking Member of Congress in their behalf.

As all of us know, DICK WHITE is a quiet, unassuming man who possesses good manners and a serious eye for congressional business. He works hard. He loves the institution of the House, and he leaves this body a better place for his having served.

DICK WHITE is a patriot in the finest sense of the word. He loves his country, and as a combat veteran of World War II, he demonstrated the courage and bravery that America will always call upon in its hour of need. He participated in the worst of it, in the Pacific campaign as a U.S. marine. There is a hard and stout rule—a tradition—that once a marine always a marine. DICK WHITE fits that mold.

The House Armed Services Committee will especially miss DICK WHITE. He is a studious, thoughtful, and reflective member of the committee. When witnesses appear before the committee, especially the Subcommittee on Investigations, which he chairs, they had best be prepared. DICK WHITE does his homework. He understands the Defense Establishment and he is not a knee-jerk advocate of every defense program that comes down the pike. He respects the American taxpayer, and he demands a full accounting for every cent that is expended toward our defense effort.

On the energy front, DICK WHITE has demonstrated a tremendous knowledge and interest in alternative sources of energy. He has done an outstanding job on the Science and Technology Committee in the areas of energy and agricultural research. He understands the critical need for America to establish a comprehensive plan for scientific and technological achievement in the decades ahead, not only to be in position to compete economically with the rest of the world, but to provide a better life for future generations of Americans. Throughuot all these efforts, his thoughts and actions are in behalf of others. In essence, he is the very epitomy of the unselfish man.

Members of Congress like Dick White are hard to replace. He has truly been the good and faithful servant. He can look back on his congressional career and have the confidence of knowing that his was a job well done.

DICK WHITE has made his mark. From his first election to the Texas Legislature in 1955 to the present, he has been in the political arena. His retirement is well-deserved but as we all know, a person like DICK WHITE never retires. Therefore, I look forward with the greatest enthusiasm to working with him in the future.

• Mr. PRICE. Mr. Speaker, I rise to pay tribute to RICHARD C. WHITE, an esteemed member of the Committee on Armed Services who will be retiring from this body at the end of the 97th Congress.

Dick was elected to the 89th Congress in 1964 to represent the 16th District of Texas, and was reelected to each succeeding Congress. Since 1969 Dick has been a member of the Committee on Armed Services and has

served on a number of its subcommittees.

DICK WHITE has been a consistent proponent of a strong national defense and has been responsible for developing significant legislation to strengthen our military. As a member of the Personnel Subcommittee, which he chaired in the 95th and 96th Congresses, he sponsored important legislation concerning personnel matters. For example, through Dick's leadership, draft registration was reinstituted. He also has served as a diligent member of the Research and Development Subcommittee where he has been an active participant. He has been particularly concerned with our conventional and strategic modernization programs as well as technology transfer control initiatives.

As chairman of the Investigations Subcommittee during the 97th Congress, Dick conducted hearings on a wide variety of military matters. Of particular note are the hearings on the organization and structure of the Joint Chiefs of Staff. This record establishes the groundwork for future reform and is the basis for the bill that passed the House on August 15 that is designed to strengthen the joint military structure and to improve the quality of military advice to the

President.

Under Dick's continued leadership in the 97th Congress, the subcommittee also conducted investigations into physical security at military bases and at contractors' plants; the acquisition process of the Department of Defense; the Army tank program; contingency U.S. military bases in the Western Pacific; issues surrounding U.S. participation in international military competitions; proposed procurement of the 9mm handgun; medical support equipment; and lobbying activities in the procurement of the C-5B and B-1B aircraft, and the sale of Saudi Arabia of the airborne warning and control aircraft.

DICK WHITE will be missed on the Armed Services Committee. He has been a dedicated and concerned member contributing enthusiastically to the committee's responsibilities, and he has been a kind and considerate friend to all of us. I extend my best wishes for the future to him and

his lovely wife and family.

• Mr. DE LA GARZA. Mr. Speaker, one of the great privileges of serving in this house is the association we have with some of the finest and most dedicated representatives of the people of our country. We are all conscious of the high honor of being selected by our fellow citizens to represent them here, but we soon become aware that most of us share this other privilege and honor of association.

Today, I join with my colleagues in paying tribute th RICHARD C. WHITE, one of the finest gentleman I have had

the pleasure of knowing since coming to Congress together in 1965.

Being of the same congressional vintage I have come to know Dick well. He has always been a good friend-one to whom I could look for inspiration and guidance since our days in the

Texas Legislature.

For 18 years now Dick has represented the 16th Congressional District of Texas with distinction. Fair and kindly he has worked faithfully for his constituents and the Nation. The strength of his personality, the willingness to say what many felt and the conviction to do the tough things that had to be done-these are all his qualities that will be forever gone.

His legislative record is a monument to constructive thinking, farsightedness and legislative acumen. His contributions to the Armed Services Committee and the Committee on Science and Technology are particularly impresive. There is no question the standards RICHARD set will be difficult

to equal.

Though Dick is retiring the people of his district will benefit from the work and legislation with which he has been identified through the years. I will miss him. The House of Representatives will miss him. His experience, his wisdom, and his humor will be missed by all who have been fortunate enough to have had Dick as a

While DICK is the type I hate to see leave the service of his country he is also the type I am happy to see take advantage of time to spend with his family and friends. In the years ahead

I wish him all the best.

• Mr. ANDERSON. Mr. Speaker, I, too, wish to add my comments to the tribute being paid to the gentleman from Texas, Hon. RICHARD C. WHITE.

Congressman White has always sought to serve his fellow citizens, whether in his home town of El Paso, or in the Congress of the United States. He was awarded the Purple Heart for wounds received as a marine in the Second World War. After the war, Dick White went to law school and started his own practice. But he wanted to continue to serve his country in the public arena. He was elected to the Texas House of Representatives in 1955, where he stayed 3 years. He then worked as El Paso County Democratic chairman from 1962 to 1963, before election to the U.S. House of Representatives in 1965.

Altogether. Dick White has represented the people of the 16th Congressional District of Texas for 16 years, serving on the Armed Services and Science and Technology Committees. During that time he has proven himself to be an able colleague and accomplished egislator. His contributions will be greatly missed when he leaves us. My wife, Lee, joins me in wishing DICK and his wife, Kathleen, and their family, all the best in the years ahead.

• Mr. ROE. Mr. Speaker, I rise today to salute our good friend DICK WHITE. who is retiring from Congress after 18 years of dedicated service to the people of the 16th District of Texas and the Nation.

DICK exemplifies the meaning of the term "representative." His devotion to the needs of the residents of his congressional district has set a standard for the rest of us to follow.

Let me give you an example of the extraordinary relationship Dick has with his constituents. Twice a year, DICK WHITE polls his district asking what his constituents want him to do on the major issues coming up in Congress. He then follows the advice given to him by their responses.

As a key member of the House Armed Services Committee, Dick, who represents the Fort Bliss Army post, has been a watchdog in protecting the rights of all servicemen. In his current role as chairman of the Armed Services Subcommittee, DICK WHITE has undertaken an extensive investigation into the delays and cost overruns affecting our major weapons systems.

A man of Dick White's caliber will be sorely missed in this Chamber. I am sure my colleagues join me in wishing him the best of luck as he returns to

his beloved State of Texas.

 Mr. MONTGOMERY. Mr. Speaker, I am honored to take part in this great tribute to the distinguished gentleman from Texas, RICHARD WHITE, who is retiring after serving in this Chamber since 1965.

I certainly want to wish him the best, but I must say that his departure from this Chamber will leave a great void. He has been a close friend and I know that many of us have counted on his leadership and counsel over the years.

It has been a pleasure to serve on the Armed Services with DICK WHITE. He has been a most active and very effective chairman of the Subcommittee on Investigations. In the 96th Congress, he was chairman of the Subcommittee on Personnel and Compensation, and as a member of that subcommittee, I can say he was a very competent chairman.

DICK has been a positive force on the Armed Services Committee in helping make sure this Nation remains militarily strong. His valuable experience in the field of military affairs will be greatly missed. I know he has also been active on the Science and Technology Committee.

Perhaps of equal significance to the people of El Paso and the entire 16th District of Texas has been his 18 years of effective and swift constituent serv-

This dedication to Texas and to this country began when he served as a Japanese interpreter-rifleman in the Pacific Theatre in World War II. where Dick was awarded the Purple Heart. From there, he moved to the House of Representatives Texas before being elected to Congress in 1965

Our offices are next door to each other in the Rayburn Building and we have served together since 1967. Dick's retirement will mean the loss of a good neighbor and close friend.

I know Dick will continue to be an outstanding leader when he returns to private life. He is a man of high integrity and I can say that he has the respect and friendship of so many of his colleagues in this Chamber. I am honored to have served with this fine man. He has truly been an outstanding public servant and we will miss him.

• Mr. KRAMER. Mr. Speaker, as we gather together in this special order to honor DICK WHITE, I would like to express my sincere appreciation for the statesmanship and foresight that he has shown while a member of the House Armed Services Committee.

As chairman of the Investigations Subcommittee of that body, DICK WHITE has played a role that very few of us can hope to play while here in this Congress. For it was his interest in looking at our policymaking process for defense, particularly the Joint Chiefs of Staff, that resulted in perhaps the most significant set of hearings in the area of defense that have been held in the last few years.

Those of us who served with him on the Armed Services Committee owe him a great deal for the remarkable grasp this man has shown on a subject that may be far more important to our national security and our national survival than any defense budgets we may vote on while serving here. For he has forced us to confront the issue of how we think and organize ourselves to look at new policies and concepts

for defense.

I, along with a number of my colleagues, owe him a great deal of thanks for the hearing that he so graciously devoted to our legislation, H.R. 5130-the Aerospace Force Act-this past May. Those of us who sponsored this legislation were very concerned about how our Nation's leaders are organized to look at new strategic policies involving space. We realized that this was a subject of formidable complexity and also involved issues of great sensitivity.

However, we could not have found a better man to appreciate the magnitude of what we sought to do than DICK WHITE. He put together a hearing which to this day remains the first one that has ever been held by the Armed Services Committee on the organizational and conceptual changes needed in the U.S. military space program. At a time when my colleagues and I were searching for ways to get a public discussion of different concepts for arms control and strategic policy, DICK WHITE'S hearing gave us the kind of opportunity we needed. I should note that the hearing helped to stimulate the creation of the new Air Force Space Command, which is located in my district.

This Congress will miss DICK WHITE. not just as a statesman and an individual, but also as one of its most farsighted thinkers and leaders in the

area of defense policy.

His chairmanship of the Investigations Subcommittee has been characterized by the fairness, the candor, and the dignity that individuals such as he bring to demanding posts. My colleagues and I owe him a special measure of gratitude for serving in this Congress as competently and diligently as he has.

My best wishes go with him as he leaves this body. He has served our Nation's Armed Forces well and will no doubt serve as a statesman in other capacities as he leaves this body.

 Mr. CARMAN. Mr. Speaker, I rise today on the occasion of the retirement of RICHARD WHITE from the Congress. He began his service of his country in the Marines during World War II. Since 1965 he has served as the Congressman for the 16th District of Texas and he presently serves on the Armed Forces and Science and Technology Committees. His impressive career and the distinction with which he has served during his 18 years in this body make it a pleasure to pay tribute to him on his retirement. I have enjoyed working with him during the 97th Congress and I wish him all

• Mr. NICHOLS. Mr. Speaker, I appreciate my good friend, Congressman JACK BROOKS, making the necessary arrangements for a special order at the close of business today at which time the many friends of retiring Congressman RICHARD C. WHITE have the opportunity to pay tribute to this outstanding Member of the Congress from the lone star State of Texas.

It has been my good fortune to have served with Congressman White on the Armed Services Committee of the House of Representatives now for some 14 years and I have had the additional privilege of sitting next to him on the committee for all this time. Furthermore, we have served our constituents in the Nation as members of the Armed Services Committee on a number of joint subcommittees. In this past Congress, Dick served on my Subcommittee on Military Personnel and Compensation and in the previous Congress I served on his Subcommittee on Personnel.

There are many fine qualities which I have learned to admire in serving with my good friend from Texas. I respect his combat service with the U.S. Marines in World War II in the Pacific and his insight into military matters were certainly broadened by that experience. I also appreciate his attention to details-the crossing of "t's" and the dotting of "i's" and his ability to examine the fine print and to add as he termed it "perfect amendments." I could not begin to list the bills coming out of Armed Services Committee in which DICK WHITE's perfecting amendments improved the structure of that bill and clarified a particular clause in a given piece of legislation.

Mr. Speaker, DICK WHITE and I have. been close friends over all these years, and I would want to take this occasion to express my regrets that he has chosen to leave the Congress after 16 years of service to his State and to his Nation. The Congress and the Armed Services Committee will be the poorer because DICK WHITE has left the Congress, and I am certain that his home city of El Paso will be the richer as he returns home to practice law. I wish for him and his lovely wife. Kathy, continued good health and happiness in the years ahead.

 Mr. ANNUNZIO, Mr. Speaker, I rise in tribute to the Honorable RICHARD C. WHITE, who is retiring after 18 years of distinguished service at the close of the 97th Congress. It has been a rewarding personal experience for me to have known Dick as a colleague and I am honored to have served with him in the House of Representatives since we came to Congress together in 1965 at the beginning of the 89th Congress.

RICHARD WHITE has given dedicated and devoted service to his constituents of the 16th District of Texas. Admiration for his leadership is not confined to the citizens of Texas, for he is respected by every Member of Congress. His diligent efforts as chairman of the Subcommittee on Investigations of the House Committee on Armed Services have been both fruitful and beneficial to the citizens of this Nation.

Few men have given more of themselves to good government, or have a more compassionate understanding of human problems than has RICHARD WHITE. As a member of the House Science and Technology Committee he has been in the forefront of efforts to enhance America's precious resources and natural wealth for present and future generations, and indeed, these successful efforts have made our land a stronger and better country.

DICK has compiled a splendid record of excellence and achievement, and his inspiring example will be missed here in the House. He is a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion. and courage in total dedication to high standards.

Seldom does one find a man of RICHARD WHITE'S stature, and he can leave the House with the assurance that through his efforts mankind has benefited. I extend to RICHARD C. WHITE my warmest best wishes for continued success in devotion to the highest principles.

• Mr. BRINKLEY. Mr. Speaker, it is a pleasure to join the gentleman from Texas in paying tribute today to a remarkable man, RICHARD C. WHITE, with whom I serve on the Armed Services Committee. RICHARD is known as the conscientious one on our committee. He is not satisfied with anything less than perfect. He believes in dotting the i's and crossing the t's.

At the University of Georgia Law School, when I was there, our most gifted professor, Dr. D. Meade Field, said that laws should be polished as rare jewels because they touch the lives of so very many people. Dick White has followed that admonition, ever, and without fail. He is my long-time personal friend and one of Shelley's definitions fits him very well: "\* \* \* the record of the best and happiest moments of the happiest and best minds."

RICHARD, you belong on the honor roll of Congressmen, and may your return to the practice of law give you much satisfaction, in the continuing service of your fellow man.

• Mr. ERLENBORN. Mr. Speaker, I would be remiss if I did not offer my best wishes to our retiring colleague from Texas, Dick White.

DICK and I came to Congress together in 1965, and we were hall neighbors in the Cannon and Rayburn Building for several years. I will miss him, however, not just because we are long-time friends, but also because of my respect for his legislative skills.

I hope that DICK gets as much good in his retirement as he has contributed to the House of Representatives.

• Mr. HANCE. Mr. Speaker, I rise today to honor our retiring colleague, the Honorable RICHARD C. WHITE of the 16th Congressional District in Texas.

DICK WHITE'S 18 years of service to this body is one of distinction and honor. He has served the needs of this district, his State, and his Nation with honor and courage. His district includes the thriving urban area of his hometown, El Paso, as well as the most sparsely populated county in our Nation—Loving County and its 191 citizens.

DICK WHITE has served them all with a sure and steady hand. In fact, DICK WHITE'S career as a soldier and statesman is one marked by accomplishment and excellence. He served his Nation as a member of the U.S. Marine Corps in World War II in the Pacific, returning to Texas to gain his undergraduate degree at the University of Texas at El Paso in 1946 and his

law degree from the University of Texas at Austin in 1949. He gained respect and admiration as a practicing attorney in his beloved hometown of El Paso and became a power to deal with in Democratic politics.

He was elected to the Texas House of Representatives in 1955 and also served as El Paso County Democratic chairman before being first elected to this distinguished body in 1964.

DICK WHITE set his priorities properly when he arrived on Capitol Hill. His district is the home of Fort Bliss, and DICK WHITE lost no time in gaining a seat on the Armed Services Committee. Today, he is the fourth-ranking member of that distinguished committee and serves as its Investigations Subcommittee chairman. He also serves on the Military Personnel and Compensation Subcommittee as well as the Research and Development Subcommittee.

DICK WHITE also served this body and his district well as a member of the Science and Technology Committee, sitting on the Energy Development and Applications Subcommittee and the Natural Resources, Agriculture Research and Development Subcommittee.

His 18 years of service on Capitol Hill leaves his successor with a legacy of hard work and conscientious service.

DICK WHITE is, without a doubt, the most conscientious Member I have had the honor of working with in the House of Representatives.

We wish him well and we will miss him.

• Mr. STENHOLM. Mr. Speaker, I have participated in a number of special orders during the past few days, but none with quite the sense of loss that I feel on this occasion.

DICK WHITE of the 16th District of Texas is one of the finest Congressmen I have known since coming to Washington. His quiet, unassuming leadership; his welcome counsel and advice to a junior Congressman; and above all, his friendship have meant a great deal to me and his presence will be greatly missed.

DICK WHITE has represented an area of Texas, known as the Trans-Pecos, that is a uniquely diverse region, both in its size, its geographics and its citizenry. He has served that area well, as evidenced by his reelection to this body for nine terms of office—18 years of valued public service.

DICK has served with distinction on the Armed Services Committee and particularly as chairman of the Subcommittee on Investigations. He is also a member of the Science and Technology Committee, where his work on the Agriculture Research and Environment Subcommittee has been of particular interest to me. DICK leaves us to return to his home, El Paso, Tex., and his lovely family and we wish him well.

• Mr. LEATH of Texas. Mr. Speaker, when Richard C. White came to Congress in 1965, this institution was immediately enhanced. Since that time, every Member of Congress has been grateful for the opportunity to work with and learn from this remarkable man.

If we were to ask the average American citizen what he or she expected in a Representative, we would get answers like "hardworking," "honest," "intelligent," "compassionate," "thorough," and "fair." Other words like "integrity," "decency," "tenacity," "diligence," "accessibility," "cooperation," "concern," and "dedication" would also be mentioned. In every instance DICK WHITE fits the bill. By any measure, he is an American ideal.

The Nation, the Congress, and the State of Texas have been well served by DICK WHITE. El Paso is, in my view, one of the most fortunate cities in the country because DICK WHITE has truly represented its interests. And we, his friends and colleagues, have been the luckiest of all. We have had the great fortune of almost daily contact with a very special, very human being. DICK's grace and dignity have enabled him to make constant, lasting contributions in his public service. If there were any fairness in the order of things, we would be able to return in some measure what he has given us. As it is, this is impossible, because his body of work here has been so great.

DICK, you have been a loyal friend, a trusted colleague, and an inspiration to us all. We wish you Godspeed as you leave public life. You take our deepest appreciation and affection with you.

• Mr. FROST. Mr. Speaker, as the 97th Congress draws to a close, I would like to honor a senior Member of the Texas delegation who is retiring. Congressman Dick White has represented the 16th Congressional District of Texas for the past 18 years. He is held in the highest esteem by his constitutents whom he has served with loyalty and diligence.

DICK WHITE is a native of El Paso. He joined the Marine Corps, served as a Japanese interpretor in the Pacific theater, and was awarded the Purple Heart. Following the war, he received his law degree from the University of Texas and became active in the Texas Democratic Party. Dick served several terms in the Texas House of Representatives before coming to Congress in 1964.

Congressman White served on the Interior and Insular Affairs Committee and on the Science and Technology Committee. However, he is most proud of his work on the Armed Services Committee. He used his chair-

manship of the Military Personnel Subcommittee to steer the selective service registration legislation through the House of Representatives. DICK WHITE has always loyally supported our military and helped guide through Congress the first major pay raise for our military personnel. He also played a leading role in the extension of Champus benefits for the armed services.

For many years, defense specialists have advocated changes in the operations of the Joint Chiefs of Staff. Under Congressman White's chairmanship of the Investigations Subcommittee, this issue was extensively studied and the reorganization of the Joint Chiefs of Staff was addressed. This legislation has passed the House and is currently pending in the Senate.

Perhaps the most potent commentary on Dick White's tenure in office is made by those of us who admire and respect this honorable man. We know that Dick cherishes his family above all else. He subscribes to the Texas tradition that a man is bound not by contracts but by his word and commitment to others. A steady stream of well-wishers have come through his office in the last few weeks, because Congressman White is known and loved by many staff members of this House. They share the loss with me as this fine gentleman retires from our Chamber. He will be missed by the many of us with whom he always had time to share a thought or lend a

Congressman White will be joining the firm of Hardie, Hallmark, White, Sergent & Hardie and will establish their Washington office. His polite cooperative nature will certainly be an asset to his clients and colleagues and we wish him well in this next stage of his career.

● Mrs. HOLT. Mr. Speaker, I am very glad the gentleman from Texas has requested this special order for my good friend the gentleman from Texas, the Honorable Dick White. I have had the pleasure of working with Dick on the Armed Service Personnel Subcommittee, where he has been a fair and hard working chairman. I have been most impressed with his meticulous approach to his responsibilities, and the thoughtful way he approaches each problem. I will miss Dick who exemplifies the dedication necessary to best serve a congressional district.

• Mr. WHITEHURST. Mr. Speaker, permit me to take this opportunity to pay tribute to a dear friend and colleague of mine on the Armed Services Committee, DICK WHITE of Texas. I have served with DICK since I was sworn in 1969. During that time, I have come to admire his diligence and his thoroughness.

Few Members bring such a total commitment to their work as does

DICK WHITE. At the same time, he is unfailingly polite and considerate of the opinions of his colleagues. Whether as chairman of a subcommittee or a member in the ranks, DICK has never badgered a witness nor been offensive toward another member. These are fine qualities that we are going to miss.

On the occasion of his leaving the House, therefore, I join my colleagues on both sides of the aisle in wishing him health, much happiness, and every success as he returns to his native State.

#### GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that under the special order which I have arranged for today at the close of business, all Members shall have leave to address and revise and extend their remarks on the Honorable Dick White, who is retiring.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

REPORT TO THE PEOPLE—FIRST CONGRESSIONAL DISTRICT OF NEW YORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CARNEY) is recognized for 15 minutes.

• Mr. CARNEY. Mr. Speaker, I would like at this time to submit a "Report to the People" of the First Congressional District of New York. This report is a summation of votes cast, actions taken, and progress made by their U.S. Representative on their behalf in 1982. This tradition of keeping the people informed with a yearend report of this nature is a long-standing one in our area. I am proud to carry on this tradition for what is now the fourth year of my service to the people of the First Congressional District.

Below are listed the significant votes taken since we began the 2d session of the 97th Congress in February. This year there were about 500 times that I was called to the floor of the House to respond to a recorded call for a quorum of Members to do business or to indicate a position for or against legislation or the procedures proposed for considering it. In these closing hours of this Congress, I want to take the opportunity to look back over what we have wrought.

The record shows that this Congress will have enacted the fewest number of laws of any Congress since the end of World War II. In large part, of course, this reflects the fact that many bills have been packaged into omnibus bills containing many programs and provisions. The lower number of laws does not mean, howev-

er, that this Congress was without accomplishment.

In fact, the fewer number of laws enacted may be one of the best signs of what this Congress has succeeded most in accomplishing. Much of the debate this year, both in committees and in the full House, has centered on what I believe is Congress most important function after seeing to the defense of our country. And that is to control the purse strings of the National Government.

Those of us elected to the 97th Congress were given a clear message from the public that they wanted a change of direction for this Government. I submit that much of what has been accomplished in this second session has been related to the new direction we charted in 1981. In 1981 we began, for the first time with a majority of votes, to reexamine the decades-old assumption that the only change possible in the Federal budget was for it to expand. Last year we cut income taxes by 25 percent over 3 years for all taxpayers. Hand in hand with this expected slowing of growth in how much the Government takes from the public in taxes, we began to start holding down increases in proposed spending.

This year that process has continued. Much of our time in committee has been spent determining where our limited resources would be best spent. Many of the votes in the full House likewise have centered around how much individual programs should receive from the total amount of revenues available. But we still are a long way from living within our budget as American families and other levels of government must.

I deeply regret that on October 1 this body refused to give the American people what they want and what they have asked for repeatedly. On that day, on a party-line vote, the majority rejected a proposed constitutional amendment requiring a balanced Federal budget each year, except in time of war, unless three-fifths of the entire Congress agreed to deficit spending.

The American people want their National Government to be fiscally responsible. Thirty-one of our State legislatures have passed resolutions requesting a constitutional convention in order to draft a balanced-budget amendment to the Constitution. I have cosponsored a balanced-budget amendment every year I have served in Congress, and I was extremely disappointed by the full House action this fall. I plan to reintroduce this amendment in the next Congress and hope we will finally prevail then. But the defeat of the amendment this year at least served to give the people a clear contrast between rhetoric and action when it comes to bringing a runaway budget under control.

The importance of the balancedbudget issue cannot be underestimated. That is because many of our economic troubles can be laid at the feet of decisions made by the Federal Government in recent years, with not a small part of the blame being the deficit budgets past Congresses have voted.

Twice this year we have had to lift the statutory debt ceiling, or what is essentially our national credit line, so that the Treasury Department could borrow to pay our bills. As of the close of business this past Monday, the total outstanding public debt stood at \$1,169,221,000,000. Figures in the billions are difficult to conceive. That this country is more than \$1 trillion in debt is staggering to consider. Yet until we end deficit budgets, we cannot even begin to start whittling away at that total debt.

Making the decisions that would lead to greater fiscal responsibility is far from simple. It took nearly half this year to reach agreement on the first budget resolution which set targets for budget authority, spending, revenues, and projects deficit in fiscal year 1983, which began October 1. There were 46 hours and 12 minutes of actual floor debate of 7 separate first budget resolution proposals and 68 separate amendments to different aspects of those packages. Yet that first round of debate failed to produce a budget resolution. Two weeks later, on June 10, we finally managed to come up with an acceptable resolution.

While Congress spent much time and effort on budget issues, there was substantial action on other matters important to the people of Long Island and the rest of the country.

While on Long Island we have been fortunate that our employment has held up well, other parts of the country have been hard hit. The House and Senate, in response to this situation, agreed to extend unemployment compensation benefits an additional 6 to 10 weeks, for up to 49 weeks of benefits in some States. This was designed to help about 2 million jobless workers who had exhausted their regular benefits.

We also established a new job-training program for the unemployed. Unlike the old CETA program, instead of public-service jobs this new legislation concentrates on providing job skills and other employment-related help to low-income persons with severe problems in the job market. We also have given a greater role to State governments and private industry in this job-training program.

One area of Federal assistance that is especially important to Long Island families is student aid. The House, with my support, voted to prevent real reductions in guaranteed student loans, the largest of our college student aid programs. In addition, we

specified that rules for distributing Pell grant awards in effect for this school year be carried over to the next school year. This action maintains support for these grants without large cuts in aid.

Briefly noting some of the other actions we took this year, the House has passed a 25-year extension of the Voting Rights Act of 1965, legislation to help the savings and loan industry, deregulated the intercity bus industry, passed legislation to create a Government disposal plan for highly radioactive nuclear waste, reauthorized the Endangered Species Act for another 3 years, and reauthorized the major Federal law dealing with management and disposal of hazardous wastes.

In one environmental action directly affecting lands in Suffolk County, legislation was enacted banning Federal subsidies for development of designated undeveloped coastal barrier islands and structures. There are 12 such designated undeveloped coastal barrier beaches in our area covered by this new law designed to protect these fragile areas while saving Federal taxpayers from paying for costly replacement or repair of structures and facilities damaged by storms.

In the First Congressional District we have a special interest in environmental issues, especially relating to the underground aquifer that is the sole source of our drinking water.

Following up on congressional hearings we held in Southampton in May 1981, this year I introduced the Sole-Source Aquifer Protection Act of 1982, H.R. 5562. This legislation calls for amending the Safe Drinking Water Act to allow the Federal Government to provide financial assistance to local governments for planning the best means to protect their water supply.

The bill is aimed at protecting "critical recharge areas" for officially designated sole-source aquifers such as ours. On Long Island, a critical recharge area is the Pine Barrens land in Brookhaven, Southampton, Riverhead, and East Hampton Towns. The Pine Barrens overlie some of the rurest portions of the underground water supply which become increasingly important for our future because of contamination and pollution of other portions of the aquifer.

Senator Moynihan introduced this legislation as a companion measure in the Senate the same day mine was submitted. While we managed to get Senate hearings this year, action in the House was held up when the committee to which the bill was sent for consideration declined to work on the Safe Drinking Water Act until it finished rewriting the Clean Air Act.

All bills die with the end of a Congress. I plan, therefore, to reintroduce the Sole Source Aquifer Protection Act in the 98th Congress and hope we will manage to get it passed then.

The 2 years of the 97th Congress have seen important and far-reaching changes in the direction of the Federal Government. It has been an honor to have been part of those changes as the Representative of the people of the First Congressional District of New York.

I look forward to serving the people in the 98th Congress which convenes on January 3, 1983. During that Congress I will make every effort to communicate with the people of the First District, just as I have in this Congress.

Only if I know what the people are thinking can I expect to truly represent them. I thank those who have taken the time to share their comments with me over the past 2 years. I look forward to continue to hear from the people through their letters, postcards, telephone calls, and visits. It is my hope that together we can insure that the voice of the First Congressional District is heard here in Washington in the 98th Congress.

DATE, LEGISLATIVE ISSUE, AND CARNEY VOTE

Feb. 9: Send FY '82 Supplemental Appropriations/Commodity Credit Corp. back to committee with instructions to add language banning use of funds for payment on guaranteed loans to Poland. (Rejected, 152-256)—Yes.

Feb. 9: Pass resolution appropriating \$5 billion in supplemental funds for the Commodity Credit Corp. to repay Treasury for funds borrowed in FY '80, '81 and '82. (Passed, 320-86)—No.

Feb. 9: Provide \$123 million supplemental appropriations for low-income energy assistance payments, with amendment preventing its use for payment of air-conditioning bills. (Approved. 342-62)—Yes.

(Approved, 342-62)—Yes. Feb. 9: Pass \$2.3 billion extra for unemployment insurance program and U.S. Employment Service in FY '82. (Approved, 398-

Feb. 10: Add appropriation for low-income energy assistance payments to bill appropriating money for the Commodity Credit Corp. (Approved, 264-62)—Yes.

Mar. 2: Express Congress' opinion that the President should press for unconditional discussions among major political factions in El Salvador to guarantee free and open democratic elections. (Approved, 396-3)—Yes.

Mar. 2: Express Congress' opinion that the President should do what he can to get the Soviet Union to comply with its obligations under international agreements to respect the rights of its citizens to practice their religion and to emigrate, and to allow Jews who wish to emigrate to do so. (Approved unanimously, 387-0)—Yes.

Mar. 2: Give federal agencies permanent authority to establish flexible employee work schedules. (Rejected, 225-142)—Yes.

Mar. 4: Request President to proclaim Mar. 21, 1982, "Afghanistan Day" to commemorate struggle of Afghans against occupation by Soviet forces. (Approved unanimously, 346-0)—Yes.

Mar. 9: Authorize an increase in producer assessment for research and promotion by the National Potato Promotion Board and authorize other changes in the program if a producer referendum passes. (Approved, 381-81-Ves

Mar. 18: Clarify Secret Service authority to protect designated person and increase penalties for violation of "zone of protection" around protected persons. (Approved. 379-1)-Yes.

Mar. 18: Reaffirm that savings deposits up to the statutorily prescribed \$100,000 in federally insured depository institutions are backed by the full faith and credit of the U.S. (Approved, 382-7)-Yes.

Mar. 23: Extend for 10 years the life of the Gateway National Recreation Area Advisory Commission. (Approved, 368-30)-

Mar. 23: Authorize Interior Secretary to enter into cooperative agreements to help with historic preservation of Camden, S.C.

(Rejected, 243-152)—No.
Mar. 23: Allow International Communication Agency to distribute within the U.S. the slide show "Montana: the People Speak." (Approved, 388-11)—Yes.

Mar. 23: Require federal government to pay interest on overdue payments for property or services. (Approved unanimously, 396-0)—Yes.

Mar. 23: Allow all federal departments and agencies to contract for material and services from other agencies. (Approved, 356-43)-Yes

Mar. 23: Extend Section 235 mortage-assistance program for low-income buyers through FY '82. (Approved, 341-54)-

Mar. 23: Extend flexible work schedules for federal employees for four months. (Ap-

proved, 361-33)—Yes.
Mar. 24: Provide funding through Sept. 30, 1982, for government agencies whose regular FY '82 appropriations bills had not been enacted. (Approved, 299-103)-Yes.

Mar. 30: Express House concern over Appeals Court decision and state that estab-lishment of a House Chaplain is an appropriate and constitutional exercise of congressional powers. (Approved, unanimously, 388-0)-Yes.

Mar. 30: Designate April 19, 1982, "Dutch-American Friendship Day." (Approved, 379-

Mar. 30: Proclaim April 4, 1982, "National Day of Reflection." (Approved, 387-3)—Yes. Mar. 31: Authorize spending \$39.6 million

for 23 House committees and for computer services in calendar 1982. (Approved unanimously, 416-0)-Yes.

Mar. 31: Amendment to send House committee spending bill back to committee for further work (Rejected, 148-270)-Yes.

Mar. 31: Final passage of House commitspending authorization for calendar 1982. (Approved, 282-132)-Yes.

Apr. 29: Agree to amendment requiring local beneficiaries of federal irrigation dams to share in the cost of repairs authorized under the Reclamation Safety of Dams Act. (Approved, 212-140)-Yes.

Apr. 29: Pass Reclamation Safety of Dams Act to increase authorization for repairs to federally built dams from \$100 million to \$650 million and require those who benefit from the dams to share in the cost of their repair. (Approved, 335-9)-Yes.

May 5: Pass Debt Collective Act to imgovernment debt collection. prove

proved, 402-3)-Yes.

May 6: Pass bill amending law that governs farmers' use of irrigation water from federal reclamation projects. (Approved,

228-117)—Yes.

May 11: Provide supplemental authorization to stimulate sales and production of single-family housing. (Approved, 349-55)

May 11: Expand 10 demonstration programs providing federal judges with pretrial

services for determining defendants' eligibil-

ity for bail. (Approved, 369-30)—Yes.

May 11: Designate three new national scenic trails and authorize study of six additional routes, (Approved, 389-6)—Yes.

May 12: Express Congress' opinion that if Israel is illegally expelled from, or denied credentials, to U.N. General Assembly or any U.N. agency, U.S. should suspended participation in the General Assembly and withhold financial support. (Approved, 401--Yes.

May 12: Provide \$1 billion to HUD for mortgage-interest subsidy payments to homebuyers with family incomes not exceeding 130% of median income for their area. (Approved, 343-67)-Yes.

May 12: Prevent transferral of authority for surface mining of stone, gravel, clay and phosphate from Occupational Safety and Health Administration to Mine Safety and Health Administration. (Rejected, 186-

220)-Yes.

May 13: Authorize \$6.65 billion for NASA in FY '83. (Approved, 277-84)-Yes.

May 19: Authorize secret amounts in FY '83 for U.S. intelligence agencies' operations. (Approved, 357-23)-Yes.

May 19: Authorize \$1.085 billion in FY '82 and \$1.089 billion in FY '83 for the National Science Foundation. (Approved, 282-111)-

May 19: Change proposed amendment reducing National Bureau of Standards authorization by \$12.5 million, to instead reduce it by \$6.23 million. (Approved, 195-191)-No.

May 19: Send National Bureau of Standards authorization back to committee for further work. (Rejected, 193-193)-Yes.

May 20: Authorize minting three commemorative coins for 1984 Los Angeles Olympic Games. (Approved, 302-84)—Yes.

May 20: Revitalize housing industry by setting up a Treasury fund to guarantee the net worth of qualified mortgage lending institutions. (Approved, 272-91)—Yes.
May 20: Authorize Federal Savings and

Loan Insurance Corp. to provide capital assistance to qualified lending institutions through purchase of income capital certificates. (Rejected, 155-209)-Yes.

May 21: Adopt First Budget Resolution for FY '83 substitute to require that any spending increases above FY '82 be matched by offsetting increases or spending cuts in other programs. (Rejected, 181-225)-Paired against.

May 24: Adopt First Budget Resolution for FY '83 substitute to fund emergency jobs programs while maintaining other domestic programs at real FY '82 levels, increase non-pay defense programs by 7%, and scale back 1981 tax cuts. (Rejected, 152-268)-No.

May 24: Adopt First Budget Resolution for FY '83 substitute to increase non-defense spending levels substantially over present levels, hold defense spending at FY '82 levels, and increased taxes. (Rejected, 86-322)-No.

May 25: Adopt First Budget Resolution for fiscal year 1983 substitute to balance the budget in fiscal 1983-85 by reducing non-defense spending while maintaining the threeyear tax cut from 1981. (Rejected, 182-242)—Yes.

May 25: Amend proposed First Budget Resolution for fiscal year 1983 substitute to state Congress should close tax loopholes to raise revenues over three years. (Rejected, 68-342)-No.

May 25: Amend proposed First Budget Resolution for fiscal year 1983 substitute to

set total tax expenditures level at \$273.1 billion. (Rejected, 164-246)-No.

May 25: Amend proposed First Budget Resolution for fiscal year 1983 substitute to increase fiscal 1983 revenues by \$7.5 billion and redistribute those funds to entitlement and domestic discretionary programs. (Rejected, 175-237)-No.

May 25: Amend proposed First Budget Resolution for fiscal year 1983 substitute to reduce revenue levels by \$10.8 billion. (Rejected, 178-237)-Yes.

May 26: Disapprove Federal Trade Commission rule to require used-car dealers to undertake formal procedures for informing customers of defects in used autos. (Approved, 286-133)-Yes.

May 26: Amend proposed First Budget Resolution for fiscal year 1983 substitute to increase budget authority by \$10.5 billion, spending by \$7.6 billion, and reduce discretionary programs and entitlements by the same amount. (Rejected, 83-339)-No.

May 26: Amend proposed First Budget Resolution for fiscal year 1983 substitute to cut defense budget authority by \$16 billion, defense spending by \$4 billion each in fiscal year 1983-85, and reduce revenues by \$4 billion in each of those years. (Rejected, 125-295)-No.

May 26: Amend proposed First Budget Resolution for fiscal year 1983 substitute to reduce budget authority by \$20.4 billion, outlays by \$8 billion, reflecting a freeze on nuclear weapons testing, production and de-

ployment. (Rejected, 28-383)—No.
May 26: Amend proposed First Budget Resolution for fiscal year 1983 substitute to reduce defense outlays by \$7.5 billion and increase revenues by \$15 billion by enacting luxury and exercise taxes. (Rejected, 128-

May 26: Amend two proposed First Budget Resolution for fiscal year 1983 substitutes to increase budget authority by \$1.85 billion in fiscal year 1983-85 and outlays by \$450 million in fiscal year 1984-85 for the Export-Import Bank direct-loan program.

(Rejected, 186-232)-No.

May 26: Amend proposed First Budget Resolution for FY '83 substitute to increase budget authority by \$1.7 billion, outlays by \$837 million for education programs in FY '83, and make corresponding reductions in the allowances function. (Approved, 343-72)-Yes.

May 27: Amend proposed First Budget Resolution for FY '83 substitute to pay for increased Medicare spending by reducing defense spending. (Approved, 228-196)-No.

May 27: Amend proposed First Budget Resolution for FY '83 substitute to increase budget authority and outlays to keep Medicare funding at current levels and make corresponding reductions in defense programs. (Approved, 328-94)-Yes.

May 27: Amend two proposed First Budget Resolution for FY '83 substitutes to increase budget authority and outlays by \$1.15 billion to allow a 7% pay raise for federal employees instead of 4%. (Rejected, 143-281)— Yes.

May 27: Amend three proposed First Budget Resolution for FY '83 substitutes to increase budget authority and outlays to accommodate a 5% pay raise for federal employees instead of 4%. (Approved, 259-159)—

May 27: Amend two proposed First Budget Resolution for FY '83 substitutes to increase budget authority and outlays to accommodate removal of 4% ceiling on cost-ofliving adjustments for federal civilian and military retirees. (Approved, 327-94)-Yes.

May 27: Amend three proposed First Budget Resolution for FY '83 substitutes to increase budget authority and outlays to accommodate funding at authorized levels for law enforcement. (Rejected, 152-264)-Yes.

May 27: Amend three proposed First Budget Resolution for FY '83 substitutes to increase budget authority and outlays to accommodate funding at recommended levels for drug law enforcement agencies. (Rejected, 182-237)-Yes.

May 27: Adopt First Budget Resolution for FY '83 setting budget targets of \$805.8 billion in budget authority; \$769.4 billion, outlays; \$665.9 billion, revenues; \$103.5 billion, deficit, (Rejected, 192-235)-Yes,

May 27: Adopt First Budget Resolution for FY '83 setting budget targets of \$825.5 billion in budget authority: \$772.9 billion. outlays; \$675.7 billion, revenues; \$97.2 billion, deficit. (Rejected, 137-289)-No.

May 27: Adopt First Budget Resolution for FY '83 setting budget targets of \$828.9 billion in budget authority; \$781.7 billion, outlays; \$676.7 billion, revenues; \$105 billion, deficit, (Rejected, 171-253)-No.

May 27: Adopt First Budget Resolution for FY '83 setting budget targets of \$828 billion in budget authority; \$780.55 billion, outlays; \$676.7 billion, revenues; \$103.85 billion, deficit. (Rejected, 159-265)-No.

June 3: Make it a felony to publicly expose identities of U.S. covert intelligence officers, agents, informants, and sources. (Approved, 315-32)—Yes.

June 9: Establish an American Conserva-

tion Corps to employ youths for conserva-tion, rehabilitation and improvement projects on federal, state or Indian lands. (Approved, 291-102)—Yes.

June 9: Instruct House conferees to accept Senate changes in an appropriations bill to keep an existing law requiring a balanced budget and repealing, in effect, a tax credit enacted in December 1981 for members of Congress. (Approved, 378-7)-Yes.

June 10: Substitute for another FY '83 First Budget Resolution setting budget targets of \$836.2 billion in budget authority; \$784.15 billion, outlays; \$676.7 billion, revenues; \$107.45 billion, deficit. (Rejected, 202-225)-No

June 10: Pass FY '83 First Budget Resolution setting budget targets of \$800.38 billion in budget authority; \$765.17 billion, outlays; \$665.9 billion, revenues; \$99.27 billion, deficit; and to set preliminary budget goals for FY '84-85, revise budget levels for FY '82, and include reconciliation instructions to committees to recommend savings to meet budget targets. (Approved, 219-206)—yes,

June 15: Extend until 1986 a copyright law providing copyright protection for books and periodicals written in English only if they are printed in the U.S. (Approved, 339-47)—Yes.

June 15: Permit VA nurses who work two 12-hour regular shifts over a weekend to be considered as having worked a full workweek; extend until Sept. 30, 1983, the authority for the VA to contract out medical services and care for veterans in Puerto Rico and Virgin Islands; extend through Sept. 30, 1985, a grant program to states for construction and alteration of state veterans' homes. (Approved unanimously, 390-0)-Yes.

June 15: Double (to \$7 million) FY '83 state and local reimbursements for protecting foreign diplomatic missions and authorize reimbursements for protecting motorcades and visits. (Approved, 218-177)-

June 16: Agree to Senate change rescinding FY '82 budget authority of \$4.098 billion

for assisted housing and \$1.6 billion for rent supplement program. (Approved, 312-96)-

June 16: Agree to Senate change rescinding FY '82 contract authority of \$3.3 million for the rent supplement program. (Ap-

proved, 299-104)—Yes.
June 16: Agree to Senate change effectively eliminating December 1981 tax credit for members of Congress, with amendment limiting annual outside income to 30% of congressional salary. (Approved, 381-29)-

June 16: Remove \$25,000 cap on overtime pay for U.S. Customs Service employees. (Approved, 220-178)—Yes.

June 22: Accept FY '82 First Budget Resolution agreed to by Senate-House conferees setting budget targets of \$822.39 billion, budget authority; \$769.8 billion, outlays; \$665.9 billion, revenues; \$103.9 billion deficit. (Approved, 210-208)-Yes.

June 22: Reauthorize refugee assistance programs established in 1980 for one year and set new conditions on refugee eligibility for public assistance. (Approved, 357-58)-

June 22: Amend Small Business Innovation Development Act to require certain fedagencies to reserve a portion of their R&D budgets for small firms while allowing Congress to decide the actual amount spent on small businesses through authorizations and appropriations process. (Rejected, 118-290)-Yes.

June 22: Exempt National Institutes of Health from set-aside provisions in Small Business Innovation Development Act. (Re-

jected, 169-228)-No.

June 23: Pass Small Business Innovation Development Act to strengthen the role of small, innovative firms in federally funded research and development, (Approved, 353-57)—Yes.

June 23: Authorize \$50 million in emergency aid for Lebanon resulting from June 6 invasion by Israel. (Approved, 334-70)-Yes.

June 23: Require filling Strategic Petroleum Reserve at minimum rate of 200,000 barrels of petroleum per day until 500 million barrel level is reached; extend until June 30, 1985, immunity from antitrust laws for oil companies sharing information with the International Energy Agency; require president to report on various aspects of administration's plans for dealing with energy emergencies. (Approved, 396-3)-Yes.

June 24: Agree to new urgent supplemental appropriations bill with \$3 billion less than bill president vetoed (Approved, 267-

106)-Yes.

July 13: Authorize investigation of allegations of improper sexual conduct or illegal drug use by members, House officers or employees, particularly House pages. (Approved, 407-1)-Yes.

July 13: Condition further aid to El Salvador on certification that El Salvador is making "good faith effort" to investigate and bring to justice those responsible for murder of six U.S. citizens in 1980 and 1981. (Approved, 399-1)-Yes.

July 15: Authorize \$2.55 billion in FY '83 and \$2.759 billion in FY '84 for Coast Guard activities. (Approved, 348-25)-Yes.

July 20: Express Congress' opinion that current employment levels in community service employment for older Americans program should be maintained. (Approved, 407-4)-Yes.

July 20: Make it a federal crime to unlawfully obtain nuclear materials and use them to terrorize or harm individuals. (Approved, 396-9)-Yes.

July 20: Authorize \$10 million in FY '83 for the U.S. Travel and Tourism Administration. (Rejected, 241-167)-Yes.

July 20: Delete \$699 million for one Trident missile-firing submarine from FY defense authorizations. (Approved, 344-65)-Yes.

July 20: Delete \$2.07 billion authorizations for various Army, Navy, and Air Force procurement programs. (Approved, 406,6)-Yes.

July 20: Delete \$398.5 million defense authorizations for various operations and maintenance programs. (Approved, 386-19)-Yes.

July 20: Reduce defense authorizations and prohibit procurement of MX. Pershing II or cruise missiles, B-1 bombers and nuclear-powered aircraft carriers. (Rejected, 55-

July 21: Accept compromise amendment authorizing \$1.1 billion for the MX missile and withholding \$259.9 million of that amount for MX basing and deployment until 30 days after a basing mode had been selected. (Approved, 212-209)-Yes.

July 21: Agree to substitute amendment prohibiting purchase of new strategic airlift aircraft for the Air Force except the KC-10 aircraft (instead of purchasing more C-5 aircraft). (Rejected, 74-344)-No.

July 21: Delete defense authorization for procurement of Pershing II ballistic mis-

siles. (Rejected, 74-311)-No.

July 22: Agree to substitute amendment to ban the production of binary chemical munitions unless one exists chemical weapons was destroyed for each new one built. (Rejected, 192-225)-Yes.

July 22: Delete authorization for the B-1 bomber. (Rejected, 142-257)-No.

July 22: Delete authorized funds for two nuclear-powered aircraft carriers. (Rejected,

July 22: Delete authorized funds for nuclear weapons. (Rejected, 21-355)-No.

July 27: Award 7.4% cost-of-living increase for veterans and survivors service-connected disability compensation, and achieve budget savings in veterans programs in FY '83, '84 and '85. (Approved, unanimously, 400-0)-

July 28: Extend for one year a test policy allowing Defense Department to pay a premium price in order to purchase certain goods from firms in high-unemployment areas, except weapons and petroleum. (Approved, 237-170-Yes.

July 28: Prohibit federal education assistance to any young man who did not comply with the law requiring registration with the Selective Service System. (Approved, 303-

95)-Yes.

July 28: Agree to a conference with the Senate on a budget reconciliation tax increase/spending cuts bill without House consideration of the measure. (Approved, 208-197)-No.

July 29: Reduce defense authorizations for civil defense program by \$108 million. (Rejected, 163-240)-No.

July 29: Delete authorization for development of the Trident II submarine-launched ballistic missile and money to modify Tri-dent submarines to carry the Trident II missile, add money for development of the Axe non-nuclear missile. (Rejected, 89-312)-No.

July 29: Pass final version of bill authorizing \$177.1 billion for FY '83 defense procurement, operations and management, and research and development, (Approved, 290-73)-Yes.

Aug. 3: Agree to close conference committee meetings on national security matters to the public. (Approved unanimously, 372-0)-

Aug. 4: Add about 28,500 acres to the Sipsey Wilderness in the Bankhead, Alabama, National Forest and designate new Cheaha Wilderness in the Talladega National Forest. (Approved, 349-59)-Yes.

Aug. 4: Increase the authority of state governments and locally based private industry councils in planning job-training pro-

grams. (Rejected, 185-219)-Yes.

Aug. 4: Agree to send job training bill back to committee for addition of amendment increasing state governments and locally based industry councils' authority in planning job-training programs. (Rejected, 189-218)-Yes.

Aug. 4: Pass bill providing permanent, open-ended authorization for a new pro-gram of assistance to local job-skill training programs, and authorize \$650 million for the Job Corps in FY '83, open-ended funding in subsequent years. (Approved, 356-52)-Yes.

Aug. 5: Agree to Carney-Broomfield-Stratton language calling for a nuclear weapons freeze by the U.S. and Soviet Union at equal and substantially reduced levels. (Approved 204-202)-Yes.

Aug. 5: Pass resolution calling for a nuclear weapons freeze by the U.S. and Soviet Union at equal and substantially reduced levels. (Approved, 273-125)-Yes.

Aug. 11: Amend Federal Insecticide, Fungicide and Rodenticide Act to preserve states' rights to request pesticide data from manufacturers. (Approved, 250-154)-Yes.

Aug. 11: Pass final version of Federal pesticide law changes and authorize FY '83 and 84 funds for pesticide programs. (Approved, 352-56)-Yes.

Aug. 11: Authorize \$7.5 billion for military construction programs in FY '83. (Approved, 332-57)-Yes.

Aug. 12: Permanently withdraw designated federal wilderness areas from oil, gas and some mineral leasing and provide temporary withdrawal of lands that are candidates for future designation as wilderness. (Approved, 340-58)-Yes.

Aug. 12: Exempt projects funded with Development Administration Economic grants from wage requirements of the Davis-Bacon Act if contractor bid awarded is 10% less than the next lowest bid. (Rejected, 140-237)—No.

Aug. 17: Allow transportation of passengers between Puerto Rico and U.S. ports on foreign-flag vessels when U.S.-flag ships are unavailable. (Approved unanimously, 387-

Aug. 17: Pass EPA FY '83 and '84 research and development authorizations, of \$277.9 million and \$291 million. (Approved, 314-92)-Yes.

Aug. 17: Authorize \$542.8 million in FY '83 and \$575.3 million in FY '84 for atmospheric, climatic and ocean pollution activities of NOAA. (Approved, 340-65)-Yes.

Aug. 17: Send a bill to reduce federal spending for FY '83-'85 back to a conference committee. (Approved, 266-145)-Yes.

Aug. 17: Create a 110,000 acre national monument in the Washington State area devastated by the 1980 Mount St. Helens volcanic eruption. (Approved, 393-8)-Yes.

Aug. 18: Accept conference report of 1982 Omnibus Budget Reconciliation Act reducing the federal budget for FY '83, '84, '85 by about \$13.3 billion. (Approved, 243-176)-

Aug. 18: Agree to conference report appropriating \$14.6 billion in new FY '82 budget authority for military and civilian employee pay raises, commodity credit programs, defense and other programs, and rescinding \$400.9 million in previously appropriated funds. (Approved, 348-67)—Yes.

Aug. 18: Accept Senate amendment to FY '82 supplemental appropriations bill appropriating \$350 million for President's Caribbean Basin Initiative. (Approved, 281-129)-

Aug. 18: Require that all proceeds from sales of materials in U.S. national defense stockpile through FY '82 to be used to purchase, for the stockpile, copper mined and smelted in the U.S. after July 31, 1982. (Rejected, 62-339)-No.

Aug. 18: Pass conference bill authorizing

\$177.9 billion for FY '83 defense programs.
(Approved, 251-148)—Yes.
Aug. 19: Pass conference report raising taxes by \$98.3 billion in FY '83-85 and reducing spending by \$17.5 billion in FY '83-

85. (Approved, 226-207)-No.

Aug. 19: Pass final version of FY '83 Military Constructions Appropriations bill with \$7 billion for military construction and family housing projects. (Approved, 325-31)-Yes.

Sept. 8: Change proposed substitute to Resource Conservation and Recovery Act Reauthorization to strike provisions applying law's regulations to small-quantity generators of hazardous wastes and require EPA to study advisability of applying regulations to such operators. (Rejected, 148-183)-Yes.

Sept. 8: Strike language in Resource Conservation and Recovery Act Reauthorization preserving the right of private individuals to sue under federal common law. (Rejected,

85-255)-No.

Sept. 8: Pass bill to expand and tighten Resource Conservation and Recovery Act's regulation of hazardous wastes and authorize \$105.5 million FY '83 appropriations and \$111.5 million FY '84 appropriations. (Approved, 317-32)-Yes.

Sept. 9: Authorize FY '83-85 lending limits for Farmers Home Administration programs, revise certain loan programs, and extend economic emergency loan program through FY '83. (Approved, 372-39)-No.

Sept. 9: Increase construction authoriza tion for Library of Congress James Madison Memorial Building by \$8.2 million. (Ap-

prove, 188-186)-No.

Sept. 15: Allow monies from National Recreational Boating Safety and Facilities Improvement Funds to be appropriated without affecting the Transportation Department's budget authority. (Rejected, 250-

Sept. 15: Require the Coast Guard to develop marine safety regulations specially designed for sailing school vessels operated by non-profit educational institutions. (Reject-

ed, 236-154)-Yes.

Sept. 15: Make technical corrections in amendments made by 1981 reconciliation bill affecting certain health laws, authorize appropriations for training nurse anesthetists in FY '83-84, and transfer National Institute for Occupational Safety and Health to the N.I.H. from the Center for Disease Control. (Rejected, 227-165)-Yes.

Sept. 15: Appropriate \$47 billion in FY '83 for the Department of Housing and Urban Development and 17 independent agencies.

(Approved, 343-38)—Yes.

Sept. 16: Agree to rule for considering creation of a new fund to share federal revenues of up to \$300 million annually from offshore oil, gas and mineral leasing with states. (Approved, 342-8)-Yes.

Sept. 21: Reduce every appropriations in the transportation funding bill by 33.8%. (Rejected, 38-349)-No.

Sept. 21: Appropriate \$11.2 billion in new FY '83 budget authority for the Transportation Department and related agencies, a total nearly \$1 billion over budget request. (Approved, 268-119)-No.

Sept. 21: Appropriate \$23.1 billion in new FY '83 budget authority for the Agriculture Department and related agencies. (Approved, 264-105)—Yes.

Sept. 22: Allow shareholders of the Consolidated Foods Corp. to exempt from taxation certain dividend income received from a foreign firm partly owned by the company. (Rejected, 113-274)-No.

Sept. 22: Allow computer companies to deduct up to twice their cost of computer equipment manufactured in 1983 and donated to primary and secondary schools. (Ap-

proved, 323-62)-No.

Sept. 22: Miscellaneous tariff and trade changes, including the repeal of an embargo on importation of mink and other furs from mainland China. (Approved, 267-125)-No.

Sept. 22: Authorize an FY '83 pay raise for uniformed members of the armed services and restrict hiring of private contractors to perform Defense Department services. (Rejected, 214-186)-Yes.

Sept. 22: Keep 1982-83 school year rules for distributing Pell Grant awards to college students in 1983-84 school year and for the 1984-85 school year if regulations are not approved by May 15, 1983, and restore student aid grants to certain veterans. (Approved, 381-19)-Yes.

Sept. 22: End railroad strike by Brotherhood of Locomotive Engineers and impose contract settlement recommended by Presidential Emergency Board barring strikes through June 30, 1984. (Approved, 383-17)-

Sept. 22: Provide temporary funding through Dec. 15, 1982, for government agencies whose regular FY '83 appropriations have not been enacted by Oct. 1 (Approved, 242-161)-Yes.

Sept. 23: Prohibit loans or loan guarantees under the Defense Industrial Base Revitalization Act if the Treasury Department determined they would boost interest rates or harm the thrift industry. (Approved, 173-154)-Yes

Sept. 24: Repeal the federal health-planning program and authorize \$65.6 million FY '83-84 for grants to state health-planning and certificate-of-need programs. (Approved, 302-14)-Yes.

Sept. 28: Limit maritime suits by foreign seamen while engaged in certain activities related to energy resources exploration, development or production in coastal waters adjacent to a foreign nation. (Rejected, 224-182)-Yes.

Sept. 28: Pass Coastal Barrier Resources Act to ban federal aid that would encourage development on specified undeveloped coastal barrier islands or beaches. (Approved, 399-4)-Yes.

Sept. 29: Require a biennial State of the Parks Report and establish a comprehensive planning system to protect national parks from internal and external threats. (Approved, 319-84)-Yes.

Sept. 29: Set aside up to \$300 million from federal offshore oil and gas leasing to fund state coastal resource management programs. (Approved, 260-134)-Yes.

Sept. 30: Prohibit use of NIH funds for research or experimentation on live human fetuses unless the research directly benefited the affected fetus. (Approved, 260-140)-Yes.

Sept. 30: Authorize \$5 billion in FY '83-85 for National Cancer and Heart-Lung-Blood Institutes, research on certain other diseases, and create a National Institute of Arthritis and Musculoskeletal Diseases. (Rejected, 130-275)-Yes.

Oct. 1: Pass resolution proposing constitutional amendment requiring Congress to adopt a balanced federal budget every year, except in time of war, unless a three-fifths majority of Congress agreed to deficit spending. (Rejected, 236-187)-Yes.

Oct. 1: Adopt conference report authorizing \$6.8 billion in FY '83 for NASA. (Ap-

proved, 284-83)-Yes.

Oct. 1: Establish a new program, replacing expired CETA, giving states and local gov-ernments grants for providing skill training and other employment-related help to economically disadvantaged youths and adults. (Approved, 339-12)—Yes.

Nov. 29: Requiring a vote by one house of Congress to sustain a state veto of the location of an interim storage facility for spent nuclear fuel within their borders. (Rejected.

181-194)—Yes. Nov. 29: Amend Nuclear Waste Policy Act to prohibit location of a permanent nuclear waste repository at a site adjacent to an area one mile by one mile with a population of 1,000 or more. (Rejected, 81-296)-No.

Nov. 29: Requiring a vote by one house of Congress to sustain a state veto of the location of a permanent nuclear waste repository within their borders under the Nuclear Waste Policy Act. (Approved, 190-184)-Yes.

30: Eliminate from the Nuclear Nov. Waste Policy Act provisions authorizing creation of federal interim storage for spent fuel from nuclear utilities. (Rejected, 84-308)-No.

Nov. 30: Appropriate \$10.7 billion for the Treasury Department, Postal Service, executive offices and several independent agencies in FY '83. (Approved, 269-98)-Yes.

Dec. 1: Appropriate \$85.4 billion for the Departments of Labor, Health and Human Services, and Education and related agencies for FY '83, \$5 billion more than requested. (Approved, 330-70)-No.

Dec. 1: Provide that anti-competitive practices by professonals that are required and supervised by states cannot be challenged under federal antitrust law. (Rejected, 195-208)-No.

Dec. 1: Exempt professionals from FTC jurisdiction until Congress specifically grants that authority. (Approved, 245-155)-

Dec. 1: Reduce FTC authorizations from \$66 million to \$60.8 million in fiscal year 1983; \$70.7 million to \$55.1 in fiscal year 1984; \$75.7 million to \$54.6 million in fiscal year 1985. (Approved, 241-158)-Yes

Dec. 2: Amend Nuclear Waste Policy Act to include storage of military nuclear waste under its terms. (Rejected, 105-281)-No.

Dec. 3: Appropriate \$7.4 billion in fiscal year 1983 for Interior Department, Forest Service, certain Energy Department programs, and related agencies, \$900 million more than requested. (Approved, 275-73)-No.

Dec. 6: Change Transportation Assistance Act to ensure funds for highway and mass transit projects substituted for Interstate Highway segments are subject to appropriations process. (Rejected, 96-305)-No.

Dec. 6: Delete Transportation Assistance Act provisions mandating certain discretionary funds be available to complete high-cost Interstate segments. (Rejected, 21-329)-No.

Dec. 6: Add 5¢ a gallon fuel tax to Transportation Assistance Act, increase heavytruck levies and make other changes in highway taxes. (Approved, 326-169)-Yes.

Dec. 6: authorize \$71.3 billion for FY '83-86 highway and transit propgrams, and increase gasoline and other highway taxes. (Approved, 262-143)—Yes.

Dec. 7: Delete funding for procurement of five MX missiles in FY '83 Defense appropriations. (Approved, 245-176)-No.

Dec. 7: Bar use of funds by CIA or Defense Department to extend military assistance to any non-governmental groups for the purpose of overthrowing Nicaraguan government or provoking armed conflict between Nicargua and Honduras. (Approved, unanimously, 411-0)—Yes.

Dec. 8: Appropriate \$230.3 billion for Defense Department in FY '83, \$19.3 billion less than requested. (Approved, 346-68)-

Dec. 14: Lift ceilings on pay for more than 33,000 senior-level federal civilian and military employees and agree to 15% increase in congressional salaries instead of 27% increase scheduled by law. (Approved, 303-109)-Yes.

#### COMPUTER CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Nelson) is

recognized for 5 minutes. . Mr. NELSON, Mr. Speaker, I rise today to address the growing problem of computer-assisted crime and to draw the House's attention to an article which appeared in the Washington Post on December 11, 1982. The article relates the story of a man's unauthorized attempt to gain access to sensitive information stored in the computer files of the Federal Reserve Board. The seriousness of this attempt suggests the need for Federal legislation which will protect the integrity of Federal computer systems. I have introduced a bill, H.R. 3970-the Federal Computer Systems Protection Actwhich will amend the United States Code to make it a specific Federal offense to fradulently or illegally tamper with computers of the Federal Government, the computers of financial institutions guaranteed by the Federal Government, and the computers of businesses engaged in interstate commerce. The bill is currently under consideration by the Subcommittee on Civil and Constitutional Rights and I intend to reintroduce it in the 98th Congress. I would like to enclose the article at this point in the RECORD.

ATTEMPTED SNOOPING IN FED'S FILES PROBED

A federal grand jury is investigating an unauthorized attempt to gain access to the Federal Reserve Board's computer files of sensitive financial information, sources reported yesterday.

Sources said the investigation involves Theode C. Langevin of Laurel, a former Federal Reserve Board aide who left the board recently to join E. F. Hutton & Co., a Wall Street securities firm.

Thomas Rae, general counsel of E. F. Hutton, said Langevin was "hired to be a 'Fed watcher' and economist, but "came and was gone before he actually performed those duties."

A 'Fed watcher' on Wall Street follows Federal Reserve actions closely to advise on

the board's credit policies, which have powerful impacts on interest rates and securities prices.

Rae said Langevin was asked to leave E. F. Hutton, but said he couldn't discuss the reasons and would not comment on the reported investigation. Langevin, reached at home. said he left voluntarily. Langevin said he has hired an attorney but would not discuss reports that he is the subject of an investi-

Sources said that, within the past month, someone attempted to gain access by telephone to the Fed's computer data files that record sensitive information on the changes in the nation's money supply-a key factor determining Fed actions.

Authorized Fed employes are able to tie into the computer by using a numerical code that is transmitted by telephone. When employes leave the Fed, their code numbers are cancelled, sources indicated.

The unauthorized attempt, involving a concelled code, was blocked by the computer, and the telephone call was traced to a New York City address, sources said.

A Federal Reserve spokesman said there is an investigation underway, but would not give details and referred questions to the U.S. Attorney's Office.

## JOHN GREENLEAF WHITTIER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. May-ROULES) is recognized for 5 minutes.

Mr. MAVROULES. Mr. Speaker, today we commemorate John Greenleaf Whittier, poet, freedom lover, and a proud American, born 175 years ago today in Havenhill, Mass., a city which it has been my great pleasure to represent for two terms.

There is not a soul in this Chamber, am sure, that has escaped school without getting a fair dose of Mr. Whittier's poetry. I am also sure that we all left his verse withthe same sense of pride and wonder in the America he portrayed, an America still in its infancy, struggling hard to meet its destiny.

For him, that destiny was to be the "bearer of freedom's holy light," a

true democracy.

In commemoration of John Greenleaf Whittier, and in honor of this great democracy, I am placing in the RECORD today a poem that truly expresses Mr. Whittier's great love for ths land of ours. It is called Democracy, and appropriately, it was written on election day, 1841:

# DEMOCRACY

All things whatsoever ye would that men should do to you, do ye even so to them. MATTHEW vii. 12.

Bearer of Freedom's holy light. Breaker of Slavery's chain and rod. The foe of all which pains the sight,

Or wounds the generous ear of God! Beautiful yet thy temples rise,

Though there profaning gifts are thrown; And fires unkindled of the skies

Are glaring round thy altar-stone.

Still sacred, though thy name be breathed By those whose hearts thy truth deride:

And garlands, plucked from thee, are wreathed
Around the haughty brows of Pride.
Oh, ideal of my boyhood's time!

The faith in which my father stood, Even when the sons of Lust and Crime Had stained thy peaceful courts with blood!

Still to those courts my footsteps turn,

For through the mists which darken
there.

there,
I see the flame of Freedom burn,—
The Kebla of the patriot's prayer!

The generous feeling, pure and warm, Which owns the right of all divine; The pitying heart, the helping arm, The prompt self-sacrifice, are thine.

Beneath thy broad, impartial eye, How fade the lines of caste and birth! How equal in their suffering lie The groaning multitudes of earth!

Still to a stricken brother true, Whatever clime hath nurtured him; As stooped to heal the wounded Jew The worshipper of Gerizim.

By misery unrepelled, unawed By pomp or power, thou seest a Man In prince or peasant, slave or lord, Pale priest, or swarthly artisan.

Through all disguise, form, place, or name, Beneath the flaunting robes of sin, Through poverty and squalid shame, Thou lookest on the man within.

On man, as man, retaining yet, Howe'er debased, and soiled, and dim, The crown upon his forehead set, The immortal gift of God to him.

And there is reverence in thy look; For that frail form which mortals wear The Spirit of the Holiest took, And veiled His perfect brightness there.

Not from the shallow babbling fount
Of vain philosophy thou art;
He who of old on Syria's Mount
Thrilled, warmed, by turns, the listener's

heart.

In holy words which cannot die,
In thoughts which angels leaned to know,
Proclaimed thy message from on high,
Thy mission to a world of woe.

That voice's echo hath not died!
From the blue lake of Galilee,
And Tabor's lonely mountain-side,
It calls a struggling world to thee.

Thy name and watchword o'er this land
I hear in every breeze that stirs,
And round a thousand altars stand
Thy banded party worshippers.

Not to these altars of a day, At party's call, my gift I bring; But on thy olden shrine I lay A freeman's dearest offering:

The voiceless utterance of his will,—
His pledge to Freedom and to Truth,
That manhood's heart remembers still
The homage of his generous youth.

Election Day, 1841.

# INTRODUCTION OF INCOME MAINTENANCE FRAUD AND OVERPAYMENT CONTROL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

 Mr. STARK. Mr. Speaker, today I am introducing a bill to prevent fraud and overpayment in various welfare

programs by requiring State unemployment agencies to collect individual wage information on a quarterly basis.

Presently only 38 States require individual wage data be reported quarterly to State employment agencies, even though it is generaly acknowledged that this data is the best wage information for verification purposes in administering Federal and State needs-based programs.

Unreported and underreported wages are one of the principal causes of overpayments in needs-based programs. Although the exact amount of overpayments caused by recipients not properly reporting income is unknown, the General Accounting Office estimates that in fiscal years 1978 and 1979, five of six major welfare programs had annual overpayments of \$867 million. Without corrective action, Federal expenditures, because of overpayments in these five programs, will probably exceed \$1 billion in fiscal year 1983. In addition, an unknown amount of other program benefits are improperly provided to cash grant recipients who would not be eligible for such benefits if their incomes were properly disclosed.

Clearly this situation needs to be remedied. Given the current shortage of funds for public assistance programs, we must insure that funds go only to those in need, with the least amount of error or payment to those who may have other sources of income.

In addition, my bill will make available to child support enforcement agencies the wage information of delinquent parents. Even though this will not solve the problem of enforcing child support orders, it will at least provide child support enforcement agencies with another source of information to enable them to more effectively track down parents who fail to make their child support payments and who have improperly thrown their families onto the public dole.

Although the end of the 97th Congress is near, I have introduced my proposal in order that Members may have an opportunity to examine and comment on this bill during the coming weeks, so that we can address this issue early in the 98th Congress.

The hardworking people of this country deserve to see an end to fraud and abuse in our welfare system. This bill, by requiring all States to collect wage data that can be used for verifying welfare eligibility, will go a long way toward ending welfare overpayments.

# REPRESENTATION OF TAXPAYERS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Panetta) is recognized for 5 minutes.

• Mr. PANETTA. Mr. Speaker, I am today introducing legislation which would correct a significant but easily remedied problem relating to representation of taxpayers in cases before the U.S. Tax Court. My bill would eliminate needless restrictions against representation of taxpayers by certified public accountants and enrolled tax agents in cases where a relatively small amount of money is at issue.

There are two sections of the Internal Revenue Code relevant to this question—sections 7452, relating to representation of parties before the Tax Court, and 7463, relating to disputes involving \$5,000 or less.

The first prevents the denial of admission to practice before the court to any individual on account of his "failure to be a member of any profession or calling." However, it does not prevent the court from establishing rules making it more difficult for members of a particular profession to qualify.

The second, section 7463, establishes a less formal procedure for the handling of cases involving sums of \$5,000 or less. In most cases, formal procedures "in accordance with the rules of evidence applicable in trials without a jury in the U.S. District Court of the District of Columbia" are required. But section 7563 gives the court flexibility in small cases to conduct proceedings in a manner that protects the taxpayer's rights but also allows a more rapid, nonappealable settlement of the case. In these cases, the standard rules of evidence are not enforced. Operating under this procedure is the taxpayer's option; it is not mandatory, and he may choose instead the more formal procedure required in other

Under the current rules established by the court, no distinction qualifying for representation in other cases. Attorneys qualify for practice before the Tax Court by filing an application that is accompanied by a certificate from the Clerk of the U.S. Supreme Court or from the high court of any State or territory or the District of Columbia showing that he or she is a member in good standing of the bar of that court. Any individual who is not an attorney and wishes to practice before the Tax Court must file an application, be sponsored by at least three persons already admitted to practice before the court, and, most importantly, pass a written examination given by the court. The court may, at its discretion, accept a nonattorney for practice with fewer than three recommendations, but the examination is never waived.

There are many good reasons to maintain this qualifying distinction for major cases before the Tax Court. Those cases are decided under basic rules of evidence with which those who are not attorneys cannot be expected to be sufficiently familiar without some additional training. An examination to determine whether sufficient knowledge has been acquired is reasonable.

However, for cases involving \$5,000 or less, the whole point of section 7463 is to provide a less formal setting to insure a fair and rapid resolution. An individual representing a taxpayer in such cases does not need to know a great deal about the rules of evidence since they are not in effect.

Of course, it is important that those representing taxpayers before the Tax Court know tax law. However, there is at least as much reason to assume that an accountant or an individual enrolled to practice before the Internal Revenue Service knows tax law as there is to assume that an attorney who may or may not have kept up with or even have any experience in tax law.

Most taxpayers who obtain outside assistance in the preparation of their returns employ certified public accountants or enrolled agents authorized to practice before the IRS. But if they get involved in a dispute with the IRS, they must hire an attorney if they wish to take their case before the Tax Court or find one of the relatively few accountants or enrolled agents who have qualified to practice before the court. Otherwise, they must take the risk of representing themselves. In small cases it is very costly for the taxpayer to hire an attorney who is completely unfamiliar with the case. The taxpayer must pay for the time it takes the attorney to familiarize himself with the case as well as for the normal time it would take to prepare the case and argue it. He cannot make use of the certified public accountant or enrolled agent who knows how the return was prepared and has the knowledge of the tax rules required in the first place to do his job and to defend the return's preparation before the court.

Enabling the taxpayer to make use of the individual who helped prepare his return would greatly expedite many cases before the Tax Court, and the fact is that time is an increasing problem for the court. The 1981 annual report of the Commissioner of Internal Revenue and the Chief Counsel for the Internal Revenue Service indicates that the number of cases before the Tax Court has been increasing at an extremely rapid pace. Indeed, there was a 42.8-percent increase from 1980 to 1981 alone, as the number of cases shot from 20,660 to 29,512. At the end of fiscal year 1981, more than 46,000 cases were pending before the court, and the backup has since increased. As the Chief Counsel of the IRS states in that report, "we have to develop procedures for more efficient handling of cases.'

under section 7463 make up more than one-third of the Tax Court's caseload. Speeding these cases would help to bring about the increased efficiency and effectiveness of court procedures which the Chief Counsel states are seriously needed.

Mr. Speaker, I am introducing this legislation at a fairly late date for its consideration during the 97th Congress. However, I intend to reintroduce it early in the next Congress and hope to gain its rapid approval. This is a bill that would enhance the rights of taxpayers and improve the efficiency of our tax litigation procedures, and I hope it will have the support of my colleagues.

At this point in the RECORD, I would like to insert the text of the bill I am introducing today:

#### H.R. -

To amend the Internal Revenue Code of 1954 to provide that certified public accountants and enrolled agents may represent taxpayers in certain Tax Court cases involving \$5,000 or less

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7463 of the Internal Revenue Code of 1954 (relating to disputes involving \$5.000 or less) is amended by adding at the end thereof the following new subsection:

"(g) REPRESENTATION OF TAXPAYER.-In any case in which the proceedings are conducted under this section, any person who

"(1) a certified public accountant, or "(2) an enrolled agent authorized to practice before the Internal Revenue Service.

shall be allowed to represent the taxpayer.

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

#### CAPT. JOSEPH A. GILDEA, USN TO RETIRE AS SHIPYARD COM-MANDER

(Mr. ANDERSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON. Mr. Speaker, the end of this next month, January 1983, will see the retirement from active duty Capt. Joseph A. Gildea, USN. For the past 31/2 years, Captain Gildea has been the commander of the Long Beach Naval Shipyard on Terminal Island, in my congressional district. I therefore have had the opportunity to see Captain Gildea with some frequency, and to observe the numerous accomplishments of the Long Beach Naval Shipyard under his direction.

The Long Beach Naval Shipyard has successfully completed 17 scheduled ship overhauls, four postshakedown availabilities of newly built ships, and over 20 emergency availabilities on extremely short notice, for ships of the Pacific fleet for repair of damaged major equipment. But probably the

The fact is that cases adjudicated most significant achievement of the shipyard during Captain Gildea's tenure of command was the reactivation and modernization of the battleship New Jersey. In the relatively short time of only 19 months, the Long Beach Naval Shipyard completed planning for this complicated reactivation and modernization project, marshalled the supplies and the skills needed to conduct it, and completed the work 2 weeks ahead of schedule and within budget. She will be formally recommissioned on the 28th of this

> Captain Gildea attended Pennsylvania State College, and in 1949 was appointed to the U.S. Naval Academy. His first Navy duty was on board the U.S.S. Rush (DDR-714). In 1958 Joe Gildea graduated from the Massachusetts Institute of Technology with a degree of master of science in marine engineering, and the professional designation of naval engineer. With this additional training, he was designated as an engineering duty officer with assignments to the Pearl Harbor Naval Shipyard, the Portsmouth Naval Shipyard, the Puget Sound Naval Shipyard, and as supervisor of shipbuilding at Camden, N.J. But, all of Joe's assignments were not in the shipyard business. He served a tour of duty in the U.S.S. Hancock (CVA-19); as chief engineer in the U.S.S. John F. Kennedy (CVA-67); on the staff of the Commander Naval Air Force, U.S. Atlantic Fleet; and he served in Vietnam, where he had been in charge of helping the Vietnamese Naval Shipyard with the modernization of their facilities. He was one of the last contingent of Americans to be evacuated from South Vietnam by Marine Corps helicopters on April 29, 1975. After Viet-nam, he came to the Long Beach Naval Shipyard for the first time, where he served as planning officer until 1978 when he was assigned to the Naval Sea Systems Command.

> His dedication, efficiency, and en-thusiastic performance of duty has earned Captain Gildea two awards of the Naval Meritorious Service Medal; the Joint Service Commendation Medal; and two awards of the Navy Commendation Medal, along with numerous service medals. During his command of the Long Beach Naval Shipyard, his aggressive guidance and support of the continued need for maintaining and enhancing the industrial capacity of the shipyard will continue to be manifested in future years. as a result of his efforts to upgrade equipment, improve the quality of industrial worklife, and provide for replacement of aging facilities. He has played a key role in the future of the Long Beach Naval Shipyard, and has been continually involved with the surrounding communities to insure recognition of his shipyard and the

personnel who work there. His community involvement includes membership in the Rotary Club of Long Beach; board of trustees, St. Mary Medical Center; board of directors, Long Beach Area Chamber of Commerce; board of advisers to the School of Business, California State University at Long Beach; policy committee member for the Federal Executive Board for the Los Angeles area; and board of directors, Red Cross Long Beach Chapter. He is a past chairman of the Long Beach-Los Angeles Chapter of the American Society of Naval Engineers.

My wife Lee joins me in congratulating Capt. Joe Gildea in the completion of a most successful and rewarding career in the U.S. Navy. We wish him, his wife Sheila, their sons Andrew and Daniel, and their daughters Maureen and Deirdre all the best in the years that lie ahead for them. We are certain that he will continue to make highly beneficial contributions to both his country and his immediate commu-

nity.

#### "NEW THE BATTLESHIP JERSEY," PROOF THAT FEDER-AL WORKERS DO PRODUCE

(Mr. ANDERSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ANDERSON. Mr. Speaker, for the past several years, it has been popular among many to criticize Federal workers, claiming that they are lazy, inefficient and do not produce what they are paid to. I have always strongly opposed this viewpoint, and I would like to cite one case where we have solid proof that the Federal worker not only can produce, but is producing. I refer to the Long Beach Naval Shipyard, with some 7,000 Federal employees on its rolls. When the decision was made to reactivate and modernize four World War II battleships to enhance our Navy's warfighting capabilities, the first of these ships, the U.S.S. New Jersey, was sent to the Long Beach Naval Shipyard on Terminal Island. This shipyard is one of eight naval shipyards performing top quality ship overhaul, maintenance, repair and modernization for U.S. Navy ships.

The Long Beach Naval Shipyard did not receive the task of reactivation and modernization of the battleship New Jersey until June of 1981. The ship was towed to Long Beach from Bremerton, Wash., arriving there on August 6, 1981. Thus, there was little time available for the shipyard to complete the advance planning required to undertake a job of this magnitude. The actual reactivation work was started on the first of October. This project has now been completed, 2 weeks ahead of schedule and within budget, and the ship will be commissioned on December 28. Prior to that time, the performance of the New Jersey and the work done at the Long Beach Naval Shipyard has been thoroughly tested in a series of sea trials, including the firing of her 16-inch guns. And these sea trials have resulted in words of praise from those observing them and from the Navy's Board of Inspection and Survey.

Mr. Speaker, in these days in what seem to be habitual cost overruns and time slippages in most military procurement programs, I am indeed proud to cite the accomplishments of the Long Beach Naval Shipyard in the reactivation and modernization of the U.S.S. New Jersey. It is a tribute to the dedication, skill, and efficiency of the Federal work force at the Long Beach Naval Shipyard, and this performance indeed belies those who are continually critical of the Federal civil servant.

#### CONFERENCE REPORT ON H.R. 7356

Mr. YATES submitted the following conference report and statement on the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 97-978)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7356) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1983, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 14, 19, 22, 24, 29, 41, 44, 51, 52, 72, 73, 75, 77, 78, 83, 101, 103, 106, 108, 118, 127, 128, 129, and 139.

That the House recede from its disagree-

ment to the amendments of the Senate numbered 2, 4, 6, 13, 17, 27, 28, 31, 32, 33, 34, 35, 38, 39, 49, 50, 53, 54, 55, 56, 57, 66, 68, 71, 80, 81, 82, 86, 89, 99, 109, 117, 124, 132, 133, 134, 135, 140, 142, 144, 146, and 150, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$330,226,000; and the Senate agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$56,963,000; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$238,593,000; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$16,665,000; and the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$27,200,000; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$564,460,000; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$9,887,000; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$156,096,000; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$142,505,000; and the Senate agree to the same.

Amendment numbered 37:

That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$363,389,000; and the Senate agree to the same.

Amendment numbered 45:

That the House recede from its disagreement to the amendment of the Senate numbered 45, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$843,508,000; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$55,278,000; and the Senate agree to the same.

Amendment numbered 59:

That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$73,892,000; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate num-

bered 60, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$72,011,000; and the Senate agree to the same.

Amendment numbered 61:

That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$8,028,000; and the Senate agree to the same.

Amendment numbered 63:

That the House recede from its disagreement to the amendment of the Senate numbered 63, and agree to the same with an

amendment, as follows: In lieu of the sum proposed by said amendment insert \$95,810,000; and the Senate agree to the same.

Amendment numbered 64:

That the House recede from its disagreement to the amendment of the Senate numbered 64, and agree to the same with an amendment, as follows:

lieu of the sum proposed by said amendment insert \$77,410,000; and the Senate agree to the same.

Amendment numbered 65:

That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$18,400,000; and the Senate agree to the same.

Amendment numbered 67:

That the House recede from its disagreement to the amendment of the Senate numbered 67, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$41,589,000; and the

Senate agree to the same. Amendment numbered 69:

That the House recede from its disagreement to the amendment of the Senate numbered 69, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

# CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, \$896,000; and the Senate agree to the same.

Amendment numbered 70:

That the House recede from its disagreement to the amendment of the Senate numbered 70, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$18,404,000; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$105,021,000; and the Senate agree to the same.

Amendment numbered 91:

That the House recede from its disagreement to the amendment of the Senate numbered 91, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$182,500,000; and the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$281,431,000; and the Senate agree to the same.

Amendment numbered 93:

That the House recede from its disagreement to the amendment of the Senate numbered 93, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$26,316,000; and the Senate agree to the same.

Amendment numbered 94:

That the House recede from its disagreement to the amendment of the Senate numbered 94, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$246,115,000; and the Senate agree to the same.

Amendment numbered 107:

That the House recede from its disagreement to the amendment of the Senate numbered 107, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$279,290,000; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$56,400,000; and the Senate agree to the same.

Amendment numbered 119:

That the House recede from its disagreement to the amendment of the Senate numbered 119, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$34,700,000; and the Senate agree to the same.

Amendment numbered 121:

That the House recede from its disagreement to the amendment of the Senate numbered 121, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$48,465,000; and the Senate agree to the same.

Amendment numbered 126:

That the House recede from its disagreement to the amendment of the Senate numbered 126, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$144,366,000; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$32,878,000; and the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$4,900,000; and the Senate agree to the same.

Amendment numbered 138:

That the House recede from its disagreement to the amendment of the Senate numbered 138, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$1,500,000; and the Senate agree to the same.

Amendment numbered 145:

That the House recede from its disagreement to the amendment of the Senate numbered 145, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change section from "311" to "309"; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert "310"; and the Senate agree to the same.

Amendment numbered 148:

That the House recede from its disagreement to the amendment of the Senate numbered 148, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert "311"; and the Senate agree to the same.

Amendment numbered 149:

That the House recede from its disagreement to the amendment of the Senate numbered 149, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to change section from "315" to "312"; and the Senate agree to the same.

Amendment numbered 151:

That the House recede from its disagreement to the amendment of the Senate numbered 151, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert "313", and the Senate agree to the same.

Amendment numbered 152:

That the House recede from its disagreement to the amendment of the Senate numbered 152, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert "314", and the

Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 7, 9, 10, 15, 18, 20, 25, 30, 36, 40, 42, 43, 46, 48, 58, 62, 74, 76, 84, 87, 88, 90, 95, 96, 97, 98, 100, 102, 104, 105, 110, 111, 112, 114, 115, 116, 120, 122, 123, 125, 136, 137, 141, 143, 153, 154, 155, and 156.

> SIDNEY R. YATES, JOHN P. MURTHA, NORMAN D. DICKS, LES AUCOIN, JAMIE L. WHITTEN, JOSEPH M. McDADE, RALPH REGULA. TOM LOEFFLER. SILVIO O. CONTE, WILLIAM R. RATCHFORD, Managers on the Part of the House.

JAMES A. MCCLURE, TED STEVENS. PAUL LAXALT. JAKE GARN, HARRISON SCHMITT, THAD COCHRAN. MARK ANDREWS, WARREN RUDMAN, ROBERT C. BYRD, J. BENNETT JOHNSTON, WALTER D. HUDDLESTON, PATRICK J. LEAHY, DENNIS DECONCINI. QUENTIN N. BURDICK, DALE BUMPERS,

Managers on the Part of the Senate.

#### JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7356), making appropriations for the Department of the Interior and Related Agencies for the fiscal year ending September 30, 1983, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

#### TITLE I-DEPARTMENT OF THE INTERIOR

# BUREAU OF LAND MANAGEMENT

No. Amendment 1: Appropriates \$330,226,000 for management of lands and resources instead of \$322,963,000 as proposed by the House and \$331,716,000 as proposed by the Senate. The net increase over the amount proposed by the House is \$2,130,000 for coal leasing, \$1,875,000 for oil and gas leasing, \$500,000 for forest management (public domain), \$1,900,000 for grazing, \$1,300,000 for wildlife habitat management, and \$240,000 for maintenance and engineering services; and decreases of \$500,000 for wild horses and burros, \$63,000 for multiple use planning, and \$119,000 for data

management.

The managers agree that the coal leasing sale scheduled for the third quarter of fiscal year 1983 (Fort Union) shall be slipped to the fourth quarter, and the coal leasing sale scheduled for the fourth quarter of fiscal year 1983 (San Juan River) shall be slipped to the first quarter of fiscal year 1984. The managers further agree that adoption fees for wild horses and burros shall not be decreased to pre-January, 1982 levels. The managers also agree that the Bureau of Land Management shall reduce grazing AUM's if additional deterioration to the public rangelands occurs under its grazing program, but such reductions shall be made in proportion to the deterioration which occurs. The managers agree that within available wildlife habitat management funds, \$1,625,000 shall be provided for threatened and endangered species.

Amendment No. 2. Appropriates \$96,320,000 for payments in lieu of taxes as proposed by the Senate instead \$95,520,000 as proposed by the House.

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the payment in lieu of taxes appropriation may be used to correct underpayments in the previous fiscal year.

Amendment No. 4: Appropriates \$311,000 for land acquisition as proposed by the Senate instead of \$468,000 as proposed by the House.

Amendment No. 5: Appropriates \$56,963,000 for Oregon and California grant lands instead of \$46,883,000 as proposed by the House and \$61,533,000 as proposed by the Senate. The increase over the amount provided by the House is \$10,080,000 for renewable resource management.

The managers agree that all funds for management of the Oregon and California grant lands, including those under the jurisdiction of the Forest Service, shall be provided from this account, and shall be distributed as follows: \$47,579,000 for the Bureau of Land Management and \$9,384,000 for the Forest Service. The distribution is consistent with the division of responsibility between the Bureau and the Forest Service, and the managers understand that this will allow adequate management of all Oregon and California grant lands. The managers expect the fiscal year 1984 justification for this activity to fully discuss the allocation of funding and responsibilities between the agencies.

Amendment No. 6: Deletes language proposed by the House which would have prohibited the expenditure of funds to permit establishment of any possessory interest in Federal water rights by any permittee of the Bureau of Land Management.

Amendment No. 7: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides for the development of criteria related to phased livestock reductions on Bureau of Land Management rangelands.

Amendment No. 8: Appropriates \$238,593,000 for resource management instead of \$242,778,000 as proposed by the House and \$227,279,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following decreases of \$250,000 to expand assessment of agricultural chemicals used in forest, range, and crop management; \$250,000 to place additional staff with experience with contaminants at field stations; \$857,000 for permit and license processing in land and water resource development planning; \$250,000 for the Federal coal program; \$2,379,000 for refuge maintenance; \$134,000 in refuge research; \$250,000 to begin a nongame management program; \$2,000,000 in endangered species grants to states; and \$100,000 in the California Condor recovery program; and increases of \$885,000 in fish operations; \$1,200,000 for the Lower Snake River Compensation Plan; and \$200,000 for facility maintenance at wildlife research facilities. The amount recommended includes \$250,000 to acquire improvements on Kofa, NWR, Arizona and \$150,000 additional for Bogue Chitto NWR equipment and personnel. The managers expect the Department to maintain existing employment levels in the Animal Damage Control program. Funds are included to continue operation of the ADC research facility at Hilo, Hawaii only through fiscal year 1983 with the expectation that no funds will be provided in subsequent fiscal years. The allowance includes termination costs to permit closure of the following fish hatcher-

Williams Creek, Ariz. Mescalaro, N. Mex. Corning, Ark. Cohutta, Ga. Cedar Bluffs, Kans. New London, Minn. Ennis, Mont. Miles City, Mont. Berlin, N.H.

Hebron, Ohio Spearfish, S. Dak. McNenny, S. Dak. Jones Hole, Utah Paint Bank, Va. Wytheville, Va. Lake Mills Wis

The managers agree that no funds will be provided to operate the following hatcheries after fiscal year 1983:

Pisgah, N.C. Senacaville, Ohio Cheraw, S.C.

Neosho, Mo. Crawford, Nebr.

The managers urge the Department to work with other governmental entities to assume operation of hatcheries closed now and proposed for closure in subsequent years.

No additional funds are made available to the Office of Legislation.

Amendment No. 9: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate which provides that the only critical habitat that may be designated for the Northern Rocky Mountain Wolf in Idaho shall be coterminous with the boundaries of the Central Idaho Wilderness areas established by Public Law 96-312.

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said

amendment insert the following:

: Provided further, That notwithstanding any other provision of this paragraph, \$2,000,000 is available to carry out the purposes of 16 U.S.C. 1535, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. This provides \$2,000,000 for Section 6 endangered species grants.

Appropriates Amendment No. \$16,665,000 for construction and anadromous fish instead of \$23,149,000 as proposed by the House and \$11,126,000 as proposed by the Senate. The net decrease under the amount proposed by the House includes an increase of \$216,000 for the Genoa NFH, Wisc. and decreases of \$2,700,000 for the Madison Wildlife disease laboratory and \$4,000,000 for the Gainesville National Fish Research Laboratory.

No. Amendment 12: Appropriates \$27,200,000 for land acquisition instead of \$33,647,000 as proposed by the House and \$19,048,000 as proposed by the Senate. The following table shows the allocation agreed to by the managers:

Acquisition management		
American Crocodile, Fla		
Kirtland's Warbler, Mich		
Tensas NWR, La		
Lower Rio Grande NWR,		
Texas		
Lower Suwannee NWR,		
Fla		
Plymouth red-bellied		
turtle, Mass		
West Indian manatee, Fla		
Bogue Chitto NWR, La		
Bon Secour NWR, Ala		
Bear Valley NWR, Ore		
Bandon Marsh NWR, Ore.		
Wertheim NWR, N.Y		
Protection Island NWR.		
Wash		
Alaska Maritime NWR,		
Alaska		

27,200,000 Total..... The managers urge the Department to

work with private organizations to ensure protection of the 355 acre tract at Mason Neck NWR, Va.

Amendment No. 13: Deletes House language which prohibited use of funds to plan for hunting on the Bosque del Apache NWR while Whooping Cranes are on the refuge. The managers urge the Service and the State of New Mexico to continue working together to ensure the maximum protection for the Whooping Crane. The managers understand that there is less danger to the cranes during the refuge hunt when there is no hunting on the lands around the refuge and ask that this possibility be reviewed.

Amendment No. 14: Restores House language stricken by the Senate which provides that the national fish hatchery at Tupelo, Mississippi shall hereafter be named the "Private John Allen" National Fish Hatchery.

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which renames the administrative/visitor facility at Merritt Island NWR for both the Service employees who died in the June 1981 wildfire. The language also provides that the maintenance center at that refuge not be named as provided in Public Law 97-257

#### NATIONAL PARK SERVICE

Amendment No. 16: Appropriates \$564,460,000 for operation of the National Park System instead of \$567,730,000 as proposed by the House and \$537,170,000 as proposed by the Senate. The net reduction below the amount proposed by the House consists of decreases of \$440,000 for operation of the Martin Luther King, Jr., NHS; \$400,000 in Park Police funds; \$3,000 for awards to the Park Police helicopter pilot and paramedic involved in the Air Florida rescue; \$3,500,000 in maintenance; \$432,000 for a nonmaintenance program of smallscale pollution abatement; \$500,000 for rehabilitation of the Garfield memorial; and an increase of \$2,005,000 to continue direct Service funding for maintenance of the White House grounds and the White House warehouse

The \$200,000 above the budget for operating the Martin Luther King, Jr., NHS provides for opening Dr. King's Birth Home and the Ebenezer Baptist Church six days a week, to operate an information facility and provide area tours, and to enter into cooperative agreements with private owners of historic structures to renovate their property. Within available funds, \$160,000 is provided for protection of the Harry S. Truman home at Independence, Mo.; a total of \$450,000 for operation of the New River Gorge NR; \$150,000 additional for exhibits and interpretative material at Harpers Ferry NHP along with a film on the life of John Brown; \$50,000 for the National Council for the Traditional Arts; \$85,000 for continued law enforcement assistance to the Town of Harpers Ferry, W. Va.; \$40,000 for hazardous tree removal at Delaware Water Gap NRA; \$2,500,000 for an assessment of the Kantishna Hills/Dunkle Mine study area; \$200,000 for the Chaco Culture computer center; and \$250,000 for the sedimentation problem at Cuyahoga Valley NRA.

The small-scale pollution abatement projects should be done in the maintenance program if of sufficient priority. The Service is urged to use available funds to begin repair of damages at Buffalo NR which occurred in the recent floods.

The managers expect the Service to request a supplemental to restore any emergency funds used for this purpose.

The managers agree that any proposals to reduce the visitor transport program shall be accompanied by an analysis which addresses at a minimum what parks would be affected, how they would be affected, and how the needs of the visitor would be met. The managers also direct that the Secretary not enter into any easement agreement regarding the Canal Road vehicle demonstration project until the D.C. Department of Transportation, the Park Service, and other parties complete their public review processes.

Amendment No. 17: Deletes language proposed by the House which would have pro-

vided \$3,000 for awards for valor to two employees of the National Park Service.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides \$85,000 to the Town of Harpers Ferry, West Virginia, for police force use.

Amendment No. 19: Deletes Senate language that provided for a matching grant to the Washington Opera

the Washington Opera.

Amendment No. 20: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides \$160,000 for operation, including maintenance and protection, of the former home of President Truman at 219 North Delaware Street, Independence, Missouri when jurisdiction of the Park Service is established pursuant to law.

Amendment No. 21: Appropriates \$9,887,000 for national recreation and preservation instead of \$10,087,000 as proposed by the House and \$9,487,000 as proposed by the Senate. The amount included over that recommended by the Senate is to be used for planning and Federal Real Property Management. The \$500,000 increase over the budget included by both the House and the Senate for rivers and trails may be used to continue to provide assistance to the states.

Amendment No. 22: Deletes language added by the Senate to earmark \$150,000 for a river corridor study in Minnesota.

#### URBAN PARKS

The managers agree that any closeout costs associated with the Urban Parks program are to be paid from the grant administration activity in the national recreation and preservation appropriation. Use of the unobligated balances should be restricted to those urban areas with existing grants.

Amendment No. 23: Appropriates \$156,096,000 for construction instead of \$161,846,000 as proposed by the House and \$147,017,000 as proposed by the Senate. The net reduction below the House proposal consists of the following increases and decreases:

	Canyon	NRA	
(Mar	ine)	-\$3,883,	000
(Roa	Culture d)	-2,751,0	000
parki	ay NRA (roa	1,265,0	000
	lupe Mounta		000
Voyage	urs NP (visi	1,664,0	000
cilitie	van Burer	2,690,	000
(reha	bilitation)	878,	000
	Ridge Pages)		000
Cuyah	oga Valley NI	RA250,	
	Smoky Mou		000
Martin	Luther King	, Jr90,	
Cent	gency er, Alaska	+1,400,0	000
ties).	afitte NHP	+2,171,	000
	Fjords NP		000
To	tal	-5,750,	000

The managers agree that up to \$90,000 for planning authorized by Public Law 96-428 for Martin Luther King, Jr. NHS can be supported from the \$640,000 made available in this account and that the funds for

Lowell NHP are available for priority Boott Mill facilities, the Historic Trolley, and the Early Residence. The managers also agree that the \$9,000,000 provided for the Natchez Trace may be used to begin construction of section 3 V rather than being applied as reflected in the House Report. Favorable bids have permitted work to proceed on those projects within savings. The managers recognize the importance of continuing construction of the last section of the Blue Ridge Parkway. Careful consideration will be given to additional funding at the most appropriate opportunity.

appropriate opportunity.

Amendment No. 24: Earmarks not less than \$2,444,000 for Perry's Victory and International Peace Memorial as proposed by the House.

Amendment No. 25: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which earmarks \$1,400,000 for the Federal share of the construction and development costs for Alaska interagency visitor centers.

Amendment No. 26: Appropriates \$142,505,000 instead of \$172,643,000 as proposed by the House and \$129,400,000 as proposed by the Senate.

The allowance provides funding for the following projects:

Tollowing projects.	
Assistance to States:	
Matching grants	\$70,619,000
Administrative expenses.	4,381,000
Administrative expenses.	4,301,000
Total, Assistance to	
States	75,000,000
Pinelands National Re-	
serve	5,000,000
-	
National Park Service:	
Acquisition manage- ment	# F00 000
ment	7,500,000
Inholdings (emergencies	0.000.000
and hardships)	3,000,000
Deficiencies and reloca-	THE PERSON
tions	1,000,000
Appalachian Trail	10,000,000
Big Cypress NP	500,000
Biscayne NP	4,000,000
Buffalo NR	2,000,000
Cape Lookout NS	2,000,000
Cuyahoga River NRA	6,000,000
Delaware Water Gap	
NRA	1,000,000
Garfield NHS	205,000
Golden Gate	2,200,000
Great Smoky Moun-	
tains	1,500,000
Gulf Island NS	3,700,000
Indiana Dunes	1,400,000
Jean LaFitte NHP	2,500,000
Martin Luther King, Jr.	
NHS	500,000
Olympic NP	9,700,000
Voyageurs NP	3,800,000
Total, National Park	30
Service	62,505,000
Dei vice	02,000,000
Total, Land Acquisi-	
tion and State Assist-	
ance	142,505,000

The managers recognize the potential value of the land protection plans being developed and encourage the Secretary to pursue every reasonable opportunity to accelerate their development. The managers regret that the lack of land protection plans, coupled with a realignment of approval authority, has impeded the expenditure of funds appropriated by the Congress

for land acquisition project, thereby deflecting congressional intent that acquisitions proceed in a timely fashion.

The managers direct that the appraisal on the McIsaac Ranch property in Golden Gate NRA, California, that has been submitted to the Park Service be reviewed by the Service within 60 days of the date of enactment of this Act and, if approved, the service should proceed with acquisition.

The managers recognize the potential value of adding the McGregor Ranch to the Rocky Mountain NP and will give serious attention to providing funding at the earliest opportunity. In the interim, the managers encourage the Service to consult and cooperate with other entities in seeking creative forms of acquisition on favorable terms.

The managers also recognize the value of adding the Wintergreen property, in Nelson County, Virginia, to the Appalachian Trail system and encourage the Department to make every effort to acquire it before the option expires in March 1983. This is another case where the lack of a land protection plan imperils acquisition of the proper-

The managers have not provided acquisition funds for Santa Monica Mountains NRA, California. They have agreed to consider funding again at the next available opportunity.

Amendment No. 27: Earmarks \$5,000,000 for Pinelands National Preserve as proposed by the Senate instead of \$8,995,000 as pro-

posed by the House.

Amendment No. 28: Deletes House language which earmarked \$15,000,000 for the Santa Monica Mountains National Recreation Area.

Amendment No. 29: Authorizes acquisition of a helicopter for replacement only as proposed by the House.

Amendment No. 30: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which authorizes funds to be used to conduct emergency search and rescue operations in the National Park System.

Amendment No. 31: Deletes House lan-guage which prohibited use of National Park Service facilities for political or social events that would require closure of the facility to the public.

Amendment No. 32: Deletes language proposed by the House regarding the White House grounds.

Amendment No. 33: Deletes language proposed by the House regarding hunting and trapping in units of the National Park System.

Amendment No. 34: Deletes House language which restricts use of the Director's discretionary fund to those Park Service functions which are in accordance with procedures approved by the General Accounting Office.

Amendment No. 35: Deletes House proposed language which would have prohibited anyone owing money to the United States Government for work performed by the National Park Service from serving on any Park Service advisory board or commission.

Amendment No. 36: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided further, That notwithstanding any other provision of law, the Secretary of

the Interior is authorized to enter into a cooperative agreement with the Smith River Fire Protection District, California, for a special use permit on lands within the boundary of Redwood National Park to permit construction of a fire station

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree to authorize the Secretary to enter into an agreement for construction of a fire station on a less than onehalf acre tract adjacent to highway U.S. 199 in the northern part of Redwood National Park. The managers should be assured by the Secretary before the agreement is consummated that there will be no impact on park values.

#### GEOLOGICAL SURVEY

No. 37: Amendment Appropriates \$363,389,000 for surveys, investigation and research of the U.S. Geological Survey instead of \$365,525,000 as proposed by the House and \$352,365,000 as proposed by the

The increase over the amount approved by the Senate includes \$3,000,000 for Side Looking Airborne Radar (SLAR); \$4,000,000 for earthquake hazards reduction research, including additional monitoring activities in California and Alaska; \$1,400,000 for the volcano hazards program, including expanded monitoring in California and Hawaii; \$1,000,000 for geothermal energy geologic surveys; \$1,000,000 for the world energy resource assessment program; \$1,000,000 for expanded offshore geologic surveys; \$600,000 for the Water Research Scientific Information Center; and \$300,000 to restore eight FTE's in the nuclear energy hydrology program. The managers have also applied a standard level user charge reduction of \$7,915,000.

For Side Looking Airborne Radar, the managers expect the Department to continue the acquisition and processing of SLAR data in the Appalachian region throughout fiscal year 1983. In this regard, the managers expect the Department to establish a reasonable fee for all available SLAR data so as to permit recovery of reasonable acquisition and processing costs.

For offshore geologic surveys. \$1,000,000 is to expand the marine geology investigation program, principally for undersea exploration and assessment work within the U.S. territorial limits.

# MINERALS MANAGEMENT SERVICE

Amendment No. 38: Appropriates \$196,506,000 for leasing and royalty management as proposed by the Senate instead of \$192,568,000 as proposed by the House. The managers agree that the reports requested by each Committee be provided to both Committees and that up to \$2,000,000 should be used to contract with the Geological Survey for OCS research related programs.

Amendment No. 39: Deletes House language relating to transfer of receipts.

# BUREAU OF MINES

Amendment No. 40: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$143,158,000 for mines and minerals instead of \$128,629,000 as proposed by the House and \$142,162,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net increase over the amount provided by the House consists of the following: increases of \$3,000,000 to establish a multiyear research program on strategic and critical materials to be conducted at the Idaho National Engineering Laboratory as proposed by the Senate, \$4,929,000 for review of wilderness areas and RARE II lands including \$350,000 to be used to accelerate the automation of mineral survey data and information and \$9,600,000 for mineral institutes; decreases of \$2,000,000 for minerals health and safety technology and \$1,000,000 for mining research and development. Within the amount provided for mineral institutes, a fifth generic mineral technology center is to be created to work on health and safety problems, specifically matters related to respirable dust. The managers concur that the existing facilities at Penn State and West Virginia Universities are particularly suited for research on control of dust particle generation; dilution, dispersion and collection in mine airways; characterization of dust particles and the interaction of dust and lungs within the context of the new generic mineral technology center.

The \$3,000,000 increase over the budget for a multi-year research program on strategic and critical materials is to be added to the minerals resources technology activity instead of mining research and development

as proposed by the Senate.

Amendment No. 41: Provides that \$88,346,000 remain available until expended proposed by the House instead of \$83,946,000 as proposed by the Senate. The amount to remain available includes funds for mineral health and safety technology. minerals environmental technology, minerals resources technology and mining research and development.

#### OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$60,356,000 for regulation and technology instead of \$61,313,000 as proposed by the House and \$63,819,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The change from the amount proposed by the House is as follows: reductions of \$500,000 for Federal inspection and enforcement and \$457,000 for technical support. The technical support reduction to the House level conforms to the increase provided by the Senate. The net increase of \$1,000,000 over the budget request for inspection and enforcement includes \$500,000 for enforcement problems in Virginia and \$400,000 for problems outside of Virginia. As problems in Virginia are resolved, the additional inspectors provided for Virginia are to be used elsewhere as needed.

The managers agree with the distribution of funds between state regulatory grants and general administration as proposed by the Senate. The managers agree that the reduction in state regulatory grants is not to come from the amount budgeted for cooperative agreements.

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$161,209,000 for the Abandoned Mine Reclamation Fund instead of \$126,609,000 as proposed by the House and \$152,649,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The change from the level of the House includes an increase of \$39,000,000 for state reclamation grants and a decrease of \$4,400,000 for Interior reclamation projects.

The amount over the budget request for Interior reclamation projects include \$1,700,000 for the Olyphant subsidence project; \$500,000 for the investigation and design for the Bellevue section of Scranton; \$1,300,000 for the Hyde Park backfilling project; \$300,000 for Keystone Industrial Park investigation and design; \$400,000 for Hampton-Stouffer investigation and design; and \$400,000 for the Mayfield bank fire investigation and design.

The managers have also included an additional \$1,000,000 which the Department is expected to use to accomplish eligible high priority coal and noncoal projects in those States that do not have approved abandoned mine reclamation programs.

Amendment No. 44: Deletes Senate language and restores House language stricken by the Senate which authorizes the Department of the Interior to use up to 20 percent from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts.

#### BUREAU OF INDIAN AFFAIRS

Amendment No. 45: Appropriates \$843,508,000 for operation of Indian programs instead of \$850,477,000 as proposed by the House and \$839,339,000 as proposed by the Senate.

The net increase above the amount proposed by the Senate consists of the following: increases of \$400,000 for school board training, \$126,000 for student transporta-tion, \$500,000 for interim formula implementation, \$200,000 for special higher education, \$3,000,000 for general assistance payments, \$2,000,000 for the Indian Child Welfare Act, \$2,500,000 for self-determination grants, \$1,000,000 for contract support, \$1,061,000 for road maintenance, \$500,000 for water resources, \$250,000 for minerals and mining, \$732,000 for irrigation and power, \$500,000 for statute of limitations, \$250,000 for attorney fees, \$300,000 for execdirection and equal opportunity, \$1,000,000 for facilities management, and \$2,000,000 for general overhead reduction; and decreases of \$200,000 for support of the institutionalized handicapped, \$1,200,000 for higher education grants, \$200,000 for tribally controlled community colleges, \$9,365,000 for upgrading Alaska day schools, \$500,000 for all other social services, \$100,000 for law enforcement, and \$335,000 for automatic data processing.

The managers agree that excess capacity exists in the Bureau's school system, but have not concurred in all of the proposed closures. In planning for closures, the Bureau should contact state education officials to determine the states' interest in assuming operation of Concho, Wahpeton, Intermountain and any other boarding schools recommended for closure. The Bureau should work closely with parents of students and the school boards to minimize the impact of closures and to ensure appropriate education and social placement of the students.

With respect to Intermountain boarding school, the managers agree that freshmen should be admitted for the 1983-84 academic year and that any closure plan should in-

clude a proposal to continue the special social programs within the school system.

The managers agree that final decisions on closures will be made when sufficient information, such as requested in the House report, has been received.

The managers agree that no funds in excess of the \$800,000 provided shall be used for any aspect of school board training.

While the funds have been restored for prekindergarten programs, the managers agree that this activity should either be terminated after fiscal year 1983 or funded through social services.

The managers agree that Alaskan public schools are eligible for Johnson-O'Malley funds on the same basis as any other school.

The \$800,000 increase above the House allowance for higher education shall be used solely for the support of graduate students.

The managers agree that the American Indian Scholarship and American Indian Law Program should continue to be operated as in the past.

The managers agree that a decision on the future operation of the Southwestern Indian Polytechnic Institute will be made after receipt of the task force report.

The full-time equivalent student payment to tribally controlled community colleges shall be maintained at \$2,812. If insufficient funds have been provided, education administrative money shall be reprogrammed to cover the deficit.

The managers direct the Bureau to move expeditiously to implement changes in the general assistance program to bring payments into conformance with state payments in those states where the standard of need exceeds actual payments. The regulations shall provide flexibility for the Bureau to adjust payments as such payments may be adjusted by the states.

The \$2,000,000 above the estimate provided for Indian Child Welfare grants shall be used to support programs of high priority in either urban or reservation locations.

The managers agree that general assistance payments to the State of Maine shall be continued.

Within the amount provided for contract support, \$550,000 shall be used to support tribal education contracts. Beginning with the fiscal year 1985 budget submission, contract support funds shall be allocated to program accounts with only funds required for new contracts included in the contract support line item.

The managers direct that within the funds available the United Tribes Educational Technical Center and the Iron Workers' Training program shall be continued at the fiscal year 1982 level.

The managers have no objection to funding of the Mescalero, New Mexico fish hatchery within available funds.

The managers request that the Bureau respond to the concerns expressed by the House with respect to the automatic data processing system.

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment earmarking \$9,350,000 for Alaskan day schools instead of \$18,715,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that these funds shall be made available to the State of Alaska in increments associated with the estimated costs of upgrading day schools as those schools are transferred to State operation.

Amendment No. 47: Provides \$55,278,000 for higher education scholarships and assistance to public schools instead of \$54,203,000 as proposed by the House and \$56,278,000 as proposed by the Senate.

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating \$67,250,000 for construction instead of \$73,890,000 as proposed by the House and \$69,500,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net decrease below the amount proposed by the Senate consists of an increase of \$200,000 for advance planning and design and decreases of \$300,000 for staff quarters, \$750,000 for facility improvement and repair, and \$1,400,000 for the Navajo irrigation project.

The managers agree that the funds available for the Laguna School construction project are reprogrammed to the San Simon School (\$4,985,000) and advance planning and design (\$215,000).

The managers understand that there is a possibility that the Indian Island School construction may be funded by the Department of Education. The Bureau should request construction funds in the fiscal year 1984 budget if Department of Education funds are unavailable.

Amendment No. 49: Deletes earmarking of funds for the AK Chin irrigation project as proposed by the Senate.

Amendment No. 50: Appropriates \$43,585,000 as proposed by the Senate instead of \$43,705,000 as proposed by the

Amendment No. 51: Strikes language added by the Senate concerning use of maintenance funds at boarding schools.

The managers direct the Bureau to dispose of the remaining boarding schools which have been closed as soon as possible.

Amendment No. 52: Deletes language added by the Senate that would have closed Concho boarding school.

Amendment No. 53: Deletes language proposed by the House that would have closed Alaskan day schools.

Amendment No. 54: Deletes language proposed by the House concerning operation of the Southwestern Indian Polytechnic Institute.

Amendment No. 55: Deletes language proposed by the House requiring approval of the transfer of the Albuquerque Indian School and the Santa Fe Indian School.

Amendment No. 56: Deletes language proposed by the House concerning defacement of art work at the Santa Fe Indian School.

The managers are agreed that the Bureau should take every reasonable precaution to safeguard the art work, murals and paintings at the facility.

Amendment No. 57: Deletes language proposed by the House setting forth requirements for school closures.

The managers agree that the Bureau should provide sufficient notice of proposed closures to allow for orderly placement of students, personnel and programs.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

Provided further, That notwithstanding any other provision of law: The following may be cited as the "Indian Claims Limitation Act of 1982."

SEC. 2. (a) Subsection (a) of section 2415 of title 28, United States Code, is amended by striking "after December 31, 1982" in the third proviso and inserting in lieu the fol-lowing: "sixty days after the date of publication of the list required by section 4(c) of the Indian Claims Act of 1982: Provided, That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interior has published in the Federal Register a notice rejecting such claim or (2) three years after the date the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim"

(b) Subsection (b) of section 2415 of title 28, United States Code, is amended by striking "December 31, 1982" in the proviso and inserting in lieu the following: "sixty days after the date of the publication of the list required by section 4(c) of the Indian Claims Act of 1982: Provided, That, for those claims that are on either of the two lists published pursuant to the Indian Claims Act of 1982, any right of action shall be barred unless the complaint is filed within (1) one year after the Secretary of the Interi-or has published in the Federal Register a notice rejecting such claim or (2) three years after the Secretary of the Interior has submitted legislation or legislative report to Congress to resolve such claim".

SEC. 3. (a) Within ninety days after the enactment of this Act, the Secretary of the In-terior (hereinafter referred to as the "Secretary") shall publish in the Federal Register a list of all claims accruing to any tribe, band or group of Indians or individual Indian on or before July 18, 1966, which have at any time been identified by or submitted to the Secretary under the "Statute of Limitation undertaken by the Department of the Interior and which, but for the provisions of this Act, would be barred by the provisions of section 2415 of title 28, United States Code: Provided, That the Secretary shall have the discretion to exclude from such list any matter which was erroneously identified as a claim and which has no legal merit whatsoever.

(b) Such list shall group the claims on a reservation-by-reservation, tribe-by-tribe, or State-by-State basis, as appropriate, and shall state the nature and geographic location of each claim and only such other additional information as may be needed to identify specifically such claims.

(c) Within thirty days after the publica-tion of this list, the Secretary shall provide a copy of the Indian Claims Limitation Act of 1982 and a copy of the Federal Register containing this list, or such parts as may be pertinent, to each Indian tribe, band or group whose rights or the rights of whose members could be affected by the provisions of section 2415 of title 28, United States Code.

Sec. 4. (a) Any tribe, band or group of Indians or any individual Indian shall have one hundred and eighty days after the date of the publication in the Federal Register of the list provided for in section 3 of this Act to submit to the Secretary any additional specific claim or claims which such tribe, band or group of Indians or individual Indian believes may be affected by section

2415 of title 28. United States Code, and desires to have considered for litigation or legislation by the United States.

(b) Any such claim submitted to the Secretary shall be accompanied by a statement identifying the nature of the claim, the date when the right of action allegedly accrued. the names of the potential plaintiffs and defendants, if known, and such other information needed to identify and evaluate such

(c) Not more than thirty days after the expiration of the one hundred and eighty day period provided for in subsection (a) of this section, the Secretary shall publish in the Federal Register a list containing the additional claims submitted during such period: Provided, That the Secretary shall have the discretion to exclude from such list any matter which has not been sufficiently identified as a claim.

SEC. 5. (a) Any right of action shall be barred sixty days after the date of the publication of the list required by section 4(c) of this Act for those pre-1966 claims which, but for the provisions of this Act, would have been barred by section 2415 of title 28, United States Code, unless such claims are included on either of the lists required by section 3 or 4(c) of this Act. (b) If the Secretary decides to reject for

litigation any of the claims or groups or categories of claims contained on either of the lists required by section 3 or 4(c) of this Act, the shall send a report to the appropriate tribe, band, or group of Indians, whose rights or the rights of whose members could be affected by such rejection, advising them of his decision. The report shall identify the nature and geographic location of each re jected claim and the name of the potential plantiffs and defendants if they are known or can be reasonably ascertained and shall, briefly, state the reasons why such claim or claims were rejected for litigation. Where the Secretary knows or can reasonably ascertain the identity of any of the potential individual Indian plaintiffs and present addresses, he shall provide them with written notice of such rejection. Upon the request of any Indian claimant, the Secretary shall, without undue delay, provide to such claimant any nonprivileged research materials or evidence gathered by the United States in the documentation of such

(c) The Secretary, as soon as possible after providing the report required by subsection (b) of this section, shall publish a notice in the Federal Register identifying the claims covered in such report. With respect to any claim covered by such report, any right of action shall be barred unless the complaint is filed within one year after the date of pub-

lication in the Federal Register.

SEC. 6. (a) If the Secretary determines that any claim or claims contained in either of the lists as provided in sections 3 or 4(c) of this Act is not appropriate for litigation, but determines that such claims may be appropriately resolved by legislation, he shall submit to the Congress legislation to resolve such claims or shall submit to Congress a report setting out options for legislative resolution of such claims.

(b) Any right of right on claims covered by such legislation or report shall be barred unless the complaint is filed within 3 years after the date of submission of such legislation or legislative report to Congress.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have provided for a limited extension of the Statute of Limitations as

thousands of documented claims will not be filed prior to the December 31, 1982 deadline. The provision allows for claim settlements through either legislation or litiga-

#### TERRITORIAL AND INTERNATIONAL AFFAIRS

59: Appropriates Amendment No. \$73,892,000 for administration of territories instead of \$70,743,000 as proposed by the House and \$77,342,000 as proposed by the Senate. The decrease from the amount proposed by the Senate consists of decreases of \$500,000 for the Guam economic development fund; \$2,000,000 for Guam hospital renovation and upgrade; \$750,000 for the Northern Marianas airport water catchment system; and \$200,000 for economic studies.

The managers agree that \$150,000 shall be provided within the increase in technical assistance funds for the Eastern Caribbean Center, Virgin Islands. The managers agree that the Northern Marianas shall use covenant construction funds provided in this appropriation Act to provide the balance of \$750,000 needed to complete the airport water catchment system in fiscal year 1983. Although \$1,000,000 is being provided for planning of water and power facilities in the Virgin Islands, the managers agree there is no commitment to provide funding for construction of these facilities in the future; and the Government of the Virgin Islands and the Assistant Secretary should work together, as requested in the House report, to study the feasibility of providing these facilities through arrangements other than direct Federal funding, such as third-party leasing, and report to the Committees prior to the fiscal year 1984 budget hearings.

The managers agree that all construction contracts shall contain provisions for adequate training of local personnel in construction techniques and maintenance requirements. The managers expect that the \$700,000 for technical assistance staff formerly part of the Comptrollers' Offices, as well as the additional technical assistance funds provided, shall be used only for technical assistance activities and not to offset reductions in the Office of Territorial and International Affairs.

60: Provides Amendment No. \$72,011,000 remain available until expended instead of \$68,861,000 as proposed by the House and \$75,261,000 as proposed by the Senate. The decrease from the amount proposed by the Senate consists of decreases of \$500,000 for Guam economic development fund, \$2,000,000 for Guam hospital renovation and upgrade, and \$750,000 for Northern Marianas airport water catchment system.

Amendment No. 61: Provides \$8,028,000 for construction grants to Guam instead of \$6,388,000 as proposed by the House and \$10,028,000 as proposed by the Senate. The decrease from the amount proposed by the Senate is \$2,000,000 for hospital renovation and upgrade.

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$1,881,000 for salaries and expenses instead of \$1,882,000 as proposed by the House and \$2,081,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The decrease from the amount proposed by the House is \$1,000 for GSA space costs.

Amendment No. 63: Appropriates \$95,810,000 for the Trust Territory of the

Pacific Islands instead of \$81,100,000 as proposed by the House and \$102,927,000 as proposed by the Senate. The decrease from the amount proposed by the Senate consists of decreases of \$52,000 for the College of Micronesia, \$500,000 for satellite communications terminals, \$1,300,000 for enhanced operations and maintenance, \$2,000,000 for airport terminals in Kosrae, Ponape, Yap, and Palau, \$300,000 for dock warehouse in Kosrae, and \$2,965,000 for Marshall Islands dock construction.

Amendment No. 64: Provides \$77,410,000 Trust Territory operations instead of \$66,800,000 as proposed by the House and \$79,262,000 as proposed by the Senate.

Amendment No. 65: Provides \$18,400,000 for Trust Territory construction instead of \$14,300,000 as proposed by the House and \$23,665,000 as proposed by the Senate.

Amendment No. 66Deletes House language prohibiting the use of appropriated funds for debt repayment, as proposed by the Senate.

The managers agree that neither the United States nor the Trust Territory of the Pacific Islands shall be liable for any debts incurred by a governmental entity within the Trust Territory, unless appropriations are specifically provided for that purpose.

#### DEPARTMENTAL OFFICES

Amendment No. 67: Appropriates \$41,589,000 for Office of the Secretary instead of \$40,521,000 as proposed by the House and \$42,812,000 as proposed by the Senate.

The net decrease below the amount proposed by the Senate consists of an increase of \$200,000 for environmental project review and the following decreases: \$40,000 for Congressional and Legislative Affairs; \$75,000 for field coordination; \$178,000 for Affairs: Offices of the Assistant Secretaries; \$20,000 for acquisition and property management; \$231,000 for payment to the Working Capital Fund; \$400,000 for Senior Executive Service Bonus payments; and \$479,000 for space costs.

The managers expect that the funds provided for Assistant Secretaries will be allocated at the discretion of the Secretary among all six Assistant Secretaries.

Amendment No. 68: Deletes House language which stated that no other funds available to the Department from any source should be used for official reception and representation expenses.

Amendment No. 69: Appropriates \$896,000 for the Office of Construction Management instead of \$1,000,000 as proposed by the House. The managers are concerned that the Department is not using the Office for the purpose for which it was established. In 1981 the Secretary proposed to meet the OMB imposed 12 percent reduction on the Office of the Secretary by reducing this Office by the full reduction proposed for the Office of the Secretary. The Assistant Secretary for Indian Affairs has not used the Office as an effective tool in imposing construction and maintenance standards on the BIA construction and facilities programs. The House Committee proposed transferring the program to the BIA to manage the facilities improvement and repair program. The Senate Committee was concerned that this action would completely negate the efforts of the Office.

The Secretary is requested to take a personal interest in the responsibilities of the Office and report to the Committees what actions he recommends to assure that these responsibilities are met in an effective

manner.

Amendment No. 70 Appropriates \$18,404,000 for the Office of the Solicitor instead of \$17,904,000 as proposed by the House and \$19,071,000 as proposed by the Senate. The managers agree that \$141,000 of the reduction is to be made in administration and that the amount recommended includes \$1,032,000 for creation and implementation of a legal information system. The Solicitor may want to accomplish the reduction imposed by consolidating field of-

Amendment No. 71: Deletes House lan-guage permitting funds available to the Office of the Solicitor to be used to pay expenses authorized by 28 USC 2412(b) as proposed by the Senate.

Amendment No. 72: Restores House language stricken by the Senate which prohibits reallocation of vacancies occurring in the Offices of the Federal Comptrollers to any other organization unless approved through reprogramming procedures. This does not prohibit transfers or reallocations from one Comptroller's Office, i.e., Guam to another, i.e., the Virgin Islands.

Amendment No. 73: Restores House language stricken by the Senate which appropriates and transfers funds to the Bureau of Reclamation for high priority, direct water research projects.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate an amendment which appropriates \$6,350,000 for continued operation of the State Water Resource Research Institutes.

#### GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 75: Restores House language stricken by the Senate which permits use only of "no year" funds for emergency fire and reclamation needs.

Amendment No. 76: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 107. No funds provided in this title may be expended by the Department of the Interior for the procurement, leasing, bidding, exploration, or development of lands within the Department of the Interior Central and Northern California Planning Area which lie north of the line between the row of blocks numbered N816 and the row of blocks numbered N817 of the Universal Transverse Mercator Grid System.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers recognize the environmental sensitivity of the tracts east of the tracts currently under litigation in the northern Santa Maria Basin, and expect full compliance with applicable environmental laws.

Amendment No. 77: Restores the section number proposed by the House.

Amendment No. 78: Restores House language prohibiting changing the name of Mount McKinley to Mount Denali.

Amendment No. 79: Deletes House language regarding Committee report prohibitions and reorganizations.

Amendment No. 80: Deletes House language relating to employee details.

Amendment No. 81: Deletes House language prohibiting mining in units of the National Park System except where specifically authorized.

Amendment No. 82: Deletes House language regarding sale or exchange of Park owned land without Congressional approval.

Amendment No. 83: Deletes Senate language regarding offshore leasing activities in four northern California basins.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

SEC. 110. Notwithstanding any other provision of law, section 1002 of the Alaska Na-tional Interest Lands Conservation Act 96-487) (Public U.S.C. Law (16 3142(e)(2)(C)) is amended as follows: Insert before the period: "and: Provided, That the Secretary shall prohibit by regulation any person who obtains access to such data and information from the Secretary or from any person other than a permittee from participation in any lease sale which includes the areas from which the information was obtained and from any commercial use of the information. The Secretary shall require that any permittee shall make available such data to any person at fair cost.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Language in the current law requires the Secretary to make such data and information obtained in private exploration available to the public. Since this allows companies that don't directly finance the exploration to get the information and data from the Secretary at little or no expense, there is no incentive for a company to explore. In essence then, nonparticipating companies could reap a windfall. Comments to the Department of Interior on this matter from prospective explorers suggest that private industry will not explore absent the change agreed to by the managers. The Congressional Budget Office in 1980 reported that the cost to the government to conduct the exploration was estimated at more than \$61 million. Because the exploration effort has been mandated by an act of Congress, either the government or private industry bear the expense. This amendment will thus save the government this expense.

The effect of the language is to put all commercial interests on an equal footing by denying any company that gets data and information from the Secretary or any party other than a permittee from participating in a subsequent lease sale of land within the ANWR, unless the permittee is financially compensated at fair cost for such data or in-

At the same time, this language preserves the right of public access to this data for the purpose of full public discussion and debate regarding whether the ANWR should be opened to lease.

# TITLE II-RELATED AGENCIES

#### U.S. FOREST SERVICE

Amendment No. 85: Appropriates \$105,021,000 for forest research instead of 106,352,000 as proposed by the House and \$104,604,000 as proposed by the Senate. The increase above the amount proposed by the Senate consists of the following: Net increases of \$150,000 for fire and atmospheric science research, \$69,000 for insect and disease research, \$300,000 for renewable resource evaluation, \$350,000 for surface environment and mining, \$79,000 for trees and timber management; and decreases

\$196,000 for renewable resource economics and \$335,000 for GSA space costs.

The managers agree that not less than \$1,000,000 should be made available for the Forestry Intensified Research (FIR) pro-

Of the fire and atmospheric research increase, at least \$100,000 is for the Bend, Oregon lab. Of the insect and disease research increase, up to \$126,000 is for the Moscow, Idaho lab. Of the increase for trees and timber management, at least \$149,000 is for the Boise, Idaho lab, at least \$100,000 is for the Bend, Oregon lab, and at least \$200,000 is for the Sewanee, Tennessee lab. Of the increase for wildlife, range and fish, at least \$353,000 is for the Oregon EVAL project. Of the watershed management research increase, at least \$100,000 is for the Reno. Nevada lab.

The managers agree that the Forest Service shall follow the directives in the House Report with regard to reconstituting the gypsy moth research program; and that the increase provided of \$350,000 shall be used to fund the best proposals in line with such a reconstituted program. The managers understand that among those who might participate in such a program are the Forest Service Morgantown, West Virginia lab, and the Pennsylvania State University.

The managers agree that within available funds, \$105,000 is to be provided to the Southern Forest Experiment Station for the Texas Live Oak Mortality Project.

Amendment No. 86: Deletes House refer-

ence to a transfer of funds.

Amendment No. 87: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amendment appropriating \$62,328,000 for state and private forestry instead of \$58,770,000 as proposed by the House and \$61,078,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the

Increases from the allowance provided by the House include \$708,000 for planning as sistance for the States, \$100,000 for the Gif-ford Pinchot Institute, and \$3,950,000 for forest pest management activities, including an additional \$100,000 for cooperation on state and private lands, and \$3,850,000 for pest management on Federal lands. Decreases from the House allowance include \$500,000 from urban forestry and \$700,000 from rural forestry assistance. This leaves the House proposed increase of \$300,000 for rural forestry assistance for the tree im-

provement program.

The managers agreed to restate their displeasure with the manner in which the Forest Service and the Department handled the 1982 gypsy moth outbreak. The managers reaffirm the 1976 direction that Federal cost-sharing for cooperative suppression projects be 25% on non-Federal public land; 33-1/3% on industry lands; and 50% for nonindustrial private lands. In prior years, this cost-sharing arrangement has averaged 47% Federal-53% non-Federal cost-sharing. If the funding provided for cooperative suppression projects is not adequate, the FS is directed to submit a reprogramming or supplemental budget request, or reduce state funds proportionately but shall not reduce the Federal cost-share rate without public involvement and Committee approval. The FS shall announce its proposed cooperative program within 30 days after enactment of this Act and work with the States to finalize a program in a timely manner.

Under forest pest management, \$20,000 shall be available for the Texas Live Oak Mortality Project.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing that \$58,828,000 shall remain available until ex-

pended, instead of \$55,420,000 as proposed by the House and \$58,078,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 89: Deletes language proposed by the House that would have transferred \$100,000 from the Office of the Assistant Secretary of Agriculture for Natural Resources and Environment to support the

Gifford Pinchot Institute.

Amendment No. 90: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate an amendment appropriating \$1.010.436,000 for the national forest system instead of \$1,009,093,000 as proposed by the House and \$1,007,697,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the amount proposed by the House consists of: increases of \$2,821,000 for minerals, \$100,000 for fire protection, \$5,800,000 for timber sales and harvest administration, \$1,500,000 for range improvements, \$600,000 for program support; and decreases of \$1,000,000 for land management, \$1,400,000 for land line loca-tion, \$2,100,000 for road maintenance, \$2,000,000 for timber stand improvement, \$700,000 for recreation use, \$250,000 for wild horses and burros, \$728,000 for soil and water inventories, \$1,000,000 for soil and water support, and \$300,000 for general administration

The managers agree that funds have been provided sufficient for a timber sales preparation and offering program of 11.0 BBF and an assumed harvest level of 8.5 BBF. Within the timber support activities, the managers agree that funds originally budgeted in support of a larger timber sales program not needed for the 11.0 BBF program may be used for other high priority purposes. In the allowance provided for wildlife, the managers agree that timber support savings be redirected for endangered and threatened species habitat. The managers agree that within the range manage-ment allowance, \$75,000 is included for pilot studies on brush encroachment in the Tonto

NF and the Prescott NF.

The managers agree that all of the costs of the Forest Service activities on the Oregon and California Grant Lands shall be made available from that account, under the Bureau of Land Management. The \$5,000,000 reduction in general administration (offset by a \$1,000,000 increase for research support) has not been specified, and should be allocated appropriately by the Forest Service.

The managers agree that the expansion of the special salvage timber sale program, as directed in the Senate report, shall occur only in the Southwest. The additional funds for timber stand improvement are for the highest productivity site classes (over 85 cfy) and are to be targeted to those states with the highest levels of unemployment, to the maximum extent practical.

Within available funds, up to \$80,000 should be used to control the infestation of

dwarf mistletoe in the Sawtooth National Forest.

Amendment No. 91: Provides that \$182,500,000 shall remain available for obligation until September 30, 1984, instead of \$186,700,000 as proposed by the House and \$177,600,000 as proposed by the Senate.

Amendment No. 92: Appropriates \$281,431,000 instead of \$229,756,000 as proposed by the House and \$286,805,000 as proposed by the Senate.

The decreases from the House allowance include \$125,000 for the Sunny Dene Resort, Minnesota (which is to be funded out of available funds) and \$2,000,000 for trail construction. Increases from the House allowance include \$44,800,000 for road construction and \$9,000,000 for final settlement for the Chugach Natives, Inc., Alaska,

Included in the allowance is \$50,000 for road work at the Mount Magazine area of the Ozark NF, Arkansas. The managers agree that none of the funds contained in the bill should be used to design or construct a new office for the Oconee Ranger District in Georgia. The managers encourage the FS to provide a road construction program balanced between roaded and unroaded areas. Adequate funds are included to support the timber sales program direct-

The managers agree that the FS needs to improve its justification for road construction funding in future years.

Amendment No. 93: Provides \$26,316,000 for facility construction instead of \$26,432,000 as proposed by the House and \$21,066,000 as proposed by the Senate.

Amendment No. 94: Provides \$246,115,000 for construction of forest roads and trails by the Forest Service instead of \$203,324,000 as proposed by the House and \$256,739,000 as proposed by the Senate.

Amendment No. 95: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides \$9,000,000 for final payment for final settlement of the land claims of the Chugach Natives, Incorporated.

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amendment providing with an \$240,000,000 will remain available without fiscal year limitation for the construction of forest roads by timber purchasers, instead of \$218,000,000 as proposed by the House and \$236,200,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment amended to read as follows:

## Youth Conservation Corps

There is appropriated \$10,000,000, of which \$3,400,000 is hereby transferred to "National Forest System", \$3,300,000 is hereby transferred to "Operation of the National Park System", National Park Service, and \$3,300,000 is hereby transferred to "Resource Management", United States Fish and Wildlife Service, for high priority projects which shall be carried out as if authorized by Public Law 93-408. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers are allocating these funds directly to the resource management agencies mentioned so as to avoid the unnecessary overhead cost of a central coordinating body. This approach was used in fiscal year 1982 with very satisfactory results.

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amendment appropriating an \$56,877,000 for land acquisition instead of \$53,476,000 as proposed by the House and \$55,117,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The allowance provides funds for the fol-

Acquisitions management	\$4,000,000
Deficiencies	722,000
Inholdings and composites	1,742,000
Appalachian Trail	1,360,000
Boundary Water Canoe	
Area, Minn	3,000,000
Cascade Head SRA, Oreg	707,000
Alpine Lakes, Washington.	26,446,000
Lake Tahoe, Nevada &	CAN COLUMN
California	10,000,000
Mount Rogers NRA, Va	200,000
Ausable River-Huron-	The state of the s
Manistee NF, Mich	2,000,000
Three Sisters Wilderness	1 11 11 11 11 11 11
(Rock Mesa) Ore	2,000,000
Sawtooth NRA, Idaho	4,700,000
	The second second

The Three Sisters Wilderness acquisition funding is for patented claims only and the first Sawtooth NRA property is the Piva property

56 877 000

Amendment No. 99: Deletes language of the House which provided for acquisition of lands not agreed to by the Senate

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said

amendment, insert the following:
None of the funds made available under this Act shall be obligated or expended to adjust annual recreational residence fees to an amount greater than that annual fee in effect at the time of the next to last fee adjustment, plus 50 per centum. In those cases where the currently applicable annual recreational residence fee exceeds that adjusted amount, the Forest Service shall credit to the permittee that excess amount, times the number of years that that fee has been in effect, to offset future fees owed to the Forest

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that the current methodology for establishing and revising recreational residence fees has led to enormous increases in fees owed by permittees and has thereby restricted access to residence sites to the wealthy. This amendment provides needed fee relief.

Amendment No. 101: Restores House language stricken by the Senate which provides that the appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Amendment No. 102: Reported in technical disagreement. The managers on the part

of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter striken by said amend-

ment, amended to read as follows:

Provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) shall apply to appropriations available to the Forest Service only to the extent that the proposed transfer is approved by the House and Senate Committees on appropriations in compliance with the reprograming procedures contained House Report 97-942.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The amendment permits the Secretary, with the approval of the House and Senate Committees on Appropriations, to transfer funds between appropriation accounts within the Forest Service and to transfer funds into Forest Service appropriation accounts from other agencies, pursuant to the provisons of Section 702(b) of the Department of Agriculture Organic Act of 1944.

Amendment No. 103: Restores House lan-guage striken by the Senate prohibiting transfer of funds appropriated to the Forest Service to the Department's Working Capital Fund without approval of the Chief of the Forest Service.

DEPARTMENT OF ENERGY-ENERGY SECURITY RESERVE

The managers concur in the language expressed by the Senate with respect to the slow progress of the Synthetic Fuels Corporation in awarding financial assistance to synthetic fuel project proposals. The managers note that the SFC must submit its comprehensive strategy to the Congress by June 30, 1984, and, accordingly, must take significant steps to resolve a number of problems as outlined in the explanatory statement filed by the Senate.

The concern of the managers is specifically directed in the following three areas:

1. The managers recommend that the SFC Board of Directors provide letters of intent conditional commitments to those projects which may not yet be in a position to enter into final financial assistance agreements with the Corporation.

2. The managers expect the SFC to expand efforts to reach out and encourage investors in synthetic fuel projects.

3. The managers expect that maximum

use be made of section 131(u) cost sharing to advance proposed projects to awards.

The managers do not, however, believe it is inappropriate at this time for the SFC to explore the awarding of financial assistance in support of the demonstration of synthetic fuels from the Naval Oil Shale Reserve at Rifle, Colorado. In this regard, the manag ers wish to reserve judgment until the SFC has submitted to the Congress a final proposal for the use of resources from the NOSR.

The managers expect the SFC to report, by January 14, 1982, on the steps taken and progress made in the resolution of these and the other problems experienced by the Corporation in meeting its statutory mandates. FOSSIL ENERGY RESEARCH AND DEVELOPMENT

Amendment No. 104: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment in the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

\$215,514,000 and \$31,700,000 to be derived by transfer from the account in Public Law 96-126 (93 Stat. 970 (1979)) entitled "Alter native Fuels Production", and \$40,000,000 to be derived by transfer from the account in Public Law 96-304 entitled "Energy Security Reserve" established to carry out the provisions set forth in section 204(a)(2) of the "Energy Security Act" (Public Law 96-294)

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The net change from the House is as follows: decreases of \$1,000,000 for coal preparation; \$1,000,000 in liquefaction for health effects research to examine the toxic characteristics in the process streams of coal liquids; \$1,000,000 for the analysis and evaluation of data from all direct liquefaction pilot plants; \$3,000,000 for the Homer City, Pa. gas test facility; \$1,000,000 in surface coal gasification for equipment, instrumentation concept alternate development; \$1,000,000 in surface coal gasification for equipment and instrumentation related to gasification processes; \$1,350,000 in advanced research and technology development for liquefaction studies and \$1,150,000 for gasification studies; \$2,750,000 for University Coal Research; \$750,000 in dispersed power systems; \$500,000 for central power systems and \$350,000 for coal fired closed cycle gas turbine cogeneration; \$1,250,000 for phosphoric acid fuel cells and \$500,000 for molten carbonate fuel cells; \$2,000,000 for magnetohydrodynamics; \$1,000,000 for the third well of the unconventional gas multi-well project; and \$1,400,000 for program direction; increases of \$900,000 in advanced research and technology development for structural ceramics, fluid corrosive mechanics, high temperature corrosion and slag/refractory interaction; \$2,000,000 in advanced research and technology development to explore new material catalysts, and electrolytes for fuel cell systems; \$2,400,000 in advanced research and technology development to continue studies of coal-ash behavior and fluidized bed systems and to investigate improved downstream processing techniques, \$2,000,000 to continue work on peat dewatering, harvesting and wet carbonization; \$4,200,000 for atmospheric fluidized beds which includes \$650,000 for lignite utilization and \$3,550,000 for advanced concepts; \$300,000 for thermionics; and \$1,350,000 to complete an experimental Utah oil shale project using the Geokinetics process

Funds for magnetohydrodynamics are to continue activity with existing contractors. national labs and universities. No money is provided for the coal conversion systems technical data book.

The managers urge the Department, within available funds, to conduct appropriate research and development of a direct coal fired gas turbine. The managers also encourage the Department to evaluate low temperature, low pressure processes for producing hydrocarbon fuels having fluid characteristics.

that there is The managers agree \$4,800,000 for the 4.8 MW powerplant and that there is no less than \$4,000,000 for the 40 KW on site technology development program. The managers urge the Department of Defense to provide financial support to those fuel cell technologies with military applications.

The managers have included \$30,000,000 for program direction costs of the Fossil Energy Technology Centers. This amount provides for all indirect personnel costs associated with the Centers' functions. Direct personnel costs and related expenses shall continue to be funded from specific R&D program allocations. In providing this separate funding the managers understand that the Department's schedule for transferring the three western Centers to non-Federal operatorship has slipped. Should there be lengthy delays, the Department will be expected to submit a timely reprogramming request to meet the funding needs of these

The managers are aware of interests in establishing additional Fossil Energy lead laboratory assignments, especially in areas that cross-cut the entire Fossil Energy program. to organizations outside the Office of the Assistant Secretary for Fossil Energy. The managers are concerned that such assignments would be a further example of the Department's de-emphasis of the Energy program and a diminution of the role of the Federal personnel assigned to the Office of Fossil Energy. Therefore, the Department is directed to maintain the current and future lead assignments within the Energy Technology Centers. These Centers are a dedicated resource to the Fossil Energy program and offer the continuity and program focus that is necessary to preserve the long-term balance of Fossil Energy technologies within the Department's pro-

Amendment No. 105: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers and designates \$2,000,000 from the alternative fuels production account for a feasibility study of a Western Hemisphere alternative fuels facility which would utilize coal exported from the United States.

Amendment No. 106: Appropriates \$222,000,000 for the Naval Petroleum and Oil Shale Reserves as proposed by the House instead of \$226,500,000 as proposed by the Senate.

## **ENERGY CONSERVATION**

107: Appropriates Amendment No. \$279,290,000 for energy conservation instead of \$317,790,000 as proposed by the House and \$264,530,000 as proposed by the Senate. The net decrease under the amount proposed by the House consists of the following: decreases of \$700,000 for building systems; \$700,000 for appliance standards; \$1,900,000 for industrial process efficiency; \$100,000 for industrial conservation program direction; \$1,000,000 for Stirling engine research and development; \$400,000 for advanced research on electric vehicles: \$500,000 to test and evaluate demonstration vehicles; \$6,000,000 for energy policy and conservation grants to States; \$12,000,000 for schools and hospitals grants; \$2,500,000 low income weatherization; \$2,000,000 for the inventors program; and increases of \$3,400,000 for residential conservation service; \$1,600,000 for the automotive gas turbine: \$300,000 for advanced vehicle research and development; and \$1,000,000 for hybrid vehicle research and development.

The managers agree that the \$2,000,000 provided for the inventors program is for the National Bureau of Standards to continue to test and evaluate inventions. None of the \$2,000,000 is to provide grants to inven-

The managers also agree that the appliance standards program is to continue to support the Federal Trade Commission labelling program and to grant waivers to States for preemption.

The managers are pleased with the progress of the two automotive gas turbines

and agree that the competition should continue for another year. The Committees will look closely at the program for fiscal year 1984 and consider again whether the competition should continue.

The managers agree to establish a National Appropriate Technology Assistance Service to facilitate the dissemination of infor-

mation developed and to render technical assistance to individuals, community organizations, State and local governments, and businesses. The Department is encouraged to select an organization or organizations best able to perform such activities.

The House has agreed to the use of \$24,000,000 in unobligated funds as proposed by the Senate. The House had origi-

nally proposed \$7,000,000. The managers concur that \$600,000 shall be available directly to the Department of Energy for program policy coordination and for technology assessment and transfer activities related to the advanced automobile propulsion systems program and the heavy transport program and \$34,400,000 shall be available to the National Aeronautics and Space Administration (NASA) for management of these programs. NASA may transfer such additional sums as may be necessary, but not more than \$2,000,000, to DOE for the execution of the Department's responsibilities named above.

Amendment No. 108: Transfers \$64,000,000 from "Fossil energy construc-tion" as proposed by the House instead of \$29,000,000 as proposed by the Senate.

Amendment No. 109: Deletes House language which required States to match at least 20 percent of the Federal contribution for State energy grants. The managers agree that it would create a hardship on the States to match the Federal share without prior notice. However, the managers concur that the States should prepare to match these funds in future years.

Amendment No. 110: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which strikes House language which states that the transfer of funds to the National Aeronautics and Space Administration is to continue the program and inserts Senate language which states the transfer is for program management.

## ECONOMIC REGULATION

Amendment No. 111: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$35,106,000 economic regulation instead \$31,106,000 as proposed by the House and \$33,106,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase from the amount provided by the Senate is \$2,000,000 for the compliance program. In addition, the \$3,000,000 carried over from prior years is to be allocated as follows: \$1,500,000 for compliance and \$1,500,000 for program direction to be used for severance pay for those people separated during fiscal year 1982.

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

: Provided, That \$2,000,000 of the funds herein appropriated shall be available for

the fuels conversion program, of which not less than \$1,500,000 shall be available only for expenses in issuing prohibition orders under the Powerplant and Industrial Fuel Use Act and other related laws

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

#### **ENERGY INFORMATION ADMINISTRATION**

Amendment No. 113: Appropriates \$56,400,000 for the Energy Information Administration instead of \$58,800,000 as proposed by the House and \$54,500,000 as proposed by the Senate. The decrease in the amount provided by the House eliminates the increase which allowed for continuation of data collection on the pricing, supply, and distribution of petroleum products at wholesale and retail levels on a State-by-State basis. The managers are aware that activity will continue in this area within the amount appropriated.

#### Administrative Provisions, Department of ENERGY

Amendment No. 114: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Secretary of Energy to enter into arrangements with the University of Wyoming to transfer the Laramie Energy Technology Center to the university and with the University of North Dakota to transfer the Grand Forks Energy Technology Center to the university.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that any contract entered into with a non-profit organization shall be

on a cost-shared basis.

#### DEPARTMENT OF HEALTH AND **HUMAN SERVICES**

## HEALTH SERVICES ADMINISTRATION

Amendment No., 116: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate an amendment appropriating \$645,583,000 for Indian health services instead of \$645,305,000 as proposed by the House and \$623,724,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The net increase above the Senate consists of: increases of \$500,000 for model diabetes, \$4,859,000 for full-year costs of the 1982 Pay Act, \$1,000,000 for alcoholism, \$5,346,000 for urban health projects, \$1,716,000 for Indian health manpower and \$10,000,000 for the Medicare/Medicaid offset; and decreases of \$800,000 for a nursing educational program and \$762,000 for GSA space costs.

The managers agree: that funds are provided for 90 new positions at the Chinle Hospital; that of the \$325,000 provided for nursing education, \$125,000 is for Tuba City and the balance is for other locations where the funds can be used in fiscal year 1983 for upgrading LPN's to RN's; that the full year pay costs are provided in hospitals and clinics, and approximately 50% of the amount proposed by the House in the other accounts; that of the \$1,000,000 increase for alcoholism, between \$100,000 and \$200,000 is for research on alcohol abuse and alcoholism and \$300,000 is for fetal alcohol syndrome research, including \$75,000 for the University of Washington; that Alaska shall be included in the Community Health Representatives program; that the \$6,000,000 for urban health projects represents costs for the remaining % of fiscal year 1983 for projects currently funded, with the balance to be used for technical assistance and to respond to the directives in the House report; that IHS should begin immediately to set up to cooperative program with the State of Alaska for hepatitis B screening and immunization; that within the Indian health manpower program, \$150,000 is provided for the MPH program and \$200,000 for INMED; that IHS should reallocate \$5,000,000 from within the base program, not mandatory or program increases, as part of the Equity funding activity; that within available funds for hospitals and clinics, \$4,000,000 is to be used for emergency medical services formerly budgeted under the CHR program.

The managers agree that within the funds provided for contract care, IHS should ensure adequate funds are available for Sage Memorial Hospital, Arizona in accordance with its contract; and should direct funding to the Nurse Practitioner Clinic in

Idaho, if cost-effective.

While the managers agree that national implementation of competitive bidding for the contract care program would be premature, the Indian Health Service should make every effort to comply with Departmental policy requiring waiver requests when competitive bidding is not used.

The managers agree that the Indian Health Service should continue regular program operation in the manpower program, including funding for new students.

Within the funds provided for alcoholism, the managers agree that \$85,000 shall be made available for the Papago alcoholism rehabilitation project.

Amendment No. 117: Deletes House language which would have required that the first \$5,000,000 of Medicare/Medicaid collections by the Indian Health Service be used to carry out the purposes for which the appropriation is made.

Amendment No. 118: Provides that \$5,000,000 of the amounts collected under the authority of Title IV of the Indian Health Care Improvement Act shall be used to offset appropriations for Indian health services as proposed by the House instead of \$15,000,000 as proposed by the Senate.

Amendment No. 119: Appropriates \$34,700,000 for Indian health facilities instead of \$37,235,000 as proposed by the House and \$30,750,000 as proposed by the Senate. The increase above the amount proposed by the Senate is \$3,950,000 for sanitation facilities.

The managers are concerned about the delays in the hospital construction program which have been experienced during the last two years for fiscal rather than program reasons. The managers expect the Department to take all steps necessary to advertise and award a phased-funding construction contract by July 1983.

The managers agree \$500,000 is available from unobligated balances to complete planning of the Sacaton, Arizona hospital; that costs for sanitation facilities provided for the Navajo and Hopi Indian Relocation program are to be reimbursed from funds available to that program; and that, within available sanitation facilities funds, \$900,000 shall be used for the Turtle Mountain project.

The managers further agree that the 18 units of Bureau of Indian Affairs housing currently being renovated for use by IHS staff at the Chinle Hospital shall remain

available to IHS for that purpose as long as they are needed.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provided for a limitation on Indian health services provides to non-Indian spouses and household members.

The managers request that the Indian Health Service determine the impact of this limitation through consultation with the tribes. Further, IHS should determine the amount of money saved by this limitation and report to the Committees on Appropriations of the House and the Senate. Any savings should be considered for redistribution as part of the \$5,000,000 which is to be added to the equity fund.

#### Office of Elementary and Secondary Education

Amendment No. 121: Provides \$48,465,000 for Part A of the Indian Education Act instead of \$46,965,000 as proposed by the House and \$49,614,000 as proposed by the Senate.

Amendment No. 122: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment providing \$16,193,000 for Parts B and C of the Indian Education Act instead of \$15,965,000 as proposed by the House and \$13,913,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating \$67,247,000 for Indian education instead of \$65,519,000 as proposed by the House and \$66,216,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The increase above the amount proposed by the House consists of \$1,500,000 for Part A and \$228,000 for Part C.

The managers agree that Part B funds shall be allocated as follows: \$3,360,000 for planning, pilot and demonstration projects; \$3,700,000 for educational services projects; \$2,000,000 for educational personnel development; \$1,440,000 for fellowships; and \$2,100,000 for resource centers. The managers further agree that the educational services projects activity shall be continued, including the granting of new awards; and that the adult education funds should be directed as much as possible to groups without access to Bureau of Indian Affairs, State or other sources of adult education funds.

#### NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

Amendment No. 124: Appropriates \$7,665,000 as proposed by the Senate instead of \$9,359,000 as proposed by the

Amendment No. 125: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides a limitation on payments authorized by the Navajo and Hopi Indian Relocation Act.

#### SMITHSONIAN INSTITUTION

Amendment No. 126: Appropriates \$144,366,000 for Salaries and Expenses instead of \$147,276,000 as proposed by the

House and \$140,249,000 as proposed by the Senate.

The net increase above the Senate consists of the following: increases of \$462,000 for the non-personnel costs for the Center for the Study of Man; \$375,000 for the Smithsonian Institution libraries; \$782,000 for the National Museum Act; \$500,000 for staffing of the Museum Support Center; \$1,000,000 for a John F. Kennedy Center Trustee grant; \$200,000 for administration; and \$1,208,000 for the Office of Protection Services; and decreases of \$200,000 of overhead costs of the Smithsonian Astrophysical Observatory; \$50,000 for utility costs; and \$140,000 for space costs.

The managers agree that the increase for administration shall be used to prepare a film commemorating the signing of the

Treaty of Paris.

If additional staff are required for the Museum Support Center, the Smithsonian should reallocate existing positions.

Amendment No. 127: Restores earmarking proposed by the House for a John F. Kennedy Center Trustee Grant.

The managers agree that \$1,000,000 shall be provided to the National Symphony Orchestra for activities related to its responsibilities as resident orchestra of the Center.

Amendment No. 128: Appropriates \$8,450,000 for restoration and renovation of buildings as proposed by the House instead of \$7,450,000 as proposed by the Senate.

#### NATIONAL GALLERY OF ART

Amendment No. 129: Restores the House language which allows \$100,000 for restoration and repair of works of art by contract without advertising. Senate bill allowed \$70,000.

Amendment No. 130: Appropriates \$32,878,000 for salaries and expenses instead of \$34,839,000 as proposed by the House and \$32,228,000 as proposed by the Senate. The decrease under the amount proposed by the House consists of reductions of: \$1,200,000 to accelerate renovation of the West Building, \$195,000 reduction in personnel compensation and benefits, \$233,000 of the amount provided to retain evening hours and \$333,000 to continue 35 full-time equivalents. The amount provided to retain evening hours is for the heavy visitation period between Memorial Day and Labor Day.

Amendment No. 131: Provides a limitation of \$4,900,000 on the amount available for repair, restoration and renovation of the West Building instead of \$6,100,000 as proposed by the House and \$4,100,000 as proposed by the Senate.

# Woodrow Wilson International Center For Scholars

Amendment No. 132: Appropriates \$2,321,000 for salaries and expenses as proposed by the Senate instead of \$2,255,000 as proposed by the House.

## NATIONAL ENDOWMENT FOR THE ARTS

The managers agree that the Endowment may provide support for the President's Committee on the Arts and Humanities.

## NATIONAL ENDOWMENT FOR THE HUMANITIES

Amendment No. 133: Appropriates \$102,132,000 for salaries and expenses as proposed by the Senate instead of \$102,632,000 as proposed by the House.

The managers agree to the following account structure and distribution of funds:

 State Programs
 \$20,329,000

 Public Programs:
 8,447,000

Museums and Historical	
Organizations	6,912,000
Public Libraries	2,650,000
Education Programs	14,301,000
Fellowships and Seminars.	13,405,000
Research Grants	16,555,000
Special Projects	7,103,000
Planning and Assessment	730,000

Total Program Funds... 90 432 000

The managers urge the Endowment staff to work closely with applicants in the area of public programs to ensure that maximum benefit is derived from the funds provided.

Amendment No. 134: Provides \$11,700,000 for administrative expenses as proposed by the Senate instead of \$12,200,000 as proposed by the House.

Amendment No. 135: Provides \$16,864,000 for Challenge Grants as proposed by the Senate instead of \$19,864,000 as proposed by the House.

#### INSTITUTE OF MUSEUM SERVICES

Amendment No. 136: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Provided further, That regulations of the Institute shall require (1) an appeal process for applications rejected because of technical deficiency, (2) reconsideration of applications upon receipt of materials in a timely manner if the application was rejected because material did not accompany the application, and (3) waivers of certain records under circumstances which would require such waivers

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that no matching funds are required for the Museum Assess

ment program.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

: Provided, That hereafter persons serving on the National Council on the Arts, the National Council on the Humanities, and the Museum Services Board shall continue serving until their successors are qualified for office

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

# ADVISORY COUNCIL ON HISTORIC

## PRESERVATION

No. 138: **Appropriates** Amendment \$1,500,000 for the Advisory Council on Historic Preservation instead of \$1,600,000 as proposed by the House and \$1,000,000 as proposed by the Senate.

#### PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

No. 139: Amendment Appropriates \$2,350,000 for salaries and expenses as proposed by the House instead of \$2,425,000 as proposed by the Senate. Within the amount appropriated, the Corporation may use \$50,000 for the move to the Old Post Office Building and for any increase in space rental costs resulting from the move.

Amendment No. 140: Deletes the Land Ac quisition and Development Fund account of the Corporation as proposed by the Senate.

The managers will give every consideration to future requests for this account. There are unobligated balances which should be sufficient for this area in fiscal year 1983.

Amendment No. 141: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

#### DEPARTMENT OF THE TREASURY-ENERGY SECURITY RESERVE

Notwithstanding any other law, funds made available from the Energy Security Reserve to the Secretary of Energy for alcohol fuel loan guarantees authorized by Title II of the Energy Security Act, Public Law 96-294, may be used to guarantee loans up to three and one-half times the amount held

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The managers agree to change the leverage on alcohol fuel loan guarantees from a ratio of three to one to three and one-half to one.

#### TITLE III-GENERAL PROVISIONS

Amendment No. 142: Deletes House prohibition on the expenditure of funds for passenger automobiles with less than an esti-

mated 22 miles per gallon average.

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which deletes House language and inserts Senate language regarding mineral activities in wilderness areas

Amendment No. 144: Deletes language of the House relating to Office of Management and Budget guidelines on providing information to the Congress on the capability of agencies to spend money not included in the budget request.

The managers agree, however, that there must be a free exchange of information between the Executive and Legislative branches. This free exchange has been severely constrained by revision of OMB Circular A-10 which has prevented Federal agencies from providing certain funding information to the Congress

Funding decisions made by the Congress in annual appropriations bills occur only after careful consideration of the President's budget, testimony by hundreds of departmental and nondepartmental witnesses assessment of national needs, and regional considerations. The Appropriations Committee has the responsibility to consider input from all interested parties and has traditionally limited changes to the President's budget to programs which have been justified in testimony or which reflect more current information and conditions. This is particularly important considering the fact that the budget, which becomes operative on October 1, was developed 18 months before the effective date within the Executive Branch and Federal agencies

The managers agree that withholding ca-pability statements denies the Administration the opportunity to continue participation in the development of an appropriation bill adequate to meet the needs of the nation. It often results in additions that would not have been made had the Administration provided accurate and objective information in a timely manner. Further, the managers view OMB's action as an attempt by the Administration to exclude the Congress from its proper role of evaluating Ex-

ecutive Branch budget requests, as well as considering input from Members of Congress and local interests. In the absence of funding information, the Committee uses estimates and data developed by others who are less qualified, have not had proper scientific and technical review of responsible experts within the Executive Branch and are usually not objective. Such a procedure may result in misallocations of funds and higher Federal spending.

Accordingly, the managers urge OMB to rescind its previous revisions to OMB Circular A-10 which preclude disclosure of any funding capabilities in excess of the President's budget. Further, this Committee expects all agencies to respond fully and freely, and to provide the information requested which is critical in developing and reviewing annual budget proposals.

The managers remind the Director that 31 U.S.C. 20 requires the Office of Management and Budget to furnish any committee of either House of Congress having jurisdiction over revenue or appropriations such aid and information as it may request.

Amendment No. 145: Restores the matter stricken and inserts new section number 309. The managers have included House language prohibiting the use of appropriated funds to evaluate, consider, process or award certain mineral leases in the Mount Baker Snoqualmie National Forest.

Amendment No. 146: Deletes language proposed by the House which would have required that any reductions-in-force be proportionately distributed among headquarters and field offices.

Amendment No. 147: In lieu of the section number stricken, insert 310.

Amendment No. 148: In lieu of the section number stricken, insert 311.

Amendment No. 149: Restores the matter stricken and inserts new section number 312. The managers agree that funds provided in the Act may not be used to acquire lands above the appraised value without Committee approval except in condemnation and declarations of taking.

Amendment No. 150: Deletes House language prohibiting the merger of research funds appropriated in this Act with research funds from other appropriation acts.

Amendment No. 151: In lieu of the section number stricken, insert 313

Amendment No. 152: In lieu of the section number named insert 314

Amendment No. 153: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 315. The titles conveyed by and the easements and restrictions heretofore reserved and imposed by the Secretary of the Interior pursuant to section 506(c) of Public Law 96-487 are hereby confirmed in all respects: Provided: That nothing herein shall be deemed to amend the Alaska National Interest Lands Conservation Act or the Alaska Native Claims Settlement Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 154: Reported in technical disagreement the managers on the part of the House will after a motion to recede and concur in the amendment of the Senate, amended to change the section number from "314" to "316. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate language provides a procedure for the disposal of Federal land.

Amendment No. 155: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said

amendment, insert the following:

Sec. 317. In the case of any new electric power plant located in Alaska for which a petition is accepted after the date of enact-ment of this Act, but before December 31, 1985, pursuant to section 212(f) of the Powerplant and Industrial Fuel Use Act of 1978. to use natural gas (as that term is defined in such Act), as a primary energy source in such power plant, the petitioner shall be deemed to have made the demonstrations required by clauses (1) and (2) of such section and such exemption, subject to the other applicable provisions of such Act, shall be granted by the Secretary of Energy. Nothing in this section shall apply to any new electric power plant using natural gas produced from the Prudhoe Bay Unit of Alaska.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers have granted only a limited exemption for Alaska with this amendment. This action does not preclude the possibility that a broader exemption may be examined in the future.

Amendment No. 156: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to change the section number from "316" to "318". The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment will allow the Secretary of the Interior to issue one off-site lease for surface operations necessary to support the continued development of Federal prototype tract C-a as well as two additional 320 acres by-pass leases.

#### CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1983 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 amount, the 1983 budget estimates, and the House and Senate bills for 1983 follow:

New budget (obligational)

fiscal authority, 1982..... \$7,363,816,000 Budget estimates of new (obligational) authority, fiscal year 1983 ... House bill, fiscal year 1983.. Senate bill, fiscal year 1983..... Conference agreement. fiscal year 1983 ..... Conference agreement compared with:

New budget (obliga-tional) authority, fiscal vear 1982. Budget estimates of new (obligational) author-

ity, fiscal year 1983 ...... House bill, fiscal year 1983

+113,503,000Senate bill, fiscal year +108,418,000 1983 ...

SIDNEY R. YATES. JOHN P. MURTHA. NORMAN D. DICKS. LES AUCOIN, JAMIE L. WHITTEN, JOSEPH M. McDADE, RALPH REGULA. TOM LOFFIER. SILVIO O. CONTE, WILLIAM R. RATCHFORD, Managers on the Part of the House.

JAMES A. MCCLURE, TED STEVENS, PAUL LAXALT, JAKE GARN, HARRISON SCHMITT. THAD COCHRAN, MARK ANDREWS, WARREN RUDMAN, ROBERT C. BYRD, J. BENNETT JOHNSTON, WALTER D. HUDDLESTON, PATRICK J. LEAHY, DENNIS DECONCINI. QUENTIN N. BURDICK. DALE BUMPERS, Managers on the Part of the Senate.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Foley (at the request of Mr. WRIGHT), for today, on account of ill-

Mr. ROUSSELOT (at the request of Mr. Michel), for today, on account of official business.

Mr. STOKES (at the request of Mr. WRIGHT), after 5:25 p.m. today, on account of a necessary absence.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted

(The following Members (at the request of Mr. Walker) to revise and extend their remarks and include extraneous material:)

Mr. Carney, for 15 minutes, today. Mr. Porter for 15 minutes, today.

Mr. Latta, for 60 minutes, December

Mr. Dornan of California, for 60 minutes, December 18.

(The following Members (at the request of Mr. MILLER of California), to revise and extend their remarks and include extraneous material:)

Mr. Nelson, for 5 minutes, today. MAVROULES, for 5 minutes,

today.

6,576,960,000

7,386,522,000

7.391.607.000

7,500,025,000

+136,209,000

+923,065,000

Mr. STARK, for 5 minutes, today.

Mr. Gonzalez, for 30 minutes, today.

Mr. Annunzio, for 5 minutes, today. Mr. William J. Coyne, for 15 minutes, today.

Mr. Panetta, for 5 minutes, today.

#### EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was

Mr. WHITEHURST, to revise and extend his remarks to be placed in RECORD immediately preceding vote on H.R. 5027.

Mr. Dan Daniel, to insert a letter from President of the Virginia Farm Bureau Federation following Mr. DAN-IEL's remarks on the Hopkins amendment.

Mrs. Heckler, to revise and extend her remarks during general debate on H.R. 7397.

(The following Members (at the request of Mr. WALKER) and to include extraneous matter:)

Mr. Oxley in two instances.

Mr. GOODLING. Mr. LAGOMARSINO. Mr. SPENCE. Mrs. Snowe.

Mr. Dannemeyer in two instances.

Mr. WILLIAMS OF OHIO.

Mr. Wolf.

Mr. Paul in three instances.

Mr. MILLER of Ohio in five instances.

Mr. MOORHEAD.

Mr. MICHEL in two instances.

Mr. DAUB.

Mr. LIVINGSTON.

Mr. LUJAN.

Mr. WINN.

Mr. Burgener. Mr. Rudd.

Mr. McGrath.

Mr. ROBINSON.

Mr. Daub in two instances.

Mr. LENT.

Mr. FIELDS in three instances.

Mr. Collins of Texas.

Mr. Lowery of California in three instances.

Mr. CARMAN.

Mr. Brown of Ohio in two instances.

Mr. TAUKE. Ms. FIEDLER.

Mr. BEREUTER.

(The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mr. JACOBS.

Mr. REUSS.

Mr. FAUNTROY in two instances.

Mr. Levitas in two instances.

Mr. RANGEL in two instances.

Mr. Rodino in two instances.

Mr. STARK in three instances.

Mr. HALL of Ohio.

Mr. CLAY.

Mr. JENKINS.

Mr. Hamilton in five instances.

Mr. WASHINGTON.

Mr. APPLEGATE.

Mr. Skelton in two instances.

Mr. HEFTEL in three instances.

Mr. MOTTL.

Mr. STOKES in two instances.

Mr. PEPPER.

Ms. FERRARO.

Mr. MINISH in two instances.

Mr. Barnes in five instances.

Mrs. Collins of Illinois.

Mr. Won Pat.

Mr. BONKER.

Mr. McDonald.

Mr. OTTINGER.

Mr. DINGELL in five instances.

Mr. ECKART. Mrs. Bouquard.

Mr. BARNES.

Mr. Roe in three instances.

Mr. CORRADA.

Ms. Oakar in three instances.

## ENROLLED BILLS SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 6204. An act to provide for appointment and authority of the Supreme Court Police, and for other purposes;

H.R. 7019. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1983, and for other purposes;

H.R. 7072. An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1983, and for other purposes.

## SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 823. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical tris in apparel, fabric, yarn, or fiber, and for other purposes.

#### BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the House of the following title:

H.R. 3942. An act to amend the Commercial Fisheries Research and Development Act of 1964; and

H.R. 6758. An act to authorize the sale of defense articles to U.S. companies for incorporation to end items to be sold to friendly foreign countries.

# ADJOURNMENT

Mr. MILLER of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 13 minutes a.m.) under its previous order, the House adjourned until today, Saturday, December 18, 1982, at 10 a.m.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as fol-

5304. A communication from the President of the United States, transmitting a request for a limitation increase for fiscal year 1983 for the Department of Housing and Urban Development (H. Doc. No. 97-270); to the Committee on Appropriations and ordered to be printed.

5305. A letter from the Secretary of Health and Human Services, transmitting two final reports of studies which examined Head Start costs, pursuant to section 651(c) of Public Law 97-31; to the Committee on Education and Labor.

5306. A letter from the Secretary of Health and Human Services, transmitting the third annual report on implementation of the Age Discrimination Act of 1975 by departments and agencies which administer programs of Federal financial assistance, pursuant to section 308(b) of the act, as amended: to the Committee on Education and Labor.

5307. A letter from the Senior Director of Congressional Affairs, Amtrak, transmitting report of Amtrak's efforts to achieve greater efficiencies in management and labor practices in conjunction with representatives of labor and the American Association of Railroads, pursuant to section 1187(b) of Public Law 97-35; to the Committee on energy and Commerce.

5308. A letter from the Secretary of the Treasury, transmitting notice that the Federal old-age and survivors insurance trust fund borrowed from the Federal hospital insurance trust fund, pursuant to section 201(1)(4) of the Social Security Act, as amended; to the Committee on Ways and

5309. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a determination of the Secretary of State not to transfer foreign assistance funds to cover amounts paid to owners of seized fishing vessels, pursuant to 86 Stat. 1182 and Executive order No. 11772; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

5310. A letter from the Comptroller General of the United States, transmitting a report examining the financial statements of the Panama Canal Commission for the years ended September 30, 1981 and 1982 (GAO/ID-83-14, November 22, 1982); jointly, to the Committees on Government Operations and Merchant Marine and Fisheries.

5311. A letter from the Acting Staff Director, U.S. Civil Rights Commission, transmitting a report on the education budget for fiscal year 1983, pursuant to section 104(c) of Public Law 85-315; jointly, to the Committees on the Judiciary and Education and Labor.

5312. A letter from the Deputy Assistant Secretary of the Interior, transmitting a draft of proposed legislation to vest the Secretary of the Interior with jurisdiction over certain statute of limitations claims, and for other purposes; jointly, to the Committees on the Judiciary and Interior and Insular Affairs.

5313. A letter from the Deputy Secretary of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to accept gifts and bequests for the purposes of the Department of the Treasury, and for other purposes; jointly, to the Committees on Ways and Means and Banking, Finance and Urban Affairs.

# REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLU-

Under clause 2 of rule XIII, reports of committees were delivered to the

Clerk for printing and reference to the proper calendar, as follows:

Mr. BOLAND: Permanent Select Committee on Intelligence. Report on the activities of the Permanent Select Committee on Intelligence (Rept. No. 97-973). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Permanent Select Committee on Intelligence. Report on implementation of the Foreign Intelligence Surveillance Act (Rept. No. 97-974). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES: Committee of conference. Conference report on H.R. 6946 (Rept. No. 97-975). Ordered to be printed.

Mr. MITCHELL: Committee on Small Business. Report on small and minority business ownership in the cable television industry (Rept. No. 97-976). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. H.R. 7336. A bill to make certain technical amendments to improve implementation of the Education Consolidation and Improvement Act of 1981; with an amendment (Rept. No. 97-977). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee of conference. Conference report on H.R. 7356 (Rept. No. 97-978). Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DE LA GARZA:

H.R. 7439. A bill to improve programs for the stabilization of agricultural prices and production and for other purposes; to the Committee on Agriculture.

By Mr. BARNARD: H.R. 7440. A bill to make technical corrections to 12 U.S.C. 371c(c)(5); to the Committee on Banking, Finance and Urban Affairs. By Mr. DERRICK:

H.R. 7441. A bill to modify the authority for the Richard B. Russell Dam and Lake project, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. HEFTEL: H.R. 7442. A bill to amend title 5, United States Code, to provide that disability retirement annuitants who recover from their disability be given reemployment and retention rights comparable to those provided to similarly situated persons under chapter 81 of such title; to the Committee on Post Office and Civil Service.

By Mr. NELLIGAN:

H.R. 7443. A bill to recognize the organization known as Veterans of the Vietnam War, Inc.; to the Committee on the Judici-

By Mr. PANETTA:

H.R. 7444. A bill to amend the Internal Revenue Code of 1954 to provide that certified public accountants and enrolled agents may represent taxpayers in certain Tax Court cases involving \$5,000 or less; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 7445. A bill to amend the Social Security Act to require State unemployment agencies to collect individual wage information on a quarterly basis, and for other purposes; to the Committee on Ways and Means.

By Mr. GONZALEZ:

H.R. 7446. A bill to amend title 10, United States Code, to provide for improved control of excess profits on negotiated defense contracts; to the Committee on Armed Services.

By Mr. BREAUX (for himself, Mr. AL-EXANDER, Mr. Long of Louisiana, Mr. CHAPPIE, Mr. COELHO, Mr. DIXON, Mr. DOWDY, Mr. FAZIO, Mr. MATSUI, and Mr. HUCKABY):

H.J. Res. 634. Joint resolution to disapprove the governing international fishery agreement between the United States and Korea; to the Committee on Merchant Marine and Fisheries.

#### PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. HEFTEL introduced a bill (H.R. 7447) for the relief of Dorthy L. Yuen; which was referred to the Committee on the Judiciary.

# ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4897; Mr. OBERSTAR. H.R. 6979; Mr. LELAND, Mr. TAUZIN, and Mr. WHITEHURST.

H.R. 7041: Mr. McCurdy, Mrs. Hall of Indiana, Mr. Hansen of Idaho, Mr. Sensen-BRENNER, and Mr. Morrison.

H.R. 7081: Mr. Pepper, Mr. Wolpe, Mr. Long of Maryland, Mr. Conyers, Mr. Wal-GREN, Mr. KOGOVSEK, Mr. WEAVER, Mr. RATCHFORD, Mr. VENTO, Mr. D'AMOURS, Mr. EDGAR, Mr. DELLUMS, Mr. DASCHLE, Mr. LA-FALCE, Mr. BEDELL, Mr. GINGRICH, and Mr.

H.R. 7122: Mr. CONTE and Mr. VANDER JAGT.

H.R. 7220: Mr. STUDDS.

H.R. 7373: Mr. SENSENBRENNER. H.R. 7398: Mrs. Fenwick, Mr. Lantos, Mr. STOKES, Mr. HARKIN, Mr. MARKEY, Mr. LAGO-MARSINO, Mr. ROSENTHAL, and Ms. MIKUL-

H.J. Res. 591: Mr. Goodling and Mr. McCLORY.

H. Con. Res. 413: Mr. Coats, Mr. Wilson, Mr. Morrison, Mr. Lagomarsino, Mr. EDGAR, and Mr. SIMON.

H. Con. Res. 429: Mr. Forsythe, Mr. Hart-NETT, Mr. DERWINSKI, Mr. BARNES, Mr. Hansen of Utah, Mr. Beilenson, Mr. Frost, Mrs. Collins of Illinois, Mr. Marriott, Mrs. FENWICK, Mr. NELSON, Mr. ERLENBORN, Mr. WALKER, Mr. McCLORY, Mr. BINGHAM, Mr. SENSENBRENNER, Mr. CLINGER, Mr. DOUGHER- TY, Mr. JAMES K. COYNE, Mr. LEHMAM, Mr. WHITEHURST, Mr. PRITCHARD, Mr. LANTOS, Mr. PORTER, Mr. ERDAHL, Ms. MIKULSKI, Mr. DANNEMEYER, Mr. SEIBERLING, Mrs. ROUKE-MA, and Mr. BROOMFIELD.

H. Res. 532: Mr. KEMP, Mr. SCHEUER, Mr. MILLER of Ohio, Mr. FISH, Mr. BOLLING, Mr. PICKLE, Mr. REUSS, and Mr. HAWKINS.

H. Res. 606: Mrs. Hall of Indiana.

H. Res. 624: Mr. SEIBERLING, Mr. GUARINN, and Mr. STOKES.

#### PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

679. By the SPEAKER: Petition of the Common Council, Lockport, N.Y., relative to cable television franchises; to the Committee on Energy and Commerce.

680. Also, petition of the Board of Supervisors, Santa Clara County, Calif., relative to Federal user fees for highway/transit programs; jointly, to the Committees on Public Works and Transportation and Ways and Means.

# EXTENSIONS OF REMARKS

THE VIRTUES OF WORK

# HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. PEPPER. Mr. Speaker, as the American population grows older we are faced with increasing difficulties in finding ways of insuring the economic security and dignity of our older Americans.

Along these lines, I have worked for many years to remove all obstacles to the employment of older persons. In 1978, the Congress enacted legislation amending the Age Discrimination in Employment Act, thereby protecting workers up to the age of 70 against a variety of forms of age discrimination. I believe very strongly that work is the essence of life and that when people are denied opportunities to work, their mental and physical health decline, their communities lose an important asset, and the society as a whole suffers accordingly.

Retirement should be a right available to all Americans who have worked hard and made a contribution to society. Many people, however, are forced into retirement either by discriminatory policies or by jobs that are dull and boring. Retirement may have been oversold, as many people find that once they are retired they have lost an important component of

their life.

I would like to draw your attention to a recent speech to the Harvard Medical School Bicentennial Celebration Panel on "Longevity-An Upbeat Statement of Problems and Solutions." The speech, entitled "Retirement No Longer Makes Sense," was delivered by a very distinguished American, Dr. Harlan Cleveland, who now directs the Hubert H. Humphrey Institute of Public Affairs at the University of Minnesota. Dr. Cleveland's thoughts on retirement reflect his rich and varied career, which have included positions as the U.S. Ambassador to NATO and the president of the University of Hawaii.

I would ask that Dr. Cleveland's comments be printed in full in the RECORD so that our colleagues can benefit from his thoughts.

RETIREMENT NO LONGER MAKES SENSE (An Address by Harlan Cleveland) I.

My appearance on your program is mildly fraudulent. I didn't graduate from Harvard's Medical School and I am not, at least not yet, and expert on longevity. So why am I here? The reason occurred to me only this

morning: This program needed what I believe is called, in the reductionist language of the profession, a piece of clinical material

In this respect, I am close to qualifying. In January I will be 65 years old, which used to mean I would have to retire. My two best friends from graduate school have died of cancer. My own arthritis has been arrested. not by medical science but by magic or faith-healing or whatever it is that makes this copper bracelet work-which, I assure you, it did and does. I am beginning to learn what some wag meant by saying of his aging human organs, "If it's working, it hurts. And if it doesn't hurt, it probably isn't working." I have developed those little tricks that are a cover for forgetfullness: as Bruce Barton suggested, I know that if the toothbrush is wet, I have already brushed my teeth; and if I'm wearing one blue sock and one brown sock. I know there's another pair just like it somewhere.

As I approach my nonretirement age, it occurs to me to ponder why I wouldn't have been ready to retire if the courts and Congress and the Board of Regents of the University of Minnesota hadn't recently lengthened the work-expectancy of professors. I can present today the fruits of a wholly un-scientific inquiry: The truth is that retirement is dysfunctional-which is a fancy way of saying that for most people, it just

doesn't make sense any more.

Public policy about retirement is preoccupied with pensions: take-home pay for not "working." There is indeed a problem: with a dwindling proportion of working people to retirees, how can the young folks afford to keep supporting the old folks? Some communities are already paying for two firefighting teams-the one that responds to fire alarms and the equal number of men who once did, and perhaps wish they still could. By the end of the century, some statistician has figured out, there will in most local jurisdictions be the equivalent of two fire departments for each active one.

If we ask how on earth can the "work" economy afford to support all those people doing nothing, the answer is bound to be some version of "You can't get there from here." But suppose we were to redefine 'work" to include both young and old? here." What if we didn't throw people on the ash-heap on a date certain, and organized the work to be done in such a way as to enable them to be "workers"-functional, relevant, engaged, complaining the way real workers do that they never seem to have time to im-

prove that golf score?

Viewed from this perspective, the retire-ment barrier is revealed as a man-made obstruction, a hazard produced by social policy, a cultural obstacle not (for most) a physiological landmark. To be sure, the human body gradually wears out-and, with less frequency, the mind sometimes deteriorates with age. Graduates of the Harvard Medical School presumably spend a disproportionate amount of their time with the weak and elderly; so do pastors, nurses, and paramedical people. But what about the much larger number of elderly and coping? Most of them are not visiting clinics or being comforted by their churches or being cared for (and occasionally kicked around)

in nursing homes. They are active, they are more or less well, they are at home, and they are available.

I must now digress from my age-group for a moment, because the social disease called retirement is really a subhead of a more pervasive malaise. That larger trouble, just coming into view, can be miniaturized in three words: "After affluence, what?"

Just now, in a society with nearly 10% officially unemployed and perhaps three or four times that number unofficially excluded from the labor force, it may seem out of step to be worrying about too much affluence. But bear with me-this argument will shortly lead us back to the case for non-retirement.

Since the beginning of the very earliest human civilizations, most people in every society were preoccupied with a common goal-to guarantee their own personal security, to achieve an assured and decent standard of life. The bulk of mankind is still too busy making ends meet to worry much

about the next goal after that.

Even in what we like to call the "advanced" industrial societies, the semi-prosperity we have achieved is deceptive. It is still very unfairly distributed; 12 to 20 percent of Americans are below somebody's definition of the poverty line. Such prosperity as we have is still too closely connected with the production of arms we hope not to use-or wish we didn't have to sell to improve our balance of payments. And our affluence results partly, as Robert Hutchins once said, from "our patented way of getting rich, which is to buy things from one another that we do not want at prices we cannot pay on terms we cannot meet because of advertising we do not believe.

But suppose—just suppose—we can in this century achieve a durable prosperity and spread it around in a reasonably egalitarian

fashion. What then?

The idea used to be that the purpose of making a living was to stop working when you had it made. According to this philosophy, you would retire as early as possible, pull up stakes and head South to spend the Golden Years fishing in the sun, snoozing in a hammock, watching the surfers, playing cards in glorious idleness, and happily awaiting the Grim Reaper in bovine indifference to the world about you.

Or, if you were not really old enough to call it retirement, you could work limited hours—as few as your union could negotiate with your boss. You would choose the kind of work that avoided on-the-job excitement and thus averted overtime. Then you could spend long hours and long weekends fishing, snoozing, watching, and playing, for all the world as if you were retired. The invention of television, plus the lack of inventiveness in its use of prime time, has made it easier for all of us to do nothing, even when we have something to do, than it ever was before.

There were, of course, more active forms of leisure. When only a few people were rich, they could get away from the others on a yacht, or at least drive into the empty countryside for a spin. They could go to the opera or ballet, hunt elephants, fish for

marlin, play tennis, work on their golf stroke, splash in the surf themselves or travel to museums and cathedrals and foreign restaurants and other broadening places. The object, in any case, was to achieve as much leisure time as possible, then crowd it with leisure-time activity.

But once a whole production decides to be prosperous, the traditional forms of leisure are somehow not so attractive any more. The lakes and coastlines are crowded, the country lanes become four-lane death traps, the fishing streams get polluted. The need for TV talent runs hopelessly ahead of the talent supply. Even the elephants and marlin have to be rationed. The theaters and courts and courses and pools and beaches and restaurants are congested with people who have just as much right to be there as you do. Only the cathedrals are still empty.

Because playtime is available to all, it comes back into perspective. As a by-product of a busy, productive, relevant life, leisure is a boon and a balm. As the purpose of life, it is a bust.

IV.

What lies beyond affluence, for most people, is not likely to be the use of their guaranteed income to finance their weekends and vacations. Young people will certainly want to use their economic security as a launching pad for adventure, for "action." And most of them will find their adventure, not primarily in their leisure time, but in their working time—if they can tell the difference.

Luckily, in post-industrial society there should be much more room for workaday adventure. As new machines, new kinds of energy and fast computers take over the drudgery that men and women-and children-used to endure, what is left for people to do is the creative, planning, imagining, figuring-out part of each task. Our more complex, agile, and intuitive human brains have to feed the fast but stupid computers, which after all can only count from zero to one and back again. And the handling of relations among people has to be a rapidly growing industry when nearly everyone bethrough education, a sovereign thinker and communicator-and communications technology makes remoteness and isolation a matter of choice and not of geography or fate.

Now, who is likely to be best qualified for the kind of work that is heavy with personal relations, reflective thinking, and integrative action? Who are the most natural members of the "get-it-all-together profession"? Who are the people among us with the most experience in dealing with other people. . . the people most likely to have seen more of the world, mastered or at least dabbled in more specialties, learned to distinguish the candor from the cant in public affairs . . the people with the most time for reflection and the most to reflect about? The answer leaps to the eye: they are, on the average, those who have lived the longest

those who have lived the longest.

Our increasingly desperate need for people who can "get it all together," for integrators and generalists, happens to coincide with technological changes which enable people to work without "going to work." The home computer will put "work," including part-time work, within the reach of anyone willing to retrain his and her brain, and then use his and her imagination.

For those of us in the 60s and beyond, therefore, there will be less and less excuse for advocating a short day in a short week in a short year—and no excuse, short of serious illness or death, for "retirement." The tasks that machines make possible but cannot do themselves should be creative enough to lure the elderly into work schedules that are lengthened by the sheer excitement of what needs to be done.

In such a society, the people who seek the easy jobs and the earliest retirements will die of man's most readily curable diseases—absence of adventure, suffocation of the spirit, and boredom of the brain. The age at which they succumb to these avoidable maladies will hardly matter: "Died at forty, buried at eighty" will be their epitaph.

buried at eighty" will be their epitaph.
I don't know about you, but Lois, my wife of 41 years, and I are looking forward to the Year 2000.

#### ANOTHER LOOK AT NICARAGUA

# HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

. Mr. GOODLING, Mr. Speaker, all too often we get a one-sided view on what is happening along the Nicaraguan-Honduran border: the Sandinist rulers of Nicaragua are seen as the innocent victims of unwarranted aggression. The aggression is generally attributed to the United States, and little is mentioned of anti-Sandinist Nicaraguans, except to label them as followers of the late strongman Samoza, which is not strictly true. Little mention is made of the people caught between the conflicting sides, nor of the Nicaraguan refugees pouring into Honduras. One of the very few objective reports that I have read was in Monday's Christian Science Monitor by Daniel Southerland. I am inserting that article in the RECORD for the benefit of my colleagues who automatically give the Sandinistas the benefit of the doubt if not excusing them outright. I hope that they will take note of the article's last three paragraphs, and in particular, the very last line: "They threatened to kill us because we gave food to the contras." Were a similar claim made of the Salvadoran Government, we would hear a great howl of indignation from so many of my liberal colleagues who now are so strangely silent about this charge against the Sandinistas.

[From the Christian Science Monitor, Dec. 13, 1982]

THE OPEN "COVERT WAR" IN NICARAGUA
(By Daniel Southerland)

Danli, Honduras.—Central America's notso-secret war begins about 19 miles south of here along the Nicaraguan border.

Hondurans who travel frequently to locations near the border say that former Nicaraguan National Guardsmen have intensified their attacks against the leftist-led Sandinista regime of Nicaragua and are now striking deeper than ever into that country.

American officials located elsewhere in the region say that many of the former National Guardsmen have left Honduras and are now operating permanently from camps inside Nicaragua. The officials also contend

that the anti-Sandinist forces have broadened their base of support as well as their leadership.

It was impossible to confirm the latter point from here. But Hondurans do say that some—not all—of the ex-guardsmen's camps inside Honduras have been dispersed. They say that this is because of press reporting on the guardsmen present inside Honduras and because of protests against their activities arising in both the American and Honduran congresses.

According to a number of recent press reports, the US is secretly supporting the anti-Sandinist forces to counter Soviet and Cuban influence in the region. Much of the criticism of this secret war is based on the allegation that the US is backing the former Nicaraguan National Guard, an institution that is hated in much of Nicaragua. It would thus make sense for the US to encourage the broadening of the anti-Sandinist forces, which is what some American officials contend has already occurred.

On Dec. 8, however, the US House of Representatives voted in favor of an amendment to the defense budget that would prohibit the Pentagon and the US Central Intelligence Agency from arming the anti-Sandinist forces with the aim of overthrowing the Nicaraguan government.

What is clear from here is that the USsupplied Honduran Army is supporting the anti-Sandinist forces. It is also clear that these forces are well-armed.

The American aim in backing anti-Sandinist operations seems to be to harass and "bleed" the Sandinista regime rather than to try to overthrow it. Within Nicaragua, the effect has been to force the Sandinistas to divert scarce resources and energy into military efforts and away from a hard-pressed economy.

Reports from Nicaragua indicate that the anti-Sandinist forces—the Nicaraguans call them counterrevolutionaries, or "contras"—are now operating in larger units than they were before. According to Nicaraguan press reports, the ex-guardsmen now concentrate as many as several hundred men in their attacks and are supported by 60mm and 81mm mortar fire.

The intensified fighting inside Nicaragua has brought increasing numbers of Nicaraguan refugees, most of them women and children, into Honduras. Many of the women among the refugees have been able to find work harvesting the coffee crop here. But members of Honduran relief agencies fear that once the crop is harvested early next year the refugees will become completely dependent on these agencies for their food, shelter, and clothing.

Hondurans in the dusty, mountain-encircled town of Danli say the influx of refugees has resulted in an increase in crime in the area. They do not like what they see happening in Nicaragua, which, in their view, amounts to a drift to the left. But they also see no good resulting for Honduras from its backing for the guardsmen who once fought for the rightist Nicaraguan president, Anastasio Somoza Debayle, who was ousted by the Sandinistas in 1979.

The refugees, meanwhile, say they had no choice but to leave Nicaragua. Some said they were related to guardsmen who had left for Honduras before they did. Others said they were accused by the Sandinistas of giving assistance to the ex-guardsmen.

The refugees are among the most miserable this reporter has ever seen. They cross the border with little more than the clothes

they are wearing. The children appear to be suffering from severe malnutrition.

In Danli, more than 200 of the refugees were jammed into the Masonic lodge. Some huddled over wood fires, others slept on the stone floor.

One refugee woman who recently crossed the border into Nicaragua explained: "They threatened to kill us because we gave food to the contras."

#### COST LEASING TO RAILROADS-AFFILIATED ENERGY FIRMS

# HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

 Mr. LUJAN. Mr. Speaker, last week, Secretary of the Interior James Watt announced that he was resolving the difference in opinion between his Department and the Department of Justice over the question of whether common carrier railroad affiliates are prohibited from bidding for and holding Federal coal leases by section 2(c) of the Mineral Lands Leasing Act by receding from the Interior Department's legal interpretation that such leasing is not prohibited and adopting instead the position of the Justice Department which holds that such leasing is indeed prohibited. Accordingly, Secretary Watt has place Federal coal leases off limits to mineral companies affiliated with railroads.

Unfortunately, this change in the Interior Department's legal position further clouds a murky issue, one which appears to have no definitive legal answer. What is clear, however, is that there is a problem here that requires the attention of Congress. This decision by the Interior Department merely exacerbates a longstanding problem and benefits no one. Indeed, the losers include the public, the Department of the Interior, the mining industry, and the States. The public loses because potential bidders for Federal coal have been excluded from the bidding-lower bids can be expected; the public also loses because needed Federal coal supplies may not be developed in a diligent and competitive manner. The Department loses because it will obtain less revenue from fewer bidders for Federal coal and because it will be unable to consolidate and manage checkerboarded Federal coal lands. The mining industry loses because there will be less development of Federal coal lands and, consequently, fewer jobs for miners and support workers, and fewer sales for mining support industries, including equipment and transportation industries. The States lose jobs, royalties, and taxes, all of which are precious commodities today.

Both the Justice and Interior Departments in this and prior administrations have concluded that section 2(c) is a legal anachronism which can

no longer justify its existence and which no longer serves the public interest. I have been informed by the Interior Department that while it has issued a new opinion on the legal interpretation of 2(c), it continues to support enactment of legislation to repeal the provision. Because of the potential adverse impacts resulting from the current interpretation of section 2(c), it is my hope that the 98th Congress will consider this matter.

I would like to insert into the Con-GRESSIONAL RECORD the full text of Secretary Watt's December 8, 1982, letter regarding his Department's views on section 2(c) of the Mineral Lands Leasing Act.

U.S. Department of the Interior, Washington, D.C., December 8, 1982. Hon. Manual Lujan, House of Representatives, Washington, D.C.

Dear Mr. Lujan: This is to advise you of the resent decision by the Department of the Interior to discontinue leasing of Federal coal to energy firms that are corporate affiliates of common carrier railroads. This decision resolves the inconsistent positions of the Interior and Justice Departments with respect to the scope of section 2(c) of the Mineral Lands Leasing Act of 1920 and particularly the question of its applicability to railroad affiliates.

This decision in no way changes our position in support of enactment of S. 1542, which would provide for the repeal of section 2(c). This Department continues to strongly support enactment of S. 1542.

Section 2(c) provides in relevant part: "No company or corportion operating a common-carrier railroad shall be given or hold a permit or lease under the provisions of this Act for any coal deposits except for its own use for railroad purposes . . ."

The Department of the Interior previously adhered to an "alter ego" test in deter-mining affiliate status, thereby maintaining that the section 2(c) prohibition did not automatically apply to all railroad affiliates. On the other hand, the Antitrust Division of the Justice Department maintained that, based on early congressional debates on railroad participation in the Federal coal leasing system, Congress intended to separate the transportation of coal from its production. Therefore, section 2(c) applies to all corporate affiliates. However, both Departments agreed that there is no longer a need for the prohibition contained in section 2(c) and have supported legislation to repeal the provision.

This Department believes that it is undesirable to exclude any potential bidder from competing for Federal coal leases unless such exclusion serves some other important public interest. We know of no such reason for continuing to exclude railroads from the coal leasing system. In fact, we believe that the public interest would be best served by maximizing competiton for Federal coal leases.

Section 2(c) was enacted in 1920, when railroads were dominant forces in the American economy and there were lightmate fears that they would monopolize the coal industry. However, those fears do not seem realistic in today's economy. Railroads no longer enjoy the prominence they did in 1920 and all other sectors of the economy are free to compete.

In addition, the Justice Department has concluded that the antitrust review procedure of section 15 of the 1976 Federal Coal Leasing Amendments Act (FCLAA) provides adequate safeguard against potential abuse in the leasing system. The 1976 legislation requires that the Attorney General review leases issued to railroads, on a case-by-case basis, for a determination that the lease will not create a situation inconsistent with antitrust laws.

Repeal of section 2(c) would also improve this Department's ability to manage Federal coal resources held in checkerboard ownership patterns with railroads or their affiliates. The restriction on participation in the Federal coal leasing program by such companies within checkerboarded areas may unnecessarily frustrate orderly development of both the Federal and non-Federal coal resources.

Repeal of section 2(c) would prevent the possibility of disruption of the Federal coal leasing program resulting from protracted litigation challenging the eligibility of railroad affiliates to hold Federal coal leases and would thereby promote the public interest and the long-delayed development of coal resources in the public domain.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Adminstration's program.

Sincerely.

JAMES WATT, Secretary.

# SOVIET WATCH: AFGHANISTAN ATROCITY

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

• Mr. FIELDS. Mr. Speaker, the Soviet invasion and record of almost daily atrocities committed in Afghanistan are, in my opinion, underreported in the national media. I therefore insert in the Record a short UPI dispatch from New Delhi, India.

SOVIET ATROCITY REPORTED IN AFGHANISTAN

New Delhi (UPI).—Soviet troops poured inflammable fluid into an underground irrigation channel and burned to death 105 Afghan civilians hiding inside, diplomats said yesterday.

Eleven children were among those killed in the flaming massacre Sept. 13 in Padkhwab-e-Shana village in Logar province, 36 miles south of the Afghan capital of Kabul, the diplomats said.

The diplomats based their report on an investigation by an American, Michael Barry, who made a clandestine journey to the village to investigate the incident.

The Soviet-conrolled official Afghan news agency, Bakhtar, said, "The incident was fabricated by Western media and never occurred in Logar or any other region" of Afghanistan.

Barry led a three-member team from a Paris-based organization called Bureau International Afghanistan to the village from Nov. 26 to Dec. 4.

Barry said 105 Afghan civilians—mostly migrant workers and refugees—hid in the underground irrigation channel because they were afraid of the approaching Soviet and Afghan troops.

To trap the hiding Afghans, the Soviets first adjusted a small dam to make the channel's water rise. The Soviets then poured in an inflammable liquid "probably petrol (gasoline) or kerosene, which would float on the water's surface" and ignited it, the diplomat said.

"Everyone in the underground irrigation channel was burned to death," Barry report-

ed.

Sixty-one of the 105 victims were "still recognizable because their faces were partly protected from the flames by the soft mud they pressed themselves into to escape the flames," a diplomat said.

Barry, who speaks the Dari language of Western Afghanistan, claimed "he had interviewed eyewitnesses, been inside the underground irrigation channel, taken photos and brought back samples of the thick, sooty deposit now lying in the irrigation channel," a diplomat said.

It was not immediately known why the Soviets burned the trapped civilians, but it was believed the victims were suspected of being sympathizers of the Moslem rebels fighting the Moscow-backed communist

regime.

In Islamabad, capital of Pakistan, which borders Afghanistan, diplomatic sources said the regime in Kabul was considering drafting students to beef up the country's depleted army.

The sources said desertions and casualties had reduced the strength of the Afghan army from 80,000 at the time of the Marxist revolution in 1978 to nearly 30,000.●

## THE PLO AND ISRAEL

# HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. LIVINGSTON. Mr. Speaker, I would like to call my colleagues' attention to a thoughtful article by retired Adm. Elmo R. Zumwalt, Jr., concerning the nature of the recent fighting between the Palestine Liberation Organization and Israel and its effect on U.S. interests. Admiral Zumwalt has made a formidable contribution to the continuing debate on this issue, and his views certainly deserve careful consideration by the Congress and the American people.

The article follows:

[From the New York Times, Nov. 19, 1982] ISRAEL AND THE UNITED STATES GAINED IN LEBANON

(By Elmo R. Zumwalt Jr.)

ARLINGTON, Va.—Ever since the beginning of the Israeli military operation in Lebanon, the public has seen a curious divergence of attitudes between Administration policy makers and news media opinion makers about the effect of the war on the United States' national interests.

Many critics outside the Government have treated the offensive as an embarrassment at best, an excessive use of force and a threat to Middle Eastern stability. To them, Washington's main problems are to undo the damage the Israelis have done, to dissociate the United States from the policies of Prime Minister Menachem Begin's Govern-

ment and to avoid too close an association with any faction in Lebanon's complex polities

Within the Administration, by contrast, there has been a recognition, right from the start of the operation, that Israel's strategic objectives in the war closely paralleled American interests. There is now a dawning realization that the outcome brought about by the sweeping victory opens the possibility of additional gains beyond Lebanon. Indeed, while the political situation is static to deteriorating in much of the rest of the world, Lebanon is emerging as the one place where we can see a decisive gain for the West and a clear setback to the interests of the Soviet Union and its radical allies.

First, after seven years of decline into barbarism, Lebanon finally has a chance to restore itself as an island of stability and progress. The Palestine Liberation Organization had maintained up to 30,000 fighers in Lebanon and arms caches for many more; if that situation had continued, outright capture of Lebanon by the P.L.O. and its radical allies might have made it the Cuba of the Middle East. Instead, Israeli military pressures have driven the P.L.O. out of the country, and Lebanon no longer will serve as a base of international terrorists of all stripes.

Second, a pro-Western regime is now being developed in Beirut. Lebanon will thus be added to Israel, Egypt and Turkey a solid bloc of United States friends in the eastern Mediterranean. With Israel acting as a deterrent to future Syrian adventurism in Lebanon, the drift toward Soviet "colonization" in the region has been replaced by a

trend toward stability.

Third, a blow has been dealt to Moscow's clients in the region, to the reputation of its arms and to Moscow's diplomatic influence in Middle Eastern capitals. The Arab radicals are divided, cleavages are appearing in the P.L.O. and tensions have been aggravated between the Soviet Union and its clients in such centers as Damascus and Baghdad. The blow to Soviet arms is equally significant, for the sale of weapons has been the Kremlin's principal means of influence in the region and an important source of hard-currency earnings. Even President Hafez al-Assad of Syria and Yasir Arafat now look to Washington for influence.

Fourth, the Soviet Union has been weakened on the wider international stage. The vulnerability of its air defense concept manifested by the dramatic Israeli victory over Soviet surface-to-air missiles and planes must change perceptions of the overall might of the Soviet Union that underlies

its "diplomacy."

Moreover, major renovations of the Soviet Union's air-defense network in Eastern Europe may well be required. This would divert potentially large amounts of money and brains from offensive to defensive air-defense systems, from expansion of military forces to replacement of those forces. It is even possible that the Warsaw Pact's entire concept of the deployment of forces in Europe, which relies heavily on interceptors and ground-based missiles to counter air attack, will have to be scrapped at great expense and over an extended time. Similarly, the Soviet Union's diplomatic system will need to be rebuilt now that its inability to protect a prominent ally has been shown, and the initiative has passed to the West.

All this has been achieved without any significant cost to the United States, although, regrettably, at a considerable cost in Israeli and Lebanese lives. In effect,

Israel has handed the United States its most dramatic victory since Anwar el-Sadat expelled the Russians from Egypt in 1972.

What is so peculiar about this situation is the failure of many in the West, particularly in the nongovernmental, foreign policy, national security community in the United States, to recognize the simple strategic facts of the situation. Some seem almost ashamed to win, as if the only acceptable posture is to parry the other guy's thrust and never go aggressively after an objective on your own. Others are obsessed only by the violence (although they were somehow able to live with the higher levels of loss of life that preceded the Israeli operation and would have continued if Israel had just sat back), in a kind of pacifist blindness to the higher human and American national interest that only decisive action could protect.

It is a law of progress that the dynamic prevails over the static, the active over the reactive. Considerable opportunities flowing directly from the Israeli operation are now open to America—if it has the courage and will to act in its own national interest. Our choice is to continue misguided enmity toward Israel or to work with our one realiable and effective ally in the region to press the advantage while we have it.

## BILLY LEE EVANS

# HON. ED JENKINS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 13, 1982

• Mr. JENKINS. Mr. Speaker, in less than 3 weeks, with the end of this 97th Congress, our colleague Billy Lee Evans will be leaving our ranks. I wish to pay tribute to this man who in the 6 years he has been a Member of this body has taken an interest in many areas, devoted his energies and talents to varied projects, worked hard, and accomplished much.

BILLY Evans holds positions on three standing committees in the House of Representatives and, as well, a seat on the Select Committee on Narcotics Abuse and Control. He can be proud of his record on the Judiciary Committee and the Committee on Public Works and Transportation. In addition, his work on the Small Business Committee has been outstanding; he has worked in the best interests of all small businesses and small business people.

Personally, it has been a pleasure to serve with BILLY EVANS. Ever since we came together to serve in the 95th Congress, his friendship has meant a great deal to me.

BILLY Evans came to the House a young man and is departing still a youthful and vigorous one. He came with a good background, including service in the Georgia House of Representatives. He has done a good job here, and I am sure the experience he has gained will serve him well in the future.

I want to wish for BILLY LEE EVANS the very best, as he continues on with his life and work, and I look forward to keeping up with him. I know he will continue to succeed, achieve, and contribute in the years ahead.

PETE McCLOSKEY

# HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

• Mr. CLINGER. Mr. Speaker, nearly 15 years ago to the day, Congressman Pete McCloskey began his service here in the U.S. House of Representatives. During these past 15 years, he has established a reputation as an in-

dependent thinker.

It is a well-deserved reputation and one that I affirm. It is much easier to be a maverick, which Pete is not, than an independent, yet effective legislator, which Pete sought successfully to be. I have gotten to know Pete through the House Wednesday group which encourages innovative, yet practical, approaches to public policy issues. As chairman of the House Wednesday group, I know that Pete's presence will be missed. He has been an effective legislator and an exemplary public servant.

A FRENCH LESSON FOR AMERICA ON NUCLEAR ENERGY

# HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. DANNEMEYER. Mr. Speaker, as the Congress continues to evaluate and formulate our Nation's energy policy, we must carefully weigh the importance of nuclear power to our overall policy. It is most unfortunate that the House voted earlier this week to delete funding for the Clinch River breeder reactor from the continuing appropriations resolution.

In addition, unless we act in the remaining days of the 97th Congress as I earnestly trust we will do, the Congress will have again failed to get a comprehensive nuclear waste policy on the books. This will be true despite the great efforts of many of my colleagues who worked long and hard on the

waste legislation.

During consideration of the nuclear waste bill on the floor, I made reference to the specific experience in France, where a successful nuclear waste management program has been in effect. Since that time, an article has come to my attention that addresses the broader French experience with nuclear power. In light of the fact that we are likely to be addressing Clinch River, waste management, and other nuclear issues in coming months, I thought my colleagues

would like to read this commentary by Llewellyn King, publisher of the Energy Daily. I am inserting it at this point in the RECORD:

A FRENCH LESSON FOR AMERICA

Enemies to the left and enemies to the right: so it goes for the Clinch River breeder reactor whose fate hangs in the balance as the lame duck Congress hastens to finish its work. The breeder project has become a fabulous invalid whose prognosis grows a little worse every year. The high hopes that its promoters had for the Reagan Administration have not been realized. Although the White House is soundly behind the project it has been unable to improve its chances in Congress. Worse, a new militance against the breeder has emerged on the right wing. Although not formally allied with left wing Democrats and environmentalists, the new opposition from the Right might succeed in tipping the scales against the endangered

In the decade in which the project has been evolving, the world has changed around it: the budget deficit has mush-roomed, the back end of the nuclear fuel cycle has collapsed, uranium is abundant. Empty and pejorative phrases like "technological turkey" have slipped into the language and eroded the standing of the Clinch

River project.

Ideally breeder reactors would fit into a cohesive national nuclear program, the kind which existed until the election of Jimmy Carter. But the cohesion is gone and the Reagan Administration has been unable to

re-establish it.

How different the story in France. In the 1960s, the French started on a comprehensive program to shift the generation of electricity from fossil fuels to nuclear power forever. It was a sagacious decision and France can now look forward to decades of some of the cheapest electicity in Europe. There have been other benefits, too: while the rest of Europe is battling over acid rain, France's few coal-fired stations contribute so little that the French can shrug their shoulders over retrofitting their coal stations with stack gas scrubbers.

So successful is the French program that it has become part of the French hubris, and the honor of France is now intimately entwined with the success of its nuclear program. Of the four political parties in France, only the Socialists have nuclear qualms and only about half of those. President Mitterrand made rude noises about the technology until he discovered two intractable truths: a majority of his people have developed a national pride about the nuclear program; and France is run by a series of elites who continue with their own agenda for the future of the nation, no matter who

resides at the Elysee palace.

Mitterrand government did slow down the program but really no more than was demanded by the economy. Old school ties bind very firmly in French society and the momentum of the ruling elites is not easily changed. Newly nationalized industries are run by the same professional managers as before, for example, and probably will be run by the same managers if and when they are returned to the private sector. This is true of the nuclear program as well. No wide-eyed Socialists have been able to get it by the throat. It has been guarded as carefully by its professionals as the treasures of the Louvre were during the Second World War.

The crowning jewel of this program is the breeder reactor and the French breeder pro-

gram stands head and shoulders above any in the free world. (French government officials acknowledge that the Soviet program seems to be roughly at a parallel stage of development.) With Phenix generating power and Super-Phenix, which has minority German and Italian participation, due to go on line in 1984, France is looking ahead to generation of 1500-megawatt breeder reactors. The plan is to have breeders integrated into the electric system early in the next century, the French having learned from their light water reactor experience that it takes about that long.

What is the lesson here for America? The single most telling one is that if the U.S. wants commercial breeder reactors on line in the first quarter of the next century, it must start building them now. After that, drawing lessons from the French experience becomes a little more difficult. The French and American situations are vastly different. The U.S. has many other resources.

So the issue may really be whether the U.S. wants to abandon forever its technological leadership in nuclear power. There seems to be no question that if a nation abandons its footing on the technological escalator, it will not catch up again, Sputnik notwithstanding.

Opponents of the breeder liken the French program to the Concorde. Not so, says France Bres of the French Atomic Energy Commission and a host of other French officials with whom I spoke last week during a tour of the French fast reactor program. With Concorde, they claim, France was building an aircraft for markets that it could not control. For breeder-generated electricity, France has the market.

Perhaps the U.S. should simply wait and buy French breeder technology when it's needed? Remy Carle, Electricite de France's director of power station equipment and construction, does not believe that is possible. Nuclear plants are not automobiles: they are built to homegrown engineering concepts and safety concepts. It is also politically inconceivable that French engineers ever would be invited into the U.S. with their technology, to do for us what we were seemingly unable to do for ourselves.

The French nuclear establishment to a man is convinced that the U.S. should build the Clinch River prototype. "Get on with it," "Do it," and similar urgings are pressed on visiting Americans.

What really makes the French nuclear program different and more viable than ours is that it has an agenda and is orderly. It is probably the most cohesive high-technology undertaking in the Western world.

The new Secretary of Energy needs to develop a similarly credible nuclear agenda for the U.S. A new program must not be a restatement of goals that patently cannot be achieved, of tired old ideas or rhetoric that is at odds with the facts. Public money is at stake, future technological leadership is in the balance and electricity security for the next century is at issue. And Clinch River itself may be the cornerstone. The fate of the reactor represents a seminal time in the history of civilian nuclear power in the U.S. The decision to kill it or to save it is probably more important in its historic ramifications than the decision not to proceed with the supersonic transport.

U.S.-EEC RELATIONS

# HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. WINN. Mr. Speaker, recently I met with Mr. Pierre-Bernard Couste, a member of the French National Assembly and the European Parliament. I have long known Mr. Couste through the U.S. congressional meetings with the European Parliament. A good friend of the United States, Mr. Couste was in this country to give his views on United States-European Community relations to the France-America Society in New York. In his paper, he provides a thoughtful insight into the interests we share on both sides of the Atlantic and also the differences we are now experiencing. I would like to call to the attention of my colleagues the very interesting and informative remarks of Pierre-Bernard Couste. His paper will enlighten us on where we are going and where we should be going in United States-European Community relations.

U.S.-EEC RELATIONS
(By Pierre-Bernard Couste)

Ladies and Gentlemen: In speaking to you as a member of the European Parliament the subject closest to my heart in trans-Atlantic relations and I shall therefore be dealing with relations between the United States and the European Community. Many of the current hot issues in this respect are now the responsibility of the Community as such and no more of individual Member States like France. I am thinking especially of commercial policy and agriculture

of commercial policy and agriculture. Before discussing with you the different points of friction between the EEC and the United States, I should first of all like to underline, as I had the occasion to do before the European Parliament on October 13, 1982 in Strasbourg, the importance of our common heritage. We should never forget that our peoples on both sides of the Atlantic Ocean are deeply attached to the same values, values like liberty and democracy, human rights and freedom of speech. These values separate us clearly from certain other regimes in the world. They are values which are deeply rooted in our history, values that, whatever may divide us for the moment, will always unite us in the end.

As everyone knows the Community's relations with the United States in recent months have been bad at least by reference to earlier years before economic recession had established its present grip on the world economy. I intend to limit myself to four aspects only of our relations and then to draw some general conclusions.

Firstly, commerce. Although some important disputes have now been resolved, this remains an area subject to tensions, not just because of the increased protectionism which is to be expected during an economic recession, but also because recent developments have revealed important political differences of attitude—especially with regard to East-West trade.

The European Community and the United States form together with Japan the three main pillars of world trade. The United States is by far the most important trading partner of the European Community taken as a whole and the EC is by much the largest export market of the United States (although Canada constitutes in most years a larger source of United States exports). For investment flows also, the United States and the European Community are each other's main partners, taking the lion's share of international investment world-wide.

Our economies are therefore condemned to coexist. There are only few aims of government policy more important than ensuring the smooth running of our commercial relations. In conducting such relations, negotiation on the basis of equal partnership is the only method of reducing trade frictions to a minimum. An "aggressive" style of conducting foreign relations, where Government spokesmen emphasize conflict rather than common interest, is only too likely to increase frictions and handicap that smooth running of our commercial relations.

The path of negotiations for the resolution of trading problems is to be pursued at the meeting of GATT Ministers to be held in Geneva next week. The successful outcome of this meeting is in doubt. It has not in any case been helped by the recent grave disputes concerning export credits, steel exports to your country and the stand your government has taken on the project of the gas pipeline linking the Soviet Union to Western Europe.

The first two of these have now been resolved, although in ways that may have bitter consequences. The OECD consensus on export credits was eventually renewed in July 1982 on terms which will considerably raise the cost of our exports to some developing countries (and to the Soviet Union). To illustrate this point, I may mention that minimum interest rates for our export credits to "relatively rich" countries, now including the U.S.S.R. and East Germany, have been increased by 1.15 percent for mediumincome countries by 0.35 percent.

The steel dispute has been resolved by an agreement, valid only until 1985, under which the Community agreed "voluntarily" to restrict the volume of its steel exports to a rather small share of the U.S. market. You will remember that the criteria used by the U.S. Department of Commerce to estimate the degree of subsidy on certain steel products were strongly contested by the Community's authorities.

This agreement has removed one of the most severe trade frictions in the commercial history of the relationship between the United States and the European Community and has shown that difficult disputes can be settled in an atmosphere of cooperation, understanding and friendship is prevailing. As a side show of this agreement we have been happy to experience a strengthening of European Unity by the association of Germany, Luxembourg and the Netherlands to this agreement, these countries having furnished only small or no subsidies to their steel industries.

There remains the "pipeline" dispute. The issues that lie behind the disagreement involved here are clearly more political than commercial. The decision of the U.S. Administration to apply sanctions to European subsidiaries of American companies and to European licenses of U.S. technology, who export equipment for use in the construction of the gas pipeline from Siberia to Western Europe, has raised very important questions of principle.

In the opinion of the Community this decision violates both the international code of conduct stipulating that existing contracts be respected of the U.S. government affect companies established according to the national legislation of EC member states. The abrogation of this decision by the U.S. authorities will be the "condition sine qua non, that is, the condition which has absolutely to be fulfilled before a compromise can be reached which is acceptable to the Community.

It is simply not acceptable that the United States seek to impose its views in this way. If we want to guarantee a harmonious, U.S.—EC relationship in a democratic context, differing opinions must be tolerated even if they concern such vital issues as the suppression of the Polish syndicate "Solidarity" or the strategic importance of East-West trade.

With regard to the economic aspects of the pipeline dispute, we are especially disappointed that the U.S. government takes the stand that its own cereal exports to the Soviet Union are permissible and may even be increased whereas exports of machinery by others are considered an offense against political morale.

We do not accept the argument that cereal imports deprive the Soviet Union of foreign currency, and therefore "damage" the Soviet Economy, while imports for the pipeline to Europe provide them with an undesirable advantage. A recent study by Wharton Econometrics has shown that the Soviet Union realises considerable savings by importing cereals rather than growing them at home, since conditions are more favourable for agriculture in your country.

The discussion of the pipeline issue leads me quite naturally to my second subject: Energy. The situation in your country, the United States, is quite different from the European situation, as you have enough national resources to survive, even when imports are becoming expensive and difficult. We, the European Community, on the other hand, have a great shortage in energy, whether it be oil, nuclear energy or natural gas. It seems to me that for the European Community it is a matter of the highest imto diversify external portance sources, which means the application of an energy policy which does not leave us dependent upon one source only, whether it be the Soviet Union or any other country. The United States and the European Community have not initiated a debate on the important issue of the repercussions of the changes which have taken place over the last decade in the field of energy, at least since the last one took place five years ago. It is urgent that we organise an exchange of views on these matters. I am afraid that energy policy cannot be resumed to the simplistic request that Europeans import their oil or natural gas from Norway instead of from the Soviet Union. Importation of gas is dependent on long term strategic considerations. You cannot just turn on a tap and let the natural gas flow through.

The third issue I wish to address is one one which every Frenchman being a farmer in his soul feels especially strong. I naturally mean agriculture. This is an exceedingly complex subject, let me limit myself therefore to essentials at the risk of seeming superficial.

The GATT rules which govern world trade treat agriculture as a special case. During the Tokyo Round of trade negotiations the American Government agreed to accept the principles which govern the Community's Common Agricultural Policy,

despite its known opposition to certain aspects

This opposition has been strongly emphasized by the current Administration. Many cases have been brought before the GATT by the U.S. Government usually on the grounds that the European Community is competing "unfairly" in its exports to third countries. The basis for these attacks are the subsidies provided to agricultural production through price control mechanism and to exports through the system of refunding which aligns the price of exports to that prevailing on world markets. In addition the United States had announced its intention to seek the assimilation of GATT trade rules for agriculture to those for industrial products.

The Community's response is well-known. We recognize that almost all countries, including the United States subsidies their agriculture; we know that U.S. levels of subsidy per farmer are comparable to those in the European Community. We are convinced that our Common Agricultural Policy has an important function in maintaining the fabric of rural society and in achieving agricultural autarky.

We are not willing to sacrifice this protective system under any circumstances. No doubt there will be discussions in Geneva next week concerning the question of subsides to agricultural exports, but we shall strongly resist any attempt to curb the ex-

pansion of our exports.

This subject provides a major source of dissension. It could degenerate into a state of conflict, given the strong interests of the United States and the European Community in promoting their respective agricultural exports. However, I take this opportunity to remind you that the U.S. trade surplus with the European Community in 1981 amounted to some \$14 billion and that a large proportion of this surplus is represented by the surplus of trade in agricultural products. The European Community remains the largest world importer of food and the best customer of the United States. It is true that in recent years there has been a slight increase in the EC share of world agricultural exports and a very small decline in the U.S. share. But it would be utterly wrong to conclude that the problems of the U.S. agriculture can be solved by bullying Europe to curb its exports.

The final issue with which I intend to deal—even more briefly—is monetary policy, or more specifically the international consequences of U.S. interest rates. As we are all aware, interest rates in the United States. and throughout the world, have declined precipitously in the last month. Nevertheless one of the consequences of the domestic monetary policy followed in the United States has been to maintain artifically high interest rates throughout the world over a long period with a resulting reduction in levels of investment and of economic activity. A second consequence has been a flow of international funds into the United States and therefore an artifically high value of the U.S. dollar, in which a large proportion of goods traded worldwide continues to be denominated. The high level of interest rates, combined with the high value of the dollar, have had a crippling effect on economics throughout the world and especially on those burdened by debts and on those obligated to import a large proportion of their energy needs.

Given these adverse consequences of its domestic and economic policies, it seems to many observers outside the United States that in the definition and execution of these policies more weight should be ascribed to consideration regarding the outside world. Many of us doubt whether consequences of U.S. domestic policies are at all taken into account. However, you will certainly agree that the United States is too important a part of the world economy for such a dangerous neglect.

What then are my conclusions? In the global village "good neighbourliness" between the United States and the European Community is especially important if tensions are to be reduced and economic

wounds are to heal.

This means that we must all be ready to learn from recent experiences. The steel and pipeline conflicts in particular show the importance of negotiation leading necessarily to concessions by each side. They also reveal the need for a consensus over such diverse issues as the nature of "acceptable" subsidies to industry and the significance of East-West trade. The Member States of the European Community will not allow themselves to be bludgeoned into acceptance of the apparent U.S. view that all economic contacts with the Soviet Union are suspect or that all government subsidies are wrong even if they are intended to assist reductions in capacity.

Similarly, with regard to agriculture, the United States must be prepared to compromise; it cannot seek to change the international rules for trade in agriculture without the consent of its principal trading partner.

the consent of its principal trading partner. Lastly, if we are to be "good neighbours", we must all think more about the impact on our friends of the policies which we pursue at home. This of course applies as much to the European Community and its individual Member States, but the very great importance of the United States in world affairs means that the external consequences of American domestic policies are more important than those of policies conducted by individual states in Europe. Self-restraint and consideration for others are qualities essential to any civilised person and to any nation-state. They are especially important in economic relations between the major trading powers of the world.

As I said in the beginning of my speech, we are linked by common values. Our civilisation is based on the same principles of democracy and freedom of speech, on the same respect for the individual and for human rights. I am sure that these values, which are deeply anchored in our history and made us what we are today, will always be so strong and vivid amongst us that in the end they will enable us to overcome temporary difficulties such as the ones we are faced with at the present time.

#### A GREAT PUBLIC SERVANT

## HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. MICHEL. Mr. Speaker, there is something important occurring in this Nation, and particularly in this body.

What is taking place is the departure from this body of some great public servants, people who have truly distinguished themselves, not only by what they have accomplished, but more importantly by how they have accomplished it.

The American people very regrettably are not fully cognizant of the contributions that these individuals have made to them and to the Nation, nor do the American people fully realize what great voids will be left in this legislative process by their departure. It is a shame that Congress and its Members are so often criticized for what is wrong with our country and so seldom credited with what is right. That constant negativism has had a profound effect on the way people perceive all Members of Congress. The negative distortions make it difficult for people to distinguish between the good and the bad. The public lacks the appreciation it should have for those who have so unselfishly served their country with integrity, dedication, and skill.

The San Diego Union is a newspaper of national prominence that has exercised the good judgment to pay tribute to one of these individuals, my close friend, Clair Burgener of California. Clair is retiring from this House, much to my regret. The San Diego Union made the observation in an editorial commentary earlier this month that Clair "is so skillful as a political craftsman and so effective as a public servant that he is in the truest sense a political scientist."

I am sorry to see CLAIR leave this House, but I am very happy to see that his hometown newspaper has given just recognition to what he accomplished here, for all of us. I would like to insert the newspaper's editorial at this point in the Record.

The newspaper's editorial follows:

[From the San Diego Union, Dec. 3, 1982]

ONE OF THE BEST

Dealing with politicians and public officials is part of our stock in trade. We get to know all sorts of office seekers and office holders. Sometimes, this can be discouraging. Sometimes, we even despair.

But then along comes a Clair Burgener to redeem the whole bunch. A man of wit, charm, intellect, vigor, ability, integrity, and dedication, he gives politicians a good name. Indeed, Mr. Burgener is so skillful as a political craftsman and so effective as a public servant that he is in the truest sense a political scientist. His former Democratic colleague in Congress, Lionel Van Deerlin aptly summed up Congressman Burgener's sterling character. "He's one of the best."

In keeping with his extraordinary penchant for doing things right, Mr. Burgener decided last year to retire from one of the safest seats in Congress at the height of his public career. No downhill slide for him. He wants to spend more time with his family and perhaps direct his attention toward

other areas of public life.

Providentially for California, a grand opportunity is opening for Clair Burgener to contribute to the state in an unusual way. After serving as campaign chairman for his long-time friend, Gov.-elect George Deukmejian, he now heads the Deukmejian transition committee that will exert enormous influence in the manning of the new administration in Sacramento. The governor-elect emphasized during the testimonial banquet honoring Mr. Burgener Wednesday evening

that this venerated San Diegan will have an influential voice in the next state govern-

One of Mr. Burgener's winsome attributes is a wholesome detachment from flattery or incentive. An unusual objectivity keeps him from taking either himself or anyone else too seriously. "All I ever promised my constituents." he once said, "was that I he once said, "was that I wouldn't make things worse. I've lived up to that.

He certainly has, serving with rare distinction as San Diego city councilman, assemblyman, state senator, and congressman.

It is with genuine admiration that we join the community in expressing appreciation and every good wish to this good and faithful servant.

#### STATEMENT OF HON. CLARENCE BROWN ON NATURAL GAS

# HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. DANNEMEYER. Mr. Speaker, on Wednesday, December 15, 1982, the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels held a hearing on natural gas issues. All of the witnesses were Members of Congress. Prior to taking testimony, each of the members of the subcommittee were permitted to make an opening statement.

I would like to take this opportunity to direct my colleagues' attention to the remarks of the subcommittee's ranking minority member, the gentleman from Ohio (Mr. Brown). It has been my privilege to serve with Bun Brown on the Energy and Commerce Committee since I came to Congress in 1979. We all know that Bup has been the leading advocate for free market energy policies over many years. As a key participant in the energy debates of the 1970's, it is only fitting that perhaps his last committee hearing in Congress was on the subject of natural gas policy.

We will miss his leadership in the House on energy issues as Bup will be leaving us at the end of the 97th Congress. However, we can still benefit from his insights as expressed in his opening statement at this week's hearing, which I am inserting in the

RECORD at this point:

REMARKS OF HON. CLARENCE J. BROWN, SUB-COMMITTEE ON FOSSIL AND SYNTHETIC FUELS, COMMITTEE ON ENERGY AND COM-MERCE HEARING ON NATURAL GAS

Mr. SHARP. Our distinguished ranking minority member, the gentleman from Ohio

(Mr. Brown) is recognized for 5 minutes. Mr. BROWN. Mr. Chairman, I want to quote something to you if I may and to the rest of the members of this committee:

"The NGPA has four major defects: it is hopelessly complex and confusing; it increases prices to industrial users and consumers without any assurances of significant additional supplies; it will unfairly discriminate against industrial users served by interstate pipelines, and it will not contribute to the development of the sound energy policies which we so desperately need

The Federal Energy Regulatory Commission, which will have to administer this legislation, has labeled the proposal "so complex, ambiguous, and contradictory that it would be virtually impossible for the commission to enforce it in a conscientious and equitable manner.\* \* \* "

Quoting further, "Costs to industrial users under this legislation will increase the most because all the cost of higher-priced gas is to be charged to the industrial user before it is charged to residential consumers [T]his legislation will create tremendous inequities among regions of the country and among classes of consumers of natural gas. Factories and jobs located in the northeast

and midwest will be particularly hard hit."
Mr. Chairman, modestly, I have been reading from the Congressional Record of October 14, 1978, the remarks I made at that time about this piece of legislation.

You did not take my advice then and you may not wish to take it now. But I feel compelled to insist, for one last time before this committee, that so long as Congress persists in seeking regulatory solutions to a problem which was caused by regulation, Congress will only make matters worse

I have already read exhibit 1 to you.

Exhibit 2 is a study of some length, about 25 pages that contains the results of a survey completed in November 1982 by the Ohio Department of Energy. The purpose of the survey was to get information on volumes of Ohio natural gas available for sale and the prices at which these volumes are offered. Mr. Chairman, I ask that the entire survey be made a part of the record of this proceeding

Mr. SHARP. Without objection, so or-

dered.

Mr. BROWN. In summary, the Ohio DOE found that substantial volumes of Ohio gas are indeed available, and Ohio producers are willing to negotiate a wide range of very competitive prices. To be precise, 18 Ohio producers of tight sands gas-gas subject now to a maximum lawful price of \$5.35 per Mcf—were willing to sell their gas for less than \$3; 13 were willing to sell for \$3.01 to \$4; 9 were willing to sell for \$4.01 to \$5; and only 4 producers insisted on the NGPA maximum price for their gas.

Yet, this gas is not being sold for what these producers are willing to take for it. The pipeline which serves that area told the producers last summer that it only buys gas at NGPA ceiling prices even though it was losing industrial customers because the cost of natural gas was too high under that policy.

Why would any business deliberately pass over cheaper supplies of inventory? For the same reason that natural gas pipelines have agreed to contracts which so restrict their ability to respond to their markets that all of you are here, ready to relieve and/or punish them by a new scheme of regulation.

The key is that natural gas pipelines do not have firstline responsibility for marketing the gas they transport, but their purchasing decisions determine how and to what extent that gas can be marketed.

How can anyone think that yet another layer of Federal regulation will cause the members of the natural gas industry to behave rationally and efficiently? This industry has been regulated for so long, and so completely, that even the industry itself seeks regulatory solutions rather than relief from regulatory solutions.

All of you, my colleagues, are here today because the consumers you represent are

being terribly disserved by the legislation many of you supported in 1978-the NGPA. I did not support the NGPA. I saw what would happen then and I see what will happen now if Congress once again tries to regulate its way out of a regulation-induced mess by passing simplistic legislation to freeze prices where they are now.

We have to find ways to make the market for natural gas more competitive and more responsive to the needs of consumers. My bill. H.R. 7122 is a first step toward that objective. It would relieve pipelines from the excessive take-or-pay obligations they willingly took on in their overwhelming desire to tie up gas reserves, no matter what the cost, at a time when Carter administration gurus were predicting limited energy demand of nonexistent supplies at any

But, in return, the pipeline would incur an obligation to transport the gas it doesn't take to another buyer. Both producers and pipelines are benefited; both are obligated to act in the best interests of the consumer.

It will not be simple to undo the results of 45 years of Federal regulation, but unless Congress begins, natural gas consumers will continue to suffer. The difference between what is happening in the petroleum market and what is happening in the natural gas market is not lost on consumers even if Members of Congress do not seem to appreciate the significance and the causes of falling oil prices and rising natural gas prices.

The culprit, simply put, is Federal regulation. You can do away with it as was done for petroleum, or, you can make do with it, even expand it. To me, the choice has always been clear.

Thank you, Mr. Chairman.

## WAYNE GRISHAM

## HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 8, 1982

· Mr. CLINGER. Mr. Speaker, Congressman Grisham and I arrived here 4 years ago as freshman Members of the 96th Congress. I took an immediate liking to WAYNE because, in the case of our incoming class, the phrase "it's lonely at the top" applied to our advanced ages. In this respect, WAYNE'S presence was always comfort-

And for this reason and out of a feeling of personal friendship and professional respect, I will miss Congressman WAYNE GRISHAM. I always enjoyed the company of WAYNE and his wife, Millie. Without question, I believe the 96th congressional class will seem lonelier without WAYNE-particularly at the top.

# EXTENSIONS OF REMARKS

ON COMMUNIST CHINA

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. FIELDS. Mr. Speaker, I recommend to my colleagues the following article by James Shen concerning the military potentials of Communist China. The unbiased reader will see why continued U.S. friendship and support for the free Chinese of the Republic of China on Taiwan are proper and necessary.

[From the Washington Times]
Is Communist China a "Millitary Midget"?
(By James Shen)

Military analysts in the West have tended to assess Communist China's military potential by comparing it with that of the Soviet Union or the United States, stressing their combat capabilities and weapons systems with scant attention to their strategic dimensions.

This has led some of them to suggest that the West should help modernize the Chinese Communist armed forces in order to counterbalance the Soviet military strength. At the same time, they have claimed that Communist China lacks the combat capability to launch a successful attack against Taiwan.

A closer look at Communist China's military potential and the strategic equations in the region shows that these arguments are highly questionable.

In the military equation between Communist China and the Soviet Union, it is clear that Peking requires one kind of military capability to deter Soviet military threat and another to coerce the Soviet Union to change its behaviors and foreign policy.

At present, Communist China relies on two factors in its deterrence capability vis-avis the Soviet Union. The first is its possession of a limited nuclear retaliatory force. In 1980, its intercontinental ballistic missiles (ICBM) could hit Soviet targets within a range of 600 kilometers. Today, its ICBMs can reach Soviet areas west of the Ural Mountains. The second is mainland China's vast size and huge population, its 5 millionstrong regular force, plus several millions of armed militiamen and border guards, and its "people's war strategy."

From the Soviet point of view, however, Communist China's military potential has not yet begun to threaten its security. What worries the Soviet Union is the specter of a global anti-Soviet coalition led by the United States and comprising of Japan, Communist China, the NATO countries, and the Persian Gulf states.

Western military observers have offered three scenarios under which the Soviet Union will attack mainland China. First is a full-scale invasion to establish control over the whole of mainland China. Second is a limited attack with a view to overthrowing the Peking regime and installing a pro-Moscow puppet regime instead. Third is the destruction of Communist China's military installations and communications system and the occupation of some border areas.

But anyone familiar with the Soviet military thinking can see that none of these scenarios is likely to occur.

In the first place, the Soviet leaders are too intelligent to be dragged into a "people's

war" quagmire from which they cannot extricate themselves. Given the vastness of mainland China and the formidable size of the Chinese Communist armed forces, the Soviet army cannot hope to be able to control the entire war area, except to occupy a number of lines and points. Otherwise the Soviet lines of supplies will become vulnerable to Chinese Communist attacks.

Secondly, a Soviet invasion seeking to establish a pro-Moscow regime will only heighten the traditional anti-Soviet sentiments of the great Chinese masses. The Soviet Union will have to station a huge army in mainland China in order to sustain such a puppet regime.

Thirdly, a limited war for the purpose of destroying the Chinese Communist military installations and occupying some areas will inevitably develop into a protracted war. With the exception of its invasion of Afghanistan, the long-held Soviet military strategy is to avoid involvement in a protracted war near its own borders.

These and not the modern military weapons at the disposal of the Chinese Communists, have served as a deterrence to any Soviet attempt to invade mainland China in the past.

If, as some people in West have hoped, Communist China is to acquire a military strength capable of threatening the Soviet Union and thereby influencing the latter's behaviors and external policy, it must possess a powerful striking force, including strategic nuclear arms.

At present, the Soviet Union has deployed 46 divisions along the Sino-Soviet border. Some of them are equipped with mobile medium-ranged SS-20 missiles, medium-ranged Backfire bombers, MiG-25 and Foxbat jet fighters, and automated cannons. These are the weapon systems the Chinese Communists cannot hope to match, much less surpass in the foreseeable future.

But depite such a disparity in weapons in Moscow's favor, the Soviets are not about to start a war against mainland China. Leaders in Moscow and Peking both know only too well that the West will pick up the pieces after a full-scale war between the Soviet Union and Communist China. Moreover, both the Russian and the Chinese Communists have remained committed to make the world safe for socialism. They will each go their own separate ways in their messianic goal "bury the West," to borrow Khrushchev's dictum.

Although at present the Chinese Communists' military strength is inferior to that of the Soviet Union and the United States, it is still much longer than any other country or combination of countries in Asia. Many Western military analysts have referred to the Chinese Communist military performance during the war with Vietnam in 1979 as proof of Communist China's limited capability in invading Taiwan.

Such a view is incorrect because it overlooks Peking's objective in invading Vietnam. Moreover, the mountainous areas along the Sino-Vietnamese border are not suitable for fighting a war involving large regiments and heavy armored vehicles. Furthermore, Peking's invasion of Vietnam was designed as a limited war to "teach" the Vietnamese a lesson. An invasion of Taiwan, on the contrary, will not be a limited war with a limited objective. It will be a total war with a total objective.

The Asia Society in its recent report (August 1982) entitled "China's Military Power in the 1980s" has obviously erred in its overall appraisal of Communist China's

military capability. The report lays stress on weapon systems but overlooks the long-term threat of the Chinese Communist's military strength to the non-Communist countries in Asia. The scenarios it has offered on the possibility of war in the Taiwan Straits show lack of judgment.

The author of the report, Professor June Teufel Dryer of the University of Miami, has paid little attention to the Chinese Communists' development of new weapons in recent years and their implications for the security of other Asian countries.

Finally, his comparison of Communist China's military strength with that of the Soviet Union or of the United States tends to underestimate its long-term threat to the security of non-communist countries in Asia.

The Chinese Communists have so far refrained from launching a direct military attack on Taiwan because they have not underestimated the ROC's military strength. They will start a full-scale war only when they are confident of victory. The erosion of the ROC's defense capability will no doubt increase in the Chinese Communist's appetite for a final military showdown in the Taiwan Straits. Both the security of Taiwan and the entire Asia-Pacific region can be maintained only when the ROC is assured of continued access to modern and sophisticated weapons.

#### MONOPOLY PRIVILEGE OF U.S. POSTAL SERVICE

# HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. PAUL. Mr. Speaker, many Members of Congress have argued in favor of rescinding the monopoly privilege that the U.S. Postal Service now has on the delivery of first class mail. The argument is not new.

A 19th century jurist, Mr. Lysander Spooner, a legal genius, argued eloquently against this unjust monopoly over first class mail and I believe his argument is potently valid.

It is with pleasure that I submit part of his essay on the unconstitutionality of the laws prohibiting private first class delivery of mail.

Unconstitutionality of the Laws of Congress, Prohibiting Private Mails argument

Of the following propositions, almost any one of them is sufficient, I apprehend, to prove the unconstitutionality of all laws prohibiting private mails.

1. The Constitution of the United States (Art. 1. Sec. 8.) declares that "the Congress shall have power to establish post-offices and post roads."

These words contain the whole grant, and therefore express the extent of the authority granted to Congress. They define the power, and the power is limited by the definition. The power of Congress, then, is simply "to establish post-offices and post roads," of their own—not to interfere with those established by others.

2. The constitution expresses, neither in terms, nor by necessary implications, any prohibition upon the establishment of

mails, post-offices and post roads, by the states or individuals.

3. The constitution expresses, neither in terms, nor by necessary implication, any surrender, on the part of the people, of their own natural rights to establish mails, post offices, or post-roads, at pleasure.

4. The simple grant of an authority, whether to an individual or a government, to do a particular act, gives the grantee no authority to forbid others to do acts of the same kind. It gives him no authority at all, relative to the acts of others, unless the acts of others would be incompatible, or in conflict, or collision, with the act he is authorized to do. It does not authorize him to consider mere competition and rivalry, as conflict collision or incompatibility.

flict, collision, or incompatibility. This doctrine fully admits that Congress "have power to make all laws which shall be necessary and proper for carrying into execution" their own power of establishing post-offices and post-roads." But, then, it asserts that every law they pass, must, in order to be constitutional, be a direct positive, affirmative step in actual "execution" of their own power. It must, in some way, contribute, affirmatively, to be establishment of their own mails. But the suppression of private mails is not an act at all in "execution" of the power "to establish" others. If Congress were to suppress all private mails, they would not thereby have done the first act in "execution" of the power given them by the constitution, to establish mails. The entire work executing their power of establishing mails, would still remain to be done.

This doctrine also fully admits the absolute authority of Congress over whatever mails they do establish. It admits their right to forbid any resistance being offered to their progress, and to prohibit and punish depredations upon them. But it, at the same time, asserts that the power of Congress is confined exclusively to the establishment, management, transportation and protection of their own mails.

5. It cannot be said to be necessary to prohibit competition, in order to obtain funds for establishing the government mail—because Congress, in order to carry out this power, as well as others, are authorized, if necessary, "to lay and collect taxes, duties, imposts and excises"—and this is the only compulsory mode, mentioned in the constitution, for providing for the support of any department of the government. They are under no more constitutional constraint to make the post-office support itself, than to make the army, the navy, the Judiciary, or the Executive support itself.

6. The power given to Congress, is simply "to establish post-offices and post roads" of their own, not to forbid similar establishments by the States or people.

The power "to establish post-offices and post roads" of their own, and the power to forbid competition, are, in their nature, distinct powers-the former not at all implying the latter-any more than the power, on the part of Congress, to borrow money, implies a power to forbid the people and States to come into market and bid for money in competition with Congress. Congress could probably borrow money much more advantageously, if they could prohibit the people from coming into the market and bidding for it in competition with them. But the advantage to be derived by Congress from such a prohibition upon the people, would not authorize them to resort to it, even though the people were to offer so high a rate of interest, that Congress could not borrow a dollar in competition with them. Congress must abide the competition of the people in borrowing money, be the result what it may. And they must abide the same competition in the business of carrying letters; and for the same reason, viz:—because no power has been granted them to prohibit the competition.

7. The power granted to Congress, on the subject of mails, is, both in its terms, and in its nature, additional to, not destructive of, the pre-existing rights of the States, and the natural rights of the people.

The object of the grant to Congress undoubtedly was to enable the government, in the first place, to provide for its own wants, and then to contribute, incidentally, as far as it might, to the convenience of the people. But the grant contains no evidence of any intention to prohibit the States or people from using such means as they had, so far as those means might be adequate to their wants. Any other doctrine than this would imply that the people were made for the benefit of the department, and not the department for the benefit of the people.

8. In matters of government, the people are principals, and the government mere agents. And it is only as the servants and agents of the people, that Congress can "establish post-offices and post roads". Now it is perfectly clear that a principal, by simply authorizing an agent to carry on a particular business in his name, gives the agent no promise that he, (the principal,) will not also himself personally carry on business of the same kind. He plainly surrenders no right to carry on the same kind of business at pleasure. And the agent has no claim even to be consulted, as to whether his principal shall set up a rival establishment to the one that is entrusted to the agent. The whole authority of the agent is limited simply to the management of the establishent confided to him.

9. It is a natural right of men to labor for each other for hire. This right is involved in the right to acquire property; a right which is guaranteed by most of the State constitutions, and not forbidden by the national constitution. No law which forbids the exercise of this right in a particular case, can be constitutional, unless a clear authority be shown for it in the constitution. No authority is shown for prohibiting the labor of carrying letters.

10. If there were any doubt as to the legal construction of the authority given to Congress, that doubt would have to be decided in favor of the largest liberty, and the natural rights of individuals, because our governments, state and national, profess to be founded on the acknowledgment of men's natural rights, and to be designed to secure them; and any thing ambiguous must be decided in conformity with this principle.

11. The idea, that the business of carrying letters is, in its nature, a unit, or monopoly, is derived from the practice of arbitrary governments, who have either made the business a monopoly in the hands of the government, or granted it as a monopoly to individuals. There is nothing in the nature of the business itself, any more than in the business of transporting passengers and merchandise, that should make it a monopoly, either in the hands of the government or of individuals. Probably one great, if not the prinicpal motive of despotic governments, for maintaining this monopoly in their own hands, is, that in case of necessity, they may use it as an engine of police, and in times of civil commotion, it is used in this manner. The adoption of the same system in this

country shows how blindly and thoughtlessly we follow the precedents of other countries, without reference to the despotic purposes in which they had their origin.

12. An individual who carries letters, cannot be said to usurp, or even to exercise, an authority that is granted to Congressfor Congress has authority to carry only such letters as individuals choose to offer them for carriage. Whereas a private mall carries only those letters which individuals choose not to offer to the government mail. The authority of Congress over letters, does not commence until the letters are actually deposited with them for conveyance; and therefore the carrying of letters that have never been deposited with them for conveyance, does not conflict at all with the power of Congress to carry all the letters that they have any authority to carry.

13. It cannot be said that an individual who carries letters, is doing the same thing that Congress is authorized to do. He is not doing the same thing, but only a thing of the same kind. This distinction is material and decisive. There is no objection to his doing things of the same kind as Congress, (so far as he has the natural power and right to do them), unless the Constitution

plainly prohibits it. 14. If Congress could forbid individuals doing a thing simply because it was similar to what the government had power to do. they might forbid his borrowing money, be-cause "to borrow money," is one of the powers granted to Congress. They might also, on the same grounds, forbid parties to settle their controversies by referring them to men chosen by themseves, because government has established courts, and given them authority to settle controversies, and references to other tribunals, chosen by the parties, is depriving this department of the government of a part of its business, and the marshals, clerks, and jurors of the op-portunity of earning fees. There is just as much ground, in the constitution, for prohibitions upon the settlement of controver-sies, without the aid of the government courts, as there is for the prohibitions upon the trnasmission of letters without the aid

15. Suppose the Constitution had declared that Congress should have power "to establish roads and vehicles for the transportation of passengers and merchandise" (instead of letters). Would such a grant have authorized Congress to forbid either the States or individuals to establish roads and vehicles in competition with those of Congress? Clearly not. Yet that case would be a perfect parallel to the case of the post office.

of the government mail.

16. If Congress can restrain individuals from carrying letters, on the ground that the revenues of the post office are diminished thereby, they may, by the same rule, prohibit any other labor, that tends to diminish the revenues derived from any other particular source. They may, for instance, forbid the manufacture, at home, of articles that come in competition with articles imported, on the ground that such home manufactures diminish the revenues from imports.

17. The extent of the power "to establish post offices and post roads," certainly cannot go beyond the meaning of the word "establish." This meaning is to be determined by regarding, first, the persons using the word, and, secondly, the object to which it is applied. The persons using it, are "We the people"—for the preamble to the constitution declares that "We the people do

CONGRESS MUST ACT TO CURB SKYROCKETING NATURAL GAS PRICES

# HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. DAUB. Mr. Speaker, rising natural gas prices have caused severe hardship on my constituents. I take this opportunity to share with my colleagues excerpts from testimony that I gave before the House Committee on Energy and Commerce regarding this critical issue on December 15:

Mr. Chairman, I appreciate this opportunity to testify before your Committee today and explain my concern and the concern of my constituents regarding the rapid increases in the price of natural gas since the enactment of the Natural Gas Policy Act (NGPA).

Since the development of natural gas pipelines, our region has grown more and more dependent on natural gas for both residential and commercial purposes. A great deal of this dependence and growth was the result of gas prices being held artificially low by federal regulation. By keeping gas below electricity, its use was encouraged, and conservation and the development of alternative fuels was discouraged. In my view, there is no question but that the dependence of our region on natural gas was the result of the policy of the federal government through the Fifties and Sixties which kept the price of natural gas at bargain rates while discouraging exploration and production of this fuel.

The inevitable result of this were the shortages and supply interruptions of the early Seventies. Many of the so-called "interruptible" customers in our region were forced to switch to more expensive fuel sources at a time when the nation as a whole was suffering the shock of more expensive and less secure foreign energy. In recent years people in our part of the country have seen natural gas prices rise by 20 percent annually with future increases in sight.

To alleviate this problem, I have introduced legislation along with Congressman Tom Tauke of Iowa that would address the take-or-pay issue as well as others affecting price. A number of Members have introduced bills similar and dissimilar that address other factors relevant to the situation in their regions. I urge this Committee and the House to consider the various recommendations for change contained in these bills carefully but to act promptly, for each month that we delay, more hardship is inflicted upon Americans.

Regardless of where the fault may lie, the American people require relief, and this Congress has within its power the ability to provide that relief. It will undoubtedly require those proponents of deregulation and reregulation to accept compromise. But the situation for many is desperate, and we can do something about it. I urge the Committee to act.

COLLINS REPORTS TO THIRD DISTRICT

# HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. COLLINS of Texas. Mr. Speaker, we are now in the final days of my last session in Congress. Eight terms have provided many great experiences and some wonderful memories. My warmest memories will be of the fine associates with whom I have served. It has been a pleasure to serve with such an outstanding group on both sides of the aisle. I will be leaving such warm friends, but I look forward to seeing you in the years ahead.

And now as I head back to Texas, I am filing my final report for the Third District of Texas. I am enclosing this report for the RECORD.

JIM COLLINS-FINAL REPORT

This is the final report on my eight-terms of service in the U.S. Congress. I am grateful to have had the opportunity to serve you in Washington. I am coming home to go into business in Dallas.

Looking back, I am mighty proud of what we have accomplished in the Dallas metroplex during this era. I think of it as the golden years for our community and hope the momentum will continue in the future.

The great strength of our community grows from the fundamentals that in our area we have built for ourselves, where so much of America has been relying on the federal government.

We have one of the strongest economies in my district of any area of America. Take Irving, Farmers Branch, Carrollton, Addison, Richardson, Plano, and Lewisville. In all of these cities you will find a well balanced economy. In our area we have no oil wells, no ocean port, no natural resources, but we have a dedicated spirit of Americanism. People believe in themselves, they believe in their families, and above all, they believe in God.

What has the Dallas Metroplex expected of its Congressman? The first and most important is a Progressive Business Community. As America faces economic transition, we find better balance here in our community than in other areas. Basically, our overall economy is strong and optimistic.

My major concern is to help Business grow. Someone said, "Jim, you are too Pro-Business." Pro Business is pro jobs and Texans like to work. We want to see Business grow, because when Business grows and moves forward, we all move forward together with the momentum.

Many years ago I was a Director of the Dallas Chamber of Commerce in charge of bringing new Business to Dallas. I remember so well what a Vice President from New York City said when I asked why they were moving so many divisions to the Dallas Metroplex.

He said, "You have good schools, fine highways, an excellent airport, splendid culture" and then he paused and said, "But, what we base it mostly on is what type of elected government officials do they choose. We go where Business is wanted and folks are Conservative."

ordain and establish this constitution." The word then is used in its popular sense; in that sense in which it is ordinarily used by the mass of the people. That such is the true meaning of all the language of the constitution, is obvious from the consideration that otherwise we should be obliged to suppose that the people entered into a compact or agreement with each other, without knowing what they themselves meant by the language they used. Besides, the word "establish" has no technical meaning whatever, nor had any, so far as we know, at the time the constitution was adopted. But, secondly, the meaning of the word is to be inferred also from the nature of the object to which it is applied. Thus, we "establish" a principle, by making it clear, proving it true, and thus fixing it in the mind. We "establish" a law, by giving it force and authority. "establishes" his character, by A man making it thoroughly known to the world. We "establish" a fact, by the evidence necessary to sustain it. In these, and other cases, the word "establish" has no exclusive meaning whatever, other than this. It excludes what is necessarily inconsistent with, contradictory to, or incompatible with, the establishment of the thing declared to be established. It does not exclude the establishment of any number of other things of the same kind, unless they would be necessarily inconsistent with the thing first established. Thus the establishment of one truth does not imply the subversion or suppression of any other truth; because all truths are consistent with each other. The establishment of one man's character, does not imply the destruction of any other man's character. When applied to matters of business, as for instance, to the establishment of facilities for the transmission of letters, (and the transmission of letters is a mere matter of business), the word "establish" has no meaning that implies an exclusion of competition. Thus we speak of the establishment of a bank, a store, a hotel, a line of stages, or steamboats, or packets. But this expression does not imply at all that there are not other banks, stores, hotels, stages, steamboats, and packets "established" in competition with them. Neither does the establishment of certain roads as "post imply the exclusion of all other posts, than those of Congress, from those roads. Congress establishes a road as a "post road," by simply designating it as one over which their posts shall travel. This designation clearly does not exclude the passage of any number of private posts over the same road, (provided the government posts are not thereby actually obstructed or impeded in their progress,) because the establishment of any one thing implies the exclusion of nothing whatever, except what is absolutely inconsistent, or incompatible, with the thing established. The designation, therefore, or the establishment of a particular road as a post road, excludes nothing except obstacles to the progress of the posts over that road. The prohibition, therefore, of Congress upon the passage of other posts over the same roads travelled by their own, is going beyond the simple power of establishing those roads as post roads, and beyond the simple power of establishing their own posts upon those roads.

And as a Conservative, I have been consistently rated by ACA, ACU and the National Taxpayers Union in the top 1 percent. This Conservative viewpoint does reflect the Third District, because we all work to help Business prosper.

A healthy economy is first. Second is water. A banker said the other day that water is more important than oil to the future of the Dallas area. During these past 15 years, we have done more about increasing water reserves than any city in America. We built Lake Lavon, Lakeview and Lake Ray Roberts. While most areas have not added a single lake, we have the best record in American by providing three lakes. Three new water reservoirs provide the essential natural resource. Congressman Ray Roberts was an energetic friend in creating all three projects.

Along with water, our suburban cities including Richardson, Carrollton, Lewisville and Irving have built larger and modern sewer plants for environmental stability.

Third is Clean Air. We do not encourage smokey industry for Dallas. But fresh air also requires open spaces. My proudest moment was the big 2,000 acres added to the Trinity Greenbelt Park. I asked John Stemmons if Stemmons Properties would give a large area, if we got the Federal government to match with a similar area. Stemmons family generosity is a Dallas tradition. Legacy of Parks program assigned its largest gift to match the generous Stemmons acreage which is strategically located as 2,000 acreas in the valuable downtown area. Dallas' large Central Park which also includes other added parcels now total 5,536 acres. Dallas now has one of the largest city parks in the world.

Fourth is Highways. Our cities provide the local roads. But with the opening of the new DFW Airport, we need a major new interstate highway. The first approval for funding under the 1973 Highway Act was the key Expressway extension of LBJ 635 from Farmers Branch all the way to DFW

Texas has the best Highway Department in America. But sometimes they are stopped by Federal regulations. Loop 12 with its 10-lane highway neared completion yet came to a halt at the Trinity River between Irving and Grand Prairie. At that time, Trinity Canal Program limitations required an arched bridge and the Congressional Appropriations Committee was mandated to fund only standard bridges. I talked to everyone and Texas' good friend, Chairman Mahon, included the arched bridge, which was the only major item added to that year's Appropriations bill. The bridge was completed quickly and the traffic now

moves smoothly. We have just taken a big step towards acquiring the Rock Island Railroad track between Fort Worth and Dallas. This Railroad right of way can never be attained unless we act now. My amendment in the Commerce Committee to provide a \$30 Million loan passed and it also passed the House. Talks with Secretary Drew Lewis revealed the Administration opposed the overall bill and wanted Reagan's veto. A Conference Committee now states that a \$24 Million grant is provided for this funding, and Dallas appreciates the leadership of Jim Wright who pushed this grant.

Fifth would be complex relocations. The government lacks flexibility. When the Defense Department closed the NIKI missile site out in Duncanville, the gloom in town was heavy. But we turned this disaster into

the area's richest blessing. We had some land transferred to Education for schools. We had some land transferred for Parks and Recreation. And Duncanville bought some land for an Industrial Park. Within two years, private industry had created more jobs than had worked for NIKI Missile, and industry has rapidly expanded and flourished in the city.

ished in the city.

Grand Prairie did not want its old Airport in the middle of the city, but the Defense Department never conveys land. Over and over we met, as it was a government controlled airport. Finally we prevailed on the Defense Department to relocate the 117 acre airport, so Grand Prairie could expand efficiently in building its downtown section.

Sixth is to move on Emergencies. When the Trinity flooded, the SBA was making loans to Business the next day. When we needed the West Dallas Clinic, a team of the Hispanic leadership, the city councils, private citizens and volunteers were joined by a small HEW \$114,000 grant for Los Barrios Unidos. This splendid clinic continues its great service for health.

Some Congressmen appoint one cadet to each Military Academy. I have nominated on nonpartisan merit. So instead of only three cadets, our well-qualified outstanding applicants usually see 16 or 17 cadets qualify for each \$152,000 scholarship.

The Dallas metroplex is strong because the people are strong. We believe in the Calvinist Work Ethic and we take pride in our work. In our community we believe in God and Family and Country. Our strength comes from the fact that we have never asked what the government could do for us. We always ask what we can do for ourselves. In my eight terms of service, I have never been called on for anything but fair play. All people want in our area is a square shake. You all have expressed yourselves time and again and I sum it up as, "America has more government than it needs, America has more regulations than it wants, and America has more taxes than it can afford to pay."

In many sections of the country the people have tried to find ways to receive more and do less. In our community we want to know how we can earn more by harder work, build more with better quality, and save more to finance modern machines and plant for the future.

There are two types of Texans. Some of us were lucky as we were born here. There are also the Texans by choice who came to the Southwest because they liked the Texas spirit, our idealism, our-love of family and

our dedication to God.

Through the years in Congress, I have been called a Conservative. I have voted against more government spending during these eight terms than any other member who has been here eight terms; and voted against more government regulations than my colleagues. I am not against everything, but America simply has too much government. Since the Liberals have controlled Congress for 26 years, I have not had an opportunity as a Conservative to introduce the bills but have served as part of the Loyal Opposition.

In 1982 the U.S. government will borrow \$210 billion which is the excess spending of Washington beyond their income. I recall my early years in 1969 in Congress when we had a balanced budget. Texans believe in a balanced budget, because we have a balanced budget in Texas.

As I leave Congress, my greatest concern is the lack of understanding about where this excessive Deficit Financing will lead. Look at Mexico with over 50 percent unemployment and the Peso dropped from 12 to \$1 to 125 to \$1. Low interest rates are the most essential factor in the growth of business

If inflation rises again to 15 percent, then interest rates will float up to 21 percent. The Liberal victories this past November gave a tremendous Liberal majority to the House. Try to reduce your debts before interest rates go up again.

It is interesting to note that the more Conservative areas in America are the ones with the strongest business development. The areas that advocate the Liberal philosophy have developed the highest unemployment and have declining business.

In talking of success in our community, I am so proud of the good people of the Third District of Texas. We have a strong economy because we never did go to the government to carry the load for us. We did it for ourselves.

I remember a comment Trammell Crow made to me one time. He said, "Jim, if you can make it in Dallas, you can do business anywhere because this town is competitive and aggressive." We demand the best quality at the best price and the best service.

I have been so proud to serve during these eight terms which have been golden years for Dallas. Let's carry forward our momentum and our ideals for God, Family and Country.

## DON CLAUSEN

# HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 8, 1982

• Mr. CLINGER. Mr. Speaker, as a member of the Public Works and Transportation Committee, I believe the contributions of Congressman Don Clausen to that committee as its ranking minority member should not go unnoticed.

The Public Works and Transportation Committee covers a broad range of issues including water resources, air and ground transportation, economic development, and public buildings and grounds. Without Don Clausen's innovative efforts to shape these divergent issues into a congruent whole, I seriously doubt that the committee would be working toward transportation and economic development policies which currently enjoy strong bipartisan support.

I will miss Congressman Clausen's presence in this body next year. He has been an effective legislator from whom I have learned a great deal. I shall continue to benefit from my relationship with Don Clausen and I wish him well in his future endeavors.

## THE PEOPLE'S PARADISE

# HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. FIELDS. Mr. Speaker, some form of socialism/communism is dominant in many nations and every continent. The idea of socialism is especially attractive to intellectuals who are able to maintain a comfortable distance from actual Socialist practices.

Though socialism is a god that fails continuously, and causes more human suffering and tragedy than any idea or practice in history, there are those who stubbornly cling to its highminded idealism. They religiously close up their eyes to the reality that the Socialist promise of instant utopia brings only the tyranny of a real dystopia.

It is for them that the following glimpse of reality is provided.

(From the Wasington Times, Oct. 29, 1982) VIETNAM IRONY—HOW THE WINNERS BECAME LOSERS

#### (By Douglas Pike)

Vietnam today, indeed all of Indochina, is awash in a sea of troubles. Virtually every sector of national existence, social, political, economic, intellectual, ethnic and psychological, has fallen into anarchical disarray.

The worst sector perhaps is economic. Vietnam has become a land of poverty and economic defeat. The people have less to eat now than during the hungriest day of the war. Clothing is threadbare, housing appallingly short, modern medicines generally unobtainable, a fourth of the nation's buses and trucks are out of service. Vietnam is an economic basket case, consigned to the socialist world dole. Its hard currency reserves are down to less than the price of a month's food imports. It has one of the world's worst trade deficits. In Hanoi there is a shortage of everything, even coffins.

Postwar Vietnam has about it a quality of vast and tragic irony. Victory for Hanoi turned to ashes and the winners became the losers. The defeated southerners escaped to success in new lands. The mystical Indochinese communist brotherhood broke into bloody fratricide.

At war's end, in May 1975, Vietnam was beset by knotty problems, some real or material, some immaterial or psychological. Two chief tasks faced it redirecting its war-oriented economy to nation building and arranging for a socio-political transition in the newly-conquered South. There were difficult but not insurmountable tasks.

Cadres from Hanoi quickly applied themselves but their efforts compounded rather than eliminated the wartime condition. Soon the Vietnam scene, North and South, had devolved into chaotic, near total failure. Rather than blossoming into a bright future of economic development, Vietnam deteriorated to the point, today, where it is in worse shape by any index one cares to employ than it was in the darkest days of the war.

Most of the worst conditions—the drop in rice production, the decrease in per capita income, the ruin of the domestic trade sector, the decrease in industrial plant capacity (due to a shortage of raw materials),

and the sharp reduction in transport capability (due to a lack of spare parts for trucks)—have developed since the end of the war and principally because of bad judgments by the Politburo.

Affliction spread abroad. Instead of sailing into the main stream of world affairs, as was its intention, Vietnam found itself in the backwaters, even within the communist world. Its resultant strategic posture would have been unimaginable five years earlier.

Inevitably, given economic inability to do anything about it—there came a national loss of spirit, a Vietnam-wide malaise. The perception of the ordinary Vietnamese was that the postwar utopia long promised by Ho and the party had instead become a nightmare. Hopes and expectations were constantly being dashed. Leadership promises came and went unfulfilled. There developed a steady erosion of public confidence in the state and, worse, the party.

The manifestations of this are many. One is the extraordinary exodus of Vietnamese, overland and by boat, legally and illegally. Despite all of the troubles in the earlier decades, hardly anyone left Vietnam. Now the total is approaching 1 million, in one of the truly great human migrations this century. Another manifestation is the continued harshness and mean spirit demonstrated by Hanoi officials toward the South. Vengance in 1975 was perhaps understandable, although inexcuseable, but seven years later it is not.

Conservatively 50,000 Vietnamese are held in re-education camps—genuine political prisoners—that is, incarcerated not for what they have done but for what they believe. A million and a half Vietnamese have been forcefully transported to the New Economic Zone, barren undeveloped parts of the "western desert" and elsewhere in Vietnam that have always been uninhabited, chiefly because they are uninhabitable. Endless campaigns in the South seek "to break the machine," that is, destroy the existing social order, indeed the entire traditional indigenous southern culture. Rulers in Hanoi still think of the South as the enemy, apparently they can come to regard it in no other

The decline was not anticipated by anyone, least of all by the 15 men of the Hanoi Politburo who run the country unchallenged. Vietnam is hag-ridden by problems today chiefly because of these men. Not malicious southerners or vindictive foreigners are to blame—as they charge—but themselves. In victory, they stood at the portals of a new and better life for Vietnam. But they tossed away their opportunity for a fresh start, chiefly it would appear because they are psychologically incapable of doing anything else.

The Politburo's record of failure is clear and atrocious: one bad policy judgment after another, a long, almost unbroken string of mistakes. Obviously these 15 men could and did manage a complex war fairly efficiently—they had the necessary tenacious (some would say fanatic) mentality required—but in peacetime have proved themselves totally unequal to the need. They lack the skill to guide a semideveloped society in economic development. Their paranoid tendency prevents them from establishing amicable relations with their neighbors, a precondition for any appreciable economic or social improvement. Their decisions have left them surrounded by enemies, many of whom were former friends.

The worst grief, perhaps, came in Kampuchea. Pol Pot even in wartime days was at

best a cross carried by Hanoi. After the war the Politburo was determined to rid itself of the "Pol Pot problem" as it is officially termed. It tried various limited measures unsuccessfully, then in late 1978 launched all out war, convinced that the issue could be settled in six months.

Now their army of 170,000 is bogged down in a protracted conflict. The Vietnamese face two tasks in Kampuchea—to end the military resistance or pacify the country in their terminology; and to create a viable political and governmental entity out of the Heng Samrin regime, which also involves building an effective Khmer communist movement from scratch.

The first of these is more easily accomplished than the second. Given sufficient time and effort, Hanoi may be able to reduce the level of guerrilla resistance to a tolerable level, but unless it is willing to make concessions to Khmer nationalism, it can never create a viable government out of the Heng Samrin regime. The current tact is to sweep the war in Kampuchea off the front pages by insisting it is over.

The most significant effect of the war in Kampuchea on Hanoi has been to deepen its dependency on the U.S.S.R. Vietnam now depends on Moscow for all of the weaponry used in Kampuchea and for defense against China, as well as for some 10 to 15 percent of the food it consumes, all of its petroleum and such other raw materials as its limited industrial sector requires. This dependency has provided a geo-political opportunity for the U.S.S.R. which it has slowly and steadily been enlarging and exploiting. Vietnam and the U.S.S.R. now are locked into a military alliance in all but name. Perhaps it is not as durable as generally is believed but in any event will continue, as far as the Vietnamese are concerned, as long as the dependency exists. If Vietnam can come to feed itself-and this should be a fairly easy accomplishment-and the China threat subsides, probably there will be a distancing.

## UNEMPLOYMENT BENEFITS

## HON. HAROLD WASHINGTON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. WASHINGTON. Mr. Speaker, yesterday, I introduced two bills that are essential to the future survival of millions of Americans. These bills are not intended to be a panacea for our country's unemployment problems but while Congress continues to debate economic policy, and talks of job programs that will not start for many months, I am suggesting that we take immediate action in a concrete manner to help a lot of innocent victims of the Reagan administration's economic policies.

As we all know, the Nation's unemployment rate is at an all time high of 10.8 percent and rising. This translates into roughly 12 million people who are out of work. In my State of Illinois, unemployment is at the level of 13.2 percent. Even before the recent devastation from floods in large parts of the country, there was evidence that busi-

ness failures had doubled last year's rate. This is the worse economic situation that we have seen since the thirties and there is every indication that we face a worsening situation.

My first bill restores the extended compensation program by repealing changes made as part of the 1981 Om-

nibus Reconciliation Act.

Prior to the 1981 changes, each State was eligible for extended benefits when either the national rate of insured unemployment exceeded 4.5 percent, or when that State's insured unemployment rate exceeded 4 percent (5 percent in some States, depending on the State option). The 1981 Reconciliation Act repealed the national trigger, and increased the trigger for individual States to 5 percent (6 percent in some States). In addition, the bill specified that only those receiving regular, as opposed to extended, benefits would be counted. Thus, unemployed individuals who had exhausted their 26 weeks of reguunemployment coverage dropped from the count. The State's insured unemployment rate declines, even though actual unemployment remains high. As a result, some States which have experienced the most severe and protracted unemployment have actually lost benefits, as more and more workers exhaust their 26

The result, whether intended or not, strikes millions of Americans as especially cynical. My first bill corrects this by repealing certain sections of the 1981 Reconciliation Act.

In addition, the bill increases the Federal Government's share of the extended benefit program from 50 percent, provided by current law, to 75 percent. This reflects the impact of the current recession on the States, and recognizes that in the current situation, extended unemployment is a national, not a State or local problem.

My second bill extends the supplemental unemployment insurance program, which Congress passed as part of this year's tax bill, through the end of this fiscal year. The current program is to expire on March 31, 1983. While the current program was based on projected decreases in unemployment over the past 6 months, the fact is the situation has worsened, and it is now clear that unemployment levels will remain high for the foreseeable future. Accordingly, my bill extends the present program for 6 months, through the end of the current fiscal year.

Finally, it eliminates the current trigger, which has eliminated benefits in some States. Throughout the country, the unemployed are exhausting their unemployment insurance. Demands are being placed on State and local social service agencies, that these

financially strapped government agencies cannot meet. We must do something. The American people demand more fundamental fairness than we have shown the victims of this recession

The effect of the legislation I have introduced today is to extend eligibility for unemployment coverage to 65 weeks. Congress passed a similar extension during the Nixon-Ford recession when unemployment was a rate of 7.8 percent, considered high at that time. At this time when unemployment levels have far exceeded expectations, we should do no less.

#### CASTRO'S PRISONS

# HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

 Mr. RINALDO. Mr. Speaker, during our debate on Radio Marti last August, a number of my colleagues told us the station is a bad idea because it would be "confrontational" and a return to "cold war rhetoric."

Last October, a story appeared which places these claims in a more truthful context. At the behest of President Mitterand, Castro released from prison a gentleman who had the misfortune of enduring 22 years in one of Castro's prisons for the crime of being an "enemy of the revolution." Upon his release, Armando Valladares told reporters how he had been kept for 7 years in a cell without light. He described an average day as one in which he got up at 4 a.m. to crush stones in withering heat until 6 or 7 p.m. On return to his cell, he found only a little water with which to wash.

I submit for the RECORD the New York Times account of Mr. Valladares' story, which appeared on October 25, 1982. Every Member of this House undoubtedly would agree that the Cuban people have the right to hear this man's story. Countless others who are not famous poets known to Presidents of France still languish at this very hour in brutal conditions in Castro's Cuba. Radio Marti would bring this story to the people of Cuba.

POET FREED BY HAVANA TELLS OF 7 YEARS IN UNLIGHTED CELL

(By John Vinocur)

Paris, October 24.—Armando Valladares, a Cuban poet who was freed in Havana last week after 22 years in prison, said tonight that he had been kept for seven years in a cell without light.

The poet arrived in Paris. Friday after his release following a personal appeal from President Francois Mitterrand to Fidel Castro, the Cuban leader. He said he had been informed of the decision only three or four days before he was placed aboard a plane in Havana on Thursday.

The French Government had expressed particular interest in his case, and Regis

Debray, Mr. Mitterrand's special counselor for cultural affairs, and a friend of the late Ernesto Che Guevara, the Latin American revolutionary, visited Havana to discuss the matter earlier this month.

Mr. Valladares's comments tonight were made in brief, fragmentary interviews with two of the French television networks. The translation of his replies to two reporters' questions was broadcast over the poet's own voice and it was impossible to hear his remarks in Spanish.

#### AVERAGE DAY DESCRIBED

Mr. Valladares said in the interview that he was never a terrorist or an operative of the United States Central Intelligence Agency. Rather, he told the televison network, he was accused of being an enemy of the revolution.

Mr. Valladares gave no details on his isolation in the cell, but described an average day as one in which he got up at 4 a.m. to crush stones in withering heat until 6 or 7 p.m. "It was forced labor," he said. On return to his cell, he went on, there was only a little water in which to wash.

When asked if he had been tortured, Mr. Valladares replied: "I can't really reply in three minutes. I'll tell it all in my book."

Normally, Mr. Valladares would have been released from prison in 1986. He was sentenced to a 30-year term in 1961 for what was charged was his involvement in terrorist activities but his sentence was later reduced.

During his time in prison the poet was able to communicate to friends outside of Cuba that his legs had become paralyzed, and the title of a collection of his work was called "From My Wheelchair."

#### ABLE TO WALK AGAIN

In the interviews today, Mr. Valladares said he had received treatment in Cuba from late 1978 until his release. Six months after the treatments began, the poet said, he was once again able to walk. He told of being furnished orthopedic devices for his knees and ankles. Accompanying pictures showed the poet, who is 45 years old, walking in the streets with his wife.

When one of the interviewers asked what event had impressed him most since leaving prison, Mr. Valladares replied that it was the situation in Poland. "There was a true alliance there between workers and students to change the Communist system." he said.

In answer to another question about the difference between the Batista and Castro dictatorships in Cuba, the poet said, "The most awful dictatorship that humanity has known is the dictatorship of the proletariat."

THE REBUILDING OF WOLF TRAP FARM PARK'S FILENE CENTER

# HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

 Mr. WOLF. Mr. Speaker, on April 4, 1982, a windswept fire in Virginia destroyed a national treasure—the Filene Center at Wolf Trap Farm Park for the Performing Arts, the Nation's only national park for the performing arts.

<sup>1</sup> The 10, 8, 6 trigger.

More than 6 million people from around the world have enjoyed Wolf Trap since it opened in 1971, a unique partnership between the Government and the private sector and a gift to the Nation of Catherine Filene Shouse, accepted by an act of Congress in 1966.

Contributions from 46 States and five foreign countries poured into Wolf Trap following the fire-more than 10,000 of them. And they range in size from 3 cents to \$100,000 for a total to date of more than \$1.7 million. The people wanted the Filene Center back

But the estimated cost of rebuilding Wolf Trap is \$18 million.

My colleagues Interior Chairman MORRIS UDALL, and JOHN SEIBERLING, along with Manuel Lujan, Don Clau-SEN, BEVERLY BYRON, SID YATES, JOE McDade, Bruce Vento, and Par Wil-LIAMS led the legislative effort to assure Government support for rebuilding Wolf Trap. And our colleagues in the other body, Senators WARNER and McClure along with Senators Russell Long, Henry Jackson, BENNETT JOHNSTON, ALAN CRANSTON, HOWARD BAKER, and ROBERT BYRD provided great assistance in the passage of the Wolf Trap funding bill.

On October 14, 1982, the President signed into law the bill which authorizes a \$9 million grant and a loan of up to \$8 million to the Wolf Trap Foundation for rebuilding the Filene

Center. Now the Wolf Trap Foundation is launching a fund drive to raise the money necessary to cover the cost of the loan and for necessary program funding. The minimum need is \$20 million.

A recent editorial in the Beverly Hills Courier sums up best both the needs of Wolf Trap and its value of our Nation and I would like to bring this situation to the attention of my colleagues.

The editorial follows:

[From the Beverly Hills Courier, Sept. 10, 19821

"WOLF TRAP" NEEDS HELP, AND DESERVES IT (By March Schwartz)

Tonight, Wolf Trap will bring down the curtain on its 12th summer season.

But Wolf Trap is in trouble and needs our help. It is thousands of miles from here, but its fate is a matter of concern to the people of Beverly Hills, just as it is of concern to people all over the Nation. What is Wolf Trap all about?

The full name is Wolf Trap Farm Park for the Performing Arts, the first and only national park dedicated to the performing arts it is located in the Virginia countryside 20 miles outside of Washington, D.C. The 100 acres of land and buildings were donated to the federal government by Mrs. Jouett Shouse (Catherine Filene Shouse, daughter of the prominent Filene family of Boston) and accepted by an act of Congress in 1966.

government maintains the While the grounds and buildings and provides some technical assistance, the Wolf Trap Foundation, a non-profit organization created in

1968, is responsible for presenting programs with these three goals:

(1) "To present the finest in the total spectrum of the performing arts and indicated future trends.

(2) "To increase public knowledge and appreciation of performing arts by offering a variety of educational programs.

(3) "To provide aspiring young artists, selected by audition throughout the United States, an opportunity to advance their careers through study, training and performance. . .

#### WOLF TRAP'S TROUBLE

The national park concept was a novel and noble one, and it was sailing along handsomely, gaining international recognition for its variety of concerts attended not only by people from the greater metropolitan area of Washington, but also by thousands every year from throughout the United States and from abroad.

Tragedy struck in April of this year when fire gutted its main facility, the Filene

Center.

It will take more than \$20 million to build a suitable replacement now. The govern-ment has agreed to provide some of the money, but much of it must be raised through private contributions. That, course, is where the people of Beverly Hills

are asked to help.

After the fire, the functionaries at Wolf
Trap rebounded heroically, completing their
summer schedule in a hastily erected temporary structure. Programs there range from Metropolitan Opera to Johnny Cash, from Liza Minnelli to Luciano Pavarotti, from a country-western hoedown to the Joffrey Ballet, from the National Symphony to the Preservation Hall Jazz Band, from the International Children's Festival to "A Chorus Line," and it will close tonight with a showing of Francis Ford Coppola's "Napoleon.

Since the underlying hope of the initial planners of Wolf Trap was to widen appreciation of the performing arts by making programs available to masses of ticket prices there have been held downthey range from free to modest. Before the Filene Center fell victim to flames, its openwall theater seated 3,500 on the amphitheater-like lawn at the rear. Even in the temporary structure there is seating for 2,000 with room for an additional 4,500 in the meadow.

Through telecasts of "In Performance at Wolf Trap," public television has brought the programming to millions of people

throughout the country.

But, to nurture the cultural appetite, Wolf Trap offers much more than just a schedule of shows by big-name performers. It has an Interpretive Program to show lay people what goes on behind the scenes of professional productions. It has a Theaterin-the-Woods and Meadow Tent to give children an introduction to the performing arts by not only seeing productions they can understand, but by also talking to a real ballerina or a real oboe player, examining her shoes and touching the oboe. It has a Workshop in the Arts with free sessions for teenagers and adults. It has Master Classes for those who have decided on careers in the arts. It has the Wolf Trap Opera Company which not only presents a full range of professional productions, but also serves as an educational forum for performers such as apprentices and advanced beginners.

Consideration is also given to creative talent. A Composers' Cottage offers an opportunity to get away from distractions and work freely in a quiet retreat. Plans call for eventual completion of five such cottages for use by composers in the fields of symphony, opera, dance and jazz.

Wolf Trap, as its own literature proclaims, "provides the perfect setting for a total partnershp in the performing arts: audience, performers and creators-raising the cultural consciousness of today and ensuring a vigorous cultural heritage for tomorrow."

#### THE WOLF TRAP PHILOSOPHY

Clearly, the basic philosophy of this entire concept is to make the performing arts a part of everyone's life, to make them accessible to as many people as possible.

The low ticket prices, the free parking at the Farm, the free picnic facilities that are so popular with Washingtonians and tourists alike, all are intended to make it comfortable and easy for people to attend top professional performances. The educational facilities in inexpensive, informal settings encourage talented children and young adults to go ahead with careers in the fields they love, so that the cultural enrichment may be propagated and carried to hundreds of thousands of people all over the land.

It is understandable that low ticket prices cannot provide money enough to support such lofty objectives, worthwhile as they are. The federal government has pitched in with some Park Service help, but the rest of the funding must be obtained from contributions by individuals, organizations and businesses

It is to Catherine Filene Shouse's everlasting credit that she had the immense courage and foresight to undertake establishment of Wolf Trap Farm Park in the first place.

She gave selflessly to a cause she believed in, just as Dorothy Buffum Chandler did in undertaking establishment of the Music Center in Los Angeles. Both are strong women, with strong faith in themselves and the people.

Wolf Trap has the added significance of proximity to the nation's capital, where it serves as a cultural showcase for foreign heads of state as well as tourists from all over the world. It becomes in a very real sense a national symbol of enrichment of the quality of life in America.

The Courier believes in cultural activities, convinced that no matter where they take place they will have beneficial effect on mankind everywhere. So it is that we wax enthusiastic about this project clear across the continent.

We know contributors to Wolf Trap will have the satisfaction that comes from playing a vital role in the development of performing arts and in bringing quality programs to hundreds of thousands of people from all walks of life and all parts of the world.

Mrs. Roger William Luby (Sassy Luby) of Newport Beach has adopted Wolf Trap as her "pet project" and has been instrumental in organizing a gala benefit to be staged next February at the Capitol Centre in Washington, D.C. Zev Bufman will produce, and most of the biggest names in show business will appear. It deserves the support of everyone who can possibly contribute.

Meanwhile, tax-deductibe donations can be sent to "Wolf Trap Lives," Washington, D.C. 20260, or further information may be obtained by phoning 703-938-3810, extension 255.

It's a good feeling to know that this contribution will be to the benefit not only of all of America today, but also of generations leadership will not seek unanimous to come.

## CONGRATULATIONS TO JOHN BRADEMAS

# HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Friday December 17, 1982

• Mr. HAMILTON. Mr. Speaker, as most Members of the House know, our distinguished former colleague from Indiana, the Honorable John Brademas, has been serving since July 1, 1981, as president of New York University, the Nation's largest privately supported university.

As my colleagues are also aware, John Brademas compiled an outstanding record in his 22 years of service in the House of Representatives. During most of that time, he was part of the leadership organization and from 1976 to 1980 served as majority whip.

As a member of the Committee on Education and Labor, John Brademas was chief sponsor or cosponsor of most of the Federal legislation enacted during his years in Congress in areas concerning elementary and secondary education, higher education, libraries, museums, the arts and humanities, and services for the handicapped and elderly.

I am pleased to observe, Mr. Speaker, that in his new career in New York, John Brademas is demonstrating a similar dedication to public service.

This past week he was appointed chairman of the board of directors of the Federal Reserve Bank of New York, his term to begin in January 1983.

Beyond his vigorous leadership of New York University, John Brademas is also now serving on the boards of directors of the New York Stock Exchange, Rockefeller Foundation, RCA Corp., Loews Corp., and Scholastic, Inc.

As you may know, he is also serving as a leading member of the National Commission on Student Financial Assistance and is involved with a number of key boards and commissions in support of education and the sciences.

Mr. Speaker, I am sure that Members of the House on both sides of the aisle join me in congratulating our former colleague on his continuing accomplishments.

# PARKING LOT PORK

## HON, CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. BURGENER. Mr. Speaker, I am hopeful that in the waning hours of this unusual lame duck session, the

leadership will not seek unanimous consent for the consideration of H.R. 6786, a bill to authorize the expenditure of an additional \$4.5 million in order to purchase one-half of a parking lot on Ivy Street near the House Office buildings. I believe the following brief summary of this unfortunate proposed purchase will be helpful for the Members' consideration when the 98th Congress convenes:

In 1981, the Subcommittee on the Legislative Branch of the Appropriations Committee approved \$3.5 million for the purchase of 1½ acres on Ivy Street, the acquisition of which was designed solely to move toward the completion of the Capitol master plan.

This amount was in line with a government appraisal of the property of \$3,125,000 made in 1979.

In 1982, the Architect of the Capitol came to our subcommittee and requested another \$4.5 million to purchase the other half of the property, belated informing the subcommittee that the initial \$3.5 million appropriation had only bought one-half of the property after all.

As a former realtor I believe, this is one of the worst bungled real estate transactions I have ever witnessed, and I do not believe the American taxpayer ought to pick up the tab to the tune of another \$4.5 million for a piece of property no one envisions using in the next 50 years.

I believe the Congress has been badly misled on this matter, and it is clear we will have to borrow the money against an evergrowing public debt to pay for this parcel.

The House should not let this bill slip through in the waning hours of this session simply because it will not bear the light of public scrutiny.

## THREE RIVER STADIUM

# HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Ms. SNOWE. Mr. Speaker, on the morning of December 18 at Three Rivers Stadium in Pittsburgh, a remarkable example of the spirit of the American worker will be on display. At 10 a.m., two truckloads of Maine potatoes will be distributed to the families of unemployed steelworkers in the Pittsburgh area as a gesture of solidarity between the embattled steelworkers and equally troubled potato growers in northern Maine.

Most Americans are familiar with the plight of our steel industries and the people who make them work. Unable to compete successfully with subsidized foreign competition, the industry has laid off more than 135,000 willing and able workers in the Pittsburgh area alone. It is the scenario of

an American tragedy, but a similarly grave situation exists for the hardy families who grow potatoes in Maine.

For years, the Maine potato growers have struggled to make ends meet in a virtually hopeless situation. Across the border in Canada, potato growers are subsidized extensively by their Government. They import their goods freely into markets once dominated by American growers. Unfavorable monetary exchange rates further act as a hindrance to Maine farmers. Our State's potato farms are going under, unable to fight back against such overwhelming odds.

But instead of drawing inward, Maine farmers are reaching out this weekend to Pittsburgh to offer some solace to others suffering from forces beyond their control. Forty-five tons of potatoes valued at \$10,000 will bear testimony to the fact that the spirit of Christmas flourishes in Maine.

Mr. Speaker, I wish today to draw attention to those in my State who are responsible for this magnanimous and inspirational gesture, including the Northern Maine Family Farm Core and the Maine Potato Sales Association. Costs for this humanitarian gesture will be borne by all segments of the Maine potato industry, though the act itself is priceless.

Today and next week, I and other members of my State's congressional delegation will meet with administration officials in an attempt to bring relief to the proud potato growers of Maine. It is my fervent hope that some solution can be developed between our Government and Ottawa to allow the farmers of both countries to continue to earn their livelihood.

# SENTIMENT AGAINST THE ARMS RACE

# HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. RANGEL. Mr. Speaker, a constituent of mine has written a poem expressing his opposition to the spread of nuclear weapons. Entitled, "I Don't Want To Walk Among the Graveyards" the poem expresses sentiments that are shared by those all around the world. The text of the poem follows:

I Don't Want To Walk Among the Graveyards

I don't want to walk among the graveyards I don't want to walk among the tombs

I don't want to walk the earth that's scorched

I don't want to walk the earth that's dead

I turned my face to heaven and cried in agony

Before it is too late, won't someone come and save me

From the highest cloudbank, from an empyrean shelf

Came an awesome voice: "Little Man, Save Yourself"

When will the current madness stop When will our leaders see the light Not until the people rise And demonstrate their might If you ask me, friend and neighbor Which way are we headin' I would have to tell you Straight for Armageddon

Man has had the genius to build marvels of construction

Does he have the will to save the earth from destruction?

We must have the answer; we must have it soon

Before this earth of ours is a radioactive ruin.

#### DONNA SMALLWOOD—THE SENIORS' BEST FRIEND

# HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. MOTTL. Mr. Speaker, I would like to take this opportunity to call to the attention of my colleagues in the House the achievements of a remarkable woman from my hometown city of Parma who has spent many years in dedicated service to senior citizens, Donna Smallwood. She is the current senior citizen director for the city of Parma, running one of the largest seniors' programs in the State of Ohio.

Seventeen years ago she began as a volunteer with the seniors' program. Through the hard work and perseverance of this group of volunteers and the cooperation of Mayor John Petruska and the Parma City Council, the program developed and Donna Smallwood was appointed director of the expanding operation in 1968.

Under her direction, the first senior citizens' park in Ohio was opened. The organization also started the first program for the blind, handicapped, and frail elderly in the State of Ohio which is called AMRAP, making it possible for these senior citizens to participate in supervised activities. They also expanded the operations of a 60 plus seniors' recreational center to a 5-day-a-week program in 1969. In addition, they secured Federal grant money which enabled them to open one of the first seniors' nutritional programs in Cuyahoga County in 1974.

The Parma seniors' program also opened a satellite center in 1974—the Parma Office on Aging—with the aid of Federal grant money. They have been working on the development of many new programs for the homebound as well.

Donna has a staff of 21 who oversee the 14 different services provided by the seniors' program. There are over 10,000 participants in these various programs serving the communities of Parma, Parma Heights, and Seven Hills. Donna uses her ingenuity to find ways that these programs can be funded other than by Federal and State money. These include fundraisers and securing donations from individuals.

Donna is quite active in many other community organizations including the Parma Women's Democratic Club, the Proud of Parma Festival Committee, the Parma Women's Elks, and her church Outreach Commission. She also runs Project Smile for the city of Parma which serves low-income people. In addition, she has been honored by the Parma School Board.

Donna Smallwood is truly a credit to her community of Parma, Ohio. I want to commend her for her years of dedicated service to senior citizens and thank her for the lasting contributions she has made to the community on their behalf. Parma is truly proud of this outstanding citizen.

#### IVAN SVITLYCHNY

# HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. RINALDO. Mr. Speaker, I wish to bring to the attention of the House and the American people the plight of one Ivan Svitlychny.

This man of conscience is serving a 12-year sentence in internal exile in a remote area on the Soviet-Mongolian border, far from his home in Kiev. He is held in this far-off place because he is a leading Ukrainian literary critic and scholar who was one of a group of young intellectuals that spearheaded the revival of cultural life in the Ukraine during the 1960's. After a long period of harassment by the authorities, Mr. Svitlychny was arrested on January 12, 1972, in the midst of a Soviet crackdown against Ukrainian dissent. Convicted of "anti-Soviet agitation and propaganda", that is, of promoting Ukrainian identity, he was sentenced to 7 years internal exile. On completion of the first part of his sentence, he was sent to serve out his term in Maima in the Gorno-Altaisk region near Mongolia.

While in internal exile, Mr. Svitlychny suffered from kideny ailments and high blood pressure. On August 20, 1981 he had a stroke and underwent emergency surgery to remove a blood clot from inside his brain. He was left partially paralyzed. Late last year he suffered a relapse and is now reported to be in a critical condition. Mr. Svitlychny is now 52 years old. His wife has expressed concern that he is unable to receive the full and proper medical treatment for this condition in Gorno-Altaisk. She has appealed to the Soviet authorities to terminate his

sentence and allow him to be taken for specialist treatment to Kiev.

All Americans, and all free men and women everywhere, should join in urging the immediate release of this heroic man of conscience, Ivan Svitlychny. As one of my first acts in the 98th Congress, I shall introduce a resolution calling on our Government to take all possible action under international treaties and agreements to obtain the release of this man. As we gather with our loved ones for the Christmas holiday, let us ponder the plight of Ivan Svitlychny and all those men and women who will spend their Christmas shivering in the Soviet Gulag.

CONGRESSMAN TONY P. HALL HAILS RELEASE OF SOUTH KOREAN DISSIDENT KIM DAE JUNG

# HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

• Mr. HALL of Ohio. Mr. Speaker, too often in the area of international respect for human rights the news is sad and discouraging. Yesterday, however, there was happy and encouraging news from South Korea in the announcement that Kim Dae Jung has been released from prison.

This action by the South Korean Government is a most positive and hopeful development. The release of Kim Dae Jung is an important step in the process of national reconciliation and healing for our friends, the people of the Republic of Korea.

Those of us who have been concerned about human rights in South Korea rejoice with the Korean people on this occasion. It is my hope that the freeing of Kim Dae Jung will signal the additional release of other political prisoners and dissidents.

It should be noted that the release of Kim Dae Jung comes as the old year ends and the new year begins. May this positive action by the South Korean Government usher in a year of continued human rights advances for the Korean people.

For the benefit of my colleagues, the announcement in the Washington Post of the release of Kim Dae Jung follows:

SOUTH KOREA RELEASES AILING DISSIDENT KIM

SEOUL, December 16.—South Korea's most celebrated dissident, former presidential contender Kim Dae Jung, was released today from prison where he was serving a 20-year jail term for sedition, a government spokesman said.

The spokesman said Kim, 57, had been admitted to Seoul National University Hospital for medical treatment. He is known to suffer from an arthritic knee. The spokesman said the government would not object

if his family took him to the United States.

## SUPPORT FOR DEFENSE IS STILL STRONG

# HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. SKELTON. Mr. Speaker, I submit the following editorial by Secretary of the Navy to be placed in the Congressional Record. I feel that Secretary Lehman is on target in his analysis of defense spending, and that his ideas are worth sharing with my distinguished colleagues.

Support for Defense Is Still Strong (By John Lehman)

Readers of the recent series of articles on national defense ("Buildup: How Much for Defense?" front page, Nov. 28-Dec. 21 might be tempted to reach three conclusions: first, that widespread public support for defense spending had disappeared with the November elections; second, that current programs followed not particular strategy or the wrong strategy—especially the Navy; third, that the nation could not afford to bear the cost of the resulting folly. These conclusions would be both false and dangerous.

The first argument about the consensus behind increased defense spending need not detain us for very long. Despite assertions by former officials about the significance of the recent elections and even the MX vote, I prefer the opinion of a man who knows, the Democratic whip of the House, Thomas Foley. He said: "There's a strong consensus to increase the military budget. We shouldn't take the MX vote as an indication that Congress is marching away from defense." The Post itself published a poll on Dec. 2 showing 54 percent of the American people in favor of maintaining current defense spending or actually increasing it (17 percent); only 24 percent favored a reduction.

What about the so-called defense experts, those former secretaries of defense and other officials whose views shape public attitudes? The nation surely owes these men a vote of thanks for their patriotic service; but just as surely, we owe it to ourselves not to accept assertions in place of reason. Nor should we allow a rich jargon to disguise an impoverished thought.

In contrast, the president's proposals are guided by a clear understanding that unless America upholds the balance of power, our diplomacy, our security and the security of our allies will be put in jeopardy. The Reagan "strategy" is to recognize that there is a connection between America's military might and international stability. The Reagan program is to invest now to make certain that we do not face in the future the deficiencies we have faced in the past—deficiencies that disturb us in the present. This is especially important in the case of the Navy.

Navies are very expensive even in peacetime because of their high rate of operation in a dangerous world. Moreover, a capital ship takes up to seven years to build. So there is a premium on the efficient use of current resources and farsighted planning for the resources of the future. "Current resources" and "farsighted planning" are indeed the key phrases that explain the Navy's current activity.

Our shipbuilding program to attain 15 battle groups and 600 ships by 1990 did not spring from thin air or the dreams of a would-be Napoleon of the Navy. Today's Navy must sustain permanent commitments greater than those of 10 years ago—in three oceans. And the Soviet threat is far more formidable in 1982 than it was 15 years ago when the U.S. Navy numbered 1,000 ships and 22 carriers. How odd then to treat the 600 number—a minimum figure—as some inexplicable excess.

What are we going to do with this mighty fleet if deterrence should fail and war breaks out? Contrary to some assertions, we do not plan to launch the naval equivalent of the charge of the Light Brigade, with the Barents Sea the plain of Balaclava. But there is a good deal of difference between the foolhardy dispatch of our carriers against the Soviet cannon and the sitting-duck warfare disguised under the misleading title of "sea control." Sea control in this day and age is not to be won by waiting for the Soviet Navy to engage our convoys in the North Atlantic—a war of attrition that might be fatal to the defense of Europe.

The key to understanding our naval program is to see its relationship to other forces as well. The achievement of maritime supremacy, the goal of the 600-ship fleet, is a necessity if we are to sustain the coalition of free nations around the world that has deterred war with the U.S.S.R. for more than three decades. So the Navy is working to do its part in a team effort of forward-based air, land and naval power. Navy strategy is part and parcel of the national strategy of deterrence, not a substitute for it.

Finally, the issue of cost. Can the nation afford the president's defense programs? Can we do with less? "Cost" can be an elusive concept, as we in the Pentagon know only too well. But cost can be measured in several ways. An accepted method of estimating the defense burden is to measure it as a percentage of GNP, a figure that does heavy damage to the case of the critics. In 1982, the Reagan defense budget will take about 6 percent of GNP. Twenty years ago, the Kennedy administration spent 9 percent of GNP. Nearly 10 years ago, Secretary of Defense Melvin Laird recommended that 7 percent of the GNP be allocated. The defense burden on the national economy during President Reagan's tenure will certainly not exceed the historic norm—unless, of course, we count the Carter years as normal.

Moreover, there is some good news for a change in the efficiency of our effort. In defense spending, as in any private business, a planned and consistent allocation of re-sources pays big dividends. In the Navy, as recent ship and aircraft contract deliveries attest, the cost of acquisition is actually coming down, and there is not one outstanding claim against the Navy for the first time in decades. The cost of ownership is also coming down dramatically. An Aegis cruiser is manned by only 25 percent of the requirements to man a Salem cruiser of 20 years ago. These achievements, combined with a drastic reduction of the inflation rate, provide solid evidence that there will be fewerthough less entertaining-horror stories from the Pentagon.

Solid public support for a stronger defense; a systematic strategy to repair our current deficiencies and to prepare for the future; and a defense burden easily within our economic capabilities—these are the facts about the president's defense requests. The folly lies not in these facts but in the convenient beliefs, surfacing once again, that a job once started need not be concluded, and that the signal of a serious program is a substitute for carrying it out. Over the past decade, such tendencies have merely diminished national security and international stability. Surely the cause of freedom deserves a better effort.

#### GUATEMALAN ARMY RECLAIMS COUNTRYSIDE

# HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

 Mr. LAGOMARSINO. Mr. Speaker, the attached article in the Los Angeles Times by Dial Torgerson on the current situation in Guatemala is worthy of careful consideration by my colleagues. I commend it to them.

The article follows:

[From the Los Angeles Times, Dec. 15, 1982] GUATEMALAN ARMY RECLAIMS COUNTRYSIDE

(By Dial Torgerson)

GUATEMALA CITY.—The rural people of Guatemala have come over to the army's side in the country's guerrilla war, authorities here say, and that is why it was possible for President Efrain Rios Montt to announce last week that the war has been won.

Fighting is continuing in some areas, the military admits, but Rios claims that the army controls the entire country and that the fighting is winding down.

Government sources say the war's tide turned this year when 300,000 peasants came over to the government's side, setting up civil defense units in 850 villages.

As one diplomat based here puts it, "The people voted with their feet." As villagers changed sides, the army advanced, town by town, toward the Mexican border. Last week, the army said, it had arrived at the border.

## NORMAL LIFE RETURNING

There are signs of a return to normal life in many areas. Cities in the mountainous northwest, where the fighting was fiercest, are reopening to tourism. Army officials here told reporters that the entire country is open to them—"Go wherever you want."

Rios, a general, was put in charge of the country last March by young army officers who overthrew a corrupt military regime. A born-again Christian, he launched a campaign of moral renewal for Guatemala and a drive to win the peasant population to his side.

The guerrillas in four leftist organizations operating from hidden bases in the mountains of the northwest had won over many of the area's long-neglected farmers, mostly Indians, to the guerrilla side. The previous government had responded with harsh repression. The army massacred Indians suspected of being guerrilla supporters and urban death squads killed middle-class city people suspected of "subversion."

When Rios took office, he ordered a program of civic action to aid villagers in the war zone and he set strict rules of conduct for the army. He ordered one police unit and the private armies of political parties

disbanded. And he outlawed the carrying of guns, virtually ending political killings in the capital.

#### PROVINCES PACIFIED

The army began to pacify provinces, one by one. In villages taken over by the army, schools were reopened, clinics established, and food and building materials distributed. As soldiers patrolled beyond the villages, civil defense units—armed with sticks, machetes, shotguns and a few old military rifles—were set up.

When villagers from the no man's land beyond the army's area of control came into pacified areas, they were given food and shelter and sent back to their own towns. The army helped them rebuild, set up civil government and formed more civil defense units. Then the army patrols moved on.

By this fall, peasant families that had been on the rebel side began to flow into army-held towns by the hundreds and, finally, by the thousands. They were also helped and sent back to their villages and persuaded to start civil defense units. Once again, the army moved deeper into what had been rebel territory.

"People who were with the guerrillas kept moving until they were across the border into Mexico," Francisco Bianchi, top adviser to Rios, said last week. "We sent four men across the border to talk to them to try to convince them to come back. All four disappeared. The guerrillas killed them."

Relief agencies report that there are perhaps 30,000 Guatemalans on the Mexican side of the border. The office of the U.N. High Commissioner on Refugees considers them to be political refugees fleeing oppression, but the Guatemalan army claims that the refugee camps across the border are rebel hideouts from which attacks are launched into Guatemala.

Reports of massacres by the Guatemalan army have continued to surface since Rios took office. Authorities here are rankled by the reports, which they deny. The government is attempting to change the image Guatemala earned during the previous government, in part because it badly needs U.S. aid and Congress is not expected to vote assistance to a nation with Guatemala's reputation for human rights violations.

The government last week flew Belgian Ambassador Pieter Madden to the village of Juleqe, in the center of Guatemala's jungle province of Peten, to investigate a report by a Spanish news agency that 20 to 30 villagers had been slain there in November by the

"The people ran up to the helicopter when we arrived," Madden said later, "and showed no fear of the soldiers with us. There was no sign of a massacre. About the time of the reported incident there was fighting between government troops and guerrillas seven kilometers away, but nothing in Julege."

After President Reagan met with Rios in Honduras on Dec. 4, reporters asked him if he felt that the Guatemalan president's announced plans to move toward elections justified resuming U.S. aid. (Guatemalan President Fernando Romeo Lucas Garcia, Rios' predecessor, rejected further U.S. aid in 1977 because of the Carter Administration's insistence that it be tied to an improved human-rights climate in the country.)

In his meeting with Reagan, Rios asked for spare parts for the helicopters carrying on what was described as relief work in the war zone and for rifles for the civil defense units. But his country's war-straitened economy also needs the kind of multimilliondollar economic assistance going to the anticommunist governments in Costa Rica, Honduras and El Salvador.

The Reagan administration, it is believed, would like to get Guatemala back among recipients of U.S. aid but has been slow to move on the matter because of the humanrights accusations and Rios' apparent reluctance to turn the country back to constitutional rule.

tional rule.

On Dec. 4, he spelled out for Reagan a plan to issue new election laws March 23, the anniversary of the coup that ousted Lucas. And, he said, leftist parties, including Communists and Marxists, will be allowed to participate in elections, probably later in 1983

Last week, when Rios told reporters that the guerrilla war was over "in the military sense," he added, "Now the Marxists will have the opportunity to fight with the other groups in the political field."

But even if the government really considers the battle won in the countryside, urban terrorism has apparently not been completely quashed. Christmas shopping commercials on television in Guatelmala City were interrupted last week by a picture of an attractive young woman identified as a leader of an urban guerrilla group. The accompanying announcement said: "Denounce her to the security services."

JOHN T. CONWAY'S OUTSTAND-ING SERVICE TO COUNTRY, THE CONGRESS, AND THE NU-CLEAR INDUSTRY

# HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

Mr. RUDD. Mr. Speaker, John T. Conway is a long-time friend to me, many of my colleagues, and the Congress itself, and he will soon leave his position as president of the American Nuclear Energy Council to become executive vice president—corporate affairs—for Consolidated Edison of New York.

John Conway's accomplishments in both the public and private sectors are numerous and remarkable. For over 12 years he served on the U.S. Congress Joint Committee on Atomic Energy, first as its assistant director from 1958 to 1962, then as executive director from 1962 to 1968. In this capacity he provided wise and careful counsel to committee members and staff.

Prior to that time, for 6 years, John was a special agent for the Federal Bureau of Investigation responsible for duties in Louisville, Ky., New York City and Washington. I had the privilege of serving with John as a special agent myself and know first-hand of his tremendous energies and his commitment to the public good.

Serving his country in wartime as well, John was on active duty in the U.S. Navy from 1943 to 1946, including duty as executive officer in the North Atlantic aboard U.S.P.C. 781. Clearly, John Conway has used his rich and varied academic background—a bache-

lor of naval science degree, a bachelor of science degree in engineering from Tufts University and a LLB from Columbia University Law School—in a way that has amplified his commitment both to country and his fellow Americans.

John Conway will leave Washington to join Consolidated Edison of New York as executive vice president, resuming service to this company that began in 1968 when he was executive assistant to the chairman of the board until 1978. He takes with him his years of expertise and finely honed talents and leaves his position with ANEC bearing the fond wishes, gratitude, and respect of those who have known his warmth and caring as an individual and his excellent abilities as a professional.

It has been said that an institution is but the lengthened shadow of one man. Truly, then, the American Nuclear Energy Council as an institution will always reflect the tall shadow of John Conway. I am pleased to honor and commend this outstanding American to my colleagues.

## SALUTE TO JUDGES DEPIETRO, GRIFFITH

# HON. LYLE WILLIAMS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. WILLIAMS of Ohio. Mr. Speaker, at the end of this year two dedicated public servants, Judge John D. De-Pietro and David M. Griffith, will retire from office in Trumbull County, Ohio.

Judges DePietro has served the legal profession for 31 years, has been in public life for nearly 20 years, and for the past 9 years has distinguished himself as a wise, compassionate, fairminded domestic relations/juvenile court judge.

John DePietro became an attorney in 1951. He served his hometown of Girard, Ohio, for 9 years as solicitor, safety director, and one term as mayor. In 1973 he assumed his place on the bench, facing a pending docket of 2,700 domestic cases.

Judge DePietro's court was known for its cooperation with social service agencies, working on domestic and juvenile matters, elevating Trumbull County to one of the leading areas of the State for agency/court cooperation. Following a rest, John plans to assist on special assignments with the domestic and common pleas courts.

Judge David Griffith, one of three members of his family which has served in the judiciary for the past half century, will end 11 years on the bench December 31.

Judge Griffith earned expense money for law school playing saxophone on the famous riverboat, Delta Queen, on the Ohio River. He was invited to join the Louie Prima Band in 1940, but chose instead to become a lawver.

Prior to assuming his post as judge he served 4 years as county prosecutor, and before that, several years as assistant prosecutor. His court was the first in Trumbull County to permit news media cameras into the courtroom following new rules set by the

Ohio Supreme Court.

Known for his defense of "shock parole," which allows for the release of offenders after a short period in jail, he is pleased that out of some 200 shock cases, only two were disappointing. He contends that all who are convicted will be released at some point, and that the longer they are incarcerated with hardened criminals, the more difficult it is to effect rehabilitation.

"The greatest satisfaction," he says, "is to see someone who was sent away and then returned home on shock probation, come in and thank me, and to see him getting along so well."

Mr. Speaker, I am happy to salute these gentlemen for their service to the people of Trumbull County and to wish them well in all their future undertakings.

# A SENSITIVE PRINCIPLED MAN

## HON. CHARLES A. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

• Mr. RANGEL. Mr. Speaker, I would like to share with you and the rest of our colleagues a commentary by Franklin H. Williams of Group W, Westinghouse. He talks about John McEnroe, an athlete with a firm sense of what is right and wrong in "the larger arena of life." The struggle against South Africa, the fight for the handicapped, would be that much easier if all those who spend their time criticizing him for his temper would follow in his footsteps in the things that really count. This world needs more athletes like John McEnroe. The text of the commentary follows:

A COMMENTARY BY FRANKLIN H. WILLIAMS— GROUP W WESTINGHOUSE

I wish young John McEnroe would get control of his short, hot temper on the tennis court. I admire the guy so much, for so many things, that it pains me when he acts up and uses foul language when he gets frustrated. I know I'm biased in John's favor, because he's a gutsy competitor, and he does get a lot of bad calls. But he's a lot more than gutsy, he showed the world where his priorities lay when he turned down a sure \$400,000 and a probable \$800,000 for a single match versus Borg, because it was to be held in South Africa. And he wouldn't demean himself by competing there as both Borg and Connors were willing to do—for filthy lucre. Recently John

was to film a TV commercial for the cystic fibrosis foundation, he arrived—he thought—with his U.S. Open Trophy, but the driver went off with it and everything had to wait until it could be brought back. Did he get impatient and act the big-shot—which he is? No sir, he went jogging with the handicapped kids, and really showed his interest in them, what a day for those youngsters. Later on one of them saw him at a match and asked John for a ball. Guess what? McEnroe gave him a ball and his racquet too. A Brat? Maybe on the tennis court, but in the larger arena of life, he's a sensitive principled man—this is Franklin H.

#### CALIFORNIA PROPOSITION 15— SHOT OUT OF THE SADDLE

Williams.

# HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. PAUL. Mr. Speaker, the sponsors and advocates of gun control are always quick to point to some arcane poll or survey which indicates that the majority of Americans favor efforts to ban the manufacture and sale of handguns.

But the election results in California on Proposition 15, a referendum question placed on the ballot by gun control advocates, gave us the first true test of how Americans feel on the subject.

In short, the measure was trounced—63 percent opposed and 37 percent in favor—and a clear message has finally been sent to those who would tamper with the second amendment. The message is: Leave the handgun alone and start catching criminals.

Of course the excuse for the defeat of the measure was the "gun lobby" a phrase synonymous with the National Rifle Association. It is interesting to note that while the NRA did play a major role in defeating the measure, the NRS is an association of individuals from all walks of life who cherish and value their constitutional right to keep and bear arms for self defense and for defense of the state.

On the other hand, advocates of gun control had the backing of a few very wealthy people—Mr. Armand Hammer of Occidental Petroleum for one—and still failed to impress the voters with the urgency of passing the measure.

I believe that a national referendum would show similar results. Distrust of government has always been an American tradition and Americans are not willing to surrender their arms to the state, nor are they willing to rely soley on the state for their defense.

Many Americans are probably opposed to gun control because of conditions that occur in places such as Poland or within other Eastern European Communist countries, for they instinctively know that had the citizen been armed they might have been able to preserve their liberties.

Gun control is to be feared, for when citizens are disarmed, government is free to practice tyranny and despotism.

Proposition 15 failed because gun control has long been disfavored by the people in this Nation. Should a similar measure appear on the ballot in the future, it will fail again; Americans are too smart to give up their guns.

CHRISTIAN SERVICE AWARD PRESENTED TO DR. AND MRS. WILLIAM BRIGHT

# HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. MOORHEAD. Mr. Speaker, at their annual New Year's Eve celebration in the Sheraton Universal Hotel in North Hollywood, Calif., Manna Music, Inc. will present its Christian Service Award to Dr. and Mrs. William Bright.

Bill is the founder and president of Campus Crusade For Christ, International, of Arrowhead Springs, Calif., an organization known around the world for its positive impact on individual lives. Founded in 1951, Campus Crusade now has a fulltime staff of more than 16,000 in 151 countries of the world. Although its initial intent was to reach young people of college age for Christ and to challenge them to live rich, full, productive lives, it now has field ministries in such areas as high schools, athletics, the military, music, prisons, and so forth. These are in addition to the 450 established ministries on U.S. college campuses.

It would be impossible to determine the far-reaching effects of this organization. The Los Angeles Times has said: "No movement of our time is likely to have more healthy effect upon the lives of the Nation than this movement founded and headed by Bill Bright."

Religion in Media honored Dr. Bright by presenting to him their Gold Angel Award as International Man of the Year in 1982. Both he and Mrs. Bright have received special awards from the Religious Heritage of America, Inc.

Bill and Vonette Bright are close personal friends of many of us here in the Congress. We are glad they have been chosen as recipients of this special award. It is a much-deserved honor.

THE REGULATORY REFORM

# HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. OXLEY. Mr. Speaker, I am extremely disappointed that the leadership has reneged on its promise to bring the regulatory reform bill to the floor during this Congress. The measure was already long overdue, and I now fear the effort may be scrapped forever.

Excessive regulation has contributed to inflation and poor economic performance by adding costs of all stages of the production process. Regulatory reform is every bit as essential to economic recovery as reducing the deficit and bringing down interest rates.

The Presidential Task Force on Regulatory Relief, headed by Vice President George Bush, has been quite successful in cutting through much unneeded redtape, saving more than \$70 billion over the next decade-money that can be used for more investment, increased productivity, and new jobs. But the administration cannot fight the regulatory battle alone. We must do our part by overhauling the outdated administrative procedures that have allowed the bureaucracy to carry its rulemaking authority to a ridiculous extreme.

Contrary to what its opponents assert, regulatory reform does not mean doing away with all regulation. Its purpose is to curb excessive regulations whose benefits are marginal at best, yet require costly compliance.

Mr. Speaker, perhaps a regulatory reform bill would not have passed this House, but we should have at least been allowed to vote on the matter. I certainly hope that another, more fiscally responsible, Congress will be able to do so.

# KEN HOLLAND

# HON. CECIL (CEC) HEFTEL

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 9, 1982

• Mr. HEFTEL. Mr. Speaker, I am proud to rise to honor my distinguished colleague from South Carolina, KEN HOLLAND. As a respected member of the Ways and Means Committee, KEN has been a voice of moderation and objectivity and his time in Congress has been a fruitful one.

When I was first appointed to the Ways and Means Committee, I sought out Ken's counsel regarding the committee's agenda and the role I might play in the committee's deliberations. I received thoughtful and compelling advice from KEN.

As you recall, Mr. Speaker, during last year's debate on the Economic Recovery Tax Act, Ken's sincerity and profound knowledge of tax issues led to his selection as a spokesman for the Democratic Party on the topic. In this role, he succeeded in elevating the level of the debate to assure that the welfare of the American people was given every consideration.

I wish KEN every success as he joins the privater sector. However, I am sure we will continue to see a good deal of Ken on Capitol Hill.

## THOUGHTS OF IVAN VINKOVICH

# HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. APPLEGATE, Mr. Speaker, I would like to share with my colleagues in the House, a letter I have just received from a constituent of mine, Mr. Ivan Vinkovich of 832 East Fifth Street, Dover, Ohio. Mr. Vinkovich wrote about his thoughts on America and the problems with which we are faced and I thought that he expressed himself so well that other Members of Congress should read it as well.

The text of the letter follows:

DEAR REPRESENTATIVE APPLEGATE: I am writing you because I am gravely concerned about the continuing erosion of our country's industrial base and the effect it is having on employment and market competition. The free trade principles practiced by the United States since 1948 have led to continued decimation of one manufacturing industry after another in this country, while foreign countries protect their markets from us in one way or another-some ways are subtle, others not so subtle. We have seen the loss of our textile, shoe, radio and television industries, and now the automobile, steel and machine tool industries. We are continuing this free trade philosophy and giving the markets that we have developed and nurtured away to any other country with a lower wage structure (which is most of them) that can buy the latest technology to do so.

Unemployment-now 11 percent nationally and 13 percent in Ohio-is at the highest level since the depression and holding at that level; fewer people are working in our manufacturing industries than since before the year 1900; we continue to experience severe deficits in our balance of trade; government employment is at an all-time high; we are becoming a nation of government and civilian services. U.S. emphasis at the recent GATT Conference was on free trade for services, as we have already given our in-dustrial markets away. This effort was rejected by the Second and Third World Nations because they are not yet ready to compete with us in this area.

My point is-our open and free trade policies are unrealistic, not truly practiced by most foreign countries and are destroying our industries and creating an unacceptable level of unemployment that will not be significantly reduced unless we take some limited measures to protect our domestic mar-kets from unfair foreign competition. This one-sided free trade policy that we practice destroys an industry so rapidly that the employees of that industry cannot be trained and absorbed by the remaining job market fast enough to avoid high unemployment. We must acknowledge that today we cannot realistically compete against foreign competition in certain domestic and international markets because of our higher standard of living, wage structure and foreign protectionism.

Our government practiced some protectionism from its very beginning, up to 1948. Our forefathers, including men like Washington, Lincoln, Hamilton, Jefferson, Clay, Madison, Monroe and Adams all believed some protectionism was necessary in order to ensure the industrial base of this country and provide some level of economic stability. Since 1948, our leaders have followed a free trade principle and have watched one industry after another fall to unfair competition.

I urge that you review and recognize the above factors affecting our economy and take whatever action you can to protect our industries, to some extent, so our markets serve our people first—then, the remaining countries of the world. This is not a selfish motive; it is necessary to ensure the security and welfare of our country and our people and to provide some stability to our economy. As our representative in government, you are in a position to help effect these changes. I urge you to do so.

Respectfully,

IVAN VINKOVICH.1

## MARGARET HECKLER

# HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

Mrs. ROUKEMA. Mr. Speaker. When Congress convenes next January 3 it will, for the first time in 16 years, be without the leadership of the distinguished Congresswoman from Massachusetts, Margaret Heckler.

PEGGY HECKLER will be sorely missed by those of us who have been privileged to work with her and she will be particularly missed by the constituents she served so well.

She has earned a singular reputation for constituent service and has demonstrated time and time again how hard she is willing to work for the poeple of her district.

Within the Congress, she has been a national leader on women's issues, working tenaciously for the equal rights amendment and for economic equity through the Congresswoman's Caucus, which she cofounded. She was the first, and she remains the leading Republican woman in the country on matters of economic, social, and legal justice for women. The causes she has fought for have directly resulted in extraordinary advancement for women.

PEGGY HECKLER's philosophy of what government can do is positive and activist. It was at a recent gathering in her honor that she reasserted the fact that the Constitution is a living document, an unfinished document, and

she challenged the Members to continue directing our efforts to the unfinished work of the ERA. This philosophy was evident in all her work over eight terms, not only on women's issues but also in her quest for social and economic reforms for all Americans

She has also earned a solid reputation as an advocate of improved services and treatment for our veterans. She will, I know, be particularly missed by those who served this country in World Wars I and II and the Korean and Vietnam wars; she has always spoken out on behalf of these fine men and women.

MARGARET HECKLER is a friend who provided guidance and assistance to my during my first term in Congress. I will never forget the kindnesses she extended to me over the past 2 years, nor will I forget the sense of responsibility and service that she engendered as a Member of Congress. I join my colleagues in wishing her the best of luck and success in her future endeavors.

OHIO'S "SELF-HELP" GAS PROGRAM

# HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

• Mr. BROWN of Ohio. Mr. Speaker, for some time I have been urging that the real solution to our natural gas problems lies in providing consumers and producers with more access to each other. Active competition for supplies at the wellhead among pipelines and end-users will help prevent the kind of irrational market behavior we have been experiencing since the NGPA was passed.

This week's Business Week, a publication which has been especially perceptive in reporting what is happening in the natural gas industry, provides evidence that the competition I advocate is beginning to occur, at least in Ohio where a special self-help program exists. I have been a long-time supporter of the self-help program as a way for Ohio companies to buy cheaper Ohio gas and remain in business so Ohioans would have jobs. In 1980, the House Energy and Power Subcommittee held a hearing in Ohio at my request to examine the self-help program and its operation.

Next Congress, as you consider what to do about natural gas, it would be well to keep in mind the lessons of Ohio's self-help program.

Thank you, Mr. Speaker, for reprinting this Business Week article in today's Congressional Record:

CAPPING THE EXPLOSION IN GAS PRICES

As if in defiance of gravity, a Byzantine regulatory system has kept natural gas

prices rising despite a surplus that has forced producers to shut the valves on wells containing some of the nation's cheapest gas. Prices will jump again on Jan. 1, when pipeline companies roll in yet another round of increases allowed by the 1978 Natural Cost Price Act.

ural Gas Policy Act.

The expected price increase on so-called old gas-largely gas discovered before 1977is certain to drive even more factories to burn residual fuel oil, further adding to the gas glut. But cracks are showing in the gas industry's rigid price structure. Producers currently unable to sell their gas are starting to deal directly with industrial gas users to get around high pipeline rates. Local gas utilities are shopping for cut-rate supplies rather than continuing to rely solely on the pipelines. And competition is mounting among the pipelines themselves. Says Jerry D. Jordan, a Columbus (Ohio) attorney for independent gas producers: "We are seeing a 'white' market develop for natural gas. He is referring to a market that legally circumvents normal supply channels.

#### MANDATED TRANSPORTATION

In Ohio, 130 makers of steel, glass, and other products are buying gas directly from the well or through brokers, paying pipelines only a fee to move it. This has cut the companies' purchase price from the \$5.20 per Mcf charged by Columbia Gas System Inc. in Ohio to about \$4.40, equivalent to the price of residual oil. A bigger defection could come soon in Texas. Houston Lighting & Power Co., the nation's largest natural gas user, is considering purchasing gas directly from the wellhead for its electric generating plants, for a savings of 75¢ per Mcf. Another option: burn oil. Rather than lose the utility's business entirely, Exxon Corp. says it may move gas to HL&P over its Texas pipeline for only a transit charge.

Unlike railroads and oil pipelines, gas pipelines are not common carriers and cannot be forced to haul gas belonging to someone else. But in Ohio, a state "self-help" program dating from the 1978 gas-supply crunch obliges pipelines to transport rival gas for energy-short industrial users. There is also a growing movement among gas producers to impose common-carrier duties on all pipelines. "We need a national market for natural gas," says David W. Wilson, vice-president of Denver-based gas producer Consolidated Oil & Gas Inc., "and there is no way to create one without mandatory transmission."

datory transmission."
With fixed expenses to cover regardless of the volume of gas they carry, "the pipelines are reluctant [merely] to move gas rather than sell it," says Lance W. Schneier, president of Yankee Resources Inc. His company brokers the sale of gas directly from the well to Jones & Laughlin steel Corp. and five other large Midwest industrial customers. "If it weren't for us," he adds, "these plants would be burning oil or shout down."

Another problem is that during the gas shortages of the late 1970s, interstate pipelines locked themselves into stiff contracts for high-cost gas. To honor these "take-or-pay" contracts, they have had to cut purchases of cheaper gas. To boost sales, interstates have been wooing customers from intrastate pipelines in Texas and other states, which lack the interstates' cushion of cheap, "old" gas contracts still under federal price controls. Dow Chemical Co. recently dumped its intrastate gas supplier in Louisiana, Sugar Bowl Gas Corp., in favor of United Pipeline Co.

Interstate pipelines are now trying to buy or litigate their way out of their take-or-pay

deals. In Congress, a raft of legislation has been introduced to freeze gas prices, ban take-or-pay contracts, or force piplelines to buy the cheapest gas available regardless of contractual commitments. these moves-and the new competition-may already be slowing the torrid rise in gas rates. Says Wayne D. Johnson, president of Entex Inc., a major gas distributor in Texas and Louisiana: "I look for flat to very small price increases next vear."

SAN FRANCISCO BAY AREA LAW-YERS COMMENT ON PRO-POSED CHANGES IN INNOCENT SPOUSE RULE

# HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. STARK. Mr. Speaker, last Tuesday I introduced legislation to provide greater justice and relief for those "innocent spouses" now unfairly burdened with tax liability under section 6013(e) of the Internal Revenue Code.

There were several reasons for proposing this bill, now H.R. 7382. When Congress in 1971, amended the Internal Revenue Code to relieve one spouse from liability for an erroneous understatement of gross income attributed to the other spouse, and thereby created the innocent spouse rule, Congress believed that it had solved the problem of unjustly burdening a truly "innocent spouse." In introducing my amendment, I explained in rather technical terms why an "innocent spouse" needed broader protection than currently provided by the Code.

Before drafting the bill, I polled attorneys in the Greater San Francisco Bay area as to the advisability and need for this type of legislation. The two questions I asked related to one, including deductions and credits along with gross income in determining forgiveness, and two, reducing or eliminating the 25 percent threshold test. A number of practitioners responded, providing specific comments and examples of the problems in the present innocent spouse rule and on the need for change.

I am pleased to report that in general the respondents supported the bill, to quote one attorney, "because it would make the 'innocent spouse' doctrine more effective and applicable to additional situations where it may truly be needed."

Specifically, as one practitioner

This bill represents a logical step forward in the protection of the "innocent spouse" in that it extends coverage to any understatement of income whether or not it is also an omission.

The problem has been that only omissions of gross income have been covered by 6013(e). As a result a significant number of spouses have unjustly

been held liable for the erroneous or fraudulent deductions and credits of the other spouse. One California law firm noted two of its recent cases in which innocent spouses after "rather unpleasant divorces" were required to pick up the liability from their spouses. Had the Code included excess deductions neither of these truly innocent spouses would have had any tax liability.

The 25-percent threshold has also proven too high a test for forgiveness. Most of those polled did believe the percentage threshold should be reduced. Although the majority agreed that it would, in the words of one, "be advisable to keep some sort of minimum dollar amount so that the Government does not have to contest the issue when relatively small amounts are at stake." My proposal does this by reducing the threshold to 10 percent or \$500 whichever is the lesser amount.

I would also like to point out that last year my State of California amended its innocent spouse provision—section 18402.9—of the State tax code in a manner similar to my proposal. The results appear to be quite favorable, and California's example should pave the way for a similar change in the Federal tax laws.

I hope that other members of the bar and practitioners from areas outside of San Francisco will feel free to comment on this legislation, and on possible changes to it. In closing, as one attorney wrote, "the problem is very likely to cross my desk unless legislation similar to your proposal is enacted." Hopefully "this long overdue reform" will take place soon.

#### SUMNER BULLDOGS WIN CHAMPIONSHIP

## HON. WILLIAM BILL CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

. Mr. CLAY. Mr. Speaker, I rise in tribute to the Sumner High School Bulldogs, winners of the Missouri large-school division crown, class 5A football championship. The outstanding athletic ability and stamina displayed by a determined Sumner High School football team in its division championship victory defied the predictions of the experts. The Bulldogs' victory over Rockhurst High School of Kansas City has been the source of pride, inspiration, and optimism throughout the St. Louis community. In behalf of the city of St. Louis, I commend Coach Lawrence Walls and school Principal Virgil King for their dedicated contribution to the youth of our community and I congratulate the members of the team on their exceptional achievement.

The following article appeared in the St. Louis newspaper:

[From the St. Louis American, Dec. 9, 1982] SUMNER BULLDOGS HONORED BY BOARD OF ALDERMEN

(By Michael E. Claiborne)

It was a night to reflect, to remember the proud accomplishment of the Sumner High School Football Team which, only one week prior, had won the Missouri large-school division crown (Class 5A) of the state's high school football derby by pounding out a 32-22 victory over Rockhurst High of Kansas City.

It was a dinner sponsored Monday evening at the Salad Bowl Restaurant by Alderman Clifford Wilson of the 4th Ward in honor of the Bulldogs. The turnout was good, as well-wishers from St. Louis' political, professional and medical circles came out to honor the victorious Bulldogs coached by Lawrence Walls.

Sumner High is located in Wilson's 4th Ward and he said he felt compelled to do something for the team held in esteem by the entire North St. Louis community.

"You have made me proud," said Wilson, and "I'm not saying that as an alderman . . . I'm saying that as a black man."

Those were important words of encouragement for members of the team, that is part of a school system that has incurred such a negative image in the wake of financial cutbacks and other misfortunes.

cial cutbacks and other misfortunes.
"You all did it yourself," said Wilson adding that "the entire St. Louis community should have turned out for this."

But those who were not there physically were there in spirit as the entire atmosphere seemed to exude pride and optimism for the community.

for the community.

The dinner was kicked off by Richard "Onion" Horton, the master of ceremonies and a member of the St. Louis Argus staff. He praised the team for defying the predictions of "experts" and representing well the black community.

Horton then introduced the people sitting at the head table, which included the Sumner Bulldog coaching staff, which received a resounding applause from players sitting in the audience.

Head coach Lawrence Walls, who is basking in the glory of his second state championship—ironically, his first at Sumner came in 1973 against Rockhurst—was an inspirational to the team, as he reflected on Sumner's resilience.

"I can remember when we lost to O'Fallon. A lot of the players were crying. We made up our minds then that we would never quit in the face of adversity.

"A person who never quits in the face of adversity is a potential champion," said Walls. "You gentlemen are like the points on a star and you're all stars," Walls said of his players, many of whom are seniors.

Walls praised Richard Perry, his assistant coach—and the Bulldogs' defensive coordinator—as "the greatest defensive coach I've ever known."

Perry, showing modesty, replied: "I don't think I'm the greatest coach. I do believe I coach the greatest defensive ballplayers in the world.

"A coach is only as great as his players and when it came time for them to answer the test, they did," said Perry.

Later, Perry, who will be best remembered for the pep talk he gave his players at the halftime of the state championship game after they'd lost a 16-point lead, asked his defensive players to all stand as a unit.

The cries of "deee-fense, deee-fense" emerged, reminiscent of some of the cheering that occurred during their splendid season. But the highlight of the dinner was a talk given by Attorney David Grant, the Director of Legislature and Research for the St. Louis Board of Aldermen.

Grant, a 1918 graduate of Sumner High School, was complimentary of the team and invoked humorous as well as serious comments to the young men on hand.

"Stay in school . . . be as good in school as you are on the football field," said Grant, who read aloud Proclamation 119, a city-certified resolution officially honoring Sumner as the Missouri state champions.

# THE AMERICAN VICTORY IN LEBANON

# HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. LENT. Mr. Speaker, the end of the war in Lebanon has failed to stem the constant stream of denunciation of Israel's actions, nor has it diminished the activities of those enemies of Israel who seek to have the United States punish Israel for initiating the action there.

Mr. Speaker, it is gravely disturbing to me that there has been so little effort on the part of the Reagan administration to counter this false, misleading and dangerous propaganda. For that is exactly what this anti-Israel campaign represents, an intense propaganda effort to drive a wedge between the United States and its closest, most dependable ally in the Middle East.

Mr. Speaker, we must not permit the purveyors of this dangerous propaganda to succeed. We must make every effort to get the truth of the events in Lebanon squarely before the American public. I urge my colleagues to do everything in their power to address this truly critical problem and to clarify the reality of the situation for all Americans. For the fact is that Israel's victory in Lebanon was a substantial victory for the United States and for all Americans working to advance the cause of world peace.

I call to the attention of my colleagues a brilliant expositon of this situation, which appeared in one of America's most respected newpapers, Newsday, published on Long Island, N.Y., a part of which I have the honor to represent. The article, entitled "The American Victory in Lebanon," was written by Ralph D. Nurnberger of the American Israel Public Affairs Committee. I commend it to the careful study of my colleagues as a definitive analysis of the great benefits to America and to our foreign policy goals in the Middle East that have resulted from Israel's actions. I would particularly urge my colleagues to note Mr. Nurnberger's analysis of the benefits accruing to our country in protecting our economic interests and in demonsrating the impotency of the vaunted myth of oil as a policy weapon in the Middle East.

The article follows:

[From Newsday, Nov. 17, 1982] THE AMERICAN VICTORY IN LEBANON (By Ralph D. Nurnberger)

Years must often pass before the full implications of a war are clearly discernible. But it is already clear that the results of the war in Lebanon provided the single most important foreign-policy achievement yet for the Reagan administration. The Israeli victiory helped further the four major American goals in the Middle East: (1) Removing the source of international terrorism as a first step toward regional stability; (2) Combating Soviet expansionism; (3) Supporting democracy and American allies in the region, and (4) Protecting American economic interests and the flow of oil.

The Palestine Liberation Organization was destroyed as a military force at a time when it was on the verge of completing its transition, according to the Marxist model, from a terrorist organization to a conventional army. The PLO had more than 30,000 fighters in Lebanon and sophisticated weapons available for many times that number. Had the PLO remained where it was, it would have consituted a continual threat to northern Israel. In effect, PLO activities in southern Lebanon held one-fifth of Israel's population hostage to intermittent terrorist attacks and perhaps to an invasion. The Israelis removed this source of instability.

The PLO will not find it easy to resume its terrorist actions in the countries to which its members have been disbursed. Arab states have always been aware of Israeli retaliation for terrorist hits launched from their territory. With the exception of the weakened government in Lebanon, Israel's neighbors took steps to prevent the PLO's launching attacks from their territory. Syria and Jordan will not risk a conflict with Israel by changing this policy.

with Israel by changing this policy.

The defeat of the PLO also removed the major base for training international terrorists. Evidence of this can be seen in the fact that Israeli forces captured terrorists from around the world. Even if parts of the PLO regrouped elsewhere, it no longer can supply this type or magnitude of training. No other Arab nation will allow the PLO the freedom of movement that it had in Lebanon or the facilities to train others.

Israel's victory furthered a second major American foreign policy objective by defeating two Soviet surrogates, the PLO and Syria, thereby stalling Soviet expansionism in the region. The preoccupation with the siege of Beirut and the fate of the PLO has partially obscured the significance of the victory over the Syrians and their Soviet equipment. The stunning Israeli air superiority over Soviet-made jets and the destruction of Soviet SAM Missiles and Soviet tanks will have far-reaching implications on the global military picture. The battles fought in eastern Lebanon will be significant for the military balance not only in the Middle East but in Europe and elsewhere. The vulnerability of Soviet equipment surely must worry all Soviet allies and potential clients.

Israel provided a victory for American diplomacy as well as American arms. Even Soviet clients, the PLO and Syria, looked and went to Washington, not Moscow, for

help. American diplomats, not Soviet, were able to bring stability out of chaos in Lebanon. American, not Soviet, troops formed a basis of the multinational peacekeeping force.

The third American goal, the viability of pro-western regimes in the region, has been enhanced by removing the PLO from Lebanon. As a result of Israeli actions, the Lebanese have their best opportunity to reestablish a stable democratic nation. All observers agree that a Syrian puppet surely would have been "elected" president had it not been for Israel's actions. The election of Amin Gemayel, following the assassination of his brother, and the apparent support of the new regime by leading Moslems and Christians, are the most hopeful political developments in Lebanon since the outbreak of the civil war in 1975.

Finally, the Israeli victory underscored the myth of oil as a weapon in international diplomacy. If ever the Arabs would have used this approach, the events of the summer would have been the catalyst. The war emphasized that American reliance upon OPEC oil has declined to the point where this weapon has lost its potency. In 1976, the United States imported 2.8 million barrels per day from the region; by the time the war started in June, 1982, this had declined to merely 780,000 barrels per day. In addition, the oil-producing nations, particularly Saudi Arabia, preferred to rely upon American peacekeeping efforts.

In sum, Israel's actions in Lebanon furthered America's goals and enhanced the international position of the United States.

# TRIBUTE TO WALTER C. CRAMER

# HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. SKELTON. Mr. Speaker, it is with deep sadness that I learned this week of the death of a prominent Democratic political figure and businessman of Sedalia, Mo. Walter Cramer is remembered for his unfailing support of the Democratic Party, as well as being a central figure in the Democratic organization of Sedalia. The memory of this Democratic support, however, is probably overshadowed by a kind of bipartisan community cooperation which he possessed, a type which one often finds lacking today.

Walter Cramer served as the Democratic county committee chairman, and it was during this time that, with his Republican counterpart, the late Carl Schrader, that he helped to galvanize support for the conversion of the old Sedalia Air Base into the present day Whiteman Air Force Base. Walter Cramer was also a charter member of the Moose Lodge, a member of the Elks Lodge, and member of the Bricklayers Union. He was an outstanding member of his community, able to see the needs of the community over the barriers of

party differences and personal interests.

## SOCIAL SECURITY

# HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. LOWERY of California. Mr. Speaker, it is no secret that our social security system is going broke. Unfortunately, many Members of Congress have chosen to disregard the impending crisis, and have used the situation for political leverage, particularly during the recent congressional election campaign.

Yesterday, Chairman Alan Greenspan postponed today's scheduled session of the National Commission on Social Security Reform. He was afraid that the Commission would be unable to reach a consensus on proposed solu-

tions to the crisis.

While I am hopeful that the members of the Commission are listening to the opinions of the average citizen, I fear that many are only paying heed to the opinions of a vocal, radical minority. For, if a recent survey I conducted in San Diego is any indication, the general populace—particularly our senior citizens—have reached a consensus. Their top priority is to insure the health of the social security system for themselves and for future generations. And they do not seem to mind making the individual sacrifices necessary to do it.

My questionnaire was sent out to a cross section of 9,000 San Diegans, both supporters and opponents of the administration's proposals in 1981. A random sampling of 500 of the respondents was taken: There were 49 percent 65 and over, 26.2 percent were 55 to 64, 19 percent were 35 to 54, 4.96 percent were 24 to 34, and 0.39 percent

were 18 to 24.

I asked my constituents to give me their opinions on 10 of the major reform proposals under discussion by the National Commission. These are the results: 64.2 percent opposed increasing payroll taxes; 82.7 percent favored tightening eligibility standards for disability benefits; 63.9 percent opposed taxing social security benefits that exceeded the amount you paid into the system while working; 69.1 percent favored delaying the annual cost-of-living adjustment for 3 months; 69.7 percent favored increasing the retirement age to 68 beginning in the year 2000; 65.3 percent favored changing the cost-of-living formula to equal the lesser of increases in wages or prices; 66.1 percent favored increasing excise taxes on alcohol and tobacco and earmarking proceeds for social security; 52.9 percent opposed allowing social security to borrow from the general fund; 79.9 percent favored bringing all new Federal and State employees under the system, and 69.4 percent favored eliminating extra benefits for early retirees.

These survey results are the most responsible I have ever seen. They show remarkable consensus from a group where 75 percent are 55 years or older and, therefore, most immediately at risk from the decisions we must make. They demonstrate that people, when given the truth about the gravity of our social security financing problems, are willing to share in the solution. It shows that senior citizens do not want to place the burden of responsibility on their children or grandchildren. The responses I received demonstrate that my constituents are willing to make a personal commitment to the future of social security.

# TWO ARKANSANS LOOK AT SOUTH AFRICA

## HON, BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. ALEXANDER. Mr. Speaker, in recent years we have heard and read much about the conditions and trends in South Africa. These writings and comments have been provided by persons of widely diverging viewpoints. This summer two friends of mine from Jonesboro, Ark., visited this southern African nation and, on their return, wrote about their experiences there at the request of the Jonesboro Sun.

Both Bill and Marian Pennix are experienced and well-respected attorneys. In addition, Bill is a former newsman who still occasionally writes for Arkansas news media on matters of current interest. I would like to include in the Record at this point, the column on South Africa prepared by Marian and Bill Pennix as I believe their comments will be of interest to our colleagues.

ur colleagues.

[From the Jonesboro Sun, Aug. 2, 1982]

OVERALL COMMENTS

(By Marian and Bill Penix)

The Republic of South Africa is a beleaguered, friendless nation inhabited by about 20 million most good and decent souls, largely blacks with smaller percentages of "Coloureds" and white people who have irreconcilable differences. Their problems started building about the time our Pilgrims landed at Plymouth Rock. Interestingly, the Afrikaner who controls South Africa's political destiny believes he is fulfilling a Covenant with God.

enant with God.

"Coloured" in South Africa means nonblack and non-white. A crusading Indian lawyer, Mohandas K. Gandhi, went to Capetown in 1893 and tried to help his fellow countrymen who were being discriminated against as "Coloured." Ultimately he failed and returned to India in 1914. There his name became legend—even if he was "Coloured" in South Africa. South Africa with its apparent collision course with reality made our trip irresistable. We spent about half of our month on the continent traveling in the Republic of South Africa. We left with some understanding of the situation, but no solutions.

It would be dishonest to pretend we really could have comprehended much about South Africa had we not read James A. Michener's thousand-page-plus historical novel, *The Covenant*. If you want to understand the country and don't have time to read the book and also go to South Africa, read the book, you'll learn more.

We flew out of New York on South African Airlines June 18. Except for a permitted landing at Cape Verde, off western Africa, to refuel, we had to fly the entire 20-hour trip over water until we reached South African soil. The planes of South Africa are not permitted to fly over any other African nation except Zimbabwe (formerly Rhodesia.)

There was no Apartheid on the plane. A "Coloured" woman school teacher from the Capetown area sat beside us. When we landed several hours late at Johannesburg, the woman was almost hysterical with fears as to what would happen to her overnight. as she had missed the last flight to Capetown, a thousand miles away. It was a pleasant surprise to her that the airline routinely had arranged for her to have a room at the airport Holiday Inn. Her unfounded fear was that she would be shipped a great dis-tance to one of the "Coloured" living areas because of the Apartheid laws. When we checked into Johannesburg's finest hotel, the Carlton, we learned that it did not have to obey the law and had complete integration as far as guests were concerned.

The English language came during periods of British domination of the Cape area. The non-Europeans of South Africa to this day are reluctant to use Afrikaans. A year or so ago there were riots when efforts were made to force Black children to study Afrikaans in their public schools. The feeling is that Afrikaans symbolizes the Dutch-German Afrikaner who controls the government and from whose languages comes the strange word: Apartheid, literally, apartness—a reflection of the belief that God willed the races to be kept separate, but each maintaining its own dignity and evolving at a rate in keeping with the different abilities of the races.

The first morning in South Africa, when Bill went to a public park to run in the frosty dawn, a black man, recognizing him to be American, engaged him in conversation. The Black assured Bill that Apartheid was the law of the land; that education was not equal; and there was vast discrimination in job opportunities. The Black urged Bill to learn about Soweto, the mandatory Black residential area of over a million people whose workers ride commuter trains miles morning and night to and from the city. We learned Soweto (Southwest Township which was created after 1948) is offlimits to Whites. But, we succeeded in getting a permit and a government-employed guide, Mr. Pretorius, a descendant of a famous pioneer Afrikaner. We spend most of a day with Mr. Pretorius, who at first evaded searching questions. Then, Bill said, "We didn't come here to judge you, just to try to understand you. You're only 25 or 30 years behind us. Further, we have a dreadful black ghetto adjoining our state capitol which is called College Station, and it's far worse than anything we've seen here. From then on, Mr. Pretorius went out of his

way to show us the bad as well as the good. That all of these Blacks were moved into Soweto since 1948 staggered our imaginations. We were impressed that vast sums of money are being spent by the government to improve Soweto. Construction continues all over the place.

One does not get to retire in Soweto. When no one in the family is working in the nearby city, then the Black must "return" to the historical lands of his tribe: Zululand, the Transkei of the Xhosa, the lands of the Tswang and the Sotho, etc. It matters not if the "Zulu" or the "Xhosa" and his ancestors have lived far away for the last eight generations.

South Africa's cities are clean and certainly as safe as those in America. Capetown is the most beautiful city we have ever seen. The People—Black, Coloured and White—love their land and its beauty. Most Whites are willing to stay and face the uncertain future, although many younger people have migrated to Australia, England, South America and even America.

Brave young White soldiers of South Africa today continue to die fighting off invaders on their country's northern borders.

Virtually all of the world's diamonds and over half of all of its known gold came from mines within a 75-mile radius of Johannesburg. The country has no oil, but has vast coal reserves from which South Africa is carrying on the world's most intense production of synthetic oil. South Africa has vast stores of many of the world's most vital minerals and ores.

The economic tentacles of the huge Anglo-American Corporation of South Africa, headed up by H. F. Oppenheimer, is the most important factor in the nation's business. Oppenheimer also is board chairman of the De Beers company, whose Premier mine we toured. We learned at the stock exchange that American investors own as many shares in South African businesses as any other foreign investors.

Food and services in South African hotels and restaurants are the best on Earth. The portions served each person always are enough for three or four.

Many young people are unafraid to speak out against their government's policies. And, although those who say too much reportedly sometimes are "banned" (prohibited from being in the company of more than one person at a time during the banishment), people still criticize the government. Much of the press is courageous and outspoken even with the threat of repressive governmental action.

South Africa and Israel each face a grave risk of survival. And, apparently, each draws its strength from a deep religious belief that the national destiny lies in fulfilling a Covenant with God. Israel's Covenant was made thousands of years ago. The Afrikaner made his Covenant with God in 1838, just before the decisive battle of Blood River when a handful of Voortrekkers (pioneers in covered wagons) faced almost certain annihilation in the attack of almost 15,000 Zulu warriors. The Afrikaners promised that if God gave them victory they would acknowledge His Mighty Help and they and their children after them would observe that day, December 16, as South Africa's great national holiday. There is a strong belief today in South Africa that its policies are merely carrying out the dictates of the Old Testament and keeping "The Covenant.".

INTEREST RATES AND GOVERNMENT INSURANCE

# HON. HENRY S. REUSS

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. REUSS. Mr. Speaker, Congress, justifiably concerned that financial institutions were unable to offer money market funds recently rectified that problem. But in the process, by allowing these bank-operated money market funds to enjoy Federal deposit insurance, a discipline necessary for sound banking may have been removed. An excellent article by Martin Mayer, author of "The Bankers," in today's New York Times defines the problem. The new Congress ought to address this, and promptly.

EARN 100% AT MOUNTEBANKS
(By Martin Mayer)

We all know now why the old Prudential National Trust Company changed its name to Crazy Louie Bank N.A., because by now everybody's heard the commercials:

"Shop the banks! Shop the savings banks! Shop the money market funds! Then take your money to Crazy Louie's. He'll beat them all! Crazy Louie's Maniacal Money Account will always pay the highest interest rates in town! And that interest is guaranteed, because Crazy Louie is a member of the F.D.I.C., an agency of the Federal Government, which insures your deposits—not only the principal, but the interest, too."

There was resistance at Prudential when the name change was proposed, but now all the directors are delighted. The bank's assets have almost doubled. Of course, there's been a little trouble finding investments that pay enough to give Louie's Bank a profit on the new accounts, but as Louie himself says, even if you lose a little on every piece you can make it up with volume. Besides, the bank is establishing "customer relations" that will be invaluable later.

As the Government set up these accounts, a customer has no reason not to move his money to whatever schlock bank or S & L offers the highest rate. Crazy Louie's commercial is straight truth-in-advertising: the F.D.I.C. or F.S.L.I.C. insures not only the principal in an account (up to \$100,000) but all the interest.

That's better than a money market fund, all right. A money market fund not only can't offer Federal insurance on either principal or interest, it can't (by law) pay out more than it earns by investing the shareholders' money. But the commercial and savings banks can offer to pay interest rates far beyond what they can earn with the money—and the Government will see to it that the depositor rate paid

that the depositor gets paid.

This is undesirable as well as ludicrous. An Administration enamored of market forces has made it possible for banks to escape market judgments entirely. No matter how badly the business has been run, no matter how much public policy would prefer to see depositors' money in other institutions that lend more productively and prudently, these accounts will permit failing banks to go on for some time, even grow, by paying higher in interest than well-run banks will pay.

"The thing that troubles me," says Stuart Davis, chairman of the executive committee at California's Great Western Savings, "is that the weakest institutions will offer the highest rates." You bet. There's been worry recently about the liquidity of some savings associations and some banks, but we'll never have to worry about that again. Any bank or S & L that's short on cash need only raise interest rates on the new deposits and it can have all the money it wants.

"I never thought I'd live to see the day when the Government was providing a marketing tool for banks," said Charles Lord, until recently Acting Comptroller of the Currency. The F.D.I.C. and F.S.L.I.C. know the Government has done something nutty and have suggested that maybe banks should be charged different insurance premiums according to how foolish they are in the interest they pay, But that's still just a suggestion, and it wouldn't stop Crazy Louie.

At the least, and soon, we need a change in the law so that deposit insurance would be restricted to the principal, letting people worry a little about whether their accounts really will pay off at those super-high rates.

There is another shoe to drop. The account the Government authorized for December limits the depositor to six withdrawals a month. In January, we get Son of Maniacal: a checking account with unlimited interest and unlimited checks. But soon after-are you ready?-we will see the end of all free checking. Authorities disagree about how much it cost a bank to process a check, but the lowest figure you can find is about 35 cents, and it costs several dollars every month to maintain an account. If the banks are going to have to pay market rates for their funds, then they are going to charge market prices for their services. How the banks handle the inevitable imposition of fees for once-free services will be a stiff test for their advertising and public-relations departments.

Some of the confusion ahead is the fault of the bank regulators, but most of the blame lies on Congress, which responded to the banks' need for a "product" to compete with the money market funds by ordering the regulators to approve something like the Maniacal account. Because Congress deals with one issue at a time, it never looked at the insurance problem once interest rates were deregulated, or at the systemic implications of an interest-bearing checking account that forces the end of free checking. Everyone who is pushing to have Congress give orders to the Fed about managing the money supply might look at the mess it made of this relatively simple change, and think again.

## REGULATORY REFORM

# HON. ELLIOTT H. LEVITAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. LEVITAS. Mr. Speaker, for some time now the House leadership has been promising to give the House of Representatives the opportunity to consider and vote on legislation dealing with the important issue of regulatory reform. It is time for them to live up to their commitment.

The bipartisan compromise version of H.R. 746, which has been developed by the House leadership, representa-

tives of the business community, representatives of so-called public interest groups and other parties, deserves to be considered by this body. The Business Coalition on Regulatory Reform has developed an analysis of the compromise version of H.R. 746 which discusses why this legislation should be enacted. I would like to bring this analysis to the attention of my colleagues and ask that each and every Member of the House take a few minutes to read through it. After a close look at this legislation, I believe you will agree that it will make the regulatory process more rational, more open. more fair, and more accountable.

The American people have been calling for more control over the regulatory process for a long time. It is time for this body to take up the issue of regulatory reform and enact this bipartisan legislation which is so important to the people of our country. At this point, I would like to place in the RECORD, an analysis, by the Business Coalition on Regulatory Reform, of this important legislation and the need to reform the regulatory process.

The analysis follows:

Business Coalition on Regulatory Reform

REFORMING THE REGULATORY PROCESS THROUGH PASSAGE OF THE COMPROMISE VER-SION OF H.R. 746

A compromise version of the Regulatory Procedure Act of 1982 (H.R. 746) is currently before the House Rules Committee. Identical versions of the compromise were placed in the Congressional Record of September 29 at H7940 by Representative Sam Hall and at H7945 by Representative Tom Kindness. (Mr. Hall is Chairman of the House Judiciary Subcommittee on Administrative Law and Governmental Relations, and Mr. Kindness has been the minority leader of that panel with respect to regulatory reform.) Similar legislation (S. 1080) was passed in the Senate by a vote of 94–0 on March 24, 1982.

The compromise bill can should be moved to the House floor so that this issue can be resolved during the 97th Congress. Regulatory reform legislation is badly needed. Now is the time to act. There will never be a better time.

Congress has been working on this legislation for four years. The concepts embodied in H.R. 746 have had the support of both the Carter and Reagan Administrations. The bill has enjoyed strong bipartisan support in both houses during the 96th Congress and 97th Congress. It has been through an extensive hearing process and lengthy markup sessions in both houses.

After being approved unanimously by the Judiciary Committee last year, the bill was subjected to long and careful negotiations between representatives of the House Democratic leadership and the legislation's bipartisan supporters. During that process, the Judiciary Committee bill was carefully considered and modified in order to respond to the principal concerns that had been raised by critics of the bill. The compromise presently before the House Rules Committee is the result of those negotiations.

While the legislation has some apparently complex features, it is designed to achieve two principal goals:

First, it establishes an analytical framework-a way of gathering, organizing, and presenting information-that all agencies would be required to follow in developing major rules (basically, those rules having an annual impact on the economy of \$100 million or more). If the legislation is passed, agencies will examine and articulate more carefully what they are proposing to do, what favorable and unfavorable consequences it will have, and whether the approach taken is the most efficient and effective means of accomplishing the regulatory objectives. Similar requirements were imposed on executive branch agencies by the last three administrations. The present compromise bill would systematize and codify these requirements and would ensure that their application will not depend upon shifting political winds.

Second, the bill makes some badly needed improvements in the informal rulemaking and judicial review provisions of the Administrative Procedure Act ("APA"). Those provisions have not been brought up to date in the past thirty-six years, despite the enormous changes that have occurred in the nature and scope of regulatory activity. The improved procedures, applicable to all informal rules promulgated under Section 553 of the APA, would require agencies to provide the public with more timely and more complete information regarding the legal and factual basis for their rules and would expand and make more meaningful the opportunity for public participation in rule-making proceedings. In addition, the bill would remedy a number of key problems that have been identified in the standards by which courts review agency action.

It is important to emphasize that the bill would not amend any substantive statute and would not eliminate a single regulation. What it would do is to assure that adequate consideration will be given to the consequences of major rulemaking activities. That includes both the favorable consequences ("benefits") and the unfavorable consequences ("costs"). It thus promises to alleviate the enormous drag that has been imposed upon our society and its economy by rules that are adopted without consider ing their adverse consequences, and which, as a result, are less efficient and effective than they should be. It also would assure that there is an adequate factual and legal basis for all rules and would enhance the opportunity and usefulness of public participation in rulemaking proceedings.

THE NEED TO REFORM THE REGULATORY PROCESS Most government regulation stems from

genuine concern for the achievement of desirable national objectives-some of which are economic in nature, while others relate to the more amorphous concept of "quality of life." During the mid-1960s and early 1970s, there was a veritable explosion in reg-ulatory activity, and the reach and obtrusiveness of agency rulemaking expanded dramatically. At the state level, the number of regulatory agencies increased from 150 in 1960 to 1,500 in 1979. Since 1969, 26 new regulatory agencies have been created at the federal level.

While this enormous expansion in regulatory activity has responded to a number of genuine problems, it also has had serious adverse consequences that were neither anticipated nor adequately considered in the legislative and administrative process. The annual cost of regulation is currently esti-

mated by some to be \$100 billion or more. A Business Roundtable study showed that 48 member companies alone incurred direct incremental compliance costs of \$2.6 billion in 1977 as a result of regulation by only six agencies.

With the costs of regulation being so substantial, there has come to be a growing awareness that many regulations are enacted with little or no consideration being given to their economic and other adverse impacts. While the enormous costs of regulation tend initially to be placed upon industry, they ultimately are borne by consumers and workers. There is a general recognition that excessive and inefficient regulation fuels inflation by adding costs and decreasing productivity. At the same time, it slows growth in production and employment, impedes innovation and technological advancement, limits capital formation, reduces incentives for capital investment, and weakens the ability of U.S. companies to compete

The fact that regulatory activities of the federal agencies have been less effective, efficient and coordinated than they should be. and more burdensome than they need be, is not surprising. Regulations often are adopted by single purpose, mission-oriented agencies having little or no regard for the activities of other agencies or for the burdens and other undesirable impacts of their regulatory actions. The last three administrations. Democratic and Republican, recognized this problem, and each attempted to deal with it through executive orders having a limited reach. But those efforts necessarily were temporary, stop-gap measures. The problem persists and requires congressional action.

with foreign producers.

The basic procedures governing rulemaking under the Administrative Procedure Act ("APA") were adopted more than thirty-five years ago, at a time when agency rulemaking activities represented a relatively minor aspect of governmental action and had a relatively insignificant impact upon our society and economy. The situation has changed dramatically since that time. As noted above, there has been an explosion in regulatory activity which, for the most part, has occurred in the context of so-called "informal" rulemaking proceedings-that is, proceedings for the adoption of rules which (in contrast to so-called "formal" rulemakings) are not required by statute to be made on the record after opportunity for an agency hearing. Yet, agencies continue to use informal rulemaking procedures fashioned decades ago to make decisions that have much wider-ranging impact than in the past and that involve factually-based issues of far greater complexity.

In short, there has been a drastic change in the nature and reach of agency rulemaking since the time the APA was adopted in 1946. Yet, the rulemaking provisions of the APA have not been brought up to date in the past thirty-six vears. As a result, relemaking decisions tend to be made on a record that is less comprehensive than it should be, given the complexity of the issues, and interested members of the public do not have an opportunity to participate in the proceedings as fully and on as well-informed and meaningful a basis as is desirable. These deficiencies are compounded by the tendency of agencies to extend their jurisdiction beyond the bounds intended by Congress and by confusion regarding the proper role of the courts in reviewing administrative action.

A CHRISTMAS INSPIRATION

# HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

· Mr. LOWERY of California. Mr. Speaker, we all receive thousands of letters from our constituents every month. On some occasions, however, I am so completely taken by a letter I simply must share it with my colleagues. This letter is particularly appropriate for the holiday season and I hope it is an inspiration to all the Members of this legislative body.

**DECEMBER 12, 1982.** 

DEAR MR. LOWERY, I am writing you simply to congratulate you on your re-election to Washington this coming term. I supported you by my vote and would like you also to know that I am supporting you in my prayers.

Even though I have written (and will continue to in the future) to share my convictions on current issues; at this time I want only to express the concerns for you that I have taken before the Lord.

- 1. Wisdom equals in understanding the implication of each piece of legislation you must consider. To not only know why something is wrong but to see creative solutions and know how they might be instituted.
- 2. That God might grant you favor before men. Creating good relations with those you work with as well as your adversaries.
- 3. That he would give you extraordinary discernment in dealing with those lobbying for private concerns \* \* \* especially to know when they are dishonest or are approaching you with false motives.
- 4. That your time would be stretched and multiplied as well as the ability to discern where, when and how you are needed and when your time would be best spent with your family.
- 5. That God would open the doors to you to express and realize the vision he has given you for this nation, and the ability to carry out the legislation necessary to bring it about.
- 6. Finally \* \* \* that he would continue to strengthen the character he has already established within you. The moral fiber that has given you the ability to stand against the crowd.

Mr. Lowery \* \* \* I Care \* \* \* you put long hours in on my behalf and I make this commitment on yours. I have asked the Lord to speak to me when you are in need that I might be there behind you to encourage and strengthen, as well as I am making myself available directly to you if I may be of any value to you here in San Diego. In His Love,

AUDREY BRENNAN.

P.S. Please share with your wife that I also care about her and your family.

Have a Wonderful Christmas.

A SALUTE TO NEBRASKA'S RE-TIRING COMMISSIONER EDUCATION

### HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. BEREUTER. Mr. Speaker, I have been privileged during my career as a public servant to work with many fine and competent professionals who have dedicated themselves to excellence in the pursuit of their duties.

There is perhaps no finer education professional in the United States today than Dr. Anne Campbell, Nebraska's retiring commissioner of education. A frequent visitor to my office, she is a welcome friend from home and a trusted adviser on those education concerns that we share in common. Today I want to commend her for her superb accomplishments, and wish her every success as she moves to further challenges and personal desires.

Anne Campbell was born in Alamosa, Colo., but Nebraska claims her. Growing up on a ranch, she initially yearned to be a rancher. Since such a vocation was frowned upon for women then, she turned to education. She studied at the University of Northern Colorado, majoring in physical education and mathematics. Her teaching career began in that State.

In 1943, Dr. Campbell moved to Nebraska with her husband, who had accepted a position at Norfolk Junior College. There, she was a substitute teacher, not because she was not qualified to teach, but because married women were prohibited from teaching. The conventional thinking at the time was that employment priority had to be given to the traditional breadwinners-husbands.

In 1955, she became the county superintendent of schools in Madison County, Neb. She then began efforts to change Nebraska's certification requirements. In the early 1950's, one could teach in Nebraska with only a high school diploma. Although it took several years, Anne Campbell stayed with the challenge, and the requirements were modified until a 4-year degree was required.

In 1963, Dr. Campbell began her work with the Nebraska State Education Association as the director for professional services. In 1965, she became the administrative assistant for governmental services for the Lincoln Public Schools. Her primary focus in this position was concentrated on the Federal education programs. Lobbying agreed with the talented and independent Dr. Campbell, and she moved to the University of Nebraska in 1973. There she served as the director of public affairs for the university,

and lobbied on their behalf for 2 years.

It was no surprise that in 1975 Dr. Campbell was appointed to the post of commissioner of education, as she was known and respected throughout Nebraska and the region. To that job, she brought charm, ability, and national attention. There were only six States at that time who had women commissioners. Now, the number is down to three. It is an unfortunate paradox, to my mind, that in a profession whose ranks are numerically dominated by women, so very few of the top appointments are filled by

In 1979-80, she had the further distinction of serving as the first woman president of the Council of Chief State School Officers, which is the national association of all commissioners of education. Such a position clearly illustrates the high regard that the education community has for Dr. Campbell.

Generally words are inadequate to really describe this warm, wonderfully friendly, and enormously skilled, knowledgeable woman. Suffice it to say that I will miss her visits and advice, and her sense of fair play. An always independent thinker, she looked at the larger picture, while reflecting the conservative and frugal values of the pioneers and immigrants brought to our State. Nebraska's educational system is a source of pride for all its residents. For all of these reasons Anne Campbell deserves great credit, and many thanks.

### RELIEVE HUNGER WITH 1 CENT

### HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. OTTINGER. Mr. Speaker, recently, Harrison J. Goldin, Comptroller of New York City, wrote an article published in the New York Times, Relieve Hunger with 1 cent."

This article raises an issue that has bothered me for sometime-enormous supplies of surplus dairy products stockpiled by the Government while millions of Americans are hungry.

Mr. Goldin suggests that if the Commodity Credit Corporation were required to put into a distribution fund 1 cent for every \$1 that it spends buying surplus dairy products, there would easily be sufficient money to insure that the food would be given to the needy.

The wealth of this country is more than adequate to provide sound nutrition for all our people and millions of needy people abroad. Mr. Goldin's idea deserves our attention.

I hope my colleagues will read Mr. Goldin's article printed below and ex-

pedite whatever steps need to be taken to get this food to those in need.

RELIEVE HUNGER WITH ONE CENT

(By Harrison J. Goldin)

During a holiday season in which we celebrate and are given to bounty, the attention of New Yorkers should be drawn to a problem that afflicts too many and of which too few are aware.

The problem is hunger.

Its magnitude is shocking and tragic.

The misery and suffering is all the more deplorable because so much of it could be relieved with merely a 1 percent solution that would cost the Federal Government a relatively small \$22 million in addition to a program that already costs the taxpayers \$2.2 billion a year.

Every year, the Commodity Credit Corporation of the Agriculture Department spends \$2.2 billion to buy surplus dairy products—milk, butter and cheese that farmers produce to earn Federal subsidies.

An additional appropriation of \$22 million-just one cent for each dollar of surplus food-would enable states, cities and community and social-service organizations across the United States to accept as much as 550 million pounds of this wasted bounty and distribute it efficiently and economically directly to the hungry.

Every hour of every day, the Federal Government spends \$250,000 to buy milk, cheese and butter that cannot be sold on the open market at a set price. In so doing, Washington maintains what is known as the price-support level. The program, which was designed to protect farmers from price fluctuations and inflation in order to insure an adequate supply of food for the nation, originated in the Great Depression. But in 1979, Congress drastically increased the dairy price support level, and our farmers, to obtain the hefty Government subsidies, began to produce about 9 percent more than the market could absorb.

The surplus stockpile has now reached a staggering 2.4 billion pounds-and is grow-

ing daily.

Annual purchase costs total \$100 million more than all the cuts in such Federal Government aid programs as food stamps, Medicaid and Aid to Families with Dependent Children. The storage and finance costs alone are about \$1 million a day.

What is especially disgraceful is that some of the food has been stored so long and is being distributed so slowly that it is turning to rot. Some of the cheese, for example, is so old that it can no longer be served fresh

but has to be used in cooking.

Embarrassed by this growing, wasteful abundance, the Federal Government, which has been reluctant to release significant quantities of food for direct distribution to the needy for fear of disrupting the market, begun to offer slightly increased amounts of the surplus to the states for distribution to organizations serving the hungry.

It is a largely empty offer, however, for the costs of transporting the food from Federal warehouses and distributing it to the poor is more than the states or the organizations can afford. New York, for instance, which accepted more of the much-publi-cized emergency cheese distributed earlier this year than any other state, may not be able to accept any more because it cannot afford even the 1.9 cent per pound cost that is involved in transferring it from Federal to state warehouses and then to distribution centers.

More surplus food could be made available without disrupting the market, and it could be done, efficiently and economically, if the Government instituted a simple and inexpensive program it already uses in other Department of Agriculture nutrition programs: the 1 percent solution.

If the Commodity Credit Corporation were required to put into a distribution fund one cent for every \$1 that it spends buying surplus dairy products, there would easily be sufficient money to insure that the food

would be given to the needy.

Using as a basis last year's surplus dairy purchases, such a 1 percent add-on program, as it is known, would yield \$22 million—or enough to finance distribution assistance for 550 million pounds of food at the rate of four cents a pound.

New York State's experience with last winter's special allocation of cheese suggests that that tiny sum would cover the costs of transporting the food from Federal Government warehouses and still leave about two cents a pound to cover the costs of local organizations that actually distribute the food.

The market equation is right for just such a distribution and financing program: There is a large supply coupled with a large

demand.

If this opportunity is not taken, not only will the needs of the hungry among us go unmet but also a tremendous amount of Government waste will result.

That would be a perversion of the Biblical injunction to give alms according to your abundance. Our abundance has become an embarrassment of riches. It need not be so.

### PERSONAL EXPLANATION

### HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. TAUKE. Mr. Speaker, due to the death of my grandmother, I was unable to be present on the floor of the House of Representatives on Wednesday, December 15, 1982, and Thursday, December 16, 1982, for roll-call votes Nos. 455 to 469. Had I been present, I would have voted "yea" on Nos. 455, 456, 458, 459, 463, 465, 466, and 468. I would have voted "nay" on Nos. 457, 460, 462, 464, 467, and 469. ■

A MIDTERM REPORT CONCERNING THE REAGAN ADMINISTRATION'S HUMAN RIGHTS RECORD

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. BONKER. Mr. Speaker, last Friday three human rights groups issued a comprehensive midterm report concerning the Reagan administration's human rights record. They maintain that the administration has "cheapened" the cause of human rights by dealing with it on a selective basis. The Lawyers Committee for

International Human Rights, Americas Watch, and Helsinki Watch are among the best known and respected human rights groups in the United

States

According to the three groups, "the Reagan administration has cheapened the currency of human rights by invoking its principles to criticize governments it perceives as hostile to the United States and by denying or justifying abuses by governments it perceives as friendly to the United States. . . It is time to recognize that if the

United States stands for anything in this world, it must be for human

rights."

The three human rights groups review the Reagan administration's policy toward 23 countries. I would like to commend to the attention of my distinguished colleagues a portion of this extensive report which analyzes compliance with U.S. human rights laws, as well as international human rights treaty obligations. Other sections will be appearing elsewhere in the Record.

The Lawyers Committee for International Human Rights is a public interest law group that promotes human rights worldwide. Its chairman is former Federal Judge Marvin E. Frankel.

The Helsinki Watch is a citizens' group that promotes compliance with the human rights provision of the 1975 Helsinki accords in Europe and North America. Its chairman is Robert L. Bernstein, president of Random House.

The America's Watch is a citizens' group that promotes human rights in the Western Hemisphere. Its chairman is attorney Orville H. Schell, a former president of the Association of the Bar of the City of New York.

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INTRODUCTION

After a bad start on human rights, the Reagan administration adopted a new policy in the fall of 1981 in which, it was announced, promoting human rights would be central to United States foreign policy. Regrettably, that policy has not been carried out. Instead, the Reagan administration has cheapened the currency of human rights by invoking its principles to criticize governments it perceives as hostile to the United States and by denying or justifying abuses by governments it perceives as friendly to the United States. This does a disservice to the cause of human rights in both hostile and friendly countries. Moreover, in our view, this practice damages the United States as it creates the impression in the world that our government lacks concern for human rights and lacks sincerity in its dealings with other countries.

There are bright spots, but they are few and far between. Our review of the United States relations with twenty three countries where human rights are abused indicates that the Reagan administration's policies have promoted human rights in only a handful of instances. Elsewhere, the Reagan administration has either had no effect or it has done harm.

Many public pronouncements by the President and his top associates have done special harm. Most recently, for example, President Reagan has been quoted as telling journalists that President Rios Montt of Guatemala has "been getting a bad deal" because of allegations that his government commits massive human rights abuses; that President Rios Montt is "totally dedicated to democracy;" that President Rios Montt is "a man of great integrity;" and that he (President Reagan) favors the resumption of U.S. military aid to Guatemala. These comments followed a meeting with President Rios Montt in Honduras. Following the same meeting, President Rios Montt was quoted as telling journalists: "We have no scorched-earth policy. We have a policy of scorched communists."

This episode brings to mind others like it: Vice President Bush's accolade to President Marcos of the Philippines; United Nations Ambassador Jeane Kirkpatrick's praise for the "constitutionalism" of the governments of Argentina, Chile and Uruguay and for the "moral quality" of the government of El Salvador; former Secretary of State Alexander Haig's insistence that he saw "dramatic, dramatic improvements" in human rights in Argentina, Chile, Paraguay and Uruguay; and so on.

The effect of such public statements is to undo such good work for human rights as is done by the Reagan administration. For example, the Reagan administration deserves credit for its refusal—so far—to certify that Argentina and Chile have complied with human rights conditions of the Foreign Assistance Act. By not certifying, the Reagan administration has maintained the prohibition on military assistance to these countries. Yet by publicly applauding phantom human rights progress in these countries, the good consequences of the refusal to certify have been negated.

Such statements also undermine the effectiveness of advances for human rights that may be obtained through quiet diplomacy. This is the mechanism the Reagan administration professes to use in attempting to promote human rights in countries allied with the United States. Though we do

not object to quiet diplomacy as such, in our view, it can only work if it is consistent with the public pronouncements of the United States. Our government's public pronouncements create a context in which other governments assess the significance that should be attached to unpublicized diplomatic efforts.

Though different parts of the Reagan administration have different approaches to human rights policy, as that policy has been put into practice over the past two years, it seems to us essentially to be based on the following reasoning.

1. That there is an ongoing worldwide struggle between forces allied with the Soviet Union and forces allied with the

United States:

2. That in the long run, human rights will be better protected if forces allied with the

United States prevail;

3. That the United States should help to insure that the forces allied with it prevail by pointing out the dangers to human rights if the other side should prevail:

4. That it is destructive to human rights in the long term for forces allied with the

United States to be weakened;
5. That it weakens forces allied with the United States to criticize them on human

rights grounds; and

6. Accordingly, criticizing forces allied with the Soviet Union on human rights grounds while refraining from criticism of forces allied with the United States on human rights grounds serves long term

human rights interests.

There are many objections that might be made to such reasoning. For now, we limit ourselves to pointing out that it diminishes the force of United States criticism of human rights abuses in countries allied with the Soviet Union. At times, it may make such criticism counter-productive. To our Western European allies, these policies seem anti-Soviet, not pro-human rights. This is a factor in the frequent refusal of West European countries to join the United States in its stand on human rights abuses in Soviet bloc countries and that refusal does great damage to the human rights cause in those countries.

The Lawyers Committee for International Human Rights, the Helsinki Watch and the America Watch welcome the reinvigoration of the State Department's Human Rights Bureau during the past year. We also welcome the public assertion that human rights is central to U.S. foreign policy. Now it is time for the Reagan administration to put that assertion into practice by ending the use of human rights merely as a weapon with which to attack its opponents. It is time to recognize that if the United States stands for anything in the world, it must be for human rights. Yet only even-handed application of human rights policy would warrant a claim that the United States stands for human rights. What the Reagan administration has given us during its first two years is the antithesis of even-handedness.

#### THE LAW

The Reagan administration has openly disregarded many of the laws governing human rights policy. These laws, enacted over the course of the last decade, restrict United States military assistance, economic assistance, and support for loans by multilateral banks to countries that engage in a pattern of gross violations of basic human rights. Some of these laws were adopted during the Ford Administration, others during the Carter and Reagan administrations. Chief among them is Section 502(B) of the Foreign Assistance Act of 1961, as amended, which requires that the United States "promote and encourage respect for human rights and fundamental freedoms throughout the world," and Section 116(d) which restricts economic assistance to human rights violators, except where the aid serves basic human needs. The Reagan administration's approach to these laws differs sharply from both the Ford and Carter administration's, and among its most fla-

grant violations, we note:
1. Section 502(B) of the Foreign Assistance Act of 1961, as amended, which provides that "no security assistance may be provided to any country the government of which engages in a consistent pattern of

gross violations of human rights.

The Reagan administration openly ignored this section in 1981 in approving the sale of \$3.2 million worth of trucks and jeeps to Guatemala-a country whose government engages in disappearances, torture and mass killings-after removing the equipment from the "security assistance list." Because of its human rights record. Guatemala had not received United States military assistance or arms sales since 1977. The President has now gone on record in favor of resuming U.S. military aid to Guatemala.

Section 701 of the International Financial Institutions Act of 1977, which requires that United States Representatives to six multilateral development banks channel assistance toward countries that do not commit a "consistent pattern of gross violations of human rights." The law specifies that gross violations include "torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denials of life, liberty and the security of the person." Disregarding the clear intent of this provision, the Administration had reversed prior U.S. policy by supporting various bank loans to Argentina, Uruguay, Chile, Paraguay, South Korea and the Philippines.

3. Section 660 of the Foreign Assistance which categorically prohibits direct United States aid to any personnel with internal law enforcement responsibilities. As part of a five year, \$200 million economic support program for the Philippines, U.S. aid goes directly to the national police force of the Philippines, called the Philippine Constabulary. The Administration claims this assistance is used in connection with the Constabulary's "internal security responsibilities," as opposed to its "internal law enforcement responsibilities." 4. Section 4 of the Arms Export Control

Act, which authorizes the sale of [such] equipment for internal security and legitimate self-defense purposes, but not police purposes. The Reagan Administra-tion, in violation of this law, sold shock batons to South Africa and chemical mace

to Yugoslavia.

5. Public Law 96-259, as amended in 1980, which requires that: "The Secretary of the Treasury or his delegate shall consult frequently and in a timely manner with the chairman and ranking minority members [of several specified Congressional Committees] to inform them regarding any prospective changes in policy direction toward countries which have or recently have had poor human rights records." In violation of this law, in 1981 the Reagan Administration waited until a Congressional recess (for the July 4 holiday week) to give less than a week's notice of a change in policy towards loans to Argentina, Chile and Uruguay.
6. Section 624(f) of the Foreign Assistance

Act, which provides that: "There shall be in

the Department of State an Assistant Secretary of State for Human Rights and Humanitarian Affairs." After the withdrawal of its first nominee to this post, the Reagan Administration waited five months before nominating a successor.

In addition to these laws Congress has also passed a number of country specific provisions pertaining to human rights. In 1981 it enacted legislative provisions which deal specifically with: Argentina, Chile, El Salvador and Nicaragua. United States aid to these countries is now contingent on Presidential certification to Congress that specific human rights standards have been satisfied. The President has certified only one of these countries, El Salvador. In the view of our organizations, the two certifications of El Salvador pursuant to this law have not been warranted and violate the

#### TREATIES

There are currently five principal human rights treaties which have been signed but not ratified by the United States. They are the Convention on the Prevention and Punishment of the Crime of Genocide (which was signed by President Truman on December 11, 1948), the International Convention on the Elimination of All Forms of Racial Discrimination (signed in 1966), the American Convention on Human Rights, International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (all signed in 1977). To date, the Reagan Administration has taken no position on any of these treaties. In fact this is the first United States administration which has not publicly supported United States ratification of the Genocide Convention. The Administration's only public position taken on the Genocide convention was by Dr. Ernest Lefever, its first nominee to be Assistant Secretary of State for Human Rights and Humanitarian Affairs. Testifying during his confirmation hearings, Dr. Lefever stated that while the Administration's position regarding the Genocide Convention was under review" his own personal view was as follows:

"All of us oppose Genocide, but given what the United States stands for, the fact that we have signed a number of conventions, why should we feel compelled to sign this Genocide treaty? It is not going to change our internal behavior, it also raises certain legal questions."

Although Dr. Lefever later withdrew his nomination, his views on this important issue remain the only public expression of policy by a Reagan Administration spokes

person in the last two years.

Contrast these views to those of prior administrations. Speaking in September 1948, John Foster Dulles, the American delegate to the United Nations General Assembly, endorsed United Nations action on the Universal Declaration of Human Rights. In so doing he stated:

"I hope and believe this Assembly will endorse this Declaration. But we must not stop there. We must go on with the drafting of a covenant that will seek to translate human rights into law."

Twenty-two years later, Secretary of State William Rogers added the support of the Nixon Administration to the efforts to gain Senate assent to ratification of the Geno-cide Convention. In his report Secretary Rogers emphasized:

"I am convinced that the American people together with all the peoples of the world will hail United States ratification of this convention as a concrete example of our dedication to safeguarding human rights and basic freedoms."

### NATURAL GAS POLICY

### HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

 Mr. BROWN of Ohio. Mr. Speaker, In these last several months, we have all become, once again, conscious of the problems in the natural gas market.

One of the reasons the words "natural gas" sum up a hot political issue is that we associate this fuel primarily with home heating. This is true politically, even though the fact is that more natural gas is consumed by industry than in homes.

As you know, Mr. Speaker, I have been involved with this hot political issue during the time I have been privileged to serve in this great institution.

During my recent campaign for Governor of my State of Ohio, I was again challenged to explain my position on this highly divisive issue. Earlier this fall, I shared the following letter with my colleagues on the Energy and Commerce Committee. I thought perhaps the time had come for me to share it with the House.

Thank you, Mr. Speaker, for reprinting in the Congressional Record my letter of October to the Ohio Public Interest Campaign, a professional special interest group which lobbies for an increase in State and Federal energy regulation. The letter is as follows:

URBANA, OHIO, October 3, 1982.

Mr. Peter McDowell, Ohio Public Interest Campaign, Columbus, Ohio.

DEAR MR. McDowell: Thank you for your letter of September 20. It was nice to hear from you.

I will not sign your pledge, although I do not totally disagree with what it says. I will not sign because I cannot subscribe to the simplistic and erroneous explanations that your press statement gives for the current unconscionable increases in natural gas prices.

I do have one request: When you attempt to publicize my refusal to sign your simplistic pledge, please also make available to your supporters and the press a copy of this letter. I think they ought to know what I've been doing to halt the natural gas prices increases—and what Richard Celeste has not been doing.

There are several things upon which we can agree. The first is that Ohioans are being forced to accept natural gas price increases which are unnecessary and which have resulted from an unfortunate political decision. I do think you go too far when you state that "People will die in Columbus this winter just as surely as if they had been individually shot by the policy makers responsible." While I do think that President Carter and Richard Celeste are responsible

for the higher prices, I wouldn't go so far as to connect them directly to any deaths.

The second thing upon which we can agree is that the laws of supply and demand are not working in natural gas. Natural gas prices are indeed going up in a time of surplus. That's not supposed to happen. Water isn't supposed to run uphill and it won't unless someone pushes it. Prices aren't supposed to go up when there's a surplus of supply and they won't unless someone pushes them.

We must part company, I'm afraid, when it comes time to explain why this strange phenomenon is occuring. You claim that President Reagan is partially responsible because an independent federal regulatory commission over which he has no control has been unable to stop natural gas price increases under the terms of a law he did not support.

You also claim that I am somehow responsible even though I led the congressional opposition to the adoption of the very same

Natural gas prices are going up in a time of surplus because of a bizarre law which was proposed by the Carter Administration, of which Richard Celeste was a part, and passed by the Democratic Congress.

Prices are going up because the law says that when pipeline companies buy gas from producers—no matter how much it costs or how much cheaper gas is available—they can pass the cost through automatically. The law handcuffs the Federal Energy Regulatory Commission (FERC) by requiring that the passthroughs must be allowed. Neither President Reagan nor I—although I have tried—can cause FERC to stop price increases which President Carter's law does not permit FERC to stop.

In a setup like that, prices aren't restrained by the natural resistance of the market or by regulation. It's the worst of both worlds.

By contracts, as oil supplies have been increased under decontrol which I supported, oil prices have come down.

Oil prices and allocations were controlled by the federal government from 1973 through 1980. During that time, consumer prices went up 912 percent, U.S. production dropped 25 percent and U.S. dependence on imports rose to 50 percent. That's what regulation did for us.

President Reagan deregulated oil prices 19 months ago. As a result, U.S. exploration has hit new heights, U.S. production and supplies are at record levels and U.S. dependence on imports has dropped to 30 percent. Consumer prices are down 10 percent.

In oil, supplies are up and prices are down. In natural gas, supplies are up and prices are rising.

As a result of the Carter-Celeste natural gas law, utilities are trying to force Ohio consumers to pay for \$7 (per Mcf) Algerian gas and \$8 Oklahoma gas. And, as a result, we may be forced to buy \$18 gas from Alaska, if it is ever developed. Even if it is not, we will be paying for a pipeline which the Carter Administration approved.

In the meantime, natual gas being produced right here in Ohio that would sell at around \$3 is being flared off while the utilities refuse to buy it.

I opposed that law. I fought it tooth and nail. But President Carter twisted arms until he got it through the Democratic Con-

But my efforts did not end there. I'm trying to change the law, I've introduced legislation to give FERC the right to disallow passthroughs of high gas prices when cheaper gas is available. I've appealed to FERC to stop passthroughs and I've asked the Department of Energy to suspend the importation of foreign liquefied natural gas. Here's a brief summary of some of my activites:

In August, 1980, I brought the House Energy and Power Subcommittee to Ohio to try to preserve the Ohio self-help gas program so that Ohio companies could buy cheaper Ohio gas and remain in business so Ohioans would have jobs.

In November, 1981, I led congressional opposition to the Alaska gas pipeline waiver which will allow Columbia gas to bill consumers for the pipeline even if it is never completed.

On March 18, 1982, I testified before FERC to try to stop the passthrough of expensive Southern gas costs to Ohio consumers by Columbia gas.

On March 23, 1982, I filed a petition with FERC asking for the State of Ohio to be given authority over certain pipelines in Ohio so the self-help gas program could be preserved.

On July 7, 1982, I filed a "friend of the court" brief with FERC asking that Columbia Gas be forbidden to pass on Southern gas costs to consumers while cheaper Ohio gas is being "shut in."

On September 10, 1982, I petitioned the Department of Energy to suspend the importation of Algerian liquefied natual gas by a pipeline company which serves East Ohio

On September 16, 1982, I introduced a bill that would enable FERC to require Columbia to stop buying expensive gas, especially from its own subsidiaries, as long as cheaper supplies are available, especially in Ohio.

On September 21, 1982, I filed a protest at FERC against the passthrough of the high cost of Algerian gas to consumers. On September 24, FERC agreed to investigate my

During this entire time, I am unaware of any action whatsoever that Richard Celeste has taken to stop these unconscionable gas price increase.

Finally, a couple of facts about my own natural gas proposal in 1977: I advocated not total or immediate decontrol, as my opponent has charged, but a carefully drafted measure which preserved controls on "old" natural gas and gave the President the authority to cancel "market price" sales if he felt the price was too high. It's too bad President Carter did not give FERC this power in his law. I also advocated the adoption of a windfall profits tax, much like the oil windfall profits tax law which I authored.

With regard to administrative, or "back-door" decontrol, which you claim President Reagan and I support, I must point out that this proposal, which has never been adopted, originated within FERC, in independent commission over which neither the President nor I have any control. I have never indicated that I support this idea.

You are correct that I did not cosponsor Congressman John Dingell's resolution expressing the "sense of the House" that FERC should not accelerate decontrol. Instead, I wrote to Mr. Dingell and urged him to take more positive action by convening his committee to look carefully at the entire natural gas problem and take positive action to halt the unconscionable price increases which are occurring under the law, he, President Carter and Richard Celeste support.

Again, thank you for your recent letter. I would appreciate it if you would honor my request to make this letter public with any statement that you may issue criticizing my position.

Sincerly.

CLARENCE J. BROWN, Member of Congress.

TRIBUTE TO COUNSEL GENERAL BURT LEVIN

# HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. CARMAN. Mr. Speaker, I wish to give special commendation to Mr. Burt Levin, Counsel General of the American Consulate in Hong Kong and an exceptional leader in the U.S. Foreign Service. Mr. Levin recently assisted me during a special factfinding

mission on behalf of the U.S. House of Representatives' Banking Committee to promote international trade.

I was very impressed by the organizations of the American Consulate in Hong Kong. Through Mr. Levin's efforts my meetings with trade officials in the public and private sectors in

Hong Kong were successful.

Sharing with you a little of Mr. Burt Levin's history is my pleasure. Mr. Levin was born in New York City. He holds degrees from Brooklyn College. He has served in the State Department's Bureau of East Asian and Pacific Affairs, as the Deputy Chief of Mission at the U.S. Embassy in Thailand, and currently holds the post of Counsel General in Hong Kong.

Mr. Levin's exceptional efforts bring credit to himself, the American Consulate in Hong Kong, and to the United States. We are truly fortunate to have Mr. Burt Levin as a member of

the U.S. Foreign Service.

### SCOTT'S BARBEQUE PIT-A CAPITAL LANDMARK

### HON. LOUIS STOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. STOKES. Mr. Speaker, I take this opportunity to share with my colleagues information about a place which is rapidly becoming a landmark in the Nation's Capital-Scott's Barbeque Pit. I say landmark because people in Washington and on Capitol Hill searching for good down-home barbeque have labeled Scott's as the place to go.

Founded by my good friend, Mr. John Saunders, Scott's Barbeque Pit has earned a reputation for scrumptious and savory ribs at the White House, in the halls of Congress, and at the Supreme Court. In 5 short years, Scott's has gone from the dream of Mr. Saunders to an institution in Washington.

At this time, I would like to insert in the RECORD an article which appeared in the New York Times on John Saunders and Washington's newest landmark-Scott's Barbeque Pit.

[From the New York Times, Sept. 3, 1982] IN CAPITAL, IT'S SCOTT'S FOR RIBS

(By Barbara Gamarekian)

Washington, Sept. 2-Partisan politics reign in this town, but members of the White House press office admit to sharing one passion with their counterparts in the Carter Administration-a Bankering for Scott's barbecue.

"When we work late, somebody often runs up and gets some ribs and collards and red beans and rice," says Sally McElroy, an executive assistant in the Reagan press office. And she frequently drops by the home of the recuperating press secretary. James S. Brady, with a batch of ribs from Scott's Barbecue Pit in northwest Washington. "It's one way you can be sure they won't close the door on you," she said with a laugh.

#### THE SOUTHERN INFLUENCE

The addiction of the Reagan press office to ribs "just shows the influence of a good old Southern boy from Mississippi," says Jody Powell, who was President Carter's press secretary, alluding to Larry Speakes, President Reagan's deputy press secretary from Marigold, Miss.

During the Carter years runs were made to Scott's for ribs when there was a nighttime Presidential press conference or

And when Jody was going up to New Hampshire in Bob Strauss's plane on pri-mary night," recalled Carolyn Shields, who worked with Mr. Powell, everyone up there said, 'Bring barbecue.' So we had some packaged up, and Jody stuck it under his seat, and they had barbecue Election Night."

Scott's Barbecue Pit is a small carryout operation that was opened five years ago by John Saunders, who worked here for nine years as an account executive for Interna-

tional Business Machines

"I guess it was my middle-age crisis," said Mr. Saunders. "One day I just couldn't take another minute of it, and I took my son's picture off my desk and left."

He became interested in barbecue through relatives who owned a barbecue business in Chicago. "In some parts of the country, rib joints are as common as drugstores, and I looked around and thought, 'This place is ripe for ribs,' " he said. "The early years were rough, but just when I thought I would go under, something wonderful would

One of those lucky events was an invita-tion to cater a party at the Vice Presidential mansion when the Walter F. Mondales were entertaining members of Congress. The menu: baby spareribs, seafood gumbo, spin-

ach salad and sweet-potato pie.

Aficionados take their barbecue seriously, and debates rage about the advantages of a pit fired with mesquite or hickory, or about vinegar-based sauces versus tomato-based

On a recent afternoon at the storefront on Mount Pleasant Street, slabs of ribs were being turned over an open pit by Charles Booker as Gloria Williams washed collards and popped corn bread into an industrial oven

We make sure we get meaty ribs," said Mr. Saunders, holding up a rack of pork.

You can tell when they are done by the way they hang from a fork, he said, "and we never parboil." He uses top round for barbe-cued beef, and the ribs are served with tomato-based sauce, available in hot, mild or medium versions.

The carryout operation is open from 11 A.M. to 10 P.M., and the customers who drop by include Senators Bill Bradley, Democrat of New Jersey, and Lloyd Bentsen, Democrat of Texas; Representative Louis Stokes, Democrat of Ohio; Carl Bernstein, the ABC television correspondent, and Vernon E. Jordan Jr., the former head of the National Urban League, who is now practicing law here.

#### BARBECUE FOR A PARTY

We are really fans of Scott's; we like his food," says Cecilia Marshall, the wife of Associate Justice Thurgood Marshall of the Supreme Court. When the Marshalls gave a party for his clerks, Scott's barbecue was served.

Mr. Saunder's biggest catering job was for 2,000 guests at Howard University for the investiture of the dean of the School of Law, but he also handles smaller gatherings, such as a recent luncheon of ribs in the office of Senator Lowell P. Weicker Jr., Re-

publican of Connecticut.

Jayne and Frank Ikard of Washington, who spend summers on Martha's Vineyard, had Scott's barbecue flown in for their Fourth of July party this summer. "We fly it up all the time," said Mrs. Ikard. "Frank, who is a Texan, loves it, and Luci and Lady Bird Johnson and Walter Cronkite all raved about it. And sometimes I get gumbo-they just flip over gumbo."

"Jim thinks it's the closest to the barbecue he grew with in Centralia," said Sarah Brady of her Illinois-born husband, "and we always end up arguing about which to get, ribs or the minced, spicy pork." Brady's first non-hospital-cooked meal was barbecue that Mr. Saunders brought to his hospital bedside. It convinced his doctors that Mr. Brady had not lost his sense of taste.

Mr. Powell pronounces Scott's "good barbecue," but he adds, "I generally prefer a hot, spicy and vinegar-based sauce without a heavy tomato base, so I often end up doing it myself at home, especially ribs."

SIGNIFICANT SHIFT WITHIN THE TOP ECHELONS OF THE SOVIET RULERS

### HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. McDONALD. Mr. Speaker, Washington, D.C., is a town of socalled experts on everything imaginable. Certain people in Washington, are so-called Sovietologists. D.C.. Many of them, although quite well known, have a very poor record of being correct. One estimate on Yuri Andropov has stood the test of time well. This was a statement inserted in the Congressional Record on May 23, 1967, by the senior Senator from South Carolina, STROM THURMOND. It appeared on page 13522 of that issue of the RECORD. You will recall that this was the time when Andropov had been moved to the top policeman job in the KGB from being Secretary to the Central Committee of the Communist Party. This item shows Andropov on the rise. I commend this information to the attention of my colleagues.

SIGNIFICANT SHIFT WITHIN THE TOP ECHELONS OF THE SOVIET RULERS

Mr. THURMOND. Mr. President, reports from Moscow indicate that a very significant shift may have taken place within the top echelons of the Soviet rulers. The reports say that Yuri Andropov, presently the Secretary to the Central Committee of the Communist Party, will be assigned to a new position as Chief of the KGB. Since Andropov is one of the top half-dozen most powerful men in the Soviet Union, this change is of the utmost importance.

The prospect is that the KGB will assume a more important role in the Soviet strategy to dominate the world. The current head of the KGB, Vladimir Semichastny, is a career bureaucrat. He is an executive, not a policymaker. The KGB functions both as a secret police for domestic affairs, and as an action arm for subversive policies throughout the world. Andropov is one of the most important policymakers in the Soviet Union.

Andropov was attached to the Soviet Embassy in Budapest from 1953 to 1957, first as a counselor without specified duties, and then as Ambassador. Andropov was present during the events which led up to the Hungarian revolution, and he was in charge of the purges which followed. Some experts credit him with encouraging the revolution in order to weed out weak Communists in the regime.

Andropov did such a good job in Hungary that he was brought back to Moscow and put in charge of the Central Committee's planning committee for satellite nations, a post which he has held until the present. Andropov is the architect of the mellowing strategy, which gives the satellites the appearance of greater freedom, even while Communist Party control and Soviet economic ties are tightened. He is a very sophisticated strategist.

It is not clear, but it is quite possible, that Andropov will retain his high policy job while he directs the KGB. In fact, it is a good guess that tighter control will be exercised over the satellites through the underground channels of the KGB.

Although it may appear at first glance that Andropov may have been demoted by being given a lesser job, a moment's reflection will show that such a thesis will not hold up. To demote a man is to make an enemy. You do not put your enemy in charge of the secret police.

Rather, it appears that Soviet worldwide subversion is now in the direct control of one of the Communists' most skillful policy planners. It appears that the operations of planning and execution are being combined. Such a combination would be effected for one of two reasons: to put a firmer hand on the tiller, or to speed up the process of subversion by putting everything under one roof.

Those who are building bridges to the East had better take care. When they get to the other side, they may be stepping into the hands of Yuri Andropov.

THE LAW OF THE SEA TREATY: PLUNDER AT ITS RHETORICAL BEST

## HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. PAUL. Mr. Speaker, the opening of the United Nation's Law of the Sea Treaty for signature on December 10, presents the United States with yet another compelling reason to terminate its involvement in this international den of thieves: Dictators and Communist countries are now stooping to plunder of the seas in order to accomplish their goal of wealth redistribution.

Meetings were held in Jamaica during the first week of December to celebrate this milestone in efforts to create the so-called new international economic order. Officials attending these meetings lauded the virtues of this treaty, which was 9 years in the making. However, along with their praises came a thinly veiled threat to the United States—any attempts to exploit seabed minerals outside of the provisions of the treaty would not be tolerated.

Never before in the history of international diplomacy have such blatant threats been used to exact adherence to a peacetime treaty. The United States, as a sovereign nation, has every right to reject this treaty. Further, as a nonsignatory, the United States would not be legally bound by any of its provisions. Throughout history, only those nations defeated in war could be forced to abide by a treaty they were not a party to.

The United States is completely justified in its refusal to sign this treaty. Among other things, it calls for the creation of a supranational agency known as the International Seabed Authority to oversee enforcement of the treaty. This authority would have the power to redistribute funds that would be collected as a result of the confiscatory provisions relating to the mining of seabed minerals. Recipients eligible for these funds would include "national liberation organizations," such as the PLO.

Under the treaty, a multibillion dollar operation would be established which would automatically gain the exploitation rights to half of each seabed mineral site discovered by private firms and to which those firms would be forced to transfer their mining technology. These provisions violate the right of private property, and the principles of capitalism and the free market that have made the American economy the strongest in the world. Nations that have destroyed their own economies through the pursuit of socialistic economic

policies are now attempting to ravage the economies of productive nations.

These provisions would have a disastrous effect on the seabed mining industry. Many corporations would find it no longer profitable to explore the seabed for minerals, since their returns would automatically be cut in half. The Seabed Authority would reap only benefits from the exploration done at the expense of private firms; it would not share the burden of the high costs of exploration. Such anticapitalism would destroy the seabed mining industry since it fails to account for the fact that private firms. unlike international institutions, must operate at a profit.

I would like to commend the Reagan administration for its stand against this awful treaty. However, Americans must realize that this is only the latest of many assaults by the United Nations on our freedoms, our independence, and our free enterprise system. Socialism is a dismal failure as an economic system, yet Socialist nations would decimate the U.S. economy so that they could continue their ruinous economic policies.

It is time that the United States withdrew its membership from the United Nations. For too long, Americans have been forced to subsidize the anti-American activities of this international rogues' gallery, at an annual cost in excess of \$160 million. Without U.S. financial assistance, which amounts to roughly one-fourth of the U.N.'s operating expenses, such treaties as the Law of the Sea could never even be written—no other nation in the world would subsidize activities aimed at its own destruction.

### STEEL IMPORT AGREEMENT

### HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mrs. BYRON. Mr. Speaker, I would like to enter the following white paper prepared by the Cold Finished Steel Bar Institute in the Congressional Record. I recommend it highly to my colleagues who are not familiar with the recent steel import agreement between the United States and the European Economic Community and the serious impact this agreement will have on the cold finished steel bar industry in this country.

U.S.-EEC AGREEMENT HEIGHTENS IMPORT THREAT TO THE AMERICAN COLD FINISHED STEEL BAR INDUSTRY

America's producers of cold finished steel bars have suffered grievously in the current economic recession. Layoffs, curtailed operations, shutdowns and losses are as great as in any other segment of the steel industry. These problems have been sharply intensified by surges of low-cost imports that have captured an ever larger share of the American market.

The recent agreement between the United States and the European Economic community, which brings relief from imports for much of the steel industry, does not cover cold finished steel bars. European suppliers will undoubtedly seek to avoid the impact of the agreement by concentrating on unrestrained products. As a consequence, the American cold finshed bar industry finds itself especially vulnerable to even more serious economic dislocation.

The Cold Finished Steel Bar Institute—an association of North American producers of cold finished steel bars—is seeking to assure that this vital industry will not be left in this dangerously exposed position.

#### COLD FINISHED STEEL BARS

Cold finished steel bars ("CFSB") are made by processing hot rolled bars and wire rod to make a product that is essential to virtually everything with moving parts. CFSB are found in all types of machinery and equipment used by industry and are especially necessary to the production of cars, trucks, motors, and numerous items of defense ordnance and equipment.

In a normal year, CFSB producers use between 1.5 million and 2 million tons of hot rolled bars and wire rod to make their product, yet they are principally small businesses, often family owned. Most of the 45 producers, with 69 mills make no other steel products; only three of the integrated mills make CFSB. The industry has production in 17 states and normally employs over 10,000 workers.

The United States Government has long recognized the particular sensitivity of CFSB to foreign imports. CFSB were the only steel mill product specifically covered in the 1972 Voluntary Restraint Arrangements undertaken by Japan and the EEC. In 1975, the product was found to be "import sensitive" and thus not subject to preferential duties for less-developed countries. Finally, in the recent Multilateral Trade Negotiations, duties were reduced less for CFSB than for any other steel product included.

#### CURRENT STATUS OF THE CFSB INDUSTRY

The American CFSB industry is in the trough of a true depression. Layoffs stand at over 50%. Production is at less than 40% of capacity. Temporary shutdowns are routine, and several facilities have been closed permanently. A number of producers are in precarious financial condition.

By contrast, foreign suppliers have hardly been affected by the declining market here. Even though domestic shipments could be at a 40-year low this year, imports during 1982 will be at near record tonnage levels. Imported CFSB are being offered well under the Commerce Department's former trigger prices, i.e., below their ostensible cost of production. As a result, import penetration is at an all-time high, more than twice traditional levels.

The critical import situation is largely due to shipments from Europe, principally the EEC and Spain. Since 1976, those countries have more than tripled their exports of CFSB to the United States and have quadrupled their penetration of the American market. The increase in European shipments equals the production of two good-sized U.S. manufacturers.

In short, at a time when the American CFSB industry finds itself in economic straits unprecedented since the Great Depression, very low cost imports are plundering the market. It is against this background that one must measure the impact on the CFSB industry of the recently concluded U.S.-EEC steel agreement.

### THE U.S.-EEC STEEL AGREEMENT

Last January, eight major U.S. steel producers brought a series of legal actions contending that a number of foreign countries, including six members of the European Economic Community, were subsidizing their steel production and that exports of this subsidized steel were injuring the American industry. When the suits were filed, the Commerce Department immediately terminated enforcement of the trigger price mechanism, which had regulated all steel imports for most of the previous four years. As these "countervailing duty" suits pro-

As these "countervailing duty" suits progressed, the Commerce Department began settlement discussions with representatives of the American complainants and the EEC. On October 21, 1982, an agreement was concluded that limits EEC exports of 10 categories of carbon and alloy steel products to a specified percentage of U.S. domestic consumption. In return, the countervailing duty suits have been withdrawn.

Among the products specifically covered by the agreement are wire rods and hot rolled bars, which are the raw materials used in producing CFSB. However, there are no specific limitations on CFSB exports.

The U.S.-EEC agreement surely will be severely detrimental to American CFSB producers. Analysts are already predicting that, faced with specific limitations on some products, European producers will seek to upgrade their exports into unrestrained, higher value items. Where exports of a raw material are restrained, producers will naturally focus on higher value, semi-finished products like CFSB. In short, there is every economic incentive for European producers to divert their hot rolled bar and wire rod output into the production of cold finished bars for export to the United States.

The agreement calls for consultation where diversion occurs, but only if there is a "significant increase" in imports. CFSB imports from the EEC are already at levels substantially harmful to the U.S. industry. Although the absolute level of those imports will not increase in 1982, the penetration of those imports will be almost 30 percent over 1981 and 165 percent above the more realistic 1979-1980 level. Even if the consultation provision could be successfully invoked, its protections are uncertain. Unlike diversions from carbon to alloy products, which are expressly to be remedied by limitations at 1981 levels, the remedy for diversions from wire rod and hot rolled bar into CFSB is left unspecified.

In view of the large potential for this kind of diversion, it is difficult to understand why CFSB were not included in the agreement in the first place. Based on the 1981 data used for the Agreement, U.S. consumption of carbon and alloy CFSB was larger than two of the products expressly covered (rails and sheet piling). The level of CFSB imports from the EEC was higher than two of the products specifically covered (tin plate and sheet piling), and EEC import penetration in the CFSB market was larger than four of the covered products (wire rod, hot rolled bar, coated sheet, and tin plate). Finally, total import penetration into the CFSB market was larger than three of the covered products (cold rolled sheet, hot rolled bar and tin plate). While CFSB had not been included in the final affirmative determination in the countervailing duty cases, neither were four of the covered prod-

ucts (wire rod, tin plate, rails and sheet piling).

The Commerce Department apparently accepted the contention made by EEC negotiators that they lacked legal authority to include CFSB in an agreement. The identical assertion was made by the Europeans in 1972; however, they overcame the problem, and CFSB were expressly included in the 1972 pact. The 1982 agreement presented no different problem, and CFSB should have been included.

#### WHAT MUST BE DONE

Since 1976, America's steel market has been afflicted by violations of the agreed rules of international trade by foreign suppliers. First, exporters began selling their products here below their own costs of production. For a time, this predatory pricing was restricted by the trigger pricing mechanism, but gross evasions had riddled the program by 1981. The ability of foreign suppliers to undercut American prices was principally due to large subsidies they received from their governments.

America's CFSB producers have been victimized by these practices as much as any other element of our steel industry. Yet, in the rush to settle the countervailing duty suits with the European Community, CFSB were forgotten. Our CFSB industry now faces an onslaught of imports that could throw hundreds more out of work and permanently cripple a number of companies. The danger is real and calls for prompt action:

The Commerce department should immediately begin discussions with the European exporters of CFSB to the United States to establish specific coverage of the product at penetration levels equivalent to those during 1979-1980.

In any further agreements that might be negotiated with other suppliers, particularly Japan and Spain, CFSB should be covered with a specific limitation based upon 1979-80 penetration levels.

### STATEMENT ON HOUSE CONCURRENT RESOLUTION 236

### HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. BONKER. Mr. Speaker, as a principal cosponsor of House Concurrent Resolution 236, which establishes March 1 as National Day of the Seal, I would like to join in support of this important resolution.

March 1 is an appropriate day to celebrate the seal: it is early in March that about 400,000 baby harp seals will be born on the ice off Canada's Newfoundland coast. While our purpose is to focus on the birth of the seals, we cannot ignore the fact that once again nearly one-half of these seal pups will be brutally clubbed to death shortly after their birth. Their bright, white coats will be stripped by Canadian and Norwegian hunters, and the pelts will be shipped off to Norway to be turned into such items as key chains and toy stuffed seals. This is an exceptionally inhumane and senseless slaughter.

### **EXTENSIONS OF REMARKS**

Mr. Speaker, the House should go on record in support of conservation of the harp seals—a goal that is consistent with our 1972 Marine Mammal Protection Act. I would like to express my appreciation to our distinguished colleague, Chairman Ford, for bringing this resolution to the floor, and urge my colleagues to act favorably on House Concurrent Resolution 236 to establish March 1 as National Day of the Seal.

U.S. POLICY TOWARD EASTERN EUROPE

# HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues a letter that I wrote to the Department of State on April 5, 1982, concerning U.S. policy toward the countries of Eastern Europe, and the letter that I received, after an interim response, 7 months later, apparently following the completion of an interagency policy review.

The two letters follow:

Committee on Foreign Affairs, House of Representatives, Washington, D.C., April 5, 1982.

Hon. Alexander M. Haig, Jr., Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: I am writing you concerning the status of our policy toward the countries of Eastern Europe. For well over a decade, we have been approaching the East European countries with a differentiated policy which seeks to treat each country individually and which allows our trade with some of the countries to be on favorable terms. I am concerned that this stated policy may be changing in its implementation because debt issues, technology matters and U.S.-Soviet difficulties may be forcing Bloc approaches to policies.

Under Secretary of State Lawrence Eagleburger testified before the Subcommittee on Europe and the Middle East in June of last year on this issue. Mr. Eagleburger stressed at several points that a fundamental tenet of our policy was to draw distinctions between the Soviet Union and Eastern Europe and among the East European countries since this approach best served our national interests. At one point he stated that:

"Nothing could serve our interests in that part of the world (Soviet Union and Eastern Europe) worse than to lump them into one bloc. Each nation presents unique problems and unique opportunities for the United States."

I continue to agree with this assessment of how our policy should approach the countries of Eastern Europe, particularly in light of recent events in Poland and the burgeoning debt crises in Eastern Europe and the Soviet Union. I sense, however, that there are policy decisions being made on such issues as debts and technology which would alter this longstanding policy. My specific questions for you are: Are we changing our policy of a differentiated approach to the countries of Eastern Europe or are we

taking decisions which have the effect of changing that policy? If so, why the change and what will be our new policy? And if there is no change, how are we expressing and implementing the differentiated policy today?

I appreciate your consideration of these policy questions and I look forward to your response.

With best regards, Sincerely yours,

LEE H. HAMILTON, Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, D.C. November 3, 1982.
Hon. Lee H. Hamilton,
House of Representatives,

Dear Mr. Chairman: Further to my interim reply of July 9 to your letter to Secretary Haig of April 5, 1982, I am pleased to inform you that an exhaustive inter-agency review of our policy toward Eastern Europe was recently completed and its recommendations approved by the President in early September.

The interagency policy review affirmed the policy of differentiating in our relations with the countries of Eastern Europe. However, one sphere in which the current Administration's policy differs from that of previous Administrations has to do with the question of technology transfer to nations allied in the Warsaw Pact with the Soviet Union. As you are aware, the Administration is embarked on a program of tightening, in consultation with our Allies, export controls across-the-board on high technology equipment and processes in order to guard against diversion to the Soviet Union. Our export control regulations, as they apply to the nations of Eastern Europe, will continue to be administered by the U.S. Department of Commerce in close coordination with other interested U.S. Government agencies and in strict accordance with the Export Administration Act of 1979.

We intend to implement the policy of differentiation toward Eastern Europe in a manner which will encourage economic and political diversity in the region. We will proceed cautiously in calibrating our policy and our actions to grant more favorable treatment to those governments which either show relative independence from the USSR in the conduct of their foreign policy or which show relatively greater commitment to internal liberalization through the pursuit of political pluralism and economic de-centralization. The U.S. Government will evaluate the actions and policies of each Eastern European nation on the basis of these criteria. Those nations which fail to show either internal relaxation or external independence will not be treated on a differentiated basis.

I trust that the above will be responsive to your letter of April 5 and will be more than happy to provide answers to any further questions you may have.

With cordial regards,

Sincerely,

POWELL A. MOORE, Assistant Secretary for Congressional Relations. TRIBUTE TO DONALD J.
MITCHELL

### HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Friday. December 17, 1982

• Mr. REGULA. Mr. Speaker, I appreciate the opportunity to say just a few words honoring our colleague, Donald J. Mitchell, who has been an able Representative of the 31st District of New York. Don and I came to Congress the same year and I consider it a privilege to have served with him these last 10 years.

Prior to coming to Congress, Don served as mayor of Herkimer, N.Y., president of the Mohawk Valley Conference of Mayors, and as a member and majority whip of the New York State Assembly. He was recognized for his dedicated efforts in behalf of the people when he was presented the Public Service Award in 1965.

An outstanding member of the New York delegation, Don will be sorely missed when the new Congress convenes, especially by those of us who were fortunate to work with him in the interest of the people.

Personally I will miss his optimistic outlook and the warmth of his friend-ship.

OUTSTANDING MILITARY CA-REER OF THE HONORABLE STROM THURMOND

### HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. SPENCE. Mr. Speaker, I was recently privileged to attend ceremonies and a post review at Fort Jackson honoring the distinguished senior Senator from South Carolina, the Honorable J. Strom Thurmond, for his long and meritorious service to the Nation and, in particular, for his outstanding military career. On that occasion, Maj. Gen. Albert B. Akers, commanding general, Fort Jackson, delivered remarks chronicling General Thurmond's many military honors and achievements. At this time I would like to commend these remarks to the attention of my colleagues in the House and to submit them to the Record for that purpose.

The following material was submitted for the RECORD:

Maj. Gen. Albert B. Akers' Remarks—Post Review Honoring Senator Strom Thurmond, October 8, 1982

Senator and Mrs. Thurmond, Mr. and Mrs. Cantey, General and Mrs. Marchant, distinguished guests—and there are many here with us today—and soldiers and trainees of Fort Jackson.

career.

Well, today we honor a great American-a

man who has helped shape history, and in

the process, touched all of us \* \* \* Senator

Strom Thurmond, born in Edgefield, South Carolina, has been farmer, educator, athlet-

ic coach, lawyer, State senator, circuit

judge, soldier, Governor of South Carolina,

United States Senator, and statesman-a man in a hurry to make things happen,

while serving others and the Nation. He has

devoted his life to furthering the firm, time-

proven principles of the American way of

life: To wit-hard work, determination, pa-

triotism, democracy and freedom. Senator

Thurmond truly is a man for all seasons,

but before turning the podium over to him,

let me say a word or two about his military

SHIRLEY A. CHISHOLM

### HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Thursday, December 9, 1982

• Mr. MINISH. Mr. Speaker, it is my honor to take this time to salute my distinguished colleague and good friend, Shirley A. Chisholm, as she retires from the House.

I know that this Chamber and the 98th Congress, will surely miss this courageous woman. However, Shirley Chisholm has made such a positive and enduring mark on the House, that her legend will not be forgotten.

SHIRLEY is well-known for her tireless efforts on behalf of minorities, the poor, and the disadvantaged-those who often do not have a loud voice in our process. She has worked to assure all Americans the right to quality education, regardless of race, sex, or financial standing. Through her own example and her legislative initiatives, she has combated sexism and achieved greater greater opportunities for women. Through these efforts, Shirley Chis-HOLM has worked for the good of the Nation, for whenever the rights of some in our society are protected, the rights of all are enhanced.

On a personal level, I cherish my friendship with Shirley, as I have admired her forthright, yet gracious and charming manner. Even though Shirley will not be in Congress next January, I have no doubt that she will continue to fight the good fight wherever she is. My heartfelt wishes go out to her for much success and fulfillment in her future plans.

ANTHONY "TOBY" MOFFETT

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

• Mr. CONYERS. Mr. Speaker, Toby Moffett's last-though, I am sure, not final-race for public office reminds us, once again, of the contingencies of political life, He ran an exemplary campaign for the U.S. Senate. He displayed the same kind of energy, intelligence, and commitment to public service that he demonstrated so well during his years as a Member of Congress. I look forward to his return to public life in the not too distant future. In the meantime, I hope he will continue to take an active role on the issues and concerns that he showed such mastery of in Congress consumer protection, rationality in energy policy and decisionmaking, making sense out of national defense, and the Federal responsibility to protect and nurture those in our society who are defenseless and vulnerable through no fault of their own.

HISTORIC ART COLLECTION ROOTED IN ATTORNEY'S LOVE OF ARKANSAS HISTORY

### HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. ALEXANDER. Mr. Speaker, today I would like to pay tribute to a friend, Washington attorney, and his wife whose interest in and fascination with the history of our home State of Arkansas has resulted in the assembly of a significant collection of sketches, prints, antique maps, and paintings recording history and legends of Arkansas.

This collection is the work of Marcus Hollabaugh, senior partner in Foley, Lardner & Hollabaugh, and Beall Hollabaugh. It is now housed at Arkansas Tech University and, since its donation to the university by the Hollabaughs this year, is known as the Simpson B. Hollabaugh Collection of Historical Art. The late Simpson Hollabaugh, the youngest brother of Marcus, studied at Arkansas Tech before becoming a World War II fighter pilot. Simpson Hollabaugh, winner of the Air Medal, died when his fighter crashed on takeoff near Brisbane, Australia.

Although named for Simpson Hollabaugh, the art collection is dedicated to "the memory of all Tech men and women who died in the service of their country during World War II."

This collection is the result of 40 years of search and discovery by Marcus Hollabaugh, with the aid of his wife, Beall, a former West Virginian. It includes works the Hollabaughs have found in searches of print shops, antique auctions, and other possible sources in the United States and Europe. In addition, the collection contains original paintings commissioned by the Hollabaughs to form a part of the pictorial illustration of events significant to Arkansas' history and culture.

Marcus Hollabaugh is an irrepressible and talented storyteller. For his tales he draws on his experience as a child in the Arkansas Ozarks region, a student at Arkansas Tech, a semipro baseball player, a laborer on the Mississippi River, an elevator operator on Capitol Hill during the Depression years, and on tales he has heard and read during his probing of Arkansas history.

Although it has been more than 40 years since Marcus Hollabaugh has lived in our home State, few of his acquaintances know him long without becoming aware of his loyalty to and love of our State. It was his realization

Senator Thurmond's association with the military began with his graduation from Clemson College, when he was not old enough to recieve his ROTC commission and was forced to wait several months before becoming a second lieutenant in the reserves \* \* \* he immediately volunteered for service on the opening day of America's involvement in World War II, even though his responsibilities as a sitting judge would have exempted him from active service. While overseas within a civil affairs section, he volunteered to drop behind enemy lines into France with the fighting 82d Airborne Division on D-Day, 1944. He went in by combat glider and was wounded during the hotly contested landing where the 82d Airborne lost one quarter of its men during the first week of intense combat action. Other areas where he served during the liberation

areas where he served during the liberation of Europe were St Lo, Cherbourg, Paris, Belgium, Czechoslovakia, and Germany. It was his unit that uncovered and liberated prisoners from the infamous Buchhenwald

Concentration Camp.

At the end of the War in Europe, he returned briefly to Fort Jackson before being transferred with his unit to the Pacific Theater where they were ready to go into action at the conclusion of the war. He was awarded five battle stars, 18 decorations, medals, and awards, including the Bronze Star for valor and the Purple Heart. Additionally, he brought back the Belgian Order of the Crown and the French Croix De Guerre. Following the end of the War he continued his close association with the military, rising to the rank of major general in the reserves in 1959. He has served as president of the Reserve Officers Association and Military Government Association. In 1971, he was the first past national president of the Reserve Officers Association to receive the Minuteman of the Year Award, and I could go on \* \* \* well, today, he remains a staunch supporter of a strong, viable national defense and believes that this dynamic country can only have "peace through strength." He serves this great Nation as the senior Senator from South Carolina and president pro tem of the United States Senate \* \* \* and so, we are honored by the presence of a great American who truly loves his country, his State, and his army · · · it is obvious that Senator Thurmond certainly has his priorities straight \* \* \* it is my pleasure to introduce Senator Strom Thurmond.

that much of our early Arkansas history had gone unrecorded by brush or pen, that set Marcus Hollabaugh on the road more than four decades ago that has led to the collection of art dealing with Arkansas history and cul-

Both the Hollabaugh and Arkansas Tech University hope that the Hollabaugh Art Collection will provide a foundation for a more extensive pictorial record of Arkansas culture and history. In view of the energy and dedication that Marcus Hollabaugh has already invested in this project, it is not difficult to believe that they will achieve their objectives.

This spring, Mr. Hollabaugh was the speaker at the commencement ceremonies at Arkansas Tech and was the subject of an article in the Arkansas Gazette. I would like to make his speech and that feature article a part of the RECORD at this point.

HOLLABAUGH CITES FEATS OF ATU ALUMNI IN COMMENCEMENT SPEECH

President Kersh, 1982 Graduates and their Proud Parents, Members of the Board of Trustees, Distinguished Faculty and

Friends of the University.

I am pleased to be back home in "The Land of Opportunity, Beautiful Women and Handsome Men." Elizabeth Ward who, if a citizen of Japan would be declared a "Na-tional Treasure," is ample justification for the inclusion of "Beautiful Women" on Arkansas license plates. In support of the addi-tion of "Handsome Men," I offer Exhibit III in the Collection. This is a map, made in London more than 200 years ago, which plainly designates this territory as "Arkansas of the Handsome Men." By stretching the truth we could claim that the map is documentary proof of a well known and universally accepted fact that all male Arkansans are handsome. It describes the Indians which the early French explorers found here and designated "Les Beaux Hommes" or the "Handsome Men."

All of you are aware that Arkansas has a colorful and exciting history and culture. The Collection commissioned today is intended to present some of that history and culture in the visual form. Much more needs to be done. Fortunately, we have an abundance of authentic and significant subject matter readily available. Let me give you a specific example.

According to Greek mythology, Cadmus, the son of Phoenix, brought the alphabet to Greece, which was a benchmark in the start of civilization. Sequoyah, who lived and taught within 15 miles of this Coliseum, has long been called the "American Cadmus" for his development of the Cherokee alphabet or Syllabary (see Exhibit XXVII). As a direct result the Cherokee became the most literate and best educated of all of the Indian tribes. Indeed, his was one of the greatest accomplishments in the American history of education. He received the only "literary pension" ever paid by the United States government. The giant trees in California are named for him (see 'The Giant by R. S Ellsworth, published in Seguoia" 1924 by J. D. Berger, Oakland, California).

Some historians say that it was a letter written by Sequoyah in Pope County and read by the Eastern Cherokees, a thousand miles away, which finally convinced every-one that Sequoyah had made a development of major significance. In short, Sequoyah's efforts came to fruition here. Thus, Tech has a historical and factual basis for emphasizing and identifying with Sequovah's contribution in the field of education. This could be done by further research and the publication of books and articles relative to Sequoyah's history with particular emphasis upon his life and activities in Pope and contiguous counties. Another worthwhile project would be the erection of a large statue of him on the most prominent spot on the campus.

Now I shall speak to other subjects. When Daniel Webster argued the famous Dart-mouth College Case (1818) in the United States Supreme Court, he said, "It is sir, as I have said, a small college, and yet there are those who love it." The same thing, with equal accuracy, may be said about our University. There are many reasons why this is so but I shall mention only two of them:

One, a common student complaint heard throughout the United States is that institutions of learning have become too big and too impersonal. The students have lost their individual identity and are only numbers on a computer card. This has been cited as one of the major causes of discontent and riots at Berkeley and at other large universities. The loss of personal identity is, I am pleased to say, not a problem on this campus. Tech has always taken great pride in its students, as individuals, and exhibits a steadfast loyalty to its student body and graduates. No one does a better job of keeping track of graduates and former students than does Jim Staggs and his associates. You, the 1982 graduating class, may go forth into the world confident that your alma mater will follow your respective careers, cheer your accomplishments, and lend a sympathetic ear should you, as it frequently happens, encounter one of life's adversities.

Secondly, this institution was created to give the less affluent students an opportunity to get a college education and it has fulfilled its statutory mandate well. This is particularly meaningful to my generation as we were here during the depth of the Depression. Let me illustrate by citing the saga of Albert Haringer, a native of South Bend, Indiana who in 1934 desperately wanted to get a college education but he had neither a job nor money. He rode a freight train to Russellville and arrived unannounced some 10 days after football practice had been underway; he came directly from the station and asked to try out for the team. That afternoon, during scrimmage, Coach Tucker

put him in the second team line.

On the first play Haringer knifed thru and racked up Dub Martin, which was a notable accomplishment as hitting Dub, once you got to him, was roughly equivalent to tackling a Mack Truck. Coach Tucker, urged on by Big-Foot Clements, the line coach, yelled out "Let's see you do that again," which put the first string line on which put the first string line on notice to stop this upstart newcomer. They tried, but he did it again which prompted Coach Tucker to say, "Take that boy to training table." Thus, by two plays and in approximately four hours time, a tired and hungry Indiana boy made the squad which was his ticket to classrooms. The rest is history-Haringer was a splendid football player, trackman and scholar, and graduation here, he along with Pooch Holt, another Tech grad, were stars on The George Washington University football team. Thereafter, Haringer was a popular professor and the Director of Athletics at Washington & Lee High School, Arlington,

Virginia. He is now deceased, but each spring Washington & Lee sponsors The Haringer Relays in his memory.

I should add that Max Bolar, a native of the Panama Canal Zone, not only rode a freight train from California to enroll at Tech, but also worked his way from Panama to California via an ocean freighter. Believe me, those were tough times. Although both the students and the College were strapped for funds, men and women were prepared for successful careers and accomplishments. Let me briefly mention some of their note-worthy contributions made in critical areas of American life.

#### HAROLD SNYDER-PIONEER IN THE EFFICIENT PRODUCTION OF FOOD

On April 1, 1909 this institution was created (Act 100) by the Arkansas Legislature as "the State Agricultural School" for the Second District of Arkansas. Harold Snyder, a graduate of this school, more than fulfilled the fondest dreams of any of the sponsors of this far-sighted legislation. Harold was an entrepreneur in the classic mold who through a combination of business acumen and the training received at Tech, revolutionized and greatly increased the production and processing of chickens. He made a substantial contribution to devising the most efficient means, at the least cost, of producing a much desired meat product; gave Arkansas farmers a needed cash crop and changed the economy of this state by making it the largest chicken producing state in the Union. Indeed, in these infla-tionary times the housewife should be grateful for Harold's part in converting what was once a luxury item into one of the least expensive meats available.

### NATHAN GORDON-NATIONAL DEFENSE

The British are fond of saying that World War I was won on the playing fields of Oxford and Cambridge. Could we not, with equal accuracy, say that Buerkle Field has made its significant contribution to the winning of World War II? Did not Nathan Gordon, a product of Buerkle, put his cumbersome flying boat The Arkansas Traveler down four times in heavy seas and despite direct and brutal Japanese shelling, rescued 13 American fliers from the ocean?

Rarely has there been an individual feat which exceeded the dangers and accom-plishments made by Nathan and his crew. A grateful nation gave him the Congressional Medal of Honor. According to the New York Times he also, in his own fashion, then contributed a humorous footnote to history. Having lost his Medal, Nathan went to a desk officer in the Washington Navy De-partment and said, "Hey Bud, where do you get a Congressional Medal of Honor?" The officer thinking Nathan was being facetious. sarcastically replied "If you would capture either Hirohito or Hitler, we will give you one for that." Nathan's response, which has been cleaned up a bit for presentation here today, was "Heck, you gave me one already but I lost the durn thing. Where do I get a replacement?" By the mention of Nathan's accomplishment I wish to pay tribute to all Tech men and women who have served their country well in both war and peace.

#### SIDNEY SCISSON—STORAGE AND DISTRIBUTION OF OIL

Another critical problem in the United States is the location, storage and distribution of various forms of energy. Sidney Scisson, another grad with entrepreneurial instincts, is Chairman of the Board of Fenix & Scisson, Inc., a worldwide engineering

firm specializing in undergound storage facilities for oil. He has had a marvelous and outstanding career with respect to oil which affects the lives and well-being of all Americans

In other fields of endeavor Tech men and women have done well: our Trustee, Dr. Stanley D. Teeter in the field of medicine; Judge Robert Hays Williams in law; and Jean Hampton Pruitt, the recipient of the Purdue University Old Masters Award; Jack Wilcox and other grads helped to make the Arkansas River navigable and Pat Caviness, working for the Treasury Department, helped to raise the money; Ralph Rawlings and Markey Best were outstanding FBI agents. Markey, who had a special talent for conducting surveillance of Nazi spies in World War II, earned the reputation of being the "Best Tail-Job Man" in the New York office. Suffice to say, the proof of the pudding is in the eating—Tech has done its job of preparing its students for useful and successful lives.

You, the 1982 Class are going out into a world which is full of critical problems demanding solutions which by-and-large only university graduates can provide the answers. Do not besitate to tackle those problems and in doing so, do not take a back seat to anyone. Just remember that your predecessors met their problems and succeeded.

You can do the same thing!

Now let me turn briefly to another subject. At no time in history have the world's inhabitants been besieged with so many forms of communication (radio, TV, newspaper, magazines, statements by politicians, etc.) most of which is directed to influencing the minds and thinking of the hearer or reader. You, as a member of an elite class, the university graduate, are expected to think for yourself. This requires separating fact from opinion, or the wheat from the chaff as a prerequisite to clear and sound thinking. Adopt the "show-me" attitude adhered to by our neighboring State of Missouri. I further emphasize this point by quoting you Dr. Seuss' famous poem entitled—"My Uncle Terwilliger on the Art of Eating Popovers."

My uncle ordered popovers from the restaurant's bill of fare.

And when they were served, he regarded them with a penetrating stare Then he spoke great words of wisdom as he

sat there on that chair.
"To eat these things," said my uncle, "you must exercise great care.

"You may swallow down what's solid, but you must spit out the air.'

And as you partake of the world's bill of fare, that's darn good advice to follow: Do a lot of spitting out of hot air-and be careful of what you swallow.

Graduates, your hour has come. We wish you joy in your work, love in your life, happiness in your heart. Good luck and Godspeed. Arkansas Tech University is very

[From the Arkansas Gazette, May 21, 1982] NATIVE'S LOVE OF STATE HISTORY REFLECTED IN HIS ART COLLECTION

Marcus Hollabaugh recently brought his show to the state. The antitrust lawyer in Washington, D.C., a native of Marshall,

Ark., is quite a character.

His life history is speckled with wonderfully colorful stories about Arkansas and figures in Washington, D.C., where he moved in 1935. He also moves from subject to subject as smoothly as a mechanical index card file.

He knows Arkansas history and legends perhaps as well as he remembers some of his cases concerning business practices of Masonite and American Optical. The fascination with history led him to begin searching for prints depicting Arkansas history. In 1972, he began to commission artists to reproduce many of the prints on canvas. This hobby has kept him busy for the last 30 years. He recently donated the collection to his alma mater, Arkansas Tech University in Russellville, in the name of his brother, Simpson B. Hollabaugh, a pilot, who died during World War II when his plane crashed as a result of engine failure. Marcus recently dedicated the collection as commencement speaker to his brother and all "Tech men" who died during the war. "At the present time, the University does not have a formal art museum but is eager to establish," Hollabaugh said. "The items being donated are to serve as the basis of an art program for expansion."

As colorful and entertaining as many of the artworks are, there's no way they could match the spirit of the man who gave them.

Marc Hollabaugh greets people with the sweeping smile and motion of a ringmaster He's a crusty gentleman, to be sure, boasting the Southern Comfort emblem on his Panama hat. He once earned \$2.17 a day working on the railroad back home and \$72 month as a semipro baseball player in Osceola. Yeah, those were the days

He left the front porch of his father's country store for Washington, D.C. in 1935 when Claude A. Fuller, the Arkansas congressman, offered him a job. He operated an elevator in the Senate Office Building, earning \$100 a month to pay his way through

law school. He received a healthy education right there on the elevator. ("Vice President John Nance) Garner could cuss 30 seconds with-out repeating himself," Hollabaugh said with a hearty laugh. "You know how they say all those things about Lyndon Johnson? Well, LBJ was a Sunday school boy compared to Joe T. (Robinson)."

He continued to tell stories about Robinson, which can't be published in the family newspaper, His "Harvard partners" must get a real kick out of them.

He relates accounts of Arkansas legend with equal zeal. Like a good historian, he's been highly resourceful in his research of Arkansas. Like a good lawyer, he has effectively manipulated the facts. He tells how Sam Houston once put on a Gargantuan drunk in Little Rock, during which he became "naked as a jaybird" and streaked through the streets.

'Any time you can combine pornography and history you've got a winner," he said, acknowledging that he accepts legend as history. "I suppose the purists probably would question the truth in the stories behind a few of these paintings. I've gone to several museums here and in Europe and if you asked someone to give you proof that what is shown in a painting is the truth, they probably couldn't do it.

"Stories do get embellished. Take the painting Saturday Noon in an Arkansas Town [by P. Frenzeny and Tavernier]. are stereotypes that would suggest the action took place in Texas, but it could have just as well been in Arkansas. wouldn't bother me a bit if we got into a big fight with Texas about this. Of course, controversy about art as a wonderful thing. It creates interest."

Realizing much Arkansas history has gone unrecorded by brush or pen, Hollabaugh set out to find evidences of visual Arkansas history. He scoured old book and antique shops for prints, utilizing the instincts that made him an FBI man. The word was out in New York, Washington, Boston-Marcus Hollabaugh was looking for prints dealing with

He turned up Edward Washburn's famous print of the Arkansas Traveler, a Currier and Ives print called The Destruction of the Rebel Ram-Arkansas, a map made in London in 1775 based on explorations in 1765 called Arkansas or Handsome Men.

In 1972, he decided to commission artists to paint many of these images. He employed Casimer Gregory Stapko of Washington, , Robert Guillemin of Needham, Mass., and Sandra Lindsey of Slidell, La., to repro-

duce the works on canvas

Another motivation for collecting art dealing with Arkansas was competition. As an antitrust lawyer. Hollabaugh is steeped in litigious matters concerning competition, or the lack thereof. He said he sees the states surrounding Arkansas as having done great things with history. "We're getting into the roots business," he said, referring to Alex Haley's pursuit a few years ago. "I'm talking about competition in terms of historical paintings.

There is a uniqueness about Arkansas culture. When I was a kid the Razorback was something to be ashamed of. It was seen as a skinny, sickly thing. Now the University [in Fayetteville] has selected this as its mascot. Also, it's one of the most expensive hogs, fattened by being fed on peanuts.'

Hollabaugh was so enamored by his artistic finds and appalled by the lack of suitable post cards in a Fayetteville hotel in 1967 that he had post cards of them made. He said there are about 250,000 post cards of the works that are sold around the state. He's taken pockets full of them during his travels to share with friends . . . or anyone. He said he's given them to children in China and has filled a request at a bookstore owner along London's Fleet Street.

The historic value exceeds the financial value of the works. The gift to Arkansas Tech, however, will not only allow that University to be a center for art dealing with Arkansas history, it will allow Hollabaugh the benefit of a tax writeoff. He could always use one. A senior partner for a 185member law firm in Milwaukee and Washington may ask \$195 an hour for his services. He might as well receive an immediate benefit along with the notoriety.

He contacted Katherine Seckinger, state director for the American Society of Appraisers, to appraise the 31-piece collection. Seckinger is working on her Ph.D. in history at the University of Arkansas at Fayette-ville and comes from an art-collecting family in New York. Hollabaugh is still

awaiting Seckinger's verdict.

It is her first appraisal in Arkansas. One of her first jobs was to appraise the collection of the late actor, John Wayne, whose collection included sculptures by western artists, Charles M. Russell and Harry Jack-

The criteria she uses in appraising a work of art or an entire collection are the fair market value, quality, condition, age and market appeal. The uniqueness of the collection in Arkansas impressed her. "The 'Arkansas Traveller,' I think is the finest piece in the collection," she said in a telephone interview. "It's one of the best executed paintings. It has artistic merit and artistic appeal and reflects one of the most popular themes of Arkansas history and music.

"Some of hand-colored newsprints are important and very rare. Landscape scenes of Arkansas are very important to have. Their condition is excellent; and they are hand-colored. That part of the collection is important as well as the oils.

"It's very interesting historically. If the collection can be improved, then its mission will be a very valid one. He's been very lucky in some of the things he's found."

Seckinger said the exclusive aspects of the collection also will enhance its value. She added that in the coming months she will be looking at the collections of other state historical societies and museums.

### TRIBUTE TO BESS TRUMAN

### HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Wednesday, December 15, 1982

• Ms. OAKAR. Mr. Speaker, Bess Truman was a simple women who treasured the good values of life. She was a strong mother and an irreplaceable wife. As a mother she was devoted to her family which was of primary importance to her and as a wife she embodied the qualities to which so many of us can aspire. Harry Truman called her "the boss" and his "chief adviser" as she played an integral part in his decisionmaking processes. "I never write a speech without going over it with her \* \* \* and I never make decisions unless she is in on them," asserted Harry.

serted Harry.

But Mrs. Truman was not always behind the scenes. In 1946 she was one of the sponsors of the New National Mental Health Foundation and in 1947 she participated in a broadcast on behalf of the National Foundation for Infantile Paralysis "March of Dimes" campaign. That year she also became the honorary commander of the American Cancer Society and was the recipient of a Cuban award "for the love, friendship, and fraternity she has shown to the Pan American countries."

As a gracious First Lady, Bess was a tribute to both her family and country. We mourn her passing as a distinguished and honorable woman of our generation—a woman whose loyal yet often acknowledged influence on her husband's executive decisions helped shape the political history of our time.

#### MARGARET HECKLER

### HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Thursday, December 6, 1982

• Mrs. ROUKEMA. Mr. Speaker, when Congress convenes next January 3, it will, for the first time in 16 years, be without the leadership of the distinguished Congresswoman from Massachusetts, Margaret Heckler.

Peggy Heckler will be sorely missed by those of us who have been privileged to work with her and she will be particularly missed by the constituents she served so well.

She has earned a singular reputation for constituent service and has demonstrated time and time again how hard she is willing to work for the people of her district.

Within the Congress, she has been a national leader on women's issues, working tenaciously for the equal rights amendment and for economic equity through the Congresswoman's Caucus, which she cofounded. She was the first, and she remains the leading Republican woman in the country on matters of economic, social and legal justice for women. The causes she fought for have directly resulted in extraordinary advancement for all women.

PEGGY HECKLER's philosophy of what government can do is positive and activist. It was at a recent gathering in her honor that she reasserted the fact that the Constitution is a living document, an unfinished document, and she challenged the Members to continue directing out efforts to the unfinished work of the ERA. This philosophy was evident in all her work over eight terms, not only on women's issues but also in her quest for social and economic terms, not only on women's issues but also in her quest for social and economic reforms for all Americans.

She has also earned a solid reputation as an advocate of improved services and treatment for our veterans. She will, I know, be particularly missed by those who served this country in World Wars I and II and the Korean and Vietnam wars; she has always spoken out on behalf of these fine men and women.

MARGARET HECKLER is a friend who provided guidance and assistance to me during my first term in Congress. I will never forget the kindnesses she extended to me over the past 2 years, nor will I forget the sense of responsibility and service that she engendered as a Member of Congress. I join my colleagues in wishing her the best of luck and success in her future endeavors.

SECOND ANNUAL CONGRESSION-AL FOSTER CHILDREN'S CHRISTMAS PARTY

### HON. WALTER E. FAUNTROY

OF THE DISTRICT OF COLUMBIA
IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

 Mr. FAUNTROY. Mr. Speaker, on Tuesday, December 14, 1982, the Second Annual Congressional Foster Children's Christmas Party was held on Capitol Hill.

More than 80 congressional offices invited 144 District of Columbia foster children to share Christmas with them. These elected officials and their staffs are from all over America and from every political persuasion. They will undoubtedly be called upon for similar acts of generosity back in their own congressional districts. I am, therefore, especially grateful to my colleagues and—most specifically—their staffs who made the Christmas party possible for the children.

I wish to underline another important aspect of this event that goes beyond sharing our Christmas spirit. Each of the children that came to Capitol Hill received a special gift above and beyond the gifts they unwrapped at the parties. That gift is a new awareness and understanding of what kind of people spend their days in these great marble buildings.

Except for days like this, most children grow up in Washington, D.C. never knowing who those people are, even though they are neighbors. I believe that 10 years from now these children will have forgotten what gifts they received at the Second Annual Congressional Foster Children's Christmas Party. But, they will never forget the spirit and the warmth that they were shown here that day.

As for the congressional Members and their staffs, they, too, will remember this event as much more than another Christmas party in 1982. Those who read the profiles on these children, who bought the gifts and who watched the children's faces when they opened those gifts, undoubtedly got a whole new perspective on the statistics of foster children in the District of Columbia. Those statistics will no longer be meaningless numbers. Those numbers will now have faces. That is the gift these children brought to us on Capitol Hill-an opportunity to meet the faces and the personalities behind the statistics about which we legislate from time to time.

This was far more than a Christmas party. It was a real opportunity for people to get to know and understand each other a little better.

With profound gratitude to the staff who made this possible, and to their Members, deep appreciation—and to all, Merry Christmas and Happy New Year.

#### HOUSE

Hon. B. Anthony, Hon. M. Biaggi, Hon. T. J. Bliley, Hon. L. Boggs, Hon. D. E. Bonior, Hon. J. Breaux, Hon. G. Brown, Hon. S. Chisholm, Hon. W. L. Clay, Hon. J. Conyers, Hon. B. Corrada, Hon. J. Courter, Hon. D. Crane.

Hon. P. Crane, Hon. N. E. D'Amours, Hon. R. Dellums, Hon. B. Derrick, Hon. W. Dowdy, Hon. J. Edwards, Hon. W. Emerson, Hon. W. E. Fauntroy, Hon. R. G. Flippo, Hon. J. J. Florio, Hon. T. Foglietta, Hon. Wm. Ford.

Hon. M. Frost, Hon. D. Fuqua, Hon. H. Gonzales, Hon. W. Gradison, Hon. F. Guarini, Hon. K. Hall, Hon. T. Hall, Hon. L. H. Hamilton, Hon. J. V. Hansen, Hon. C. Hatcher, Hon. W. Hefner, Hon. C. Heftel.

Hon. S. H. Hoyer, Hon. W. J. Hughes, Hon. E. Hutto, Hon. A. Jacobs, Hon. B. B. Kennelly, Hon. J. Leach, Hon. W. Lehman, Hon. E. J. Markey, Hon. G. Miller, Hon. J. Minish, Hon. J. Moakley, Hon. D. McCurdy.

Hon. T. P. O'Neill, Hon. M. G. Oxley, Hon. J. Patterson, Hon. P. Rodino, Hon. G. Savage, Hon. C. Schneider, Hon. J. F. Seiberling, Hon. I. Skelton, Hon. Christopher Smith, Hon. D. Smith, Hon. F. H. Stark, Hon. M. Udall, Hon. H. Waxman, Hon. L. Williams, Hon. L. Winn, Hon. H. Wolpe, Hon. R. Wyden.

SENATE

Hon. A. Dixon, Hon. W. Huddleston, Hon. S. Nunn, Hon. L. Pressler, Hon. D. Pryor, Hon. N. Brady.●

#### MARGARET HECKLER

### HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES
Thursday, December 16, 1982

• Mr. DONNELLY. Mr. Speaker, I would like to join in paying tribute to our distinguished colleague from Massachusetts, Margaret Heckler. For 16 years, this dedicated public servant has rendered exemplary service in this Chamber.

PEG HECKLER has been a tireless and forceful advocate for the working people she represents. The industrial communities in her district and the textile industry that built them and has supported them for so long will miss her energetic support. The thousands of individuals she has assisted over the years are also very much in Margaret Heckler's debt.

Her career in elective office began two decades ago, when she was elected to the Massachusetts Governor's Council. In 1966, a district that was used to having a powerful Representative in this body selected Margaret Heckler to succeed former Speaker Joseph Martin. During the administrations of five Presidents, Representative Heckler has been a strong, independent voice for the interests of the people who elected her, and of the Commonwealth of Massachusetts.

She will be missed. I join my colleagues in wishing her well in her future endeavors.

### TRIBUTE TO GARY A. LEE

### HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. REGULA. Mr. Speaker, in these final hours of the 97th Congress, one of the traditions we observe is to publicly pay tribute to our colleagues who will not be with us when the 98th Congress begins its work.

One of those who will not be returning is Congressman Gary Lee who represented the 33d District of New York.

Gary came to the Congress in 1979 but in that short time he clearly demonstrated his mastery of the legislative process. My tribute to him is essentially summed up in just three words which says it all—he served well.

### MARGARET HECKLER

### HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

 Mrs. SNOWE. Mr. Speaker, I thank my colleague from Massachusetts (Mr. Conte) for providing this opportunity to honor my good friend Peggy Heck-Ler.

It has been a privilege and an inspiration to have served these past 4 years in Congress with Peggy Heckler. She has been a tireless worker throughout her eight terms in Congress, and has had a very distinguished and memorable career in Washington.

Peggy has made many contributions to our Nation, but I know I will remember her best for the great role she played in furthering women's rights. She has been a dedicated advocate of the equal rights amendment: She sponsored this legislation and has worked hard for its passage.

PEGGY was a founder of the Congresswomen's Caucus and has done an exceptional job as cochair of this organization. She has been in the forefront of many important issues affecting women, and can be credited with many of the gains women have made in the past two decades.

Peggy Heckler has served as a positive role model for many women, and we will all miss her in the House of Representatives. I wish her the best of luck in her future endeavors, and know that she will continue to be a champion of equal rights for all Americans.

TRIBUTE TO DEPARTING RE-PUBLICANS OF CALIFORNIA DELEGATION

### HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 8, 1982

• Mr. LOWERY of California. Mr. Speaker, last week my California colleagues held a special order in honor of the seven retiring Republicans of the California delegation. Due to a previous commitment, I was unable to be here for that special order. There-

fore, I would like to take a few moments now to express my sincere appreciation and gratitude to my departing colleagues for their contributions to the Congress and the country.

First of all, I would like to pay special tribute to the retiring dean of our San Diego delegation, CLAIR BUR-GENER. CLAIR'S skill and dedication have served the people of San Diego well for the past 10 years. His work on the House Appropriations Committee and his leadership of the Republican conference have brought him well-deserved accolades from his constituents and colleagues. His long-time dedication and hard work on behalf of the handicapped and disabled have earned him the special respect and admiration of his constituency. CLAIR often cites the dedication ceremonies for the Clair W. Burgener School, a public school for the trainable mentally retarded named in his honor, as the highlight of his public and personal career.

CLAIR has served as both guide and mentor to both Duncan and me during our first term here. Each of my dealings with him have been marked by his stamp of personal integrity and warm humor. CLAIR is a true gentleman in every sense of the word, and I will miss him tremendously. My wife, Katie, and I wish both CLAIR and Marvia good health and happiness in their return to San Diego.

While I do not always agree with columnist Jack Anderson, he was "right on the money" when he described John Rousselot as one of the most effective and popular Members of this body. For the past 12 years, John has served his constituency and the Congress with energy, wit, intelligence, and style.

In an era of "born-again" budget balancers, John is the original balanced budget prophet. He was preaching the virtues of fiscal restraint and responsible government long before they were popular. His expert knowledge of House rules and procedures will be sorely missed—at least on the Republican side of the aisle.

PETE McCloskey was first elected to represent California's 12th District in 1969 when he upset the "good ship lolwith his defeat of Shirley Temple Black. A decorated veteran of both World War II and Korea, Pete has earned a well-deserved reputation as one of the most courageous and dedicated Members of the House. Fairminded and independent, Pete has never shied away from the tough issues. He has distinguished himself as the ranking Republican on two House subcommittees, and, as chairman of the Environmental and Energy Study Conference, has served as an effective proponent of environmental concerns. I wish PETE the best of luck in his return to private law practice. I am BO GINN

certain that the legal profession will benefit from his reasoned intelligence and strength of character, just as we have.

The name Goldwater has long been synonymous with public service and commitment to political ideals. In his 13 years in Congress, BARRY GOLD-WATER, Jr., has enriched and enhanced the Goldwater tradition. He has been an invaluable member of the minority leadership of both the Public Works and Transportation Committee and the Science and Technology Committee. As a freshman on the House Science Committee, I have personally benefited from his extensive knowledge and expertise in the highly technical issues we deal with, particularly in the field of aviation. I will miss having the benefit of his counsel.

I would also like to join my colleagues in paying tribute to ROBERT K. DORNAN, of California's 27th Congressional District. Bob's personal flamboyance combined with a genuine commitment to conservative principles have long distinguished him as a political personality of note. His solid support for a strong defense and his compassion for the victims of war have added dimension and substance to the personality. His absence in future Congresses will certainly be felt.

WAYNE GRISHAM, who will be leaving the House after 4 years of dedicated service, is also deserving of tribute and praise. A hardworking member of the Public Works and Transportation Committee. Wayne led the way in the negotiations for the Century Freeway, which will be of tremendous importance to the people of the Los Angeles area. With his commitment to reduced spending and taxation, support of free enterprise, and protection of the rights of the individual, Wayne has ably represented his constituency. He, too, will be missed by us all.

Last, but certainly not least, we are paying tribute to the dean of our California delegation, Don Clausen. Since his arrival here in Washington almost 20 years ago. Don has been a dedicated and respected member of the House Interior and Insular Affairs Committee and the House Public Works and Transportation Committee, where he is the ranking Republican member. Most recently his efforts have been of vital importance to the passage of the Surface Transportation Act which will help us to rebuild, reconstruct, and restore our Nation's deteriorating highways and bridges. He has been a dedicated public servant and a great champion for the State of California and all of us in the delegation will miss his leadership. I wish him the best of luck and happiness.

# HON. MARILYN LLOYD BOUOUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, December 6, 1982

• Mrs. BOUQUARD. Mr. Speaker, it is a privilege for me to take part in this body's tribute to Bo GINN. I have become good friends with Bo over the years and I certainly will miss him, his wisdom and impartiality. He is leaving behind a record of distinction and one of service to the people of Georgia and of this Nation. He has been conscientious and forthright and willing to take on even the most controversial of issues. The patience and thoroughness he has shown is rare and he has been unfailingly willing to take the time to work with me both in his tenure on the Public Works Committee and, more recently, as chairman of the Military Construction Subcommittee. He has offered and supported legislation of import to all Americans and the time that he has spent here has resulted in many rewards for them. Nor were his efforts token, but a reflection of a strong belief in his duty to represent his constituency.

I am losing a close friend and this institution is losing a valued servant. I wish him every success in his future endeavors and hope that he will continue to take the time to stay in touch with those of us who have come to rely so much on his expertise.

### JOHN LeBOUTILLIER

### HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. DERWINSKI. Mr. Speaker, although his tenure was brief in the House of Representatives, John Le-Boutillier's spirited and enthusiastic approach to his duties as a Member of Congress will long be remembered in this body. He brought with him a sense of purpose and dedication to the job that has rarely been exhibited by a freshman Member.

I served with John on the House Foreign Affairs Committee where he showed his keen interest in and knowledge of the issues that encompass our foreign policy. His candid style and openness gave the Congress a fresh look at some of the very difficult issues that face us in the legislative arena and in world affairs.

John was not afraid to speak out in behalf of his beliefs regardless of the political risk. As a young man, John has many more valuable contributions to make to his country. I am sure that we have not seen the last of this hardworking, bright, and articulate individual. I wish him much success in his

future endeavors and hope to retain our friendship.

### TRIBUTE TO GREG CARMAN

### HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 14, 1982

• Mr. REGULA. Mr. Speaker, I wish to say just a few words to honor my colleague, GREG CARMAN, Representative of the Third District of the State of New York. Greg is among those who will be leaving us in a few days with the termination of this Congress.

He came to Congress with an impressive record of broad participation in the affairs of the people of his district. And he has represented them well as their Congressman.

I wish him success as he returns home to those he has faithfully served and devotes his energies to other activities. I, for one, will miss the keen insight into legislative affairs which he displayed as a representative of the people.

#### HOOSIER HAS IDEAS ON SOLVING UNEMPLOYMENT

# HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

Mr. JACOBS. Mr. Speaker, Raymond Tyson is a Hoosier with constructive imagination. I believe the Members of Congress will appreciate seeing this proposal of his concerning unemployment.

The material follows:

JOBS-STARTING NOW

What are needed today are jobs with these capabilities:

- 1. The type that can get under way without extended training or start-up time.
- Requiring minimal capital outlays by employers in the form of plant or equipment.
- Capable of being totally paid for, on a countrywide basis, outside of government.
- 4. Having a minimal and totally calculable effect on the prospective employer's finances.
- 5. Requiring no governmental agency to oversee, train or enforce.
- Counteracting present and future governmental social expenditures and instead supplying income tax and social security tax income.
- Performing a useful and effective service, and in certain areas, a probably inevitable one.
- Reaching people of both sexes without specialized skills.

#### THE PROPOSAL-I

1. Require every bank, main or branch, dealing with the public, to employ one or more guards.

2. Require all shopping centers and similar places of gathering to maintain guards and patrols during public hours.

The number of people that would be employed in these areas can readily be calculated. It is substantial.

Any bank or other enterprise that claims to be unable to afford to protect its customers by providing adequate guards (and customer assistance) does not deserve to be allowed to operate. And these types of institutions should be voluntarilly willing to subscribe to this type of program to assist in our present job cirsis. That they will do so, however, is problematical, and requirement is undoubtedly necessary.

The function of this program in combatting crime is obvious. Assaults in these categories of businesses are common all across the country.

The problem of adequate protection of patrons will have to be answered anyway. The responsibility of a place of business for protection of its patrons is already in the courts. A substantial judgment against a small shopping center in Indianapolis was entered recently and there will be others.

#### THE PROPOSAL-II

1. Employers of additional domestic help on a 40 hour or plus basis be permitted income tax deduction for wages paid for such help.

Obviously, such an initiative is bound to sound the trumpets as "another gift to the rich". But the choice now is—"do we do practical, effective things to solve our present problems of unemployment, or do we continue our psychological and sociological meandering that continue to cost more than they effect—and mend nothing in the long run?" We need results now.

If this program were accepted by people who could afford it they would save some tax money. And with the 50% tax ceiling even that is reduced. But the people who might be employed with this incentive would pay both income and social security taxes, and more important, would relieve pressure on the welfare roles. And, lapsing into "Reaganonomics" for a moment, presumably the actual tax saving by the employer should also find its way into the economy.

This program is obviously directed at the unemployed who are at the bottom of the training and skills area. It requires no plant or equipment outlay and needs no bureau set up to put it in motion.

And this is also an "anti-crime" program. Let our people who can afford it have some extra help around the house so that when they are away from it their homes will be less of an attraction to the burglar and thief. Let the rich man have a chauffeur. As a relief for his stress, a contribution to better driving, personal safety, car care, and a host of other things his expenditure should be well worth while.

One final factor—there is a great possibility of "black market" in domestic employment today. Cash payments to avoid social security and withholding are probably common. A legitimate tax deduction would undoubtedly go a long way toward making this practice unprofitable.

TOBY MOFFETT

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES
Tuesday, December 14, 1982

• Mr. DINGELL. Mr. Speaker, I regret that I was unable to be present on Tuesday evening when there was a special order for my good friend and colleague, Toby Moffett of Connecticut. His departure is truly unfortunate

and deeply saddening.

For me personally, Mr. Moffett's departure means the loss of an extremely valuable ally on my Committee on Energy and Commerce, as well as a Member who has contributed extraordinarily to the deliberations of this body during his tenure here. More importantly, we are losing an intrepid and vigilant person, sensitive to the needs of the people of this country. I am very proud of Mr. Moffett, and the extent to which his career in Congress has been marked by many brilliant successes which have led to a better life for many people.

In addition, I have learned a great deal from Toby in these past 8 years, and I think that the incoming Members could benefit from a study of this gentleman's record to see how a great

Member conducts himself.

Toby Moffett has been particularly strong in his protection of consumer interests, especially during some of the long and drawn-out battles we have faced in the committee. We have not always been in complete agreement on all issues, as many of my colleagues know, but we have always been able to work things out. Toby's dedication to the consumer movement-and to the cause of a healthy environment-is just as strong now as it was a decade ago when he was the director of the Connecticut Citizen Action Group. I have no doubt that we will continue to hear from this fine gentleman in his capacity as a consumer activist, and I hope we do.

In conclusion, I want to thank Toby for all of his hard work and his great spirit, and I wish him well.

### CONGRESSMAN CLAUSEN RETIRES

### HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES Wednesday, December 8, 1982

• Mr. WON PAT. Mr. Speaker, in a few days, one of my closest friends and a man who has earned the admiration of this entire body will leave us. I refer to Congressman Don H. Clausen of California's beautiful Second District.

Don Clausen has served in the House of Representatives since 1963. He is a longtime member of the House

Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation. Prior to his entering Congress, Don Clausen served in local office in California and was a businessman whose activities reflected a longtime personal interest in flying. During World War II, Congressman Clausen was a fighter pilot flying from carriers in the Pacific and since entering Congress he has been one of the leading lights of the Congressional Flying Club which has taught many Members and staff to enjoy the delights of flying.

My own friendship with Congressman Clausen goes back many years when I began seeking his assistance on numerous bills pending in the Interior Committee of interest to Guam. In those days, I was Guam's Washington representative and not a Member of this body. Congressman Clausen quickly proved his reputation as a skillful legislator by doing all he could to win support for territorial legislation from his Republican colleagues.

Those were difficult years for Guam but with the help of men such as Don Clausen we began to succeed in our efforts to obtain needed Federal support. As a consequence of the continued support from Congressman Clausen, Congress approved a number of territorial bills including legislation which authorized the territory to elect our own Governor in 1979.

Perhaps the highlight of Congressman Clausen's assistance to Guam came in 1972 when he worked so hard to pursuade Congress to establish the seat I now hold. With the help of a bipartisan coalition including Congressman Phillip Burton and many others, Congressman Clausen overcame numerous hurdles to bring the bill to the floor and get it passed into law.

The 1960's were difficult years for Guam. We were hard pressed financially to meet our own local needs and we were excluded from a wide variety of Federal programs. Congressman Don Clausen and his friends took it on themselves to correct those problems. Thanks to the efforts of these men, Guam and the other territories began to quickly notice a new influx of new financial aid and other legislation which increased our local ability to manage our own affairs.

In 1979 Congressman Clausen was extremely helpful in the passage of the Guam Elective Governors' Act which authorized the territory to elect our own Governor and Lieutenant Governor for the first time in history. Several years later, Congressman Clausen was of immense help in pursuading a reluctant Congress to pass legislation which created my own seat. I can remember with great fondness when Congressman Clausen rose before the House Rules Committee

and presented a most articulate and impressive speech on behalf of the Delegate's bill. He followed up with an equally effective statement when the bill came to the floor to vote and I certainly believe that he can be credited with the total support the measure received from the Republican aisle.

Several years earlier, Congressman CLAUSEN was instrumental in pursuading Congress to establish a territorial highway program—the first time that specific funding was set aside to help develop and build new roads in Guam and other territories. Don has kept his interest in this program through the years and only several weeks ago was the key mover in helping me include funds for territorial highways in the gasoline tax bill.

When Don Clausen leaves Congress I will have suffered a great personal loss. He is a wonderful friend and colleague who has given endlessly of his time and energies to help Americans who live far away from Washington. My only regret is that the true role of this great American will never be fully known. He has given more of himself than could ever be expected and I only hope that someday I can in some small way return the favor. I wish him well and may his future be filled with happiness. Thank you.

# THIRTY-SIXTH ANNIVERSARY OF UNICEF

### HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. BARNES. Mr. Speaker, today is the 36th birthday of the United Nations Children's Fund (UNICEF), an international organization that, through its tremendously successful programs, has improved the quality of life for millions of the world's children. I want to share with my colleagues the following Baltimore Sun, Washington Post, and New York Times articles about UNICEF's work.

The needs of children everywhere are among the most important global issues we face. UNICEF is now promoting a series of low-cost techniques, which, for the first time, makes possible a revolution for children's survival. UNICEF Executive Director James Grant says that, within the next 10 to 15 years, we can cut by 50 percent the death rate of children in developing countries. I hope that our country will make the necessary financial commitments and otherwise do its share to see that this happens.

(From the Baltimore Sun, Dec. 17, 1982) UNICEF Says 40,000 CHILDREN DIE EACH

DAY BECAUSE OF DISEASE OR LACK OF PROPER FOOD

United Nations—Every two seconds of this year, a young child has died of disease or

lack of proper food, according to a report released vesterday.

That's 40,000 children a day, and half of them could be saved if governments would use a few simple, inexpensive techniques, wrote the director of the United Nations Children's Fund (UNICEF).

If trends continue, he predicted, there will be at least 600 million seriously undernourished children in the world by the year 2000.

The international recession made 1982 "the darkest year in a generation for the world's children" because during economic hard times "It's children and women last," said James P. Grant, the U.N. agency's exeutive director. Unless the international community acts soon, Mr. Grant said, "several million small children more than we thought two years ago will die in the 1980s."

The report says that, despite medical advances offering the opportunity for a revolution in child health, many of the world's children are worse off today than they were just a few years ago.

Measles, whooping cough, diphtheria, tetanus, poliomyelitis and tuberculosis still kill some five million children each year in devloping countries. Tetanus alone kills 2,500 to 3,000 children a day.

After releasing UNICEF's annual report, Mr. Grant told a news conference in Paris that deaths of children in the developing world could be cut in half by the turn of the century by the use of inexpensive sugarand-salt drinks, immunizations with more stable vaccines and the substitution of breast-feeding for infant formulas-all at "a low cost economically and politically."

But, he said, public indifference and resistance by entrenched medical interests mean "it's not a simple problem."

Third World governments tend to build urban hospitals instead of taking health care to the rural poor who need it most, Mr. Grant said.

According to the report, current projections show the proportion of the world's children who live without adequate food, water, health care and education staying about the same until 2000. But the absolute number will grow by 30 percent to between 600 and 650 million.

"Forty-thousand small children in developing countries die every day—every day!" Mr. Grant said. "And it goes unreported in the press."

"That adds up every three days to all the people who died at Hiroshima. If there were a Hiroshima every three days that killed 120,000 people, the world would be up in arms," he said.

"And for every one who has died, six now live on in hunger and ill health which will be etched forever upon their lives."

The report notes that between the end of World War II and the beginning of the 1970s, child death rates in low-income countries were reduced by half.

But in recent years, it says, progress has not been maintained—and for many children, particularly in Africa and in poor Asian and Latin American towns, life is growing worse.

In Haiti, diarrheal infection kills 130 out of every 1,000 children born in the shanty-towns of Port-au-Prince.

"The quality of life has actually begun to fall as the economic foothold of their parents begins to crumble," the report ob-

It says that, excluding the cost of measures such as immunizing every child against killer diseases, a direct assault on the worst

aspects of hunger and malnutrition would cost \$6 billion a year, or 1 percent of the world's annual expenditure on armaments.

The UNICEF report singles out several medical and social breakthroughs that, it says, offer "new hope in dark times."

The most important is a salt-sugar treatment for the dehydration caused by diarrheal infection that is the developing world's biggest child killer, causing some five million deaths a year.

The report calls for a mass campaign to boost awareness of the treatment and says only an inexcusable lack of national and international will can prevent it reaching needy children.

The spread of radios to impoverished rural areas and the recent growth of armies of "thousands and thousands of new health workers" in the Third World mean basic health-care information and instruction can reach the poorest of the world's poor for the first time in history, he said.

the first time in history, he said.

The problem is one of "political will."

"The president of the country has to go on radio and promote it—it's got to be a national effort," he said.

tional effort," he said.

But the UNICEF report said that even if all the UNICEF recommendations were implemented, "These improvements can only go so far before running into the hard rock of the malnutrition problem—the lack of food."

The report says only large-scale land redistribution will solve the basic problem of poverty and malnutrition and assure a stop to all 40,000 daily child deaths.

[From the Washington Post, Dec. 17, 1982] HEALTHTALK: CHILDREN'S PROGRESS

(By Sandy Rovner)

The adults in this world who worry about children are more worried than ever.

That, of course, should be no surprise: In hard times when resources are limited and social programs in general are at risk, those for children are even more so. "The payoff," says James R. Grant, executive director of the United Nations Children's Fund, which today celebrates its 36th birthday, "is so much slower."

"Although we're at the end of 35 years of unprecedented progress for children, for the first time in the post World War II era, that progress is now under challenge."

In response to that challenge, representatives of UNICEF, other U.N. agencies, the World Health Organization, World Bank, World Food Council, among others, have been brainstorming for some months to find a way to continue the progress that has seen "a greater reduction of child mortality, greater improvement of health . . . in the last 35 years than in the preceding 500 to 1.000 years."

They think they have found a way even, as Grant puts it, "in these dark times."

Based on a series of medical breakthroughs, along with 3½ decades of intense field work and educational programs, UNICEF and its fellow agencies are today unveiling—internationally—a "State of the World's Children" program they optimistically expect to create as great a revolution in worldwide child care as the so-called "green revolution" of the 1960s and '70s did for worldwide agriculture.

The four-pronged program (aimed mainly at developing nations, but also useful in rural and urban areas of the so-called developed) is dependent on a delivery system that has been burgeoning over the past decades: ranging from the training and place-

ment of village health workers—100,000 in India alone—to the proliferation of communication devices as simple as the battery-operated transistor radio.

The program is called GOBI, an acronym for its concerns: growth charts, oral rehydration therapy, breast-feeding and immunization. It is the oral rehydration therapy (ORT) and the immunization that contain the potential for dramatic and immediate medical impact on the most children.

Oral rehydration is a medical term for the restoration of vital fluids lost by infants and young children with diarrhea; the direct cause of about 5 million children's deaths a year, and indirect cause of millions more because of lowered resistance and malnutri-

Within the past decade-borrowing in part from a Southeast Asian folk remedy-medical science has discovered that fluids administered by mouth can be absorbed by the diarrhea-ridden small bodies only when a formulation of salts and sugar accompanies the liquid, restoring both fluid and electrolyte balance. A pre-mixed packet of six parts sugar to one-half part salt, it now available, inexpensive and ready for international dis tribution. It need only be mixed with water to perform its lifesaving function.

Along with the development of the ORT packets come vaccines that no longer require constant refrigeration-until now a major deterrent to providing the world's children with immunities to polio, diphtheria, tetanus, whooping cough, measles

Those are the contributions of science. But so simple a thing as a return to breast-feeding-disastrously undermined in the past decade or so by misleading and incomplete information touting the virtues of prepared formulas-can be part of the children's health revolution. An even simpler concept—the individualized growth chart for each baby—can be a tool for modifying the habits of a village mother. It is a lure to bring her into regional clinics where inadvertent malnutrition can be spotted on the chart, where a baby can receive second and third immunization shots when needed, where the mother can learn about such things as family spacing and proper nutrition.

It could be, says Grant, "a virtuous circle." For reasons only partially understood, as child mortality rates drop, so do birth rates, usually at an even greater rate. Part of this may be attributed to the statistically significant, although only partially effective, contraceptive effect of breastfeeding.

In any case, the program is ready to start. "You could," says Grant, "cut the death rate of children in low-income countries in half in the next 10 to 15 years for a very low cost-financial or political."

[From the New York Times, Dec. 17, 1982] UNICEF URGES FOUR STEPS TO SAVE CHILDREN'S LIVES (By Jane E. Brody)

The lives of 20,000 children could be saved each day by adoption of four simple, lowcost health measures that have already proved successful in limited trials in several developing countries, the United Nations

Children's Fund said in a report yesterday. Although health problems among the world's poor children remain enormous and may never be eliminated, fund officials said a significant impact could now be made with existing techniques that could be easily used even by illiterate people who have few hygienic amenities.

Dr. Richard Jolly, deputy director for programs, said at a news conference that if the four measures were "seriously implemented, half the young children who now die each year would live." He added, "Doubts and skepticism need to be overcome, rather than vested interests.'

The fund, known as UNICEF, said the measures were designed to reduce deaths and retardation caused by chronic malnutrition and repeated infections. They are oral rehydration therapy for children with diarrhea; breast-feeding of infants; the use of child growth charts to detect hidden malnutrition, and universal immunization to prevent childhood measles, diphtheria, tetanus, whooping cough, polio and tuberculosis

Without requiring any addition to food supplies, the fund said, the measures would make major inroads against childhood malnutrition, currently the leading cause of death and stunted development among the poor children of the world. These effects of malnutrition are held largely responsible for continued high birth rates and limited opportunities for self-improvement among the poor in developing countries.

Improved mass communications in many areas-principally television sets and transistor radios—was cited as a reason for opti-mism that the measures would be adopted in areas until now difficult to reach with health improvements.

In a statement issued yesterday, the United Nations Secretary General, Javier Perez de Cuellar, appealed to national leaders to support the recommended actions, which he said would demonstrate that even in time of great financial strain "it is possible for the world to take imaginative steps to heal some of the most tragic wounds of underdevelopment and poverty."

According to James P. Grant, executive director of UNICEF, the main obstacles to wide application of the proposals are lack of political awareness and commitment, the need to organize community workers and, in some cases, resistance of medical care systems to the use of paraprofessionals to administer vaccines and the use of at-home remedies like the diarrhea treatment.

In its annual report on "The State of the World's Children," UNICEF estimated that the total cost of the proposed measures to counter hunger and malnutrition would be \$6 billion a year. It said that no new technological advances were required and that the social mechanisms for applying the techniques-such as doctors, community development workers and transistor radios-already existed in most countries.

While noting the need for long-term changes such as land redistribution and job development to conquer worldwide malnutrition, the children's fund said that its specific short-term proposals could produce significant improvements almost immediately and help to interrupt the cycle of poverty malnutrition, retarded development and

continued poverty.

The cornerstone of the UNICEF plan is oral rehydration therapy, the replacement of salts and water lost during extended bouts of diarrhea. The average child in a poor community of a developing country suffers between 6 and 16 bouts of diarrheal infection each year. Diarrheal infections are the single largest killer of children in the developing world, causing one death every six seconds, and a total of five million childhood deaths a year.

Though most diarrheal infections are selfcuring, children die because the rapid loss of water and salts in the stool disrupts the

function of vital organs, including the heart and kidneys. Traditionally, these losses are through intravenous reversed which requires the services of a health professional in a hospital or clinic. At-home attempts to replace water and salt orally failed because most of the salt solution cannot be absorbed by the gut.

But a decade ago it was shown that adding the sugar glucose to the oral salt solution increased the rate of absorption by 2,500 percent. The Lancet, a leading British medical journal, called this discovery "potentially the most important medical advance this century."

Thus was born oral rehydration therapy, using a mixture of sugar and salt dissolved in a liter of boiled water, which is then drunk by a child with diarrhea. Although boiling water is ideal, ordinary "unclean" water can be used if necessary, since the lifesaving measure is getting needed fluids and salt into the child, officials said.

In Peru, where 26,000 children die each year from diarrheal illnesses, a countrywide campaign to introduce oral rehydration therapy may have cut deaths in half in "just one summer," according to a former Health Minister, Dr. Uriel Garcia Caceres.

### TRIBUTE TO MARGARET HECKLER

# HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES Thursday, December 16, 1982

• Mr. REGULA. Mr. Speaker, I rise to pay tribute to my friend and collegue from Massachusetts, Margaret Heck-

PEGGY HECKLER has served her constituents and the country ably for 16 years. She will be greatly missed because she leaves behind a legacy of achievements and a model of dedication which has enriched us all.

When she is engaged in a cause she believes in there are few who are tougher or more persistent or more effective. And because she chose her causes wisely, few have been more successful in attaining their goals.

Peggy has championed such important issues as women's rights, help for Vietnam veterans, and day care for children.

As the dean of the women's congressional delegation, Peg's leadership on women's issues will be greatly missed. In 1972 she fought for the equal rights amendment when it first passed the House and was even more influential several years later when the amendment would have expired without ratification had not Congress extended the deadline.

PEGGY HECKLER leaves this body a champion. She will be greatly missed.

# REPORT ON HUMAN RIGHTS POLICY

### HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. GARCIA. Mr. Speaker, I want to submit for the record part of a report on human rights policy prepared by the America's Watch, the Helsinki Watch, and the Lawyers Committee for International Human Rights.

Between them, these three organizations have faithfully monitored the progress of human rights throughout the world. I hope my colleagues will find this report useful.

THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY: A MID-TERM REVIEW

#### AFGHANISTAN

The Reagan Administration has taken a strong and highly public posture in criticizing the Soviet invasion of Afghanistan and resulting violations of human rights. These criticisms are appropriate. In recent months hundreds of political prisoners have been arrested in Afghanistan, many held for months without charge or trial. Security forces in that country continue to engage in torture including the use of electric shock during interrogation. In some cases those charged with security violations have been executed. The U.S. has vigorously opposed these actions and sought to make the situation in Afghanistan the subject of greater international concern at the U.N. and elsewhere. This strong public policy is both necessary and appropriate.

The effectiveness of this policy, however, was undermined in 1982 by the decision to lift the grain embargo against the Soviet Union. Imposed under the Carter Administration as the main U.S. protest of the Soviet invasion of Afghanistan, the embargo was lifted to fulfill a 1980 campaign promise made by President Reagan. No abatement of abuses in Afghanistan warranted the shift in U.S. policy, nor was any concession, whether related to Afghanistan or anything else sought in return. This action conveyed the message that domestic political concerns were of greater significance than maintaining existing sanctions to protest the invasion of Afghanistan and the suppression of human rights. Inconsistency in U.S. policy towards Afghanistan has been marked by the recent detention of undocumented Afgani refugees coming to the U.S. The detention policy is discussed in the section on U.S. refugee and asylum policy.

### ARGENTINA

From the outset, the Reagan Administration has made plain its intent to overlook human rights abuses in Argentina and to establish good relations with its military government. That this plan has not entirely succeed is due to circumstances unrelated to the actual human rights situation in Argentina.

Human rights abuses in Argentina were responsible for a decision by Congress in 1978 to ban all military assistance and arms sales to that country. In addition, the Carter administration had opposed multilateral development bank loans to Argentina because of U.S. law imposing human rights conditions on U.S. support for such loans.

The Reagan Administration successfully sought repeal of the law prohibiting military assistance and arms sales, though Congress substituted a requirement that, prior to giving military assistance, the President must certify significant improvement in humn rights and that in evaluating significant improvement the President must consider whether there has been an accounting for the "disappeared" and the release or trial of prisoners held without charges.

The Reagan Administration reversed practice on multilateral development bank loans, voting in favor of \$310 million in such loans to Argentina in July, 1981 despite the law forbidding such votes in favor of loans to gross and consistent abusers of human

Also during 1981, the Reagan administration demonstrated its willingness to overlook human rights abuses in Argentina by:

First indicating a willingness to scuttle the U.N. Human Rights Commission's Working Group on Disappearances and, eventually, agreeing to a compromise which reduced the effectiveness of the Working Group.

Sending U.N. Ambassador Jeane Kirkpatrick to Argentina to proclaim U.S. friendship. She declined to meet with human rights groups, such as the Mothers of the Plaza de Mayo, during her visit to Buenos Aires.

Receiving then President General Viola on an official visit to Washington.

Sponsoring a visit to the United States by then Army commander, later President, General Galtieri

Attempting to impugn the credibility of a prominent Argentine human rights victim, Jacobo Timerman, as when Ambassador Kirkpatrick's office circulated in the U.S. a story that appeared in an Uruguayan newspaper carrying an interview with famed Nazi-hunter Simon Wiesenthal attacking Timerman. Wiesenthal subsequently labeled the article a fraud.

In 1982, with the certification requirement incorporated in U.S. law, the Reagan administration has let it be known that its failure to certify is not related to the human rights situation in Argentina. At first, certification did not happen because there ws no certification of Chile. Given the dispute between Argentina and Chile that has brought the two countries to the brink of war, the Reagan administration did not want to take sides. Then came the Falklands/Malvinas war in which the U.S. sided with Britain. Certification was not possible during the war or in its immediate aftermath. By October, 1982, the war had been over long enough to make certification possible except that there was still the problem of Chile. It appeared for a while that the two countries might be certified simultaneously but, by November, it was plain that Chile could not be certified. The State Department then let it be known that it was going to "delink" the two countries.

At this writing, certification of Argentina appears imminent even though there has been no accounting for the disappeared and hundreds of persons remain in prison without charges. In addition, there has been deterioration recently on other human rights matters, including new closings of periodicals and new disappearances. Certification, if it comes now, will appear especially contemptuous of human rights in light of the recent discovery of more than a thousand corpses in (clandestine) cemeteries, and in view of attempts by the armed forces to coerce Argentina's civilian leadership to

pardon all abuses of human rights as a precondition for return to civilian rule.

The Reagan administration's decision not to certify Argentina for a year following adoption of the certification law could be seen as a strong stand in support of human rights. Yet by repeated letting it be known that considerations other than the actual human rights situation were responsible for the failure to certify Argentina, the Reagan administration dissipated much of the advantage of human rights that might have been obtained.

### SOUTH KOREA

In January 1981 South Korean President Chun Doo-Haun became the second foreign leader to visit Washington and conduct official talks with the Reagan Administration. As a prelude to his visit President Chun announced the lifting of martial law, an amnesty of political prisoners, and the commutation of Kim Dae-Jung's death sentence. The Administration's "quiet diplomacy" is believed to have been a factor in saving Kim Dae-Jung's life, in the sense that they pressed for a commutation of his sentence as a precondition for President Chun's visit.

Though his life was spared, Kim Dae-Jung remains in prison where he is serving a 20-year sentence. While martial law was technically lifted, a military controlled legislative assembly passed a series of new laws that place strict limits on freedom of the press, freedom of association, freedom to form and participate in trade unions and freedom to participate in the political process. In March of 1981, Amnesty International identified more than 500 political prisoners in South Korea, and described a pattern of torture conducted by government security forces.

On April 17, 1981, the Treasury Department informed the Congress that it was changing the existing United States policy to abstain on loans to South Korea in various multilateral lending institutions. From June until December 1980, United States representatives had abstained on loans totalling \$374 million from the World Bank and Asian Development Bank. This position had been taken in accordance with Section 701 of the International Financial Institutions Act of 1977 which requires United States Representatives to the various multilateral development banks to channel assistance to countries other than those engaging in a consistent pattern of gross violations of human rights.

Despite this Congressional directive, on April 21, 1981, the United States voted to support four loans to Korea totalling \$213 million. U.S. Representatives have continued to support loans to Korea, and in the first three quarters of 1982 supported five loans totalling over \$80 million.

In May 1981, the United States held bilateral security consultations with the South Korean government in San Francisco, reversing temporary restrictions that had been in effect. In addition, the Reagan Administration has pledged to sell the government of Korea substantial new military equipment including M-55-1 tanks and F-16 aircraft.

The Administration's policy has remained much the same in 1982. Despite persistent reports of human rights abuses including the practice of torture against perceived opponents of the government, in September 1982 the Commerce Department approved the sale of 500 electric shock batons to Korea for "crowd control." The decision by the Commerce Department disregarded obtained to the commerce Department disregarded obtained to the commerce Department disregarded to the commerce Department disregarded to the commerce Department disregarded obtained to the commerce Department disregarded to the commerce Department disregarded

jections raised in a number of quarters, including the State Department. Announcement of the sale generated such sharp criticism that on September 16 the Administration decided to "suspend indefinitely" the shipment of these shock batons. Subsequently the government of South Korea rescinded its request.

IN TRIBUTE TO ED DERWINSKI, PAUL FINDLEY, BOB McCLORY, AND TOM RAILSBACK, THE GENTLEMEN FROM ILLINOIS

SPEECH OF

### HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES Tuesday, November 30, 1982

• Mr. PORTER. Mr. Speaker, a year and a half ago, as the Illinois Republican delegation met to discuss what redistricting might hold in store for us, not one of us could possibly have envisioned an outcome that would take from the Congress four of our most senior Republican members—men renowned in Illinois politics, highly respected in important roles in the Congress and well loved by their colleagues.

Our hope, in fact, was to hold all 14 of our seats by the general assembly adopting a map in Springfield that would reflect the population losses over the past decade exactly where they had occurred: In the city of Chicago. Exactly the opposite occurred when the State legislature failed to act and the Federal court adopted the map proposed by the Democratic Party, one that had the absolutely smallest differences in population between proposed new districts and protected minorities, but gave no weight whatsoever to traditional boundariescity, township, or even county lines.

Mr. Speaker, there is something very wrong and unfair in a system that, in effect, removes from office two Congressman, one from a south suburban district and one from a northern collar county district while preserving all congressional seats in the city of Chicago, which lost 600,000 people between 1970 and 1980 when the suburbs and collar counties were growing faster than the national average.

Redistricting also lost two downstate seats to the other party when lines were redrawn to make them more Democratic and national political fortunes in November reflected the tough economic problems our Nation is facing.

The upshot of this unfortunate process is that Illinois and the Nation lost the able services of four outstanding Members of the Congress with a combined seniority in the House of 82 years. All of them will be greatly missed, not just as personal friends and colleagues, but for the years of experience and expertise that each

brought to bear on this often all-toounfathomable legislative process.

The leader of our delegation and next to our Republican House leader in seniority was ED DERWINSKI, first elected to the Congress in 1958 and a man whose views on foreign affairs, where he was second ranking, and post office and civil service, where he was first, have been weighed very heavily not only in committee but on the House floor by both sides of the aisle. Renowned nationally as a leader in the fight to free captive nations, most of us in the House recognize Ep's broader commitment to human freedom everywhere on the face of the Earth. A thorn in the side of the Communist masters of Eastern Europe has most unfortunately been removed in Ep's retirement from the Congress. But the celebration in the Kremlin was undoubtedly cut short when the President made ED counselor at the State Department. I wish him well in this exciting assignment and know that the commitment to protect the principles our country believes in and stands for around the world is in good hands with ED filling this sensitive po-

PAUL FINDLEY first came to the Congress in 1960 and has served with great ability and forthrightness ever since. If I were to be asked what has characterized Paul's tenure I would say unhesitatingly that he has never been a follower, always a leader, a man who stands for the things he believes in whether others stand with him or not. This courage to stand alone has often meant trouble for PAUL, and although I have not agreed with one of his most well-known positions, but no one can deny the depth of character involved, a personal quality often lacking in legislative bodies. Paul was second ranking on Agriculture and third, behind ED DERWINSKI, on Foreign Affairs, posts from which he exerted great influence on the public policies of our country, and agree or not, a man of his talent and courage will be sorely missed in these halls.

A man who has always been 10 years or more younger than his age is Bob McClory of Lake County, Ill., first elected to the Congress in 1962. A little history is necessary to understand why I feel particular affection for Bob and his lovely wife, Dorie, beyond the close feelings I have for a near colleague and mentor.

When I was growing up in Evanston, Ill., our Congressman was Ralph Church, a Republican from my hometown elected a year before I was born, in 1934, and who served until his untimely death in 1950. He was succeeded by his wife, Margueritte Stitt Church, one of the most respected, admired and articulate Members of the House ever to serve and a close friend of my parents, so close in fact that she gave the eulogy upon the death of my

father, Judge Harry Porter, in 1971. The Churches, during the 28 years that they collectively represented our area, had included in their district not only the northern suburbs of Chicago, but a large portion of the north side of the city, all of Lake County and all of the area northwest of Chicago. This was in the days prior to one person, one vote, when the Republicans were given huge areas and large populations to represent, and the Democrat districts were more compact and less populous. Even then things were not quite fair. In any case, when the landmark decision came down from the U.S. Supreme Court requiring new districts, Illinois' old 13th, represented by Mrs. Church, was divided about in two on an east-west line. Mrs. Church retired, Donald Rumsfeld, later to serve our country was Secretary of Defense and White House Chief of Staff, won in the southern part, and Bob McClory won in the north. That was 1962.

In 1982, the old district was in a sense reunited. Most unfortunately, however, it put parts of Bob's district in with parts of mine and Phil Crane's and the outcome was that Bob, after 20 years of superb service in the Congress, has retired. Thus, I am the inheritor of the high standards for public service not only of the Churches, but of Bob McClory and I can only say, as I have often said, that his shoes are big ones to fill, indeed.

Bob, as ranking Republican on the Judiciary Committee, has been not only an active and hard-working legislator, he has been one of the true voices of good sense and reason in Washington, and a man of principle whose expertise on legal matters has been highly regarded by his colleagues and whose role in the Watergate hearings was widely acclaimed nationally. Most of all, and most important to me, he has been a Congressman not known for playing to the galleries or the press, not known for bombast or table thumping, but rather known by the highest accolade I know for any legislator: quietly effective. Bos has educated members of this body time and again on important measures coming out of his Judiciary Committee, and his calm and reassuring presence will be greatly missed. I am only happy that he has taken a position with Baker and McKenzie, an international law firm, in its Washington office, and that he will remain available for the kind of advice and good counsel that only a man of his background and intelligence can offer.

Tom Railsback, first elected in 1966, and ranking right behind Bob on the Judiciary Committee, has been a friend to everyone in the delegation and a conscientious and effective legislator. As a moderate, he won consistently in a district that otherwise, perhaps, would not have elected a Repub-

lican. As proof of this, while the dis- THE RETIREMENT OF EDWARD trict did change as a result of reapportionment, his loss in the primary to a more conservative State senator was followed in November by his loss, in turn, to a liberal, labor-backed Democrat.

Tom has always been one of those wonderful people who are easy to get to know and easy to talk to and be with. But he has also always done his homework and on matters he addressed in the House has been carefully listened to and his judgment has been highly respected. These qualities have been recognized by the Motion Picture Producers Association for whom Tom will work as a lobbyist. They are extremely fortunate in securing the services of such a good man.

In fact, they are four wonderful and outstanding men—ED DERWINSKI, PAUL FINDLEY, BOB McCLORY, and TOM RAILSBACK-lost to the vicissitudes of redistricting and politics at a time when their talents and abilities are sorely needed in the Congress. Those of us who are fortunate to remain will miss them greatly. The standards they have set for us are high. But they have new challenges and new directions, and, having set for us who follow, examples of commitment and integrity and accomplishment, they have many miles more to go. In all that they undertake, I wish them well .

#### JOHN RHODES

### HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. RODINO. Mr. Speaker, I could not let this session of Congress close without saying a few words about the distinguished gentleman from Arizona, Mr. Rhodes, who is retiring at the end of this year.

Few Members of this House have worked with as much respect for this institution, as John Rhodes. Although we have been on opposite sides of many issues, I have always considered JOHN RHODES a friend, and a man who would leave partisan motives aside when considering the best interests of the country.

For 30 years he has built a solid record of accomplishment helping the people of Arizona and leading the Republican party in the House. As minority leader from 1973 to 1980, he was a wise counselor and fair steward of his party in the House. A man of integrity, dedication, and warmth, John RHODES has brought honor on this institution, and I will feel his absence when we return next year.

I am privileged to have served with him, and I wish him all good things in

the future.

J. FERRARO, TORRANCE CITY MANAGER

# HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES Friday, December 17, 1982

• Mr. ANDERSON. Mr. Speaker, January 15 will mark the retirement of Mr. Edward J. Ferraro who, for the past 18 years, has been city manager of Torrance, Calif.

Ed, besides holding a bachelor's degree and master's degree from UCLA, has also received advanced management training at the University of Chicago, the Sloan School of Management at Massachusetts Institute of Technology, and the U.S. Federal Executive Institute. As you can see, with credentials such as these, the people of Torrance have indeed been fortunate to have Ed as their city manager

Prior to Ed's current position, he served as Torrance's Assistant city manager (1962-64); city administrator of Lawndale (1959-62); and, administrative analyst in the chief administrative office for the County of Los Angeles (1956-59).

Besides being responsible for the administration of all municipal operations—including the expenditure of an annual budget now at \$66 million-Ed also serves as the redevelopment director for the city of Torrance.

Outside of his official duties with Torrance, Ed has somehow found the time to be affiliated with numerous professional and community organizations. Some of these include the International City Management Association, American Society of Public Administration, American Academy of Political and Social Science, National Council for Urban Economic Development, American Arbitration Board, and the Torrance YMCA advisory board. Also, he is the past president of the South Bay City Managers' Association, and has served on both the public safety committee of the Los Angeles County division of the League of California Cities, and the program committee of the City Manager's Department of the State League.

Ed has not gone unrecognized for his efforts and many accomplishments over the years. As a matter of fact, he is the recipient of the American Society for Public Administration Henry Reining and Clarence Dykstra Awards, given for outstanding administrative achievement and contributions to good government in the Los Angeles area.

It should also be noted that for the past 7 years, Ed has taught organizational theory and behavior and foundations of public policy administration in the Center for Public Policy and Administration at California State University, Long Beach, and is a

member of the training and research advisory committee to the center. The UCLA advisory curriculum committee and California State University, Dominguez Hills also benefit from his counsel.

Mr. Speaker, I take pride and pleasure in recognizing Ed Ferraro's many accomplishments. He has been a valuable asset to the community. His many contributions to the betterment of the city of Torrance will certainly be missed.

He has rightfully earned the respect of his peers and the community for all he has accomplished. My wife, Lee, joins me in extending to him our sincere congratulations. We also wish him, and his wife, Karen, and his two sons, Vincent and Michael, all the best in their future endeavors.

### A FRIEND INDEED

### HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 17, 1982

• Mr. DAUB. Mr. Speaker, as the 97th Congress draws to a close, the gentleman from Ohio, ED WEBER, will be casting his final votes. He has worked long and hard during his 2 years. I will miss his presence.

But more than the gentleman's personal hard work, his election loss broke up a good team for the 9th District of Ohio. Last night that team got together for the last time as a congressional staff. The gentleman from Ohio composed the following. While his skills as a Member of this body exceeded that of his skills as a poet, his words are a fitting tribute to his time as a Member of the U.S. Congress and what he tried to accomplish.

Tonight we are gathered together, To talk and eat and laugh . And I know that we never will ever, Be together again as a staff. Two years you have done what was

needed . You've worked with a zest and a will,

And people who knew us conceded, There was no better team on the Hill. The two Dan's, Gary and Jeanne, Mary, Stacia, Lorna and Ted . . .

In my book you're all pretty keen, 'Cause you've kept us moving ahead. And for Woody and Dave, I'll cheer and I'll rave . .

The same goes for Ellen and Jack, Who round out our team and make it seem, That there simply is nothing we ever did lack.

And as we disperse on our separate ways. I hope you will all keep in touch. For I will look back on these congressional days,

And appreciate you all very much.

The friendships we've made, Are going to fade.

But there's always the phone or the mail. And I would suggest.

Each November we invest
In a 20 cent stamp and a card.
For each person here,
Send a word of good cheer,
To let us know about you without fail.
Finally an apology now to each of you,
Santa will be late this year.
I'm behind on the shopping I intended to
do.

But before too long I'll send each one here, A memento that each time you see. You'll think of the 9th District, room 512 And most especially, you'll remember me.

I wish the Member from Ohio, my friend Ed Weber, and his entire staff the very best of luck and good fortune in the future.

### A TRIBUTE TO JOHN RHODES

### HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES
Friday, December 17, 1982

• Mr. MICHEL. Mr. Speaker, as you know, in the next Congress we will be losing the companionship of many of our esteemed colleagues who are going on to other endeavors. I think you will agree with me that while they will all be missed, the loss of our good friend John Rhodes is a special one.

On Friday, December 17, 1982, I was privileged to be present at a meeting of the Senior Sons and Daughters, a group of high-level Republican staff and committee aides. At that meeting, Charles W. Radcliffe, Republican counsel and staff director of the Committee on Education and Labor gave a moving and eloquent tribute to John Rhodes. I think so highly of that brief, but memorable speech, that at this point in the Record, I insert the tribute to Congressman John Rhodes.

I think I have been chosen for the honor of giving this toast partly because of seniority and partly because of a minor coincidence in careers. It happens that I began my career in legislation early in 1953 as a Republican staffer on the Commerce Committee in the other body, and am retiring at the close of this 97th Congress. Back then I was young, new to Washington, and sported a crew cut. Those indeed were "Happy Days" for us Republicans who controlled both Houses of Congress and the Presidency

In January of 1953 the newly-elected Representative to Congress from the First District of Arizona was sworn in. He was young, new to Washington, and sported a crew cut. As we all know, he is retiring at the end of this Congress after a remarkable thirty-year career of truly distinguished service to his district, his State, our party, and our country.

It has been a career made eminent by the special qualities of the man. John Rhodes is a man of assurance and self control; a man who knows himself and inspires confidence in others. And he has carried with him all these years a broad-guaged, clear and consistent vision of what is good for America.

In December of 1973 he became Republican Leader of this House in an utterly bleak and disheartening time for our party and our country. The Vice President had resigned in disgrace. The President himself was edging ever closer to the prospect of impeachment. The Republican Party faced a disaster. Far worse, our country was confronted with the possibility of its first genuine Constitutional crisis since the Civil War.

Let us never forget that John Rhodes and President Ford were two of a small group of leaders who brought our party, and more importantly our country, through a perilous time without lasting damage to our institutions or destructive division among our citizens. We ought never forget John Rhodes' performance—a supreme example of grace under pressure—when we so desperately needed principled leadership.

Mr. Rhodes likely would cite the Central Arizona Project as his crowning legislative achievement. The name sounds like something straight out of "ye olde pork barrel", but the project is nothing of the sort. It involves a cooperative effort by Arizona and surrounding States, as well as Mexico, to husband, equitably share, and wisely use water resources, which are more precious than gold to the West. It will strengthen the economic and social structure of the entire area, while improving our relations with Mexico, and will be a lasting benefit to the whole country. This exemplifies the broad vision of John Rhodes.

Others have said these things far better than I can. At a recent Appreciation Dinner for Mr. Rhodes, Senator Goldwater made the shortest and best summation of the man. "John Rhodes", he said, "is one person who genuinely deserves the title of 'Honorable'".

A January 25, 1982, editorial in the Phoenix Gazette by John Kolbe entitled "Rhodes says farewell to politics with characteristic grace, simplicity", included these comments:

"He brought a steadiness, a quiet but unflagging confidence, to the conduct of the politicians' craft. Every bill he wrote, argument he ameliorated, issue he debated, or task he undertook, he touched with a consummate sense of decency.

"John Rhodes, to use a word sadly cheapened by overuse, has class."

This surely is the John Rhodes I have been privileged to know.

In a city and a profession which is all too well known for its destruction of family life, John Rhodes is a dedicated family man. He and his lovely wife of forty years enjoy a close-knit family of three sons and a daughter, and nine grandchildren, with whom he wants to spend a great deal more time.

John, we all wish you many joyful years with your family and host of friends in a well-earned retirement, and success, also, in whatever further public service you might choose to render.

Please, let us all join now in a toast to our friend, a great American, the Honorable John J. Rhodes of Arizona.

